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**SUBMISSION TO THE DEPARTMENT OF INNOVATION INDUSTRY, SCIENCE AND RESEARCH:
REVIEW OF THE TCF SECTOR**

by the *Justice and International Mission Unit of the Uniting Church in Australia,*

Synod of Victoria and Tasmania

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Declaration of Interest

The Justice and International Mission Unit provide in-kind support to the Victoria Campaign Coordinator of FairWear. The Justice and International Mission Unit have no pecuniary or material interest in the outcome of this Review.





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Friday, 23 May 2008

Dear Professor Green,

We are pleased to have this opportunity to make a Submission to the Department of Innovation Industry, Science and Research: *Review of the TCF Sector*.

Support by the Synod of Victoria & Tasmania for justice in the Textile, Clothing and Footwear industry is not new, as evidenced by our long-standing commitment for the community-group FairWear, a campaign made up of diverse Christian, employee and women's organisations to end the exploitation of workers in the textile, clothing and footwear industry - both in Australia and overseas.

We hope that your Review will take into account our perspective when shaping the future of the industry.

Yours faithfully,

Dr. Mark Zirnsak

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CONTENTS

- **THE BASIS OF OUR SUBMISSION** (pg. 4)

- **FairWear** (pg. 6)
 - Recommendations of FairWear* (pg. 7)

- **International human rights instruments** (pg. 7)

- **The International Labour Organisation Convention Concerning Home Work** (pg. 8)

- **Some comments on the international situation – a case study** (pg. 8)
 - The case study* (pg. 9)
 - Some observations* (pg. 9)

- **Future of the TCF industry** (pg. 10)
 - An innovative company that supports human rights* (pg. 10)

- **CONCLUSION** (pg. 11)
 - Recommendations* (pg. 11)

THE BASIS OF OUR SUBMISSION

The Uniting Church in Australia believes that human rights (*Dignity in Humanity: Recognising Christ in Every Person, A Uniting Church in Australia Statement on Human Rights*¹) and the environment (*The Rights of Nature and the Rights of Future Generations*²) must be safeguarded.

The Uniting Church's theological understanding of the human person, and the belief in God's commitment to social justice, as illustrated in numerous passages in the Judeo-Christian Scripture (second only to passages against idolatry³) prioritising the needs of the poor, informs this Submission. Christians believe that the human person is made in the image of one 'God in three persons' (the Holy Trinity⁴). This Trinitarian God is a unity and a union of diverse but equal persons. This constitutes an ideal model for society. Furthermore, Christians believe that our environment is created by God. It follows that the people of God must act responsibly in their relationship to the environment. Personal transformation through faith in God as well as the appropriate regulation of society, with due regard for the common good of all, is required for social justice to flourish.

Judeo-Christian Scriptures speak of the importance of clothing. The link between the wearing of clothing and justice for the people who make it is one of the concerns of the Prophet Ezekiel. In a reference to the wealth and power of the kings and those in a position to protect the poor he said "You clothe yourself with the wool...but you do not feed the sheep" (Ezekiel 34:3). In this passage the prophet Ezekiel was angered when he saw people who could afford to have fine clothes made of wool but did not make sure that those who produced the clothes were fed. The poor people who served them, as shepherds, spinners, weavers and tailors, were paid so little that they did not have an adequate income to buy food, let alone the other basic necessities of life.

In the Gospel of Luke 1:53 in Christian Scripture, Mary, the mother of Jesus, states that God fills the hungry with good things. Central to the Christian message is that God prioritises the needs of the poor. Near the end of the Christian Scriptures, the Letter of James defends the rights of workers to a just wage (James 5:4).

In the early history of Christianity, seminal writers exhorted the faithful to treat the slaves of their day with high respect. In the 18th Century Christians in Britain and France led the movement for the abolition of slavery. In the 19th Century, Pope Leo XIII condemned unjust and forceful workplace practices perpetrated by employers or contractors during the period⁵. Today, many Christians are involved in assisting vulnerable Australian workers in such industries as cleaning and clothing, to be afforded their basic legal entitlements. Christian communities also celebrated the 200th anniversary of the abolition of the British slave trade in 2007 in which Christians played a central role. The Salvation Army is conducting a campaign to end exploitation of labour in the production of chocolate, calling on chocolate manufacturers to act ethically.

¹ The Uniting Church in Australia, National Assembly, [Eleventh Assembly], 2006, *Dignity in Humanity: Recognising Christ in Every Person, A Uniting Church in Australia Statement on Human Rights*, [resolution 06.20.01]

² Uniting Church in Australia, National Assembly, 1991, *The Rights of Nature and the Rights of Future Generations*, [resolution 91.14.18] [online], available from: <http://www.sustainability.dpc.wa.gov.au/docs/BGPapers/Ethics%20papers/UnitingChurch3.pdf>

³ Wallis, J. [Rev], 2005, *God's Politics*, Lion, Australia, pg. 212

⁴ The Uniting Church in Australia, 1992 [edition], *The Basis of Union*, [see: 9. Creeds], [online], available from: http://www.uca.org.au/basis_of_union.htm [23 May 2008]

⁵ Leo XIII [Pope], 1891, *Rerum Novarum - On Capital and Labor*, [encyclical], [online], available from: <http://www.catholicforum.com/saints/pope0256e.htm> [15 August 2005]

Not all people are Christians (or have a belief in God), but many share the Uniting Church in Australia's commitment to human rights and social justice.

Since the last report on the Textile Clothing and Footwear industry in 2003 many Australians have 'moved on', with many now familiar with the term 'fair trade'. However, there is little research available about consumer buying habits and ethical shopping in the textile clothing and footwear industry. That said, if Fairtrade coffee sales are any indication, the future looks bright for this fledgling area, as Australia is the fastest growing Fairtrade market in the world with rising demand up by around 50 per cent from 2006 to 2007⁶. Perhaps Australia is just a few steps behind Europe where, 'ethical fashion is broadening its scope as major European retailers respond to heightened consumer concerns about apparel manufacturing that damages the environment or violates human rights⁷.' 'In 2006, it was estimated that over 1.5 million items made out of Fairtrade Certified Cotton were sold worldwide⁸.'

The commitment of the Commonwealth, as exemplified by its support of the No SweatShop label⁹, coupled with strong leadership from industry and community stakeholders will further increase consumer awareness. It was heartening to recently hear from the new head of the Council of Textiles & Fashion Industries Australia (TFIA), Jo Kellock, who has a background as a fashion technician, publicly speak about the No SweatShop label as the future of the industry (at the launch of Commonwealth funding of \$4 million over four years for this scheme by the Deputy Prime Minister The Hon. Julia Gillard¹⁰).

Many understand that human and environmental development should be grounded in respect for human rights and environmental sustainability. Without this dual anchor, our social and economic development cannot be sustained, and will actually add to human misery and environmental destruction.

This submission will primarily focus on the need of industry policy to meet the obligations of Australia in relation to its commitments to human rights so that greater useful productivity can be realised without eroding social justice. In popular parlance this translates to a commitment to 'fairness'. It is false to pit 'fair' against 'free trade'. People are not free when the 'rules of the game' in the marketplace are not fair to all parties. The marketplace is driven by the desire for profit. Unfortunately, some will value profit more than the need to respect the dignity to others. This is why the trade must be ordered in such a way that protects people's rights and true value. This Submission argues that rather than detracting from Australian effectiveness in this area a commitment to fairness (implicit in our values and commitment to the international human rights framework) can be turned to our advantage.

⁶ Oxfam Australia, 2008, *Change the world one cup at a time*, [online], available from: <http://www.oxfam.org.au/media/article.php?id=457> [23 May 2008]

⁷ Groves, E., *Fair Trade Fashion a Hit in Europe*, 2006, [online], available from: http://www.organicconsumers.org/articles/article_374.cfm [23 May 2008]

⁸ Fairtrade Labelling Organisations International [edited Pérez, V.], 2007, *Shaping Global Partnerships: Fairtrade Labelling Organisations International Annual Report 2006 / 07*, [online], available from: http://www.fairtrade.net/uploads/media/Final_FLO_AR_2007_03.pdf [23 May 2008]

⁹ Australian Government, 2008, *Homeworkers' Code of Practice Program*, [online], available from: <http://www.workplace.gov.au/workplace/Programmes/Homeworkers+Code+of+Practice+Program/> [23 May 2008]

¹⁰ McMullen, A., 2008, *Commonwealth Government provides \$4 million to No SweatShop Label*, Trapeza, May, [online], available from: <http://trapeza.victas.uca.org.au/2008/05/08/commonwealth-government-provides-4-million-to-no-sweatshop-label/> [23 May 2008]

FairWear

The Uniting Church in Australia, Synod of Victoria and Tasmania, has a commitment of over ten years to the rights of vulnerable employees in the clothing industry. In particular, the church has focussed on the situation for homeworkers (outworkers) in Australia. The FairWear campaign, involving Uniting Church members, was active in 1998 to defend award conditions for home based workers against changes intended by the Commonwealth Government at that time. The Industrial Relations Commission upheld that the outworker clauses in the Federal Clothing Award should be kept intact. Campaigners saw this as a victory for vulnerable workers.

In 2000 the Synod of Victoria and Tasmania passed a resolution¹¹ to support the FairWear campaign. The Synod called for all apparel and footwear manufacturers to *comply with a code of practice, require all their contractors and subcontractors pay their employees a living wage, and respect the right of all employees to join a trade union.*

The FairWear campaign has been successful in persuading some Australian manufacturers and retailers to sign the Homeworkers Code of Practice (No SweatShop label). Despite this, the Victorian Ethical Clothing Trades Council¹² found a disturbing lack of compliance by some Victorian companies in meeting the minimum levels of lawful entitlements of clothing outworkers as set out in the Act in that State. The pattern of research findings in every State which has officially enquired into the treatment of outworkers has revealed a disturbing common scenario of exploitation and the need for special protection. For example the same pattern of exploitation was found in the research conducted by the Ethical Clothing Trades Council of NSW. In addition, over the past ten years the following state and federal inquiries have consistently found that outworkers receive payment and conditions significantly lower than their award and statutory entitlements. These include:

- Productivity Commission (2003) Inquiry into assistance to the TCF industry 2005;
- Senate Economics Reference Committee Inquiry (1996) Outworkers in the Garment Industry;
- Industry Commission Inquiry (1997) The Textiles, Clothing and Footwear Industries;
- NSW Legislative Council Standing Committee on Law and Justice (1998) Inquiry into Workplace Safety; and,
- Family and Community Development Committee (2002) Inquiry into the Conditions of Clothing Outworkers in Victoria.

In July 2006 the Justice and International Mission Unit made a submission¹³ to the *Commonwealth Senate Employment, Workplace Relations and Education Legislation Committee Inquiry into the provisions of the Independent Contractors Bill 2006 and Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006*. In keeping with the previously stated policy commitment of the previous Commonwealth Government, the clauses of the Federal Clothing Award (1999) that cover outworkers were not undermined and requirements for employers to register with the industrial relations commission to provide records of where they send work to, and what they are actually paying outworkers were safeguarded in the enacted legislation. Similarly the legislation did not override state 'deeming provisions' relating to outworkers that make it more difficult for employers to enter into

¹¹ Uniting Church in Australia, Synod of Victoria and Tasmania, 2006, 9.3 *FairWear*

¹² Ethical Clothing Trades Council of Victoria, 2004, *12 Month Report*, [online], available from: [http://www.irv.vic.gov.au/CA256EF9000EB8A3/WebObj/332BC39C68F5407CCA256FCE0016683F/\\$File/Ethical-Clothing-Trades-Council-Report-final.pdf](http://www.irv.vic.gov.au/CA256EF9000EB8A3/WebObj/332BC39C68F5407CCA256FCE0016683F/$File/Ethical-Clothing-Trades-Council-Report-final.pdf) [15 August 2005]

¹³ Justice and International Mission Unit, 2006, *Submission to Commonwealth Senate Employment, Workplace Relations and Education Legislation Committee Inquiry into the provisions of the Independent Contractors Bill 2006 and Workplace Relations Legislation Amendment (Independent Contractors) Bill 2006*, July

'sham' arrangements with their employees by inappropriately and unjustly treating them as 'independent contractors'. The Commonwealth finally concurred with the analysis of the FairWear campaign, about the creation of the category 'contract outworker' in the legislation. FairWear stated to the Committee that the introduction of this category would have created a legal fiction that would have led to further exploitation in the industry. The whole basis of the FairWear campaign has been to ensure that the employee status of outworkers be recognised, and that their pay *and conditions* entitlements are comprehensively protected.

Recent research¹⁴ by the Brotherhood of St Laurence highlights that the situation of homeworkers in Australia is still a matter that needs to be urgently addressed. The research in 2007 stated that following observations through interviewing homeworkers.

One group said they were paid \$2.50 for a detailed shirt which took one hour to sew. Another group said they were paid between \$2 and \$3 an hour. When asked about hours worked, most indicated that they often went weeks without a job but when the work was available they worked long hours.

There is still work to be done in the areas of a national policy development (as well as championing this issue internationally).

Recommendations of FairWear

The Justice & International Mission Unit of the Uniting Church in Australia, Synod of Victoria and Tasmania supports the Submission of FairWear to this Review. In particular we support their recommendations concerning:

- acceding to the International Labour Organisation - C177 Home Work Convention, 1996, *Convention Concerning Home Work*;
- the provision of appropriate education and training for homeworkers;
- the provision of tailored industry support to innovative ethical small businesses, tied to education and training which should include information on fulfilling minimum legal obligations that relate to the Textile, Clothing and Footwear industry; and,
- the application of appropriate monitoring mechanisms of supply chains in the Textile, Clothing and Footwear industry.

This Submission shall mainly focus on the first recommendation area outlined by FairWear, as well as covering some other areas.

International human rights instruments

In the 2006 policy, *Dignity in Humanity: Recognising Christ in Every Person*, the Uniting Church in Australia affirmed support for the human rights standards recognised by the United Nations. The Uniting Church noted that "*internationally recognised human rights are indivisible, universal and inalienable*¹⁵" and that, "*no rights are possible without all that is necessary for a decent life, including the rights to work with just pay and conditions...*¹⁶". Through the United Nations system, governments have developed a number of 'human rights instruments'. In addition, there is the International Labour Organisation (ILO), to which Australia belongs.

¹⁴ Brotherhood of St Laurence [Diviney, E. & Lillywhite, S.], 2007, *Ethical Threads*, [online], available from: http://www.nosweatshoplabel.com/media/Diviney&Lillywhite_ethical_threads.pdf [23 May 2008]

¹⁵ The Uniting Church in Australia, National Assembly, [Eleventh Assembly], 2006, *Dignity in Humanity: Recognising Christ in Every Person, A Uniting Church in Australia Statement on Human Rights*

¹⁶ Ibid.

The International Labour Organisation Convention Concerning Home Work

In 2006, the annual meeting of the Synod of Victoria and Tasmania was made aware that many homeworkers throughout the world remain an underclass which can provide a pool of cheap and submissive workers in both industrialised and developing countries. The Synod agreed on the need for a national and coordinated approach to these issues to build on current State and Commonwealth initiatives. The Synod resolved¹⁷:

- to call on all Australian State and Territory Governments to support the Commonwealth of Australia acceding to the International Labour Organisation (ILO) – C177 Convention concerning Home Work;
- to call on the Commonwealth of Australia to accede to the ILO – C177 Home Work Convention, 1996, Convention concerning Home Work; and,
- to write to State and Territory industrial relations Ministers and the Commonwealth Minister for Employment and Workplace Relations to inform them of this resolution.

Soon after this the Synod wrote to all Australian State and Territory Governments to favourable responses. Before forming Government the Federal Australian Labour Party stated that *in order to participate and take a lead role in global efforts to end the exploitation of home based workers, Labor will, in Government, accede to the Convention*¹⁸. The Deputy Prime Minister, Julia Gillard wrote to the Justice and International Mission Unit this year to confirm that the Commonwealth Government will seriously consider acceding to the Convention.

A national Australian approach needs to be coordinated in the textile, clothing and footwear industry, and more broadly. The Convention concerning Home Work (the Convention) sets out minimum requirements for governments to undertake and provides a guide to the development of national laws that need to be enacted. The Convention defines homework, who homeworkers are and promotes equality of treatment as far as possible with other wage earners; therefore reinforcing a fundamental status to homeworkers as workers entitled to equal remuneration, training and other conditions as to enterprise based workers. The minimum a government is required to do upon acceding is to develop a national policy on homework and to undertake to keep statistics on the number of homeworkers in their respective country. As the TCFUA has noted¹⁹, there is controversy over the number of outworkers in Australia, with estimates ranging from an unrealistic 25,000 to a high 330,000. The lack of recent research in this area highlights the need for a coordinated data collection exercise.

Some comments on the international situation – a case study

The Justice & International Mission Unit has been looking at the international situation in relation to the Textile, Clothing & Footwear industry for some time. The Unit liaised with an Australian company over some months in relation to their sourcing of shoes in the Peoples Republic of China. The Unit brought to the attention of the company concerns about factories in China not complying with basic labour rights standards. The company stated that if there was evidence of any such abuses in relation to their sourcing of shoe products then they would consider taking action.

¹⁷ Uniting Church in Australia, Synod of Victoria & Tasmania, 2006, *Resolution S06.4.25.1*

¹⁸ Australian Labor Party, 2007, ALP National Platform and Constitution, *Outworkers*, pg. 109, [online], available from: http://www.alp.org.au/download/now/2007_national_platform.pdf [23 May 2008]

¹⁹ Textile, Clothing and Footwear Union of Australia, 2006, *Senate Employment, Workplace Relations and Education References Committee Inquiry into Workplace Agreements*, August

The Justice & International Mission Unit then engaged the services of an academic who has contacts in the China region (in particular with an NGO) to investigate the operations of one factory making shoes for the Australian business as a case study. The Unit funded the investigation. As background to this, the Australian company was licensee to a multinational brand of some profile. This multinational utilises a code of practice for all of the factories that it, and its licensees, use. This code is meant to regulate the conditions of factory work to ensure that basic labour standards are not breached and the rights of people working in factories are not abused.

The case study

From 1-3 March 2007, an investigator from a Non-Government Organisation (NGO) carried out an investigation into a factory making shoes, located in Putian City, Fujian Province, China. Before becoming an NGO staff member and labour researcher, the investigator was a shoe factory worker, with more than ten years work experience on the production line.

The investigation was carried out through covert interviews with factory employees outside the factory gate, inside the factory grounds and inside the workshop. The investigator posed as a worker, looking for a job. Pretending to ask about prospective working conditions, the investigator spoke with 60 different people for the factory and surrounding areas. The investigator was able to get information not only from production line workers, but also line managers, security guards, human resources (HR) staff recruiting new employees, and members of the local community.

The information received from workers and from company HR staff members themselves reflects serious violations of both the Chinese Labor Law and the multinationals Code of Conduct. There were many problems requiring urgent attention, namely:

- illegally long working hours;
- illegally low wages;
- wages owed in arrears;
- inadequate OH&S training;
- lack of any social insurance;
- “underage workers” with no special treatment²⁰;
- failure to grant legally entitled holidays; and,
- prohibitions on workers to resign.

The Australian company representative that the Justice & International Mission Unit had been liaising with was horrified after reading about these problems requiring urgent attention. However, the company felt unable to act on the issues raised. It realised that in order to correct the problems the factory would have to be paid more for each shoe produced. However, in Australia, the retailers that carried the shoes demanded they be delivered product at a very low price which would have prevented the Australian company from making a profit if they paid more for shoe production.

Some observations

The experience highlighted to the Justice & International Mission Unit that the assurances from companies about codes and self-regulation count for little. What is required is Australia committing to the International Labour Organisation frameworks as well as instituting commensurate strong laws

²⁰ “Underage workers” are workers aged between 16 and 18. They are not illegal, but employees must guarantee them a certain degree of protection given their young age.

which would require companies to divulge their international supply chains. As well as this, sanctions against companies flouting such standards should be enforceable under Australian law.

The Justice & International Mission Unit is heartened by the commitment of the Australian Labour Party to “insisting that Australian companies meet their obligations under Australia’s international agreements, and monitoring their performance against these agreements²¹.”

The Justice & International Mission Unit is aware that organisations such as the Brotherhood of St. Laurence will be making Submissions to this Review, and they will be making recommendations about this area. The Unit hopes that the Review will take their recommendations seriously so that international human rights compliance in the Textile, Clothing & Footwear industry is given some priority.

The Justice & International Mission Unit has, after reading a report²² from the United States of America about similar kinds of conditions being experienced by Chinese workers involved in the production of Christian related goods (the report focuses on the production of crosses for the US market) has begun engaging with stakeholders and colleagues in this specialised area.

Future of the TCF industry

Ross Garnaut in a report²³ about the TCF industry in 1989 made the following salient point.

The place that Australia comes to occupy in the emerging Western Pacific division of labour for manufactured goods and services depends mainly on our own efforts. We can reasonably aspire to leadership in the region in some economically sophisticated activities in which Australians have special advantages and talents.

Garnaut states that the *alternative is to accept mediocrity in performance* due to the competition of countries such as Japan, Republic of Korea, Taiwan and Hong Kong. We can add that to compete on the same basis as low wage countries such as the Peoples Republic of China, where workers do not enjoy freedom of association, does not place Australia in an advantageous position but erodes the Australian commitment to international human rights instruments.

An innovative company that supports human rights

The Justice & International Mission Unit believes that *Rise Up Productions*²⁴ provides the Review with a real life example of a talented and sophisticated company that undertakes its operations in a way that is the opposite of mediocrity. This company has combined the environmental and social benefits of using organic Fairtrade cotton made overseas with ethical and independently verified production in Australia. Combining high quality Australian production with a commitment to the environment as well as fair treatment to producers through the utilisation of Fairtrade cotton, is truly innovative, and provides a way of looking beyond the ‘buy Australian’ debates that can sometimes sidetrack discussion about ethical production and consumerism.

²¹ Australian Labor Party, 2007, ALP National Platform and Constitution, *Corporate Responsibility*, Pgs 49-49, [online], available from: http://www.alp.org.au/download/now/2007_national_platform.pdf [23 May 2008]

²² National Labor Committee [NLC], 2007, *Today Workers Bear the Cross*, [online], available from: <http://www.nlcnet.org/article.php?id=479> [23 May 2008]

²³ Garnaut, R., 1989, *Australia and the Northeast Asian ascendancy: report to the Prime Minister and Minister for Foreign Affairs and Trade*, pg. 206, Australian Govt. Pub. Service, Canberra

²⁴ *Rise Up Productions*, 2008, [online], available from: <http://www.riseupproductions.com/> [23 May 2008]

Fairtrade Standards²⁵ for cotton ensure:

- producers are small family farms organized in cooperatives (or associations) which they own and govern democratically.
- the minimum guaranteed price (Fairtrade Minimum Price) is paid directly to the producer organizations.
- environmental standards restrict the use of agrochemicals and encourage sustainability.
- pre-export lines of credit are given to the cooperatives if requested, of up to 60 % of the purchase price.
- a Premium of 5-6 US cents/kilo is added to the purchase price and is used by producer organizations for social and economic investments such as education, health services, processing equipment, and loans to members.
- no forced labour of any kind, including child labour.

The No SweatShop label ensures²⁶ that *the garment was manufactured in Australia and all of the people involved in its production received, as a minimum, the Award wage rates and conditions.*

Combining these two schemes, both of which provide for independent verification, is a signpost to an ethical future in the Australian Textile, Clothing and Footwear Industry.

CONCLUSION

Australia should not try to compete with low wage economies internationally. Rather, Australia should build up businesses in the Textile, Clothing & Footwear industry that support human rights and environmental sustainability so that consumers will enjoy an ethical choice. This strategy will lead to the Australian industry being seen as an innovator globally. At the same time the Australian Government should do all that it reasonably can to encourage other countries to ensure the basic human rights of workers are respected. It should also *consider measures to ensure Australian consumers are not sold goods made under conditions that involve gross human rights violations.*

This Submission by the Justice & International Mission Unit recommends:

- that the Submission of FairWear to this Review be seriously considered where it covers such areas as the appropriate education and training for homeworkers, the provision of tailored industry support to small businesses (including education and training) and the application of appropriate monitoring mechanisms of supply chains in the Textile, Clothing and Footwear Industry;
- that the Review takes seriously the recommendations of the Brotherhood of St Laurence where it covers such areas as international human rights compliance (and free trade agreements) and international supply chain management;
- that the Review recommends that Australia accede to the International Labour Organisation (ILO) – C177 Convention concerning Home Work;
- that the Review seriously consider the environmental and social benefits of utilising Fairtrade Cotton more widely in the Australian Textile, Clothing and Footwear Industry; and,
- that along with the Commonwealth Government, the Review specifically supports the further development of the No Sweat Shop label (Homeworkers Code of Practice) to support ethical practice in the production of Australian goods in the Textile, Clothing and Footwear Industry.

²⁵ Fairtrade Labelling Organisations International, 2008, Fairtrade Standards for Cotton, [online], available from: <http://www.fairtrade.net/cotton.html> [23 May 2008]

²⁶ Homeworkers Code of Practice / No Sweat Shop label, 2008, [online], available from: <http://www.nosweatshoplabel.com/> [23 May 2008]