

AUSTRALIAN MANUFACTURING WORKERS' UNION



**SUBMISSION TO INQUIRY INTO THE WORKPLACE RELATIONS
AMENDMENT (WORK CHOICES) BILL 2005**

**SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION
LEGISLATION COMMITTEE**

NOVEMBER 2005

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A. Introduction

1. The Australian Manufacturing Workers' Union (AMWU) welcomes the opportunity to make submissions to the inquiry of the Senate Employment, Workplace Relations and Education Legislation Committee (the Committee) into the *Workplace Relations Amendment (Work Choices) Bill 2005* (the Bill or *Work Choices*).
2. The full name of the AMWU is the Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union. The AMWU represents approximately 140,000 workers in a broad range of sectors and occupations within Australia's manufacturing industry.
3. The AMWU supports the submissions to this inquiry of the Australian Council of Trade Unions (ACTU). In addition, the AMWU seeks to make additional submissions regarding:
 - The truncated scope and time allowed for the making of submissions and for the Committee's scrutiny of the Bill.
 - The fiction that the Bill is necessary to improve Australia's economic performance.
 - The unfair provisions concerning agreement making and in particular:
 - prohibited content; and
 - the role of AWAs and employer only greenfields "agreements".
 - The degradation and destruction of awards.
 - The manner in which the Bill breaches Australia's obligations in the Australia – United States Free Trade Agreement.
4. The AMWU concludes by calling on the Committee to recommend that the Senate not pass the Work Choices Bill.

B. The Truncated Scope And Time Allowed For The Making Of Submissions And For The Committee's Scrutiny Of The Bill

5. The AMWU submits that the Senate has not allowed sufficient time for the public (or the Committee) to properly scrutinise the Bill. Given the size of the Bill, its complicated drafting and the profound significance of what the Bill contains, it beggars belief that the whole process from the release of the Bill to the publication of the Committee's report is to take less than three weeks.
6. The AMWU is also critical of the manner in which the matters that can be examined by the Committee has been curtailed. It is simply false to suggest that many of the matters that have been excluded have been dealt with by previous Senate Committees. While it is true that Senate Committees have looked into broad issues such as "unfair dismissal reform" on previous occasions, the specific provisions proposed in the Bill have not been examined, nor have they been assessed in the context of a hostile take over of State jurisdictions.
7. Both the content of this Bill and the unseemly haste with which the government is attempting to secure its passage through Parliament shows nothing but contempt for Australian workers and their families.
8. The AMWU submits that the Committee recommend that further time be allocated for the Bill to be scrutinized and further, that the Committee not be prevented from examining the Bill in its entirety.

C. The Fiction That The Bill Is Necessary To Improve Australia's Economic Performance

I think that the reason for the reform has to be stated over and over and over again. The reason for this reform is to help people get jobs, and to so build an economy which is productive enough to have wage increases.

Peter Costello, Insiders, 16 October 2005

9. This section of the submission examines the Government's economic justification for the Bill and gives an assessment of the Bill's likely impact.
10. The Government's key economic justifications for further deregulating the labour market (or perhaps more accurately for re-regulating the labour market) is that the proposed 'reforms' will increase productivity and employment.
11. Through the examination of international and domestic evidence, this submission will scrutinise the validity of these claims. This section will examine:
 - The impact on productivity, specifically:
 - The impact of the further privileging of individual contracts.
 - International productivity comparisons.
 - International labour cost comparisons.
 - Means to increase Australian competitiveness.
 - The impact on employment, specifically:
 - Economic impact of a reduction in real wages.
 - Economic impact of the removal of unfair dismissal protection.
 - The impact upon equity.

Impact on Productivity

JOHN HOWARD: The changes that will encourage greater use of workplace agreements. I mean, my central philosophy is that the greater the spread of workplace agreements, which by their nature and particularly under what we propose will be attuned to the particular circumstances of individual workplace, the greater will be the productivity gains. That is the biggest single productivity boost that comes out of these changes.

...

SALLY NEIGHBOUR, REPORTER: While this assertion is repeated by employer groups, they provide no evidence to support it. Can you cite any economic evidence that individual contracts actually boost productivity?

HEATHER RIDOUT, AUSTRALIAN INDUSTRY GROUP: No, and I...

SALLY NEIGHBOUR, REPORTER: No? Is there none?

HEATHER RIDOUT, AUSTRALIAN INDUSTRY GROUP: Well, I, I'm not aware of direct research to that effect.

SALLY NEIGHBOUR, REPORTER: Labour market economists say the evidence simply isn't there. What evidence is there that moving people onto individual contracts boosts productivity?

PROFESSOR MARK WOODEN, MELBOURNE INSTITUTE OF APPLIED ECONOMIC RESEARCH: I'm not sure there's any.

SALLY NEIGHBOUR, REPORTER: Not sure there's any?

PROFESSOR MARK WOODEN, MELBOURNE INSTITUTE OF APPLIED ECONOMIC RESEARCH: There's not a lot of evidence that individual contracts produce productivity.

Four Corners, 26 September 2005

He said the second wave should provide a “huge boost” to the economy, “because if labour productivity is most closely related to wealth creation, then dealing at the heart with the labour contract. . . must have the biggest [effect on] productivity.”

David Murray, Speech to the HR Nicholls Society 13th October 2005

12. The Government’s primary justification for the proposed changes to the industrial relations system, and in particular Australian Workplace Agreements, is that Australia needs a productivity boost and that further “deregulation” will result in such a productivity burst, thereby increasing our international competitiveness and our living standards.
13. The AMWU submits that nothing could be further from the truth.
14. Productivity may be the key to our international competitiveness, our long term growth rates and hence our future standards of living, however the type of deregulation (or re-regulation) proposed by the Government will not increase productivity. In fact the overwhelming body of evidence points towards the opposite conclusion, for example as the AMWU discusses below, AWAs – the centre piece of the new industrial relations regime – actually reduce productivity, thereby reducing our potential future standards of living.

Individual Contracts – The Australian and International Experience

15. Professor David Peetz, Professor of Industrial Relations at Griffith University and Visiting Professor at the University of Bergen, Norway comprehensively demolishes the claims (usually based on the New Zealand experience or recent experience in the Australian mining sector) that individual contracting is more productive than collective agreement making.
16. Peetz cites numerous academic studies analysing the performance of the New Zealand economy and comes to a single conclusion:

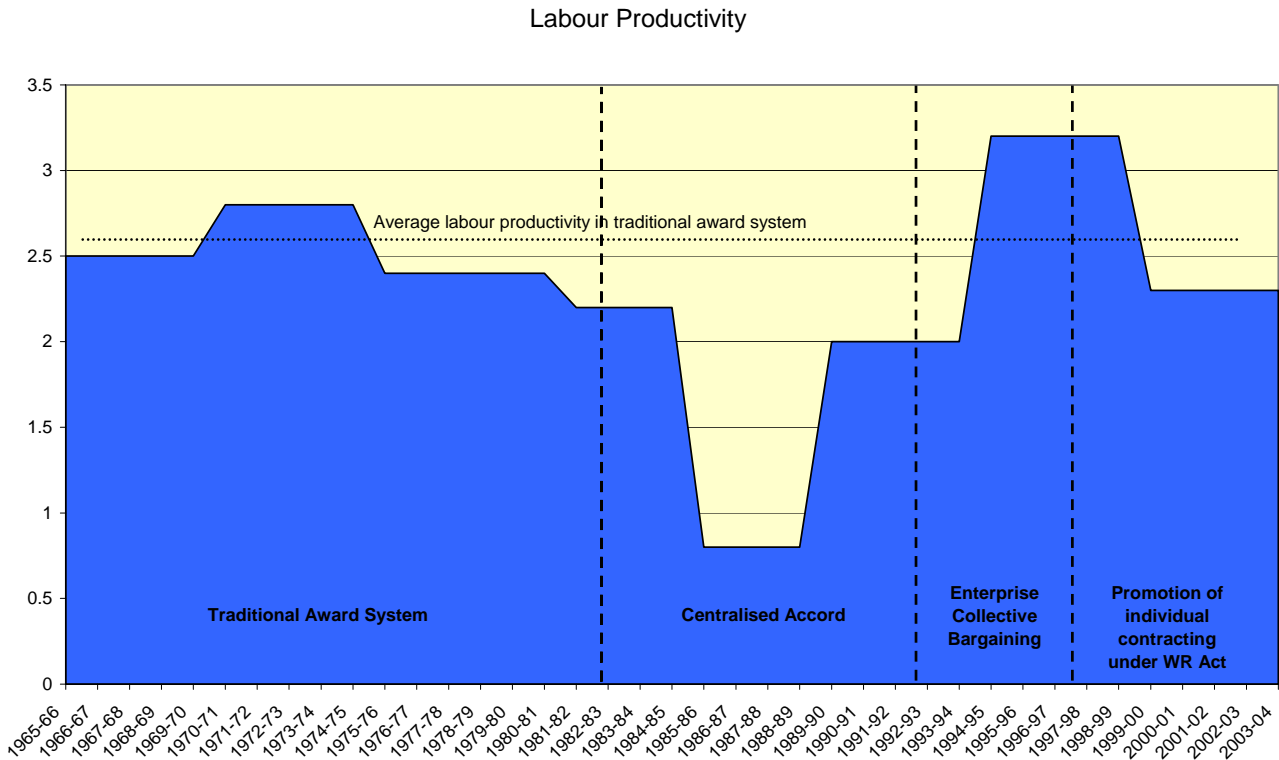
“...for the period when Australia had a collectivist national government and New Zealand an individualistic one, productivity growth was substantially higher in Australia and... this was after the two countries had had similar rates of productivity for the previous 14 years...The New Zealand experience suggests that further moves to reduce the safety net under individual contracts are likely to lead to reductions in the rate of growth of productivity.”¹

¹ Peetz, D., “Is Individual Contracting More Productive”, Sydney University Industrial Relations Report Card, 2005, p.3

17. This is strongly supported by University of Canterbury academic Dr. Paul Dalziel’s analysis of the New Zealand experience. Dr. Dalziel concluded that the introduction of the Employment Contracts Act of 1991, which strongly emphasised individual contracts, “...appears to have marked the end of a long period of strong comparability between New Zealand and Australian labour productivity growth, to New Zealand’s great disadvantage. Recognition of this fact was one of the considerations leading to a new Labour led coalition government (elected in late 1999) to replace the Act with a more corporatist Employment Relations Act of 2000.”²

18. According to Peetz, to prove or disprove the impact of individual contracting on productivity you must examine the average productivity growth over the various productivity cycles since 1964-65 and compare the institutional arrangements that applied at the time (see Figure 1).

Figure 1 – Australian Labour Productivity



19. The results for labour productivity can be summarised as follows:

- Traditional Award System (1964-1982) 2.6% per annum.
- Centralised Accord (1983-1993) 0.8% per annum.
- Collective Bargaining (1993-1998) 3.2% per annum.

² Dalziel, P., “New Zealand’s Economic Reforms: an assessment”, Review of Political Economy, Volume 14, Number 1, 2002

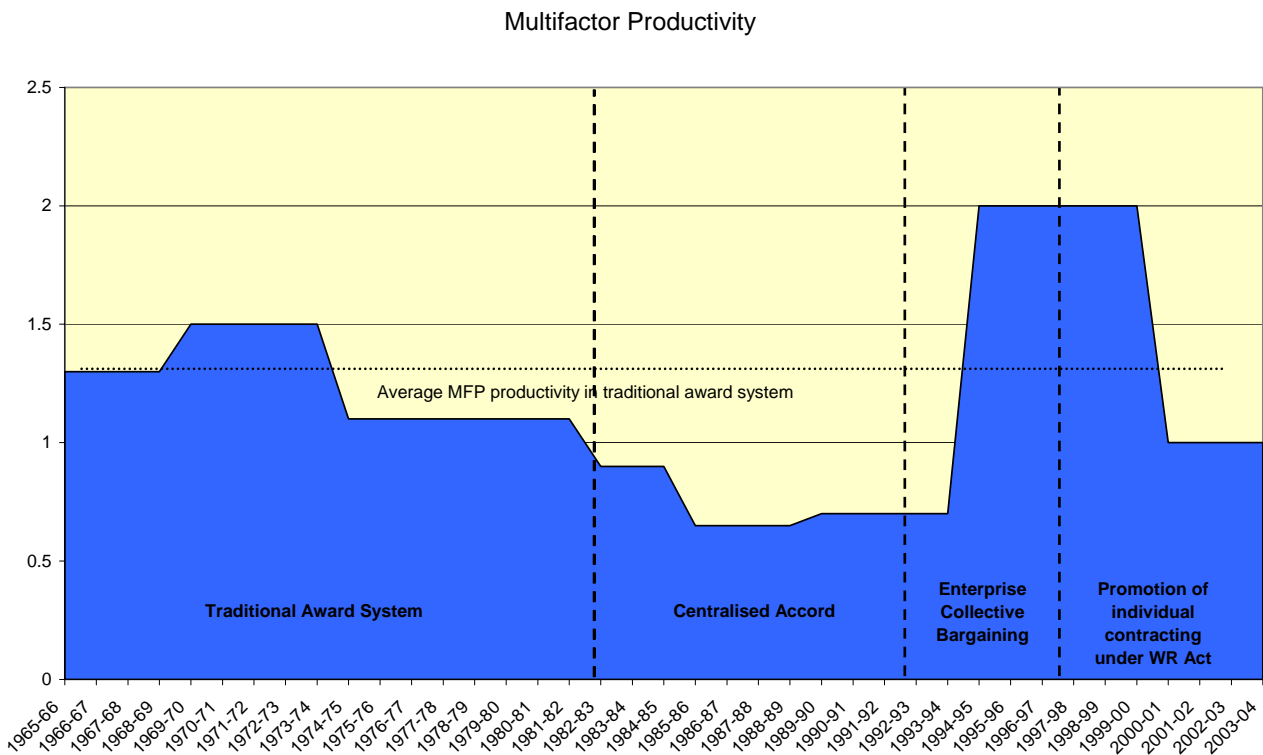
- Individualism Bias (1999-) 2.3% per annum.

20. Thus the current period with its legislative bias towards individual contracts results in lower productivity growth than the traditional award period.³ It is worth noting in this context that the award period was also an era where union density was also over twice the density applying to the current cycle (53% to 23%).

21. While the current productivity cycle is not finished, there is no evidence that productivity figures will trend up. In fact the latest quarterly national account figures show that for the period of 2004 labour productivity actually fell by 0.4%.

22. The story in multifactor productivity (MFP) is not much different (see Figure 2).

Figure 2 – Australian Multifactor Productivity



Again the results can be summarised:

- Traditional Award System (1964-1982) 1.3% per annum.
- Centralised Accord (1983-1993) 0.65% per annum.
- Collective Bargaining (1993-1998) 2% per annum.
- Individualism Bias (1999-) 1% per annum.

³ Peetz, op.cit, p.5

23. Besides the macro levels, another way of testing for systemic productivity effects is to look at the micro level, using surveys of workplaces organisations. A detailed study of New Zealand employers was conducted and concluded that:

“...we cannot find a single statistically significant or reliable relationship between organizations pursuing individual contracts and our exhaustive measures of firm performance.”⁴

24. Similarly, a 2001 study of Australian workplaces (Tsang and Wooden) looking at enterprise bargaining and productivity levels found that the combined positive effects of high union membership and collective agreement coverage on productivity were higher than the combined effects of individual contracting and non-unionism.⁵

25. The Business Council of Australia has co-funded three large academic studies of Australia workplaces and one would expect those studies to strongly support the BCA and the Government’s agenda of individual contracts. What did they find?

- “The Transformation of Australian Industrial Relations” (Wooden) did not test the relationship between individual contracts and productivity in its analysis of the data from the Australian Workplace Industrial Relations Survey (AWIRS), but did find a positive relationship between unionism and productivity in certain circumstances: *“unions apparently are good for productivity, but only at workplaces where unions are active”*.
- “The Impact of Enterprise and Workplace Focused Industrial Relations on Employee Attitudes and Enterprise Performance” (Wooden). This study found no negative relationship between unions and productivity, finding instead that collective bargaining coverage was associated with higher levels of self claimed productivity.
- “Simply the Best: Workplaces in Australia” (Hull and Read). This study identified 15 key drivers for excellence, but working arrangements (collective or individual) was not among them.⁶

26. So where is the evidence that the BCA relied on for its *Workplace Relations Action Plan*?

27. The only evidence the BCA cited to support its proposals was a series of observations on the mining industry, basically observing that labour productivity growth from 1994 to 2002 was higher than in other industries. However, the following caveats must be applied to the BCA’s observations:

⁴ Ibid, p.8

⁵ Ibid

⁶ Ibid., p.9

- It is not unusual for the mining sector to experience high labour productivity growth. For example in the highly unionised coal industry labour productivity grew at the same rate as mining as a whole. There appears to be little link between individual contracting and labour productivity gains in mining.
 - The story is incomplete because as the Productivity Commission has pointed out, the mining industry's period of strong multifactor productivity growth was from 1982-83 to 1992-93. MFP between 1992 and 2002 was low. The strong growth in labour productivity was just capital deepening, that is replacing jobs with machines. This is not a productivity gain because firms are just using another input to get the same level of output.
 - The BCA was very selective in its data choice, ignoring much more recent data that showed that mining, far from having the highest rate of labour productivity growth of all industries, now had the lowest rate of productivity growth over the most recent eight years, one that was only a quarter of the national average growth over the period.⁷
28. The BCA then sought to give an authoritative basis for its latest claims by co-releasing a report it paid Access Economics to produce. This report sought through generalizations to show a relationship between labour productivity and 'flexibility'. But the group of agreements deemed flexible was dominated by union collective agreements. In substance, labour productivity growth was, on average, higher in industries with more union collective agreements.
29. What was the exact pattern for AWAs? If you look at the Access report and divide the thirteen industries measured into two groups according to their AWA penetration you would find that labour productivity growth in the seven industries with the most AWAs was, on average, 0.2% less than in the six industries with the fewest AWAs for the years in which the consultants depicted productivity.
30. Using the more accurate ABS data, there is no correlation between registered individual agreements and productivity growth over the eight years to 2003-04.⁸
31. In sum, there is no evidence to suggest that an industrial relations system with an increased emphasis on individual contracts will increase productivity. The converse is in fact true, both international experience and current trends in the Australian economy suggest that a system centered around individual contracts will reduce productivity.

⁷ Ibid., p.11

⁸ Ibid., p.12

International Productivity Comparisons

32. Another frequent Government justification for the changes to the industrial relations system is that there is said to be a strong correlation between the most dynamic and productive economies in the world and the most deregulated, for example the US, UK and New Zealand. It is the AMWU's submission that this is not true.
33. Even one of the greatest supporters of neo-liberalism, the Organisation for Economic Co-operation and Development (OECD), concedes that the United States is not the most productive economy in the world. According to the latest OECD estimates of productivity levels Belgium, Ireland, France, Luxembourg, the Netherlands and Norway had the highest productivity levels in the OECD area in 2003, with levels above the United States (see Table 1).⁹

Table 1 - International Productivity Performance

Country or Area	GDP per hour worked (as % of US) ¹⁰
Norway	126
Luxembourg	117
Belgium	110
France	109
Ireland	104
Netherlands	101
United States	100
Germany	93
Italy	92
Austria	92
Denmark	91
Sweden	88
United Kingdom	87
Finland	83
Switzerland	82
Canada	80
Australia	80
Spain	80
Japan	71
Iceland	70
New Zealand	62
Greece	61
Portugal	53
Hungary	48

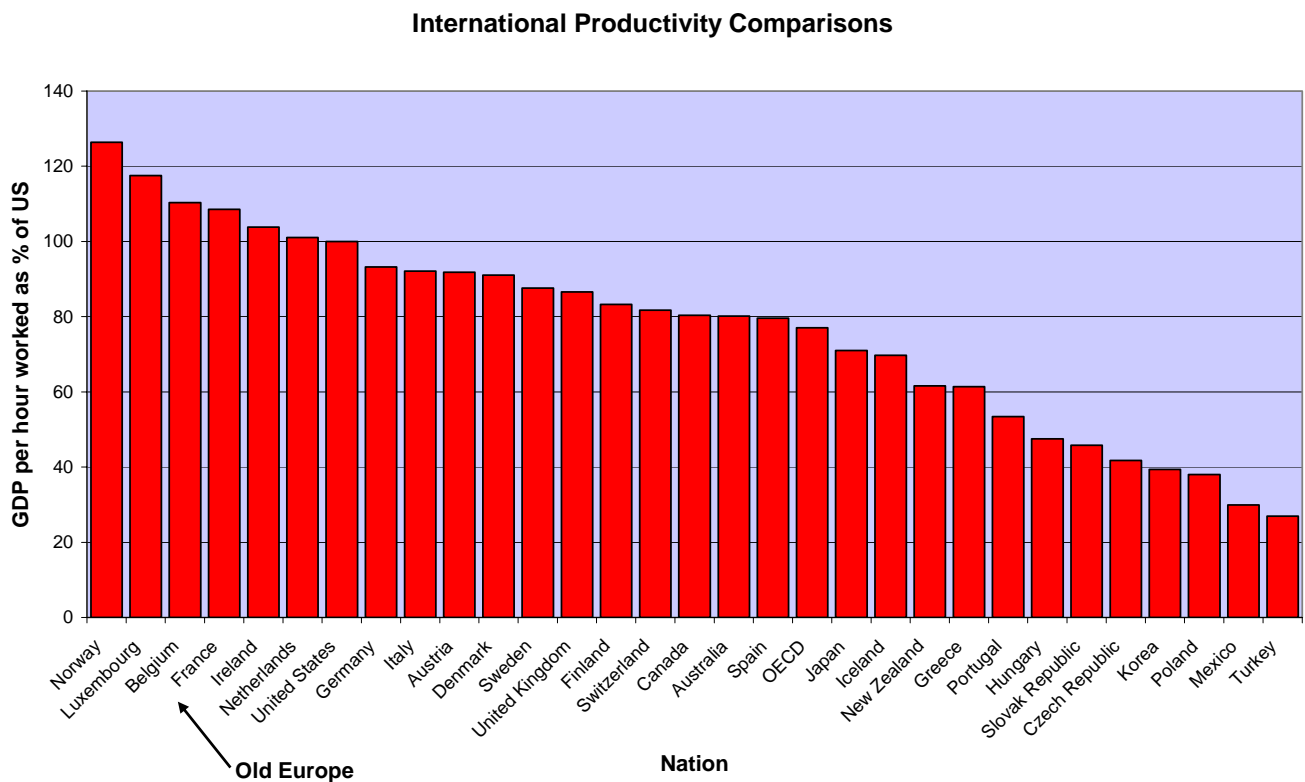
⁹ OECD, International Comparisons of Labour Productivity Levels – Estimates for 2003, February, 2005, p.1

¹⁰ Ibid., p.10

Slovak Republic	46
Czech Republic	42
Korea	39
Poland	38
Mexico	30
Turkey	27
OECD Average	77

34. The number of ‘Old Europe’ countries with higher levels of productivity increases if you look at the OECD STI Scoreboard, where in addition to the countries above Germany and Italy have higher productivity than the Australian economy (see Figure 3). These are the ‘sclerotic’ economies that the Government informs us we can only avoid following if we accept the unfair and inequitable *Work Choices* reforms to our industrial relations system.

Figure 3 – International Productivity Comparisons



35. The long term evidence further contradicts the conventional neo-liberal belief that the countries with a focus on apparently de-regulated labour markets are the most productive. If you look at the compound average annual productivity growth rates for the last 30 years, nations associated with strongest move towards labour

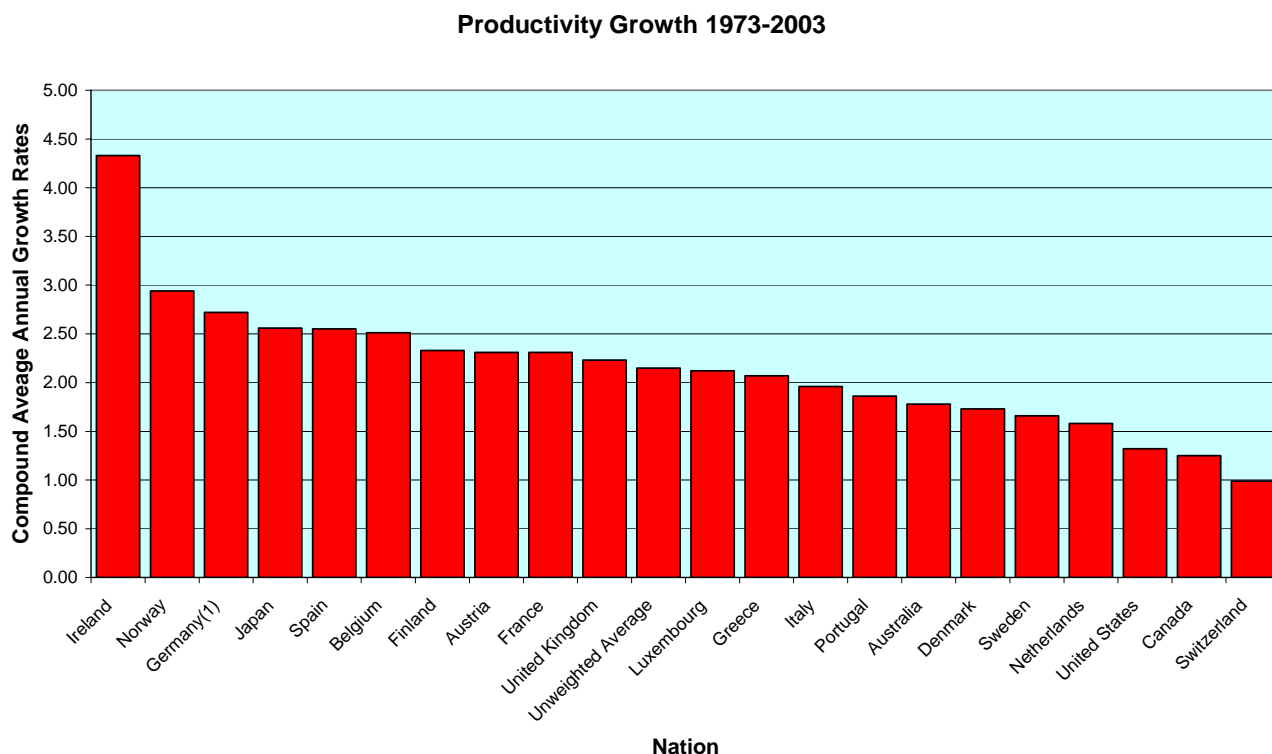
market deregulation such as Australia and the United States are well below the OECD average (the United Kingdom is only slightly above the average) (see Table 2 and Figure 4). Whereas countries often condemned as over regulated or dominated by trade unions are well above average, for example Germany, Japan, Belgium, France etc... This reflects the fact that productivity or productive performance is more dependant on factors such as innovation, skills development, industrial cooperation etc... These are the same factors that are key ingredients in industry policies. It is no coincidence that the top of the table is dominated by countries that have pursued active and coherent industry policies, such as Ireland, Germany, Japan, Finland etc...

Table 2 - Output per Hour Growth in the OECD Countries, Compound Average Annual Growth Rates¹¹

Country or Area	1973-2003
Ireland	4.33
Norway	2.94
Germany	2.72
Japan	2.56
Spain	2.55
Belgium	2.51
Finland	2.33
Austria	2.31
France	2.31
United Kingdom	2.23
Unweighted Average	2.15
Luxembourg	2.12
Greece	2.07
Italy	1.96
Portugal	1.86
Australia	1.78
Denmark	1.73
Sweden	1.66
Netherlands	1.58
United States	1.32
Canada	1.25
Switzerland	0.99

¹¹ Source: Groningen Growth and Development Centre, University of Groningen

Figure 4 – International Productivity 1973-2003



International Labour Costs Comparisons

36. In his recent address to the Sydney Institute, the Prime Minister cited the OECD Taxing Wages report which listed Austrian production workers as the highest paid in the world. This is an inappropriate use of the report. The objective of the report was to "...illustrate how personal income taxes and social security contributions are calculated to examine how these levies and cash family benefits impact on net household incomes." Instead of comparing wage levels by multiplying the wage rates of nations by the exchange rate with the United States dollar, it instead multiplies the wage rates by purchasing power parities. This is legitimate as the goal of the report is to examine living standards and how taxation impacts upon this.

37. However, it distorts the wage rates. Managers of capital do not consider the purchasing parity wage equivalent when evaluating labour costs in different countries. They will instead compare the wage costs of different nations in US dollar figures. This is the more accurate comparison of international competitiveness. To examine this the best source are figures released by the Bureau of Labor Statistics located within the US Department of Labor. The latest figures from this Bureau (November 2004) demonstrate that Australia is very competitive on the basis of manufacturing labour costs. As Table 3 and Figure 5 illustrate, hourly compensation costs in US dollars for production workers in

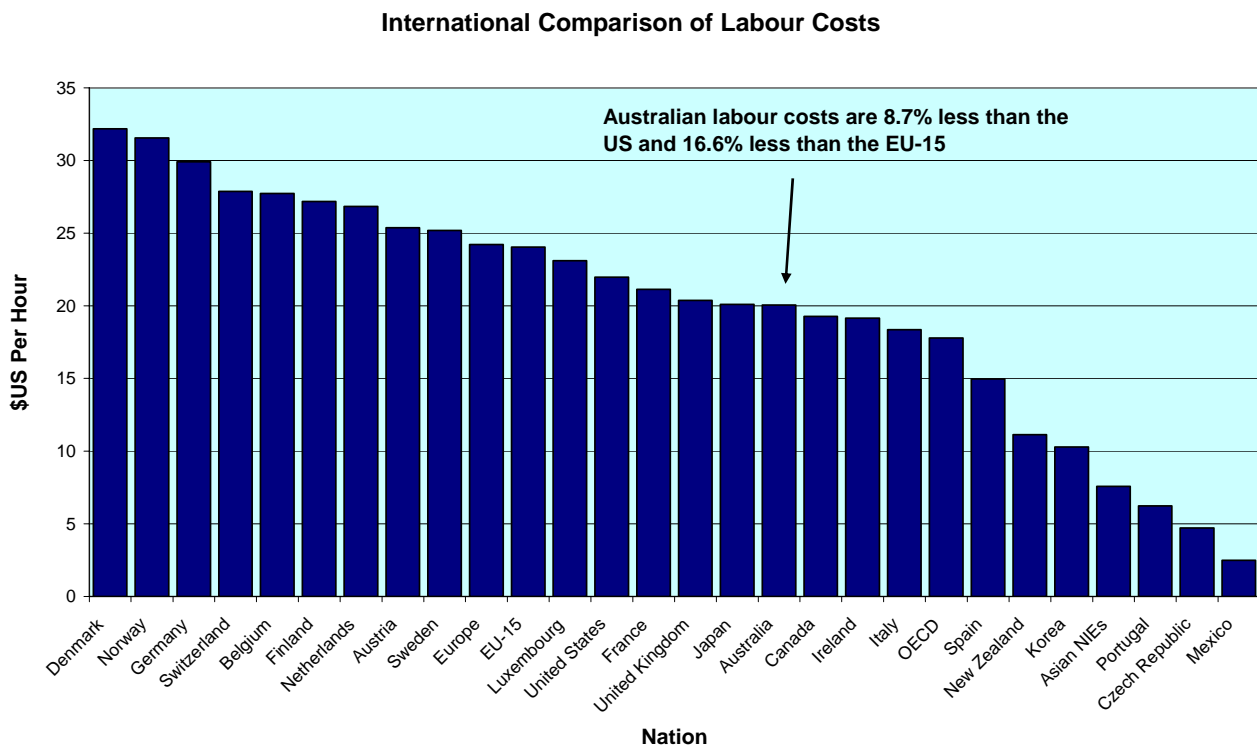
manufacturing in Australia are well below the European average and are even less than the United States. These figures further weaken the government's argument that we must further deregulate the labour market to ensure we are competitive internationally. Such arguments are not sustainable on either a labour costs or productivity basis.

Table 3 - International Comparison of Manufacturing Labour Costs¹²

Country or Area	Hourly compensation costs in US dollars for production workers in manufacturing
Denmark	32.18
Norway	31.55
Germany	29.91
Switzerland	27.87
Belgium	27.73
Finland	27.17
Netherlands	26.84
Austria	25.38
Sweden	25.18
Europe	24.22
EU-15	24.05
Luxembourg	23.11
United States	21.97
France	21.13
United Kingdom	20.37
Japan	20.09
Australia	20.05
Canada	19.28
Ireland	19.14
Italy	18.35
OECD	17.79
Spain	14.96
New Zealand	11.13
Korea	10.28
Asian NIEs	7.57
Portugal	6.23
Czech Republic	4.71
Mexico	2.48

¹² Bureau of Labor Statistics, "International Comparisons Of Hourly Compensation Costs For Production Workers In Manufacturing, 2003", 18/11/04, <http://www.bls.gov/news.release/pdf/ichcc.pdf>

Figure 5 – International Labour Cost Comparison



Means to Increase Australian Competitiveness

PROFESSOR DAVID PEETZ, SCHOOL OF BUSINESS, GRIFFITH UNIVERSITY: It doesn't matter how much you cut penalty rates. It doesn't matter how much you cut overtime rates. It doesn't matter what you do to flexibility of working hours, what you do to wages. You're never going to be able to compete with China and India on wages, on labour costs, it's as simple as that. The way you compete with these countries is you compete on skill, you compete on innovation, you compete on quality. What are these changes going to do to promote skill, innovation and quality?

Four Corners, 26 September 2005

Productive Performance

38. To compete in the world economy, the AMWU submits that we must take the high road of high skills, knowledge intensive manufacturing and service focused economy, complemented by a collective focused industrial relations system.

39. Richard Lester in his ground breaking book, *The Productive Edge*, found that companies that implemented high performance systems were leading the revival of US manufacturing.

40. These performance systems depended upon

“Well-trained, well-motivated workers, broadly responsible and cooperating with each other and with management, will produce better outcomes for both their firms and themselves than an unskilled workforce, operating within narrow, strictly enforce job categories, and subject to military-style command and control management, with little scope for creativity and initiative.”¹³

41. High performance systems are characterised by the following specific practices:

- Multi-attribute incentive pay
- Very extensive screening
- Job assignment flexibility
- High worker participation in teams
- Some teamwork practice
- Employment security pledge
- Regular off-site skills training
- Information sharing and/or regular meetings with workers.¹⁴

42. This system results in production facilities operating for 7% longer, higher productivity, and improved quality.

43. Ultimately this system of production is dependant upon a high level of trust in relations between management and employees.¹⁵

44. How would an increased emphasis on AWAs affect Australian businesses' capacity to implement this system, thereby increasing our competitiveness? Professor Peetz found that after the introduction of individual contracts in New Zealand there was a massive reduction in worker trust of management, something in the order of 20-30 percent.¹⁶

¹³ Lester, Op.cit, p.216

¹⁴ Ibid., p.221

¹⁵ Ibid., p.223

¹⁶ Peetz, D, Quinn, D, Edwards, L, & Riedel, P ‘Workplace Bargaining in New Zealand: Radical Change at Work, in D Peetz, A Preston and J Docherty (eds) *Workplace Bargaining in the International Context*, Workplace Bargaining Research Project, Department of Industrial Relations and Australian Government Publishing Service, Canberra, p.290-291

45. Van Barneveld's analysis of AWAs supports the hypothesis that growth in individual contracting leads to a reduction in trust of management¹⁷. This again is supported by other analyses of AWAs that concluded that they are dominated by a big stick approach to employee relations, rather than a carrot approach.¹⁸
46. In this way the AMWU submits that AWAs actually reduce Australian companies ability to implement the most advanced production systems.

Industry and Innovation Policy

47. The AMWU submits that a reinvigoration of Commonwealth industry and innovation policies would complement efforts to improve productive performance and increase our international competitiveness. The aim of these policies must be to develop growth drivers based on competitive exports industries, especially in the area of elaborately transformed manufactures (ETMs).
48. Australia is one of the few countries in the world who deny the strategic role of manufacturing. For most other countries, especially the fastest growing countries of the last 20 years the manufacturing sector is seen as a strategic instrument for generating desired aggregate growth outcomes.
49. A dollar's worth of manufacturing contribution to GDP is, in general, more valuable than the contribution from other industries. This is because, over the longer run, the actual level of GDP growth will be equal to or below the manufacturing output growth. Therefore, Australia to meet a desired level of GDP growth must achieve a manufacturing growth rate at least equal to, and probably greater than, the desired GDP target.¹⁹ This relationship has strong empirical evidence supporting it.²⁰
50. Why is manufacturing industry a strategic industry that is more important than other industries? Manufacturing is the only industry which can be used to create technology. It is the industry which transforms raw knowledge into wealth creation. A declining manufacturing sector will reduce a nation's technology creation potential leading to declining GDP growth rates.
51. Strategic manufacturing industries produce complex and elaborately transformed products which are skill, knowledge and innovation intensive. They are strategic in nature because:

¹⁷ Van Barneveld, K., "Equity and Efficiency: The Case of Australian Workplace Agreements", doctoral thesis, Faculty of Business and Law, University of Newcastle, Newcastle, August 2004, p. 452

¹⁸ Roan, A, Bramble, T, & Lafferty, G, "Australian Workplace Agreements in practice: The 'hard' and 'soft' dimensions", Journal of Industrial Relations 43, p.387-401

¹⁹ Note that this will not usually appear as a growth in the nominal share of the manufacturing sector in GDP. This is because productivity growth in the manufacturing sector is greater than for other industries, thus there is a natural tendency for the nominal manufacturing share of GDP to fall.

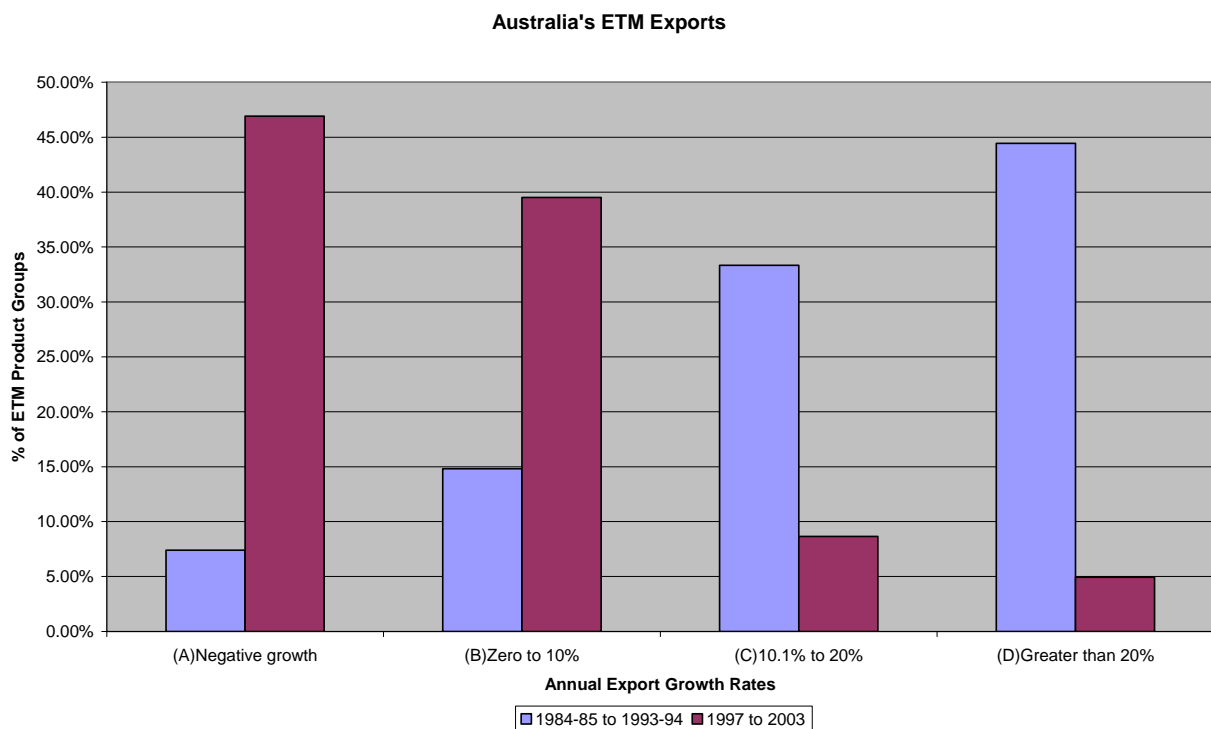
²⁰ See "Sabillon, C., "Manufacturing, Technology and Economic Growth", M.E. Sharpe, New York, 2000 and National Institute of Economic and Industry Research "Growth or stagnation: Constructing an alternative scenario for Victorian manufacturing in the new millennium", a report prepared for the MICC, October 2001, p.1.

- they have strong linkages, both upstream and downstream, with other industries in the economy;
- they are the industries that transfer leading edge technologies to the local economy.
- through the development of skills, organisation and management techniques which spill over to the rest of the economy through labour turnover, supply chain networks, etc...

52. It is essential that the Commonwealth implement active industry policy to promote manufacturing, especially elaborately transformed manufacturing, in particular ETM exporting industries.

53. To do this the Commonwealth must reverse the current trend of a deterioration in the ETM trade deficit. The emphasis on ETM export growth has disappeared under the present government leading to a precipitous decline in annual ETM export growth rates from 17.7% between 1984 and 1994 to 1.8% between 1997 and 2003. The figure below demonstrates the dramatic decline.

Figure 6 - Australia's ETM Exports by Product Groups

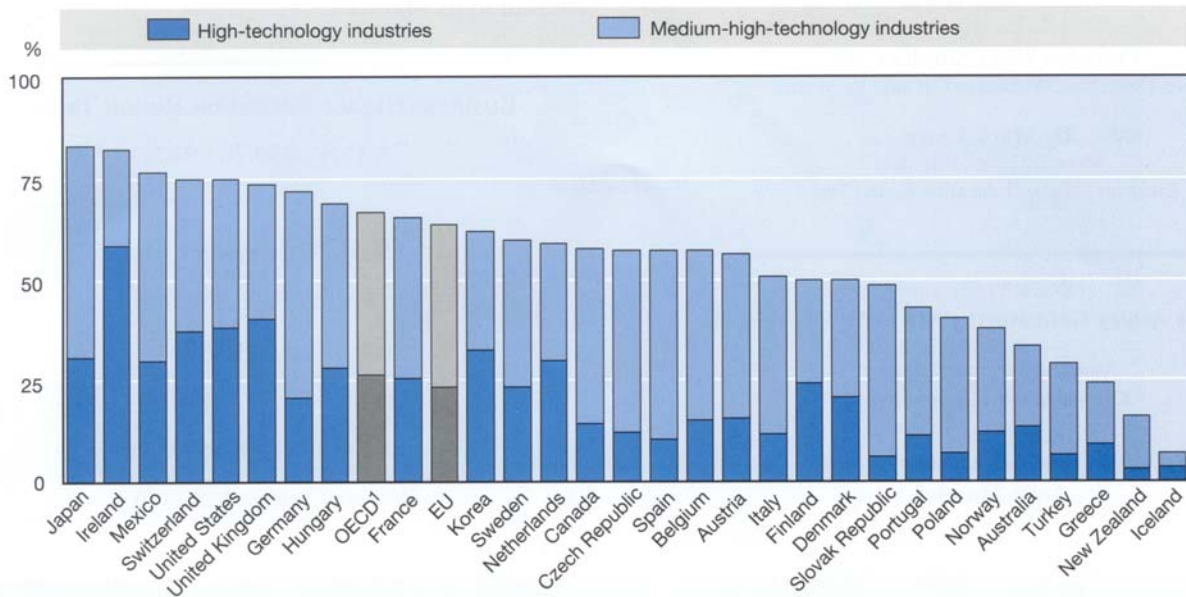


Source: National Institute of Economic and Industry Research (NIEIR) Report, derived from DFAT Exports of Primary and Manufactured Products Australia: 1993-94 Edition and 2003 Edition

54. In terms of exporting high and medium-high technology goods the only OECD economies we perform better than are Turkey, Greece, New Zealand and Iceland.

Figure 7 - Share of high and medium-high technology in manufacturing exports

Share of high-and medium-high-technology in manufacturing exports, 2001



Source: OECD, STAN database, May 2003.

Source: *The Knowledge Based Economy: Some Facts and Figures, B-HERT Paper No.7 February 2004*

55. Over the past two financial years, the value of ETM exports actually declined by 10.4% from the 2000-01 level. Over the same period, ETM imports increased by 10.6% to \$98.6 billion, resulting in a record ETM trade deficit of \$75.4 billion in 2003-04.²¹
56. As with the general decline since the mid 1990s, the recent decline in export levels is broad-based, with 13 of the 17 ETM product groups recording a lower level of exports in 2003-04 than in 2000-01.
57. The ETM trade deficit is the equivalent of 10% of national GDP. The growing ETM deficit is making the nation more dependent on minerals and agricultural exports. As a result, there was a record merchandise trade deficit of \$22.1 billion in 2003-2004, up from \$14 billion in the previous year.²² That is Australian consumers are borrowing more and more funds from overseas to purchase imported elaborately transformed products.
58. Australia's mineral and agricultural industries are among the most innovation-intensive and productive in the world. Nevertheless, this sector will only employ directly about 5% of the workforce and is not as important strategically as manufacturing. Therefore urgent action by the Commonwealth is needed.

²¹ Toner, P., "Lies and Statistics", Australian Financial Review, 21/8/2004

²² Source DFAT Composition of Trade utilising ABS data on the DFAT STARS database and ABS Catalogue 5302.0

59. How can we move over from over reliance on growth from household debt financing current consumption to incremental increases in the contribution of innovative, export driven knowledge intensive manufacturing?

60. Rather than bashing workers, the AMWU believes 7 actions could usefully assist this necessary transformation:

Prudent economic management and solid economic fundamentals. The Commonwealth must successfully manage the transition from household debt financing current consumption as the main driver of economic growth to more sustainable long term drivers of economic growth.

Accelerate growth of business investment in R&D. The termination of the 150% R&D tax concession in 1996 was a major factor in manufacturing R&D, going from 10% per annum real growth in the decade to mid 1990s, to negative growth over the 1995-96 to 2001-02 period. The AMWU strongly urges the restoration of the 150% R&D tax concession. Further measures should be enacted to link the availability of R&D incentives to firms upgrading their R&D capability.

Increase Greenfield foreign direct investment(FDI). Between 1985 and 1995 Australia attracted 3.4% of global FDI. However, over the next 6 years Australia's share of global FDI fell to 1.1%. Beyond the actual decline in FDI attraction, the actual situation is worse due to the fact that most of the FDI attracted has been in the resources area. As discussed earlier, investment in the resources area is not as beneficial to the economy as manufacturing FDI. The AMWU puts forward 3 policy options:

- A fundamental review of Invest Australia to get better outcomes from that organisation.
- Investment incentives for major projects should focus exclusively on new FDI in knowledge intensive manufacturing activities with the highest incentives for Greenfield sites, as well as investment that strengthen supply chains in the manufacturing regions.
- More emphasis should be given to attracting large global companies to establish R&D/engineering/product development centres in Australia with the accompanying manufacturing prototype capability.

Greater import replacement. The import share of the domestic market for knowledge intensive manufacturing is very high (around 66%). Two possible policy initiatives are:

- Increase funding of the Industry Capability Network. Abandon the disastrous cost recovery regime.
- The Procurement Chapter of the Australia – United States Free Trade Agreement will still allow Australia to give preference and use offsets for small and medium sized enterprises. A concerted effort should be undertaken to do this. Government should consider legislating the

definition of SMEs, on an industry by industry basis, so that it is not challenged under Article 21.2 C of the Agreement.

More new exporters and extend the capacity of existing exporters. As discussed earlier there has been a dramatic decline in ETM export growth. We need to increase our ETM exports, particularly to East Asia. 3 options to help achieve this are:

- Reformation of the Australian Trade Commission, increasing its focus on exports to East Asia.
- Initiate new forms of engagement with East Asia to assist our ETM trading relationship.
- Greater State-Commonwealth co-operation to double exporters. At the very least, the Commonwealth must remove the cap from the Export Market Development Grant Scheme and increase its funding.

Invest in supporting physical, social, R&D and environmental infrastructure. It is more than likely that debt funded consumption to not be able to sustain Australia's economic growth much longer. A significant increase in infrastructure funding may fill this void. Almost all credible commentators have rejected the zero public sector debate. Even the Treasurer has indicated that the sale of Telstra will not be used to pay down debt further. All levels of government must increase their funding of physical, social, R&D and environmental infrastructure.

Increase level of private equity investment, especially venture capital. Growing a new generation of knowledge intensive manufacturing firms, that anchor an increasing share of their export and R&D operations in Australia, will require annual investment levels in venture capital of 0.07% of GDP (European average 1996-2002) to 0.1% of GDP (Canadian and US average 1996-2002) over the business cycle. To meet the 0.07% target over the next seven years will require nearly \$5 billion in venture capital investment, or around \$700 million per annum. On current trends it would be highly optimistic to see Australia achieve half this, leaving a gap of at least \$350 million a year or nearly \$2.5 billion over the seven years. To avoid this situation, the AMWU urges the three following actions:

- The Investment Innovation Fund (IIF) program should seed another group of licensees to help start a new group of venture capital funds that will attract superannuation funds and institutional investors.
- The government should examine ways of encouraging superannuation funds and their advisors to be more proactive in helping first time venture capital funds to be established.
- The Commonwealth should continue and improve the R&D Start Grants program, which often helps venture capital managers to invest in technology intensive firms. The State Governments should work with managers and firms to get more businesses venture capital ready.

61. The AMWU submits that if these 7 steps are taken, Australia can successfully move from an over reliance on growth from household debt financing current consumption to an economy driven by growth in innovation and technology intensive exports. This, rather than an attack on working conditions, is the road Australia urgently needs to take.

Impact on Employment

...the reality is that countries like Germany, that have very highly regulated labour markets, Germany and France have double the unemployment rates of countries like Britain and New Zealand and the United States, that have less regulated labour markets.

John Howard, AM, 10 October 2005

JOHN HOWARD: I believe that the estimates of job gains made in relation to reforming the unfair dismissal laws made by others, not by us, runs into figures up to 50,000-80,000 in small business.

SALLY NEIGHBOUR, REPORTER: The Prime Minister's claim that the unfair dismissal laws stop employers from hiring people and that cutting them back will create jobs is disputed even among his business supporters.

HEATHER RIDOUT, AUSTRALIAN INDUSTRY GROUP: You're not gonna go around putting on more people just because the unfair termination laws have changed...

SALLY NEIGHBOUR, REPORTER: The estimates on job creation are also doubted.

HEATHER RIDOUT, AUSTRALIAN INDUSTRY GROUP: I'm very sceptical of economic modelling. It's as good as the assumptions that go in and they come out whatever figure you want to make. So, I really never accepted those figures.

Four Corners, 26 September 2005

I don't know of any case where deregulation and increased inequality in pay structures was associated with solving the unemployment problem and I don't think it will work here."

Professor James Galbraith, 27 September 2005

Economic impact of a reduction in real wages

62. The AMWU submits that the real agenda of the Howard Government is to cut wages. As the Minister for Industry, Tourism and Resources, Ian Macfarlane candidly stated:

*"You can never rest in this game. It's like a race where the finishing line is the end of the rainbow. It keeps moving away as you get closer to it. We have got to keep on at that. **We've got to ensure that industrial relations reform continues so we have the labour prices of New Zealand.** (emphasis added) They reformed their industrial relations system a decade ago. We're already a decade behind the New Zealanders. There is no resting"*²³

63. As Table 4 demonstrates, if we were to replicate the labour prices of New Zealand we would see wages falling by 25-40%.

²³ Ian Macfarlane, 2GB Alan Jones, 7:50 a.m. 16 August 2005

Table 4 – Manufacturing Wages, Australia New Zealand Comparison

Category	New Zealand (in \$AUS)	Australia	Differential
Semi-Skilled Production Worker	\$503.00	\$912.50	44.9%
McCains			
Tradesperson	\$18.14	\$25.51	28.9%
Advanced Tradesperson	\$19.18	\$27.75	30.9%
Cleaner	\$10.75	\$16.29	34.0%
Forklift Operator	\$11.89	\$16.63	28.5%
Visy			
Forklift driver	\$14.69	\$22.74	35.4%
Operator	\$15.53	\$26.02	40.3%
PMP			
Printer No.1	\$19.56	\$24.85	21.3%
Carter Holt Harvey Packaging			
Corrugator Stacker Operator	\$11.99	\$23.09	48.1%
AMCOR			
Single Face Operator	\$12.63	\$22.84	44.7%

64. The Commonwealth's submissions to the annual living wage case before the Australian Industrial Relations Commission (AIRC) proves this point. Had the AIRC followed the Commonwealth's submission, the minimum wages would be \$50 a week lower than the current \$484. This represents an actual fall in the real wage.
65. The failure of the AIRC to blindly obey the Commonwealth's submission is the real motive for the establishment of the deceitfully titled Fair Pay Commission. It is the AMWU's submission that the Fair Pay Commission will reduce real wages by ensuring that minimum wage increases do not keep up with price movements.
66. However, the most authoritative reports from international bodies have concluded that there is no credible evidence that regulated wage fixation (e.g. through the Industrial Relations Commission setting fair minimum wages) leads to higher unemployment. The keynote speaker to the Australian Conference of Economists, Professor James Galbraith, has stated that reducing wage rates will not lead to increased employment.
67. In his address Professor Galbraith argued that Australia would not be able to reduce its unemployment rate by deregulating the labour market. Speaking at the Economic Society of Australia's annual conference in Melbourne, Professor Galbraith who is head of the Lyndon B. Johnson School of Public Affairs at the University of Texas discredited the argument behind the Howard government's industrial relations reforms.
68. Professor Galbraith argued employers would not demand more labour simply because pay scales were widened through deregulation.

*"What causes people to be employed is the decision of employers/business people that they can make money selling the product that people are engaged to buy. That's an aggregate demand function. **It's got nothing to do with the structure of labour markets**"²⁴ (emphasis added)*

69. Professor Galbraith said that in countries where pay scales were widely spread and large disparities existed between high and low paid, workers at the low end would not be willing to take any job.

*"If there are very few jobs that pay really well.... (Workers) are going to hang around the high wage jobs' hoping one of them is going to open up"*²⁵

70. Supporting this theory are figures released by the ACTU in March of this year demonstrating that wage cuts do not lift jobs. Over the past five years minimum wages have grown by a modest 2.9% in real terms in Australia but have fallen by nearly 12% in the United States. In the same period jobs growth in Australia has outstripped the US by more than three to one (10.4% against 2.9%) (see Table 5).

71. Jobs growth in the UK has also been higher than that of the US despite very significant rises in UK minimum wages as part of a concerted UK campaign against poverty and inequality.

72. In the US the Federal minimum wage of US\$5.15 has not been increased since 1997. In some States such as Kansas the minimum wage is as low as US\$2.65 an hour. The most recent increase in the Federal US minimum wage was 1997 when it was increased from US\$4.74 to US\$5.15. Since 1997 the real value of the US minimum wage has declined by 14.9%.

Table 5 – Minimum Wage and Employment Growth, Australia, US and UK

Year	Australia		United States		United Kingdom	
	Min wage	Employment growth	Min wage	Employment growth	Min wage	Employment growth
1999	\$10.14		US\$ 5.15		£3.60	
2005 - current	\$12.30		US\$ 5.15		£4.85	
1999-2005 real change	2.9%	10.4%	-11.8%	2.9%	26.9%	4.4%

Sources: OECD, ABS, AIRC, US Dept of Labor, US Economic Policy Institute; UK Low Pay Commission

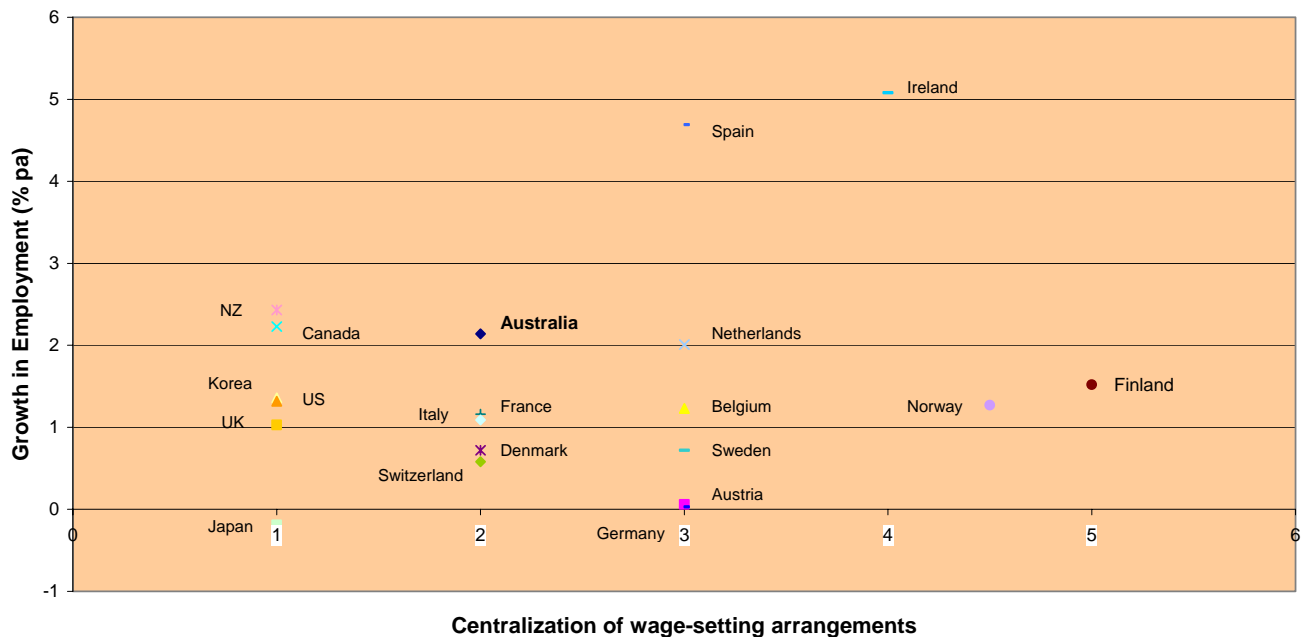
²⁴ Murphy, C, "US economist warns IR reforms won't boost jobs", Australian Financial Review, 27/9/05

²⁵ Ibid.

73. The OECD Employment Outlook 2004 shows that there is no correlation between centralised wage fixation and employment growth. The graph below illustrates the lack of correlation with countries with decentralised wage setting arrangements such as the UK, US and Japan experiencing much slower employment growth over the last decade than nations such as Australia, Netherlands, Spain, Ireland and Finland.

Figure 8

Centralization of wage-setting arrangements 1995-2000 and employment growth 1994-2004



Potential impact of wage reduction on labour productivity

74. What will be the impact on productivity of this reduction in minimum wages?

75. The AMWU comprehensively rejects any claim that reducing the minimum wage will increase employment. However, even if it is accepted for the sake of argument that reducing the minimum wage could increase employment. Would this also necessarily increase productivity?

76. The AMWU submits that the answer is no. Under conventional neo-classical economic theory if the cost of labour as a factor of production is reduced, it becomes more attractive to substitute labour for capital (plant and machinery) as a factor of production. As employers substitute labour for capital, they reduce the capital-to-labour ratio, thereby reducing labour productivity; which is the opposite effect to the stated aim of the entire industrial relations changes.

77. International examples substantiate this. In the slightly regulated, and mostly non-unionised, service sector in the United States wages have stagnated in the last ten years. At the same time productivity growth in the US service sector has been negligible.²⁶

“If you look at the data on the US, productivity growth in the services sector in the US has been close to zero for the best part of 10 years because labour is so cheap. Employers have no incentive to get rid of it down market and I think the real, the cruelest irony of these changes is that it will in fact retard productivity growth, it takes away the incentive for employers to think about other ways of using their labour more efficiently.”²⁷

78. It is the AMWU’s submission that cutting real wages will not increase productivity. This is supported by conventional economic theory and international evidence.

Productivity or Profits?

79. If reducing wages does not increase employment or productivity, what is the real reason for the proposed changes to the industrial relations system, in particular the increasing emphasis on individual contracts?

80. AMWU agrees with the sentiment of Professor Peetz when he said:

“If individual contracting does not inherently promote productivity, why do corporations and their representatives so keenly argue for it? Productivity is not what corporations seek – it is profitability that they seek. Profits can be raised by increasing productivity but they can also be raised by cutting costs, that is by cutting what workers are paid. This is often dressed up as productivity for example, corporations may claim that not having to pay penalty rates for night or weekend work increases labour productivity in the hospitality industry. But it does not. There is no gain in the number of meals served per restaurant employee by abolishing their penalty rates. All that happens in that situation is that the wage costs

²⁶ Dr. John Buchanan, Workplace Relations Centre, University of Sydney, Four Corners, 26/9/05

²⁷ Ibid.

per meal has gone down, and profits go up (and restaurant workers' income go down), even though productivity is unchanged. Changes in the payment of penalty rates or overtime rates (often through their abolition) are common in registered individual contracts.”²⁸

81. Interestingly if you look at the profit share of national income it was relatively flat during the centralised wage fixation period (with its higher productivity), grew in the accord period (with its lower productivity), reduced somewhat in the era of collective bargaining (as productivity exploded) and is now at it an all time high (with productivity declining).²⁹ The AMWU submits that profits not productivity are the real industrial relations agenda of the Howard Government and the corporate community.

Economic impact of removal of unfair dismissal protections

82. The claim that employment protection or unfair dismissal legislation leads to higher unemployment levels is a cornerstone of neo-classical labour market theory, but is it true in real life?
83. It is the AMWU submission that removing unfair dismissal protection for workers employed in businesses with less than 100 employees will not increase employment.
84. According to Professor John Quiggin, an expert on market operations and neo-classical theory:

*“What about the empirical evidence? As often happens, the literature on unfair dismissals starts out with a big publication finding clear-cut results, only to descend into a morass of contradictory findings. A paper by Lazear in 1990 found strong negative correlations between the strength of employment protection laws, proxied by severance pay, and desirable labour market outcomes such as employment and participation rates, hours worked and so on. But Lazear’s results have not stood the test of time. More recent research suggests that employment protection laws lower the variance of employment and unemployment but **have no clear effect on average levels.**”³⁰*

²⁸ Peetz, Op.cit., p.20

²⁹ Ibid, p.21

³⁰ <http://johnquiggin.com/index.php/archives/2005/07/25/bahnisch-quiggin-on-ir-changes-crossposted-at-lp/>

85. When examining possible international examples of removal of dismissal protection, we find that the closest similar reform to the new unfair dismissal laws was a 2004 German law that exempted some small businesses from employment protection laws. Afterwards, a careful study found that this law had essentially no effect on the German labour market³¹
86. Proponents of the industrial relations changes argue that we must remove employment protection, lest we become like sclerotic economies of Western Europe, such as Germany and France. As this submission has demonstrated already, these countries are more productive than the Australia and the other deregulated OECD economies.
87. But what about unemployment rates? Are the neo-liberal ideologues promoting these changes justified in the assertion that deregulating the labour market will increase employment? The answer is no.
88. Firstly, one can not directly compare unemployment rates in Western Europe with Australia. The different social security structures mean that there is no incentive for unemployed persons in Western Europe to drop out of the labour force, thereby artificially reducing the unemployment rate.
89. This is exactly what happens in Australia with significant levels of hidden unemployed through mechanisms such as the Disability Support Pension. There are also considerable issues with the methodology and definitions used by the Australian Bureau of Statistics in their surveys. For example, in Australia you are deemed to be employed if you work one hour in the survey week, while in Germany you are considered unemployed if you work less than 15 hours in the survey week and would like to work more.
90. The National Institute for Economic and Industry Research (NIEIR or National Economics) and the Australian Local Government Association release an Annual State of the Regions report that includes a much more accurate measure of unemployment. It includes people on New Start, Mature Age Allowance, unemployed youth and people on Disability Support Pension who should be considered unemployed. **This shows Australia's true unemployment rate as 8.3%.**³²
91. By contrast several European nations with significant levels of employment protections enjoy lower unemployment rates, for example Netherlands – 4.7%; Denmark – 4.8%; Sweden 6.3% and Belgium 8%.³³

³¹ Leigh, A. & Wolfers, J., “Unemployed finally get chance to work”, Sydney Morning Herald, 16/6/05

³² National Economics/Australian Local Government Association, “State of the Regions Report, 2004-05”, p.29. NIEIR Unemployment = (Newstart + Mature Age Allowance + Excess growth in Disability Support Pension + Estimate of unemployed youth) / (Adjusted Labour Force = Official Labour Force + Excess growth in Disability Support Pension)

³³ OECD Standardised Unemployment Rates, all August 2005 figures except for Sweden (March 2005), <http://www.oecd.org/dataoecd/41/13/18595359.pdf>

92. Germany, the country Prime Minister Howard uses most often to justify the removal of unfair dismissal laws, has an unemployment rate of 9.6%.³⁴ But the OECD's Employment Outlook 2005 attributed Germany's unemployment rate to the continuing reunification problems. Some of regions in the former Federal Republic of Germany (West Germany) enjoy unemployment rates of 5%.³⁵ (For further information see Figure 8)

³⁴ Ibid.

³⁵ OECD, "Employment Outlook 2005 – How does Germany Compare?", <http://www.oecd.org/dataoecd/31/53/35050786.pdf>

Figure 8 - Myths and Facts about Germany

John Howard and the Coalition Government are always talking about the need to match the economic performance of nations like the United Kingdom and New Zealand and avoid becoming like Germany. Germany is apparently the old man of Europe, mired in economic stagnation. But what is fact and what is myth?

Productivity

Fact: Germany is among the most productive nations in the world

Germany is much more productive than the UK (9% more) or New Zealand (55% more). Over the last 30 years, Germany productivity has grown twice as fast as the United States.

Exports

Fact: Germany is the greatest exporter in the world.

Not only does it export the most, it averages a huge trade surplus of US\$ 16.73 billion a month. By contrast in the last quarter we have averaged a monthly trade deficit of US\$ 1 billion, the United Kingdom US\$ 9.13 billion and the United States \$ 66 billion.

Innovation

Fact: Germany ranks equal fifth with the United States in terms of innovation (R&D expenditure as a percentage of GDP).

Numbers 1,2 and 3 are Sweden, Finland and Japan, all with regulated labour markets. Do we want to follow Germany or the UK which invests as a percentage nearly 40% less in innovation than Germany or New Zealand which invests less than half the relative amount on innovation as Germany.

Wages

Myth: Wages will be higher under a less regulated labour market.

Fact: If you are a New Zealand worker performing the exact same job for the same company as a worker in Australia you are likely to be paid 25%-40% less.

Poverty

Myth: Deregulated labour markets will decrease poverty.

Fact: Official OECD Poverty Rate (% of population living in poverty after taxes and other transfers):

Germany	8.9%
Australia	11.2%
UK	11.4%
USA	17.1%

Inequality

Myth: Deregulated labour markets will decrease inequality.

Fact: OECD figures demonstrating how much greater the inequality of income distribution is in the following countries compared to Germany:

Australia	10.1% more unequal
UK	17.7%
New Zealand	21.7%
USA	28.9%

Employment

Myth: Deregulated labour markets will decrease unemployment.

Fact: OECD Unemployment Rate for all of Germany is 9.6%, with the unemployment rate in parts of the former West Germany is less than 5%. The real unemployment figure for Australia is 8.3%.

93. These findings are backed by a report from the European Commission's Directorate-General for Economic and Financial Affairs, that found no evidence in Europe of a link between inflexible job markets and high unemployment.³⁶
94. In reality just as there is no evidence to suppose that reducing wages increases employment or productivity, there is no evidence that removing unfair dismissal protections will assist job creation.

Impact upon Equity

To those who say that the Government is intent on sacrificing fairness in the name of wealth creation, I say this is a false choice for Australia

John Howard, Sydney Institute Address, 11 July 2005

95. Income inequality has increased under the Howard Government. The margin between the top quintile's share of income and the bottom quintile has increased from 29.2 to 30.6³⁷. The income gap is widening significantly.
96. The gains from economic growth in the last 10 years has been remarkably inequitably distributed. Official ABS data shows that the ratio of top incomes to low incomes has consistently worsened since 1996/97. Table 6 below demonstrates that the ratio has worsened by 9.3%.

Table 6 - ABS Selected Income Distribution Indicators, Equivalised Disposable Household Income (Ratio between top and bottom 10% of incomes)³⁸

1996/97	1997/98	1999/2000	2002/03
3.66	3.77	3.89	4.0

97. The international measure of income equality, the Gini coefficient, supports the case that inequality is increasing. A Gini coefficient of 0 means perfect income equality, a Gini coefficient of 1 has one person with all the income. For Australia

³⁶ Mourre, G., "Wage compression and employment in Europe: First evidence from the structure of earnings survey 2002", European Commission Directorate-General for Economic and Financial Affairs, Economic Papers No. 232, September 2005

³⁷ Harding, A, "Recent Trends in Income Inequality in Australia", Presentation to the Conference on 'Sustaining Prosperity: New Reform Opportunities for Australia', Melbourne, 31 March 2005, p.3

³⁸ St Vincent De Paul Society, "The Reality of Income Inequality in Australia", Social Issues Paper No.1, May 2005

the Gini coefficient has deteriorated from 0.296 in 1996/97 to 0.309 in 2002/03. This is a very significant deterioration.³⁹

98. The variation from average weekly income of the highest and lowest 20% is also widening. In 1995/96, the average weekly income for the highest quintile was \$380 above the average, and the average weekly income for the lowest quintile was \$261 below the average (i.e. a gap of \$621). In 2002/03, the top 20% were \$466 above the average and the lowest quintile was \$315 below the average (a gap of \$781).⁴⁰
99. Claims that inequality is declining because income growth is strongest at the bottom are misleading. Such claims are based on data that shows as a percentage, private weekly household income rose faster at the bottom than at the top (94/95-02/03, bottom 10% went from \$16 to \$42 [a rise of 165%], while top 10% went from \$1989 to \$2751 [a rise of 38%]). The reasoning behind such claims is a mathematical illusion of comparing percentages on margins. It is like arguing that an income rise from \$10 to \$50 (i.e. 500%) is better than an income rise from \$1 million to \$1.5 million (i.e. only 50%). Only absolute data can provide us with an accurate picture. The NATSEM data shows that in this period, the increase for the bottom was just \$26, but for the top \$762.⁴¹
100. A significant cause of this inequality has been the ever increasing share of new jobs that are low paying, part time and/or casual. Of the 1.13 million jobs created in the 1990's, 87 per cent had average earnings of less than \$26,000 a year and nearly half had an income of less than \$15,000 a year. Half of the jobs growth under the Howard Government have been part time jobs.
101. In addition, one of key drivers of this growth in inequality has been the Workplace Relations Act. This Act was designed to restrict the abilities of unions to organise and privileged AWAs.
102. Richard Lester has argued that "Unions standardize pay rates among their members, and also induce non-union firms to increase wages and benefits to avoid unionization."⁴² Therefore, with the increasing legislative bias towards individual contracts and consequential attack on unionism, we can expect wage rates to diverge and as a result inequality to increase.
103. The proposed *Work Choices* legislation further restricts the ability of unions to represent the interests of workers and privileges AWAs. It is certain to cause further growth in inequality.
104. There is a very strong correlation between the nations who have travelled furthest down the deregulation path and the nations with high levels of income inequality and poverty. The table below sets out the official OECD measures of income inequality (the Gini Coefficient) and poverty rates.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Lester, Op.cit, p.44

105. Nations with reasonably regulated labour markets are significantly below the OECD average for income inequality and poverty. The nations highlighted most by the Commonwealth to argue their case for further deregulation are all above the OECD average. For example, the United States poverty rate is nearly double that of Germany. While the US inequality of income distribution is nearly one third more extreme than the German distribution.

Table 7 - OECD Poverty and Income Distribution Statistics

	Gini Coefficient⁴³	Overall poverty rate after taxes and transfers
DEN	22.5	4.3%
SWE	24.3	5.3%
NLD	25.1	6.0%
LUX	26.1	5.5%
FIN	26.1	6.4%
NOR	26.1	6.3%
SWI	26.7	6.7%
BEL	27.2	7.8%
FRA	27.3	7.0%
GER	27.7	8.9%
CAN	30.1	10.3%
SPA	30.3	11.5%
IRL	30.4	15.4%
AUS	30.5	11.2%
JPN	31.4	15.3%
UKG	32.6	11.4%
NZL	33.7	10.4%
GRC	34.5	13.5%
ITA	34.7	12.9%
POR	35.6	13.7%
USA	35.7	17.1%
POL	36.7	9.8%
TUR	43.9	15.9%
MEX	48.0	20.3%
OECD average	31.1	10.5%
avg less TU-ME	29.8	

Source: Calculations from OECD questionnaire on distribution of household incomes

106. Accordingly, the AMWU submits that the experience under 10 years of the Howard Government and the international data highlighted above supports the assertion that *Work Choices* will increase inequality and poverty.

⁴³ Note: The income concept used is that of disposable household income, adjusted for household size (e=0.5). Gini coefficients multiplied by 100. "Most recent year" refers to the year 2000 in all countries except 1999 for Australia and Greece; 2001 for Germany, Luxembourg, New Zealand and Switzerland; and 2002 for Mexico and Turkey; In the case of Belgium and Spain, the data refer to 1995.

Conclusions Regarding Economic Effect of *Work Choices*

107. The overwhelming weight of evidence, both international and historical, suggest that the type of changes to our labour market to be introduced under the *Work Choices* regime will not increase productivity, will not increase employment, will increase poverty and will definitely increase inequality.
108. In the end, the key economic question for *Work Choices* is will the new system increase or decrease the average Australian's living standards?
109. Fundamentally, standards for the average worker may be increased by one of two means: increasing productivity to increase our long term economic growth rate or by increasing equality.
110. As the previous sections have demonstrated, further labour market deregulation does not assist either means. In fact *Work Choices* will reduce our long term productivity potential and increase inequality.
111. The AMWU submits that any government that is committed to increasing living standards for Australians, especially average workers, is compelled to restrict individual contracts, not encourage them; to encourage unionisation, not attack unions; to commit to the high road of economic development, not succumb to the easy, myopic, cruel low road of cost cutting.
112. Unfortunately, from its actions in the last 10 years and the nature of the proposed legislation, the AMWU must conclude that the current Federal Government is not committed to increasing living standards for Australians.

D. The Unfair Provisions Of The Bill Concerning Agreement Making

113. This section of this submission deals with a number of specific aspects of the Work Choices Bill and in particular the unfair provisions concerning agreement making.
114. The AMWU submits that the highly prescriptive provisions concerning agreement making in the Bill make a mockery of the Bill's title. Instead of choice, the Bill introduces an unprecedented level of anti-worker regulation.

“Prohibited Content”

115. The Bill provides that certain matters will be prohibited from agreements. Provisions containing such matters will be void (s.101F) and can be removed by the OEA without the consent of the parties (s.101K). To seek to include “prohibited content” will be to risk being penalised \$33,000 (for unions and federal system employers) and \$6,600 for individuals (s.101M). Employers can avoid such penalties by asking the OEA for advice as to whether the agreement being lodged contains any prohibited content (s.101E) however, such a defence is not available to unions or employees.
116. Incredibly, while various penalties and other legal consequences attached to prohibited content are described in detail in the Act, prohibited content itself is not defined. Rather s.101D provides that “[t]he regulations may specify matters that are *prohibited content* for the purposes of this Act”. Such a provision is extraordinary for at least two reasons. Firstly it represents unprecedented interference in bargaining with the Minister able to reconstitute voluntarily entered agreements at a whim. Secondly, given the government has already stated some of the matters that will be prohibited in the earlier document describing the likely content of the *Work Choices* legislation, it is unclear why it could not be included in the legislation (except presumably in order to avoid further scrutiny).
117. Theoretically at least it could be argued that the concept of prohibited content may perhaps have some merit if it were used to ensure that Australia guaranteed fundamental rights at work consistent with our ILO obligations (for example by prohibiting child labour), instead however its use in the Bill is limited to the more partisan purpose of implementing a significant shift of power to employers. By way of example, the list of prohibited content matters in the government's earlier *Work Choices* document included terms of agreements that:
- Prohibit AWAs;
 - Restrict the use of independent contractors or on-hire arrangements;
 - Allow for industrial action during the term of an agreement;
 - Provide for trade union training leave, bargaining fees to trade unions or paid union meetings;

- Provide that any future agreement must be a union collective agreement;
- Mandate union involvement in dispute resolution;
- Provide a remedy for unfair dismissal; and
- Prohibit content in an agreement will include anything in an agreement that requires or obliges an employer to ensure certain things with respect to the terms and conditions paid by contractors or onhire companies to their employees.

118. Critically, many of the above matters:

- Ensure that collective agreements are observed in practice rather than undermined by individual agreements;
- Allow employees some job security by providing disincentives for their employer to sack them and engage cheaper labour hire or contractors;
- Allow employees job security through negotiated unfair dismissal procedures;
- Allow employees to be trained to negotiate with their employer;
- Allow employees to meet to discuss issues that are affecting them at their workplace; or
- Assist employees representatives (ie unions) to operate effectively in a workplace.

119. Contrary to the Government's propaganda, the proposed removal of such "prohibited content" has nothing to do with choice or fairness and everything to do with taking away rights from workers in favour of extended managerial prerogative.

120. Indeed there are surely few better examples of the unfairness of the Bill than the manner in which the Government not only seeks to take away employees' rights to statutory unfair dismissal but also promises to fine them \$6,600 (or their union \$33,000) for seeking to bargain with their employer to have an alternative remedy put into an enforceable agreement.

The role of AWAs and employer only greenfields "agreements"

121. Many criticisms can be made of the role for AWAs and greenfields agreements in *Work Choices* however, arguably the key point to be made in relation to such agreements is that they can and will be used a device to avoid agreement making at all.

122. In this context the publication "Australian Workplace Agreements: Helping Make Better Workplaces — "The AWA Framework"", which is co-authored by the OEA and published on the OEA's website, helpfully provides two definitions of agreement on page 3 of the document:

The Australian Concise Oxford Dictionary

agreement - 1) the act of agreeing; the holding of the same opinion (reached agreement). 2) mutual understanding. 3) an arrangement between parties as to a course of action etc. 4) a state of being harmonious.

ACIRRT

Agreement - Any mutual understanding that, in an industrial relations context, tends to be the product of a negotiation process between employers, employees and/or their representatives.

123. Notably, neither of these definitions is compatible with an AWA offered as a condition precedent for employment nor for an employer greenfields “agreement” which allows an employer to unilaterally set the terms and conditions of employment for a period of 12 months (during which industrial action is prohibited). Neither take-it-or-leave-it AWAs or employer greenfield agreements have any real negotiating process, nor involve an “act” of agreeing nor “a state of being harmonious”. Neither take-it-or-leave-it AWAs nor employer greenfield agreements must meet safety net minimum award conditions. Instead both so-called “agreements” actively facilitate unchecked managerial prerogative. Both provide that the only “choice” offered to employees or that is being “protected by law” is whether or not they wish to be employed. As the majority of employees need to eat and pay their rent or mortgage, this is often in reality no choice at all. Progressively it is this type of “mutual understanding” that will come to characterise Australia’s industrial relations landscape under the Government’s *Work Choices* regime.

E. The Degradation and Destruction of Awards

124. This section of the submission also deals with other specifics of the Bill and in particular the degradation and destruction of awards under the new *Work Choices* regime.
125. Contrary to the government's \$55 million mantra the Bill does not "provide for modern award protection", instead it provides for the degradation and destruction of the award system. Rather than "protection" the Bill provides for simplification, rationalisation, de-classification, partial preservation, variation, and ultimately revocation. And that's without considering the even more tortured treatment of state awards and federal awards with "non-constitutional employers".
126. While many commentators have made the point that the hundreds of pages of legislation is exceedingly complex and convoluted, it must be said that the ultimate aim is clear enough – to destroy awards and the institutional structures that have supported and maintained them. The Bill's complexity only arises because this destruction is not to be done all at once but rather steadily over the next three to five years.
127. In this way, in addition to the entitlements lost through another round award simplification (or award stripping) – a process which the Committee has been barred from examining by the Government - the legislation also:
- Removes the object that awards are to "act as a safety net of fair minimum wages and conditions of employment".
 - Provides that awards will cease to operate following the expiry of an agreement.
 - Converts state awards to 3 year transitional agreements.
 - Drops non-constitutional employers out of the federal award system altogether (after a period of transition).
 - Closely restricts the manner in which agreements can rely on award provisions.
 - Removes the role of awards in the "no disadvantage test", and allows awards to be undercut by workplace agreements, including take it or leave it AWAs and employer greenfields "agreements" where wages and conditions can be unilaterally determined by the employer.
 - Provides for the dramatic "rationalisation" of the award system, inevitably leading to the loss of entitlements and revocation of awards.

- Inserts new “ideologically correct” provisions into awards, regardless of the views of the parties to the award (eg a dispute resolution procedure that does not allow for matters to be finally settled by the AIRC).
- Severely limits the ability of parties to the award to apply for a variation to improve working conditions under the award.
- Provides that award protection can be lost 12 months following a transmission of business.

128. None of these proposals are necessary or fair. None of the proposals were announced as policy during the last election. Taken together they will ultimately destroy the award system.

129. As Greg Combet has observed, in tearing up the award system, the government is tearing up the century old social contract it has had with Australian workers. In so doing the Government introduces Australia to a new era of inequality and division.

F. Breach of Australia's Obligations under the Australia – United States Free Trade Agreement

130. The final section of this submission deals with the Bill's flagrant breach of Australia's commitments under the Australia – United States Free Trade Agreement (USFTA).
131. The Australia – United States Free Trade Agreement imposes an obligation on the Australian and United States governments to not seek to obtain a competitive advantage over other nations by watering down protections for workers. For example the labour chapter of the USFTA provides:

1.1 The Parties reaffirm their obligations as members of the International Labour Organization (ILO) and their commitments under the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998) (ILO Declaration). Each Party shall strive to ensure that such labour principles and the internationally recognised labour principles and rights set forth in Article 18.7 are recognised and protected by its law.

18.2.2 The Parties recognise that it is inappropriate to encourage trade or investment by weakening or reducing the protections afforded in their respective labour laws. Accordingly, each Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws in a manner that weakens or reduces adherence to the internationally recognised labour principles and rights referred to in Article 18.7 as an encouragement for trade with the other Party, or as an encouragement for the establishment, acquisition, expansion, or retention of an investment in its territory.

18.7 For the purposes of this Chapter,

1. internationally recognised labour principles and rights means:

- (a) the right of association;*
- (b) the right to organize and bargain collectively;*
- (c) a prohibition on the use of any form of forced or compulsory labour;*
- (d) labour protections for children and young people, including a minimum age for the employment of children and the prohibition and elimination of the worst forms of child labour; and*
- (e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.*

132. Notwithstanding these treaty obligations, cutting workers' rights as a (misguided) means of seeking a competitive advantage and thereby encouraging investment is exactly the intention of the Minister for Employment and Workplace Relations and the Howard government (as the extracts below illustrate):

“Is Change Necessary?”

The higher education sector is not immune from the global pressures faced by other industries and from the workplace relations reforms needed to ensure the sector's long term prosperity. This is even more evident as free trade agreements between Australia and our trade partners lead to increased competition.”

Minister for Employment and Workplace Relations' speech to AHEIA Conference Brisbane: Evolution or Revolution – Workplace Relations; Leadership and Management in Higher Education, 29 April 2005

Australia still lags behind the world's most productive economies and the challenges are not going to get any easier.

Over the next 10 years, two countries each over sixty times Australia's size are set to rapidly grow and massively expand their export activities.

Australia's ongoing success as a major exporter in this environment is inextricably linked to the ability of our economy and those who participate in it to adapt quickly to meet those challenges.

In a global economy where specialization and flexibility are the keys to success further workplace relations reform is essential if we are to narrow the productivity gap and enable Australia's employers and employees to do things smarter, better and faster.

Australia's businesses and Australia's workers must have a modern workplace relations system if they are to compete with the likes of China and other emerging economies.

Minister for Employment and Workplace Relations' speech to Commerce
Queensland: The Howard Governments New Workplace Relations
System, 27 July 2005

*"We need [an industrial relations] system as the Prime Minister said, to meet the **conditions of the modern economy in an increasingly internationally competitive world** in which we live and this is a major step towards creating a single system of national industrial relations in this country."*

Minister for Employment and Workplace Relations's Joint Press
Conference with Prime Minister, 9 October 2005

It is against that that some still say, "Well, if it ain't broke, it doesn't need fixing." What that ignores is the challenges that we face in the future in Australia: the challenges of ongoing competition; the challenges to work in a smarter way so that we can continue not only to attract capital investment to this country but also to be able to export and thereby produce the jobs that will lead to the prosperity for Australian families; the challenges of an ageing population and the consequence of a rapid shrinkage in the growth of the work force because of that ageing of the population, and therefore the removal of mere population growth as a factor of economic growth in the future and the need for us again to be able to work smarter so that we can continue to grow jobs in this country.

...

Standing still is not an option. We have a choice in this country of whether we want a system of industrial relations which will lead to businesses thriving, to businesses taking on more employees and therefore this economy growing, or a choice to stand still where we are and to be overtaken by others around the world and by events such that the future well-being of Australians will go backwards. As we point out on other occasions, just go to Europe and look at the choice between a regulated and a deregulated economy. The economies of Germany and France and Spain are still highly regulated, and the unemployment rate in those countries is 10 per cent or more.

Minister for Employment and Workplace Relations' speech to Australian Business Limited: WorkChoices 7, 11 October 2005

*"You can never rest in this game. It's like a race where the finishing line is the end of the rainbow. It keeps moving away as you get closer to it. We have got to keep on at that. **We've got to ensure that industrial relations reform continues so we have the labour prices of New Zealand.** (emphasis added) They reformed their industrial relations system a decade*

ago. We're already a decade behind the New Zealanders. There is no resting"⁴⁴

Minister for Industry, Interview with Allan Jones, 2GB, August 2005

133. The AMWU submits that it is beyond argument that the *Work Choices* legislation will reduce rights for Australian workers, including core labour rights contained in International Labour Organisation conventions (see for in this regard the ACTU's discussion of this issue in its submission to the inquiry). According to the government, one of the key justification for such reductions is that it is necessary to improve Australia's international competitiveness (including in the context of recently entered free trade agreements) and to attract or retain investment. The AMWU submits that the Bill plainly breaches the spirit and the letter of the labour chapter of the Australia – United States Free Trade Agreement.
134. The Howard Government must respect the obligations contained in the labour chapter of the USFTA (and the relevant ILO Conventions). No Australian government should seek to trade away workers rights as part of a global race to the bottom.

⁴⁴ Ian Macfarlane, 2GB Alan Jones, 7:50 a.m. 16 August 2005

G. Conclusions About The Work Choices Bill

135. Due to the short time frame available to make submissions to the inquiry and the manner in which the inquiry has been prevented from considering many of the most significant matters in the Bill, the AMWU has not been able to provide anything like a full assessment of many of the key aspects of the Bill.
136. Nevertheless, putting to one side the absurd restrictions placed on the inquiry, it is clear that the Bill, if passed, will be by far and away the most significant and most anti-worker legislation to be enacted since federation.
137. Not only is the Bill unfair, unnecessary, and a breach of our internal obligations – its passage will mark a low point in public policy making this country.
138. The AMWU urges that the Committee recommend that the Bill not be passed.