

Committee Secretary  
Joint Standing Committee on Treaties  
PO Box 6021  
Parliament House  
Canberra ACT 2600

3 March 2022

Dear Committee Secretary,

**Submission on proposed ratification of International Labour Organization Protocol of 2014 to the Forced Labour Convention 1930 (No. 29)**

The Human Rights Law Centre is a national not-for-profit legal centre which promotes and protects human rights in Australia and in Australian business and government operations overseas. We have a strong focus on legal and policy reforms to prevent and address forced labour and other human rights abuses in the operations and supply chains of Australian companies.

We welcome the opportunity to provide input on the ratification of the Protocol to the International Labour Organization Forced Labour Convention 1930 (No. 29) (the **Protocol**). We have long advocated for Australia to ratify the Protocol, and strongly support ratification as a demonstration of Australia's continuing commitment to ending forced labour and modern slavery in our region.

Globally, 24.9 million people worldwide are estimated to be working in conditions of forced labour, of whom 4 million are thought to be in situations of state-sanctioned forced labour.<sup>1</sup> Sectors identified as having higher risks of forced labour include domestic work, agriculture, forestry, fishing, mining, construction, transportation, manufacturing, garment and textile work, hospitality and catering and sex work and prostitution.<sup>2</sup> Goods commonly associated with forced labour include bricks, cotton, garments, gold, sugarcane, cattle and fish.<sup>3</sup>

No Australian business should participate in or profit from forced labour, wherever it occurs. Yet nearly US\$12 billion (AUD \$15.5 billion) worth of goods at risk of being made using forced labour each year end up on Australian shelves.<sup>4</sup> In recent years, Australian healthcare companies have been linked to glove factories in Malaysia that are associated with conditions of forced labour.<sup>5</sup> Reports of

---

<sup>1</sup> International Labour Organization and Walk Free Foundation, 'Global Estimates of Modern Slavery: Forced Labour and Forced Marriage' (Geneva, 2017).

<[https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_575479.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf)>

<sup>2</sup> International Labour Organization, 'Forced labour, modern slavery and human trafficking'

<<https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>>.

<sup>3</sup> Walk Free Foundation, *Global Slavery Index 2018* (2018) 103

<<https://www.globalslaveryindex.org/resources/downloads/>>.

<sup>4</sup> Walk Free Foundation, *Global Slavery Index 2018* (2018) 121

<<https://www.globalslaveryindex.org/resources/downloads/>>.

<sup>5</sup> Chris Barrett, 'Gloves off: Ansell under fire over 'modern slavery' at Malaysian Supplier', Sydney Morning Herald, 21

December 2021 <https://www.smh.com.au/world/asia/gloves-off-ansell-under-fire-over-modern-slavery-at-malaysian-supplier-20211221-p59jqg.html>; Nassim Kahdem, 'Australia: Ansell says investigation into alleged Top Glove labour abuses is

widespread and systemic use of Uyghur forced labour has been linked to numerous global brands sold in Australia, including the likes of Apple, BMW and Nike.<sup>6</sup> Australian seafood retailers and supermarkets have been linked to modern slavery practices in the Vietnamese and Thai fishing industries.<sup>7</sup>

However, it is not only Australian overseas supply chains that are impacted by the prevalence of forced labour. Within Australia itself, it is estimated that there are 15,000 people in conditions of modern slavery,<sup>8</sup> with known systemic issues of underpayment and exploitation of vulnerable workers in sectors such as horticulture,<sup>9</sup> meat processing<sup>10</sup> and cleaning.<sup>11</sup>

The Human Rights Law Centre has recently published a report: *Paper Promises? Evaluating the early impact of Australia's Modern Slavery Act*. The report analysed the modern slavery statements of 102 Australian and international companies sourcing from four sectors with known forced labour risks: garments from China, seafood from Thailand, rubber gloves from Malaysia and horticultural produce from Australia. A copy of the report is **attached**.

Key findings of our research were:

- 77% of companies reviewed had failed to comply with the mandatory reporting requirements in the legislation;
- 52% had failed to identify obvious modern slavery risks in their operations or supply chains. Only one in four garment companies sourcing from China, for instance, made any mention of the risk of Uyghur forced labour in their supply chains;
- Just 27% of companies appear to be taking some form of effective action to address modern slavery risks.

On the basis of these findings, it is clear that far more needs to be done to tackle forced labour linked to Australian supply chains.

Since it was adopted in 2014, the Protocol has aimed to give practical effect to the Forced Labour Convention by requiring states to give practical effect to the Convention's obligation to suppress forced labour. It requires states to take effective measures to prevent and combat forced labour, such as strengthening labour inspection and other services responsible for the implementation of these laws, protecting victims of forced labour from punishment for unlawful activities they were compelled to commit and ensuring workers have access to appropriate remedies like compensation, addressing factors that heighten the risks of forced labour and cooperating with other states to take

---

underway', Business and Human Rights Resource Centre, 4 January 2019 <<https://www.business-humanrights.org/en/latest-news/australia-ansell-says-investigation-into-alleged-top-glove-labour-abuses-is-underway/>>.

<sup>6</sup> Vicky Xiuzhong Xu with Danielle Cave, Dr James Leibold, Kelsey Munro and Nathan Ruser, 'Uyghurs for sale: "Re-education", forced labour and surveillance beyond Xinjiang', *Australian Strategic Policy Institute* (Policy Brief, 1 March 2020) Report No. 26/2020 03 <<https://www.aspi.org.au/report/uyghurs-sale>>.

<sup>7</sup> Business & Human Rights Resource Centre, 'Out of Sight: Modern Slavery in Pacific Supply Chains of Canned Tuna' <[https://media.business-humanrights.org/media/documents/files/Out of Sight Modern Slavery in Pacific Supply Chains of Canned Tuna 4.pdf](https://media.business-humanrights.org/media/documents/files/Out_of_Sight_Modern_Slavery_in_Pacific_Supply_Chains_of_Canned_Tuna_4.pdf)>; Tyron Butson, 'Australia's imported seafood linked to slave labour' *SBS News* (online, 26 July 2018) <<https://www.sbs.com.au/news/australia-s-imported-seafood-linked-to-slave-labour>>.

<sup>8</sup> Walk Free Foundation, *Global Slavery Index 2018* (2018) <<https://www.globalslaveryindex.org/2018/findings/country-studies/australia/>>.

<sup>9</sup> Unions NSW, 'Wage Theft, The Shadow Market – Part two: The Horticulture Industry' (2021) <<https://www.unionsnsw.org.au/research/wage-theft-the-shadow-market-the-horticulture-industry-exploitation-via-piecerates/>>.

<sup>10</sup> Shelley Marshall, 'Where's the meat? Employers and governments should have seen this supply crisis coming, and done something' *The Conversation*, 24 January 2022 <<https://theconversation.com/wheres-the-meat-employers-and-governments-should-have-seen-this-supply-crisis-coming-and-done-something-175144>>; Australian Council of Trade Unions, 'Wage Theft: The exploitation of workers is widespread and has become a business model', Submission 38 to APH (6 March 2020) <<https://www.aph.gov.au/DocumentStore.ashx?id=a31722b7-f4ab-40fo-a2fa-597275dca3be&subId=679341>>; AMIEU Newcastle & Northern, 'Workplace exploitation continues in Poultry industry, even as compliance improves' (2016) <<https://newcastle.amieu.asn.au/workplace-exploitation-baiada-poultry/>>.

<sup>11</sup> Australian Council of Trade Unions, 'Exploitation in the cleaning industry', Submission 11 to APH <<https://www.aph.gov.au/DocumentStore.ashx?id=01f35736-84a6-46aa-afee-9f3569245a6d&subId=613447>>; Amelia Gentleman, 'Office cleaners face underpayment, mistreatment and abuse, report finds', *The Guardian* (13 August 2014) <<https://www.theguardian.com/money/2014/aug/13/cleaners-underpayment-mistreatment-abuse-report>>.

preventative measures. To date, 57 states have ratified the Protocol, including Canada and the United Kingdom.<sup>12</sup>

Ratification of the Protocol would send an important message regarding Australia's commitment to taking stronger action on forced labour. In order to give practical effect to ratification, we recommend that Australia implement the following measures:

**1. Strengthen the *Modern Slavery Act 2018 (Cth)*, including through the introduction of penalties for non-compliance**

Many companies are currently submitting reports that fail to address even the basic 'mandatory' reporting criteria. For reporting to be a useful tool in helping to combat modern slavery, the Government must, at a minimum, ensure that companies submit accurate reports which address all the mandatory reporting criteria. Companies that fail to report or submit reports which fail to address the mandatory reporting criteria under the Act or provide false or misleading information, should face consequences such as financial penalties.

**2. Require companies to undertake human rights due diligence to address forced labour**

Reporting in and of itself, even if properly enforced, is unlikely to result in the transformative changes to corporate practices needed to eliminate forced labour and other forms of modern slavery. We recommend that the Modern Slavery Act be amended to include a specific duty to prevent modern slavery, which requires companies to undertake mandatory human rights due diligence to identify and assess salient risks in their operations and supply chains that give rise to modern slavery and to take steps to mitigate and address them.

**3. Ensure exploited workers can access justice**

The Modern Slavery Act should include a specific cause of action so that workers subjected to modern slavery can seek redress in the event that companies have failed to undertake adequate due diligence to prevent modern slavery in their operations and supply chains. Workers subjected to severe forms of labour exploitation should not have to rely on voluntary remediation processes by businesses to obtain remedy.

**4. Provide additional guidance and support for companies operating in high-risk sectors and jurisdictions**

The Government should develop further guidance for companies operating or sourcing goods from sectors or jurisdictions with high risks of forced labour. Issuing sector-specific or country specific guidance, as has been done in the UK, Canada and the US, will assist businesses to more accurately pinpoint and respond to forced labour risks. Further resourcing should be provided to the Modern Slavery Unit within the Australian Border Force to work with companies operating in these sectors on steps to address these risks.

**5. Ban imported goods made with forced labour**

The Government should use trade mechanisms to encourage improvements in labour conditions in international supply chains linked to Australian companies. This should include a ban on imported goods produced by modern slavery, modelled on the US *Tariff Act 1930*. An import ban, if backed by targeted interventions, has the potential to lead to improved conditions for exploited workers overseas and would encourage business to undertake effective due diligence over their supply chain, and to focus on salient risks.

---

<sup>12</sup>International Labour Organisation NORMLEX, Ratifications of Po29 – Protocol of 2014 to the Forced Labour Convention, 1930 [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300\\_INSTRUMENT\\_ID:3174672](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:3174672); Canada ratified the Protocol on 17 June 2019; United Kingdom ratified the Protocol on 22 January 2016.

**6. Address key factors that contribute towards labour exploitation in Australia**

The Government should also address provisions in Australia's visa framework and employment laws that contribute to systemic labour exploitation within Australia, particularly of migrant workers on temporary visas.

Reforms should include:

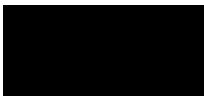
- reviewing Australia's visa system to reduce 'tied' visa conditions that often create conditions of vulnerability to exploitation, and increasing the ratio of permanent to temporary visas;
- establishing a uniform national labour hire licensing scheme;
- abolishing piece rates and other payment practices that undercut the minimum wage;
- removing barriers to trade unions entering workplaces to monitor compliance with workplace laws and providing additional resourcing for labour inspections.

**7. Use public procurement processes to reward companies that address modern slavery and human rights risks**

The Government should ensure that it uses its commercial power to encourage companies to take human rights and modern slavery seriously. Companies that can demonstrate meaningful measures to address human rights and modern slavery risks should be prioritised during tender processes, while non-compliant companies should be prohibited from bidding on public contracts.

We are available to provide further evidence to the Committee. Please feel free to contact us if we can assist in any way.

Regards,



Freya Dinshaw  
Senior Lawyer  
**Human Rights Law Centre**

