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Ref: sm2024159

18 October, 2024

Submission to the Department of Finance's Public Consultation on Defining an Australian Business for Commonwealth Procurement

To whom it may concern,

The Australian Manufacturing Workers' Union (AMWU) is the primary union representing Australian manufacturing workers. We are 60,000 members strong, and we live and work in every region and city of the country. Our members build, manufacture, and repair trains, trams and electric buses; infrastructure for construction projects; as well as naval ships and other military equipment. We process the food our farmers grow, maintain equipment in our hospitals and commercial buildings, and energy infrastructure like wind towers.

This means that our members are the workers employed by many of the businesses that will be in receipt of the public procurement opportunities flowing from the Federal Government's Future Made In Australia (FMIA) reindustrialisation strategy. This national investment in the industries and infrastructure that will prepare Australia for decades of transformation and adaptation to climate change is unprecedented in both scope and scale and will be implemented in the context of a globally integrated economy. Such an economy is shaped extensively by global production networks that cross regions, borders, oceans and continents but nevertheless impact on the work and livelihoods of our members and the wider manufacturing industry at the domestic and local levels.

Over the several decades in which processes of globalisation have produced an increasing number of foreign entities establishing their businesses in Australia, successive Australian Governments embraced the role of bystander as critical sovereign manufacturing capabilities were offshored in exchange for a dig-and-ship economy that made Australia the 'quarry to the world'. Unfortunately, the short-term gains of this passive position on sovereign manufacturing both artificially inflated our economy's value and afforded Australians little benefit beyond the cheap imported commodities that have together contributed to hollowing out our economic complexity. Harvard University's 'Atlas of Economic Complexity' measures the diversification, development and ability to integrate advanced technologies into the industrial base of domestic economies. Economic Complexity is a synonym for the knowledge intensity of an economy. It is centred on the embodied knowledge represented by the composition of its output and production (and does not, as recently and incorrectly claimed by a former head of the Productivity Commission, pertain to the use of imported high technology by extractive resource industries to export unprocessed raw materials).¹

¹ Kehoe, J. 2023. 'Mining is smart, not 'stupid', outgoing productivity boss says', *Australian Financial Review*, 4 September. <https://www.afr.com/policy/economy/mining-is-smart-not-stupid-outgoing-productivity-boss-says-20230904-p5e1vb>

In the most recent edition of the Atlas, Australia ranked 9th in the world for GDP per capita but only ranked 93rd for economic complexity, despite many of our closest allies and largest trading partners (i.e., the United States, countries in Western Europe, Japan and the Republic of Korea) ranking within the top 10 for economic complexity. Moreover, Australia has been falling in those economic complexity rankings: since the turn of the century, our ranking has dropped by 31 positions. Unless this trend is reversed, the Australian economy will remain the (second) least industrialised in the OECD. This resource dependence will leave it vulnerable to external economic shocks, much like that which occurred during the peak of the COVID-19 pandemic, and as are evident today with increased superpower competition and the acceleration of extreme weather events related to the ecological crisis.

As a direct result of its decline in economic complexity over the era of globalisation, Australia is today realistically dependent on the continuing involvement and investment of the domestic Australian arms of multinational, globally operating firms – for jobs, the delivery of projects and the capacity and capability these major enterprises command.

Therefore, the AMWU believes that defining an Australian Business for the purposes of Commonwealth Procurement is a moot point if the Government is to take seriously the effects of globalisation on its Future Made In Australia industrial policy and the implications it will have for investment in our sovereign capabilities. Global business and industrial networks mean that multinational firms operating within and outside of Australia transact at the supra-national level, but in many cases directly employ Australian workers in local business entities registered to pay tax in Australia.

Given this realistic context, instead of stringent guidelines about ensuring home-grown Australian businesses benefit from Future Made In Australia, the AMWU wants to see the Government's Commonwealth Procurement definitions prioritise, first and foremost, the interests of Australian workers and their communities, and elicit a commitment from Australian and foreign business entities alike to creating skilled jobs in Australia's high-value manufacturing industries. If the Government's reforms to Commonwealth Procurement focus on opportunities for Australian businesses at the expense of FMIA's larger aims, it risks missing opportunities for large-scale foreign firms to deliver critical capabilities into our domestic economy. Products manufactured in Australia by workers employed by firms operating in Australia are still 'Australian Made'.

Hence, we believe the best path forward for this process is for Government to focus less on whether a business is Australian, and more on whether a business creates high-skill manufacturing jobs for Australians, as per the aims of its Future Made In Australia industrial policy. The Government – and businesses that tender successfully for public money – must commit to FMIA's primary aims, being the reindustrialisation of the economy, and the development of sovereign capabilities – capabilities that foreign entities can deliver if committing to the long-term growth of Australia's economic complexity.

Ultimately, all Future Made in Australia investments should mandate meeting the most ambitious local content requirements to help grow and develop local supply chain capabilities. FMIA should contemplate that a national procurement code be operative to support the ambition of the government commitment to shift Australia's economy up global value chains.

The remainder of our submission outlines what we believe can help ensure that Commonwealth Procurement benefits Australian workers, where inevitably the businesses that reindustrialise the nation's economy will embrace global investment in the way the US Inflation Reduction Act attracted foreign investment in the United States' industrial capabilities.

Ethical Treatment of Workers by Businesses tendering for Commonwealth Procurement

Businesses tendering for government support must undergo an Ethical Treatment of Workers Evaluation. The Evaluation should include specific compliance, strategies and targets in relation to:

- Adherence to industrial laws;
- Enterprise agreements with the relevant union or unions and recognition of the right to collectively bargain;
- Safety (including hours of work and fatigue management);
- The right of workers to representation in the workplace;
- Encourage workers to be union members;
- Workplace participation for First Nations people;
- Maximising the participation of women and gender equity goals;
- Employing apprentices, trainees, and cadets;
- A security of payments framework;
- Local content procurement;
- Regional local employment;
- Stable, secure and ongoing employment for workers; and
- Use of subcontractors who also hold a Certificate.

The Ethical Treatment of Workers valuation should consider, among other things:

- Media reports;
- Alleged breaches of relevant legislation where investigations are currently underway for which there is some evidence, including complaints or information received by the Commissioner that have not yet been subject to formal action;
- Compliance with immigration laws, including any ongoing investigations or complaints;
- Convictions, civil penalties, or any other legal action which falls outside the five-year timeframe where it is relevant to assessing reputational risk;
- Enforcement notices or current investigations against any relevant legislation in addition to the prescribed legislation under the Code, or unethical acts by the tenderer; and
- Any information provided by the tenderer, victims or persons directly affected by the tenderer's conduct, and Government agencies that have engaged with the tenderer.

Firms receiving finance, grants or equity investment in their firm should be required to have an enterprise agreement with the relevant trade union/s registered or enter the relevant multi-employer bargaining stream. This is necessary to ensure workers on government-funded projects are paid prevailing industry rates and to ensure the safety of workers.

The Federal Government, as part of its Buy Australian Plan, has committed to “establish a Secure Australian Jobs Code to prioritise secure work in government contracts and ensure that government purchasing power is being used to support businesses that engage in fair, equitable, ethical and sustainable practices”.

The Federal Government must ensure that the Secure Australian Jobs Code (SAJC) underpins the practices of all firms and the projects that they propose to fulfil Commonwealth Procurement contracts.

Apprentices

As a condition of funding, all businesses seeking access to Commonwealth Procurement processes should be required to appoint a minimum ratio of apprentices to tradespersons. This is already the policy of several state governments and has previously been implemented at a federal level. Applications by firms proactively meeting or exceeding quotas for women and/or First Nations people in skilled trades occupations, apprenticeships or traineeships should be assessed more favourably.

The Federal Government, as part of its Buy Australian Plan, has committed to “establish a Secure Australian Jobs Code to prioritise secure work in government contracts and ensure that government purchasing power is being used to support businesses that engage in fair, equitable, ethical and sustainable practices”. The Secure Australian Jobs Code (SAJC) must underpin the practices of all recipients of funding from the NRF Board.

Minimum requirements for Defining Australian Businesses

In conclusion, and as a caveat to our position outlined above, where the Government is committed the processes of defining an Australian Business for Commonwealth Procurement purposes should consider actively identifying opportunities for investment in Australian-based firms and projects that are co-operatively and mutually owned by workers. This is because, as the Business Council of Cooperatives and Mutuals (BCCM) states, Australian business cooperatives and mutuals:

- Are long-term investors in domestic manufacturing because their members are local;
- Increase the resilience of Australia’s SMEs in a range of industries by helping them reduce input costs, access markets and share in profits from value-adding activities such as manufacturing;
- Are domestically owned and pay taxes domestically;
- Earn vital export income for Australia;
- Generate quality employment across regional and metropolitan Australia;
- Enhance the function of markets by being the consumer and small business focused; and
- Promote democratic values and practices through member ownership and collaboration.

Commonwealth Procurement rules for support allocated from Future Made In Australia and beyond should consider additional programs and supports for Australian SMEs to encourage Australian-owned business activity including Indigenous-owned enterprises. The Treasury’s definition of an Australian Business for Commonwealth Procurement would benefit from a focused program of industry, government and market stakeholder education and capacity building so that all Commonwealth Procurement processes are meaningfully inclusive of Indigenous-owned businesses, startups, cooperatives and mutuals.

The AMWU welcomes further discussion and collaboration on this important issue, and we thank you for the opportunity to make a submission. If you require any further information, please contact Mark Dean ([REDACTED] or [REDACTED]) in the first instance.

