



10 April 2017

Committee Secretary

Joint Standing Committee on Foreign Affairs, Defence and Trade

By Electronic Lodgment

To whom it concerns,

**Re: Tax Incentives and Anti-Slavery Initiatives**

We provide herein our submissions on the Terms of Reference for the Inquiry into establishing a Modern Slavery Act in Australia.

*Who Are We?*

By way of context, CLEAR International Australia Ltd (CLEAR) is an organisation established as an initiative of state-based Christian societies in Australia. Our aim, in partnership with the Lawyers Christian Fellowship in the United Kingdom and indigenous lawyers in Rwanda, Uganda and Kenya, is to educate poor and marginalised communities as to their basic human rights and to offer legal aid and advice to those suffering injustice. We highlight this injustice through public interest litigation and advocacy, and our unique model emphasises partnership with local lawyers who run and manage each local CLEAR project, specialising in criminal justice, public and family law. Our concern to progress justice and the rule of law internationally also extends to Australia, our home jurisdiction.



### *Addressing the Terms of Reference*

We are principally concerned in this submission with items 2 and 3 of the Terms of Reference, being:

- the prevalence of modern slavery in the domestic and global supply chains of companies, businesses and organisations operating in Australia; and
- identifying international best practice employed by governments, companies, businesses and organisations to prevent modern slavery in domestic and global supply chains, with a view to strengthening Australian legislation.

### *The Context*

As noted by the recent Treasury *Tax Discussion Paper Re:Think*, 'the world economy has been dramatically transformed in recent decades. Financial deregulation, the growth of multinational companies using global supply chains and the increasing digitisation of global commerce have been overwhelmingly positive developments for Australia.'<sup>1</sup> This globalisation has seen many Australian companies enter vast international supply chains. However they often have little or no ability to ensure compliance with ethical standards. News in recent years that Fortescue Metals Group discovered slavery in its supply chains on the conduct of an audit is a good example of the problem. Andrew Forrest's subsequent actions to remove those implicated suppliers has highlighted the potential pervasiveness of slavery and slave-like conditions. This provides an illustration of how the Australian corporate sector, acting as good international corporate citizens, may play a role in reducing slavery internationally.

Fortescue's actions are not however necessarily representative of the Australian corporate sector. Recent statistics and reports however show a stark inadequacy in the reporting of Australian companies in relation to labour standards and supply chains.<sup>2</sup> According to Catalyst Australia:

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<sup>1</sup> Commonwealth of Australia, (2015), *Tax Discussion Paper. Re:Think*, The Australian Government, the Treasury, 1.

<sup>2</sup> *CSR Dashboard: LABOUR STANDARDS AND SUPPLY CHAINS SNAPSHOT 2011*, Catalyst Australia Inc.



The global cohort (the top ten sustainable companies in the world in 2013, defined by the Global100) provided information for 85% of the labour standards and supply chain indicators, compared with 52.9% for the Australian group. More importantly, while doing so they outperformed Australian companies in almost all topic areas.<sup>3</sup>

There is thus potential for an increase in corporate accountability in relation to the monitoring of ethical conduct in international supply chains supplying to Australia. The focus of our submission is the means by which Government may also provide incentives towards such good behaviour.

### *Coupling Audit with Tax Incentive*

We write to draw your attention to the role that tax incentives may play in relation to the abolition of slavery in global supply chains and to recommend that the Joint Standing Committee (the Committee) explore further taxation regimes and incentives targeted towards the goal of cleansing Australia's supply chains from slavery.

We wish to draw the Committee's consideration to the potential of local tax frameworks to provide a deterrence for slavery occurring in other jurisdictions. The ability to change behaviour through tax regimes is well recognised (it is the precursor to much of our commercial tax frameworks, and for example is the focus of the current Government's housing package, to the extent it provides tax incentives to seniors to downsize their principal place of residence). There are many different expressions that a tax deterrence model may take, encompassing both voluntary and mandatory participation options, and randomly audited models. As noted in *Trading Lives: Modern Day Human Trafficking*,<sup>4</sup> California has adopted an audit model that requires companies exceeding \$100,000,000 in annual worldwide gross receipts to disclose their efforts to eradicate slavery and human trafficking in their supply chain.<sup>5</sup> The disclosure extends to matters such as supplier audits, direct supplier certification,

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<sup>3</sup> Ibid.

<sup>4</sup> See page 81.

<sup>5</sup> California Civil Code s 1714.43.



verification of product supply chains, internal accountability standards and training for supply chain management.

A fiscal incentive offered by the Commonwealth Government as a complement to such an audit model would be a powerful tool that is financially attractive to shareholders and which has 'good-news story' public relations potential. There are any number of different incentive options that may be explored. As an example, incentives may include tax concessions, tax reductions, offsets, refundable offsets, payments, tax deductions (for associated expenses in conducting audits) or a reduction in state royalties. Whilst there are protections that would need to be built in to ensure the integrity of the model, CLEAR believes that the suitability of such a model for adoption into Australian law merits further investigation, with a view again to provide an example of the world's best practice in endeavouring to abolish slavery. One option is to commission Treasury to conduct modelling on the varying tax options available to provide incentive to the desired conduct when coupled with an audit model. Such modelling could also gauge the levels of incentive required (and the concomitant levels of budgetary commitment) against projected changes in behaviour.

We raise this option within the context of the Terms of Reference, where the Government flags its intention to consider 'identifying international best practice... to prevent modern slavery in domestic and global supply chains'. If an auditing regime is to be contemplated as a means to achieve such international best practice, the regime would provide the necessary artifice by which to accurately assess eligibility for tax incentives. Suitably framed, a large component of the bureaucratic and administrative costs associated with the tax regime will have been already incurred through the establishment of the auditing regime. The additional costs of coupling the audit model with a tax incentive mechanism may be comparatively small. The tax incentive, suitably calibrated, would also provide means to offset the cost incurred by private industry in entering the scheme (whether voluntary or otherwise).



*Disclosure Code*

In this context, we also draw your attention to industry codes of disclosure to consumers, both involuntary and voluntary. Disclosure may take the form of a requirement that any organisations with slavery in their supply chains be required to include a visible mark or tag on their product or service (an example of a similar regime requiring certain compulsory disclosures is the Queensland smoking regulations).<sup>6</sup> Disclosure may instead be voluntary, with organisations that are certified as slavery free indicating so on their products to allow consumers to make better informed decisions as to their purchases.

Whilst the options raised herein are necessarily brief, we hope that they will provide a framework upon which further options may be developed in consultation. We would be pleased to further discuss these proposals with the Committee on invitation. Thank you for your consideration of our views.

Yours Sincerely,

Mark Fowler

Chairperson

**CLEAR International Australia**

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<sup>6</sup> *Tobacco and Other Smoking Products Act 1998* (Qld).