

ACTU

congress

2009

Unions → Delivering for all working Australians

D12b_2009

Revised ACTU Executive 25 Nov 2009

ACTU Congress 2009
Policies and Resolutions
Table of Contents

VALUES RESOLUTION

Australian Unions – Working for a Better Life	4
FUTURE OF WORK.....	7
Industrial Relations Legislation Policy.....	9
Decent Work Agenda	15
Government Procurement Policy	21
Occupational Health and Safety Policy	27
OHS Rehabilitation and Compensation for Injured Workers Policy.....	31
Security of Work Policy	37
Retirement Incomes, Superannuation and Workers’ Capital Policy	41
Temporary Overseas Worker Policy	51
Vocational Education and Training Policy.....	55
Wages and Collective Bargaining Policy.....	61
Work and Family Policy.....	67
ORGANISING AND CAMPAIGNS	71
Organising Rights, Charter of Delegates’ Rights & Workplace Education Policy	73
Political and Community Campaign Plan	77
A FAIR SOCIETY	79
Aboriginal and Torres Strait Islander Policy.....	81
Democracy and Participation Policy.....	85
Education Policy.....	89
Environment and Climate Change Policy.....	93
Health Policy	99
Infrastructure, Industry, Transport and Trade Policy.....	103
International Policy	115
Social Inclusion and Workforce Participation Policy	119
Tax Policy.....	127
RESOLUTIONS DAY ONE 2 June 2009.....	131
Australian Building and Construction Commission	133
Executive Pay.....	135
Global Financial Crisis.....	137
RESOLUTIONS DAY TWO 3 June 2009	141
Age Pension Eligibility Age, Superannuation Preservation Age	143
Productivity Places	144
Harmonisation of OHS Laws.....	145

RESOLUTIONS DAY THREE 4 June 2009	153
Western Australia Review of IR Legislation	155
Radioactive Dump in NT	156
Swine Flu.....	157
INTERNATIONAL RESOLUTIONS	158
Burma	158
Colombia	158
Iran	158
The Pacific.....	159
Sri Lanka	159
Western Sahara	160
Zimbabwe	160

RESOLUTION

Australian Unions – Working for a Better Life

Australian unions aim to make the future better for our children and future generations.

We are committed to the needs and interests of all working Australians and their families.

We believe in fairness, justice, and respect for the rights of all people, here and across the globe.

We seek a society that fosters community and a collective approach, in which everyone is valued and respected for their contribution. Where equality of opportunity and outcomes is achieved irrespective of gender, age, religion, race or sexual preference.

We strive for equitable access to the benefits of society and to safeguard people's democratic right to participate and have their say.

This Congress has endorsed a new union agenda for job security, workers' rights and a better Australia.

This agenda builds on existing policies and the six priorities previously set by ACTU Executive: a voice for working Australians; improving wages and working; creating a fairer Australia; growing union membership; organising our workplaces, industries and sectors; connecting with our communities.

It addresses the following priority areas:

A plan for the future of work that gives workers:

- Safe, secure and rewarding jobs in sustainable industries;
- The right to organise and bargain collectively;
- Fair wages, pay equity for women, and family-friendly working conditions;
- Access to training, skill development and support throughout their careers;
- A rich and rewarding life outside work, including in retirement; and
- Jobs that provide greater security for individuals and for the planet.

An organising and growth strategy that:

- Safeguards and extends the same rights for all workers;
- Builds strong, democratic and growing unions which are effective in representing their members;
- Closely involves the wider community and other organisations on shared issues of concern;
- Is able to influence and achieve lasting political and social change.

A vision for a fairer society where:

- Everyone has access to good healthcare, appropriate housing, quality education and other essential community services;
- The lives of working people are made easier and our communities are strengthened through access to transport, communications, and public services;
- The most vulnerable members of the community are supported to enable their participation in economic and social life;
- Laws are applied equally to all citizens;
- Government plays a positive role in stabilising the business cycle to secure jobs and living standards;
- The economy provides benefits to the whole community;
- There is action to end the disadvantage for Indigenous Australians;
- Australia participates in international arenas to promote peace, security, human rights, labour standards and prosperity through fair trade arrangements; and
- There is strong and urgent action to tackle climate change.

Our immediate priorities are to protect workers from effect of the global financial crisis, to create the highest standard of OHS protections, and secure one set of laws with equal rights for all workers.

To deliver these priorities unions commit to campaign and grow. Unions will campaign in the workplace, the community and politically to improve workers' rights and achieve a fairer society.

ACTU
congress
2009

FUTURE OF WORK

Future of Work

Industrial Relations Legislation Policy

Introduction

1. Congress welcomes the repeal of the Howard Government's WorkChoices laws and the enactment of the Rudd Labor Government's Fair Work Act 2009. The new Act represents a substantial, albeit imperfect, translation of the 2006 ACTU Congress policy into legislation.
2. Congress notes that the Fair Work Act has collective bargaining underpinned by a decent safety net at its core. This is consistent with the imperatives of a modern economy, and remains important to ensure sustained and fairly shared prosperity.
3. The Fair Work Act (and ancillary legislation):
 - a) Establishes a secure safety net of fair and enforceable minimum standards contained in modern awards and legislation that must be periodically reviewed and adjusted to remain relevant and take account of community and/or industry standards and the needs of the low paid;
 - b) Provides for collective bargaining over and above the safety net which enshrines an obligation upon the parties to bargain in good faith and to respect the decision of employees to bargain collectively;
 - c) Abolishes individual arrangements that can be used to undermine the safety net, collective bargaining or union representation, and phases out statutory individual contracts;
 - d) Establishes Fair Work Australia (FWA) as an independent tribunal to maintain and improve the award safety net, and to oversee the bargaining system and fair treatment in the workplace;
 - e) Retains union registration and eligibility rules, and the representation rights that these confer, albeit not generally as parties to industrial instruments. Unions are given a statutory right to represent their members in collective bargaining. Employees are entitled to be represented in discussions that might lead to dismissal, dispute resolution, and when enforcing terms and conditions of employment;
 - f) Guarantees important rights for employees, including protection against unfair treatment, union representation in disputes and bargaining, collective bargaining and the right to strike, albeit with legally protected strikes only available in limited circumstances;

- g) Prohibits a wide range of arbitrary or capricious decision-making by employers. The Act provides for penalties where an employer:
 - i) disadvantages an employee because they are entitled to a workplace right;
 - ii) exerts undue influence or pressure on an employee in relation to certain workplace rights;
 - iii) knowingly or recklessly misleads an employee about their rights including their status as an employee; or
 - iv) is guilty of discrimination.
- h) Reinstates access, albeit after differential qualifying periods based on the size of the business, to a fair, cost effective, non-legalistic and speedy process for determining claims that a dismissal is unfair. This will restore unfair dismissal remedies for more than 3 million employees. Where a dismissal has been found to be unfair, reinstatement is the primary remedy; and
 - i) Requires FWA to take account of the principle of equal pay for work of equal or comparable value when setting and adjusting minimum wages and providing for binding equal remuneration orders that can address pay inequity in awards, agreements or over-award payments.

Transition to the new system

4. The government must ensure that employees are not disadvantaged in transitioning to the new system:
 - a) The Commonwealth and State governments must provide jurisdictional certainty, whether through full referral of powers or retreat from the field to allow State laws to operate. This must be done in consultation with affected employees and their unions. The commitment that employees covered by State IR systems not be disadvantaged must be honoured. Consistent with previous Congress policy the federal government should use all of the powers available to it to ensure employees not currently covered by the national laws are not disadvantaged;
 - b) The setting of the new modern award safety net must not result in a loss of take home pay or conditions for employees, nor in a reduction of industry or occupational employment standards;
 - c) Employees must not be employed on workplace instruments that fall below the new safety net. Fair Work Australia should be empowered to make orders terminating instruments that fail the Better Off Overall Test.
 - d) Ensuring personnel appointed to Fair Work Australia reflects a balanced background, especially from those representing working people.
 - e) Fair Work Australia should be empowered to set aside or rework any agreement prior to July 1, 2009 that have the effect of avoiding or delaying workers access to any rights in the Fair Work Act. In deciding to set aside or revoke an agreement, Fair Work Australia should have regard to the history of bargaining in the industry and specific workplace; the process undertaken in the making of the agreements; the content of the agreement; and the wishes of the workforce.

- f) Employees and their unions must be able to maintain protected industrial action campaigns commenced under WorkChoices and sustained into the new Fair Work Act without disruption or delay.

Priorities for Legislative Reform

5. Australia's workplace laws should apply to all employees regardless of the industry in which they are engaged. While there is a case for supplementary protections for vulnerable employees, the laws must not impose harsher conditions or confer inferior rights on groups of employees. The government must immediately repeal the BCII Act and abolish the ABCC.
6. Industrial legislation must ensure a decent safety net, bargaining rights and protections against unfair treatment apply to all workers regardless of the type of labour contract under which they are engaged. The ACTU and unions will campaign for:
 - a) amendments to the Independent Contractors Act to ensure that all workers in Australia have decent working arrangements, access to low cost remedies against unfairness;
 - b) amendments to the Trade Practices Act to ensure contractors can be represented by their union in collective bargaining;
 - c) amendments to the SG and workers' compensation legislation to extend these entitlements to excluded contractors. Unions will also seek to enforce the rights of members engaged under contracts for labour to SG contributions.
7. Our laws need to protect delegates from unfair treatment and confer rights upon delegates that recognise their role in representing employees. The Fair Work Act should be amended to ensure that accredited delegates are entitled to reasonable:
 - a) paid time off from duties to prepare for and engage in bargaining; consult members; to participate in the operation of the union; to attend union meetings and to undertake union training and education;
 - b) access to facilities to carry out their work as a delegate, consult with workplace colleagues and the union, and distribute information at the workplace;
 - c) leave without pay to be employed by the union.
8. Affiliates will also seek to enshrine delegates' rights in agreements and awards.
9. The collective bargaining provisions should recognise that enterprise level bargaining is particularly inappropriate where the legal employer does not ultimately control the wages or working arrangements at the enterprise. This is particularly the case in the funded sector, in subcontracting arrangements and in labour hire. The laws should be amended to ensure unions can initiate multi employer bargaining in these circumstances.
10. The collective bargaining provisions must allow parties to agree to bargain and agree to any matter that they choose. In particular, there should be no limit on bargaining about arrangements that enhance job or income security, workforce planning and use of alternative labour, consultation rights, access to the workplace and the rights of workplace representatives.

11. The laws must provide a right to arbitration as the final step in procedures dealing with disputes arising under the NES, awards and collective agreements, including disputes about flexible work for carers. To enable this to be done, the constitutional powers on which the Fair Work Act is based should be expanded to include the Conciliation and Arbitration power. Arbitration should be conducted in a transparent, timely and cost effective manner.
12. The means by which a union obtains democratic support for the taking of protected action should be determined by the union, and employers should not be able to object. The public interest should be satisfied by FWA supervision.
13. The right of entry provisions of the Act must not restrict employees' access to advice, information and union representation at work. Employers should be obliged to facilitate entry without 24 hours notice. Access to the workplace must not be subject to surveillance and should include access to all relevant records. Provisions that lead to officials unreasonably losing their permits should be repealed.
14. All employees, including employees to whom neither an award nor agreement applies, should be entitled to be consulted about decisions that affect them at work, and have access to a disputes procedure to settle grievances.
15. Legislation must extent protection for outworkers who are recognised as some of the most exploited workers in the country. Specific legislation deeming clothing outworkers as employees is required. Protections in the Federal System should mirror and expand on state systems which include provisions which deem outworkers as employees, provide comprehensive protection of terms and conditions, the capacity to recover money up the contracting chain, record keeping and registration provisions, right of entry, inspection and enforcement powers for union officers, and mandatory codes covering all parties in the contracting chain including retailers.
16. Particularly in response to the economic crisis it is urgent that legislative change to protect 100 per cent of workers' entitlements be introduced consistent with security of work policy.

Working with the new laws

17. The priority for unions over the coming three years is to grow unions, protect jobs, and advance workers' interests. The new Act presents a unique opportunity for unions to ensure the interpretation of the laws - in workplaces and by tribunals and courts - gives effect to the legislated opportunities to improving working arrangements, organise workplaces and bargain collectively.
18. Consistent with Congress policies on the future of work the ACTU and unions will prosecute applications to set and adjust minimum wages and review modern awards against the new modern award and minimum wages criteria to achieve longstanding ambitions to improve the safety net.
19. The collective organisation of workers is the best means to ensure that rights and standards are observed in the workplace. Congress also confirms the important role of union enforcement of the laws. Union right of entry and the ability of unions to initiate legal proceedings in their own name is integral to effective compliance.

20. Unions will be encouraged to ensure that they actively enforce workplace instruments, and the general protections. This will include:
 - a) Prosecution of instances of victimisation of delegates in their organising role;
 - b) Prosecution of employers for deliberately misleading employees about their rights; and
 - c) Prosecutions for sham contracting.
21. Unions will also be encouraged to test the new bargaining rules to provide the most supportive environment for successful agreement-making. This might include selecting appropriate test cases to:
 - a) Determine the reach of the obligation to refrain from unfair or capricious behaviour designed to undermine freedom of association and collective bargaining;
 - b) Establish the dominant criteria for scope orders;
 - c) Set the precedent for ascertaining the view of the majority of employees in a majority support order;
 - d) Define the meaning of matters pertaining to the employer-union relationship, and of unlawful agreement content;
 - e) Test the preparedness of FWA to make innovative orders that support positive rights for unions in bargaining;
 - f) Explore the approval requirements for enterprise agreements; and
 - g) Test the low paid bargaining provisions of the Act.

Ongoing reform

22. Congress notes the provisions of the Act which do not comply with the ACTU's expectations for fair industrial laws. Congress notes that many of these provisions also fail to meet the International Labour Organisations standards. Congress calls upon the Labor government in its next term of office to amend the laws by:
 - a) Removing restrictions on the scope of agreements, particularly those that render agreed subject matter unlawful;
 - b) Repealing provisions that give primacy to enterprise level collective agreements and restrict the level at which bargaining can occur, and removing legal and other obstacles to coordinated bargaining at the industry level;
 - c) Removal of restrictions on and penalties for taking industrial action, including retention of the prohibition of industrial action in support of pattern bargaining and the requirement that employers deduct strike pay even in circumstances where the employees are at work, and a restoration of discretion for FWA when dealing with applications for industrial action orders;
 - d) Repealing the ability for FWA to suspend industrial action that is harming a third party, and repeal the Minister's powers to end protected action;

- e) Removing penalties for industrial action taken during the life of an agreement, regardless of the circumstances. This provision is particularly onerous, as the law fails to guarantee effective alternative dispute resolution while agreements are in place to deal with unfair actions by the employer or significant changes in circumstances during the agreement;
 - f) Conferring additional powers on FWA to promote collective bargaining in workplaces that have not been had the benefit of collective agreements;
 - g) The exemption of high income earners who have traditionally been entitled to award protection from the application of awards should be removed, particularly as the mechanism envisaged in the Act not only suspends the application of award conditions of employment, but also suspends the employees' award rights to be consulted about significant change and to access the award disputes procedures;
 - h) All provisions of the Trade Practices Act applicable to unions and employees should be repealed;
 - i) Removing all provisions which provide different unfair dismissal rights to employees of small business;
 - j) The provisions in the low paid stream should be available to workers who are low paid regardless of their bargaining history. Low paid workers should have access to the full range of bargaining rights including the right to take industrial action.
23. Unions and the ACTU will monitor the negative impact of these provisions in workplaces, publicly highlight instances where these provisions disadvantage workers, and develop an ongoing campaign to see these provisions of the law repealed and replaced with fair laws that meet our international obligations in respect of freedom of association and collective bargaining.

Future of Work

Decent Work Agenda

Introduction

1. Congress believes that working life should be enjoyable. Work should give people the satisfaction of using their skills to the fullest measure, and making a contribution to the common good. It should provide fulfilling social interactions, freedom, dignity, economic security and equal opportunity.
2. Congress also supports decent work for workers in all nations and notes that where this does not exist, corporations will shift capital and production to take advantage of those workers.
3. This policy sets out the decent work agenda under the following objectives:
 - An inclusive workforce
 - Satisfying jobs
 - Worker-friendly workplaces
 - Reasonable working hours
 - Fair treatment at work
 - Freedom, equality and dignity at work
 - Progressive use of technology
4. Congress adopts the following agenda for decent work.

Agenda for Decent Work

5. **An inclusive workforce**
 - a) Workplaces should reflect the make-up of the diverse Australian community.
 - b) Work should provide equal opportunities for all people, regardless of gender, pregnancy and breastfeeding, race, colour, ethnic or social origin, genetic characteristics, language, religion or belief, political or other opinion, disability, age, sexual orientation or gender identity.
 - c) Congress affirms its commitments to inclusive workplaces, including bargaining for flexible hours of work to accommodate workers' needs, including those of people with caring responsibilities, older workers, workers with a disability and students.

6. Satisfying jobs

- a) Job roles should be designed so that they are safe, productive and satisfying.
- b) New jobs should be designed with these principles in mind. Existing job roles should be periodically reviewed to assess whether they meet this objective. Job reviews should be conducted jointly between employers, employees and their unions.
- c) Employees should have control over job duties and employers should not be permitted to alter job roles without the employee's consent. Employees should be able to volunteer to perform different duties at the same or higher level (provided they are properly qualified, trained and paid appropriate remuneration).
- d) Jobs should encourage continuous learning: employees should be encouraged to learn new skills, and progress through career structures. Employers should support training and provide opportunity for further training during work hours and cover the expenses.

7. Worker-friendly workplaces

- a) Employers, employees and unions should work together to ensure workplaces are safe, environmentally and worker friendly.
- b) Employers, employees and unions should work together to minimise the business' impact on the environment, including greenhouse gas emissions. Each workplace should establish a joint Green Working Committee to develop policies to help achieve these goals. Union delegates should represent employees in these committees.
- c) Workplaces should be pleasant places to work. They should provide workers with adequate space, light and comfort, and satisfactory amenities. Where dangerous or dirty work cannot be avoided, efforts to mitigate employee discomfort should be taken. Where it is feasible, employees should have some choice about which space they work in, and who they work with.
- d) Employers should help facilitate employees' care for themselves, their families and their community. Unions encourage innovations such as employer provided: childcare facilities; physical exercise programs and discounted gym membership; facilities to enable employees to ride to work, including installation of secure bike racks and showers.
- e) The workplace is an important venue for social interaction. Such interactions are fulfilling for individuals, create a sense of community, and lead to more productive workplaces through greater levels of trust and co-operation. Congress calls upon governments, unions and employers to promote teamwork, co-operation and enjoyable social interaction at work.

8. Reasonable working hours

- a) Working hours should be reasonable, predictable, and within the control of the employee.
- b) Working hours should be reasonable. For full-time workers, the standard working week prescribed by awards (35 to 38 hours) is a reasonable quantity of work.

- c) Employees should not regularly work more than 48 hours per week. Congress encourages unions to prosecute employers who require employees to work unreasonably long hours of work.
- d) For part-time and casual workers, employers should endeavour to provide a quantity of work that suits the employees' needs: for example, half of young part-time and casual workers desire additional shifts.
- e) Employees should have predictable hours of work. Fixed rosters should be jointly agreed between the employer and employees. These rosters should not be able to be altered without the consent of the employees affected (except in exceptional circumstances). Where irregular hours cannot be avoided, employees should be paid an appropriate penalty to compensate for the lack of predictability.
- f) Employees should have a significant degree of control over their working hours (including start and finish times, meal breaks and shift patterns). Flexible arrangements should be available at the initiative of the employee and should not result in disadvantage to the employee. Employers should only refuse such arrangements on reasonable business grounds, with a right to appeal a refusal to an independent third party.
- g) Employees should be able to use a small amount of working time (and the employer's facilities) for personal purposes, such as making bill payments or communicating with family members. This is especially important for employees who have no other alternative (for example those employees who cannot get to a bank or post office during working hours).
- h) Employees should only be kept at work in order to perform productive work. In cases where there is insufficient work to perform, employers should release employees from work on full pay, or allow employees to perform voluntary or community-based work of their choosing.
- i) Employees' workloads should be safe and reasonable. Employees should be given adequate time to perform complex or intense tasks. Sufficient staff should be engaged to perform the work required by the employer. Work should be distributed fairly between staff. Congress affirms its commitment to the measures contained in the *2003 Working Hours and Work Intensification Policy*.

9. Fair treatment at work

- a) Employers should treat employees fairly and in good faith.
- b) Employees and their unions should be consulted on important workplace changes before final decisions are taken.
- c) Employees should have the right to be represented by their union in any of their dealings with their employer.
- d) No worker should be dismissed unfairly.
- e) All employees should have the right to request flexible working conditions under the NES, provided it does not undermine collective bargaining. There should be internal and binding external review of an employer's refusal.

10. Freedom, dignity and equality at work

- a) Work should promote the full range of employees' freedoms and human rights.

- b) Employers should facilitate employees' freedom of association by allowing employees to meet, discuss, and receive training from their union during work time, in order to pursue issues of collective concern. They should not take any steps to discourage or undermine collective action by employees.
- c) Employers should respect employees' freedom of communication. Unless there are exceptional circumstances, employees should not be prevented from discussing their employment with friends, family or union, or from making complaints of corrupt or inappropriate conduct by their employer.
- d) Employers should respect employees' individuality and freedom of expression. Unless there are legitimate business reasons to do so, employers should not restrict employees' choice of dress or personal appearance.
- e) Employers should respect employees' privacy. Employees' personal information should be collected and handled in accordance with the National Privacy Principles.
- f) Employers should respect the autonomy and dignity of each worker. In particular, every measure should be taken to prevent sexual or other forms of harassment.
- g) Employees performing work of equal or comparable value should be treated and remunerated equally, particularly women and younger workers. Employers should commit to eliminate all forms of direct and indirect discrimination from the workplace.
- h) Employers should ensure that all decisions about employment, promotion and career enhancing opportunities are fairly decided based on transparent and agreed criteria that are available for independent review. Decisions should not be made on the basis of unlawful discrimination, irrational prejudice or favouritism.
- i) Employers should not allow extreme income inequality to develop in the workplace. Research shows that excessive executive pay is correlated with a reduction in long-term business performance, and also with increased job dissatisfaction for other workers. In no case should the highest paid employees in a business receive more than 10 times what the lowest paid workers receive.
- j) Employers should recognise the distinct culture and rights of their Aboriginal and Torres Strait Islander employees. Employers, employees and unions should promote cultural respect and tolerance within their workplaces through training, recognition of culturally significant days, and for industrial allowances for Aboriginal and Torres Strait Islander peoples to observe and participate in cultural obligations.

11. Progressive use of technology

- a) Technology should be used to improve employees' working lives, not to erode employees' autonomy.
- b) Unions support the use of technology to enhance employee control over where and when work is performed, for instance by facilitating employee preferences for working from home, or by allowing employees to develop their own online rosters.

- c) However, there is a risk that these devices will allow work to creep into employees' personal lives, thereby increasing (unpaid) working hours. Congress encourages unions to work with employers to develop policies to encourage the appropriate use of technology and to ensure that employees' private time is respected.
- d) Some technologies bring employees' private lives into the workplace. These include internet access to personal email and social networking sites, or access to online banking sites. Unions believe that to a reasonable extent, use of these technologies in the workplace is acceptable. Employers should not automatically ban access to these sites, in the absence of any evidence of abuse. Similarly, employees should not be disciplined for making reasonable use of the internet for private purposes on work time.
- e) Some technologies allow the employer to better monitor employee whereabouts and performance. These include video cameras, GPS devices, barcode scanners, electronic sign-in machines, computer keystroke trackers and so forth. Unions support certain reasonable uses of such technologies, for instance to promote employee safety. However, unions oppose the use of such technologies where a major purpose is to spy on employees for disciplinary purposes, or intensify work.
- f) In particular, unions strongly believe that employers must not monitor employees' movements or private communications without their express, informed and genuine consent (and where the granting of such consent cannot be made a condition of employment, promotion, or pay rise). Such monitoring is illegal in Victoria, and should be made illegal elsewhere.
- g) Some technologies change the way work has traditionally been performed. Examples include automation and computerisation. In general, unions support the use of technology to improve workplace productivity, provided that employees are fully trained in the new technologies and properly remunerated for any changes to their duties. On the other hand, if technology threatens to de-skill workers, make jobs redundant or increase the pace of work to an unacceptable level, unions expect employers to carefully consider the rationale for the change, and not to proceed without pressing business justification.
- h) Whatever the technology in question, employers should not introduce any major new technologies in the workplace without first consulting employees and their unions.

Implementation

- 12. The principles for decent work are primarily to be implemented through enterprise bargaining and agreements between employers and employees and their unions.
- 13. To further this objective, Congress calls upon the ACTU to:
 - a) develop template bargaining clauses to give effect to these policies;
 - b) co-ordinate voluntary industry-wide or economy-wide bargaining in pursuit of these policies;
 - c) develop fact sheets and other informational materials explaining the decent work agenda to employees, delegates and union officials.

14. Congress also calls on the ACTU and/or affiliate unions to promote this decent work agenda by:
 - a) Bargaining for implementation of clauses that support decent work;
 - b) prosecuting employers who breach those aspects of the policy that are already protected by law;
 - c) lobbying governments to legislate for those policies that are not already enshrined in law (and for which legislation is appropriate);
 - d) lobbying governments to become a model employer by implementing these policies in respect of their own workforces;
 - e) seeking the co-operation of progressive employers and employer associations to implement these policies and promote them to other employers;
 - f) conducting or sponsoring research on these policies, and their role in improving job satisfaction and business productivity.

Special Measures: Discrimination

15. Further, Congress calls upon the ACTU and affiliates to make renewed efforts to eliminate discrimination by:
 - a) seeking the immediate implementation of the recommendations of the Senate Standing Committee on Legal and Constitutional Affairs 2008-9 parliamentary review of the Sex Discrimination Act (Cth); and
 - b) strongly advocating for a positive duty on employers to take all reasonable steps to eliminate direct and indirect discrimination at work and powers for the Australian Human Rights Commission to promulgate legally binding standards in the Inquiry's second round of consultation in 2009.
16. Congress determines to continue to advocate for a new anti-discrimination framework to improve the capacity of unions to address systemic discrimination in the workplace, in particular:
 - a) The creation of a single Equality Act which places accountability on workplaces for the development, monitoring and implementation of practices aimed at preventing and eliminating discrimination; and
 - b) New regulatory models that actively enquire into, regulate, monitor and enforce legislative responsibilities to prevent systemic discrimination and modify behaviour.
17. Congress notes the new anti-discrimination provisions of the Fair Work Act 2009. With the assistance of the ACTU, affiliates will endeavour to identify discriminatory practices at the workplace and use the relevant anti-discrimination provisions to prevent discrimination in the workplace.

Future of Work

Government Procurement Policy

Australian Jobs, Industry and Decent Industrial Relations

Preamble

1. The federal and state governments' expend billions of dollars every year on the acquisition of goods and services. At a time of increasing job insecurity and rising unemployment due to the Global Financial Crisis, governments' need to be especially mindful of, and committed to, the need to ensure that their expenditure of taxpayers money encourages the creation and retention of jobs within Australia. Furthermore, the context for this is that it should always occur within the terms of the nation's international obligations and that workers are paid fairly and employed under decent terms and conditions.
2. The following is proposed for adoption by the Federal Government in particular, and state branches and affiliated unions are encouraged to pursue similar initiatives with their respective state and local governments.

Application of Australian Government Procurement Policy

3. Australian Government Procurement Policy should apply to:
 - a) the purchase of goods and services by the Australian Government including all budget agencies, statutory authorities and government owned corporations;
 - b) organisations contracted to the Australian Government to provide goods and/or services;
 - c) funding agreements between the Commonwealth and State or Local Governments, Community organisations and NGO's and any other organisation in receipt of Commonwealth monies.

Introduction

4. The Australian Government's procurement policy should have as its objectives the retention and creation of jobs and the development and support of local industry in Australia requiring that contractors supplying goods and services to government adhere to ethical employment practices.

Industrial Relations

5. All contractors who perform government work and all those to whom this policy applies (including sub-contractors in the supply chain) must adhere to all industrial relations and employment related laws including, but not limited to:
 - a) compliance with awards and industrial agreements,
 - b) primacy of collective bargaining,
 - c) annual leave,
 - d) long service leave entitlements,
 - e) occupational health and safety, workers' compensation,
 - f) superannuation,
 - g) legal age of employment,
 - h) discrimination, and
 - i) taxation laws.
6. Contractors who perform government work should be contractually responsible for their subcontractors' adherence to this policy. Contractors will be liable for the remedies below should their subcontractors breach this policy. Where a government contractor or tenderer provides or seeks to provide goods to government that could be made by an outworker, it must comply with the additional obligations outlined in Attachment A.
7. In addition to compliance with legislative provisions relating to Freedom of Association, all successful tenderers must comply with the principles of Freedom of Association. This means they shall not provide barriers to employees joining and being active members of a union. This should include:
 - a) allowing employees to participate in negotiations with employers and representative bodies of employees to develop enterprise agreements;
 - b) no victimisation of any kind for persons who choose to be members of a union;
 - c) codification and effective implementation of the rights of union representatives where the employees concerned choose to have such representatives;
 - d) recognise the role of union delegates and unions generally in representing workers;
 - e) observance of the applicable right of entry provisions by authorised union officers and health and safety representatives for legitimate purposes including the recruitment of members, dealing with member grievances and investigating any suspected breach of industrial awards, agreements or legislation; and access to an inspection of the relevant employer records by a union;
 - f) a half hour paid industrial rights induction with a representative of the relevant union;
 - g) the right of elected union workplace representatives to represent members

8. The process for tendering must be transparent. Prior to a decision on a successful tenderer, the government will publish a full list of tenderers with both unions and employer organisations having the right to supply information to the government agency about any potential contractor (including any potential sub-contractor in the supply chain) that it believes has a history of acting contrary to law or behaving in a manner which does not comply with the principles of Freedom of Association.
9. The letting of government contracts will be transparent with strict limitations on the use of commercial in confidence exclusions. All government agencies will maintain a register of commercial-in-confidence exclusions, to be periodically tabled in parliament and subject to scrutiny.
10. The government will require agencies to disclose details of any sub-contract arrangements including the identity and location of sub-contractors.
11. All government contracts should set minimum wages and conditions standards in all contracts until such time as the Fair Work Australia laws are fully implemented. This should be done by way of a no disadvantage test against the relevant award and/or contract determination and/or industrial agreement that would have applied had it not been for WorkChoices. As an overarching principle, it should be clear to any potential tenderer that contracts will not be awarded on the basis that a competitive price is arrived at by undercutting the wages, conditions and rights of employees. At all times, the tenderer should have cognisance of any prevailing terms and conditions applicable to employees on collective agreements within the given industry.
12. Employers who are party to a collective workplace agreement with a registered trade union shall automatically be deemed to comply with clause 11 above.
13. Where it is alleged a contractor has breached any of its industrial relations obligations including issues of Freedom of Association, as an initial step the government will consult with stakeholders (including the relevant union) about the best means to ensure compliance. If the matter remains unresolved, the matter shall be referred to Fair Work Australia for resolution and/or determination. This shall be a requirement of the contract.
14. Notwithstanding the above, where a breach has occurred the Government Agency must be able under its contract to apply remedies which include:
 - a) ordering rectification of the breach;
 - b) formal warnings;
 - c) partial exclusion from tendering, i.e. a reduction in the number of tendering opportunities;
 - d) preclusion from tendering for any work for a specified period;
 - e) contract cancellation;
 - f) financial penalties;
 - g) reporting of the breach to relevant regulatory and enforcement authorities;
 - h) A combination of any or all of the above.

15. The Federal Government will publish a full list of successful tenderers, including:
 - a) the name of the company or individual who holds the contract and all sub-contractors they will use in the supply chain along with their business addresses;
 - b) the location and duration for performance of the contract;
 - c) whether outworkers could be used to produce the goods under the contract and if so whom and at what location; and
 - d) tenderers' answers to industrial relations and OHS questions referred to above.
16. Consistent with ACTU Industrial Relations Legislation Policy, the collective bargaining provisions should allow parties to bargain and agree on any matter they choose, including on use by the employer of Australian made products and services.

Australian Industry Participation

17. The Government should be committed to maximising retention and creation of jobs in Australia and should seek to utilise its procurement practices to that end. Therefore, while having regard to whole of life value for money considerations and Australia's international trade agreement obligations, departments and agencies will also assess tenders on the basis of full and fair Australian industry participation opportunities retained or created in Australia - including through effective utilisation of the Australian Industry Capability Network.
18. Government departments and agencies will be required to purchase from Australian and New Zealand suppliers who are price and quality competitive and who comply with the terms of this policy. The policy will provide a price preference advantage for Australian suppliers of 20 per cent with an additional five per cent for those companies based and operating in regional Australia. Consistent with this formula, and where all other things are equal, favourable consideration will be given to the tenderer who maximises Australian employment.
19. Government should avoid a 'whole of contract' procurement approach in purchasing manufactured goods that preferences companies that can provide all the goods required at the expense of excluding small to medium local suppliers from participation in the tendering process. In line with government policy to award a greater share of government procurement contracts to small businesses, contracts to small and medium local suppliers for goods and services will, where applicable, be maximised. This should apply also to the use of "Common Contracts Purchasing" where only one company is awarded a contract to supply all of a particular good or service to governments e.g. stationery supplies, IT, motor vehicles etc. The use of a variety of suppliers will not only provide for ongoing competition but will also ensure that smaller, local businesses are supported. Contracts should only be awarded totally offshore in circumstances where it is evidenced that the goods or cannot be sourced locally (as described in item 9 above). Where components of the goods are thus available locally, preference will be given to those contractors who include the use of such local providers.
20. In the event of contracts being awarded offshore, successful tenderers should be required to demonstrate compliance with the relevant employment standards contained within the UN human rights instruments, the ILO Conventions and where applicable the OECD Principles for Multi-National Enterprises. Opportunities will be afforded to stakeholders to verify such compliance via the consultative mechanisms referred to in item 14 below.

21. Contracts which aggregate to in excess of \$50million per annum are of national significance. Where such contracts are for services or goods and material provided predominantly from offshore, successful tenderers must comply with the additional obligations to those outlined in clause 11 above. Tenders should be required to submit a local content plan that has been assessed by the Industry Capability Network (ICN) prior to the contract being awarded. Wherever practicable, successful tenderers must be required to enter into contractual arrangements that maximise opportunities for Australian industry participation. Where it has been determined that a reasonable opportunity exists for the local provision of such services and material, those contractual arrangements would include;
 - a) local skill development including investment in training for higher level broad based qualifications and retraining of existing workers,
 - b) effective labour market planning and forecasting,
 - c) the use of skilled migration only where a genuine skills shortage has been demonstrated to exist.
22. In assessing tenders for services contracts that have a high labour content, the government should take particular care to ensure that sufficient staffing is proposed to allow the service to be delivered. Any such contract should not be awarded to the exclusion of a Public Sector agency that may be able to deliver the service.
23. The federal government should adopt a single consistent definition of the term 'employee' to be used across the public sector in workplace relations and procurement. The government should also require public sector agencies to report all details of contracts with a high labour content.

Trainees and apprenticeships

24. Government contracts should require contractors to provide apprenticeship/traineeship positions. The Government in consultation with unions should set required levels for each industry.

Aboriginal and Torres Strait Islander Employment - Closing the Gap

25. The Government will reinforce their commitment to "closing the gap" by initiating a strategy which includes Aboriginal and Torres Strait Islander business, employment or outcome targets in all government procurement and purchasing. This is consistent with current procurement guidelines at the commonwealth and some state government levels and should be spread through COAG for a consistent national approach. Congress calls on unions, governments, industry bodies and employers to develop and implement a targeted, quantitative scheme which addresses high unemployment and low levels of certified training in all areas with a high density of Aboriginal and Torres Strait Islander peoples.

Consultation

26. The Government should use existing tripartite consultative mechanisms, and create new ones as appropriate, to enable stakeholders to regularly monitor the effective implementation and compliance with this policy and to suggest modifications where necessary.

ATTACHMENT A - OUTWORKERS

1. In addition to compliance with the instruments and legislation set out in clause 1 of the Procurement Policy, all government contractors (including sub-contractors in the supply chain) who give work out and/or engage outworkers in the textile, clothing and footwear industry must be accredited with the Homeworkers Code of Practice and must comply with any relevant Federal and State legislation, awards, industrial instruments and codes of practice relating to the performance of work by outworkers.
2. Tenderers (including any sub-contractor in the supply chain) who tender to provide goods to government that could be made by an outworker must provide evidence of compliance with applicable awards and legal obligations relating to the giving out of work and the engagement of outworkers when they lodge a tender. The evidence must be provided in a statutory declaration and must include but is not limited to:
 - a) the name of the relevant award or workplace agreement (howsoever described) or other relevant employment law
 - b) registration number of factory or workshop, where applicable
 - c) registration number as an employer giving out work, where applicable
 - d) whether outworkers have previously been engaged
 - e) evidence of compliance, in the twelve months prior to the tender being lodged, with the applicable award or other relevant employment law requirements relating to the lodgement of periodic work lists of employers and other parties to whom work has been given, where applicable
 - f) evidence of workers compensation insurance such as a renewal notice
 - g) evidence of current superannuation fund membership and contributions
 - h) location of time book, sheet or records required to be maintained under the applicable award and industrial legislation or other relevant employment law
3. Unless the statutory declaration and information is provided, a tender will not be considered.
4. Where a tenderer tenders to provide goods to government that could be made by an outworker the government will notify the Textile Clothing and Footwear Union of Australia ('TCFUA') and will consult with the TCFUA about the compliance of the tenderer with industrial instruments outlined in clause 1 of the Procurement Policy and clause 1 of Appendix A of the Procurement Policy. If such a tenderer is successful in its bid to supply goods to the government, the government will notify the TCFUA.

Future of Work

Occupational Health and Safety Policy

Securing Workers' Health and Safety By Building the Union Movement

Introduction

1. Congress affirms its commitment to the *Union Charter of Workplace Rights*, which outlines the rights and responsibilities of all parties in the provision of decent and fair health and safety, compensation and rehabilitation.
2. Health and safety is a basic human right and of the utmost importance to Australian workers and is integral to union activity and growth.
3. Congress acknowledges that the full impact of work-related death, injury and disease is disregarded by policy makers. Consequently, each year thousands of Australian workers have their health and quality of life harmed by preventable effects of hazards at work. This has flow on effects to entire families.
4. In order to change this, and recognising that unionised workplaces are healthier and safer, unions must intensify their efforts to increase union density by:
 - a) Educating, organising and campaigning around specific health and safety issues to increase union density;
 - b) Securing health and safety legislation that ensures workers are represented and can act collectively to protect their health and safety; and
 - c) Ensuring that health and safety is protected through the highest standards in occupational health and safety legislation, regulation, enforcement measures and industrial instruments.
5. Congress notes and condemns the loss of genuine tripartism on the body replacing the Australian Safety and Compensation Council.

The Priority Issues

6. In order to protect workers the ACTU and unions will campaign and lobby for:
 - a) The highest standards in nationally consistent occupational health and safety laws and enforcement to improve workers' health and safety.
 - b) Reduction in the use of toxic substances at work, starting with:
 - i) The '**KNOW** WORKPLACE CANCER' Campaign;
 - ii) A nationally consistent approach for the removal of all asbestos containing materials (ACMs);
 - iii) The immediate introduction of effective systems to monitor and survey workplaces, work and workers' health where they are required to work with, or are exposed to, any hazardous substances; and
 - iv) A national inquiry into asbestos and asbestos related diseases.
 - c) The introduction of stringent protections for people exposed to nano-materials;
 - d) The introduction of stringent protections for people exposed to biological hazards; and
 - e) Greater protection for workers from psychosocial hazards, particularly those resulting from stress, fatigue and poor rostering, bullying, workplace and occupational violence, harassment and intrusive monitoring.

Working with Governments and Occupational Health & Safety Bodies

7. Congress recognises that in order to improve workplace health and safety standards a commitment to a genuinely tripartite approach is needed from all governments and as such the ACTU will advocate for:
 - a) Legislation to re-establish a national commission with responsibility for occupational health and safety that is:
 - i) Consistent with the intent of ILO Convention 155;
 - ii) Independent; and
 - iii) Properly resourced.
 - b) Legislation to ensure that these structures are mirrored in each state and territory.
 - c) A national commission to deliver laws that will develop and improve contemporary health and safety standards and that actively monitors the regulating authorities to ensure that these laws are enforced.
 - d) The ratification and effective implementation of all relevant ILO conventions.

- e) Effective action under the National OHS Strategy 2002 - 2012, including:
 - i) The establishment of a comprehensive online database covering all work-related injury, disease and death; and
 - ii) Comprehensive data collection, compliance, education, research, enforcement, OHS skills development, national standards, incentives and practical guidance.
- 8. This policy is to be read in conjunction with both the 2003 and 2007 ACTU OHS Policies.

Future of Work

OHS Rehabilitation and Compensation for Injured Workers Policy

Introduction

1. Congress reaffirms its primary position that every worker has the right to go to work and come home safely. Yet with extremely high levels of work-related injury, disease and death still a shameful reality in Australia, Congress also reaffirms its position that the rights of injured workers are of fundamental significance.
2. Congress recognises that effective rehabilitation and return to work programs, as well as the provision of economic security through workers' compensation arrangements, are critically important to injured workers, their families and the wider community.
3. Accordingly, Congress reaffirms its position that after sustaining a physical or psychological work-related injury, all workers are entitled to comprehensive and quality rehabilitation services; and to return to suitable and decent employment. Further, injured workers are entitled to compensation that restores them to the position they enjoyed prior to their injury.
4. Congress reaffirms its position that improvements and consistent arrangements are needed for all injured workers in terms of rehabilitation, return to work programs and compensation. While the long standing Congress aim of establishing a national scheme to deliver these outcomes remains valid, Congress acknowledges that this is not the only way to achieve this objective. As such, Congress affirms that achieving national consistency and world's best practice in these areas is of paramount importance.

Rehabilitation and Return to Work

5. Congress calls upon employers and governments to work with unions to provide rehabilitation services that achieve maximum recovery and prepare injured workers, wherever possible, to return to their previous position. In cases where this is not possible, then workers must be redeployed to the most suitable position in respect of their aptitude and capacity.
6. Congress calls upon governments to work cooperatively to ensure that existing rehabilitation services are properly accredited, coordinated and expanded so that they are accessible to all injured workers.

7. Congress recognises that in many cases the rehabilitation of injured workers does not facilitate their return to suitable and meaningful employment. As such, effective rehabilitation services must also deliver genuine retraining programs to meet this objective.
8. Congress believes that for rehabilitation services to be effective they must:
 - a) Be implemented properly and without regard to the insurers' cost assessments;
 - b) Ensure that employers health and safety management systems enable the immediate reporting of injuries;
 - c) Return workers to their full capacity in their workplace, community, family and life;
 - d) Return workers to safe, meaningful and durable employment as early as possible;
 - e) Actively involve unions and their members in consultation and decision making;
 - f) Have the commitment of the employer to the above aims; and
 - g) Be independent of the employer or insurance company.
9. Congress supports the development by unions and employers of rehabilitation policies and programs that are based on the following principles:
 - a) Voluntary participation by the injured worker;
 - b) Respect for the worker's privacy;
 - c) No loss of income while participating in the program;
 - d) Eliminating or controlling the hazard that caused the injury;
 - e) Consistency with the medical advice of the worker's own doctor;
 - f) Employer cooperation in the provision of suitable duties, modified work stations and retraining or redeployment opportunities;
 - g) Access to the advice and assistance of multi-disciplinary professional teams;
 - h) The injured worker's right to choose their rehabilitation provider;
 - i) That rehabilitation be provided to the injured worker at the closest possible location to their home or workplace;
 - j) The development of appropriate and effective individual return to work plans;
 - k) An individual assessment of the injured worker and their workplace;
 - l) The adaptation of the workplace to suit the injured worker's capacity;
 - m) The development of an appropriate timetable for returning the injured worker to their previous position, or the most suitable alternative, that is consistent with the level of their capacity;

- n) The involvement of union representatives and injured workers in decisions concerning alternative duties, rehabilitation programs and retraining; and
 - o) The commitment by all parties to provide an environment in the workplace that is supportive of the injured worker with adequate training of employees, supervisors and management in the rehabilitation policies and procedures adopted.
10. The employer must ensure that participation in a rehabilitation program or the rehabilitation program itself will not prejudice an injured person. Furthermore, an injured employee must not be dismissed or have their employment damaged because of a work-related injury or any resulting temporary impairment for at least 2 years after the later of either:
- a) The date on which the employee is certified fit for work; or
 - b) The date on which the claim for compensation is accepted.
- In the event of dismissal of the injured employee or damage to their employment the applicable tribunal will be empowered to review and remedy the situation.
11. Regulatory authorities must enforce workers' rights to rehabilitation and to return to work.
12. All workers must be provided with a comprehensive statement detailing their entitlements regarding rehabilitation and return to work.

Workers' Compensation

13. Congress believes that nationally consistent workers' compensation standards must:
- a) Be available to all members of the workforce regardless of the retirement age (including the self-employed) and provide compensation for all injuries that arise out of, or in the course of work, including:
 - i) Travel and recreation breaks;
 - ii) All diseases caused by, exacerbated or accelerated by employment; and
 - iii) Be available upon the death of a worker to their dependants.
 - b) Be primarily an income replacement scheme that provides 100% of lost earnings. This must take into account any progression or promotion that would have been available to the worker had they not been injured. Unions oppose schemes that: do not recognise overtime and penalty rates; have a financial ceiling or a maximum period of payment; are inequitable and/or inadequate.
 - c) Be based not only on physical or psychological impairment, but also on an assessment of the potential of the injured worker to be re-employed. Factors such as the age, abilities, place of residency, language and literacy skills, and the experience of the worker must be considered in relation to the injury sustained.
 - d) Provide for the total cost of all medical, rehabilitation and other expenses including special aids, childcare, domestic assistance, motor-vehicle and house alterations incurred by the worker.

- e) Provide lump-sum compensation for any permanent disability sustained including pain and suffering associated with the disability.
- f) Ensure that unfettered common law rights for workers to sue their employer for negligence are enshrined in legislation in addition to other forms of statutory compensation.
- g) Achieve the physical, social and psychological rehabilitation of injured workers, as well as attempting to equip them to return to their pre-injury employment. Where this cannot be achieved, the aim must be to provide genuine retraining to achieve meaningful and productive alternative employment.
- h) Ensure that the employer provides suitable employment for injured workers, and in the absence of this, that the injured worker maintains full and ongoing benefits.
- i) Ensure that the delivery of benefits is speedy, efficient and fair. Delayed payment and treatment will result in physical, psychological and financial hardship to injured workers.
- j) Provide for the establishment of Dust Disease Tribunals (based on the current NSW model) in all jurisdictions to administer the delivery of benefits to workers suffering dust diseases.
- k) Ensure that the administration and funding of workers' compensation (except for the administration of dust disease benefits) is carried out by a single public body, which is controlled by a board or council comprising of equal numbers of government, union and employer representatives.
- l) Provide an independent appeals tribunal that has the power to arbitrate on disputed claims. This tribunal should be cost neutral to the appellant.
- m) Ensure the receipt of workers' compensation by a worker does not preclude them from accessing any social security benefit, to which a person in receipt of another type of income support, such as benefits from an insurance policy, would be entitled to receive. Further, a worker's superannuation or redundancy payment should not impact on the timing, or the amount of their compensation payment.
- n) Ensure that every worker has access to a doctor of their choice; and that if their doctor recommends medical treatment the worker can choose the medical provider.
- o) Ensure that disputes over workers' compensation claims are dealt with expeditiously and with minimum impact on injured workers. Dispute settlement processes must be quick, accessible and low cost for workers.

Self-Insurance

14. Congress opposes self-insurance for employers as it generally limits access to benefits, compromises privacy, undermines the premium pool and discourages workers from exercising their rights. However, Congress recognises that self-insurance currently exists in all jurisdictions. Therefore, Congress believes that self-insurance should only be available to employers who have an exemplary record in health and safety and a demonstrated commitment to workers' rights. Further, self-insurance licenses must be automatically revoked in cases where there is a workplace death or serious injury.

15. Congress believes that the administration of workers' compensation by self-insurers must be conducted by arrangements that separate the insurer from the employer, in the same manner as the relationship between a private insurer and the employer as a client, to fully protect employee privacy.
16. Congress calls for workers to have access to an independent body which can review an employer's self-insurance status. Further, employers seeking to become, or to remain, self-insurers must be able to demonstrate that the majority of their employees genuinely favour this option.

Achieving National Consistency and World's Best Practice in Rehabilitation and Workers' Compensation

17. Congress reaffirms its position that the ACTU and unions must work towards the achievement of nationally consistent standards in rehabilitation and workers' compensation, which constitute a best practice scheme to be delivered by each jurisdiction.
18. Congress calls on the Federal Government to return Comcare to its original function as the scheme applying to Federal public servants and to return all private sector participants to the applicable State or Territory run scheme/s.
19. The ACTU and unions commit to supporting injured workers; and to ensure that education about rehabilitation, return to work arrangements and compensation issues, are included in training for delegates, health and safety representatives and union members.
20. Congress resolves that the ACTU will work with Trades and Labour Councils and affiliates to commence an urgent campaign to improve rehabilitation services, return to work arrangements and compensation for injured workers in each jurisdiction. The campaign will be properly resourced, with budgetary provision made for its effective implementation.
21. Congress calls for improvements to be made in the form of:
 - a) Comprehensive coverage of the work relationship, including on journeys to and from work;
 - b) A return to a basis of 'no-fault' compensation for all workplace injury and diseases;
 - c) Abolition of the illegitimate use of 'whole of body assessments', which act to reduce compensation and limit access to statutory lump-sum payments and common law remedies via legislated minimum thresholds;
 - d) Introduction of genuine rehabilitation options, including full technical or tertiary retaining;
 - e) Removal of time limits and step downs on weekly payments that effectively shift the injured worker onto social security benefits;
 - f) Maximising the resources in a scheme by removing profit incentives to third parties, thus ensuring that benefits are distributed to workers; and
 - g) Fast and effective conciliation and arbitration of any workers' compensation matter in dispute by an independent tribunal.

22. To properly achieve this aim, research needs to be undertaken to provide an injury profile for the entire Australian economy upon which an appropriate workers' rehabilitation, return to work and compensation package can be developed. Congress calls on the Federal Government to commission this research as a matter of urgency.
23. Congress calls on the Federal Government to establish an inquiry as a matter of urgency to examine the extent of cost shifting by workers' compensation schemes onto injured workers and government services, including the public health system and social security.

Future of Work

Security of Work Policy

A New Deal on Income Protection and Employment Security Policy

1. This policy:
 - a) Confirms the ACTU's longstanding approach to reduce the incidence of casual and contract labour, improved job security and access to decent work for casual and contract labour, and reform corporations laws to protect entitlements;
 - b) Advocates additional short term measures that can be implemented immediately; and
 - c) Calls for a long term new deal for income protection and employment security.
2. Congress recognises a strong economy, increasing productivity growth, and building innovative and prosperous companies remains the best form of income protection and employment security and that government, employers, employees and their unions have a role in sustaining this.
3. The prospect of rising unemployment in coming months heightens the ACTU's concern for the working people and their families whose jobs are being lost.
4. The ACTU and unions believe Australians want to see a new and visionary deal delivered on income protection and employment security. Advocacy of far-sighted economic and social reform, such as superannuation and Medicare, has been the hallmark of trade unions' contribution to public policy in Australia, and the time has come to establish new standards for income protection and employment security.

Affirmation of longstanding policy

5. Regardless of the economic climate the labour market should deliver secure employment and incomes to all workers. Congress has long been concerned at the increased use of casual and contract labour in Australia. These workers do not receive the same income protection and secure employment arrangements as other Australian workers.
6. Given the present Global Financial Crisis Congress recognises the fact that Aboriginal and Torres Strait Islander people will face even greater challenges than the general community with regard to wage parity and job security due to ongoing economic and social discrimination. Congress believes that an ongoing commitment is required by all affiliates to address job security and initiate pay equity claims wherever discriminatory practices are identified.

7. Congress reaffirms the commitments made in relation to employment security and protection of entitlements at Congress from 2000. In these unstable economic times it is vital that government actions to protect entitlements include the following elements:
- a) amend GEERS to offer 100% universal protection for all financial entitlements, including back pay, superannuation, annual leave, long service leave, redundancy, untaken RDOs and unremitted deductions, and improve the administration of the scheme and oversight of the scheme;
 - b) amend corporations laws to rank employee entitlements, regardless of their whether they arise from awards, agreements or contracts above secured creditors in insolvency situations;
 - c) ensure employee entitlements are included in the definition of 'debt' for the purposes of insolvency;
 - d) ensure related companies can be treated as single entities for the purpose of protecting entitlements;
 - e) strengthen directors' responsibilities, by requiring earlier action by company directors where companies are likely to become insolvent, and impose the onus of directors to in cases where they have allegedly avoided their obligations or traded while insolvent;
 - f) protect unpaid superannuation entitlements for all workers;
 - g) enhances the policing powers of ASIC in pursuing Directors of insolvent firms, particularly those who fail to pay employee entitlements in full;
 - h) facilitate tripartite co-operation and support for firms where employers, employees and their unions are working together to maintain jobs;
 - i) provide for a training guarantee and case management to facilitate re-skilling of workers who lose their job or are threatened by retrenchment. This scheme should also be made available to all unemployed employees, and contractors and casual workers who no longer have access to a steady income stream;
 - j) provide training and salary maintenance arrangements for the employees in sustainable companies being confronted with working a four day week and/or experiencing down days and loss of income;
 - k) provide a job start wage subsidy for employers hiring displaced workers and the long term unemployed in regions and Local Government Areas where unemployment is above the national average; and
 - l) increase income support from unemployment benefits commensurate with increases in the pension.
8. In addition to this Congress expresses its determination to act decisively during this recession to improve the conditions of casual employees, home-based outworkers, dependent contractors and employees of labour hire companies. Such action will include:
- a) unions bargaining for measures to reduce the incidence of casual employment, extend employment entitlements to casual employees, and ensuring awards provide for the right of casuals to convert to permanent employment after a specific period of time;

- b) developing a code of practice governing contracting out and use of labour hire, and campaign for its adoption by employers and governments;
 - c) campaigning and bargain to achieve the same pay and conditions for labour hire workers as apply to the relevant employer's direct employees, whether through awards or agreements;
 - d) work to ensure a comprehensive response from governments to secure improvements in job security and access to entitlements for workers engaged under contracts for services, including improving access to cheap and effective remedies for unfair or sham contracts, enforcement of contractors entitlements to superannuation and workers compensation, and reforming the Trade Practice Act to allow contractors to receive advice and information at work and bargain collectively through their union;
 - e) ensuring that employees of labour hire companies and home-based outworkers are covered by appropriate awards and subject to the jurisdiction of Fair Work Australia. The enforcement regime must ensure that unions and the various enforcement agencies are resourced and able to ensure these workers receive all their legal entitlements; and
9. Congress notes that the Fair Work Act extends award protection to home based outworkers, but supports the TCFUA's call to strengthen and broaden the scope of these protections.

Short term measures to address the current economic climate

10. In the current economic climate Congress calls on the Government to provide a better safety net of income and employment protection.

As an immediate response Congress calls on the Government to create a national system of income protection that:

- a) guarantees 100% of accumulated employee entitlements; and
- b) assists in the retention, retraining and/or reemployment of workers impacted by the current crisis.

A New Deal on Income Protection and Employment Security: Long Term Measures

11. Congress confirms immediate and long term action is needed to deal with the economic recession and its consequences. The existing national social safety net for income protection and employment security is insufficient and leaving ordinary Australians behind.
12. Australia must avoid exacerbating the legacies of the recessions of the early 1980's and 1990's. To avoid this recession permanently enlarging the ranks of the working poor and creating a generation of long term unemployed, a modern system of income protection and employment security is needed. Benchmarked against international innovation in countries such as Denmark, Sweden and Germany, a new system could enhance both income security for workers and their families and provide automatic stabilisation for the economy.

13. Congress calls for the government to urgently implement our short term measures to help protect workers income and their jobs during this global recession; and also calls on the Government to establish a new set of national standards around income protection and job security that is appropriate for the 21st century.
14. Policies to protect Australian workers and their families against economic downturns should have been implemented during the last decade as part of the fiscal dividend from the resources boom. Unfortunately the legacy of the Howard Government is that the fiscal dividend was squandered. In addition through policies such as welfare to work, changes to unfair dismissal, restrictions on access to the dole and the Work Choices legislation; standards of income protection and employment security in Australia, despite a period of unprecedented prosperity, were substantially eroded.
15. Congress calls for the ACTU and unions to promote a standard of income protection and employment security Australian citizens are entitled to expect.
16. Congress calls upon the Government to create a new system of income and employment protection by establishing a working party that will address the following:
 - a) the adequacy and coverage of the existing system of employee entitlements;
 - b) the design of a new system for protecting such entitlements;
 - c) the design of a new scheme for administering and paying for the new system; and
 - d) the strengths and weaknesses of the best options for ensuring the portability of accrued entitlements.
17. Importantly the inquiry must get the right balance between individual, social and corporate responsibility in any future system of income and employment protection.
18. This working party should also:
 - a) develop options for establishing an employment insurance scheme or a similar mechanism to support lifetime learning. Options should ensure income support and training opportunities for employees throughout their working life, inclusive of times of unemployment. To develop the most appropriate option for the Australian context, the working group should examine the full complement of options available; including European style social security contribution schemes, lifetime learning accounts, Skill Development Funds and other arrangements; and
 - b) investigate the supporting mechanisms required to make the proposed arrangements for the income and employment protection scheme to work effectively and efficiently as an integrated and comprehensive system. This will include an appropriate arrangement for administering the system, and its integration with the tax system and existing superannuation and social security schemes.
19. The ACTU and unions commit to prioritising income and employment protection by providing research resources, examining the overseas experience, and undertaking a nationwide consultation process with our members and Australian workers.

Future of Work

Retirement Incomes, Superannuation and Workers' Capital Policy

Introduction

1. This policy confirms the policies adopted by Congress in previous years, updating it to reflect developments since 2006, and to reflect the current market environment.

The Current Market Environment

2. Congress affirms its support for a retirement income system based on three pillars: the aged pension, compulsory savings, and voluntary savings. In particular Congress restates its commitment to Australia's system of compulsory retirement savings. The Superannuation Guarantee (SG) has been the single most effective measure to address wealth inequality in Australia. Recent ABS data confirms balances in superannuation funds are the largest financial asset held by households.
3. Volatile periods and market downturns are part of the nature of investment markets. Congress notes that superannuation has performed well over the long-term, notwithstanding the poor performance of the markets over the last 18 months.
4. Congress supports a temporary relaxation of access to preserved superannuation to assist households in financial distress and in order to meet mortgage repayment. However we note that this measure comes at the expense of adequate retirement incomes.
5. Congress opposes suggestions to suspend or temporarily reduce compulsory superannuation contributions in order to temporarily stimulate household consumption.

Adequacy

6. Congress welcomes the Rudd Government's renewed policy focus on the adequacy of retirement incomes. The Review of the Australian Tax System and the Harmer Review of pensions must result in a system that ensures that all Australians can enjoy adequate and secure retirement incomes.

7. It is widely acknowledged that compulsory savings rate of 9 per cent SG is inadequate to fund the retirement incomes of low and middle income earners, particularly those whose working lifetime commenced prior to the introduction of the SG system and whose benefit in retirement does not reflect system maturity. Even at maturity the system will be inadequate for sections of workforce, particularly women, casuals and part time employees, who suffer low contribution amounts and disrupted periods of saving. This is particularly so as the full 9 per cent does not go into superannuation savings. After tax, fee, commissions and insurance are deducted, the figure is closer to 7.5 per cent.
8. Retirement incomes policy must also acknowledge the significant role that home ownership has played in providing financial security in retirement. Declining home ownership will place greater pressure on other savings. This, coupled with the high costs of health care associated with living longer, demand fresh analysis of the adequacy and equity of the current regime.
9. A clear definition of an adequate retirement income is required. Congress endorses the adoption of an “adequacy range” to inform public policy. Government support and incentives should be targeted to ensure a “modest but adequate” budget standard as the floor, while “comfortable/affluent” standard should be the point at which public incentives and support are withdrawn. This definition should inform policy on all three pillars.
10. The ACTU believes that employees, employers and government will need to make a contribution to providing a sustainable adequate retirement incomes strategy by:
 - a) Increasing the base rate of singles age pension;
 - b) Replacing the flat contributions tax on superannuation with a progressive contributions tax;
 - c) Increasing superannuation contributions in the medium term to at least 15 per cent through bargaining and increasing the SGC rate. This should be phased in tranches of 1 per cent over each of the 6 years 2010 to 2015;
 - d) Reducing leakage from the system by requiring the disclosure of all fees and banning of commissions on SG retirement savings and income products;
 - e) Closing the gaps in the coverage of the superannuation guarantee by:
 - i) Extending SG entitlements to all employees regardless of age, or minimum earnings;
 - ii) Ensuring contractors who are eligible for SG receive contributions and extending the SG framework to cover self-employed workers; and
 - iii) Requiring the SG be paid while employees are on paid parental leave.
 - f) Supplementing the co-contribution with targeted government contributions, including a government funded maternity-linked contribution (a super baby bonus).
11. Congress rejects the treatment of super as a source of tax revenue and reaffirms the purpose of superannuation policy as a national savings plan for workers in retirement. Congress is opposed to any attempt to increase the preservation age to claim superannuation benefits and to increase taxation on super that would be a disincentive for savings.

12. The single pension rate, relative to the combined couple rate, needs to be lifted and a new benchmark adopted which:
 - a) Reflects the increased role of women in the workforce;
 - b) Eliminates the influence of changing shares of full time and part time jobs; and
 - c) Eliminates the influence of the business cycle on earnings.
13. Congress supports a new benchmark of 35 per cent of Full Time Adult Average Weekly Ordinary Time Earnings and a single-couple equivalence of 70 per cent. This is a stretch target, which the ACTU believes should be achieved by 2025.

Equity and Efficiency

14. The retirement incomes system currently does not operate equitably and efficiently. In particular:
 - a) While most pensioners have low incomes, 5 per cent have private incomes of over \$400 a week. Similarly while most pensioners have few assets, it is possible to receive some pension with assets up to around a million dollars;
 - b) The previous government's Better Super concessions are expensive to the public purse, distributionally regressive, and impact on income tax planning/minimisation, on estate planning and perpetuate intergenerational inequity;
 - c) The retirement incomes pillars are poorly integrated, with longevity risk borne entirely by the taxpayer; and
 - d) Aboriginal and Torres Strait Islanders have shorter life expectancy than non aboriginal Australians yet face the same age based barriers to accessing the aged pension and superannuation accounts.
15. A more equitable focus for government support would include:
 - a) Abolition or reduction of the excessive tax concessions for superannuation at the top end;
 - b) Better targeting of access to the pension, through a review of the means-testing for assets and deeming returns for certain classes of assets, and means-testing incomes;
 - c) The introduction of government sponsored life-time annuity product with genuine longevity coverage, payable as a top-up on the age pension rate, accessible by investment of a lump-sum from retirement savings;
 - d) Introduction of early access to preserved superannuation accounts, retirement and aged pensions for Aboriginal and Torres Strait Islander peoples in recognition of the life expectancy gap.
16. The superannuation system should be administered free from discrimination and operate inclusively for all Australians. Congress welcomes the enactment of legislation conferring equal treatment in superannuation for same sex couples. Congress calls on superannuation trustees, when releasing the funds of a deceased member, to pay appropriate regard to:

- a) the diversity of family and dependency arrangements in Australia, and in particular to recognise the kinship structures of Aboriginal and Torres Strait Islander families;
- b) the difficulties in accessing formal documentation faced by some family members or dependants: including many Aboriginal and Torres Strait Islander families in regional and remote locations, and refugee families.

Superannuation Funds

- 17. The ACTU confirms its longstanding support for industry superannuation funds as offering the best combination of good returns, low fees and effective service to workers and their families. Funds that are not-for-profit, do not pay commissions to financial planners, have lower average fees and have an equal number of employer and employee/union nominated directors of trustee boards, producing superior governance and outcomes are the most appropriate vehicle for the collective provision of superannuation.

The Collective Provision of Superannuation

- 18. Congress believes that the economies of scale available through the collective provision of superannuation is in the best interest of workers and their families. This should be achieved by the nomination of not for profit funds as the default for all workplaces, reform of the choice of fund legislation.
- 19. Employees should be able to access low cost superannuation at their workplace through a requirement that a not-for-profit fund be the default in all workplaces.
- 20. The nomination of the fund(s) into which an employer may pay where an employee does not choose their fund should not be a decision of individual employers. Congress:
 - a) supports greater efforts by unions to ensure the inclusion of industry funds (or appropriate not-for-profit funds such as public sector or corporate funds) either exclusively, or as the default, in enterprise agreements and employment contracts;
 - b) welcomes the decision of the AIRC to nominate default funds in most modern awards, noting that overwhelmingly these are not-for-profit funds;
 - c) rejects claims that nomination of funds in modern awards occurred without any transparent and objective criteria. Default funds in awards were originally determined having regard to the AIRC's superannuation principles which favoured jointly controlled multi-employer funds to facilitate portability between employers and the efficiencies and economies of scale that flow from the operation of a small number of funds in an industry; and
 - d) supports the ACTU making application, at the appropriate time, for FWA to update these principles prior to any review of default funds in modern awards. The principles should ensure that default funds:
 - i) have representative trustee structures;
 - ii) do not pay commissions or ongoing advice fees to intermediaries;
 - iii) operate within specified regulated fee caps, including entry, exit and ongoing fees;

- iv) ensure that when contributions cease the employee remains a member of the default fund until he/she consolidates into a new active fund or is rolled into a suitable Eligible Rollover Fund (ERF);
- v) meet prudential regulatory standards and complies with relevant legislation; and
- vi) has effective procedures in place for following up arrears in payments.

Fund Consolidation

- 21. Congress notes predictions that fund consolidation will continue along industry or geographic lines. Changes in the structure of the economy, and increasing demands on funds from members, employers and regulators require unions and trustees to consider whether the current structure will serve the best interests of members in the future.
- 22. The collective provision of superannuation is intended to deliver economies of scale. Recent research confirms that scale is associated with lower average fees and investment costs. Economies of scale can be delivered through both fund consolidation and the use of collective vehicles with common objectives.
- 23. Fund consolidation must not come at the expense of the specific industry knowledge, understanding, and tailored products and services that characterised smaller funds. Any fund consolidation should cement and build on these attributes in the best interests of members.
- 24. Congress welcomes the Federal Government's temporary partial relief from capital gains tax to encourage consolidation. Congress calls on the government extend the life and scope of this scheme and to remove other tax and regulatory impediments to fund consolidation.

A Strong Representative System

- 25. As the amount held in superannuation funds increases and superannuation becomes more important for the national economy fund governance will inevitably attract greater scrutiny.
- 26. Congress remains committed to the representative trustee system, including the ability for trade unions organistaions to nominate representative directors to trustee boards. Congress rejects the ongoing attacks on the legitimacy of the trustee structure, noting that all available evidence is that representative trustees have delivered honest, diligent and competent stewardship of the funds under their care.
- 27. Congress notes the emerging consensus that that good fund governance and socially responsible investments are linked to performance. The ACTU fully supports efforts to ensure superannuation fund directors receive sufficient training and have the resources to perform their duties to the highest standard. Congress encourages union nominated trustees to undertake ongoing trustee development, including through AIST. Responsibility for resourcing directors must be shared between funds and nominating organistaions, unions will ensure that other duties do not impede their capacity to carry out their superannuation responsibilities. Good fund governance also includes disclosure of directors' and senior executive remuneration.

Fees and Commissions

Fees

28. There is increasing recognition of the need to focus on the effect of fees and other “leakage” on the system generally, as well as on an individual’s account balances. APRA research confirms that the principle determinant of industry funds’ out performance compared to retail funds in average net return, are the difference in expenses and taxes, both explicit and embedded.

Financial literacy, commissions and financial advice

29. The regulation of financial advice should ensure consumers can obtain informed and professional advice. Under the current model consumers face the choice of up front fees which deter many workers from obtaining any advice, or commission based advice which is based upon a conflict of interest.
30. Congress affirms the ACTU’s longstanding opposition of the payment of commissions on SG compulsory contributions. We reinforce our view that fee disclosure is an inadequate response to commission selling.
31. Congress calls for the prohibition of commissions on all SG payments, and the imposition of a requirement that financial advisors be obliged, when providing advice, to give advice which is in their client’s best interests.
32. Congress notes that choice of fund and member investment choice increase the risk of poor decision making where employees generally have little understanding of superannuation and low levels of financial literacy.
33. The current investment climate has seen many members actively switching investment options for the first time, and the Government’s planned contributions clearing house may boost the use of choice of fund.
34. The regulatory framework must allow superannuation funds to offer reliable “within product” advice to their members, including investment choice, insurance options and the effect of additional contributions on account balances at retirement.

Superannuation Investment and Workers’ Capital

Productive and Sustainable Investment for the Future

35. Subject always to meeting appropriate risks and returns within a fund’s portfolio Congress supports fund investment in strategic assets that will provide additional benefits to members and ensure productive and sustainable investment for the future.
36. Congress recalls that unions were instrumental in the establishment of industry funds as a major investment force, that that industry funds were early investors in Australian economic and social infrastructure, and companies offering real long-term growth. Congress also notes that unions supported the establishment of Members Equity Bank to provide much need competition in the home loan and banking sector, and have also supported a strong role for mutuals in provision of financial services for workers, mainly through a Credit Union network.

37. Superannuation policy is a major contributor to national savings. Industry superannuation policy should play a central role as a source of investment in the economy, in infrastructure and other nation building projects, while securing long term sustainable returns for workers' superannuation investments. Congress endorses the use of superannuation policy in a partnership with the Federal Government in securing this outcome.
38. The current economic environment highlights the need and the opportunity for unions to be at the forefront of policy development. Congress supports the ACTU developing priorities that build on these initiatives. Amongst these priorities should be:
- a) improvement in the corporate governance structure of Sovereign Wealth Funds and their advisory councils to ensure properly representative governance structures, aimed at delivering capital support to nationally significant infrastructure and sustainable nation building projects;
 - b) supporting new forms of flexible long term Government bonds and other Government guaranteed investment vehicles that facilitate the investment of workers' capital in nation building and other nationally significant infrastructure and industry development investments and provide options for funds at different points on the risk/return spectrum;
 - c) involvement of industry funds in these projects particularly through Industry Funds Management (Members' Equity). The active involvement of industry funds can assist increase the transparency and public benefit in these projects;
 - d) exploration of opportunities for fund investment in social infrastructure, such as public rental housing, which could address areas of need while ensuring a reasonable return for workers' retirement savings;
 - e) affirmation of our support for ME Bank as the workers' bank of choice; and
 - f) a commitment to a sustainable mutual movement by consolidating and expanding the Credit Union network, encouraging cooperation and mergers to build on their individual strengths and promote efficiency, reduce costs and duplication of resources and to ensure that Government financial services policy builds a strong framework for the delivery of more effective mutuals.

Competition in the provision of financial services

39. Competition in the provision of banking and other financial services is essential to guard against excessive fees and predatory lending practices. Both Members' Equity Bank and union sponsored credit unions have a track record in providing low-cost home loans and other banking services to members and their families, as an alternative to the large four banks.
40. The past 18 months has seen competition in the sector reduced. This is due to continued tightness in credit markets and the government's deposit guarantee, which favours the large four banks.
41. The ACTU and unions will work to ensure that these pressures do not further reduce competition, and will support measures that ensure that the union members and their families can continue to access low-cost member-focused financial services.

42. Congress notes that the previous government policies that encouraged competition in the provision of superannuation, including member investment choice, choice of fund and the growth of self managed funds has impacted the ability of trustees to prudently manage investments in the long term interests of members. Congress calls for ongoing debate about the best way to empower members while ensuring trustees can meet their prudential obligations.

Corporate Governance

43. Congress affirms the ACTU view that good corporate governance should include corporate social responsibility, with an emphasis on environmental and social sustainability.
44. Funds invested on behalf of workers are affected by the success of the companies in which they are invested. Congress notes the growing evidence that company performance is assisted by good governance and that the UN Principles of Responsible Investing enjoy bipartisan support.
45. Superannuation funds, as long term investors, are exposed to long term risks and therefore have special responsibility to drive good corporate governance in Australia, and the growth of funds under management means pension funds can potentially influence corporate behaviour in the interests of long term investors on a global scale.
46. The ACTU and unions will continue to press for the key elements of good corporate governance, including director independence, transparent and accountable remuneration practices and better enforcement of directors' responsibilities.
47. In the immediate term superannuation funds can strengthen good corporate governance by:
- a) Insisting that their shares are voted at company meetings in accordance with a fund policy and that details of the voting are made available to fund members;
 - b) Requiring fund managers to engage actively with investee companies to ensure that they meet the highest standards of governance and social responsibility;
 - c) Positively and publicly supporting companies which exhibit good governance;
 - d) Requiring fund managers to consider and report on governance issues in their assessment of companies' risk profiles and management;
 - e) Being prepared to initiate and/or support resolutions at general meetings addressing issues related to corporate governance;
 - f) Lobbying for legislative change to enable resolutions on a greater range of subjects to be put at general meetings; and
 - g) As a last resort, being prepared to support legal action, where possible, to enforce companies' governance obligations.
48. In the longer term the equity held by superannuation funds in Australian firms could enable direct active shareholding, including appointing directors to boards. Consideration should be given whether this will deliver benefits to members by better alignment of interests and build the long term value of the firm.

49. Congress notes emerging research linking long term performance of firms with good labour management practices. However legal and practical barriers limit the active engagement and monitoring in these areas by institutional investor. These barriers include the prospect of triggering insider dealing or takeover provisions of the corporations law, costs of monitoring, imperfect information, and lack of agreed screens or measures of good practice.
50. Over the coming three years the ACTU will work with organisations including the Global Unions Committee on Workers' Capital, the Australian Council of Superannuation Investors, the International Corporate Governance Network and the Australian Institute of Employment Rights to develop transparent indicators of good labour management for use by institutional investors.

Future of Work

Temporary Overseas Worker Policy

1. The ACTU believes that the current and future skills needs of Australia can be best met through a strategic approach to:
 - a) skill development, including increased investment in training, support for higher level qualifications, support for training and retraining of existing workers and support for broad-based qualifications;
 - b) effective labour market planning and forecasting tied to industry development planning; and
 - c) the use of permanent migration where appropriate.
2. The ACTU rejects the use of temporary overseas labour by employers in industries where local labour cannot be attracted due to poor wages and conditions (except for agreed seasonal labour programs).
3. In cases where there are genuine shortages of skilled workers that cannot be filled by the Australian workforce, temporary skilled overseas workers may provide a short-term response while skill replacement programs are put in place to address the skills needs of the local workforce on an on-going basis.
4. Congress believes that rigorous labour market testing requirements must be implemented so as to ensure that overseas workers are not brought to Australia where there is labour available locally or where employers could adequately train local workers to perform the job.
5. Before engaging workers from overseas, employers should actively seek participation in the workforce from groups currently disengaged from the labour market, including Aboriginal and Torres Strait Islander peoples, older workers, workers with disabilities, and women returning to the workforce.
6. The ACTU recognises and supports the existence of special arrangements for overseas entertainers working temporarily in Australia. Congress supports the MEAA's current campaign to prevent any watering down of the current *Guidelines on the entry into Australia of foreign actors for the purposes of employment in film and television productions* as well as its campaign to ensure that the Government fulfill its election commitment on the use of Australian support acts.

Employment arrangements

7. Recognition and protection of the rights of temporary overseas workers and their families must be central to Australia's temporary overseas labour programs.

8. All temporary overseas workers in Australia have the right to decent work.
9. All workers have the right to equal pay for work of equal or comparable value. Temporary overseas workers have the right to be paid at the market rate applicable to permanent residents undertaking the same or similar work. Temporary workers should be paid in Australian dollars by the Australian employer, preferably into an Australian bank account in the name of the overseas worker.
10. Temporary overseas workers have the right to the same benefits, allowances, superannuation, loadings, leave and other entitlements as permanent residents doing the same or similar work.
11. Temporary overseas workers have the right to join, and be represented by, a trade union.
12. Upon arrival in Australia, all temporary overseas workers should receive training on their right to join and participate in a union, other employment rights, occupational health and safety, and cultural awareness.
13. Temporary overseas workers and their families should have access to quality public education and educational support and the public health system either through payment of the Medicare levy or an equivalent health insurance scheme.
14. Congress recognises that temporary overseas workers are more vulnerable to exploitation. This vulnerability arises as a result of immigration requirements, language barriers, family disruption, stress and a lack of familiarity with the Australian legal system. Safeguards and strategies must be in place to ensure the rights of these workers are protected.

Skills recognition

15. A system must be introduced for verification and recognition of the qualifications gained overseas and held by temporary overseas workers prior to those workers obtaining visa approval that meet the same standards as those established for permanent migration. This system must ensure that the qualifications held by temporary overseas workers meet the contemporary requirements of Australian qualification and licensing arrangements.

Sanctions

16. Sponsorship of temporary overseas workers is a privilege not a right. Any employer found abusing the rights and protections afforded to temporary overseas workers should be excluded from further sponsorship and should be subject to civil and criminal penalties.

Pathways to permanent residency

17. Congress recognises that many temporary overseas workers become permanent residents. We support measures to improve the capacity of temporary overseas workers to access permanent residency without having to rely on their employer.

Labour agreements

18. The ACTU believes that the labour agreement process requires comprehensive reform.

19. Any company wishing to access temporary overseas labour through a labour agreement should sign a memorandum of understanding with the ACTU and relevant unions. This MOU should:
- a) specify the number and occupations of temporary skilled overseas workers to be sponsored;
 - b) include specific commitments by the company directed at addressing the skills shortage in the occupations for which temporary overseas workers are sought;
 - c) require the company to exhaust all avenues for sourcing appropriate local labour and to notify the ACTU and relevant affiliates before employing temporary overseas workers;
 - d) include an undertaking by the company to comply with applicable ILO conventions which apply to temporary overseas workers;
 - e) require the company to provide temporary overseas workers with terms and conditions of employment that are at least equivalent to those terms and conditions that are, or would be, applicable to the company's Australian workforce;
 - f) provide for ongoing consultation with the ACTU and relevant affiliates on matters in the agreement; and
 - g) include a dispute settlement procedure.

Migration agents

20. All migration agents should be licensed and subject to a strict code of practice. Violation of the code should constitute valid reason for withdrawal of a license.

International agreements

21. Free trade agreements are directed at the regulation of goods and services. They should not regulate the movement of temporary workers. Inclusion of chapters within FTAs regulating natural persons undermines the capacity of national governments to reform their temporary migration policies as they see fit and should be opposed.

Seasonal work programs

22. Any extension of temporary work rights to unskilled and/or semi-skilled workers must only take place following the reaching of agreement between the Government, the ACTU and relevant unions. Any agreement reached must recognise and protect the rights of the temporary overseas workers.

The role of government agencies

23. The presence of temporary overseas workers in Australian workplaces should be properly viewed as a labour and employment issue, not simply as an immigration issue. Government agencies with specific industrial relations responsibilities should be fully engaged with, and assume a role in, the monitoring and compliance arrangements for temporary overseas workers. Such agencies should be adequately funded to perform these functions effectively.

24. The ACTU and affiliates resolve to adopt the following as priorities:
- a) work with trade unions in other countries to ensure temporary overseas workers are informed of their rights and of employment conditions prior to arriving in Australia;
 - b) organise temporary overseas workers;
 - c) assist temporary overseas workers integrate into workplaces;
 - d) lobby for the introduction of a system for ensuring that qualifications gained overseas and held by temporary skilled overseas workers meet the contemporary requirements of Australian qualifications and licensing arrangements;
 - e) pursue improvements to the labour agreements process so as to ensure labour agreements are genuinely consultative and that employers cannot use these agreements to bypass the general requirements of the 457 visa scheme;
 - f) press for reforms to enable temporary overseas workers to more easily change sponsors if their employment is unsatisfactory;
 - g) campaign for a properly resourced monitoring and compliance system administered by the appropriate Commonwealth agencies;
 - h) monitor the implementation of reforms to the 457 visa program;
 - i) monitor the use by employers of other temporary work visas and lobby for reforms of these visa categories as necessary; and
 - j) campaign for the Australian Government to ratify the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

Future of Work

Vocational Education and Training Policy

1. Congress re-affirms its support for a strong vocational education and training (VET) system that provides for effective union representation, has effective industry advisory structures, and provides nationally recognised and portable qualification outcomes that are linked to appropriately remunerated jobs and career paths. A strong, properly funded training system plays a positive role in industry development, provision of quality employment and helps meet labour market and social needs of the community.
2. Congress recognises that Australia faces new skills challenges which require effective, industry-driven responses. The current economic downturn poses challenges for industry to continue to train new and existing workers as well as to retain apprentices and trainees. The country must also face the challenge of identifying opportunities for new emerging jobs and changes required to many existing jobs in transitioning to a lower carbon future.
3. Congress recognises that the cyclical skill shortages, particularly in the last decade, were a direct result of market failure and therefore Congress opposes a market-driven approach to the organisation and delivery of VET. These policies have resulted in serious underinvestment in training by employers, skills shortages, reduced productivity and competitiveness, and a system in which short term demands are prioritised over longer term strategic needs and narrow based skills over strong vocational education and training. Such an approach will only lead to further fragmentation of training, serious undermining of public VET provision, loss of national standards and recognition and loss of portability of skills and qualifications. In conjunction with a lack of reliable forecast data on further skill need, this will result in Australia being unable to meet its own basic workforce needs.
4. Congress identifies the following four priority areas for ACTU and affiliates over the next three years.

National qualifications system

5. Australia's vocational education and training system should:
 - a) Be nationally consistent. National recognition and portability of qualifications is essential if VET effort and outcomes are to be of value to workers and the national economy. Industry Skills Councils (ISCs) must work with relevant state authorities and state industry advisory bodies (IABs) to ensure national support for amendments to, and implementation of, training packages. All workers undertaking vocational education and training must have access to the most recent national training packages, competencies and qualifications;
 - b) Be industry-led so as to ensure national quality and relevancy.

6. To achieve these objectives, the ACTU and affiliates undertake to:
 - a) Support ongoing strong industry advice through a strengthened role of ISC and form a relationship between Industry Skills Councils (ISCs) and State Industry Advisory Boards (IABs) with membership of these bodies drawn from relevant unions and employer representatives;
 - b) Seek the adoption of agreed standards that ensure equity and parity of qualifications and provide greater consistency of training effort and quality for the same qualification and between different qualifications at the same AQF level;
 - c) Support the ongoing development of a national audit and regulatory agency with emphasis on the VET sector and promote nationally consistent outcomes-based auditing against training package standards;
 - d) Ensure unions are effectively represented on ISCs and that ISCs are funded to deliver high quality, industry driven products and advice;
 - e) Support the development of training packages and training products by ISCs in conjunction with industry (and providers where relevant) that are of a high quality, relevant to industry, nationally recognised and that contribute to effective workforce planning and development;
 - f) Support the development and incorporation of learning strategies and modes of delivery and assessment where specified by industry in training packages;
 - g) Argue for the maintenance of integrity in qualifications by opposing duplication, fragmentation and provider driven development of qualifications.

Linking vocational education and training to labour market needs

7. Australia's VET system should:
 - a) Be responsive to the needs of industry and the community;
 - b) Be informed by effective forecasting of skill needs to ensure that training effort, including financial investment, is expended in a way that meets future workforce development needs. The measurement of skill needs and shortages must be developed within a nationally agreed framework;
 - c) Provide decent and improved wages and conditions for apprentices and trainees;
 - d) Provide workers with timely access to advice on training for future skills needs, support in making training choices and paid time off to undertake training; and
 - e) Provide for sound articulation with and linkages to the higher education sector.
8. To achieve these objectives, the ACTU and affiliates undertake to:
 - a) Seek through Skills Australia a nationally agreed consistent definition on skill and labour shortages to be used in all aspects of workforce planning including vocational education and training and related migration matters;

- b) Seek increased government investment in vocational education and training in areas of high skill need, that recognises period and intensity of effort, that supports both new entrant and existing worker training requirements and that supports new industries and areas of potential future economic and jobs growth. In particular the Government should be lobbied for a substantial proportion of places within the Commonwealth's Productivity Places Program to be allocated to green skills development;
- c) Support the establishment of workplace learner representatives in the workplace or provided through ISCs. These workplace learner representatives will be responsible for assisting workers understand the need for skills development, for undertaking skills analysis for workers and groups of workers, and for accessing RPL and training. Workplace learner representatives should be encouraged to develop formal and informal links with VET teachers;
- d) Support upskilling programs that set priorities and expand programs for existing workers, including through funding arrangements to allow for cooperative ventures that promote basic literacy and numeracy education;
- e) Seek a review of employer incentives, directed at ensuring that direct government support to employers for vocational education and training is used to encourage training effort in areas of future skill needs and economic importance;
- f) Work with industry and employer bodies to improve industry advisory structures to take on the role of developing industry skills profiles, identifying vocational education needs, and developing VET products and interventions, directed at more effective delivery and skill development;
- g) Seek a comprehensive review of training arrangements for apprentices and trainees directed at determining a fair and reasonable mechanism for establishing rates of pay for apprentices and trainees that properly reflects their contribution to work, the costs of undertaking training and the need for a fair wage;
- h) Develop the skills and capabilities of union representatives on ISCs and IABs through regular ACTU sponsored training and professional development days;
- i) Lobby state and territory governments to introduce increased notice of potential redundancies by industry to government, unions and affected employees, as well as to provide publicly funded retraining opportunities through TAFE;
- j) Where employers in particular industries experience severe difficulties retaining apprentices and trainees due to circumstances beyond their control, negotiate arrangements that reflect industry requirements and enable the retention of existing apprentices and trainees. Such arrangements should only be implemented following the reaching of agreement between the Government, the ACTU and relevant unions;
- k) Engage with Skills Australia and the Commonwealth Government to negotiate appropriate implementation of outcomes of the Bradley review that impact on vocational education and training without undermining the integrity of training packages and standards.

A higher quality, responsive and accessible VET system.

9. Australia's VET system should:
 - a) Deliver high quality vocational education and training;
 - b) Ensure the maintenance and ongoing development of a well resourced and dynamic public provider;
 - c) Enable TAFE and other providers to identify and respond effectively to emerging skills needs; and
 - d) Provide opportunities for all people to engage in vocational education and training through accessible providers and flexible modes of delivery
 - e) Provide equity of access and stop the transferring of costs to students.
10. To achieve these objectives, the ACTU and affiliates undertake to:
 - a) Support a strong and increased funding base for capital works, maintenance, infrastructure, equipment and development and vocational education delivery for TAFE that recognises the important role of the public provider in providing access to VET in areas of both high and low demand and supports flexible modes of delivery;
 - b) Support a funding model for VET that provides funding to the training provider and that recognises training time and effort and the importance of workplace based assessment and the true cost of undertaking RPL;
 - c) Support a funding model that properly recognises the broad role TAFE plays in providing access to training and re-training in areas of high and low demand, and in particular in rural and remote areas.
 - d) Seek increased funding of VET places to increase access to for young people, people with disability, and Aboriginal and Torres Strait Islander peoples, particularly in higher level traineeships and apprenticeships;
 - e) Through work with Skills Australia and the NQC, and in collaboration with the AEU, seek a national workforce development strategy for the VET workforce that includes an allocation of adequate resources to enable teachers and institutes to develop and maintain close liaison between TAFE and industry and encourage appropriate relationships to assist industries to develop skills plans;
 - f) In consultation with the AEU, support the development and promotion of appropriate high level vocational education qualifications and professional development for TAFE teachers; and support a strategy of reprofessionalising the teaching workforce;
 - g) Campaign to encourage TAFE and VET employers to address unacceptably high level of casual employment within the VET sector;
 - h) Ensure the engagement of TAFE and other RTOs with ISCs for the purpose of developing material necessary to support quality delivery of training;
 - i) Identify and promote key emerging skills needs through national skills training bodies;
 - j) Encourage the development of emerging skill needs through government funding for specific skills development programs aligned with industry planning and broader industry and innovation programs.

Ensure VET acts as an effective pathway between school & work

11. Australia's VET system should act as an effective pathway between school and work by:
 - a) Ensuring that vocational education in schools meets all national standards for VET. Vocational education in schools can provide an effective pathway for young people from school to work or further study. However this is only the case where VET undertaken by young people while still at school is recognised and accepted by industry: 'VET in schools' programs that fail to do this are misleading to students in terms of potential outcomes and should be rebadged to reflect exactly what they deliver; and
 - b) The establishment of a formal mechanism by which the skills gained by high school students through paid work can be recognised.
12. The ACTU and affiliates undertake to:
 - a) Lobby for reform so that all young people are able to access accredited VET while still at school;
 - b) Support the availability of pre-apprenticeships and pre-vocational training in schools where this is part of a national training package and will provide credit to a qualifications;
 - c) Support school-based apprenticeships (SBAs) and school-based traineeships (SBTs) where these can be delivered without undermining essential standards of the qualification or training;
 - d) Seek a review of the 'VET in schools' system so as to ensure that these courses are properly funded, delivered by appropriately qualified teachers, have structured workplace learning and are directly linked to training package qualifications; and
 - e) Support the development of a mechanism, to which all secondary schools have access, through which the broad workplace and career development skills gained through students' casual or part-time paid work can be formally recognised. This mechanism must be accompanied by initiatives directed at facilitating opportunities for students to obtain the required skills.

Future of Work

Wages and Collective Bargaining Policy

Introduction

Policy Framework

24. Congress reaffirms that:

- a) Union organisation and collective bargaining are the primary means by which unions achieve fair wages and employment conditions for union members. Union members earn on average 10 per cent more than non-unionists, and union members have greater access to leave, superannuation and other employment conditions.
- b) Modern Awards play a crucial role in underpinning bargaining. They are the principal means of achieving wage justice for those unable to bargain. An open, agile and transparent process for setting minimum wages and conditions is the foundation for a robust and fair labour market.
- c) The role of unions in organising collectively raises standards for all Australian workers and therefore assists in achieving broader social justice objectives. By extending union gains to all workers the exposure of strong union sites to the downward pull of wage competition and incentives to de-unionise is diminished.
- d) Union collective bargaining is the primary means by which unions achieve wages and conditions for union members over and above the award safety net.

Overall Objectives

25. The broad objectives of wages policy over the next three years are to:

- a) achieve real wage increases for union members;
- b) achieve substantial improvements in award minimum wages;
- c) improve job security and security of entitlements;
- d) build and extend collective bargaining;
- e) achieve equal remuneration for women;
- f) remove wage discrimination impacting upon young people, casual workers and others;

- g) build union membership and organisation through campaigns over wages and employment conditions, particularly at the industry and occupational level;
 - h) build and extend portability and security of entitlements, particularly on an industry or sector basis;
 - i) build job security in response to the global financial crisis including by securing greater notice and consultation rights about change, reduced capacity to utilise precarious forms of employment, development of income security and training programs as alternatives to making workers redundant, and building and extending portability and security of entitlements particularly on an industry and sector basis;
 - j) support the growth of decent work - quality training, work/life balance, secure accrued entitlements; and
 - k) build sustainable workplaces.
26. These broad objectives are to be pursued through collective bargaining, the award system, legislative and public policy change and campaigns in the community.

Collective Bargaining

27. Congress commits to the following principles in relation to collective bargaining:
- a) Use the legislative provisions of the Fair Work Act 2009 to actively pursue collective bargaining across the economy, while unions pursue improved collective bargaining rights. Unions will seek to bargain at the enterprise level or multi employer level. Where necessary unions will seek the assistance of Fair Work Australia to achieve agreements, or as a last resort arbitrated wage increases, using special bargaining provisions that facilitate agreement-making for the low paid.
 - b) A co-ordinated approach to bargaining at the industry level with maximum involvement of delegates and members.
 - c) Priority given to the achievement of equal remuneration for work of equal or comparable value for women.
 - d) Inclusion of claims, consistent with other Congress decisions, for improved hours of work, increased job security, improved conditions for casuals and other workers with precarious employment, better work and family balance, delegates' rights, protection and portability of employee entitlements and paid training leave.
 - e) Adequate resourcing of wage increases achieved through collective bargaining in the public sector and the publicly funded not-for-profit sector.
28. In collective bargaining unions will seek to achieve wage outcomes that, as a minimum, maintain the real value of wages and which secure a fair share for workers of productivity growth and improved profitability or efficiency.

The Award System and Decent Work

29. Congress reaffirms award rates of pay as a key component of wages policy in that:
 - a) award rates provide vital protection to award dependent workers; and
 - b) increases in award rates reduce the gap between award and agreement rates of pay.
30. Congress is concerned at growing income inequality between award dependent workers and those covered by agreements, together with the continuing plight of the low paid.
31. The ACTU and unions are committed to raising and restoring the relevance of award rates of pay through annual cases before the Minimum Wage Panel of Fair Work Australia, based on:
 - a) Promoting social inclusion and increased workforce participation;
 - b) Relative living standards and the needs of the low paid;
 - c) Equal pay for work of equal or comparable value; and
 - d) Securing fair minimum wages for juniors, trainees/apprentices and workers with disability.
32. Congress resolves to continue to:
 - a) Substantially lift the real value of award minimum rates through national wage case proceedings.
 - b) Raise the Federal Minimum Wage to \$600 per week within in the next two years.
 - c) Broaden efforts to achieve minimum wage improvements through public campaigning aimed at highlighting the position of the low paid, and mobilising workers and others in the community to demand greater wage justice.
 - d) Develop strategies to ensure award pay scales are a relevant floor for bargaining.
 - e) Campaign for an improved collective bargaining framework that will include what can be bargained about and the right to industry-wide bargaining per se.
33. Congress rejects the proposition that minimum wages be frozen or restrained on the basis of creating more jobs and containing inflation.
34. Recognising the importance of skilled based career paths in productivity, equity and social inclusion, Congress resolves to protect career path wage structures in modern awards by seeking pay increases structured to maintain career paths in cases before the Fair Work Australia Minimum Wage Panel.
35. Congress also recognises that low paid workers are particularly affected by the social wage, which includes tax and social security policy and the provision of public services including health, education, housing and transport. Congress will campaign for social wage improvements to lift the living standards of low income households, as complement to - but not substitution for - real minimum wages increases.

Equal Remuneration

36. Congress notes that the gap between average male and female earnings has widened since Congress 2003.
37. The ACTU and unions are committed to achieving equal remuneration for work of equal or comparable value through the following:
 - a) Increase the participation of women in enterprise bargaining, by increasing the representation of women delegates in the bargaining process, improving access to training and pursue equities in pay, benefits and employment conditions;
 - b) Use low paid multi employer bargaining to increase access to collective bargaining for workers in female dominated occupations and industries;
 - c) Undertake regular evaluations of remuneration practices such as performance pay and make necessary changes to ensure they are transparent, free of gender bias and reward work value;
 - d) Use provisions in the Fair Work Act to pursue equal remuneration and benefits: including work and family, anti discrimination, good faith bargaining principles, and the 'better off overall test';
 - e) Encourage Fair Work Australia to conduct a wide ranging inquiry into the issue of casualisation levels within the workforce and formulating the means by which excessive levels of casualisation can be reduced over time.
 - f) Pursue applications to Fair Work Australia to make equal remuneration orders;
 - g) Extend the equal remuneration principles identified in the Queensland jurisdiction to the federal jurisdiction consistent with CEDAW and ILO conventions 100 and 111;
 - h) Monitor the compulsory flexibility clauses in agreements and awards to ensure women are not disadvantaged;
 - i) Use the review of modern awards for equal remuneration purposes and to remove discriminatory terms.
38. To achieve equal remuneration Congress calls on the government to take the following action:
 - a) Require workplaces to report basic equal remuneration data annually and consult with unions to develop, monitor and implement practices to promote and achieve equal remuneration;
 - b) Increase regulatory measures to prevent unequal remuneration, including performance improvement notices and mandatory action plans where appropriate;
 - c) Establish a specialist Pay Equity Division and Pay Equity Commissioner within Fair Work Australia with the purpose and role of gathering data, monitoring and investigating equity in pay, conditions and benefits; and
 - d) Reform the *Sex Discrimination Act (Cth) 1984* and other anti-discrimination legislation to promote equal remuneration for work of equal or comparable value.

39. The ACTU will provide appropriate resources to assist affiliates to achieve equal remuneration: including assistance in making applications for orders, and ensuring equal remuneration is included in all ACTU education programs and bargaining resources.
40. Congress commits to ensure the wages gap between men and women does not increase as a result of the global economic crisis or government policies, such as climate change. Furthermore, Congress believes that the government must provide equivalent support and assistance for men and women and male and female dominated industries affected by the economic downturn.
41. Congress notes this policy is complemented by the Work and Family policy; and, that improved equal opportunity in the workplace will improve equal remuneration for work of equal or comparable value.

Aboriginal and Torres Strait Islander Workers

42. Congress commits to address the employment, wages and working conditions of Aboriginal and Torres Strait Islander workers.
43. To facilitate progress, the ACTU will, in conjunction with affiliates, develop a bargaining claim framework of minimum entitlements for Aboriginal and Torres Strait Islander workers which will address:
 - a) cultural and ceremonial leave; and
 - b) recognition of “kinship” compared to immediate family as outlined in the NES.
44. The ACTU will work with unions to develop industry specific employment targets for Aboriginal and Torres Strait Islander workers.

Future of Work

Work and Family Policy

Introduction

1. Congress believes there is a need for policy settings and practical measures to assist workers manage their work and family responsibilities. Increased workforce participation of mothers, the intensification of work and the de-institutionalisation of care for the elderly, chronically ill and dependents with a disability, has increased the need for support for workers with caring responsibilities.
2. Congress believes that workplaces must provide employees with sufficiently flexible work practices which allow them to meet their caring responsibilities.
3. Congress notes that the ACTU Family Provisions Test Case 2005 delivered significant improvements to award based work and family entitlements, particularly in relation to working parents of pre-school age children. Unions and the ACTU now seek to build on these achievements.

Improving the Safety Net

4. Over the next three years the ACTU's priorities will be to improve the National Employment Standard (NES) and Award provisions to:
 - a) Extend the NES right to request flexible work arrangements to all employees whose caring responsibilities have an impact on their work schedule. Employers should be obliged to give proper consideration to an employee's request and disputes should be able to be resolved by an independent party;
 - b) Enhance paid personal/carers leave so that it is available to care for all dependents (such as kin and extended family) and for a broader range of carer responsibilities not limited to illness or injury or emergencies (such as arranging hospice care, attending routine appointments and so on);
 - c) Ensuring that workers taking paid personal/carers leave do not suffer a diminution in the amount they ordinarily earn.
 - d) Increase the amount of paid personal/carer's leave;
 - e) Include the provision of palliative care leave as a minimum standard; and
 - f) Improve leave associated with the birth and/or adoption of a child, in particular seek that the NES and modern awards:
 - (i) Provide employees with the right to return to work part-time from parental leave;

- (ii) Improve paid leave provisions in relation to pregnancy, childbirth, bonding and breastfeeding; and
- (iii) Include paid parental leave as a minimum employment standard.

Bargaining for Work and Family

5. The ACTU will develop resources aimed at assisting workers to bargain for the above improvements in collective agreements, and the following additional improvements:
 - a) Greater employee control over their work arrangements in order to meet their caring responsibilities;
 - b) Equality of opportunities for casual and part-time employees in the workplace;
 - c) Working arrangements that provide respite for working carers (such as purchased leave arrangements);
 - d) Resource support for carers (including workplace information and referral services) and workplace based care (where appropriate).
 - e) Extend the scope of personal / carers leave to include employees whose caring responsibilities have an impact on their work schedule.
6. Unions will, with the support of their members, bargain to ensure that enterprise agreements include working arrangements that support workers with family or caring responsibilities.

Paid Parental Leave

7. Congress welcomes the Government's introduction of 18 weeks paid parental leave by 2011. A national system of paid parental leave is a significant achievement that the ACTU and unions have long campaigned for.
8. Congress supports the Government's position that the paid parental leave scheme is in addition to existing employer schemes. Congress calls on the Government to ensure that the government funded component will not be used to reduce employees' existing employer provided paid parental leave entitlements.
9. With the support of the ACTU, unions will bargain to maintain and enhance existing paid parental leave entitlements in conjunction with the new federal paid parental leave scheme.
10. Unions commit to bargain for the following improvements to the Government's scheme:
 - a) Payment of employer superannuation contributions to be made on paid parental leave;
 - b) The provision of at least two weeks paid partner leave;
 - c) Employer top up on the government scheme to full income replacement level;
 - d) Increases in employer provided paid parental leave to at least reach the World Health Organisation standard of 26 weeks leave;
 - e) Accrual of all entitlements during the period of leave;

- f) Reduction of the workforce participation criteria required for eligibility for paid parental leave to an average of one (7 hour) day over 6 months; and
 - g) Greater flexibility for parents to take their leave entitlement including at half pay.
11. The ACTU determines to work with the Australian community to:
- a) Continue to pursue improvements to the Government paid parental leave scheme as advocated in this policy;
 - b) Continue to assist affiliates to bargain for improved paid parental leave provisions in workplaces; and
 - c) Work with affiliates to develop and prosecute a second work and family safety net adjustment case which will provide for improved paid leave associated with pregnancy, childbirth, bonding and breastfeeding to be included in the NES and award safety net.

Using the New Laws to Assist Employees with Family Responsibilities

12. Congress welcomes the provisions of Fair Work Act that will assist working families, including extended parental leave, access to 10 days per annum personal leave and the right to request flexible work for parents of pre-school or disabled children. Unions will work to ensure employees can access these new provisions, and will build on these in bargaining.
13. In particular, Unions will monitor employee requests and employer refusals for flexible work arrangements to ascertain the effectiveness of these provisions in assisting employees with family responsibilities.
14. Congress also welcomes the prohibition on discrimination, including on grounds associated with family or caring roles.
15. However Congress notes that to be unlawful, adverse treatment on these grounds must also be a breach of state or federal anti-discrimination law. Unions will campaign to ensure there are no gaps in the application of the anti-discrimination provisions of the Act. Unions will also enforce these provisions where they are aware of adverse or discriminatory treatment.
16. Congress is concerned that some aspects of the Fair Work Act, such as the requirement for modern awards to contain an individual flexibility clause, may be promoted by employers to undermine hard won wages and conditions and to undermine collective organisation.
17. For this reason it is essential that the flexibility clause:
- a) Includes parameters which have been collectively negotiated and agreed;
 - b) Does not undermine entitlements to penalty and overtime rates;
 - c) Includes adequate safeguards and third party scrutiny; and
 - d) Be regularly monitored to ensure no disadvantage to employees.

Improved Funding for Care Services and Increased Support for those Caring for Dependents at Home

18. Congress supports improved funding for the quality care of dependents including pre-school, school aged, elderly, chronically ill and dependents with a disability.
19. In addition, to assist with the growth of de-institutionalised care, Congress calls on the Government to increase funding for the support of dependents at home including adequate respite support for informal (unpaid) carers of dependents at home.
20. Congress advocates for improved financial support and practical assistance to carers and will advocate for improvements to the social, financial and savings capacity of those caring for dependents.



**ORGANISING AND
CAMPAIGNS**

Organising Rights, Charter of Delegates' Rights & Workplace Education Policy

1. Congress believes that strong, effective and representative unions are essential to building a fair and just society. Unions provide the democratic organisation for working people to have a say in their workplace.
2. Australian unions pursue a range of protections for members and delegates (often tailored to issues in specific industries). Australian unions seek commitments from employers about organising rights, delegate protections and workplace education. These arrangements are a key to successful organising and growth, and to ensuring Australian workers have a genuinely free choice to join a union and participate collectively in workplace issues.
3. In many workplaces around the country employers already respect, on a formal or informal basis, organising rights and recognise and accept the rights of workplace union delegates and activists.
4. Congress commits to pursuing the development of stronger and more effective unions by:
 - a) securing meaningful organising rights for all Australian workers;
 - b) protecting union delegates, and giving them the tools they need to represent members effectively; and
 - c) ensuring members have access to appropriate workplace education.
5. Unions will campaign to secure meaningful organising rights for all Australian workers, in a manner consistent with the specific circumstances of industries and workplaces.
6. To support this, the ACTU will:
 - a) continue to pursue improvements in statutory protections for the right to organise; and
 - b) develop mechanisms to ensure that respect for organising rights is considered as integral to ethical business conduct and a component of Corporate Social Responsibility.

Organising Rights

7. All Australian workers have the right to join a union, to meaningful union representation, to participate collectively in workplace issues, and to collectively bargaining through their union.

8. In order for these rights to be meaningful employers must respect them and take steps to give them practical effect. Congress believes that organising rights should be available to all Australian workers and should be supported by employers. These rights include:
 - a) the right to join a union, free of employer harassment or intimidation;
 - b) the right to collective bargaining and collective participation in workplace issues;
 - c) the right to meet with union officials and fellow members at work;
 - d) the right to consultation on change and representation by the union;
 - e) the right to the provision of information about the workplace and workforce; and
 - f) protections and recognition for Delegates (see below).
9. Congress believes that for these rights to be meaningful, employers need to publically acknowledge their acceptance of these rights, and agree with the relevant unions on measures to implement them in the industry or workplace.

Charter of Delegates' Rights

10. Workplace union delegates hold a vital position in the union. The union delegate has the key role of representing the collective and individual hopes, aspirations and needs of their work colleagues. They are critical to the improvement of pay, employment conditions and health and safety.
11. The union delegate can bring together the individual creativity, skills, and knowledge of a group of people at a workplace to improve how a job is done. Australian working people have always been prepared to make a positive contribution to make sure the enterprises in which they work prosper. In a period of economic crisis, and with the passage of the Fair Work Act further increasing the role of workplace level enterprise bargaining, the role of the workplace union delegate is even more important.
12. Workplace union delegates must receive recognition, through a Charter of Workplace Union Delegate Rights, for the key role they play. These rights should not have to be bargained. They should be universally accepted rights in a decent society.
13. With rights comes responsibility. Workplace union delegates need to act in good faith, and do the best they can for their work colleagues together or on their individual needs.
14. The Charter of Workplace Union Delegate Rights is a guide for fair standards for all union delegates and will be pursued by unions for inclusion in collective bargaining agreements, award entitlements, and in Australian law as rights for endorsed workplace union delegates. These rights are basic and fair. Union delegates are entitled to know their role is recognised and respected. Unions will campaign to build these rights over time into workplaces across the country.
15. Accordingly, Union delegates shall have:
 - a) the right to be treated fairly and to perform their role as union delegate without any discrimination in their employment;

- b) the right to formal recognition by the employer that endorsed union delegates speak on behalf of union members in the workplace;
- c) the right to bargain collectively on behalf of those they represent;
- d) the right to consultation, and access to reasonable information about the workplace and the business;
- e) the right to paid time to represent the interests of members to the employer and industrial tribunals;
- f) the right to reasonable paid time during normal working hours to consult with union members;
- g) the right to reasonable paid time off to participate in the operation of the union;
- h) the right to reasonable paid time off to attend union education;
- i) the right to address new employees about the benefits of union membership at the time that they enter employment;
- j) the right to reasonable access to telephone, facsimile, photocopying, internet and e-mail facilities for the purpose of carrying out work as a delegate and consulting with workplace colleagues and the union;
- k) the right to place union information on a notice board in a prominent location in the workplace;
- l) the right to take reasonable leave to work with the union.

Union Education

16. Recognising the important role education plays in creating fair workplaces, Congress commits to ensuring that members have the knowledge and skills to play their role in building the power of working people in Australia.
17. Accordingly, unions will:
 - a) review their education activity to ensure that it is appropriate, flexible and suited to the needs of delegates and activists. Education programs must continue to be an integral part of organising activity within unions;
 - b) continue to make education programs an integral part of organising activity within unions;
 - c) encourage union organisers to recognise the integral role they have in developing and educating activists;
 - d) share initiatives in the development of new techniques and curriculum with the ACTU Organising Centre so that the whole movement can benefit from these improvements;
 - e) encourage educators to reinvent their role so that they become a resource to organising as well as the person delivering training;
 - f) consider ways to increase the number of members who receive union education, including internal training of activists;
 - g) allocate significant resources to union education;
 - h) review members' access to union training leave. Where possible, insert and strengthen these provisions in industrial instruments.

18. The ACTU will:
- a) continue to review the content of delegate education to ensure that it is up-to-date and meets the needs of both unions and activists;
 - b) facilitate joint education projects between union representatives in Australia and other countries in our region;
 - c) in conjunction with affiliates, consider mechanisms to establish workplace education schemes for Australian workers;
 - d) maintain and develop its relationships with union education centres in East Asia and the Pacific.

Political and Community Campaign Plan

2009 - 2011

Preamble

1. In 2007, the Australian union movement created history by leading one of the largest and most effective grassroots political campaigns in Australia's history. The Your Rights at Work campaign was a major cause of the defeat of the Howard Government and raised the issue of industrial relations and workers' rights to the top of the national political agenda.
2. We now have an opportunity to build on the strengths of the Your Rights at Work Campaign and consolidate our capacity to be an effective movement in pursuit of key priorities for working Australians.
3. Our involvement in political campaigning must be focussed on priorities and strategies that concern working people and can make a real difference to their lives.
4. Therefore, our involvement in politics has to be seen as a means to provide a strong voice for working people and their families and to increase their political and electoral power through greater participation in Australia's democratic institutions.
5. This requires unions to reach out to the community and to build a movement that provides enduring political momentum with the capacity to achieve positive outcomes for all working Australians.
6. Through successful and disciplined co-ordination of a union and community campaign we can help to foster greater community engagement and a stronger democracy as well as generate an effective movement to shape our workplaces and our society on the basis of rights, community values and progressive policy.

Motion

7. That Congress supports:
 - a) Building on the campaign for Rights At Work to ensure fair and progressive industrial laws are put in place for all Australian workers
 - b) The development and involvement of union members in political activity in support of their industrial and social goals
 - c) The mobilisation of workplaces as points for developing industrial and political awareness and activism

- d) The involvement of union members and the wider community in political lobbying and community activity, including federal and state and territory elections as relevant to our strategic objectives
- e) The fostering of broad community participation in the electoral process, especially among young people
- f) The active use of political and governmental relationships, processes and structures at the national, state and territory levels to advance union goals and establish political accountability
- g) The ACTU and unions campaigning at the next federal election as a further key opportunity to build our political capacity and to achieve our objectives
- h) The framework for developing the next federal election campaign will contain the following elements:
 - i) The development and rollout of coordinated union and community mobilisation plans with TLCs, affiliates and Your Rights at Work groups
 - ii) Affiliates engaging with their members in key areas through a model of one on one conversations about key issues
 - iii) On the ground mobilisation designed to facilitate visibility and activism for agreed campaign objectives and to increase political awareness amongst union members and the broader community
 - iv) Online capability to expand and engage our list and generate further activism and political awareness
 - v) Campaign coordination through the political strategy sub committee of the ACTU Growth and Campaign Executive Committee.

ACTU
congress
2009

A FAIR SOCIETY

A Fair Society

Aboriginal and Torres Strait Islander Policy

Introduction

1. Congress acknowledges the National Apology to Aboriginal and Torres Strait Islander peoples and the government's commitment in signing the UN Declaration on the Rights of Indigenous Peoples. Congress urges Government to now commit to compensation for those who were forcibly removed from their families.
2. Congress acknowledges that although there have been some broad improvement in social determinants, many Aboriginal and Torres Strait Islander peoples are still lagging behind the non-Indigenous population in terms of wages and conditions of employment, access to essential services such as education and health and continue to have a life expectancy gap of 17 years.
3. Congress believes that regardless of race, all citizens should have access to the opportunities a first world country provides. In circumstances where there is a significant gap, as is the case for Aboriginal and Torres Strait Islander peoples and other Australians, then unions, governments and employers should work towards bridging this gap.
4. Previous Congress policy has dealt with many aspects of this principle. The aim of the present policy is to reaffirm commitment of Congress to this principal, to recommit to existing policies that help achieve this principle, and to outline new policies that help further meet this important goal.
5. In making this policy the ACTU and its affiliates are making a clear statement and commitment to campaign to improve the situations for Australia's Aboriginal and Torres Strait Islander peoples and that this will be a priority of unions.
6. The ACTU reaffirms their commitment to working with unions to develop and implement effective recruitment, retention and activism strategies specifically targeted to Aboriginal and Torres Strait Islander peoples within the union movement.

Employment Issues

7. Sustainable, real employment is one of the corner stones in bridging the gap between Aboriginal and Torres Strait Islander people and non-Indigenous people.
8. Aboriginal and Torres Strait Islander people in urban, regional and remote locations should have access to services and opportunities that are culturally appropriate and facilitate movement into the economy through employment.

9. Unions support the use of targeted government funding to employ, subsidise employers, and engage, train and retain Aboriginal and Torres Strait Islanders who are disengaged from the workforce.
10. Unions recognise the Government's commitment to halving the gap in Indigenous employment outcomes within a decade.
11. It is recognised that any project needs to have an employer/industry base that can accommodate employment and, in certain regions there is limited industry capacity; however the focus should not be primarily on employers. Any successful program will be multifaceted, focused on employer/industry and community/employee aspirations and training and employment requirements. There needs to be a balance across business, industries, communities and other stakeholder engagement such as unions, community organisations and employment service providers.
12. Congress calls on the government to fund and promote holistic employment and training programs which must include pre-employment training and consistent mentoring services.
13. Although there are distinct and unique barriers experienced by "remote" Aboriginal & Torres Strait Islander communities, the more intensive employment programs should not be restricted to these communities only. Congress calls on the government to provide holistic services which include mentoring and support, which dovetails into assistance with 'fundamental' skills and education for all Aboriginal and Torres Strait Islander communities.
14. Unions are concerned that aspects of the government's National Indigenous Employment policy are "more of the same" and is conscious that historically these programs produce few real employment outcomes with many participants finding themselves out of work once government funding commitments have ceased. Unions and governments must ensure that employers are not taking advantage of government funding and employees when participating in such employment programs.
15. Unions will collaborate to ensure an appropriate strategy is developed to ensure access to at least the minimum standards of the appropriate industrial instrument and the working rights, conditions and entitlements for CDEP workers.
16. Employers, government, unions and communities should work together to increase employment programs and training producing long term engagement in the workforce.

Northern Territory Emergency Response (NTER) and Welfare Reform

17. This Congress rejects absolutely the suspension of the Racial Discrimination Act (Cth) 1975 and Northern Territory Anti-Discrimination Act to implement the Northern Territory Emergency Response and the subsequent reforms to income management of, primarily, Aboriginal and Torres Strait Islander peoples living in specified locations.
18. Congress rejects that changes and proposed changes to Aboriginal Land Rights Acts, the elimination of permit systems in Aboriginal communities, and the forced acquisition of Aboriginal title to land, have any relationship to genuine measures to protect children. Congress calls on government to cease its policy of making communities trade their land rights for the provision of essential services which are fundamental rights in all other Australian communities.

19. Congress believes that for there to be any legitimacy in the government's reform agenda, government must acknowledge their responsibility to fully fund the provision of quality services for all Aboriginal children and all Aboriginal and Torres Strait Islander communities in the areas of education, employment, health, housing, municipal services and infrastructure. Congress calls on government to properly fund essential services in all Aboriginal and Torres Strait Islander communities and make all resources available on a long term basis.
20. Congress believes that for there to be any legitimacy in the government's reform agenda, government must be guided by the principles and policies of the UN Declaration on the Rights of Indigenous Peoples.
21. Congress believes that one of the corner stones of community life is safety. Under the NTER law and order needs to be addressed by a coordinated multi-agency response. Services need to be provided in a whole-of-government coordinated manner, with police officers in each community supported and have access to a community facilitator who can provide dispute resolution, cultural empowerment, and facilitation services. In turn, the police officers can provide a secure environment for communities and other government officials.
22. Dedicated police services in each community allow for trusting relationships to be formed, a consistent policing approach to law and order issues, and provide community stability in which other government agencies can safely provide services. Evidence suggests the best way to police remote Aboriginal communities is to have a permanent police presence within the communities.
23. Congress calls on government to address the needs of Aboriginal and Torres Strait Islander communities on evidence based, community by community basis and to take a coordinated multi-agency approach which is committed to providing statutory and essential services to communities in a whole-of-government manner with all workers and members of the community having a stake in how policy is developed and implemented.
24. Congress believes that income management provision under the NTER and the further national roll out of income management in other Aboriginal and Torres Strait Islander communities are contrary to well established social security principles under Australian legislation. Under the *Social Security (Administration) Act 1999* social security payments and the right to appeal decisions, pertaining to the provision of an individual's social security, are absolutely inalienable and this inalienability applies to all forms of entitlements.
25. Congress believes that the nature of the income management reforms, which target specified geographical locations, mostly populated by Aboriginal and Torres Strait Islander peoples, are inherently discriminatory and calls on the government to cease this arbitrary legislation.
26. However Congress believes that voluntary income management programs are a way to promote social and financial development in communities, by communities.
27. Congress calls on government to work with communities to develop voluntary, agreed programs which support communities in all aspects of social life including financial literacy, parenting and caring responsibilities.
28. Congress acknowledges our responsibility in advocating for social justice, human and civil rights for Aboriginal and Torres Strait Islanders. The ACTU and unions will develop and participate in forums which empower effected communities, community leaders and peak Aboriginal and Torres Strait Islander organisations to voice their concerns about the NTER.

A Fair Society

Democracy and Participation Policy

Human Rights

1. Congress notes that the ACTU was involved in the launch of the Human Rights Act for Australia Campaign in 2005 and in the development of the campaign's model Human Rights Bill. In particular, the ACTU advocated strongly for the inclusion within the model Bill of internationally-recognised rights of workers and children. These rights include:
 - a) the right to freedom of association, including the right to form and join trade unions for the protection of their economic and social interests;
 - b) the right to bargain collectively in pursuit of their economic and social interests;
 - c) the right to work, including the right of everyone to the opportunity to gain their living by work which they freely choose or accept;
 - d) the right to decent work including the right to the enjoyment of just and favourable conditions of work;
 - e) the right to strike;
 - f) the right to freedom from discrimination in employment on the grounds of sex, race, colour, ethnic or social origin, genetic characteristics, language, religion or belief, political or other opinion, property, birth, disability, age, sexual orientation or gender identity;
 - g) the right to freedom from forced or compulsory labour; and
 - h) the rights of children, including the right to be protected from exploitative labour practices.
2. Everyone within Australia's jurisdiction should be entitled to these fundamental rights.
3. Congress encourages affiliates to participate actively in debates over the desirability of a human rights bill or charter in Australia.

Constitutional Reform

4. Congress recognises that Australia's constitution is outdated and inaccessible to many Australians. Moreover, it is basically undemocratic in the role it assigns to the Governor General and its reliance on uncodified, vague and ambiguous conventions.
5. Congress believes Australia's Constitution should be amended to better reflect Australian community values and priorities.
6. Aboriginal and Torres Strait Islander peoples' status and rights as first nations people must be recognised in Australia's constitution, and not simply in the constitution's preamble.
7. Constitutional changes must encompass Aboriginal and Torres Strait Islander world views and embody a fundamental shift which establishes a new relationship between government and Aboriginal and Torres Strait Islander peoples based on mutual respect.
8. The Commonwealth should not be permitted to legislate according to a person's race. It should only be able to enact laws for Aboriginal and Torres Strait Islander peoples and their communities in a way that clearly provides a benefit to them.
9. Congress reaffirms its 1993 policy on an Australian republic. The ACTU reiterates its support for:
 - a) removal of all reference to the Queen in the Australian Constitution for reasons of autonomy, independence and symbolism;
 - b) the creation of a purely symbolic Head of State to be known as President of Australia;
 - c) the Constitution setting out the reality in terms of executive power i.e. that it is to be exercised by the Prime Minister and Cabinet; and
 - d) all States severing their links with the Monarchy.

Federal-State Relations

10. Congress recognises that many of the national challenges Australia faces require cooperative action by the Commonwealth and State governments, including in health, education, skills, Indigenous affairs, the environment and infrastructure development.
11. The ACTU calls upon Australian governments to end the blame game, buck passing, and duplication and complexity that have plagued Australia's federal system for too long.
12. Congress calls for any harmonisation to capture and improve upon the best standards that are found in any Australian jurisdiction to protect the rights and interests of workers, particularly in OHS matters.
13. Congress calls for reform of the Council of Australian Governments (COAG) so as to achieve greater transparency, openness and accountability in COAG decision making processes, structures and outcomes. The COAG process must also be reformed so as to ensure greater involvement of, and responsiveness and accountability to, the Australian community. COAG should also better recognise the expertise and views of the non-government sector.
14. ACTU supports the development of a well funded and supported national representative body for Aboriginal and Torres Strait Islander peoples.

Electoral Reform

15. Congress reaffirms its commitment to the fundamental principles of democracy and political legitimacy. We support democratic participation and measures directed at encouraging citizens to participate in the political process. We support the broadest possible enfranchisement and compulsory voting.
16. The ACTU welcomes the Government's reversal of the former Coalition Government's partisan and undemocratic amendments to Australia's electoral laws.
17. Congress supports robust and fair electoral funding and disclosure rules.
18. Congress supports public funding of political parties on the basis that it maintains political integrity and promotes participation in the democratic process. We support public transparency of political donations.
19. The ACTU welcomes electoral reform directed at ensuring that Australia's electoral financing and disclosure rules protect the democratic process and promote fairness, transparency and political integrity.
20. Congress affirms the right of independent third parties to engage in political activity and to campaign publicly on issues of concern. Australia's electoral laws must recognise this right.
21. Australia's electoral funding laws must continue to respect the principle of freedom of political association and the nature and diversity of party structures. The capacity of party members to contribute towards the political process should not be restricted.

A Fair Society

Education Policy

1. Congress reaffirms education policy as endorsed by Congress in 2003.
2. Pivotal to the achievement of social inclusion and cohesion is education policy which aims to ameliorate social divides.
3. Public education, free, secular and universally accessible, is recognised as the foundation for a socially cohesive and prosperous Australia. The greatest benefit of public education is realised in the local, socially representative public school.
4. Governments have a prime obligation to adequately and properly fund government schools in order to provide high quality public schooling that is accessible to all children and young people. Public funding for schooling supports the right of families to choose non-government schooling and supports non-government schools on the basis of need, within the context of promoting a socially and culturally cohesive society and the effective use of public funds.
5. There must be increased public investment in education and distribution of public funds based on need and national resource standards. Better coordination between state, territory and the Commonwealth Government is crucial.
6. Congress welcomes the Federal Government's increased investment in school infrastructure. This will enable schools to undertake important upgrades and to develop modern learning environments. Public investment in early childhood education, schools, TAFE colleges and universities is not only an investment in education it is also a capital investment in which should be available for the use of local communities.
7. Congress calls upon the Government to adopt policies that promote lifelong learning and effective transitions between our early childhood education institutions, schools, TAFE colleges and universities, as well as between education and work and non-work roles including familial and caring activities.

A new funding model

8. The adoption of a new funding model is the top priority for enhancing the provision of quality education. Congress is committed to working with stakeholders and to lobbying and campaigning to ensure that the new funding model which will apply from 2013 is fairer and based upon the funding principles endorsed by State and Territory Labor ministers for education through the Ministerial Council on Education, Employment, Training and Youth Affairs (MCEETYA). These funding principles, adopted by ACTU Congress in 2003, are:

- a) the total level of resources available for schooling is adequate so that achievement of the National Goals for Schooling is a realistic objective for all students;
 - b) public funding across different schools and sectors is distributed fairly and equitably through a consistent approach to assessing student needs and through having regard to the total level of resources available for students;
 - c) the total level of funding for government schooling is adequate to ensure access to high quality government schooling for all, and all governments' funding policies recognise this as a national priority;
 - d) resourcing for all students is adequate for meeting the National Goals, notwithstanding the school or school sector they attend; and
 - e) public funding for schooling supports the right of families to choose non-government schooling and supports non-government schools on the basis of need, within the context of promoting a socially and culturally cohesive society and the effective use of public funds.
9. Congress calls on the Government to ensure the process for developing the new funding model is transparent and involves consultation with all stakeholders, including education unions.

Quality teaching

10. Congress calls upon the federal and state and territory governments to adopt the following national strategy to ensure the adequate supply of qualified teachers and skilled support staff for every school in Australia:
- a) attract the best entrants through improving teacher education courses, beginning salary rates and HECS remission;
 - b) increase support and mentoring opportunities for new teachers to reduce the number of young teachers leaving the profession;
 - c) provide adequate funding for salaries, employment conditions and job security; and
 - d) increase opportunities for professional training and development.
11. To ensure all children have access to quality education regardless of geographical location, affiliates will seek to include the following measures in awards and/or agreements to enhance the desirability of teacher postings to rural and remote areas:
- a) assistance with securing suitable housing;
 - b) ensuring teachers and support staff in rural and remote schools have access to professional development opportunities and ensuring the allocation of sufficient funds for these opportunities; and
 - c) remote area subsidies and allowances.
12. In addition, Congress calls on the Government to provide adequate income support to enable student teachers in urban areas to undertake the teacher practicum in rural or remote schools.

13. Congress urges the Government to take action to ensure Australia has sufficient numbers of Aboriginal and Torres Strait Islander teachers and support staff, including by:
 - a) establishing clear targets for Aboriginal and Torres Strait Islander employment in the teaching profession and support services;
 - b) ensuring there is mentoring, support and access to professional learning and development opportunities for Aboriginal and Torres Strait Islander teachers and support staff; and
 - c) providing scholarships to encourage Aboriginal and Torres Strait Islander students to enter the teaching profession and support services.
14. Congress calls on the Federal Government to work with the state and territory governments and the teaching profession to implement the following strategies to promote quality teaching in Australian schools:
 - a) ensure all students in their final or penultimate year of a pre-service teacher education course have access to a fully-funded teacher practicum. Barriers to schools accepting students on teacher practicum must be identified and overcome;
 - b) ensure new teachers receive adequate training, mentoring and support;
 - c) provide all teachers with access to ongoing quality professional development opportunities; and
 - d) provide adequate funding for payments of teacher supervision and mentoring of student teachers.

Aboriginal and Torres Strait Islander Education

15. Congress calls upon the Government to immediately fund the expansion of the education system to ensure that every Aboriginal and Torres Strait Islander community has meaningful access to pre-school, primary, secondary and post-school education. This must be a national priority.
16. The ACTU resolves to adopt the following as priorities to promote Indigenous education in the next three years:
 - a) call upon governments to respond more effectively to the employment of Aboriginal and Torres Strait Islander peoples in preschool, primary, secondary and tertiary education through the implementation of employment targets in all collective agreements and through the development and implementation of training plans, career pathways and transition to full employment;
 - b) secure adequate funding to meet the real needs of Aboriginal and Torres Strait Islander student support, such as tutorial assistance schemes and in class support to ensure the educational gap between Indigenous and non-Indigenous students is closed;
 - c) advocate for a comprehensive and accurate Aboriginal and Torres Strait Islander perspective across curriculum areas and ensure the inclusion of Aboriginal and Torres Strait Islander history pre and post contact, including the impact of colonisation on the First Peoples of Australia, in the development of the National Curriculum; and

- d) lobby governments to ensure that all prospective teachers and teachers employed in education systems in Australia complete a comprehensive sequence of Aboriginal and Torres Strait Islander studies as a minimum requirement for their employment, so as to meet the needs of Aboriginal and Torres Strait Islander students and their communities.
17. Congress will also seek to ensure that efforts to ‘close the gap’ of the educational achievements for Aboriginal and Torres Strait Islander students are supported by the development of a comprehensive and solid long term national action plan for Indigenous education, underpinned by a significant funding commitment and educational structures and models for the provision of education that take into account their needs and those of particular communities.

Universities

18. Congress acknowledges that the Government has taken action to redress more than a decade of neglect and significantly raised Australia’s investment, participation, and performance in higher education by providing additional funding of near \$6 billion over a four period commencing in 2010.
19. Congress welcomes the Labor Government’s adoption of the following national targets by 2025:
- a) 40 percent of 25-34 year olds will have attained at least a bachelor-level qualification; and
 - b) 20 percent of undergraduate enrolments in higher education will be students from low socio-economic backgrounds.
20. Congress calls upon the Government to adopt the following measures to help achieve these targets:
- a) further improve student income support and reduce student debt;
 - b) require all institutions in receipt of government subsidies for teaching and learning to develop programmes aimed at improving the participation rates of students from disadvantaged backgrounds;
 - c) provide adequate funding for the provision of student support services and independent student representation and advocacy.
21. Academic freedom and institutional autonomy are intrinsic to quality university teaching and research. Congress requests the Government protect these principles in legislation.
22. Congress calls upon the Federal Government to ensure all universities establish programs that address the impending staff crisis generated by an ageing academic workforce and an increased reliance on casual employees, should be specifically targeted at:
- a) Providing career opportunities to the thousands of highly qualified casual staff unable to obtain entry into the academic workforce; and
 - b) Attracting recent PhD graduates seeking to enter the full-time academic workforce for the first time.

A Fair Society

Environment and Climate Change Policy

1. Global warming is the policy challenge of our time. The scientific evidence is overwhelming:
 - Human economic activity is causing global warming.
 - The present and future rise in global temperature is significant and severe.
 - Today's emissions will affect climate for decades to come.
2. Eleven of the last twelve years rank among the twelve warmest years on record since 1850. Continued greenhouse gas emissions at or above the current rates will cause further warming. Australia's ecosystems; cropping, forestry and livestock; water resources; public health; settlements; infrastructure; tourism industry and weather will suffer consequences, increasing in severity, as the temperatures rise.
3. With prolonged droughts and the severity of the bushfires and the floods of 2009, it is increasingly evident for Australians that global warming has profound economic and social consequences.
4. Unless decisive action is taken now to reduce greenhouse gas emissions, the planet we bequeath to future generations will be harsher and more hostile to the human condition than that which we have inherited.
5. Environment, economy and society are the three faces of policy - all integrated and inseparable - in any program of sustainable global development.
6. To reduce poverty, raise living standards, protect and create decent jobs, and provide opportunity for all, the environmental consequences of our energy use, production and consumption must be modified.
7. The ACTU accepts that the costs of not reducing emissions is far higher than that of taking action. Decisive action to reduce global emissions is necessary for continuing sustained economic growth.
8. The ACTU calls for effective action on climate change which requires urgent and decisive action to transition Australia to a low carbon economy. The ACTU rejects the assessment that the necessary actions to effect this transition will damage the economy. Rather, we accept that as the global economy switches to a low carbon future, the result will create multi-trillion dollar markets for low carbon and clean energy technologies, infrastructure and consequently production processes. Australia needs to ensure that its current and future industries are competitive in this global low carbon economy.

9. The ACTU commits to:
 - a) ensuring that the transition process protects jobs in carbon intensive industries;
 - b) support those industries to achieve best of sector standards to remain competitive; and
 - c) promote growth in green jobs in associated/new industries and services.
10. Action on energy efficiency measures, the expansion of renewable energy capacity and an emissions trading scheme, along with rapid development of clean technologies are essential to success for the Australian economy.
11. These ambitions for economic development and decent work require associated workforce development, skills and training, including measures to assist transition of people and skills between sectors.
12. The ACTU calls for concerted national and international agreement and investment to reduce emissions to 450 parts per million (ppm) or better, in line with the recommendations of the UN International Panel on Climate Change.
13. The ACTU congratulates the Rudd government for signing the Kyoto Protocol and for their recent commitment to lift their commitment to set a target of a 25 per cent reduction in carbon emissions by 2020 in the event of a comprehensive global agreement. The ACTU urges the government to heed the continuing advance in the scientific knowledge and understanding in regard to global warming and to keep their commitment to 60 per cent reduction in carbon emissions by 2050 under review.
14. Congress further calls on world leaders to ensure financing for a just transition that genuinely deals with issues for social justice for the world's poorest and most vulnerable nations.
15. Congress supports the ITUC's call for a just transition that ensures:
 - a) equitable sharing of responsibilities and fair distribution of the costs: those who have contributed less to the problem should not bear the burden of the transition costs
 - b) institutionalised formal consultations with relevant stakeholders including trade unions, employers and communities, at national, regional, and when appropriate, sectoral levels;
 - c) the promotion of green job opportunities and investment in low carbon development strategies and technologies in all nations and the appropriate educational qualifications that enhance workers capacity;
 - d) formal education, training, retraining, and life-long learning for workers, their families, and the communities that depend upon them;
 - e) organised economic and employment diversification policies within sectors and communities at risk;
 - f) social protection measures (active labour market policies, access to health services, social insurances, among others); and
 - g) respect for and protection of human and labour rights.

16. Investment in climate change solutions will involve massive sums and should be benchmarked against ethical investment principles such as those promoted by the United Nations. Industry superannuation funds should be encouraged to invest in these areas.
17. The ACTU supports a broadly based Emissions Trading Scheme (ETS), including transport and forestry, with a strong emissions reduction cap as one of the essential tools to drive long-term structural changes in the Australian economy.
18. The ETS with consequent auctioning of permits, must be just, support vulnerable Emissions-Intensive Trade-Exposed (EITE) industries during transition but be designed to ensure all industries are required to make the changes necessary to get to best practice standards to ensure global competitiveness and survival of Australia's traditional industries. Within this framework, trade exposed industries should draw a fair and transparent discount and/or subsidy against the full carbon price with a process of regular review. Support from industry policy or infrastructure investment may also be necessary to ensure technological development and workplace change that both prevents carbon and jobs leakage in the short term, and ensures sustainability for all these industries in a low carbon future. In return for necessary support these industries should be required to meet transparent benchmarks to lift them to best practice.
19. The ACTU supports the government's announced amendments to the proposed Carbon Pollution Reduction Scheme (CPRS) including:
 - a) a carbon emissions reduction target of 25 per cent by 2020 in the event of a comprehensive global agreement to stabilise emissions at 450 ppm or better;
 - b) a 2011 start date and a one year fixed price;
 - c) a recession buffer of additional support for vulnerable industries;
 - d) funding for demonstration projects for energy efficiency measures in the built sector; and
 - e) recognition of voluntary effort with the purchase of 'green power' to influence the price cap and an 'Australian Carbon Trust'.
20. Monies raised from the auctioning of permits must be used to support low income households, trade exposed industries - including employment in those industries - and rapid development of green technologies. Wherever possible, compensation for the low paid should be directed at increasing their capacity to enjoy the benefits of a low carbon future through insulated homes, use of locally produced solar hot water, and more efficient transport options.
21. Congress also supports the negotiation of sectoral agreements to ensure a level playing field for trade exposed industries and calls for an urgent process of measurement and the necessary resources to determine sectoral emissions and subsequent offsets for the inclusion of forestry and horticulture.
22. The introduction of an ETS presents a significant opportunity to provide a proper and secure economic base for those of Aboriginal and Torres Strait Islander communities who have title over, in many cases, large tracts of land. Australia must ensure that this process does not repeat historical processes which have economically excluded Aboriginal and Torres Strait Islander peoples. It is imperative that Aboriginal and Torres Strait Islander peoples are engaged from the beginning and throughout these processes.
23. Further, governments must ensure that Aboriginal and Torres Strait Islander rights, including economic, Native Title and cultural rights, are not impinged upon.

24. Equally, Congress welcomes the endorsement by COAG of the renewable energy target of 20% by 2020 (MRET) and call for the necessary investment in renewable energy to drive new technologies and therefore new industries and jobs.
25. The ACTU, with the Australian Conservation Foundation (ACF), has endorsed analysis that says Australia could have at least a quarter of a trillion dollar share of a three trillion dollar or more global green products industry with more than 800,000 new green jobs within 20 years. This requires industry policy, research and development, regulatory settings and investment including in:
- a) construction and related services in green buildings, retrofitting in residential and commercial buildings, and building waste and recycling;
 - b) renewable energy technologies with support for new industries in solar thermal, geothermal and wave and tidal technologies;
 - c) new manufacturing in biomaterials and other developing technologies;
 - d) waste and recycling;
 - e) agriculture including bio-sequestration;
 - f) forestry, carbon sinks and sequestration opportunities;
 - g) automotive and rail, road and shipping transport - any transport plan must encompass increased and more energy efficient public transport infrastructure;
 - h) carbon capture and storage, combined cycle, and other emerging clean technology development;
 - i) an integrated approach to broadband, a smart grid, smart metering and distributional energy design supported by a feed-in tariff; and
 - j) water technologies and management.
26. Market measures alone are not likely to be sufficient to achieve the necessary environmental, social, and economic changes required. Consequently, support for research and development and industry policy must be significant and complemented by regulation where necessary.
27. Congress calls on all governments to adopt procurement policies that promote local production of goods and services, especially those which are more sustainable and impose competitive tendering which takes account of transport costs and energy inputs in imported products. Further, we support consideration of broader adjustment measures where trading partners do not meet agreed industry standards.
28. The elimination of inefficient light globes should be complete in Australia by 2012 and replaced with safe lighting that does not damage the health of workers in the manufacturing process through, for example, the handling of mercury. All residential buildings should be insulated by 2012 and government buildings and public service facilities including schools and hospitals should be retrofitted by 2015.
29. Incentives for investment in new green jobs and training programmes should include targeting areas from which carbon intensive jobs are at risk.

30. Achieving the transition to a low carbon, sustainable economy will require a massive mobilisation of skills and training - both to equip new workers and to enable appropriate changes in practices by the three million workers already employed in key sectors influencing our environmental footprint. The ACTU will support training to make existing and new jobs environmentally sustainable.
31. The ACTU calls for an immediate 40,000 Productivity Places to be allocated to up-skill existing workers and a comprehensive 'workforce development plan' to be compiled by Skills Australia.
32. The ACTU notes that global warming will have implications for public health. Increases in temperature will see a rise in heat-related illness and death, with the elderly and poor most at risk. The predicted increase in extreme weather events will also impact hardest on the most vulnerable in our society. The spread of vector borne diseases and the wider transmission and reintroduction into Australia of diseases such as Dengue fever and Ross River virus is predicted as the climate warms.
33. Climate change and global warming will result in placing an ever-increasing demand on fire and other emergency services. To address this increased threat, the current risk management process of fire and other services should be benchmarked and reviewed by way of national audit. Such audit will determine if there are adequate resources, staffing levels, procedures and equipment to provide an effective response to this increasing threat. In particular, there should be a Federal Government body established to audit and monitor the on-going capacity of fire services based on global expectations and projections of threats to industry and community.
34. The ACTU also recognises that the work of those employed in public institutions such as the CSIRO, the Bureau of Meteorology, Geoscience Australia, the Australian Institute of Marine Science, the Antarctic Division, and the universities and TAFE colleges will be critical.
35. The ACTU endorses support for workers' engagement and action on global warming including the:
 - a) right to participate in decision making related to environmental concerns in their workplace, exercised through the joint health and safety committee or workplace safety and health representatives, or through new environmental committees;
 - b) right-to-know and understand the environmental hazards in the workplace along with workplace emissions, technological choices and plans for energy saving, use and efficiency;
 - c) 'whistleblower' protection so that a worker may not be held liable or be disciplined for reporting workplace practices that are honestly believed to pose an environmental risk;
 - d) right to refuse dangerous work such that a worker may not be held liable or be disciplined for refusing to perform work that he/she honestly believes may pose an immediate or serious threat to his/her or other workers' health;
 - e) right to refuse work which harms the environment such that a worker may not be held liable or be disciplined for refusing to do work that he/she honestly believes may pose an immediate or serious threat to the environment.

36. Since workplaces consume vast amounts of energy and other resources and generate wastes, it is crucial that clear workplace targets for energy efficiency and waste minimisation be linked to industry and national carbon and waste reduction strategies. Such targets, and the means of meeting them, can and should be the subject of collective bargaining.
37. The ACTU and affiliates commit to:
- a) co-ordinating workplace campaigns for energy efficiency, including bargaining for change, skills and development of cleaner workplace and waste processes;
 - b) establish workplace environment committees;
 - c) add sustainability to the agenda of branch council/executive meetings and having a Climate Policy;
 - d) co-ordinate industry-wide campaigns for industry policy, investment and/or regulation necessary for making the transition to a low carbon economy;
 - e) identify key issues and areas for research and development and job opportunities;
 - f) provide advice to members wherever appropriate;
 - g) lead by example in reducing the environmental footprint of our workplaces by taking the necessary steps to reduce our greenhouse gas emissions;
 - h) empower workers to participate in local, national and international forums on global warming;
 - i) work with broader civil society to influence government policy where there are common interests and values, including jobs growth, ensuring support for vulnerable Australians and other social justice measures, and collective action where the impact of climate change is endangering communities;
 - j) share relevant collective bargaining agreement clauses.

A Fair Society

Health Policy

1. Congress reaffirms the belief that access to quality healthcare is essential in ensuring that people are able to participate fully in all aspects of life; that older Australians are able to live in dignity and that the nation benefits from the contribution of all its citizens. Adequate funding and transparency in its expenditure are essential for quality healthcare.
2. Congress recognises that a fairer society is a healthier society and that our commitment to working towards full and decent work is also a commitment to decreasing health inequalities.
3. Congress notes that existing policy:
 - a) establishes the principle of universal access to comprehensive health services, including dental care;
 - b) supports Medicare as an efficient and equitable system of health delivery;
 - c) states that bulk billing for General practitioners services should be accessible to all in the community;
 - d) places a high priority on tackling the crisis in mental health;
 - e) recognises the range of services required to meet the care needs of older people;
 - f) endorses the provision of equitable and accessible health services to rural and remote regions, Aboriginal and Torres Strait Islander peoples, and people with cultural and language barriers; and
 - g) makes a commitment to seek equitable wages and fair working conditions for health care workers, including measures to redress staff shortages, increase the skills, and ensure working arrangements are safe, secure, equitable for workers and enable the delivery of high quality care.
4. Congress now resolves to pursue the following priority issues through community education, lobbying and campaigning with like-minded organisations which share our goals and in particular to lobby the Australian Social Inclusion Board to influence Government policy.

Aged Care

5. Congress believes that aged care in Australia is failing to provide the level of care needed for elderly Australians. The critical underfunding of the sector is resulting in an inability to guarantee adequate accommodation and nutritious meals for residents, or to attract and retain qualified staff. While the sector is predominantly Government funded, the public sector plays a minor role as provider, and the risks associated with monopoly private sector provision of aged care is growing.
6. Congress calls for:
 - a) increased public funding to levels identified by the Productivity Commission;
 - b) funding to ensure that staff working in the sector receive pay and conditions comparable to those paid in public hospitals;
 - c) improved accountability for expenditure of public funds and the provision of services within the sector;
 - d) a stronger public sector presence in the direct provision of aged care to establish standards, long term stability of the sector and universal access to quality care;
 - e) establishment of enforceable minimum standards of nutritional, medication and clinical care, including specific targets of nurse/carer to patient ratios.
7. Congress resolves to actively campaign with allies in the sector to ensure these issues are addressed as a priority.

Public Health

8. Congress believes that the public health system is in need of dramatic overhaul. A new integrated approach to funding and planning of public health services is needed to minimise jurisdictional inefficiencies, while an emphasis on local level, community based health care will assist in ensuring high quality, universally available healthcare.
9. Congress calls for:
 - a) increased public investment in health, including adjustments that take account of growing healthcare costs, to ensure that Australia's public health care system is safe, effective, accessible and sustainable;
 - b) the establishment of a joint body within each state representing Commonwealth and State interests with shared responsibility for the single-stream allocation of resources and integration of all public health services;
 - c) delivery and management of public health services at the local level including through community health centres which:
 - i) provide a range of co-located, integrated health services including general practitioners, dentists, family health services, secondary care, nursing, midwifery and non-medical services such as diagnostic and pharmacy services;
 - ii) are responsive to the changing health needs of people throughout their lives which range from early childhood development to adolescent mental health and chronic disease;

- iii) reduce the burden on public and private hospitals through education, early intervention and preventative health care services;
 - iv) improve access to care by providing extended opening hours, bulk billing and services relevant to the specific health needs of the local community;
 - v) have the necessary skills and facilities for urgent medical care;
 - vi) co-operate effectively with local hospitals to ensure swift transfer of patients who require emergency care, specialist assessment or admission;
 - vii) establish arrangements with local home and community care providers and residential aged care facilities which ensure comprehensive care and avoid unnecessary hospitalisation;
 - viii) are funded through capital grants for infrastructure and recurrent grants for operational costs including adequate staffing levels.
- d) improvements to health outcomes for Aboriginal and Torres Strait Islander peoples and non-Indigenous Australians that are comparable with OECD best practice on all key performance indicators such as life expectancy, infant mortality, tobacco and alcohol consumption, overweight and obesity, heart disease and stroke, suicide, AIDS incidence, mortality from cancer;
 - e) both Federal and State Governments to recognise that funding for mental health services in comparison to overall health service funding remains unacceptably low and inequitable and to increase the proportion of funding allocated to mental health services to 12% of health expenditure as recommended by the Mental Health Council of Australia;
 - f) increased public funding of health services to ensure that opportunities are created to facilitate breast feeding, including in the workplace, and enable parents to take advantage of these opportunities. Congress affirms the importance of breast feeding as a determinant of child health and recognises that increased funding is required to ensure our public health system, inclusive of community support systems, are properly resourced to facilitate breast feeding wherever possible.
10. Congress resolves to lobby federal and state governments to work co-operatively to implement this reform agenda in order to significantly improve Australia's public health care system by 2013.

Aboriginal and Torres Strait Islander Peoples

11. Congress recognises that the health status of Aboriginal and Torres Strait Islander peoples is considerably poorer than any other social group in Australia. Contributing factors to the health inequality of Aboriginal and Torres Strait Islander peoples include racism; unequal access to primary health care and infrastructure; poor nutrition and unsanitary living conditions; lack of cultural safety and culturally appropriate health facilities; human rights and social justice issues and insufficient or poorly targeted funding to meet health care needs.
12. It is imperative that Aboriginal and Torres Strait Islander peoples have equal and affordable access to primary health care and health infrastructure. Adequate nutrition, education, and safe housing, are also integral to establishing healthy lifestyles and improved well being.

13. Congress calls for:
- a) meaningful consultation with Aboriginal and Torres Strait Islander communities to deliver appropriate and culturally acceptable services that are well funded and promote healthy living and improved health outcomes;
 - b) greater investment in detoxification and rehabilitation services for Aboriginal and Torres Strait Islander people that promote holistic healing and practice;
 - c) increased funding for and further development of Aboriginal and Torres Strait Islander community controlled health services, care and aged care facilities that are locally delivered, supported and promoted within communities with predominantly new government resources for Closing the Gap;
 - d) the incorporation of culturally appropriate delivery of health care that recognises rights, beliefs and values of Aboriginal and Torres Strait Islander peoples;
 - e) the same rights for Aboriginal and Torres Strait Islander people to refuse or accept health treatment and care as is the case for other Australian citizens;
 - f) a focus on primary health care such as education and screening to address poor health outcomes for Aboriginal and Torres Strait Islander peoples through programs for early childhood development, maternal health, chronic illness, mental health, effects of abuse and violence, and disease;
 - g) the establishment of well supported links between local Aboriginal and Torres Strait Islander primary health care providers and other health sectors, such as hospitals and rehabilitation centres that support patients safe journey through the system of care;
 - h) the incorporation of content relevant to the history, health and culture of Aboriginal and Torres Strait Islander peoples, including social justice issues into all Vocational and Education Training programs and undergraduate curricula for health professionals;
 - i) improved incentives including funding and mentoring support for Aboriginal and Torres Strait Islander peoples to undertake careers in health professions and increased support for Indigenous Health workers through affiliate associations.
14. The ACTU and unions commit to lobby government to improve health and well being of Aboriginal and Torres Strait Islander peoples by implementing the above provisions of this policy.

A Fair Society

Infrastructure, Industry, Transport and Trade Policy

A Strong & Fair Economy For All

Introduction

1. Congress agrees that generating the jobs, growth and security working families need requires policies that seek to systematically strengthen key sectors of our national economy and their related economic and social infrastructures. These deficiencies have arisen partly because of historic underinvestment by business and government, and because recent governments have remained wedded to outmoded free market policy dogma. Among those parts of our economy that require urgent government policy focus are infrastructure, industry, transport and trade.
2. Congress therefore agrees to adopt the following policy and campaign priorities.

Economic and Social Infrastructure

3. Congress agrees government infrastructure policy should be based on the following core principles:
 - a) Decisions to invest in infrastructure should be determined primarily by an assessment of the economic, social and environmental needs of the community, not by the immediate availability of funds. Once an infrastructure project has been identified as necessary the task for government is to then establish an appropriate source of funding and method of delivery. Fiscal policy must be sufficiently flexible, innovative and orientated to our long-term future, to facilitate the necessary investment.
 - b) In general, accountability, transparency and the delivery of real long-term value to the community are best secured by the direct funding, ownership and management of infrastructure projects by government. While the Public Private Partnership model has been increasingly utilised by government as an alternative to on-balance sheet funding, the experience in Australia and elsewhere has often been that PPPs are insufficiently transparent, flexible and cost-effective to justify their use.

- c) Government has responsibilities to the community that are broader than the narrow pursuit of 'economic efficiency'; it has an obligation to use its resources and relationships with non-government organisations to promote a range of social, industrial and environmental objectives. The design and allocation of infrastructure-related contracts constitutes a potentially highly effective means of promoting these broader objectives among private firms and employers.
- d) Investment in our social and economic infrastructures should have a key role to play in significantly increasing the availability of decent jobs for women.

Infrastructure Priorities

4. Congress agrees that if Australia is to manage and meet future increases in demand for transport capacity, energy and water supplies, and digital communications in ways that are socially efficient, inclusive and environmentally sustainable all levels of government must co-operate in prioritising investment in the following areas:
 - a) Public transport: Expand, upgrade and better integrate our train, tram and bus networks. In particular, government should invest in tram and light rail services in our cities to help reduce carbon emissions and traffic congestion. This should be combined with measures, such as lower fares, to encourage public transport use and make it more affordable for people on low incomes.
 - b) Social infrastructure: Sustained investment in improved social housing, local health, education and childcare facilities. This would not only promote social inclusion, it would more than pay for itself by reducing the social costs generated by poor health, crime and limited access to employment opportunities. Such investment must be focused on those low income and regional communities who have suffered most from systematic underinvestment, deindustrialisation and the impact of the global recession.
 - c) Low carbon emission and efficient energy sources: Increased investment in solar power, geothermal and carbon-capture technologies. In addition government should make a long-term commitment to retrofitting homes, public buildings and commercial premises that do not meet national energy efficiency standards with appropriate insulation and solar water heating systems.
 - d) Water infrastructure: Increased investment in water saving measures such as rainwater tanks, leakage reduction and local water efficiency projects. This should be combined with increased support for research into the development of low emission water capture, treatment and distribution technologies.
 - e) Digital infrastructure: Investment to ensure the future National Broadband Network provides the basis for eliminating the 'digital divide' that means many of those in low income groups, Indigenous communities and remote locations have little or no access to the internet.
 - f) Asbestos removal: A national strategy to safely manage and remove asbestos from our homes, public buildings and workplaces.

Jobs and Fairness at Work

5. Congress agrees that public investment in infrastructure should be planned and implemented to maximise long-term and sustainable employment in Australia, and to promote progressive practices at work. Congress notes that Australia's present trade agreements either do not contain procurement chapters or, where they do, provide for multiple exemptions. In this context Congress agrees to pursue the following policy priorities:
 - a) The application of Congress 'Government Procurement Policy' to all contracts between government and private firms for the purposes of building economic and social infrastructures.
 - b) The adoption of a flexible and long-term fiscal policy stance that enables government to raise the funds needed for infrastructure investment from a mix of tax revenues, borrowing and bond issues.
 - c) Establish a National Infrastructure Financing Corporation that would finance infrastructure contracts utilising funds drawn jointly from the Future Fund and an investment vehicle comprising pooled superannuation funds.
 - d) The appointment of a union representative to the Advisory Council of Infrastructure Australia.
6. The ACTU and unions will campaign for our infrastructure priorities and policies by:
 - a) Organising union members to undertake audits of infrastructure deficits in their workplaces, industries and localities.
 - b) Using the results of these audits to lobby elected representatives to commit to tackling the deficits in line with the principles and objectives of Congress policy.
 - c) Continuing to advocate for the identified priorities in meetings between ACTU Executive members and Infrastructure Australia and government ministers.

Planning Our Industrial Future

7. Congress reaffirms its existing industry and manufacturing policies, and calls on government to adopt a strategic approach to domestic economic development based on an increased role for planning and collaboration to secure the industrial base Australia needs. Government should therefore adopt the following initiatives:
 - a) Reform, or if necessary abolish, the Productivity Commission with the aim of establishing a tripartite national economic agency to develop a comprehensive strategy for industrial development. The agency should conduct a comprehensive audit of the long-term strengths and weaknesses of Australia's industrial base. The agency should use the results of this audit to:
 - i. provide detailed recommendations on how government, unions and business can work together to secure sustained and balanced economic growth;
 - ii. develop and implement sectoral plans that will secure the long-term future of mature industries (such as steel, textile, pharmaceutical and automotive production), as well as fostering the growth and further development of emerging industries (such as renewable energy, biotechnologies and telecommunications);

- iii. develop and implement a plan for the financial services sector that will ensure responsible lending practices and protect and increase employment levels;
 - iv. develop and implement plans that will enhance the capacity of our industries to generate more renewable energy consistent with our Mandatory Renewable Energy Target;
 - v. develop strategic relationships with Austrade and AusIndustry that are consistent with the agency's agreed objectives.
- b) Because collaboration and planning, rather than wasteful competition, is often better at securing innovation and long-term skill formation Congress calls on the government to:
- i. abolish or amend those government regulations that impede productive collaboration between firms and the long-term development of a highly-skilled workforce;
 - ii. help to initiate and support collaborative initiatives between firms that will promote the growth of high value-added and skill-intensive production;
 - iii. encourage industry associations and organisations to coordinate access to beneficial arrangements for their members such as bank finance, product liability and insurance; and
 - iv. support unions in linking workers in different workplaces to demonstrate and share best practices for training and changes in work organisation.

Safe, Accessible and Integrated Transport

8. Australia is a heavily transport dependent economy due to our geographical size and location. The Australian freight and passenger transport industry employs over 490,000 workers and contributes 5 per cent to GDP with freight expected to double from 2005 levels by 2020.
9. Congress recognises that Australia's long-term economic prosperity and commitment to delivering improved environmental, security and social justice outcomes is dependent on the development of efficient freight and passenger movement throughout Australia, and in meeting Australia's export and import requirements. These principles are reflected in the Federal Government's new National Transport Policy and the ACTU and unions will support their continued development.
10. Across all sectors of the transport industry the Congress recognises:
- a) Transportation decision-making processes must support, encourage and provide resources for union participation;
 - b) Employers must recognise the right all workers involved in the transport industry to be represented by unions, to be covered by a collective agreement negotiated by their union, and the right to fully participate in union activities;
 - c) Transport employees must be provided with safe rates of pay and conditions that removes the pressure to work unsafely in order to receive proper remuneration;

- d) Increasingly carriers and individuals are using a number of modes to move goods or to travel. Unions with members employed in those modes will act co-operatively to ensure the best outcome for members;
- e) Transport systems must be planned, operated and maintained so that they are safe, efficient, equitable, accessible and contribute to sustainability through reduced levels of greenhouse gases and other negative effects on the environment;
- f) A well planned and resourced passenger transport system promotes greater social and economic mobility. Policies in this area must promote greater access to public transport, particularly for disadvantaged groups;
- g) The Federal Government's significant commitment to invest in transport infrastructure, and calls for the government to link infrastructure funding assistance, in regional and rural areas, to the provision of apprenticeships and traineeships.

Rail Transport

11. Congress supports the further development of an integrated national rail network, including:
 - a) extensions to the interstate mainline and efficient intermodal connections;
 - b) infrastructure that permits faster, longer, heavier and more efficient freight trains;
 - c) re-invigorate long-haul passenger railways by high speed trains and connections to airports.
12. Congress supports the Federal Government's plans to invest significantly in rail infrastructure. To secure the desired outcomes consultation and targeted funding will be needed. Congress makes the following proposals:
 - a) That Australian Rail Track Corporation remains in full public ownership and that its Board comprise of representatives of government/s, business, unions and the community;
 - b) The creation of a representative forum where governments, business and unions can address rail transport issues and policies;
 - c) Federal government financial assistance for major privately funded rail network extensions be considered only when it can be demonstrated to be of public benefit;
 - d) The restructure of the Roads to Recovery Program to include regional and rural rail lines;
 - e) That Federal Government assistance for large rail projects takes account of the funding difficulties faced by the different States and Territories.
13. The ACTU and unions believe for the safety of the public, and occupational health and safety of employees, the rail system must meet the highest standards of safety. To achieve this Congress supports a consultative approach to rail safety, involving Federal and State governments, operators, unions, and users, to:

- a) Identify and upgrade rail safety to meet the growing number of rail operators and contemporary safety demands;
- b) Determine and ensure funding to enhance the protection and security of persons and property in and around facilities; and
- c) Ensure that rail safety and investigation procedures and administration are conducted to maximise safety in the railway industry.

Road Freight

14. Congress calls for improved safety standards in road freight and supports:
- a) The setting of safe rates in recognition that driver remuneration is determinative of safe systems of work. Congress calls upon the Federal Government to adopt a system of safe rates for the trucking industry in line with recommendations from the recent Quinlan/Wright Inquiry;
 - b) The accelerated development and implementation of uniform national road transport regulations that include supply chains, focusing on driver fatigue, driving hours, and loads;
 - c) The continued introduction of strong chain of responsibility principles through occupational health and safety instruments, and road safety laws of comparable standards, in all jurisdictions;
 - d) The establishment of a national heavy vehicle regulator, with the capacity and powers to enforce chain of responsibility regulations along the supply chain;
 - e) The greater use of Australian Design Rules to improve safety standards in new vehicles;
 - f) Improvements to the collection of data on road fatalities and injuries to ensure a more strategic approach to road safety initiatives;
 - g) The introduction of a Federal Government requirement for manufacturers to release crash test data;
 - h) The provision of incentives to reward road transport operators who fully comply with regulatory and health and safety requirements, and penalise operators for regulatory and health and safety breaches;
 - i) The provision of rest areas across the Australian highway system.
15. The ACTU and unions support making our transport systems more sustainable and user friendly, by the development of e-transport strategies and actions to improve road safety, reduce emissions and traffic delays.
16. Congress supports improving the attractiveness of the industry to new entrants and school leavers by removing barriers to entry.
17. To improve skills in the industry, Congress calls for the Federal Government to introduce an industry-wide training and recruitment scheme, which may include a skills-based heavy vehicle license without age restrictions. It should also address the disconnect between the current driver licensing and driver training in vocational education sectors.

Maritime Transport

18. Congress recognises and calls for the following:
- a) The maintenance of a robust regime of maritime cabotage that creates employment with decent wages and conditions for Australian workers:
 - i. Building the Australian shipping flag in both domestic and international shipping;
 - ii. Establishing global best practice mechanisms to encourage long-term investment to rebuild the Australian shipping industry
 - iii. That all domestic laws apply to all aspects of shipping operating in the Australian Exclusive Economic Zone [EEZ];
 - iv. Ensure that maritime security laws fairly balance national and domestic security requirements with the civil and industrial rights of workers;
 - v. Ensure a high degree of cooperation between the Australian Defence Forces and the Australian merchant fleet; and
 - vi. Ratify and implement appropriate International Labour Organisation (ILO) and International Maritime Organisation (IMO) conventions, codes and recommendations, in particular the ILO Consolidated Maritime Labour Convention, and ensure that national bodies charged with implementing ILO and IMO Conventions, such as the Australian Maritime Safety Authority, are properly resourced to undertake their compliance functions
 - b) The growth of a modern, safe, productive Australian shipping industry which is supported by a nationally consistent regulatory and fiscal framework;
 - c) An industry that encourages investment and innovation, and enables shipping to be fully capable of total integration into the national Australian and international freight logistics supply chains;
 - d) A productive network of publicly-owned Australian ports that is fully integrated into national and international intermodal supply chains and which support the ongoing development of Australian shipping;
 - e) The important role of a strong domestic shipping industry to Australia's national security and defence, and to the protection of the Australian coastline;
 - f) A safe maritime tourism sector that provides for stable employment and fair working conditions.
19. Congress recognises that shipping is a key sector in the transport industry and the national economy, and in manufacturing and resource supply chains, with strategic, security, defence, economic and environmental benefit. Congress remains committed to supporting its potential to grow and generate new jobs and economic activity.
20. Congress recognises the special competitive challenges facing the shipping industry where investment has been low for many years. A strong national shipping industry is an essential feature of an island economy in a globalised world. Congress recognises the important role of Government in moving towards greater investment support in the domestic freight transport industry to support shipping competitiveness and also supporting the competitiveness of Australia's international shipping opportunity, so Australian shipping can grow market share, gain access to finance, increase employment, innovate and diversify.

Aviation

21. Congress believes the safety of the travelling public and airline industry workers is paramount and must come before economic considerations. To ensure safety standards are maintained Congress calls for:
 - a) The retention of the Federal Government's world-class aviation regulators and service providers, the Australian Transport Safety Bureau (ATSB), Civil Aviation Safety Authority (CASA) and Air Services Australia (ASA) and provision of adequate resources to enable them to continue their efficient, effective and independent roles;
 - b) Close scrutiny of new low-cost entrants to ensure that they meet the highest safety standards to prevent other carriers from being pressured to reduce costs by cutting safety standards;
 - c) Review access to airside secure areas by employees, contractors and labour hire, to remove the exemptions that allow temporary staff easy access;
 - d) Mandatory security training for all aviation workers;
 - e) Implementing the Wheeler Report recommendation that all air cargo travelling on passenger aircraft is security screened;
 - f) Returning any contracted out air traffic services - including fire services, national airways systems maintenance - to the public sector to ensure that the vital safety services are delivered without the pressure to make a profit.
22. Congress believes the aviation industry's use of temporary workers, labour hire and contracting out of services - within Australia as well as internationally - undermines the safety and security of aviation in Australia.
23. Congress supports the further development of a permanent, highly-skilled and well paid workforce with a safety focus. In particular, Congress calls for:
 - a) An end to overseas outsourcing of maintenance, which unions believe has eroded Australia's traditionally high maintenance standards.
 - b) The elimination of overseas-based labour on inferior contracts being used by Australian carriers to undermine the employment conditions of Australian workers.
24. Congress supports the development of the aviation sector and in particular further developing industry as an important export industry, by:
 - a) Retaining current provisions that prevent foreign ownership of Australian airlines and keep the governance of these airlines in Australia. This includes, the maintenance of Qantas as Australia's international carrier;
 - b) The growth of air freight through upgraded airport facilities, introduction of chain of responsibility principles in cargo freight terminal operations, and improvements in the logistics chain; and
 - c) Direct investment in local infrastructure to increase volume of flights and traffic carried by international airlines to create jobs.
25. The creation by the Federal Government of an explicit regulatory regime and plan for the sustainability of the aviation sector is supported by the ACTU and unions as an appropriate response to the recent Aviation White Paper and the current economic crisis.

Urban Public Transport and Passenger Transport

26. Public transport and passenger services need to be accessible and meet the community's expectation of a high standard of reliability, timeliness and quality.
27. The ACTU and unions believe a framework for transport services must ensure the equitable distribution of transport resources. Services should enhance quality of life, reduce traffic congestion, and allow for individuals to minimise the use of natural resources, and reduce carbon emissions that threaten public health and the environment.
28. Congress supports achieving greater use of public transport and calls for:
 - a) The provision of appropriate financial assistance by the Federal Government to State/Territory governments to improve and extend public transport systems in urban and regional Australia for employment, education and training, health, social justice and economic reasons;
 - b) Support for proposals to reduce dependency on cars, including reform of the inequitable tax treatment of public transport as against employer provided car transport;
 - c) The introduction of regulations that allow workers to use salary sacrifice programs to purchase public transport tickets;
 - d) A collaborative approach with state governments, unions, employers and user groups, to ensure urban public transport facilities are safe for both employees and the public;
 - e) Measures to assist state and local governments to develop urban planning strategies that integrate land use and transport planning;
 - f) Proper and efficient integration of the various public transport modes through intermodal exchanges and complementary travel arrangements; and
 - g) The establishment of a national transport planning strategy by the Federal Government, which recognises that urban and passenger transport are critical to the national transport system, and to ensure the demands of both passenger and freight transport do not clash.

Sustainability in Transport

29. Congress recognises that transport is the third largest contributor to greenhouse gases after electricity generation and agriculture. Therefore transport has a significant responsibility and contribution to make towards the reduction of those gases.
30. This policy outlines many measures to create an effective and efficient transport system that meets the needs of Australians. These measures would make a positive contribution to reducing traffic congestion, reducing our reliance on fossil fuels and improving the general amenity of Australia's towns and cities. In particular:
 - a) Congress supports increasing the use of public transport as a means to remove reliance on private vehicles and non-renewable fossil fuels; and
 - b) Congress notes that transport of freight by rail produces significantly lower levels of greenhouse gas emissions than road freight, and supports the call for national integration and extension of rail transport systems.

International Solidarity

31. The ACTU and transport unions will work with local and international transport industry unions and the International Transport Workers Federation to build international links and solidarity.

Women in Transport

32. The ACTU is committed to working with affiliates to removing barriers to the employment of women in the transport industry partly by promoting it as one that offers a range of career paths. This will also help to retain existing women workers. In addition, the ACTU and affiliates will continue to actively support women's networks and representation across the industry.

Growth and Social Justice through Fair Trade

33. Congress agrees that sustained and balanced economic development requires that governments retain the capacity to regulate labour, product and capital markets in ways most appropriate to their particular economic and political circumstances. There is no one-size-fits-all model of trade. Public ownership, import regulation and substitution, state subsidies and price regulation all have a potentially valuable role to play.
34. Congress also notes that trade is not simply an economic issue: it has important social and political dimensions and implications. In particular, trade policy constitutes a potentially powerful means for enhancing the rights and welfare of workers in other countries.
35. Congress condemns trade agreements that directly or indirectly encourage the accumulation of wealth from international trade on the basis of poverty wages, dangerous working conditions, the repression of collective organisation and labour rights, and environmental destruction.
36. Congress calls for trade agreements that provide for the improved conditions of workers by requiring signatories to adopt appropriate core labour, human rights and environmental standards.
37. In particular, Congress agrees that trade in people is not acceptable. Congress therefore opposes any trade agreement which seeks to regulate the number of migrants to Australia. Migration must remain entirely a matter for immigration policy.
38. Congress supports the following initiatives:
 - a) Government should not enter into further bilateral or regional trade agreements until the present recession has passed and the shape of the post-crisis world economy becomes clear.
 - b) All future proposed trade agreements must be open to full parliamentary oversight and democratic approval prior to being signed. This should involve:
 - i. The independent modelling and evaluation of trade agreements before they are signed;
 - ii. An assessment of the gender dimensions to projected changes to levels of investment, employment and wages;

- iii. Explaining to the wider community, in the most accessible form possible, the assumptions that have been used to model the impacts of proposed trade agreements - particularly where they relate to topics such as wages, employment and investment.
- c) Trade agreements should be explicitly designed to reinforce and build upon domestic industrial policy priorities, the pursuit of a full-employment economy and a fairer Australia. To this end trade agreements should:
- i. Retain or enhance the autonomy of government in Australia to design and implement policies in the following areas: the regulation of financial institutions and international financial transactions; climate change; government procurement; import regulation; media content and the cultural industries; public ownership; public services; foreign ownership; research and development; transportation services; indigenous affairs; organisations and enterprises; the provision and regulation of essential services such as health, education, water, electricity, telecoms and postal services; the movement and employment of temporary migrant workers.
 - ii. Preserve Australia's Pharmaceutical Benefits Scheme.

A Fair Society

International Policy

1. Congress re-affirms the 2003 International Policy, and our commitment to support measures to promote the rights of workers in all countries.
2. The resolve of the ACTU to support strong, independent, inclusive and democratic unions is stronger than ever before. Congress salutes the courage of workers facing conflict, struggles for liberation and democracy, the fight against starvation, discrimination and exploitation in too many parts of the world.
3. The framework established in 2003 still stands for establishing the ACTU's priorities for action:
 - a) to uphold the rights of workers in the Asia-Pacific directly and in solidarity across the globe;
 - b) to work to eliminate discrimination and racism;
 - c) to secure higher levels of aid and development assistance for the people of developing countries;
 - d) to promote democratic reform and the peaceful resolution of conflict;
 - e) to see reform of international institutions and, in the face of the Global Financial Crisis (GFC), strong global regulation and governance that puts people first;
 - f) to achieve an independent Australian foreign policy; and
 - g) in 2009 to support urgent action to secure a comprehensive global agreement on climate change including measures and financing for a just transition for workers in all nations.
4. The Global Financial Crisis and the threat of Climate Change brings unions closer as we recognise that the shape of a fair and sustainable globalisation must be influenced by our values, our activism and our unity through international unionism.
5. Congress recognises and supports the birth of the International Trade Union Confederation (ITUC) and the Global Unions Council. This brings together national councils and confederations with the Global Union Federations (GUFs) to tackle in unity agreed priorities for the global union movement. The ACTU is committed to regional and global organizing, and will work with affiliates and their GUFs to co-ordinate action plans in strategic industries.
6. Congress supports the development of international regional development strategies that focus on employment and income generation, promotes and respects labour standards and supports the decent work agenda for all, including in specific industries such as the maritime and oil and gas sectors. This needs to be linked to an integrated regional inter-governmental development and trade policy.

7. Unity is essential in order to:
 - a) support rights at work and labour laws in other countries;
 - b) organise global corporations and their supply chains through international collective bargaining;
 - c) develop communications, information sharing for mapping and database resources on the corporate behavior of multinational and transnational corporations;
 - d) organise in economic processing zones (EPZs);
 - e) hold governments to account in addressing global poverty and for achieving the Millennium Development Goals (MDGs);
 - f) establish just globalisation based on full employment and decent work;
 - g) achieve reform of financial regulation and the international financial institutions (IFIs);
 - h) drive support for nuclear disarmament and non-proliferation; and
 - i) hold governments accountable for a sustainable planet.
8. Congress recognises that since 2003 significant global changes have resulted in a world where the promotion of workers' rights is increasingly urgent, as inequity and exploitation has grown. Rights must be central to all union priorities and guaranteed in many new and emerging areas of global governance and public policy.
9. Congress acknowledges the work of our representatives at the ILO and the significance of the 2008 ILO Social Justice Declaration for a Fair Globalisation. This Declaration provides the framework for implementation of decent work at the heart of which sits the core labour standards, social protection and safety.
10. Congress calls for all International Financial Institutions, particularly the Asian Development Bank (ADB) to respect and integrate ILO core labour standards in all activities and contracts, while noting progress in achieving recognition of labour standards by the World Bank, the International Monetary Fund (IMF), and in particular the International Finance Corporation (IFC). Congress calls on the Australian Government to continue its work with the Global Union Federations for the establishment of a Labour Desk within the ADB.
11. There is more work to be done to reduce the decent work deficits leading to a world that is growing increasingly unequal. This leads Congress to acknowledge and support the annual ITUC-led World Day for Decent Work (WDDW).
12. The Global Financial Crisis (GFC) has been caused by the greed of a financial sector leveraging profit from debt, spreading risk through unregulated products and leaving a legacy of toxic debt. The victims of this crisis are working people, in developed and developing countries, who are losing their jobs, their livelihoods, their houses, and their social security. Unions internationally must campaign for jobs, for social protection and for reforms that ensure this can never happen again.
13. The ACTU supports the Global Unions - ITUC, GUFs and the Trade Union Advisory Committee to the OECD (TUAC) platform for reform detailed in the 'Washington Declaration' and the more recent April 2009 'London Declaration'. This platform calls for the leaders of the G20 nations to:

- a) promote a co-ordinated recovery plan, inclusive of the poorest nations, focused on public investment to protect jobs, implement active labour policies, improve social safety nets and ‘green economy investments’;
 - b) promote intervention to stabilise banks and lending immediately and the establishment of new regulation and mechanisms to control global finance inclusive of stakeholder involvement;
 - c) combat the risk of wage deflation and reverse the growth of inequity through the extension of collective bargaining and strengthen labour institutions to establish a decent floor in labour markets;
 - d) prepare the ground for a far reaching and ambitious international agreement for action on climate change, beginning in Copenhagen in December 2009;
 - e) establish a legal benchmark of norms and instruments for the international economic and social institutions - the ILO, IMF, World Bank, Asian Development bank (ADB), WTO and the OECD - that affects reform which builds effective, accountable global economic governance.
14. Congress supports the call for an end to tax havens and reiterates support for a ‘Tobin Tax’ to support development in the poorest of nations.
15. Congress re-affirms support for fair trade which puts workers’ rights and labour standards at the core of trade rules and provides policy space for nations to develop sustainable industries, as outlined in the Congress “Jobs, Industry and Trade” policy.
16. Congress acknowledges the United Nations’ Business and Human Rights agenda, and the Special Representative of the Secretary-General’s report that calls for corporate responsibility to respect human rights and be held accountable to them. Congress calls on the ITUC to campaign for the full inclusion of workers’ rights.
17. Congress acknowledges the work of the ITUC ‘Workers’ Capital Committee’ and supports capital strategies in countries such as Burma, where workers’ capital can be effective in providing practical interventions of international solidarity. Congress also acknowledges that the United Nations Principles for Responsible Investment (UNPRI) framework provides an important vehicle to advance environmental, social, and governance objectives internationally.
18. Congress calls on the Australian Government to promote multilateralism by supporting the United Nations and the ILO, and ratify the following priority conventions:
- a) UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;
 - b) ILO Maritime Labour Convention 186;
 - c) ILO Maternity Protection Convention 183;
 - d) ILO Protocol to the Occupational Health and Safety Convention (Protocol 155), Asbestos Convention 162 and other priority occupational health and safety conventions;
 - e) Nuclear Disarmament and non-proliferation.

19. Congress urges the Australian Government: to focus on development in our region; to work with other governments and social partners to effectively meet the Millennium Development Goals (MDGs); to offset the impact of the Global Financial Crisis on employment, trade, investment, food security and development; and, to realise peace and democracy in countries in conflict. As part of these efforts the ACTU will pursue government recognition of unions as key civil society and development partners.
20. Congress urges the Australian Government to prioritise AusAID funding for projects and programs for capacity building for governments and social partners (unions and employer organisations) to develop and implement integrated policies and laws that realise Decent Work and ILO Conventions, and the MDGs.
21. Congress notes that working people continue to organise and create free, independent and democratic unions in countries where workers lack rights and face suppression for voicing their demands for workplace change. Congress applauds the efforts to create new unions and reform existing state-controlled unions in these countries. Australian unions have supported the development of free and independent unions in many parts of the world and will continue to assist to strengthen these efforts. The ACTU International Committee continues to monitor and seek to influence democratic, peaceful outcomes to support the workers and people, especially those, of:
 - a) Fiji and the Pacific;
 - b) Burma;
 - c) Zimbabwe;
 - d) the Middle East with a focus on the impact of Israeli-Palestinian conflict on the rights of all workers in the region and their families -- Palestinians, Israelis and other communities.
22. Congress proudly acknowledges that 2009 is the 25th anniversary of Union-Aid-Abroad APHEDA. Congress congratulates all the staff, volunteers, supporters and partners who have contributed to the substantial achievements of the organisation over those years. The ACTU and unions recommit to grow APHEDA as a central part of our union work. In particular, ACTU and unions will promote individual member contributions to assist the future work of APHEDA in supporting development and social justice internationally.
23. The ACTU supports the work of the ITUC and the GUFs in coordination of and campaigning for action on Climate Change. The blue-green alliance demonstrates the strength of a united movement. Promoting sectoral agreements and other measures to support green jobs in emissions-intensive trade-exposed industries (EITEs), it is able to advocate for and organise workers in emerging green product industries.
24. Congress supports the ITUC's call for a 'just transition' for all workers and for the funds to support development and adaptation in vulnerable countries. Through the ACTU Environment Group and the International Committee, the ACTU and unions will continue to liaise with the ITUC Task Force on Climate Change and Green Jobs in their critical work in global negotiations on climate change.

A Fair Society

Social Inclusion and Workforce Participation Policy

Introduction

1. Unions believe in the right of all citizens to employment, a decent living standard, and the protection of the social security safety net. Government has a role in ensuring fairness, equality, and opportunity throughout the community.
2. Social and economic equity, with access and opportunity for all people has always been important for unions. Issue of addressing poverty, disadvantage, and income inequality is fundamental to our work.
3. Congress believes that participation in decent work is the single most important pathway to address disadvantage for working aged Australians and their families. Congress notes that even during the recent long period of sustained economic growth and declining unemployment, the numbers of working age Australians in receipt of a social security benefit, particularly the numbers on disability benefit, rose, and these numbers will increase during the present economic crisis. Australia's high rate of jobless families with children places children at risk of disadvantage and deprivation, and increased risk of intergeneration disadvantage.
4. The 2003 Congress adopted policies aimed at assisting workers who are marginalised from the workforce, particularly older workers, Aboriginal and Torres Strait Islander workers, workers with disability and workers with caring responsibilities. Unions also called for reforms to childcare, disability services and aged care to enable carers to participate in the workforce. This policy builds on that approach.

A Social Inclusion Framework

5. Congress notes that the Federal government, and some state and local governments, have adopted a social inclusion framework to guide the provision of income support and social and community services. Congress welcomes this development, noting that such an approach:
 - a) recognises that disadvantage extends beyond poverty and material deprivation and include inability to participate in economic, social, cultural and political life;
 - b) acknowledges multiple and often cumulative barriers to participation;

- c) addresses the processes that lead to disadvantage not just the symptoms through equitable access to universal services, supplemented with early intervention programmes to minimise the risk of disadvantage, and targeted, tailored programmes that are responsive to individuals and communities; and
 - d) includes the active involvement of communities so people have a say about what services they need and have a responsibility to make use of the opportunities provided.
6. Congress endorses the Federal Government's social inclusion priorities of homelessness, indigenous disadvantage, employment of people with mental health and disability concerns, children at risk and jobless families.
 7. Congress calls on the government to add support for people with disabilities and their carers to that list of priorities.
 8. Congress also calls on government to recognise the need to recruit, retain, develop and reward the workforce that delivers its social inclusion programmes, including programmes that assist workers into decent jobs.

Promoting Labour Force Participation

9. Providing greater opportunities for people to participate in decent work is the primary means by which people of working age can avoid social exclusion. Participation in paid employment enhances both national prosperity and social equity.
10. The structure of income support payments and the rate at which payments are withdrawn should not act as a disincentive to participation in paid employment.
11. The current structure of differential payments for disability support, sole parents, and unemployed, discourages recipients of higher payments from testing the labour market. Congress supports the removal of the distinction between pensions and allowances, to be replaced with a single, adequate income support payment payable regardless of the reason that an individual is outside the labour force. Such payment should be supplemented to reflect the individual's costs (eg disability, children, and rent).
12. Employment services should be tailored to assist individuals throughout the stages of their life. Programmes should acknowledge transitional periods in people's lives and account for them. Congress welcomes the announced changes to employment services to include a greater focus on disadvantaged job seekers, employer servicing and local labour markets.
13. Under the previous Government's "Welfare to Work" approach, beneficiaries of unemployment, disability and sole parent benefits faced income withdrawn if they failed an activity test. Congress notes that the harshest aspects of these policies will be addressed by the new compliance framework that focuses on reengagement not punishment.
14. Unions believe that, where income support is conditional upon an activity test, the test should be sufficiently flexible to reflect the complexity of people's lives. Activity tests should recognise any caring and community responsibilities of the recipient; acknowledge barriers to participation such as discrimination by employers; and be administered fairly while being sufficiently flexible to take account of an individual's circumstances. In no circumstances should an activity test require an individual to accept employment that leaves them or their family financially worse off.

15. Workforce participation programmes must address deficiencies in the demand for workers who have trouble obtaining decent work. Unions believe it is wasteful and demoralising to prepare people for jobs that do not exist.
16. Disadvantaged workers are often discriminated in the workforce and can face inflexible and unsupportive working arrangements. Unions have a special responsibility to campaign against discrimination of this kind. Government intervention is also required.
17. Not all work is socially inclusive. Under-employment and the associated lack of secure work, low wages, long hours of work, or long and complex commutes to and from work, exclude people from fully participating in social, family and community activities. The ACTU and unions support decent work opportunities. The design of workplaces should be inclusive.

Young people

18. In the current economic environment there is a special need to focus resources on school leavers. Congress welcomes the Government's focus on measures to keep young people in education and training, particularly through flexible learning opportunities, managed transitions, and access to accredited training while at school.
19. However, these measures must be accompanied by targeted assistance for young people who have left the education and training system. The Government should remove disincentives for young people re-entering formal training. Congress supports consideration of aligning the rates of income support for Newstart and Austudy.
20. Public policy has not kept pace with the level of student participation in part time employment. Young people are often poorly protected at work. Congress notes the Vocational Education and Training (VET) policy calls for formal recognition of the skills obtained by students in their casual and part time jobs. In addition, unions will bargain for study and examination leave for working students, and will guard against indirectly discriminatory practices.

Older workers

21. Congress reaffirms its commitment to actively oppose discrimination on the basis of age, including in relation to older workers.
22. Congress supports the right of workers to retire at 55 or older. Financial security is critical to the exercise of this choice. As such Congress opposes increasing the preservation age for superannuation, the eligibility age, or other conditions for receipt of the age pension. However, Congress also supports the right of workers to continue in employment after the normal retiring age, including their ability to access transitional arrangements such as part-time work.
23. Congress notes that discrimination by employers can make the activity test imposed on older workers in receipt of Newstart demoralising and counterproductive. In thin labour markets older workers should be able to satisfy their job search requirements through volunteer activities.

Aboriginal and Torres Strait Islander peoples

24. Congress notes that the ACTU Aboriginal and Torres Strait Islander policy deals comprehensively with measures to assist Aboriginal and Torres Strait Islander peoples into meaningful work. Union's immediate role in workplaces address discrimination and ensure work practices, including access to family and personal leave, are inclusive of Aboriginal and Torres Strait Islander people.

Lesbian, Gay, Bisexual and Transgender (LGBT) people

25. Congress notes that there are comprehensive ACTU policies dealing covering workers the reality is there is a need for more education to put these policies into practice. Congress supports the move towards full legislative equality for LGBT workers. Unions must work to eliminate discrimination and homophobia in all workplaces.

Workers with disability

26. Congress reaffirms the policies from 2003, which acknowledged that workers with disability are entitled to decent, safe and secure work opportunities, and recognised the importance of education and training for workers with disability. Congress confirms the commitment of the ACTU, labour councils and unions to organise workers with disability, and to use the organising role to utilise the talents of workers with disabilities.
27. Congress notes that the Federal Government is developing a National Mental Health and Disability Employment Strategy that aims to address barriers people with disability and/or mental illness experience in gaining and maintaining employment. Congress welcomes the priority areas for action including: removal of all service caps; supporting employers; engaging with people with disability regarding barriers such as transport and equipment; direct employment by government of people with disability; and improved access to training.
28. Congress notes with particular concern the dramatic reduction in the percentage of people with disabilities being employed by the Commonwealth in the last decade. Congress calls on the Federal Government to require as a significant Key Performance Indicator for all Secretaries of all Government Departments and the Heads of all Statutory Authorities that they must meet targets to increase the number of people with disabilities employed by Departments and Statutory Authorities, and that the achievement of such targets is linked to Secretary bonus payment schemes.
29. The ACTU will continue to work with the disability community to ensure the award system, including the supported wage system functions fairly. In particular, the ACTU will explore with the disability community and Federal Government, the rationalisation of the number of wage assessment tools used by Australian Business Enterprises.

Workers with caring responsibilities

30. Carers report that the barriers to employment include: the lack or cost of alternative available care; the disruption to the person to whom they provide care; loss of skills and the lack of suitable hours of work.
31. Australia's employment rate of lone parents remains low relative to comparable nations, and the risks for children growing up in jobless households means that joblessness amongst sole parents requires special attention.
32. Workplaces and policies that support carers to combine informal care and paid employment are essential but not sufficient to assist carers participate in paid employment.
33. The Work and Family Policy seeks to implement the provision of working arrangements that facilitate combining work and care. In addition to this, unions strongly support adequate resources to allow persons who are provided care the ability to make appropriate choices about their needs that may also facilitate carers participating in paid employment.

34. Carers seeking to re-enter the labour force should be assisted through a “returning to earning” programme that supports the costs of: course fees, care, travel required to attend training courses, and return to work expenses such as uniforms.
35. The carer income support system should not act as a disincentive to work. Congress calls for greater flexibility in the Carer Payment, particularly around the withdrawal of payment after 25 hours per week (including travel), which is counterproductive to carers combining care, employment and education.
36. Congress notes with particular concern the disadvantage faced by young carers. Congress believes that it is completely inappropriate that minors should be required to perform a caring role and calls on the government to implement strategies to ensure that this not occur.

The Provision of Care

37. Promoting participation in paid employment for working age Australians is essential but not sufficient to ensure an inclusive society. Congress recognises that improved access to affordable housing, transport, justice, and programmes to prevent family violence, resettle refugees and build communities, are integral to addressing disadvantage regardless of whether individuals are in work, seeking work, or are not seeking paid employment.
38. Demographic changes highlight the fact that the access to high quality care, and the ability to provide care, is increasingly a public, not private matter. Particularly important for those in or seeking work are access to early childhood education and care, disability care, aged care, and support for those providing the care.

Early childhood

39. Children should have the best possible start in life. Access to quality maternal and child health and early childhood education is the starting point of our commitment to equal opportunity for all Australians.
40. A safe, supportive and stimulating environment fosters children’s cognitive, social, emotional and physical development, and gives them the best chance of becoming healthy adults.
41. In addition to the Work and Family policies that support working parents having the time and resources to care for their children, Congress reiterates its support for universal access to high quality early childhood education and care.
42. Congress notes that some progress has been made towards the priorities identified at the 2003 Congress, including:
 - a) a commitment to universally provide 15 hours a week of early childhood education taught by a four-year university qualified early childhood teacher for every child in the year before they start school;
 - b) capital and recurrent funding for 260 early learning and care centres;
 - c) set of draft national quality standards and regulatory arrangements;
 - d) additional places and fee relief to improve the skills of childcare professionals, and the development of a workforce strategy for the early years.
43. In noting this major reform and re-skilling agenda in the early childhood education and care sector supports additional targeted funding to this sector to facilitate significant bargaining improvements to early childhood education and care workers’ wages and conditions.

44. Congress supports the development of national quality standards, provided they do not result in a lowering of standards.
45. Congress notes that the collapse of ABC Learning and CFK Childcare Centres highlights the need for increased government planning in the allocation of government funding to early childhood education and care.
46. Congress supports the provision of public and community sector childcare.

People with disability

47. Congress affirms its support for people with disabilities, families and carers. Congress acknowledges the right of people with disabilities to services and support that enables them to fully participate in society in independent living and in employment.
48. Congress recognises the essential role of paid care and support workers whom many people with disabilities, and their families, depend upon. The skill and work of these employees is currently undervalued and needs to be properly and fairly recognised.

Supporting Carers

49. Individuals who provide full time care and support to dependants face increased risk of social exclusion. Many carers experience financial hardship, and have difficulty participating in paid employment, education and training. This is often coupled with isolation and poor health. Caring for people with disability, or the frail elderly, need to be supported with both financial support and recognition of their role. Respite care for carers is essential to safeguard the health of those who undertake the informal caring work.
50. Congress notes that the recent House of Representatives Report of the Inquiry into Better Support for Carers found carers face: a lack of recognition of their role; difficulties in accessing information and support; financial stress as a consequence of opportunity costs, lack of government support and the costs of caring; and, dissatisfaction with community care.

National Social Entitlement Scheme for People with Disabilities

51. Congress calls for the thorough examination of a fully funded, no-fault, national disability insurance scheme. Such a scheme should not displace workers' compensation or transport accident schemes. It should go further than the current proposal, agreed to by Community and Disability Services Ministers in 2008, for nationally consistent outcomes for motor vehicle accident victims and development of a no-fault catastrophic injury scheme.
52. Congress notes that these initiatives will not deliver a national universal care and support based entitlement system covering all people with a disability, so that such people and their families can participate in ordinary lives that the non disabled community takes for granted. For a large group of people with disabilities, care and support is not guaranteed. There is a major unmet demand for services and a growing unmet liability to deliver those service entitlements.
53. Congress believes the time has come for a transformational change in the approach to addressing disability support and care in Australia. Congress believes that now is the time to examine the feasibility of introducing a national social entitlement scheme. Such a scheme should provide a life long entitlement, disabled person-centered support and care, and could sit alongside compulsory superannuation and Medicare as a visionary economic and social reform.

54. The ACTU and unions will work closely with disability organisations, the private sector and State and Commonwealth Governments to campaign for a national social insurance scheme for people with disabilities.

Housing and Homelessness

55. Participation in all forms of community life depends upon access to adequate and affordable housing. Congress welcomes the Federal government's nomination of homelessness as a priority for social inclusion, and its significant financial commitment to increase the supply of social and public housing.
56. Congress welcomes recent initiatives by state governments to integrate housing services with health disability, employment and other support services.
57. Congress also welcomes the National Rental Affordability Scheme to stimulate investment in affordable rental stock.
58. Congress calls for policies to support:
- a) Partnerships between public, community and private sectors that encourage investment in affordable rental housing and first home ownership;
 - b) Debt for equity swaps to assist older Australians remain in their homes with dignity; and,
 - c) New financing arrangements to support home buyers such as shared equity, subject to appropriate consumer protection regulation.

The Provision of Services

Funding model

59. The use of competitive tendering in the provision of social and community services is inimical to the provision of the highest quality services for the most disadvantaged and marginalised in our community. Competitive tendering is based on an assumption that the lowest cost base for the delivery of services is best for government. Such models of funding do not adequately reflect an appreciation and recognition of the needs of those who use the services.
60. Congress calls for social and community services to be funded on "cost basis" models such as those used to fund health and education. Funding contracts should also recognise the advocacy role played by social and community sector providers. This role is important in providing a voice to the recipients of services.
61. Congress notes with caution the emerging support for social or community enterprises to deliver intermediate labour markets for people currently excluded from paid employment. Congress notes the lack of evidence about the lasting effect of this approach.

Workforce issues

62. Delivery of the services outlined requires a highly skilled, highly committed, and properly rewarded workforce. An inclusive society does not build the capacity of its citizens by exploiting the compassion of those who provide services and care to those who are vulnerable and at risk.

63. Workforce issues are widely seen as a key constraint to the successful implementation of the delivery of services, with low wages, high turnover and difficulty attracting and retaining staff seen as critical. Congress supports the following measures designed to attract and retain a quality and skilled workforce:
- a) Increased funding to improve wages and conditions of employment. At a minimum there should be no gap between workers in the not-for-profit or funded sector and those doing work of similar value in the public sector;
 - b) Encourage mobility within the sector through the development of a portable long service leave scheme;
 - c) Career paths that recognise skills and experience, and allows mobility throughout the industry;
 - d) Lengthening of funding rounds in order to increase workforce stability;
 - e) A national workforce attraction and retention strategy involving investment in education and training, including strategies to address the shortage of Aboriginal and Torres Strait Islander workers to work with Aboriginal and Torres Strait Islander peoples, and to address the shortage of rural remote/regional workers.

A Fair Society

Tax Policy

Introduction

1. The primary importance of the tax system, and its interaction with the transfer system, is in shaping and building Australian society. Appropriate levels of taxation underpin the broad provision of services and infrastructure that in many ways go to defining the nature of Australian society. This is of central importance to all Australians. The tax system belongs to the whole community, not just to the business sector.
2. Congress declares that the principal objectives of the Australian taxation system should be:
 - a) equitable and progressive taxation of individuals and other entities, so as to provide for fair redistribution of wealth and income;
 - b) the collection of sufficient revenue to:
 - i. fully fund the universal provision of high quality services, including health, education and social welfare to the community, recognising that there are a number of areas in which governments are best placed to ensure adequate infrastructure and delivery; and
 - ii. facilitate the assistance required to ensure equal opportunity for those who would otherwise suffer poverty and disadvantage; and
 - iii. be robust over time to meet the challenges of population aging.
 - c) the encouragement of socially, economically and environmentally useful investment and the discouragement of investment which is destructive and unproductive, recognising the need to strike an appropriate balance between competing objectives;
 - d) sound administration and transparent provisions and, to the extent possible, simplicity, and integration of federal and state systems.
3. Congress notes the following features of the current tax system:
 - a) Australia is amongst the lowest taxing nations in the OECD, with total tax revenue of less than 31 per cent of GDP in 2006-07; this compares with the OECD average of 37 per cent of GDP;
 - b) Australia's annual tax revenue would be around \$60 billion higher if our tax revenue as a percentage of GDP matched the OECD average;

- c) Australia taxes ordinary workers at around the OECD average, while taxing high income earners at relatively low levels. Over the past two decades average tax rates have declined little for ordinary workers with incomes at or below average weekly earnings (who account for two thirds of all tax payers), but have been cut sharply for higher income individuals (the top third of all taxpayers);
 - d) the distribution of personal income tax cuts since the Howard government introduced the GST in 2000, has been regressive;
 - e) international comparisons of company tax are misleading if compulsory employer social security contributions and payroll tax are excluded. Australian corporate income taxes are low by international standards when allowance is included for these payments;
 - f) there is wide scope for tax avoidance and evasion based on the use of trusts, interposed entities and the creation of artificial company structures;
 - g) the personal income tax system, including the marginal rates structure, should be progressive in design and in its application. The scheduled 'aspirational' income tax rates and thresholds will have a profoundly regressive distributional impact unless accompanied by decisive measures to eliminate loopholes and tax breaks that favour high income earners;
 - h) dividend imputation, while encouraging investment in Australia, has created additional inequity;
 - i) existing superannuation tax arrangements are highly regressive.
4. Congress expresses deep concern that the Labor government has chosen not to include trade union or community representation on the Henry Review while providing direct business representation. Taxation is central to workers' living standards in after tax income and social wage transfers.
5. Congress calls on the Henry Review of Australia's taxation system to have full regard to the objectives set out above. In particular, Congress supports:
- a) raising the living standards of the low paid through greater provision of better and higher quality public services together with redistributive revenue raising measures;
 - b) more progressive outcomes from the income tax system;
 - c) addressing the sometimes prohibitive effective marginal tax rate at the intersection between social security and the tax system through changes to the taxation system in order to assist low income households, but not as a substitute for fair minimum wages;
 - d) the abolition of the discretionary tax treatment of family trusts (and similar vehicles) with future tax to be applied consistent with general company taxation;
 - e) the restoration of the previous capital gains tax rate for assets valued above \$1 million;
 - f) quarantining negative gearing losses to same source income;
 - g) the abolition of the private health insurance rebate, with the saved expenditure directed towards the Medicare system;

- h) the elimination of deductibility as expense against corporate income, for any part of an annual salary which exceeds \$1 million per year;
 - i) ensuring that shares and options packages issued as part of executive remuneration schemes are taxed at an appropriate rate;
 - j) changes to FBT treatment of motor vehicles to ensure greater equity and better environmental outcomes;
 - k) the introduction of a wealth tax on high income individuals;
 - l) increased focus and resources by the Tax Office to target phoenix company operators;
 - m) a major commitment by the Tax Office and legislative change to rein in the large amounts of tax being lost to bogus self-employed contractor arrangements;
 - n) using the tax system to encourage greater energy efficiency and long term sustainable energy programs;
 - o) the introduction of a small number of hypothecated tax levies, to better inform public understanding of the links between sources and uses of tax revenue;
 - p) the fulfilment of the Labor Party's election commitment to implement the full complement of ArtStart policies; and
 - q) the imposition of a tax penalty on firms that relocate jobs offshore.
6. The ACTU will continue to campaign around these issues as appropriate, including through continuing participation in the Community Tax Forum, to stimulate widespread public debate.

ACTU
congress
2009

**RESOLUTIONS
DAY ONE
2 June 2009**

RESOLUTION

Australian Building and Construction Commission

1. Congress calls on the Rudd Labor government to immediately repeal the Building and Construction Industry Improvement Act (“the BCII Act”) and to abolish the Australian Building and Construction Commission (“the ABCC”).
2. Congress condemns the Rudd Labor Government for maintaining the BCII Act and the ABCC. Congress notes that the continued existence of the BCII Act contravenes Labor Party policy, which affirms that Labor does not support laws that discriminate against workers employed in a particular industry.
3. Congress notes that:
 - The ABCC has had a serious negative effect on Occupational Health and Safety in a high-risk industry;
 - The ABCC persistently breaches the standards of propriety, honesty, fairness and professionalism expected of government agencies and fails to observe the standards required of a government model litigant. The ABCC has pursued politically motivated investigations and prosecutions against unions and workers and has failed to prosecute one employer for underpayment or non-payment of workers entitlements, despite having the power to do so; and
 - On five occasions Committees of International Labor Organisation have stated that the law is inconsistent with Australia’s obligations under ILO conventions concerning Collective Bargaining and Freedom of Association.
4. Congress rejects proposals to create a separate inspectorate within Fair Work Australia, and to retain coercive interview powers as inconsistent with fairness, Labor policy and ILO conventions.
5. Congress maintains that:
 - No group of workers should be subject to discriminatory laws;
 - Coercive interrogation powers have no role in industrial relations and must not be inserted into the Fair Work Act;
 - Workers should have a right to confidential communications with their union and colleagues regarding industrial matters and to representation by the lawyer of their choice; and
 - Any regulator dealing with industrial matters should be even-handed, transparent and professional in its conduct and ensure procedural and substantive fairness to all parties.

6. Congress calls for the immediate removal of those provisions of the Building Industry Code and Guidelines that are aimed at weakening workers' rights and union organisation.
7. Congress calls on unions affiliated to the ALP to support the principles of this resolution in all forums of the party, including the 2009 ALP National Conference.
8. Congress condemns the prosecution of workers for alleged refusal to participate in compulsory ABCC interrogations, particularly the current prosecution of Ark Tribe. Congress affirms its support for any worker who is prosecuted for non-compliance with coercive interviews. Congress authorises the ACTU Executive to co-ordinate a campaign of protest and industrial action against this prosecution and, if necessary, support for any worker who is prosecuted or jailed for non-compliance.

RESOLUTION

Executive Pay

Introduction

1. Congress deplores, as a significant cause of the Global Financial Crisis, the irresponsible behaviour of executives that has been fuelled by remuneration packages that reward short term returns or excessive risk taking.
2. Congress draws attention to the ethically unacceptable and economically dangerous increase in executive remuneration in Australia in recent years:
 - a) Between 1990 and 2005, the average cash remuneration of the CEO in the Top 50 listed Australian companies rose by 564 percent to \$3.4 million (10.7% per annum adjusted by inflation), while average full-time earnings only rose in real terms by 1.4% per annum.
 - b) Over the same period, top CEO pay ballooned from a multiple of 18 times average full-time earnings to a multiple of 63.
 - c) In 1993, the bottom 10% of wage earners earned 32% of the median wage, while the top 10% of wage earners earned 180% of the median wage. However, by 2006, the lowest waged workers only earned 26% of the median wage, while the top earners earned 201% of the median wage.
3. Congress notes the understandable community outrage at executive pay which exceeds all reasonable community standards, especially at a time when many working Australians are having their pay frozen or their jobs cut.
4. Congress notes that the Federal Government has asked the Productivity Commission to inquire into executive remuneration in Australian companies.
5. Congress also notes the new legal context, in that the High Court has confirmed the power of the Commonwealth to directly regulate the pay and conditions of company employees, including executives, through the use of the corporations power of the Australian Constitution.

Legal Regulation

6. Congress seeks to curb excessive remuneration and inappropriate risk taking by executives through laws that regulate executive remuneration.
7. The base salaries of directors and company executives should be subject to an overall reasonableness requirement. Reasonableness should be determined according to the skills and experience of the executive, the nature of their role, and the size and complexity of the enterprise. An appropriate public oversight mechanism should be established to allow a corporation to determine in advance if a package meets the reasonableness test.

8. The Corporations Law should be amended to establish an absolute cap on the base earnings of an executive of a multiple of ten times the average weekly full time earnings paid to employees of the enterprise.
9. Any additional payments made to directors or executives, or for their benefit, should be prohibited, except for:
 - a) mandatory payments under legislation (including the Fair Work Act and superannuation legislation) or salary sacrifice arrangements;
 - b) reimbursement of legitimate expenses;
 - c) termination payments of up to one year's base salary, paid in accordance with a pre-existing agreement, and not payable in the event of dismissal due to misconduct or poor performance;
 - d) performance payments. Such payments can only be paid in cases where:
 - i. the company has performed better than its peers, over a period of at least five years;
 - ii. the executive personally contributed significantly to the superior performance (rather than chance or the work of others); and
 - iii. the executive's contribution provides the foundation for sustainable business growth over the long term.
10. Payments in excess of the cap on base salary, or unlawful additional payments should be recoverable by the corporation on application of a shareholder or ASIC.
11. To discourage unreasonable payments, the tax laws should provide that any component of remuneration above \$1 million per annum should not be able to be deductible against company income.
12. Additional transparency measures should be imposed as follows:
 - a) The Annual Report and the Annual General meeting of the Company must receive a comprehensive report concerning payments to directors or executives, justifying the payments and certifying that they are consistent with the legislative requirements in respect of both base salaries and additional remuneration; and
 - b) shareholders should be required to approve the remuneration arrangements for directors and senior executives.
13. There should be strong anti-avoidance provisions in the law. Arrangements made to circumvent these restrictions should be prohibited. Benefits provided to executives (such as non-recourse loans) should be treated as if they were part of salary.
14. As recommended by the Corporations and Markets Advisory Committee, existing directors' duties of care, good faith and proper purposes should be extended to executives. Executives should face civil and criminal sanctions for breach of their obligations.

RESOLUTION

Global Financial Crisis

Impact and causes

1. The Global Financial Crisis (GFC) has devastated the international economy. In 2009 the world economy as a whole is expected to contract for the first time since World War Two.
2. The GFC has put at risk the jobs and livelihoods of people across the globe with more than fifty million working people expected to lose their jobs, including a projected 6 to 10 percent of the Australian workforce. It is already the cause of untold hardship among working families with businesses collapsing, jobs lost, entitlements unpaid and homes repossessed.
3. It is estimated that the GFC will push 200 million more workers into extreme poverty, forcing a total of 1.4 billion of the world's citizens to live on less than US\$2 a day and seriously jeopardising the poverty reduction targets of the Millennium Development Goals.
4. The GFC is a catastrophe that bears the hallmarks of a massive natural disaster and yet is undoubtedly human-made.
5. The GFC is the product of fundamental faults in the neo-liberal economic paradigm – deregulation, privatisation, speculation, greed and unsustainable debt – which have now plunged the world into crisis.
6. The uncritical worship of the 'free market' and the failure of our business leaders and governments to rein in its excesses enhanced the ability of already powerful economic nations, corporations and investors to shape the economy to their advantage. This led to extreme inequality at the same time as it created profound economic instability.
7. Working people in Australia and across the globe who are now subject to unprecedented levels of unemployment, underemployment, poverty, deindustrialisation and environmental destruction as result of the GFC demand that this must never happen again.

Action to protect jobs and incomes

8. a) Unions welcome the Government's response to the GFC and its economic stimulus measures and support for social and economic infrastructure, including investment and projects in:
 - Building programs in schools, social and public housing and energy efficiency retrofits;

- Public transport, hospitals, universities, road, rail and port infrastructure as well as broadband and smart grid initiatives;
 - Development of renewable energy and climate-friendly technologies, including commercialisation programs for new low-carbon industries.
- b) Government must ensure actions taken do not entrench or exacerbate inequities in our society. This includes:
- Avoiding measures that place the burden of subsidizing industries on low paid workers in those industries on low paid workers in those industries such as introducing inferior safety not provisions.
 - Taking into account the particular disadvantaged position of women in the labour market, and the negative impact on women's wages and jobs of previous recessions, there is an urgent need to take further steps to support industries and sectors where women predominate. To extend the focus on infrastructure to a focus on people. These must include investment in industry and sectorial job retention and job creation measures.
9. Congress calls on all governments to secure as many Australian jobs as possible and strengthen local industries by ensuring companies located in Australia get preference when tendering for these projects.
10. Congress proposes the Government immediately adopt National Interest Expenditure Guidelines that place mandatory requirements on the recipients of public funding of any kind (including guarantees) to ensure:
- a) That Australian jobs are protected and created.
 - b) Key industries are maintained and strengthened.
 - c) There are designated job positions for apprentices, trainees, unemployed people and Aboriginal and Torres Strait Islander Australians.
 - d) Workers have quality, secure and well-rewarded jobs in a safe and productive environment.
 - e) The rights of all workers to union representation, collective bargaining, and consultation are respected.
 - f) Public funding is not used to support business decisions that sacrifice jobs or damage the future growth of Australian industry, or to contribute to excessive executive salaries, in particular for short-term bonuses and incentives.
11. Federal, State and Local Governments must also take seriously their obligations, as employers, to ensure that the jobs and incomes of their workforces are protected, and that National Interest Expenditure Principles apply equally to public sector employees. Job losses in the community and public sector in the current environment would be counter-productive, adversely affect the delivery of vital services to Australians, detract from the other efforts to protect and revive the economy and reduce overall jobs growth by negating the positive effect of government spending on jobs in the private sector.

12. Congress seeks urgent and major reforms to ensure income and asset security for Australian workers and their families including:
 - a) Urgent action to secure 100 per cent of workers' entitlements.
 - b) Subsidies for companies in industries under threat forced to downsize production due to a collapse in demand to guarantee income support for 'down days'. This will enable companies to improve processes and workers to reskill ensuring that workers keep their jobs and that companies have competitive capacity to take advantage of economic recovery.
 - c) Major reform of social protection for workers who lose their job. The implementation of a comprehensive social insurance scheme (including examining the European flex-security model) that guarantees workers at least 80 per cent of their income, includes a training guarantee and work placement assistance.
 - d) Making support for banks conditional upon provisions to defer mortgage payments where a worker loses their job or loses hours of work and is unable to meet their mortgage payments.
13. While it is essential to protect as many jobs as possible now, Congress also calls for action to build Australians industries for the future. We urge governments to use public funding to assist in the structural adjustment required in many industries and in particular, to shift production to meet the challenges of a low carbon economy.
14. Congress calls for the urgent implementation of recently announced government initiatives including a Carbon Pollution Reduction Scheme (CPRS) as well as further investment to create up to one million new jobs in renewable energy, low-carbon technologies and other measures to fight climate change.

Business regulation necessary

15. Unions advocate and support measures to rebuild the economy that address the underlying causes of instability that led to the GFC and will campaign to ensure business practices are effectively regulated so that the crisis never occurs again.
16. Congress strongly affirms the importance of unions and governments playing a more active role in attaining and regulating a stable, diverse and sustainable economy driven not by speculation and risk-taking, but by stewardship and investment that achieves secure employment, fair wages and rights for working people and delivers rising living standards for the community.
17. Congress believes that government and unions must begin preparations for the rebuilding of an economy that serves, rather than determines, the long-term needs of the Australian community.
18. In accordance with union values and priorities, Congress endorses the following core principles as a framework for our economic future:
 - a) The economy, including the financial and trading systems, shall be organised and managed with the aim, not of accumulating vast wealth for a tiny minority, but of securing the jobs, incomes, public services and safeguarding the environment for the vast majority.

- b) The state has a vital role to play in actively regulating or replacing those markets that act as barriers to attaining a more equal, stable and sustainable society. Market forces alone, which promote inequality, instability and short-term risk taking, cannot deliver an economy that substantially meets the needs and interests of all working people.
 - c) Central to the development and implementation of economic policy should be routine consultation and collaboration with all those organisations, including unions, who represent the interests of working people and the broader community.
19. Congress urges the Government's attention to financial regulation and supports the review of executive salaries and calls for the adoption of a 'charter of responsible lending' as advocated by the Finance Sector Union to ensure that lending practices by banks and other financial institutions do not lead to an increased burden of debt for workers and their families and to protect the economy from the instability of high levels of personal debt.

International action

20. The ACTU Congress supports the measures advocated by the International Trade Union Confederation (ITUC) and global unions where they have called on the G20 leaders to take action across the globe to:
- a) Ensure co-ordinated stimulus and development plans that maximise job retention and protect the incomes of the most vulnerable including a global jobs pact with funding to secure decent work in vulnerable nations and increasing social safety nets and social security systems including unemployment benefits.
 - b) Intervene to restore confidence and lending in the financial system, including mechanisms for managing toxic debt.
 - c) Strongly regulate with new rules to control global finance and reform the global governance system to ensure transparency and accountability including measures such as counter-cyclical capital requirements; the prohibition of off-balance sheet transactions; and the replacement of private credit rating agencies with independent public bodies, which will help to secure a more stable and transparent financial system.
 - d) Abolish tax havens.
 - e) Lay the groundwork for a sustainable recovery that sees respect for workers' rights, an end to global poverty, fairer international trade, and action on climate change.
 - f) Tax international financial transactions as a means of deterring excessive speculative behaviour and to raise funds to support social security and the development objectives of the Millennium Development Goal's in poor nations.

ACTU
congress
2009

**RESOLUTIONS
DAY TWO
3 June 2009**

RESOLUTION

Age Pension Eligibility Age, Superannuation Preservation Age

While Congress congratulates the Commonwealth Government for increasing the base rate of the Single Age Pension, Congress expresses concern with the Government decision to increase the Age Pension eligibility age to 67 years of age.

Dignity in retirement is paramount for people who have worked all their lives.

Congress calls on the Government to acknowledge that there are three groups of employees approaching retirement:

1. Those who are unable to continue to work until retirement age.
2. Those who wish to transition to retirement by undertaking part time work based on access to a mix of income.
3. Those who wish to continue full time work until retirement.

The reality of the diversity of the workforce experience of Australian working men and women means that currently many workers are unable to continue working until retirement age and are accessing income support prior to receiving the Age Pension, while others are working longer and wish to mix sources of income from work, superannuation and/or pension support.

Congress opposes the Henry Review Retirement Incomes Report recommendation that the Superannuation Preservation Age be lifted to 67 years of age.

Congress declares that it would be counterproductive for the individual, society and the economy to align the Superannuation Preservation Age and the Age Pension Eligibility Age.

Congress calls on the Government to consult on transition to retirement with a view to ensuring flexible arrangements to accommodate the wishes and capabilities of the three groups of employees approaching retirement.

RESOLUTION

Productivity Places

Congress welcomes the creation of more than 700,000 additional training places in the Productivity Places Programme (PPP). However, to date less than 3% of the PPP funding has gone to TAFE. This is because the funding has been allocated competitively at a funding level so low that TAFE Institutes which provide award wages and conditions to their employees and maintain costly infrastructure in order to provide quality vocational education and training cannot afford to deliver the places.

This will impact significantly on the quality of vocational education offered through the PPP.

Congress calls on the Rudd government to provide sufficient and adequate funding to the PPP to allow TAFE institutes to access the programme.

Further Congress calls on the Rudd government to develop an effective, efficient and fair allocation mechanism for the PPP.

RESOLUTION

Harmonisation of OHS Laws

Occupational health and safety (OHS) has been at the forefront of union activity in Australia for more than a century and a half. Over that time, the union movement has worked collectively to address health and safety issues affecting workers ranging from the need for civilised working hours to the need for protection from exposure to asbestos. The current OHS laws that are in place to protect workers exist as a result of a series of effective campaigns, which have been conducted by unions and their members. This is reflected in many of the current OHS provisions across Australian jurisdictions, which ensure that workers; their elected health and safety representatives (HSRs); and their unions have rights in order to protect workers' health and safety.

All workers have the right to go to work and come home safely. Congress strongly believes that all Australian workers should have the same level of protection when it comes to their health and safety, regardless of the jurisdiction they work in. The transition to a harmonised OHS system must not leave any worker worse off and must deliver Australian workers the high standards that they deserve. It should not simply be used as an exercise to reduce "burdensome regulation and red tape"¹ for business.

Congress notes the issues detailed in the appendix to this motion and expresses outrage over the fact that the framework for the model OHS laws endorsed by the Workplace Relations Ministers Council (WRMC) on 18 May 2009 will fall well short of its own goal of ensuring that Australia has the world's best standards in OHS. Further, Congress believes this decision effectively breaks the commitment made by the Council of Australian Governments (COAG) that in developing harmonised OHS legislation there would be "no reduction or compromise in standards for legitimate safety concerns"².

Congress rejects those aspects of the framework endorsed by the WRMC that will diminish the rights of workers, HSRs and unions to protect the health and safety of workers when employers and regulators fail to do so.

Accordingly, unions will continue to actively campaign in order to ensure that Australian workers are protected by the best possible harmonised OHS laws.

Congress notes that the WRMC Communiqué from 18 May 2009 stated that "the development of the model OHS Act and its regulations will involve extensive stakeholder consultation, including the release of an exposure draft bill for public consultation. Matters raised during these consultation processes will help to shape the final products for WRMC's decision".

Accordingly, Congress calls upon the Federal, State and Territory governments to engage in a meaningful dialogue with the ACTU and its affiliates in order to draft model OHS laws that are consistent with the principles identified by the ACTU; and that will genuinely result in the highest level of protection for the health and safety of all Australian workers.

¹ COAG Communiqué, 10 February 2006.

² COAG Communiqué, 13 April 2007.

This includes, but is not limited to, provisions for:

- Genuine consultation with workers on OHS issues and rights for elected HSRs;
- The right for workers and their unions to initiate prosecutions and to have OHS disputes conciliated and arbitrated where the relevant authorities have failed to act;
- Risk management;
- Employers to bear the onus of proof in prosecutions;
- The right for union officials to enter workplaces and investigate suspected OHS breaches without notice; and
- A genuinely tripartite approach to OHS matters.

Congress endorses a thorough and sustained national campaign, to be conducted by the ACTU in conjunction with TLCs and affiliated unions, to ensure the model OHS laws contain the highest health and safety standards. Unions undertake to inform Australian workers about the threats posed to their health and safety as a result of the approach taken by the WRMC to developing model OHS laws.

This campaign will challenge these threats and assert the right of all workers to have the highest standards of OHS protections, which includes the provisions outlined above. The campaign will include political, media and industrial components directed at the Federal, State and Territory governments to ensure that all workers have the right to a healthy and safe workplace. Congress notes and endorses the actions to be taken by individual unions at workplaces across the country as part of this campaign.

Further, Congress regards this campaign as an urgent priority for the ACTU and as such it must be appropriately resourced.

Appendix: Harmonisation of OHS Laws Resolution

Introduction

1. The ACTU Executive has considered the matter of the harmonisation of occupational health and safety (OHS) laws through the Council of Australian Governments (COAG) and Workplace Relations Ministers Council (WRMC) processes on a number of occasions. It was resolved that the union movement actively campaign for a system that results in the highest possible protections for workers and does not compromise the hard won rights and entitlements that currently exist in a number of jurisdictions.
2. Despite making our position known relevant Ministers, on 18 May 2009 the WRMC adopted a framework for model OHS laws that creates the preconditions for a harmonised system where workers in various jurisdictions would be worse off.
3. The motion regarding the harmonisation of OHS laws is to:
 - Reaffirm our commitment to the priority OHS issues;
 - Call for the outstanding matters in these areas to be addressed;
 - Call for genuine and detailed negotiations over the content of the model OHS laws; and
 - Commit to a sustained national campaign to ensure that the harmonisation of OHS laws does not leave any worker worse off and results in the best outcome for Australian workers.

The Priority Issues

4. Following the release of the two reports from the national review into OHS laws, which contained recommendations for a model OHS law, the ACTU identified a number of issues that must be addressed to ensure that the harmonisation process results in the highest OHS standards and that no worker is worse off. The ACTU is calling on the Federal, State and Territory governments to enter into genuine and detailed negotiations to address these matters as a priority. The priority issues relate to:
 - The requirement for genuine consultation with workers on OHS issues and rights for elected health and safety representatives (HSRs), including access to training, support, powers and protection;
 - The right for injured workers and their unions to initiate prosecutions where the relevant authorities have failed to do so;
 - A risk management approach to OHS laws;
 - Employers to bear the onus of proof in prosecutions;
 - The right for union officials to enter workplaces; and
 - A genuinely tripartite approach to OHS matters at the Federal, State and Territory level, which must be enshrined in legislation.

Consultation and Health and Safety Representatives

5. Workers have a right to be consulted and represented in relation to all matters that affect their health and safety at work. Further, there is extensive international and Australian evidence on the value of workers' involvement in improving OHS outcomes, increasing awareness about OHS; and in identifying and resolving OHS issues.
6. HSRs are fundamental to representing the interests of workers and in achieving improvements to OHS in the workplace. Studies also show that the presence of HSRs in the workplace lifts the general standard of OHS management.

Outstanding Matters in Relation to Consultation and HSRs

7. Based on the WRMC decision, employers would only be required to consult "affected workers" who are "directly involved" as far as reasonably practicable.³ This limits consultation about health and safety matters to a defined group of workers. Health and safety issues affecting one group of workers may have a flow-on affect to other areas of a business. Therefore, it makes no sense to exclude the views of other HSRs, Health and Safety Committees (HSCs) or other workers. "As far as reasonably practicable" limits an employer's obligation to consult - an obligation that should be unconditional.
8. The chairperson of HSCs needs to be mandated as an employee to ensure these committees remain genuine vehicles for consulting with employees and ensuring that workplaces are healthy and safe.
9. The WRMC decision does not provide a time-limit to determine the make up of workgroups for the election of HSRs.⁴ In mobile or temporary workplaces where work is often short-term, but potentially high-risk, this could mean workgroups are never set up, or that the process becomes unreasonably lengthy. A maximum time-limit of fourteen days for decisions regarding a request for a workgroup to be established must be set.
10. HSRs must have the right to choose their training provider and attend the course of their choice, upon giving their employer fourteen days notice prior to the commencement of the course. Any requirement to seek the agreement of the employer, or to take into account the operations of the business,⁵ should be rejected as it could be used to restrict and delay a HSR exercising their right to do the training of their choice.
11. HSRs must have a right, expressed as a power, to seek the assistance of any person to assist them with any OHS matter. This is fundamental to ensuring that HSRs have access to support, advice and assistance from both inside and outside their workplace. The right must not be restricted to the resolution of OHS issues alone. Recommendation 107 does not adequately address this issue and the WRMC failed to rectify this problem.
12. An unreasonable restriction has been placed on the right of democratically elected HSRs to issue Provisional Improvement Notices (PINs) and direct the cessation of work until they have completed an approved training course.⁶ Apart from restricting a HSR from exercising their powers, this condition has the potential to be abused by employers who seek to indefinitely postpone the "agreed time" for training, which would prevent HSRs from exercising key powers.

³ Recommendation 96

⁴ Recommendation 103

⁵ Recommendations 110 and 111

⁶ Recommendation 110

13. A qualification has been placed on the right of HSRs to be protected from civil liability⁷ to when they acted in “good faith” in performing or omitting to perform their role, or exercising their rights or powers. The term “good faith” is a subjective judgment, which can be misused to intimidate HSRs. HSRs must have full protection from civil liability.
14. An entitlement to seek the disqualification of an elected HSR has been afforded to parties other than the workers who elected them.⁸ Only a majority of the workers who constitute the workgroup that elected the HSR should have that right.
15. The mandatory requirement to establish a Health and Safety Committee where there are 20 or more workers has been removed, which is unacceptable.⁹
16. Conciliation and arbitration of OHS disputes that can not be resolved by negotiation or with the involvement of an inspector/regulator must be a key feature of the dispute settlement process.¹⁰
17. A restrictive limitation of “reasonable grounds” has been placed on the right of HSRs to direct workers to cease work.¹¹ This right should be consistent with the definition of “reasonable concern” contained in the *Fair Work Act 2009*, a right that others at work are entitled to.

Right to Prosecute

17. Victims of industrial incidents and their representatives must be entitled to pursue justice, especially where a regulator fails to do so. It is entirely appropriate for an organisation representing victims of breaches of an Act to be able initiate prosecutions on behalf of those victims. In fact, in NSW there is a long standing precedent of some 60 years in this respect.
18. The number of union initiated prosecutions has been relatively low and limited to circumstances where the regulatory authority has declined to prosecute and the workers concerned felt that important questions of principle were involved. In some instances, union initiated prosecutions have been adopted by the regulator and of them have been successful. Further, many have resulted in improvements to OHS that have benefitted workers around the nation. For example, the introduction of devices to protect bank workers in the event of armed hold ups following a successful prosecution initiated by the Finance Sector Union. A recent report by the Honourable Justice Paul Stein QC in NSW found no evidence that unions had abused the right to initiate prosecutions.

Outstanding Matters in Relation to the Right to Prosecute

19. The right of victims and their representatives to initiate prosecutions has not been adopted by the WRMC,¹² which leaves a significant hole in the enforcement and compliance framework, reduces the rigor of the system and risks poorer OHS outcomes for workers.

⁷ Recommendation 112

⁸ Recommendation 113

⁹ Recommendation 114

¹⁰ Recommendation 120

¹¹ Recommendation 122

¹² Recommendation 223

Risk Management

20. Risk management is critical for implementing effective OHS management systems. Deficiencies in risk assessments have been the focus of recent attention in relation to a number of serious incidents; the most significant example being the inadequacy of risk assessment prior to the Beaconsfield mine collapse.

Outstanding Matters in Relation to Risk Management

21. The hierarchy of controls and risk assessment must be prescribed in the principle Act, not relegated to subordinate regulations,¹³ which is the position adopted by the WRMC.

Onus of Proof

22. It is of vital importance for the defendant to bear the onus of proof in relation to the defences available under OHS legislation. Any other approach will significantly compromise the prospects of the effective enforcement of the general duties imposed by OHS legislation and inhibit the achievement of its objectives.
23. In such cases, the defendant (whether employer, designer, supplier, manufacturer or person in control of work premises) will be in the best position to testify as to what has been done, what other available measures could have been taken; and about the expense, difficulty or inconvenience involved in adopting measures that would have reduced or eliminated risks to safety. Therefore, whatever the relationship is between the general duties and the defences in OHS legislation, it is critical that the legislation makes it clear that the defendant bears the onus of proof in relation to the question of reasonable practicability or the absence of control.

Outstanding Matters in Relation to Onus of Proof

24. The WRMC adopted the recommendation that the prosecution should bear the onus of proving beyond reasonable doubt all elements of an offence relating to non-compliance with a duty of care.¹⁴ This makes it significantly more difficult for prosecutors to prepare a prosecution and has the potential to greatly reduce the number of prosecutions that are pursued for breaches of the Act.
25. The WRMC has recommended that “gross negligence” be removed from the range of offences and that “reckless endangerment” be kept.¹⁵ This undermines the long standing claim of unions in relation to industrial manslaughter legislation. Gross negligence only considers the extent to which someone departed from what a “reasonable person” would do and encapsulates inaction, which is the primary cause of most workplace deaths. “Recklessness” generally relies on there having been action taken.

Right of Entry

26. The ILO highlights the crucial role of unions in securing safer, healthier work and “argues strongly for a strengthening of collective voice as the primary means of improving working conditions, and protecting workers’ health”.
27. Unions perform a critical role in OHS in terms of monitoring compliance, providing an avenue for workers to report problems anonymously, resolving problems with management; and in identifying serious breaches of OHS legislation that require intervention.

¹³ Recommendations 9 and 136

¹⁴ Recommendation 62

¹⁵ Recommendation 55

Outstanding Matters in relation to right of entry

28. The WRMC has recommended that union right of entry in relation to OHS matters be “consistent” with the *Fair Work Act 2009*.¹⁶ Clarification is required regarding the meaning of “consistent”.
29. The rights and powers of union officials to investigate suspected OHS breaches has been changed to “inquire into”, which will have a detrimental impact on their capacity to effectively deal with such breaches.¹⁷ Powers in this respect must be consistent with the provisions of the NSW OHS Act.

Tripartism

30. The importance of a genuinely tripartite approach to OHS can not be overstated. Tripartism has a long history in Australia, which is widely recognised as being a successful approach for improving OHS standards. This was a principle recommendation in the seminal UK Robens Report in 1972. It is also recognised by the International Labor Organisation (ILO) through Occupational Safety and Health Convention No. 155, which Australia has ratified. In fact, tripartism underpins the structure of the ILO. A strong and robust OHS framework must be built on a genuinely tripartite approach.

Outstanding Matters in Relation to Tripartism

31. The WRMC has not made any provisions for a reference to tripartism at Federal, State and Territory level to be included in the objects of the model OHS laws.¹⁸
32. The WRMC rejected the recommendation that a tripartite advisory panel should oversee the use of enforceable undertakings as an alternative to prosecutions.¹⁹ This will result in a lack of transparency and accountability in this area. Consequently, the victims of work-related incidents and their families can have no confidence that justice will be served in such cases.

¹⁶ Recommendations 204, 208, 214, 215, 219 and 221

¹⁷ Recommendations 211

¹⁸ Recommendation 80

¹⁹ Recommendation 152

ACTU
congress
2009

RESOLUTIONS
DAY THREE
4 June 2009

RESOLUTION

Western Australia Review of IR Legislation

Congress notes with concern the decision of the WA State Government to establish a review of the WA Industrial Relations Act 1979.

Congress expresses its concern that this review has been initiated without any consultation with the WA union movement. In particular there has been no consultation in relation to the terms of reference or the method of review.

Congress calls on the State Government to immediately rule out using this review to insert Workchoices style provisions into state legislation. In particular the State Government should rule out changes that would dilute or reduce:

- Workers' access to unfair dismissal remedies;
- The safety net that underpins bargaining;
- The provisions relating to Employer/employee agreements;
- Workers' rights to union advice in workplace and union right of entry; and
- The powers of the Commission [including the public service arbitrator] to deal with disputes.

Congress also calls on the Premier, Colin Barnett, to honour the public commitment he made before the election not to reintroduce individual workplace agreements and notes with concern the refusal of the Liberal party to outline any IR policy prior to the state election.

Congress notes also that the Barnett Liberal/National Government has no mandate to change WA's IR laws particularly where such changes would be contrary to the will of the Australian people who outrightly rejected the oppressive, anti-worker Workchoices legislation at the last federal election.

Congress endorses the development of a coordinated campaign by unions to ensure that Western Australian workers' rights are protected.

RESOLUTION

Radioactive Dump in NT

Pursuant to standing ACTU policy Congress:

1. Demands that the federal government immediately repeal the Commonwealth Radioactive Waste Management Act (CRWMA) in accordance with clear pre-election commitments.
2. Demands that all four NT sites currently under assessment for the federal radioactive dump are repealed and the CRWMA legislation is overturned.
3. Calls on the federal government to initiate an independent and comprehensive public inquiry into radioactive waste management in Australia.
4. Stands in solidarity with targeted Traditional Owners and communities and in support of Trade Unions refusing to cooperate with implementation of this current policy.

RESOLUTION

Swine Flu

Congress notes the rapidly increasing number of persons in Australia who have been infected by swine flu over the last three weeks. Further, we note the actions being taken by the federal and state governments to put in place mechanisms and procedures to prevent the rapid spread of the disease. Notwithstanding these measures, it is expected in the coming months that many thousands of workers and their families will be affected one way or another by the disease until a reliable vaccine can be produced and widely distributed.

Accordingly, Congress calls upon the federal and state governments to bring together peak unions and employer groups to establish a set of guidelines and procedures which will:

- ensure workers and their families are not financially disadvantaged by the outbreak;
- provide employers with useful information and procedures to deal with any suspected cases of swine flu in the workplace;
- ensure persons who are in isolation as a consequence of swine flu are not discriminated against or disadvantaged in their employment; and,
- educate the community about the disease to stop misinformation, panic and help in the overall strategy to slow down the spread of the disease during the winter months.

INTERNATIONAL RESOLUTIONS

Burma

The ACTU Congress re-states its commitment to supporting the restoration of democracy and human rights in Burma. We acknowledge the courage of trade union activists whose organisations are banned and activities criminalised, and that of the leading role of the Federated Trade Unions of Burma (FTUB).

The ACTU Congress supports the international union campaign of divestment and encourages Australian superannuation funds to review all investments relating to Burma and support workers' capital strategies including shareholder activism.

The ACTU Congress notes that the military junta, the State Peace and Development Council (SPDC) has announced national elections for 2010. Over 2100 political prisoners remain in detention, including those who have stood up for workers' rights. The junta has denied key political leaders, including Daw Aung San Suu Kyi the right to participate in the elections, as candidates or even to cast a ballot. The Constitution will entrench military rule and continue to deny democratic rights, dignity and security to the people of Burma.

The ACTU calls on the Australian Government to press for the immediate release of all political prisoners, to support the review of the Constitution as called for by the democracy movement, oppose the election that institutionalises a constitution that perpetuates military domination and provides impunity for the military's crimes against humanity.

The ACTU demands that the SPDC respect fundamental human rights including ILO core labour standards; eliminate forced labour, child labour and discrimination and respect the rights to organise and collectively bargain.

Colombia

ACTU Congress acknowledges the ongoing and systematic repression of workers in Colombia, including the harassment, detention and assassination of trade union activists and the lack of freedom of association and other fundamental workers' rights.

The ACTU calls on the Australian Government to raise directly with the Government of Colombia the violation of workers' rights and work with others in the international community to press for an end to these abuses.

Iran

ACTU Congress acknowledges the ongoing and systematic repression of workers in Iran, including the harassment and detention of trade union activists and the lack of freedom of association and other fundamental workers' rights.

Congress notes the ongoing international campaign by trade unions and supports the International Day of Action, scheduled for June 26, 2009.

The ACTU calls on the Australian Government to raise directly with the Government of Iran the violation of workers' rights and work with others in the international community to press for an end to these abuses.

The Pacific

The ACTU Congress acknowledges the impact of the global financial crisis and of climate change intensifying the ongoing challenges facing workers and communities in the Pacific Island Countries (PICs) in the context of poverty, lack of employment opportunities, decent work and of infrastructure both in the countries and across the region.

The ACTU acknowledges the key policies of the Australian Government and the Pacific Island Forum leaders for economic development through integrating the Pacific Island Countries into the global economy.

The ACTU recommends a thorough economic and social impact assessment on workers, women and specific sectoral industries is required to plan a strategy for growth, prior to beginning negotiations for the PACER Plus trade agreement.

The ACTU calls on the Australian Government to fully consider decent work which includes employment generation, workers' rights and the promotion of social protection in the integration of aid, development and trade policies for the Pacific. Australian Government commitments to capacity building should include the PIC governments, civil society, and trade unions.

The ACTU acknowledges the political crisis in Fiji, Tonga and the Solomon Islands. The realisation of democratic rights requires freedom of speech, a free and independent media and judiciary and respect for workers' rights. The ACTU calls upon the Australian Government to support and assist the restoration of democracy in Fiji, and the establishment of democracy in Tonga, to achieve a sustainable peace and development in the region.

The ACTU recognises the crucial role of the South Pacific and Oceania Council of Trade Unions (SPOCTU) as the voice of working people in the Pacific.

Sri Lanka

ACTU Congress acknowledges the terrible impact of human rights abuses, conflict, dispossession and violence in Sri Lanka over the past decades and in particular abhors the military operations and its impact on civilians by the Government of Sri Lanka.

The ACTU calls on the Australian Government to use its influence:

- to object to the forced movement of internally displaced people and to ensure people can return as soon as possible to their homes, land and communities,
- to facilitate access for the international provision and independent monitoring of humanitarian assistance to people in the affected communities,
- to support the restoration of democratic, media and workers' rights throughout Sri Lanka, and
- to help bring about a peaceful and lasting solution that fully respects the economic, political, social, linguistic and cultural rights of all the people of Sri Lanka.

Western Sahara

The ACTU Congress notes that:

- (i) Morocco has occupied Western Sahara since 1975;
- (ii) The United Nation's efforts to accomplish the decolonisation process in Western Sahara has not yet been successful;
- (iii) Over 165,000 Saharawis have been living in refugee camps in the South West of Algeria for the past 33 years, waiting to return to their homeland;

The ACTU Congress urges the Australian Government to support the right of the Saharawi people to self-determination, in accordance with UN resolution and relevant UN decolonisation process and the extension the UN mandate in Western Sahara to monitor human rights.

Zimbabwe

ACTU Congress re-states its warm solidarity with sisters and brothers in the Zimbabwe Congress of Trade Unions (ZCTU), who have been fighting intense repression, impoverishment and the impact of HIV for more than a decade.

Congress notes that the negotiated coalition government in Zimbabwe has not yet been able to eliminate the dominant role of the Mugabe elite. Democratic rights, jobs, access to food, schooling, health and security are still denied to the working women and men of Zimbabwe.

The ACTU calls on the Australian Government to provide reconstruction assistance through leading Zimbabwean civil society organisations, such as the ZCTU, who are fighting for a democratic constitution and an elected government that restores an economy that serves the workers and rural people of Zimbabwe.