

Australian Manufacturing Workers' Union

**Parliamentary Joint Statutory Committee on
Corporations and Securities**

**Inquiry into Corporate Code of Conduct Bill
2000**

December 2000

The Secretary
Parliamentary Joint Statutory Committee
on Corporations and Securities
Suite SG 60
Parliament House
CANBERRA ACT 2600

Recommendations

1. The AMWU supports this Bill
2. Codes of conduct must be enforceable with a legislative underpinning under the Act
3. Codes of conduct must incorporate binding and enforceable core labour standards as enshrined by the International Labour Organisation (ILO). These codes need to be independently vetted and audited.
4. Corporations must show transparently their subcontracting and contractual obligations so they cannot hide behind a web of contracting arrangements and shield themselves from their obligations. Subsidiaries and suppliers must also be encompassed under the code of conduct of the parent company. Therefore joint ventures must also be included, and agreements be reported in the reporting procedures under this Act.
5. The reporting and enforcement procedures must include representatives of labour, environment and community organisations. Institutions other than ASIC, such as the AIRC must be included in the monitoring and enforcement procedures as outlined by the Act.
6. International institutions such as the World Trade Organisation (WTO), Organisation of Economic Cooperation and Development (OECD), ILO must be incorporated in the reporting and enforcement processes to ensure effective global cooperation and governance.
7. The reporting process must be made public. With reports accessible to the public to ensure transparency and accountability of the process. The reporting process must be open to public scrutiny and consultations. A formal process must be established either on an annual or bi-annual basis to ensure the public is made aware of the effectiveness or otherwise of the code of conduct.
8. Individual reports must be posted at Australian companies operations so that employees can access information about the effectiveness or otherwise of the code of conduct in both the companies operations in Australia and overseas.
9. Department of Foreign Affairs and Trade (DFAT) and the Department of Industry Science and Resources (DISR) must also be included in the process as outlined by the Act to ensure effective community links.
10. Government contracts by all Australian governments must be awarded under the auspices of the Act. Companies that are found in breach of the principles of this Act must not be awarded government tenders.

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Introduction

Through the growth and influence of international institutions we are seeing a globalisation of policy making. Developed and developing countries alike are being directed to follow the neo-liberal or economic rationalist agenda for fear of being cut out of the international economy. In Australia we hear that factories have to be closed or governments must privatise to stay competitive, to stay in the good books of the financial institutions that dictate the value of our currency and the credit rating that we receive. We hear the Thatcher mantra that "*there is no alternative*".

The AMWU believes that there are alternatives. One of the alternatives is to regulate corporations operating overseas. The Australian government has a responsibility to the working people of Australia to ensure that its corporations are not simply the players pursuing the race to the bottom of labour and environmental standards around the world. The AMWU supports the view that corporations are bound and responsible to society, workers and other stakeholders not just profits and shareholders.

For too long corporate interests have overtaken and ignored their responsibilities to Australia. Therefore this Corporate Code of Conduct Bill is imperative. Australian corporations operating overseas should not be able to abuse lower labour and environmental standards to pursue a greater profit advantage to the detriment of the indigenous peoples of the country that they are operating in. Nor should they be able to play Australian workers and their families off against workers in another country.

Corporate arguments that claim they abide by local law are unacceptable when these laws disadvantage the poor. It is imperative that Australian corporations operate under minimum standards acceptable in Australia. Australia has a responsibility to set a new standards of corporate behaviour that seeks to advantage and benefit working people.

Senator Bourne, in her second reading speech outlined some of the environmental destruction that has been done by Australian corporations operating overseas. Australian corporations that have decided to operate in a manner that would not have been allowed if they were in Australia. If they were operating in Australia they would have been prosecuted and fined. It is disgraceful that only after the media and public opinion was mobilised did these corporations reluctantly accept responsibility. How often have corporations ignored the environmental destruction that they have caused because no-one noticed?

In the absence of binding international standards, Australia must act to regulate the activities of Australian corporations operating in a foreign country. Australia has the opportunity to set an example to the international community that we do not tolerate human and environmental abuses both in Australia and Australian corporations operating overseas. Since the object of the Act does not seek to apply greater restrictions than would be in operation within Australia we can resolve to believe that those who oppose such an Act are doing so to pursue a race to the bottom of labour and environmental standards. It would have to be assumed that these corporations are acting in a foreign country to avoid the just regulations that we have in Australia, and that is unacceptable.

The AMWU supports the pursuit of a living wage for workers in developing countries and we propose the use of purchasing parities to define such a wage. We recognise the different levels of development of countries and the differing cost of living. However, working people anywhere in the world should be able to earn a minimum wage that enables them to live in "frugal comfort" as was enshrined in Australian industrial law with the Harvester agreement in 1907. Australia set the

standard of a minimum wage in 1907, with this Act Australian corporations can set an example when acting overseas to increase living standards of working people.

This submission will firstly outline research completed by the International Metalworkers Federation (IMF) which looked at the amount of working time manufacturing workers needed to complete to purchase various goods. The AMWU submits that research similar to this must be used to assess cost of living and living standards in other countries in determining minimum wage rates, or a living wage.

Secondly, many corporations nowadays have established their own corporate codes of conduct. Unfortunately these can often be considered simply a PR exercise for shareholders. The AMWU proposes that these codes of conduct need to be binding on the corporation and their subsidiaries in the context of this Bill that have enacted them.

Lastly, the AMWU supports the creation of a monitoring body that includes civil society, such as trade unions as the representative of workers in the reporting mechanism of this Bill. We are concerned that the reporting mechanism of the Bill is to ASIC. Therefore the AMWU proposes that a separate body is created that includes civil society to monitor and receive compliance reports by corporations. This body needs to be accountable to society, not vested political interests and be completely transparent in its actions and compliance procedures of the Act. Therefore proper and just enforcement procedures will be enacted pursuant with the breaches of the corporation.

1. Purchasing and Wage Parities

Wages occupy one of the largest components of a companies expenses and often they are the bargaining tool that corporations use to reduce costs. Increasingly corporations have threatened to move production offshore if Australian workers don't reduce their wages or let go of have hard won conditions. This type of threat is unacceptable and working people and their families should not have to compromise what they have fought for to boost company profits for shareholders at the expense of Australian wages and standards.

For too long working people have had the mantra of competitiveness dictated to them. We are told that the abuse of labour and environmental standards and continual reductions in wages and conditions are in the name of competitiveness. The AMWU does not believe in fortress Australia. We understand that companies are not bound to Australia. However, we do not support the view that corporations can go overseas with complete disregard for workers conditions and their environment in the pursuit of profit. We also do not support the view that corporations have a legitimate right to use substandard conditions in other countries as a bargaining tool to downgrade wages and conditions here.

The AMWU believes that Australian corporations should be bound to increase the living standards of workers in foreign countries if they are exploiting their land and their people. To simply degrade the land, degrade the people and then leave is reprehensible. If free trade is about rising living standards as proponents purport, then why are millions of working people living in poverty?

We hear on a regular basis of the wages that are paid to workers particularly to workers in our region. Then we hear the opposing argument that because cost of living is cheaper wages can justifiably be low compared to developed countries like Australia. The following table will show how untrue this argument is. It will also shows how corporations have been using this argument at the expense of workers not only in the countries that they are maintaining in poverty, but the working

people and their families in Australia who have born the brunt of an endless reduction in wages and conditions here in Australia in the pursuit of competitiveness.

The following table (pg 6) comes from research by the International Metalworkers Federation which the AMWU is affiliated to. The IMF has compared the amount of working time required for the purchase of some essential items. To obtain the best comparable figures, the data has been calculated on price levels for medium quality goods. The numbers are indicative only, but clearly show how corporations have abused the argument that they are simply paying the normal living wage. For purposes here we have taken data from the average of all manufacturing sectors, but the original research did also break the comparison into different manufacturing sectors.

WORKING TIME REQUIRED FOR THE PURCHASE OF VARIOUS CONSUMER ITEMS (IN HRS AND MIN.)

ITEM	COUNTRY	AUSTRALIA	CANADA	CHINA	GERMANY	GREAT BRITAIN	HONG KONG	JAPAN	KOREA
		hrs min	hrs min	hrs min	hrs min	hrs min	hrs min	hrs min	hrs min
BREAD (UNSLICED)		8.5	5	16	7.5	4	26.5	14.5	50.5
FRESH MILK (1 LITRE)		5.5	4	33.5	2.5	4.5	35.5	7	2
BUTTER		18	24.5	2 42	3.5	12.5	28.5	56	1 47.5
POTATOES		4.5	4	22.5	2.5	4	14	9.5	12.5
RICE		7	5.5	22	12.5	6.5	26.5	13.5	28.5
COFFEE		1 54	49	9 0.5	33	41.5	50	2 6	5 7.5
ORANGES		13.5	8	6.5	5	6.5	26.5	15.5	41.5
ORDINARY SHIRT (MENS)		2 17	2 10.5	15 5	2 1.5	2 18.5	5 56	2 55.5	4 22.5
WOMEN'S DRESS		11 24	5 26.5	12 34	9 59	6 36	14 50	11 11.5	29 37
UNLEADED FUEL (1 LITRE)		3	2	9	2.5	5.5	13.5	3.5	14
REFRIGERATOR (200-250 Litres)		22 48	65 18	146 38.5	19 38.5	22	74 11	48 18	127 52.5
MIDSIZE AUTOMOBILE		1519 48	1360 24.5	4818 10	962 38	1320 8	3560 50	1159 33.5	2277 56
NET WAGE IN US DOLLARS		8.60	12.76	4.00	17.34	14.66	4.34	15.19	4.70

ITEM	COUNTRY	PHILIPPINES	SINGAPORE	USA
		hrs min	hrs min	hrs min
BREAD (UNSLICED)		44.5	13	9
FRESH MILK (1 LITRE)		1 12.5	28	3.5
BUTTER		4 5	33	22
POTATOES		1 30.5	12	4
RICE		1	28	5
COFFEE		21 44	6.5	33.5
ORANGES		2 19.5	9.5	6
ORDINARY SHIRT (MENS)		20 26	3 7.5	1 50.5
WOMEN'S DRESS		15 47.5	12 30	5 54
UNLEADED FUEL (1 LITRE)		34	11	1.5
REFRIGERATOR (200-250 Litres)		613	140 37.5	18 26.5
MIDSIZE AUTOMOBILE		18575 43.5	9375	1327 44

NET WAGE IN US DOLLARS	0.69	3.83	13.56
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From the above table it is obvious that corporations have been maintaining working people in developing countries in a state of poverty for their own benefit. Australian workers have to work twice as long for some bare essentials than workers in the US, Germany, Japan and Britain. Workers in developing countries such as the Philippines and Korea work up to six times as long to buy food items. You then only have to look at the wages paid to workers and you see the advantage that corporations are gaining on workers when they transfer production to developing countries.

The AMWU is not suggesting that all workers should be paid the same. What we are proposing is that workers need to be paid a living wage, a wage that allows them to buy essential items and not have to work twice, or six times as long to pay for them. The argument that MNCs are simply paying the standard wage for the country may be true, however for these corporations to say they are acting in the interests of the workers in these countries is contemptible.

What these corporations are doing in reality is using the wages of these countries as a comparative advantage and keeping people in poverty. But, what is most insidious is that these same corporations are demanding that working people in Australia should be competing with workers who are getting paid one, two or less dollars an hour, and at the same time are driving down the wages and conditions of workers here.

Proponents of free trade say that the market will sort out these inequalities, that the benefits of trade and investment will trickle down and lift the wages and conditions of workers. The reality is that the only people who benefit are the shareholders and the company executives who pay themselves exorbitant salaries. The AMWU supports fair trade, where workers are paid a living wage and are accorded their human rights and trade union rights.

Enforceable corporate codes of conduct must include the core labour standards as enshrined in the ILO charter and proposed in this Bill. These core standards are:

- Freedom of association and protection to the right to collectively organise (No. 87);
- The right to organise and collective bargaining (No. 98);
- Forced labour and its abolition (No. 29 & 105);
- Discrimination, and equal remuneration (No. 111 & 100); and
- Conventions regarding minimum age of employment, and the worst forms of child labour (No. 138 & 182).

Core rights and standards are concerned with process, not substance. They are not about a global minimum wage, they are about the human rights that workers and their families are entitled to. And there are many countries in this region and around the world who continually and consistently abuse even these most basic of human rights. Corporations need to be bound by these standards only then will human rights be taken off the negotiating table.

The next section of this submission will highlight the further hypocrisy of corporations when we look at the self regulation system. Where corporations use their own corporate codes of conduct simply as a public relations exercise and then flout it at every opportunity to boost profit. This is why it is imperative that standards are binding, both in the international system and binding on Australian corporations operating overseas. Self regulation is consistently proven not to work. There are alternatives

2. Corporate Codes of Conduct

It has often been fashionable for corporations to enact their own corporate code of conducts. They are generally a self congratulatory mission statement, but when not used as a PR exercise codes of

conduct can be a viable organising tool to promote principles of good governance. The AMWU supports enforceable corporate codes of conduct underpinned by legislation. Self regulation doesn't work and tends to lend itself to be more of a PR exercise rather than substantive means of dictating acceptable behaviour.

The AMWU specifically supports binding codes that are independently audited and vetted. It is nonsensical that corporations state that they have these codes then will not allow independent scrutiny. This leads us to ask, if the codes are in effect being adhered to.

Codes of conduct must also apply to subcontracting companies to MNCs. It has become common practice for MNCs to distance themselves from the most exploitative aspects of global production through often complex contracting arrangements. When confronted with gross violations either of international agreed standards or breaches of their own codes of conduct by subcontractors the MNCs claim to have no knowledge and no control over these conditions.

It seems hypocritical that MNCs especially in labour intensive industries will regularly send company representatives to subcontractors to ensure quality yet have no knowledge of the conditions that employees are working in. It is also hypocritical that companies continually pay substandard wages to workers and claim that they are simply paying the living wage, while seeing the poverty that people live in.

The AMWU supports the view that corporations must adhere to acceptable societal standards. This includes paying a living wage and operating in a manner that is acceptable in Australia. Voluntary codes of conduct either enacted by the MNC themselves or within international institutions are not enough. Standards of conduct must be binding and enforced to have any real effect.

Standards of conduct must also be enforced throughout the production value chain. It is unacceptable that high profile companies can effectively turn a blind eye to abuses by companies that they are contracted to or are their subsidiaries. Within the monitoring system that this Bill seeks to enact contracting arrangements must be transparent and monitored so MNCs cannot devolve their responsibilities as they have done through a web of complex contractual arrangements.

The AMWU seeks through this Bill to make both internal and external processes of Australian corporations operating both within and outside Australia to be made more accountable and bound to minimum standards. Wages and the human rights that each person is entitled to need to be taken out of bargaining and corporations need to be bound to prescribed standards or face a penalty.

This penalty, therefore must be scrutinised and enforced by an appropriate body. The next section of the AMWU submission will look at the proposal to empower ASIC to be the enforcement body.

3. Enforcement and Regulation

The most important tenet of this Bill is the enforcement and regulatory procedures as outlined. For too long regulation of corporations acting both in Australia and overseas are bound by voluntary arrangements or their own corporate codes that are not scrutinised by an independent body. The ILO will act against governments who do not abide by conventions that they have signed. Yet they are powerless to enforce standards.

The WTO can force governments to abide by its rules, but can do nothing to corporations. Given the growing size of transnational corporations it is time that they are accountable to their actions. Australia can enforce rules on its corporations acting overseas, as this Bill seeks to enact.

However, we do question if ASIC is the appropriate body to solely vet incidents of contravention of the Act. Although the AMWU acknowledges the intrinsic role ASIC has in the regulation of corporations we question if it is suited to look at issues of human rights, labour and environmental standards.

ASICs charter specifically deals with business and financial interests, not interests of society and standards of behaviour. Therefore the AMWU submits that it would be more appropriate for the regulatory and enforcement procedures to be heard by a committee that encompasses representatives of labour, environment and community groups as well as corporate interests that would be served within ASIC.

The Australian Industrial Relations Commission (AIRC) could have a role in such procedures as the overseer of minimum and award regulations in Australia. The AIRC is in a unique position in Australia to form minimum standards be it a living wage, conditions and the effect of activities on the environment. Hence would be able to establish such minimum standards oversees using such means as Purchasing Parties as outlined in section one of this submission.

We would also question that enforcement relies on reports by the corporations, we would seek to see an expanded role of independent auditors. We have already seen in respect of EEO regulations that companies either do not fulfill their reporting requirements or are not thorough in their reporting. Therefore we would seek to have a well funded body to ensure that compliance in the reporting stage is fulfilled.

Corporations have to take responsibility for their actions both in Australia and operating overseas. It is necessary that enforcement and penalty procedures are an adequate incentive to act with societal standards in mind. It must be recognised that voluntary arrangements or standards to not work. Standards must be binding and enforceable.

4. Conclusion

The AMWU believes that Australian corporations have an obligation to society. They have an obligation to not only their workers but the community that they operate in, be it in Australia or overseas. As such it is unacceptable for these corporations to not pay a living wage. It is unacceptable to maintain workers in a state of poverty or degrade the environment in the pursuit of a profit advantage.

Business is led by profits, however the minimum human rights that each person is entitled to must be taken out of negotiation. For too long corporations have used the excuse that they can pay the disgraceful wages shown in section one because they are the standard in developing countries. However, this submission has sought to show that it is corporations that have been maintaining these low wages. They have been keeping workers in poverty and paying slave wages to boost their own profit margins.

As the process of globalisation extends, and corporate power continues to increase it becomes imperative that until multilateral or global regulation is enacted individual countries must regulate their own corporations.

It has been heartening to see that in recent months a trade agreement was agreed between the US and Jordan that encompassed the ILOs minimum standards as outlined in the Bill. The agreement was accepted by all parties; governments, unions and business, however the only people that refuted the

agreement was American MNCs. Governments as the elected representatives of the people need to become accountable to the people, not corporate interests. Otherwise democracy continues to falter.

Democracy is about inclusion yet so many people including labour representatives, community representatives and environmental representatives have been shut out of the decision making apparatuses in this country and others.

This Bill is a heartening beginning to the regulation of corporate interests and putting society back to the forefront of policy making. Australia is in a unique position to incorporate minimum standards that may prove the trade mantra that it is about lifting the bottom, that benefits do trickle down because in the current free trade model the benefits stay at the top of the business and corporate elite.

Fair trade is about incorporating rights and standards. Fair trade is about ensuring that corporations are bound to these rights and standards. Therefore the AMWU in our pursuit of a fair trade agenda supports the passage of this Bill with the inclusion of the stated recommendations.