

Introduction

The Council of Textile and Fashion Industries of Australia Limited (TFIA) is the peak industry body representing firms and organisations covering textile and clothing activities in Australia.

The industry provides 60,000 jobs, sales of more than \$7 billion a year and significant new capital spending each year. Exports are growing rapidly with TCF&L products contributing about \$3 billion to Australia's total exports. The industry represents approximately 10 per cent of all manufacturing establishments in Australia. This activity produces 'feeder' benefits through other sections of the Australian economy. For instance, it is estimated that each job in TCF&L creates 2.5 to 3 jobs in other sectors.

The industry also provides substantial employment in regional and metropolitan areas, particularly for females. Much of the workforce is particularly difficult to redeploy in other sectors of the economy as several studies have shown¹.

On a general level the TFIA continues to argue that the focus of the Government should be more on multilateral and regional agreements rather than bi-lateral agreements. The Government must be confident that free and equitable trade is the result of any agreement reached between the two countries. This must include measures to provide corrective action where anti-competitive behaviour occurs. The Australian TCF industry operates in an increasingly competitive environment and has for more than 20 years been adjusting and re-structuring with and without the assistance of Government.

Free Trade Agreements, while having the potential to offer benefits, have not done so for the Australian TCF sector recently and indeed an argument could be made that recent agreements have eroded the benefits of the Government's own domestic assistance package to the TCF sector. The Federal Government must undertake a clear assessment of the potential for trade policy to severely hinder the goals and aims of domestic assistance to the TCF sector. Whilst it is fine for economic models to show that overall there is a positive benefit from these agreements it does so by assuming that workers displaced in one sector find jobs or are balanced by increased employment in others.

These models work well when Australia receives fair and equitable benefits into the other party to the agreement. However in the eyes of many in the TCF industry this is not the case with those agreements recently negotiated. The TFIA would ask that the Government not so easily trade away the TCF sector, as it is perceived to have done previously but to ensure that Australian TCF firms get clear and equitable access to the Malaysian TCF market.

Ahead of a detailed discussion the TFIA would also note that this submission relates only to a free trade agreement between Australia and Malaysia and in no way changes any points already raised in the context of other trade agreements. The submission has

¹ For more information see the Productivity Commission's final report on TCF Assistance, 2003 or the Centre for Work and Society in the Global Era's report '*The Long Goodbye: TCF workers, unemployment and tariff deregulation*', DIIRD Victoria, August 2003

been drafted on the basis of current or legislated duty rates remaining in place both in Australia and internationally.

TCF Trade between Australia and Malaysia

Trade in TCF goods between Australia and Malaysia totalled \$A79 million in 2003/04, 7.2% lower than in 2002/03. Imports of TCF products from Malaysia were valued at \$73.8 million in 2003/04 – the bulk of which are in clothing - and represented 1.2% of total TCF imports to Australia. A total of \$5.2 million – with most being textiles - of TCF products were exported to Malaysia by Australia equating to 0.9% of total TCF exports. The table below provides a breakdown of trade for 2003/04

Trade between Australia and Malaysia, 2003/04 (\$ millions)

Sector	Exports	Imports	Trade Balance
Textiles	\$4.8	\$17.1	-\$12.3
Clothing	\$0.3	\$53.7	-\$53.4
Footwear	\$0.1	\$3	-\$2.9
Total TCF	\$5.2	\$73.8	-\$68.6

In terms of total TCF exports Malaysia is the 15th largest source of textile exports, 21st largest for clothing exports and 32nd largest destination for footwear exports. In terms of imports Malaysia is ranked 21st in terms of textiles, 7th in clothing and 19th in footwear.

On a more detailed product level however, the importance of Malaysia is significantly different to this broad overview. Some companies have indicated that Malaysia represents a strong source of inputs for their operations and a strong competitor for other products. In addition several companies have indicated that with an FTA additional markets and/or market share could be obtained. These products will be detailed should negotiations progress on the agreement.

Market Access Issues

Malaysian tariffs on TCF products vary from 30% to 0% (free) depending on the type of product being considered. The TFIA and its members believe any agreement between the two countries must ensure that tariffs in both countries are reduced to levels that provide advantage to both but do not provide an unnecessary advantage or disadvantage to either country.

The TFIA's preference for tariffs would be to adopt a similar approach to that taken in the Australia-Thailand Free Trade Agreement whereby all tariffs above a key level – such as 17.5% on clothing; 10% on fabrics; and 5% on yarns – are to be reduced to that level on entry into force of the agreement and then reduced in line with the tariff schedule of Australia. The TFIA at this stage has not assessed the degree of margin of preference that should be provided to Malaysia but would propose that it be no more than five percentage points.

Of more importance to the TFIA and its members is to ensure that any agreement contains dedicated measures to ensure that all identified non-tariff barriers (NTB's) are removed. The following NTB's have been identified by the TFIA to date:

- Reference pricing
- Import licensing and permits – non-transparent, restrictive and discriminatory
- Customs valuations – calculation and imposition of minimum prices is conducted in an untransparent manner and increases the cost to importers
 - This is compounded by a notional price system that is applied for excise and sales taxes
- Customs clearances and product examination – facilitation fees, delays and red tape
- Labelling issues

The removal of high tariffs and these NTB's would provide some advantage to Australian companies exporting to Malaysia but the full extent of benefit would depend on the other elements of the agreement.

Aside from tariffs and non-tariff barriers any agreement should include mechanisms and measures to integrate the Australian and Malaysian sectors to maximise the potential advantages of the agreement. There are already supply chain linkages between the two countries in selected products and any agreement should seek to improve these relationships and encourage new ones. Such provision must be made with consideration of arrangements in force under Australia's other trade agreements.

The TFIA would propose consideration of some type of Manufacturers Concession Scheme under the agreement. Under this scheme companies would receive duty credits for undertaking TCF value added manufacturing processes. These credits would then be redeemed for preferential entry of other TCF goods under the agreement, provided the manufacturer met the necessary RoO. I.e., The credits can be used to offset the phase duty rate that would apply to Malaysian product. An extension to this model would be to enable the credits to be sold to other companies and therefore promote further interaction.

This type of approach works to encourage bi-lateral investment and maintains Australia's manufacturing sector, while allowing improved duty access for Malaysian imports. With the addition of RoO requirements it would also promote consumption along the supply chain compounding the gains already being made. Such schemes have operated previously in Australia.

Such gains can also be enhanced through providing access to Government procurement markets for each of the trading partners.

Rules of Origin, Anti-dumping and Safeguard measures

The complexities and dynamics of the global TCF industry mean that a critical part of any free trade agreement is the provisions made for dispute settlement and protection for domestic industries from anti-competitive behaviour of companies. Of most concern for the TCF industry are:

- Trans-shipment – where a product enters under a preferential agreement that is wholly or with a majority of its inputs from a third party to the agreement; and
- Dumping – where products are sold into a market at a price that causes damage to the domestic industry and at a price well below the domestic price of the good.

To address these issues the TFIA would request that any future free trade agreement between Australia and Malaysia contain the following chapters:

- Rules of Origin
- TCF specific Safeguards
- Anti-dumping
- Adequate provision for each country's custom bodies to police the provision of any agreement reached

Currently the Australian TCF sector like all other domestic manufacturing sectors faces a range of different Rules of Origin arrangements under various agreements. The Council's preference is for RoO similar to that under the Australia-New Zealand Closer Economic Relations Trade Agreement (ANZCERTA) and the Australia-Singapore Free Trade Agreement, which uses the measure of principal manufacturer and a regional value content of 50% factory or works cost to confer origin.

However, recent agreements such as the Australia-Thailand and Australia-United States have pursued the Change of Tariff Classification (CTC) approach. In discussions with government officials this has been suggested as more appropriate because it easier to administer. While this may be the case for much of the non-TCF industry increased complexity has been added for TCF products through the specification of regional rules and values for particular products in addition to meeting a CTC requirement.

The TFIA is currently reviewing practical examples of how this CTC approach works for a range of TCF products to test this contention. On the basis of work already undertaken the CTC methodology has received a mixed reaction and indications suggest that the arrangements under the Australia-Thailand FTA may not be adequate. This is particularly the case where a change at the four digit level would be seeming to limit the range of products eligible under the methodology. The TFIA will continue to investigate the application of the CTC methodology but currently remains opposed to its implementation in any new agreements.

A critical concern for the industry based on the two most recently negotiated agreements is that the RoO do not include yarn forward and fibre forward provisions as contained in the Australia-US FTA and do not include the ability for Malaysian firms to include inputs from non-Malaysian developing countries as part of meeting their origin requirements such as occurs under the Australia-Thailand FTA. Both these results penalise the Australian industry and significantly reduce the benefits and compound the disadvantages under each agreement.

The Yarn and Fibre Forward rules effectively require that the fibre and/or yarn used in products must come from either Australia or the United States to meet preference. Given the nature of the Australian TCF industry these rules severely restricts the ability of most Australian products to qualify for preferential entry into the US market. It has been estimated that as little as 11% of all TCF products are eligible under these rules in the Australia-United States FTA.

In respect to the Thailand arrangements the inclusion of the 25% non-FTA partner developing country content was not agreed to by the industry nor was it discussed fully

in the course of negotiations. The arrangement effectively allows products to enter Australia that contain as little as 30% Thai or Australian content and encourages transshipment through Thailand into the Australian market and vice versa.

This arrangement provides benefits to countries not subject to the other provisions of the agreement to the potential detriment of the Australian industry. In addition this decision establishes a worrying precedent for this and any other agreements that Australia enters into. This particular aspect applies only to the TCF sector. The TFIA requests that it is clearly stated in the feasibility study that the inclusion of this type of RoO arrangement will be strongly opposed by the TFIA and its members.

The TFIA has not undertaken an extensive study of every TCF product line but would advance the general comment that any agreement provide for safeguard mechanisms to apply either through application or automatic triggers. These triggers could be linked to any number of outcomes, such as import growth, domestic industry contraction or employment.

In addition the TFIA would propose the addition of a TCF specific safeguard measure into the agreement. Such a measure would enhance the effectiveness of the agreement and provide a stronger means of redress for companies harmed by imports from the other party.

These requests are not without precedent, such mechanisms are included in several other FTA's including the United States-Singapore Free Trade Agreement (Article 5.9: Bilateral Textile and Apparel Safeguard Actions). In broad terms this allows for either the suspension of further tariff rate reductions provided under the agreement or an increase in the rate of duty on the good to no higher than the lesser of the current MFN rate or the MFN rate that applied on entry into force of the agreement.

Any agreement would also need to maintain Australia's existing anti-dumping mechanisms. Like safeguards, maintenance of anti-dumping provisions is a critical factor for the industry's support of free trade agreements. These mechanisms provide a deterrent and more so a clearly defined process for the resolution of disputes.

Finally in respect to these remedial measures the feasibility study must ensure that it assesses fully the costs of policing this agreement from Australia's perspective. This should be done in the context of the other requirements on the Australian Customs and Quarantine Services from the other agreements Australia is a party to.

More importantly the industry would demand that the Australian Government be satisfied with the approach and methods of Malaysian authorities to police the agreement. Should an agreement proceed the TFIA would demand that the Australian government ensure both they and more importantly Australian industry is aware of and comfortable with Malaysia's monitoring, policing and enforcement bodies and procedures.

International Events

The terms of reference ask the study to consider the broader trade, political and strategic implications of any Agreement between Australia and Malaysia. The TFIA

believes there are two key issues that should be viewed for the textiles and clothing sectors. The first relates to the removal of quotas on TCF products in 2005 and the second on the potential interaction between this agreement and the many other agreements Australia currently has in place or is negotiating.

Under the WTO Agreement on Textiles and Clothing all WTO members must remove any remaining quotas they have on TCF products. The true outcome is difficult to predict, although it is expected that significant changes will occur in trade flows with China expected to make significant gains at the expense of other countries who until now have traded under quota.

The reactions of the United States and European Union will be a strong determinant in the resultant impact, which could impinge on Australian and Malaysian TCF trade as markets potentially become oversupplied with TCF products. As such care must be taken in the preparation of this feasibility study to account for the possible changes in trade flow between TCF producing and consuming countries and what impact this may have on other agreements for Australia.

Related to the point above is the impact that an agreement with Malaysia would have on Australia's other bi-lateral trade agreement partners and in particular, Fiji and New Zealand. Both the SPARTECA (Fiji) and ANZCERTA (New Zealand) were agreed in the 1980's and have been beneficial for Australia, Fiji and New Zealand. Additionally an agreement has recently been concluded to allow preferential entry for TCF products from LDC's.

These agreements have significant benefits for those countries through preferential trade with Australia, however the more recent agreements reached by Australia have caused a degree of trade diversion away from these older agreements. The modelling being undertaken for this study must accommodate other aspects of Australia's Foreign and Trade policy in its operation and analysis of the net impact for Australia.

The feasibility study must also consider the current state of negotiations between ASEAN and China, ASEAN and Australia and Australia and China to ensure that where possible these agreements are broadly in line with one another.

The TFIA would argue that the Government's resources be focused on pursuing a multilateral agreement and then on the regional agreement with ASEAN rather than individual bi-lateral agreements. The TFIA also holds strong concerns over the ability of DFAT to negotiate three agreements simultaneously and would seek recognition of this problem from the Department along with an outline of how it will be addressed.

Recommendations

- Negotiations on this agreement should be placed behind those at the multilateral and regional level;
- Tariffs in Malaysia above a threshold level – 17.5% for clothing; 10% for fabrics; 5% for yarns – are to be reduced to that level immediately on entry into force then phased in line with Australia's tariffs;

- Any margin of preference afforded to Malaysian goods should be no greater than five percentage points;
- All identified NTB's must be addressed and removed under any agreement reached;
- The feasibility study should examine the potential for building stronger links between the TCF sectors in each country;
- The TFIA preference is for Rule of Origin based on those under ANZCERTA with CTC plus a 50% factory cost RVC based RoO a very distant second;
 - These rules must not include yarn forward or fibre forward conditions;
 - These rules must not include the ability for up to 25% of eligible origin content to come from non-Malaysian developing countries;
- The agreement must include strong and robust safeguards including a separate chapter for TCF safeguards;
 - These must include automatic triggers;
- Any agreement must maintain and not in any way weaken Australia's anti-dumping system.

Council of Textile and Fashion Industries of Australia
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