

SUBMISSION NO. 3
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Committee Secretary
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA
Fax: (02) 6277 2219
email: jsct@aph.gov.au



14/09/12

ATT: Members of the Joint Standing Committee (Treaties)
RE: Malaysia-Australia Free Trade Agreement (MAFTA)

1. The Construction, Forestry, Mining and Energy Union of Australia (CFMEU) welcomes the opportunity to make this brief submission. The CFMEU consists of three Divisions namely the Construction and General Division, Forestry and Furnishing Products Division and the Mining and Energy Division. We are the major union in these industries. The CFMEU does not support the treaty tabled in Parliament on August 14, 2012, the Malaysia- Australia Free Trade Agreement (MAFTA). MAFTA would result in tariff free entry into Australia of all manufactured wood products from Malaysia from 2013.
2. Australian manufacturing jobs are currently being decimated by import competition including products exported from Malaysia. Employment in the timber, wood products, pulp and paper and furniture manufacturing industries has fallen by 54,900 in the last ten years.¹ These job losses have been in the context of tariff reductions.² In the next five years employment in these industries is already projected to fall by a further 26,900.³
3. There is real potential of manufacturing job losses and the loss of diversified capacity in the economy as a result of this agreement according to initial analysis from the CFMEU. The National Interest Analysis (NIA) and Regulation Impact Statement (RIS) tabled in parliament with MAFTA do not adequately consider this or the negative impact on workers, their families and their communities, according to the CFMEU.
4. The treatment of two manufactured wood products (under the current MAFTA proposal) is of particular concern to the CFMEU. These are Medium Density Fiberboard (MDF) and Wooden Furniture. Both products were exempted from tariff free entry into Australia in the 2010 ASEAN-Australia – New Zealand Free Trade Agreement (AANZFTA) until 2020. The wood products manufacturing industry has observed that over the last 15 years as import barriers have been removed no reasonable measures have been put in place to ensure imports complied with general Australian requirements for sustainability, health, safety, and quality standards. In this context, the non-tariff free entry is appropriate pending the development of these systems and other systems to ensure Australian industry is able to remedy against unfair trade.

¹ (10 years from May 2002-May 2012, for pulp, paper and converted paper product manufacturing, wood product manufacturing, furniture and other manufacturing ABS, *Cat.No.6291.0.55.003*.) The Prime Minister's Manufacturing Taskforce, *Report of the Non Government Members*, August 2012, p 17 available online@

<http://www.innovation.gov.au/Industry/Manufacturing/Taskforce/Documents/SmarterManufacturing.pdf>

² The Prime Minister's Manufacturing Taskforce, *Report of the Non Government Members*, August 2012, p 16

³ DEEWR, *Industry Employment projections, 2012*, The five years to 2016-2017 from Nov 2011 for: Pulp, paper and converted paper product manufacturing, wood product manufacturing, furniture and other manufacturing in Prime Ministers Manufacturing Taskforce, p 22

5. The CFMEU provides the following observations:

- Malaysia is a significant source of imports of MDF and furniture as a direct competitor and as a gateway to Australia from Indonesia, China, Vietnam and other countries in the region. Wide spread abuse of rules of origin (RoO) requirements and misuse of free trade agreements to receive tariff free entry into Australia has been a devastating result of Australia's bilateral agreements entered into in the past. In this context the RoO requirements in MAFTA provide little comfort.
 - MAFTA maintains Australia's WTO rights to have dumped and unfairly subsidized product from Malaysia remedied through anti-dumping and countervailing duties. The result of an investigation in 2009/2010 into the dumping of plywood showed that these methods were not effective despite a strong case been provided from the applicant manufacturers. It is unclear whether the Government's streamlining reforms have yet sufficiently ensured Australia's Anti-Dumping and Countervailing system is an effective mechanism in defense against unfair trade of this kind.
 - MAFTA maintains Australian Industry's WTO safeguards rights, but Australian Industry is rightly skeptical to have any faith in this legitimate mechanism with it currently inappropriately administered by the Productivity Commission. The lack of safeguard duties on imports into Australia (none), in contrast to the comparative significant use of the system by our trading partners, is iterative of the problem at hand.
 - MAFTA does not contain labour and environmental chapters. There is widespread evidence of the Malaysian forestry, timber and manufacturing industries using a large percentage of migrant labour, including from Indonesia. Malaysia has conflicting laws and regulations pertaining to the guaranteeing of the International Labour Organization's (ILO) fundamental rights in practical terms being extended to their migrant labour force. There are serious allegations regarding restrictions on Freedom of Association for migrant workers in the forestry and wood products manufacturing industry. The ILO has ruled that non adherence to the ILO's fundamental rights, whether the Government in question has ratified relevant conventions or not, is not a legitimate comparative cost advantage. Malaysia has not ratified Convention 87 Freedom of Association and the Protection of the Right to Organize nor Convention 111 Discrimination (Employment and Occupation)
 - Trade liberalization without a system effective Illegal Logging prohibition can increase rates of deforestation, the exploitation of forest workers and the decimation of communities in exporting countries, whilst unfairly undercutting Australian industry and costing Australian jobs. The Illegal Logging Prohibition bill will prohibit illegally *logged* timber as per the laws and regulations of the country of origin, however its effectiveness is still to be seen. There are no requirements in the bill for the logging activity to be sustainable. It is of considerable concern that the Malaysian Government, through its representations to the third parliamentary inquiry into the bill, have lobbied for the exclusion of wooden furniture (a product which the MAFTA proposes to further liberalize the trade of) The Malaysian Government have since been invited to join the Regulation forming Illegal Logging Working Group. For the Illegal Logging Prohibition bill to have legitimacy, it is required to (at the minimum) regulate all products with wood in it, include observance of labour laws and have a high bar of due diligence.
6. The CFMEU is extremely concerned with the way that the Joint Standing Committee on Treaties has dealt with MP Mr Bob Katter's Treaties Ratification Bill (2012). This bill was/is designed to increase and enhance the democratic scrutiny for treaties such as MAFTA by making it subject to parliamentary approval. We are confronting the prospect of signing further agreements, with potentially even more severe/injurious outcomes than MAFTA; examples of these are the ongoing trade discussions with China and Indonesia, and

the secretive Trans Pacific Partnership Agreement. These agreements should be subject to the same processes navigated by legislation as their effects can be just as dramatic if not more.

7. In conclusion, Australian workers and, in the CFMEU's analysis, the Australian public in general, are extremely frustrated by a lack of transparency in the trade discussion processes. Lack of transparency, in combination with the negative impacts of previous agreements (admittedly partly brought about by Australia's goodwill/good faith being exploited by unscrupulous exporters refusing to trade in both the law, or in the spirit of concluded treaties and agreements) helps explain the wide spread disillusionment with the gap between apparent objectives and actual outcomes of Australia's trade policy and strategy.