

JOINT STANDING COMMITTEE ON TREATIES

International Labour Organization Protocol of 2014 to Forced Labour Convention 1930
(No. 29)

Australian Government Responses to Questions on Notice

Responses provided by:

Attorney-General's Department

Department of Foreign Affairs and Trade

Department of Agriculture, Water and the Environment

Australian Border Force

The Hon. Josh Wilson asked the following question on 11 March 2022:

Mr JOSH WILSON: I have a couple of questions about the way we deal with supply chains. On notice, I think it would be useful if DFAT could provide to the committee, in table form, a summary of the development assistance programs' funding allocations that either purely or in part go to how we address this issue in our region. I'd be interested to see that.

The response to the honourable member's question is as follows:

The following is an estimate of ODA expenditure on programs and activities that, in whole or in part, address modern slavery, including forced labour.

	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21	TOTAL
ODA Funding						
Australia-Asia Program to Combat Trafficking in Persons (AAPTIP) initiative (\$50m, 2013-2018)	10,641,238	11,264,771	5,346,180			27,252,189
ASEAN-Australia Counter Trafficking Program (replaced AAPTIP in 2019; \$80 million over 10 years, 2018-2028)	56,359	116,698	2,082,677	4,658,115	7,805,720	14,719,569
ASEAN Convention Against Trafficking in Persons Program – Implementation Project (\$3.2m, 2018-2022)		1,100,000	2,087,036			3,187,036
Tripartite Action to Enhance the Contribution of Labour Migration to Growth and Development (TRIANGLE) in ASEAN (\$24 million over 12 years) - Australian commitment of funding implemented by the International Labour Organisation (ILO) and co-funded by Canada	15,160	2,003,771	3,004,053	5,104,917	2,500,000	12,627,901
ILO Better Work Program Stage III - (A\$10.6m, 2016-2022) aims to improve labour standards and reduce gender discrimination in garment factories in developing countries (our funding is provided to factories in Bangladesh, Cambodia, Indonesia and Vietnam)	521,240	1,019,108	1,663,602	2,564,279	3,367,572	9,135,801
IOM research - supporting the Elimination of Modern Slavery Related to the Pacific Fisheries			100,000			100,000
Indo-Pacific Justice and Security Program (2017-2021)		632,497	773,465	733,613	110,627	2,250,202
Pakistan – Oxfam – Ending violence against women program, that included communications products on negative consequences of child marriage				301,000		301,000
Pakistan – Trocaire – Ending violence against women program, that included a study on the drivers of child marriage in north-western Pakistan	2,383,750	1,450,000	2,600,000			6,433,750
Pakistan – Children Advocacy network – Strengthening Capacities of Key Stakeholders on Child Rights and Child Protection issues – included advocacy on need for legislation to end child marriage, capacity building for women parliamentarians to promote child protection		34,124	34,360	52,292		120,776
Kenya – Ozone Group – Ending early child and forced marriage in Laikipia County			46,162			46,162

through community dialogues, sensitization forums and campaigns						
Nairobi – Post contribution to UNICEF Ending Child Marriage Campaign	55,869					55,869
UN Voluntary Fund on Contemporary Forms of Slavery	250,000	200,000	150,000	150,000	150,000	900,000
ILO Core Contribution	6,732,936	7,093,025	7,000,474	7,348,555	7,966,451	36,141,441
Bangladesh – COVID-19 Response for Vulnerable Children and Youth				120,000		120,000
Pakistan – Youth Change Advocates – Strengthening Provincial Women Parliamentary Caucus – Facilitated dialogue on need for legislation raising legal age of marriage for girls to 18				33,037		33,037
Regional Support Office of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime	1,571,067	2,352,075	2,173,562	3,218,927		9,315,631
Global Compact Network Australia – includes funding for GCNA’s work hosting a modern slavery community of practice with Australian business to respond to modern slavery risks and reporting under the Modern Slavery Act – GCNA also covers other business and human rights related issues	500,000		250,000	250,000	250,000	1,250,000
Global Reporting Initiative – includes funding to develop a Modern Slavery Reporting Toolkit in 2019 to help companies mainstream reporting on modern slavery and human trafficking in supply chains	372,000	572,000		365,745	365,745	1,675,490
Nepal – Direct Aid Program – Empowering women and girls through awareness and income generation Trainings to avert trafficking and other forms of violence; Preventing Human Trafficking in Kerung through border surveillance (at Rasuwagadhi check point) of Rasuwa district, Nepal.	40,000			20,000		60,000
TOTAL	23,139,619	27,838,069	27,311,571	24,920,480	22,516,115	125,725,854

The Hon. Josh Wilson asked the following question on 11 March 2022:

Mr JOSH WILSON: I have one more area. When we think about areas of economic activity in Australia that involves supply chains and imports where there are inherent risks of modern slavery one of the areas is overseas fisheries and imported seafood. I think 65 or 70 per cent of all the seafood that we consume in Australia is imported. More than half of that comes from fisheries that have a number of long identified, chronic issues. Some of them are environmental, but some of them are certainly in the modern slavery and labour rights and conditions space.

One of the things that other countries, including both the European Union and the United States, have done is to introduce a framework seeking to combat IUU—illegal, unreported and unregulated fishing activities. Australia doesn't have such a framework. That's been raised over the last couple of years by a number of civil society organisations in Australia, as to why we wouldn't go down that path. I think it's been noted that, when you look at catch-to-plate traceability, Australia requires the collection of only two of the 22 different internationally recognised pieces of information that some other jurisdictions require in seeking to combat some of the very poor environmental and human rights activities that go on in unregulated fisheries. I'd be interested in a response on our approach to that particular part of the supply chain problem and whether or not those kinds of IUU laws, or an IUU framework, which already exist, as I say, in the EU and the US, are under consideration, given that a significant proportion of seafood that Australians consume is likely to be coming from places that involve degradation of ocean biodiversity and, particularly, chronic, rife modern slavery practices.

Ms Pahlow: In terms of obligations under the protocol, I understand you're getting at the obligation of the protocol to support due diligence by both private and public sectors. Australia meets this obligation through its Modern Slavery Act, and we'd have to take on notice your question about efforts in that particular sector.

Mr JOSH WILSON: Okay. I'd be really interested to know if there's been any consideration given to that. Those frameworks elsewhere have been established for some time. There's no doubt that in the evidence we're given—if you look at the material that Walk Free provides—you can easily identify certain categories of economic activity in which Australia participates significantly that involve modern slavery practices, and, for lots of reasons, fisheries and maritime activities are right at the top of that list. I understand it's a bit of a niche question, so I'm not expecting you to be full bottle on it, but I would appreciate anything that you could provide on that.

The response to the honourable member's question is as follows:

Australia has a world leading fisheries management and food safety system allows consumers to enjoy world class seafood from sustainable and responsible practices. The government recognises illegal fishing and forced labour are issues of international concern and it focusses efforts in international fora to combat these practices. Australia is actively improving domestic and international fisheries management measures to strengthen protections for the international trade of seafood products. The department applies a range of regulations to imported seafood to protect Australia from the incursion of exotic aquatic diseases and to ensure food is safe and complies with local standards. These include checks of overseas

suppliers and governments, as well as routine inspection and testing of seafood arriving at the Australian border.

In addition, Australia's *Modern Slavery Act 2018* (Cth) sets a clear standard for business action to address modern slavery in their global operations and supply chains across multiple sectors. Under the Act, certain businesses and other entities must submit annual modern slavery statements (statements) that describe their efforts to identify and address modern slavery risks in their global operations and supply chains. Statements are submitted to the Australian Border Force for publication on the Government's Online Register for Modern Slavery Statements (Online Register). As at 16 March 2022, 384 statements have been published for entities that have identified as operating in the 'food and beverages, agriculture and fishing' sector.

Australia also works through regional and multilateral fora (for example Regional Fisheries Management Organisations, the Food and Agriculture Organization of the United Nations and the World Trade Organization) to improve international fisheries management, including combating international illegal, unreported and unregulated fishing.

The Hon. Dave Sharma asked the following question on 11 March 2022:

CHAIR: I have just a few questions. My apologies if some of these were covered in the earlier questions. I just had to step off the call for a short period. I want to understand a little better, if I can, the specific gaps that this particular protocol addresses. I note that there is the Forced Labour Convention of 1930 and the Abolition of Forced Labour Convention of 1957, which obviously address similar issues. What does this protocol (1) require members to do and (2) seek to outlaw or prevent that isn't currently outlawed by the existing 1930 and 1957 conventions?

Ms Rankin: The key purpose of the protocol is to take a more comprehensive approach to forced labour by focusing on prevention, protection and remedies. These are issues which were not addressed by the Forced Labour Convention in 1930. The protocol also affirms it applies to human trafficking that results in forced labour. The preamble to the protocol explains that it seeks to address gaps in the implementation of the Forced Labour Convention by reaffirming 'measures of prevention, protection, and remedies' which 'are necessary to achieve the effective and sustained suppression of forced or compulsory labour'. So that's what the protocol is aiming to achieve.

CHAIR: I was just looking through some of the background paper. In that paper I noticed that a number of countries didn't ratify the Abolition of Forced Labour Convention of 1957, including more developing OECD countries like Japan and South Korea, and also that Singapore withdrew from the convention in 1979 and Malaysia in 1990. Can you just explain the background of that? Have I got that correct? If not, please— Ms Rankin: One hundred and seventy-six countries have ratified the ILO's Abolition of Forced Labour Convention 1957—is that the one you're referring to?

CHAIR: Yes, that's right.

Ms Rankin: Unfortunately, I'm not able to speak to why another country hasn't ratified. There are 187 members of the ILO, so 176 is nearing universal ratification of that Abolition of Forced Labour Convention; similarly, 179 countries have ratified the original Forced Labour Convention from 1930, but I couldn't speak to why another country hasn't ratified either of them.

CHAIR: It seems, from what I've got here, that Singapore is no longer a party to the 1957 convention; nor is China; nor is Japan; nor is Korea; nor is Malaysia. What is the position of those countries on the 2014 protocol to the 1930 convention? Have they deposited an instrument of ratification?

Ms Rankin: In terms of the 2014 protocol, we have 57 members; looking at the list, I don't see China, Singapore or Malaysia, at this point—

Ms Pahlow: Or Japan—

Ms Rankin: or Japan having—

CHAIR: Or Japan or Korea?

Ms Rankin: No. I would say it is quite a new protocol—2014. It's possible that countries are still considering taking steps, but, again, I'd probably not be so bold as to speak on behalf of another country as to why or where they're up to in that process.

CHAIR: But do we know what the intentions of those other countries are? I'm just curious, because Japan and Korea are close economic and commercial partners of Australia—Singapore as well, of course—and strategic partners. Obviously, they had objections to the 1957 convention. I'm just wondering: do they have similar objections to this protocol, and, if so, what are those objections? If you don't know the answer, I'd appreciate it if you or DFAT could take it on notice.

Ms Rankin: I'm not aware of any objections. I'll just check with DFAT if they have any further insight into that.

Ms Manton: I suggest we take that on notice.

The response to the honourable member's question is as follows:

With respect to the ratification of ILO Conventions relevant to forced labour by China, Japan, South Korea, Singapore and Malaysia, the status of ratifications by these States is below:

Country	Forced Labour Convention (1930)	Abolition of Forced Labour Convention (1957)	2014 Protocol to the Forced Labour Convention
China	Has not ratified	Has not ratified	Has not ratified
Japan	Ratified 21 November 1932	Has not ratified	Has not ratified
Malaysia	Ratified 11 November 1957	Ratified on 13 October 1958, denounced Convention on 10 January 1990	Has not ratified
Singapore	Ratified 25 October 1965	Ratified on 25 October 1965, denounced Convention on 19 April 1979	Has not ratified
South Korea	Ratified 20 April 2021 (will enter into force on 20 April 2022)	Has not ratified	Has not ratified

The Australian Government cannot speak to the intentions of other States in relation to the ratification of international standards and treaties. However, the Malaysian Government announced its intention to ratify the Forced Labour Protocol, following the launch of its National Action Plan on Forced Labor 2021-25.

The Hon. Josh Wilson asked the following question on 11 March 2022:

Mr JOSH WILSON: I just put it on notice. I understand that most of that answer was summarising the fact that we were waiting for them. I would be interested, if you don't mind taking it on notice, in the time line of the communication that happened between the Commonwealth and the state government. I would be curious as to how the Commonwealth encourages states. If we're really going to wait for all of the eight state and territory jurisdictions to do a few bits of legislative tidying up, that seems kind of cumbersome.

The response to the honourable member's question is as follows:

A timeline of Ministerial engagement on the 2014 ILO Forced Labour Protocol between the Commonwealth and Western Australia is provided below.

Date	Action
19 April 2016	The Minister for Employment, the Hon. Michaelia Cash, wrote to state and territory counterparts, including Western Australia, seeking formal agreement to ratification and requesting updated law and practice reports.
26 May 2016	Western Australia's Minister for Industrial Relations Hon Michael Mischin MLC responds to Minister Cash's letter, indicating that Western Australia would undertake a law and practice assessment against the Protocol.
16 December 2016	Western Australia's Minister for Industrial Relations Hon Michael Mischin MLC wrote to Minister Cash noting that a draft law and practice report for Western Australia had identified possible obstacles to compliance with the Protocol arising from exclusions from State industrial relations laws.
12 June 2017	Western Australia's Minister for Industrial Relations Hon Bill Johnston MLA wrote to Minister Cash confirming that the finalised law and practice report had identified issues preventing compliance relating to the application of Western Australia's industrial relations laws to some categories of workers, and noting that the Western Australian Government intended to undertake an examination of possible strategies to overcome these obstacles.
3 November 2017	Minister Cash writes to Western Australia's Industrial Relations Minister Hon Bill Johnston MLA seeking confirmation that Western Australia intends to undertake legislative or policy amendments to overcome the identified obstacles.
28 November 2017	Western Australia's Minister for Industrial Relations Hon Bill Johnston MLA responds to Minister Cash's letter confirming that the Terms of Reference for the Ministerial Review of the State Industrial Relations System include consideration of the issue preventing Western Australia's compliance with the Protocol.
14 January 2019	Minister for Jobs and Industrial Relations, the Hon. Kelly O'Dwyer writes to Western Australia's Minister for Industrial Relations Hon Bill Johnston MLA seeking an update on Western Australia's efforts to comply with the Protocol,

	following the Ministerial Review of Western Australia’s industrial relations system being presented to the Western Australian Government in June 2018.
14 February 2019	Western Australia’s Minister for Industrial Relations Hon Bill Johnston MLA replies to Minister O’Dwyer’s letter indicating that the Ministerial Review of the State Industrial Relations System made recommendations for legislative reform to address the non-compliance issue and that Review was being considered by the Western Australian Government.
25 June 2020	Western Australia introduces the <i>Industrial Relations Legislation Amendment Bill 2020</i> to the Legislative Assembly. The Bill is passed by the Legislative Assembly on 20 August 2020 but subsequently lapses due to the Western Australia Parliament being pro-rogued for the state election to be held in March 2021.
20 October 2021	The Government of Western Australia introduces the <i>Industrial Relations Legislation Amendment Bill 2021</i> to the Legislative Assembly of the Western Australian Parliament. The Bill includes provisions that bring Western Australia into compliance with the Protocol. The Bill is passed on 16 December 2021.
9 February 2022	The Attorney-General, the Hon. Michaelia Cash, writes to state and territory counterparts, including Western Australia, seeking confirmation of their support for ratification and their compliance.
18 February 2022	Western Australia’s Minister for Mines and Petroleum; Energy; Corrective Services; Industrial Relations Hon Bill Johnston MLA responds to the Attorney-General’s letter, advising that Western Australia supports ratification and will be compliant with the Protocol upon commencement of the <i>Industrial Relations Legislation Amendment Act 2021</i> .

In addition to the formal communications at Ministerial-level outlined above, Commonwealth officials have been in regular communication with Western Australian counterparts on the ratification of the Forced Labour Protocol since Western Australia advised of issues with compliance in December 2016.