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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

TEXTILES, CLOTHING AND FOOTWEAR DEVELOPMENT AUTHORITY BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by the authority of Senator the Honourable
John N Button, Minister for Industry, Technology and Commerce).

This memorandum takes account of amendments made by the
Senate to the Bill as introduced.

TEXTILES, CLOTHING AND FOOTWEAR DEVELOPMENT AUTHORITY BILL 1988OUTLINE

1. This Bill proposes the establishment of a Textiles, Clothing and Footwear (TCF) Development Authority to promote the restructuring and revitalisation of the TCF industries so that they can become more efficient and internationally competitive and less dependent on assistance provided by the Commonwealth.
2. The establishment of the Authority is one of the measures included in the assistance package for these industries to come into full operation on 1 March 1989, as announced by the Government on 28 November 1986, with full details contained in a Statement to Parliament on 5 June 1987.
3. The Bill sets out the functions, powers and constitution of the Authority. The Authority is to be an independent body. It will be responsible for administering the Industries Development Strategy which is a key element of the Government's assistance package for the TCF industries, providing incentives and opportunities for the industries to restructure and capitalise upon areas of opportunity. The Authority will also provide advice on the technical and administrative operations of the package, particularly the barrier assistance measures. In the performance of these functions the Authority will consult with appropriate bodies.
4. The Authority will monitor the operation of the assistance package and progress made towards the achievement of the Government's objectives for the TCF industries and report to the Minister thereon. The Authority may also report to the Minister on any TCF matters it considers relevant, and the Minister may refer matters to the Authority for consideration and report. The Government is not, however, precluded from referring matters to the Industries Assistance Commission.
5. The Authority will report annually to the Parliament.
6. The Authority may inform itself in such manner as it thinks fit and has the power to conduct inquiries. These are to be held in public, or in private if the Authority considers it is necessary or desirable.

Financial Impact Statement

7. Budget allocation for the Authority in 1987/88 is \$1.2 million covering the establishment and operating costs, and \$5 million for program costs.

ABBREVIATIONS

8. The following abbreviations are used in this Explanatory Memorandum:

Authority: Textiles, Clothing and Footwear Development Authority

Corporation: Australian Industry Development Corporation

Department: Department of Industry, Technology & Commerce

IAC: Industries Assistance Commission

IDS: Industries Development Strategy, as defined in Clause 4 of the Bill

TCF: Textiles, Clothing and Footwear

TCF Policies: The policies referred to in sub paragraphs 7(g) (i), (ii) and (iii) of the Bill.

NOTES ON CLAUSESPART 1 - PRELIMINARY

Clause 1: Short title

Clause 2: Commencement

9. Provides that the Bill will come into operation on th day on which it receives Royal Assent.

Clause 3: Effect on Industries Assistance Commission Act

10. Provides that the Bill does not affect the operation of the Industries Assistance Commission Act 1973 (i.e. the requirement in section 23 of the IAC Act that a report by the IAC is necessary before the Government can change

assistance arrangements for the industries) other than in relation to any action by the Minister for Industry, Technology and Commerce in carrying out a recommendation of the Authority arising from either the review of the industries to be conducted not later than 30 June 1992 or on any administrative changes that are necessary to ensure that the TCF policies operate as intended.

Clause 4: Interpretation

11. Defines a number of terms and expressions for the purposes of the legislation.

PART II - ESTABLISHMENT, OBJECTS, FUNCTIONS AND POWERS OF
AUTHORITY

Clause 5: Establishment

12. Provides for the establishment of the Textiles, Clothing and Footwear Development Authority.

Clause 6: Objects

13. Sets out the object of establishing the Authority. The Authority is to promote the restructuring and revitalisation of the TCF industries so as to improve their efficiency and international competitiveness and to reduce their dependency on assistance provided by the Commonwealth.

Clause 7: Functions

14. Provides that the functions of the Authority are to develop and implement a range of positive industry assistance measures under the Industries Development Strategy aimed at encouraging raw materials processing, modernising plant and equipment used in the industries, increasing the international competitiveness of producers, lifting industry efficiency, enhancing the provision of infrastructure support for TCF industries and increasing their penetration into export markets.
15. Additionally the Authority will monitor the implementation and operations of the Government's policies for the TCF industries, and report periodically to the Minister on matters relating to the TCF industries and progress towards the achievement of the Government's policy objectives for these industries. The Authority will report and where appropriate make recommendations on any administrative changes necessary to ensure the proper implementation of the TCF policies. The Authority will, in consultation with relevant delivery agencies, monitor matters relevant to the implementation of the Government's policies for the TCF industries, and perform such other functions as are conferred upon it by the Act.

Clause 8: Guidelines for policies and practices of
Authority

16. Gives the Minister the power to direct the Authority on the policies and practices it is to adopt in carrying out its functions and in exercising its powers. Any such directions must be published in the Gazette and laid before each House of Parliament within fifteen sitting days of such publication. The Minister is not empowered to give directions relating to a particular person or firm. This provision enables the Minister to have a direct input into the Authority's administration of its powers and functions and ensures that any direction he gives to the Authority is publicised.

Clause 9: Annual plan

17. Requires the Authority prior to the commencement of each financial year to submit to the Minister for approval an annual plan covering the Authority's general objectives for the year and proposed action to achieve these objectives, along with details of proposed funding allocations for the programs for which the Authority is responsible. The Minister may in writing request a revision of the plan.
18. The Authority may, with approval of the Minister, vary the annual plan for a financial year, including the allocation of funds between programs, whether or not the plan has come

into force. An exception is provided so that the Minister's approval is not necessary in so far as a variation relates to the allocation of funds within a program or between the Plant and Equipment Modernisation Program as set out in paragraph 7 (b) of the Bill, the International Competitiveness Incentive Program as set out in paragraph 7(c) and the Industries Efficiency Program as set out in paragraph 7(d)(i). Flexibility in the allocation of funds between these three programs is desirable because they are each aimed at increasing efficiency within the TCF industries.

Clause 10: Report on TCF industries' matters, etc

19. Gives the Minister the power to require the Authority to report to him on TCF industries' matters or the progress made in a TCF industry towards achieving the objectives of the Government for that industry. The Authority may also report on its own motion to the Minister on such matters including a report on instances where a TCF participant has failed to act consistently with the Government's TCF policies. The Authority may also recommend that the latter type of report be published but, if it so recommends, it must notify the person concerned of the contents of the report. This will help ensure that the Government is aware of the progress being made in the TCF industries towards the policy objectives the Government has set.

Clause 11: Annual report

20. Provides that the Authority shall report to the Minister by 31 December each year on its activities during the preceding financial year. Such reports will be tabled in Parliament.

Clause 12: Policies review

21. Provides that the Authority shall not later than 30 June 1992 conduct a review and report to the Minister on the operations and effectiveness of the TCF policies including, where appropriate, recommendations on certain possible courses of action to reduce the potential effects of any excessive contraction or expected contraction in the production of the TCF industries caused by the operation of the policies towards these industries.
22. Any recommendations that the Authority makes must have regard to the extent of potential decline in production and are limited to the suspension of the operation of the Government's bounty assistance or barrier assistance policies for a period not exceeding one year, and the holding of an inquiry. For example, the announced phase-down of duty rates may be suspended for up to 12 months if that phasedown is causing significant adverse effects but must ultimately continue unless there is an inquiry which recommends otherwise.

Clause 13: Powers

23. Provides that, in addition to any other power conferred on it by the Act, the Authority will have the power to do all things necessary or convenient to be done in connection with the performance of its functions.

PART III - CONSTITUTION AND MEETINGS OF THE AUTHORITYClause 14: Membership of the Authority

24. Provides that the Authority shall comprise not more than 6 members appointed on a full-time or part-time basis, one being the Chairperson. All members shall be appointed by the Governor-General on such terms and conditions as are provided by the Act or, where the Act is silent on the matter, by the Minister. Members of the Authority are to hold office for the period specified in the instrument of appointment, up to a maximum period of 5 years. Members are eligible for re-appointment, but are not eligible to hold the office of full-time member after attaining the age of 65 years.

Clause 15: Outside employment

25. Provides that a full-time member may not engage in paid employment outside his or her duties as a member without the approval of the Minister, and a part-time member may not

engage in paid employment that, in the opinion of the Minister, conflicts with the duties of a member of the Authority.

Clause 16: Remuneration and allowances

26. Provides for the payment of remuneration and allowances to the members of the Authority.

Clause 17: Disclosure of interests

27. Provides for the disclosure at a meeting of the Authority by any member of any pecuniary interest that the member becomes aware of that could conflict with their duties and functions in considering a matter. Where a member has or acquires such an interest he or she may not, unless with the consent of the Minister or the Authority, take part in a meeting of the Authority.

Clause 18: Leave of absence

28. Provides for leave of absence by all members to be granted on such terms and conditions as the Minister determines.

Clause 19: Resignation of office

29. Provides for the mode of resignation by members.

Clause 20: Retirement from office

30. Provides for the retirement of members on the grounds of invalidity.

Clause 21: Termination of Appointment

31. Provides the grounds upon which the Governor-General shall remove a member from office.

Clause 22: Acting appointments

32. Empowers the Minister to make acting appointments, for a period of up to 12 months, to the position of either the Chairperson or member during periods of vacancy or temporary absence. Sub-clause (3) preserves the validity of anything done by a person purporting to act under the Clause in spite of defects or irregularities connected with the appointment of that person on an acting basis.

Clause 23: Meetings

33. Provides for meetings of the Authority to be convened by the Chairperson as considered necessary for the efficient performance of the Authority's functions. Where the Chairperson is not present at a meeting the members present shall appoint one of their number to preside at the meeting.
34. The person presiding at a meeting may give directions regarding the procedure to be followed at meetings, and records of the meetings are to be kept. Three members form a quorum for the purposes of a meeting. All questions are to be decided by a majority of votes, the person presiding has a deliberative vote, and in the event of an equality of votes, a casting vote.

PART IV - INDUSTRIES DEVELOPMENT STRATEGY PROGRAMS

DIVISION 1 - RAW MATERIALS PROCESSING PROGRAM

Clause 24: Application of Division

35. This Division provides for the mechanism by which the Authority is to implement the Raw Materials Processing Program.

Clause 25: Agreements with Corporation

36. Provides for the Authority to enter into agreements with the Corporation in relation to the carrying out of feasibility studies into resource processing opportunities, the Corporation assessing and recommending suitable projects for the program and where appropriate, financing the Corporation for the interest and other costs of money borrowed by the Corporation to enable it to participate in a project.

Clause 26: Approval of projects by Minister

37. Provides that the Authority is to seek the Minister's approval for any projects selected under this Program and that the selection of projects will have regard to the production costs of products resulting from the projects, the value added of the products resulting from the projects and the export demand for those products.

Clause 27. Guarantees by Minister

38. The Minister may, on behalf of the Commonwealth, give a guarantee against loss to the Corporation for the amount it proposes to invest in a project, but for not more than one-third of the total equity share in a project.

DIVISION 2 PLANT AND EQUIPMENT MODERNISATION PROGRAM

Clause 28: Application of Division

39. This Division provides for the mechanism by which the Authority is to implement the Plant and Equipment Modernisation Program.

Clause 29: Applications for financial assistance

40. Provides that a person applying for financial assistance under the Plant and Equipment Modernisation Program must be a producer of bountiable yarn who is eligible to receive payment of bounties. An application for financial assistance must include details of the plant and equipment that is to be acquired and a business plan outlining how that plant or equipment will improve the applicant's business.

Clause 30 Information regarding entitlement to bounty

41. Provides that an applicant for financial assistance under the Plant and Equipment Modernisation Program shall provide any information reasonably requested by the Authority to enable an assessment of the total amount of bounty to which the applicant is likely to be entitled in respect of the period of 3 years from the date of approval of the application. This information is necessary so that the Authority can determine the maximum amount of financial assistance that an applicant may receive (see Clause 31).

Clause 31: Limit on financial assistance

42. Provides for a limit on financial assistance to any one applicant under the Plant and Equipment Modernisation Program to be half the amount of bounty to which the applicant is likely to be entitled.

Clause 32: Assessment of financial viability of business plans

43. Provides the Authority with the power to refer a business plan submitted by an applicant for financial assistance under the Plant and Equipment Modernisation Program to a suitably qualified person for an assessment of the plan's financial viability.

Clause 33: Approval of applications

44. Provides for the procedure and criteria for approval of financial assistance under the Plant and Equipment Modernisation Program. The criteria for approving financial assistance are that the proposal will maximise the efficiency and international competitiveness of the applicant's business and its export potential, that it will reduce the amount of the bounty that the applicant is entitled to receive for the production of bountiable yarn, and that it is financially viable.

45. Sub-clause (3) provides for the Authority to determine which proposals will be supported by financial assistance should the funds available not be sufficient to allow the Authority to assist all approved proposals.

Clause 34: Agreement with Corporation etc

46. Provides for the Authority to enter into an appropriate agreement with a body providing financial assistance under the Plant and Equipment Modernisation Program. Under such an agreement the Authority may provide funds to be used to pay interest and other costs of money incurred by the body providing such financial assistance.

Clause 35: Guarantees by Minister

47. Provides that the Minister may, on behalf of the Commonwealth provide the Corporation (but not other bodies) with guarantees of up to half of the amount of any default or deficiency resulting from projects for which the Corporation provides financial assistance.

DIVISION 3 - INTERNATIONAL COMPETITIVENESS INCENTIVE PROGRAM

Clause 36: Application of Division

48. This Division provides for the mechanism by which the Authority is to implement the International Competitiveness Incentive Program.

Clause 37: Applications for financial assistance

49. Applications for financial assistance are to include a business plan either aimed at increasing the applicant's proportion of total production which is exported by at least 30 percentage points over five years, (thus for example where a producer exports 10 per cent of its production in the year before the plan commences, the plan must aim for it to export a minimum of 10 per cent plus 30 per cent (= 40 per cent) of its total production in year 5 and to maintain an export level of at least 40 per cent of subsequent annual production), or aimed at substantially increasing the

applicant's production of import-replacement products, and which will enable the applicant to maintain such production levels without excessive Government assistance.

50. The plan must also minimise involuntary reductions in employment and provide for consultations with trade unions and employees.

Clause 38: Assessment of financial viability of business plans

51. Provides the Authority with the power to refer a business plan submitted by an applicant for financial assistance under the International Competitiveness Incentive Program to a suitably qualified person for an assessment of the plan's financial viability.

Clause 39: Approval of applications

52. Provides that the Authority may grant financial assistance to an applicant if it is satisfied that the plan submitted by the applicant will achieve the aims set out in Clause 37.

Clause 40: Financial assistance - rate of which, and period during which, payable

53. Financial assistance under the program is to be at a rate determined by the Authority and is limited to 2 years but

may, with the approval of the Minister, be extended to 3 years at a rate approved by the Minister.

DIVISION 4 - OTHER PROGRAMS

Clause 41: Application of Division

54. This Division provides for the mechanism by which the Authority is to implement the programs for lifting TCF industries efficiency, enhancing the provision of infrastructure support for TCF industries and increasing the penetration of the TCF industries into export markets.

Clause 42: Arrangements with other bodies

55. Provides the Authority with power to make appropriate arrangements and payments to those bodies participating in the implementation of the programs within this Division.

Clause 43: Assistance under programs and criteria for eligibility

56. Provides the Authority with the power to determine and publicise the types of assistance provided under programs to which this Division applies and the eligibility criteria for providing such assistance. The Authority is empowered to vary the type of assistance or criteria relevant to any of the above programs and publicise such variations in the manner it considers appropriate.

Claus 44: Applications for, and grant of, assistance

57. Provides for the procedure a producer must follow in applying for a grant of assistance under a program to which this Division applies. The Authority, or the body administering a program, may grant in such amounts as it determines, financial assistance to an applicant who satisfies the relevant eligibility criteria.

PART V - CONDUCT OF FORMAL INQUIRIESClause 45: Procedure at inquiries

58. Provides that formal inquiries by the Authority are to be conducted in public or, where the Authority is of the opinion that the circumstances are such that it is necessary or desirable, wholly or partly in private. Provision is made for the receipt and examination of evidence. Subject to the provisions of this clause, the procedures to be followed at an inquiry are within the discretion of the Authority and the Authority is not bound by the rules of evidence.

Clause 46: Power to administer oath or affirmation

59. Empowers the Chairperson to administer an oath or affirmation to a witness appearing before the Authority.

Clause 47: Protection of members and witnesses

60. Provides that members of the Authority are to be afforded the same protection as Justices of the High Court. Witnesses appearing before the Authority are to have the same protection and are to be subject to the same liabilities as witnesses in proceedings in the High Court.

Clause 48: Powers of Authority in relation to documents produced

61. Provides for the Authority or its staff to inspect, copy and take extracts from any books or documents furnished to the Authority and to retain such books or documents for a reasonable period of time. While the Authority retains any book or document, the person entitled to possession of it is able to inspect, make copies or take extracts from it.

Clause 49: Witness prejudiced in employment

62. Creates an offence of prejudicing witnesses in their employment for appearing or proposing to appear as witnesses at an inquiry.

PART VI - STAFF AND CONSULTANTS

Clause 50: Staff

63. Provides that staff employed to assist the Authority shall be appointed or employed under the Public Service Act 1922. The Chairperson has all the powers of, or exercisable by, a Secretary of a Department of the Australian Public Service under the Public Service Act 1922.

Clause 51: Arrangements relating to staff

64. Provides that the Authority may make arrangements with both the Commonwealth and State Public Services and with any statutory body to obtain the services of employees of those Public Services or that body.

Clause 52: Engagement of consultants

65. Provides that the Authority may engage outside consultants and determine the terms and conditions of their engagement.

PART VII - MISCELLANEOUS

Clause 53: Offences

66. Creates an offence of knowingly providing false or misleading information when applying for assistance under a program in the Industries Development Strategy.

Clause 54: Recovery of grant on conviction

67. Provides for the recovery by the Commonwealth of any grant (other than a loan) made to a person or body corporate who is convicted under Clause 58 of knowingly providing to the Authority misleading or false information. Such recovery is to be additional to any penalties imposed.

Clause 55: Recovery of amount paid as a result of false statement etc

68. Provides for the recovery by the Commonwealth of the amount of over payments of grants (other than loans) made to a producer under a program of the Industries Development Strategy where that grant was given on the basis of false or misleading information, whether knowingly or unknowingly, provided to the Authority.

Clause 56: Evidence of payment

69. Provides that for the purposes of Clauses 59 and 60 a certificate under the hand of the Chairperson detailing the amount of assistance that has been paid in consequence of the making of a statement or the presentation of a book or document is prima facie evidence of the matters stated in the certificate.

Clause 57: Authority may supply information

70. Provides that subject to Clause 63 the Authority may, in its discretion, supply to a person information received by it under this Act.

Clause 58: Confidentiality

71. Provides that members of the Authority or members of its staff shall not supply information, unless required or permitted by law to do so, if the supplying of the information would constitute a breach of confidence.
72. Sub-clause (3) provides an exception in the supply of information to the Minister, Secretary to the Department or an officer of the Department designated by the Secretary to the Department.

Clause 59: Department may supply information or documents

73. Provides that the Department may supply to the Authority information it has received, including confidential information, in the course of any administrative action taken for the purposes of monitoring or reporting on a TCF industry and that any information given in confidence to the Authority shall be treated with confidence by the Authority. The Clause further provides that the giving of any information by the Department to the Authority shall not

in any way be taken to waive the Authority's responsibilities under the law in relation to copyright, defamation or breach of confidence.

Clause 60: Appropriation

74. Provides that any financial assistance provided by the Authority under this Act shall be paid out of money which is appropriated by Parliament for the purpose.

Clause 61: Delegation by Authority

75. Provides for the Authority to delegate to an appropriate person, in the case of any person not on the Authority or its staff with the Minister's approval, all or any of the Authority's powers under this Act. A delegation of a power under this section may be revoked by a resolution of the Authority.

Clause 62: Regulations

76. Provides the Governor-General with the usual regulation making powers.

Clause 63: Termination of Act

77. Provides that the Act is to cease to have effect on 29 February 1996, thus finishing the Government's assistance package for the Textiles, Clothing and Footwear industries as announced by the Government on 28 November 1986.

