

Exploitation in product supply chains

- 6.1 The subject of human trafficking and global supply chains was a theme articulated by many groups and organisations that provided submissions and appeared at public hearings for this inquiry.
- 6.2 This chapter provides an overview of the current global estimates of people in forced labour, suggestions received by the submitters on combatting exploitation in the global supply chain, a brief overview of the steps taken by other countries to look at exploitation in global supply chains, and Australia's efforts to combat trafficking, slavery and forced labour in global supply chains.

Global estimates of people in forced labour

- 6.3 According to the International Labour Organization (ILO) there are 20.9 million people in forced labour around the world.¹ This includes:
- 18.7 million (90%) exploited in the private economy, by individuals or enterprises: 4.5 million (22%) are victims of forced sexual exploitation, and 14.2 million (68%) are victims of forced labour exploitation in economic activities such as agriculture, construction, domestic work and manufacturing;
 - 2.2 million (10%) in state-imposed forms of forced labour (e.g. prison);
 - 11.4 million victims (55%) are women and girls;
 - 9.5 million (45%) are men and boys;
 - 11.7 million (56% of the global total) are in the Asia-Pacific region;

¹ International Labour Organization, *Global Estimate of Forced Labour: Results and methodology*, 2012.

- 3.7 million (18%) are in Africa;
- 1.8 million (9%) are in Latin America and the Caribbean;
- 1.5 million (7%) are in the European Union;
- Central, Southeast and Eastern Europe (non-EU) and the Commonwealth of Independent States have 1.6 million (7%); and
- an estimated 600,000 (3%) victims in the Middle East.²

Table 6.1 Global estimates of people in forced labour by region

Asia and the Pacific	11,700,000
Africa	3,700,000
Latin America and the Caribbean	1,800,000
Central and South Eastern Europe and CIS	1,600,000
Developed Economies and European Union	1,500,000
Middle East	600,000
Total	20,900,000

Source *International Labour Organization, Global Estimate of Forced Labour: Results and methodology, 2012*

6.4 The United States (US) Department of Labor, Bureau of International Labor Affairs (the Bureau), publishes a list of goods from countries that the Bureau has reason to believe are produced by forced labour or child labour in violation of international standards.³ According to Bureau's 2012 report:

- The list of goods includes 123 goods in the 'child labor' category: 58 agricultural goods, 38 manufactured goods and 26 mined/quarried goods, as well as pornography.
- The relatively large number of agricultural goods produced by child labor is consistent with the ILO estimate that 60 per cent of child labor worldwide is in agriculture.
- The list of goods includes 56 goods in the 'forced labor' category: 26 agricultural goods, 18 manufactured goods and 11 mined/quarried goods, as well as pornography.
- Agricultural goods with notable concentrations of forced labor include cotton (eight countries), cattle (five countries) and sugarcane (five countries). Among manufactured goods, the highest concentrations of forced labor were found in the production of garments (eight countries) and bricks (seven countries).

2 International Labour Organization, *Global Estimate of Forced Labour: Results and methodology*, 2012.

3 United States Department of Labor, 'Trafficking Victims Protection Reauthorization Act', viewed on 23 May 2013, <<http://www.dol.gov/ilab/programs/ocft/tvpra.htm>>.

- Goods associated with a notably high concentration of child and/or forced labor include cotton (17 countries), sugarcane (16 countries), coffee (14 countries), cattle (12 countries), rice (eight countries), fish (seven countries) and cocoa (six countries) in the agricultural sector; bricks (18 countries), garments (eight countries), carpets (five countries) and footwear (five countries) in the manufacturing sector; and gold (19 countries), diamonds (seven countries) and coal (seven countries) in the mining/quarrying sector.
- Burma and China have a high number of goods made by forced labor, with 14 and 11, respectively.
- South Asian countries – the region with over 55 per cent of the world’s forced laborers, according to the ILO – also had high numbers of goods in the forced labor category.⁴

Overview of international action

- 6.5 A number of countries, most notably the US, have taken comprehensive steps to combat trafficking, slavery and forced labour in global supply chains.
- 6.6 In the US, authorities at the Federal and State-level have taken steps to increase the oversight of US-based companies’ global supply chains.
- 6.7 As noted at paragraph 6.4 above, the US Department of Labor, in accordance with the US Trafficking Victims Protection Reauthorization Act, publishes a list of goods from countries that the Bureau has reason to believe are produced by forced labour or child labour.⁵
- 6.8 In October 2010, the California Transparency in Supply Chains Act was signed into law. This Act took effect on 1 January 2012 and applies to all retailers and manufacturers with annual global revenues of more than \$100 million that do business in California. The Act requires retail sellers and manufacturers in California to disclose information about their efforts to eradicate slavery and human trafficking from their direct supply chains.⁶

4 United States Department of Labor’s Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, 26 September 2012, pp. 13-14.

5 United States Department of Labor, ‘Trafficking Victims Protection Reauthorization Act’, viewed on 23 May 2013, <<http://www.dol.gov/ilab/programs/ocft/tvpra.htm>>.

6 Senate Bill 657 – the *California Transparency in Supply Chains Act*.

- 6.9 On 1 August 2011, a similar Bill to the California legislation was introduced at the Federal level, the Business Transparency on Trafficking and Slavery Act (H.R.2759). If passed, the Bill will require businesses to disclose, in annual reports, measures taken during the year to identify and address conditions of forced labour, slavery, human trafficking, and the worst forms of child labour within their respective supply chains.⁷
- 6.10 The US has also taken steps to identify exploitation in specific countries such as the Democratic Republic of the Congo.
- 6.11 On 22 August 2012, the US Securities and Exchange Commission adopted a rule legislated under the Dodd-Frank Wall Street Reform and Consumer Protection Act. The rule requires companies to publicly disclose their use of conflict minerals (tantalum, tin, gold, or tungsten) from the Democratic Republic of the Congo or an adjoining country.⁸
- 6.12 In addition, on 25 September 2012, President Obama issued an executive order that prohibits all US Federal contractors and subcontractors from engaging in any types of trafficking-related activities.⁹
- 6.13 The United Kingdom's Government is also proposing a similar legislative mechanism, having introduced to the Parliament the Transparency in UK Company Supply Chains (Eradication of Slavery) Bill in June 2012. If passed, the Bill will require:
- ...large companies in the UK to make annual statements of measures taken by them to eradicate slavery, human trafficking, forced labour and the worst forms of child labour (as set out in Article 3 of the International Labour Organisation's Convention No. 182) from their supply chains; to require such companies to provide customers and investors with information about measures taken by them to eliminate slavery, human trafficking, forced labour and the worst forms of child labour; to provide victims of slavery with necessary protections and rights; and for connected purposes.¹⁰

7 Congress.gov, 'H.R.2759 - Business Transparency on Trafficking and Slavery Act', viewed on 23 May 2013, < <http://beta.congress.gov/bill/112th-congress/house-bill/2759>>.

8 US Securities and Exchange Commission, 'SEC Adopts Rule for Disclosing Use of Conflict Minerals', viewed on 23 May 2013, < <http://www.sec.gov/news/press/2012/2012-163.htm>>.

9 The White House, 'Executive Order - Strengthening Protections Against Trafficking In Persons In Federal Contracts', viewed on 23 May 2013, < <http://www.whitehouse.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe>>.

10 The Transparency in UK Company Supply Chains (Eradication of Slavery) Bill.

- 6.14 British businesses are also being encouraged by the UK Government to sign a business charter which commits them to:
- develop anti-human trafficking policies and strategies
 - review and implement a code of conduct for suppliers
 - check supply chains to ensure each step of the process is accounted for
 - revise recruitment practices, for example, by requiring recruiting managers to only use specified reputable recruitment agencies
 - increase awareness training for staff and customers
 - develop and share best practice.¹¹
- 6.15 Brazil has also taken steps to target people and corporations found to be using slave labour. As noted by the ILO in its report on the *Good Practices of Labour Inspection in Brazil*, Brazil established an Employer Offender Registry in 2004.¹²
- 6.16 Administered by the Ministry of Labour, the Registry is a public list of people and corporations found to be using slave labour. The Registry is updated every six months and is available on the websites of the Ministry of Labour and the NGO Reporter Brazil.¹³
- 6.17 The people and corporations that are on the list cannot receive public financing. The names are only included on the list after a trial, verdict and when the accused no longer has a right of appeal.¹⁴
- 6.18 The ILO report also noted that names can be removed from the list:
- Employers that are included on the register are monitored for a period of two years after which their names are removed if: there is no reoccurrence of the crime, all fines are paid and, they settle their labour and tax debts.¹⁵
- 6.19 The ILO has also released a handbook 'for employers and business to strengthen their capacity to address the risk of forced labour and human trafficking in their own operations and in global supply chains.'¹⁶

11 UK.GOV, 'Businesses urged to sign human trafficking charter', viewed on 23 May 2013, <<https://www.gov.uk/government/news/businesses-urged-to-sign-human-trafficking-charter>>.

12 International Labour Organisation, *Good Practices of Labour Inspection in Brazil*, 2010, p. 15.

13 International Labour Organisation, *Good Practices of Labour Inspection in Brazil*, 2010, p. 34.

14 International Labour Organisation, *Good Practices of Labour Inspection in Brazil*, 2010, p. 34.

15 International Labour Organisation, *Good Practices of Labour Inspection in Brazil*, 2010, p. 34.

16 International Labour Organization, *Combating forced labour: A handbook for employers and business*, 2008.

- 6.20 The European Commission has taken similar steps as the ILO and produced a guide on socially responsible public procurement: *Buying Social - A Guide to Taking Account of Social Considerations in Public Procurement*.¹⁷
- 6.21 World Vision Australia (WVA) provided more detail on other European countries that have adopted socially responsible public procurement, stating:
- Denmark has ratified ILO Convention No. 94, which, under Danish law, has binding effect in relation to government procurement.
 - The Norwegian Government produced a *Guide to Socially Responsible Public Procurement* on 12 September 2012.
 - The Scottish Government has prepared guidance on 'Community Benefits on Public Procurement', which illustrates the scope to incorporate social benefits in public procurement contracts, hoping to maximise the impact of public spending.
 - A number of local governments in Sweden include social requirements in contracts, such as compliance with fundamental ILO conventions. These terms are consistent with Swedish procurement law.¹⁸

Suggestions for combatting exploitation in global supply chains

- 6.22 Ms Briana Lee put forward the view that Australia has an obligation under the Trafficking Protocol to prevent and combat trafficking, stating:
- Part of Australia's obligations under the Trafficking Protocol is to establish measures to prevent and combat trafficking in persons. The Trafficking Protocol requires states to take measures which alleviate the factors that make persons, especially women and children, vulnerable to trafficking.¹⁹
- 6.23 Ms Lee added that 'part of the way to address the issue of human trafficking is to reduce the demand for goods produced with slavery, forced labour or human trafficking.'²⁰

17 European Commission, *Buying Social - A Guide to Taking Account of Social Considerations in Public Procurement*, 2010.

18 World Vision Australia, *Supplementary Submission 57*, pp. 3-5.

19 Ms Briana Lee, *Submission 16*, p. 7.

20 Ms Briana Lee, *Submission 16*, p. 7.

- 6.24 Ms Lee called on the Government to ‘take steps to ensure that goods being imported and sold in Australia are free of slavery, forced labour and human trafficking.’²¹
- 6.25 Walk Free, in its submission, suggested that business could play a role in the fight against slavery, slavery-like practices and human trafficking.²² Walk Free also suggested that the Government look at implementing legislation on transparency in supply chains.²³
- 6.26 Walk Free did, however, caution against the use of an overly intrusive regulatory approach, stating:
- I fully understand. I am a big supporter though in approaches that talk about transparency and publishing information and then leave it to the market, civil society and others to encourage businesses without imposing Draconian requirements on them. I suggest that is an appropriate model that has been implemented in America as reasonably commerce-free but the US is willing to impose these obligations on corporations.²⁴
- 6.27 Australian Catholic Religious Against Trafficking in Humans (ACRATH) submitted that Australia was lagging behind other developed countries ‘in taking actions to encourage companies to ensure the goods they import and sell are free from slavery and trafficking.’²⁵
- 6.28 ACRATH made several recommendations for actions the Government could take to combat slave or trafficked labour in supply chains:
- Government could consider enacting, as USA has done (Trafficking Victims Reauthorisation Act [2005]), legislation requiring it to engage with companies, working with them towards the elimination of slavery and human trafficking in their supply chains.
 - The Commonwealth Government could require that projects failing to meet a required standard demonstrating that reasonable action has been taken to ensure that their supply chain is free from slave and trafficked labour are denied the services of EFIC [Export Finance and Insurance Corporation].

21 Ms Briana Lee, *Submission 16*, p. 8.

22 Walk Free, *Submission 20*, p. 1.

23 Mr Grono, Walk Free, *Transcript*, 12 March 2013, p. 5.

24 Mr Grono, Walk Free, *Transcript*, 12 March 2013, p. 5.

25 Australian Catholic Religious Against Trafficking in Humans, *Submission 21*, p. 9.

commit to public research to identify those types of goods at risk of having slavery, human trafficking and forced slavery in their production. The government should also commit to introduce legislation based on the California Transparency Act, and I also understand the UK is considering a similar act right now to require retailers and importers operating in Australia to have to publicly disclose what voluntary efforts they are making to curb the risk of slavery, forced labour and human trafficking and their supply chains.³⁰

6.33 Hagar Australia also recommended:

- the Commonwealth Government should require that products at risk of slavery or trafficked labour in their supply chains must carry labels identifying themselves as such; and that
- the Australian Government should withdraw its support from companies failing to demonstrate adequate action to address the possibility of slavery or human trafficking in their supply chain, through excluding such companies from eligibility for government procurement contracts.³¹

6.34 The Law Council of Australia stated that 'it would be extremely advantageous for the Commonwealth to examine its supply chains and procurement policies and to coordinate a response with States and Territories about those issues.'³²

6.35 No Slavery Australia (NSA) recommended establishing a task force to evaluate the economic cost of slavery on the Australian economy; legislating mandatory requirements for multinationals trading in Australia to report on their supply chains; and the development of a labelling and certification strategy for products and services that have been produced ethically.³³

6.36 NSA also highlighted that there are a number of not-for-profit organisations that offer third-party certification of Fair Trade products.³⁴

30 Mrs Kennedy, Hagar Australia, *Transcript*, 9 May 2013, p. 3.

31 Hagar Australia, *Submission 13*, p. 3.

32 Ms McLeod, Law Council of Australia, *Transcript*, 20 November 2012, p. 20.

33 No Slavery Australia, *Supplementary Submission 70*, p. 1.

34 Mr Gruber, No Slavery Australia, *Transcript*, 23 April 2013, p. 2.

- 6.37 The joint submission provided by Stop the Traffik, the Oaktree Foundation, and the Uniting Church Synods of Victoria and Tasmania stated that, in the 2009–2010 financial year, Australia imported over \$600 million worth of goods in categories where there is a risk of forced labour or exploited child labour used in their production.³⁵ They called on the Government to take action in line with other jurisdictions, particularly the US, recommending:
- establishing a commission similar to the Bureau;
 - establishing a consultative committee focussed on eliminating slavery, forced labour and human trafficking from the production of goods imported into Australia;
 - amending the *Financial Management and Accountability Act 1997* and the Commonwealth Procurement Guidelines to prohibit the acquisition of products produced by forced and indentured child labour;
 - introducing legislation that would require retailers and importers operating in Australia to publicly disclose what voluntary efforts they are making to curb the risk of slavery, forced labour and human trafficking in their supply chains; and
 - negotiating an agreement with cocoa importers and processors in Australia that by 2018 eighty per cent of cocoa imported to Australia will have third-party certification that it is free of forced labour, the worst forms of child labour and human trafficking.³⁶
- 6.38 The Uniting Church in Australia, at a public hearing, commented that ‘this is a problem that cannot be left to voluntary corporate action and NGOs.’³⁷
- 6.39 Dr Anne Gallagher AO agreed that there was some evidence that:
- ...goods imported into Australia – from seafood to clothing to consumer electronics to sporting goods – have been produced through the use of forced or otherwise highly exploitative labour.³⁸
- 6.40 While acknowledging that there are considerable difficulties in combatting trafficking in supply chains, Dr Gallagher said it was essential for Government to attend to the problem:

35 Stop the Traffik, the Oaktree Foundation, and the Uniting Church Synods of Victoria and Tasmania, *Submission 30*, p. 5. See Appendix J: List of goods produced with high risk of forced labour or child labour by country.

36 Stop the Traffik, the Oaktree Foundation, and the Uniting Church Synods of Victoria and Tasmania, *Submission 30*, pp. 1-2.

37 Dr Zirnsak, Uniting Church in Australia, *Transcript*, 9 May 2013, p. 15.

38 Dr Anne Gallagher AO, *Submission 39*, p. 9.

While the difficulties of dealing with trafficking and slavery in supply chains are considerable and should not be underestimated, it is essential for the Australian Government to acknowledge and pay attention to trafficking in supply chains. The critical issue in this regard is improving supply chain transparency – from product assembly right down to the sourcing of raw materials – thereby disrupting the economic advantage that such exploitation provides. Consumer action through investigation, boycotts and petitions is important and should be encouraged. However, it is foolish and dangerous to imagine they are any substitute for explicit, demonstrable commitment on the part of both government and corporations to exploitation-free supply chains.³⁹

Australian Government action

- 6.41 On 8 March 2013, the Prime Minister announced that the Australian Government would ‘ensure that its procurement rules and practices assist in identifying and stamping out slavery.’⁴⁰
- 6.42 The Prime Minister announced that the Government’s procurement arrangements would be improved by:
- Processes: the Department of Finance and Deregulation will ensure that Commonwealth procurement arrangements adequately identify slavery as an important issue when considering the ethical behaviour of suppliers.
 - Advice to Agencies: the Department of Finance and Deregulation will issue revised procurement guidance to reinforce the need for specific actions or behaviours to eliminate the chances of slavery being used in supply chains.
 - Training: the Department of Finance and Deregulation will strengthen training and development arrangements for Commonwealth procurement officers to reinforce specific legal and policy requirements, including reporting of breaches of policy.⁴¹
- 6.43 At a public hearing the AGD acknowledged that it had not focussed on combatting trafficking, slavery and forced labour in global supply chains. They did, however, highlight that Australia has:

39 Dr Anne Gallagher AO, *Submission 39*, pp. 9-10.

40 The Hon. Julia Gillard MP, Prime Minister, ‘Further Government Action To Eliminate Modern Slavery’, *Media Release*, 8 March 2013, p. 1.

41 The Hon. Julia Gillard MP, Prime Minister, ‘Further Government Action To Eliminate Modern Slavery’, *Media Release*, 8 March 2013, p. 1.

...criminalised a range of different offences with respect to corporations under the slavery and human trafficking offences, so there is provision already to tackle behaviour by corporations with respect to procurement overseas and things like that if their supply chain does involve some slavery or human trafficking.⁴²

Committee comment

6.44 As noted earlier in this chapter, the ILO and the Bureau estimate that there are millions of men, women and children throughout the world who are forced into exploitative labour conditions worldwide in the agricultural, construction, manufacturing, and mining industries as well as domestic work.

6.45 Slavery, slavery-like practices and people trafficking is a fundamental violation of an individual's human rights. The cost on its victims, who may have suffered psychological, emotional, and physical abuse and mistreatment, is immeasurable.

6.46 In addition to its direct victims, the flow on effects of these crimes impact on families, communities, and countries.

6.47 The ILO estimated in 2005 and 2009 that the annual profits from all trafficked forced labourers are around US\$32 billion (an annual average of US\$13,000 per victim) and that 'victims of forced labour forgo at least US\$21 billion each year in unpaid wages and illegal recruitment fees.'⁴³

6.48 As part of the United Nations Global Initiative to Fight Human Trafficking, the United Nations Office on Drugs and Crime published a report entitled *An Introduction to Human Trafficking: Vulnerability, Impact and Action*. While noting the difficulties in assessing the economic costs of trafficking, the report was able to highlight some of the additional economic consequences:

The costs of the crime of trafficking in persons incorporates many elements, including the value of all resources devoted to its prevention, the treatment and support of victims and the apprehension and prosecution of offenders. These costs may be offset in part by the recovery of criminal proceeds and assets of the traffickers. Trafficking in persons also results in loss of human

42 Mr Anderson, Attorney-General's Department, *Transcript*, 14 May 2013, p. 6.

43 International Labour Organization, 'Questions and answers on forced labour', viewed on 25 May 2013, <http://www.ilo.org/global/about-the-ilo/newsroom/comment-analysis/WCMS_181922/lang--en/index.htm>; International Labour Organization, *Forced Labour and Human Trafficking: Estimating the Profits*, March 2005, p. 17.

resources and reductions in tax revenue. Further, trafficking in persons redirects the financial benefits of migration from migrants, their families, community and government or other potential legitimate employers to traffickers and their associates. All indications are that the income generated by related organized crime is significant and global. Given the ongoing nature of exploitation, human trafficking generates a stable and regular source of income for criminal networks, with a consequent impact on other forms of criminal activity as well as legitimate business.⁴⁴

6.49 AusAID in its Project Design Document, *Australia-Asia Program to Combat Trafficking in Persons*, also highlighted some of the additional economic consequences of trafficking, stating:

The economics of trafficking are significant. Unlike smuggling of migrants, which produces a one-time profit, trafficking involves the long-term exploitation of individuals, which translates into continuous income. ... Human trafficking crimes are also closely integrated into legal business interests such as tourism, employment and recruitment agencies, and leisure and entertainment businesses throughout the region. Criminal organisations hide revenues from their illegal activities by directly and indirectly investing their profits into legitimate financial institutions. Although some businesses are simply established to launder money and not necessarily to make profits, this practice may in turn have a negative impact on the economy, as legitimate businesses may find themselves having to compete against enterprises being subsidised by laundered proceeds of crime or supported by the exploitation of trafficked persons. Fair competition may also be affected when exploited trafficked persons have been used further down the supply chain to produce value-added materials such as textiles.⁴⁵

6.50 As noted in chapter three, it is important to consider a suite of mechanisms and tools to combat slavery, slavery-like practices and people trafficking both domestically and internationally. It is therefore important to consider how Australia can contribute to removing trafficking, slavery and forced labour in global supply chains.

44 United Nations Office on Drugs and Crime, United Nations Global Initiative to Fight Human Trafficking, *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, 2008, p.10.

45 Australian Agency for International Development, *Australia-Asia Program to Combat Trafficking in Persons*, June 2012, p. 7.

- 6.51 The Committee appreciates the considerable thought and effort of all those who provided recommendations on various mechanisms for removing trafficking, slavery and forced labour in global supply chains.
- 6.52 The Committee notes that many of these recommendations are based on initiatives that have been recently introduced in other countries. It is therefore difficult to assess the effectiveness of these mechanisms at this time.
- 6.53 It is important for Australia to take appropriate and effective action that will play a significant role in the reduction of goods and services produced by trafficking, slavery and forced labour. It is also important for Australia to establish a mechanism that is suitable for the Australia context.
- 6.54 The Committee therefore recommends that the Australian Government undertake a review to examine the current anti-trafficking and anti-slavery mechanisms with a view to establishing a mechanism appropriate for the Australian context.
- 6.55 The review should extensively consult with relevant stakeholders and should be conducted with a view to: introducing legislation to improve transparency in supply chains; the development of a labelling and certification strategy for products and services that have been produced ethically; and increasing the prominence of fair trade in Australia.

Recommendation 7

The Committee recommends that the Australian Government, in consultation with relevant stakeholders, undertake a review to establish anti-trafficking and anti-slavery mechanisms appropriate for the Australian context. The review should be conducted with a view to:

- **introducing legislation to improve transparency in supply chains;**
- **the development of a labelling and certification strategy for products and services that have been produced ethically; and**
- **increasing the prominence of fair trade in Australia.**