



Submission

to

Senate Employment, Workplace Relations and Education
References Committee

Inquiry into Pacific Region seasonal contract labour

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This submission addresses the terms of reference for the inquiry by the Senate Employment, Workplace Relations and Education References Committee on Pacific Region seasonal contract labour. Specifically, the submission addresses the focus of the inquiry into the viability of a contract labour scheme between Australia and countries in the Pacific region, for the purposes of providing labour for selected rural industries.

The submission is divided between the following sections of the inquiry outlined in the terms of reference:

- a) **Labor shortages in rural and regional Australia;**
- b) **The availability and mobility of domestic contract labour and the likely effects of such a scheme on the current seasonal workforce;**
- c) **Social and economic effects of the scheme on local communities;**
- d) **Likely technical legal and administrative considerations for such a scheme; and;**
- e) **The effects of the scheme on the economies of Pacific nations.**

Introduction

The AWU has represented Australian pastoral workers for over a century and has the widest industry coverage of any union in the agricultural sector.¹

Australian agriculture is characterised by many small businesses producing homogeneous products for the global market – this has created the highly competitive efficient Australian agricultural sector.

It is said that it is farmers who historically have had to bear the brunt of world competition while absorbing rising input costs from the protected manufacturing sector and the non traded goods sector.

Why should farmers have to compete with less efficient Australian industries for labour? Why can't farmers simply pay the world price for agricultural labourers? The Australian Government has so far resisted calls² for programs to bring low skilled seasonal workers to Australia and the AWU supports that position.

As leader of one of Australia's largest unions, it seems to me that we have a priority to assist Australian workers - including farmers - first.

And we have been, exemplified by the success of the wine industry.³ That is not to say that we cannot also assist the development of the Pacific states that should rightly be of concern to us but in my view quite separate to Australia's domestic employment policy and industry settings.

I am therefore concerned that the terms of reference appear to assume the merits of a Pacific Region seasonal labour scheme and seek technical advice on possible implementation when what is required of this inquiry in my view is to take a step back and ask first, what are the pressures for recommending such a scheme in the first place?

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And knowing what the pressures are, then ask whether the seasonal labour scheme is the only option available to Australia?

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By recommending a seasonal labour scheme with the Pacific Region, we run the risk of institutionalising a structural response to a labour market problem, namely domestic labour supply shortages in seasonal industries when the contributors to the seasonal labour shortage are both structural and cyclical. These include pressures from population ageing and demographic change in agriculture, including employment patterns and job loss which are structural issues on the one hand and demand for labour from other parts of the economy - in particular the mining sector - which is cyclical in nature. In the medium to longer term, the market will adjust in order to match the demand for and the supply of labour for seasonal harvesting. We need to understand these influences better.

The use of seasonal labour is no substitute for but only a supplement to the reliance on the domestic labour force, which along with productivity growth will drive higher living standards in both the city and the bush. I have said before that guest work arrangements are exploitative of the guest and exploitative of unemployed Australians.⁴ It also runs the risk of establishing a precedent for other countries, beyond the Pacific Island countries, such as China. It seems to me the higher priority is reform of Australia's existing temporary business visa arrangements that are currently being flouted and mismanaged before embarking on yet another labour hire scheme.

This submission will attempt to untangle some of these influences in order to shed further light on possible policy responses, in addition to a seasonal labour scheme. I also acknowledge contributions to this inquiry and elsewhere by my colleagues in the CFMEU and AMWU⁵ who are addressing worker exploitation under both existing labour hire arrangements and proposed seasonal labour schemes.

a) Labor shortages in rural and regional Australia

Agriculture currently provides around 320,000 jobs and 3 times this amount in downstream processing.⁶ Total agriculture was only 2.9 per cent of industry gross value added in trend terms in the December quarter 2005.⁷ The family farm is still the primary unit of production. The vast majority of farms are owned by family-operated businesses, with around 99 per cent of broadacre and dairy farms operated by owner-managers in 2001⁸. But the number of farming families decreased by 22 per cent between 1986 and 2001 consistent with the fall in the total number of farm businesses from 131,000 in 2003 which was 10 per cent less than in 1994 (and 25 per cent less over twenty years). Average farm size has increased.⁹ The number of farms where

operations were valued above the \$200,000 has also increased and 5 per cent of all farm operations are now worth more than \$1 million.

For the broad acre industries (including dairy) farm operators, family members, business partners and sharefarmers continue to provide the majority of labour used on these farm businesses estimated to be in excess of 85 per cent. However, the proportion of labour requirements being met by casual, contract and seasonal employment is rising generally, and more dramatically in the horticultural industries as these industries contend with economies of scale, costs and demography.

The number of employees per farm business has increased to 2.2 in 2001 up from an average of 1.9 in 1996.

In 2001, approximately 90,000 people were employed in the sheep and beef industries. Approximately 60,000 people were employed in grain, sugarcane and cotton growing businesses with a further 40,000 employed by business that produce grain alongside livestock enterprises (grain-sheep and grain-beef farming). In 2001, there were 28,000 people employed by dairy farm businesses, down 11 per cent from 1996.

The on-going drought has been a major factor in job losses in recent years in agriculture, forestry and fishing with employment falling by 44,800 (11 per cent) in the five years to February 2004 with most of the fall in employment occurring in the two years to 2004.¹⁰

Horticulture

Horticulture has by and large been experiencing positive growth trends. Horticultural production tends to be highly seasonal in its labour requirements and there are no credible statistics as to the size nationally of the seasonal workforce, but the Australian Farm Institute has estimated that with the increase in the number of horticultural farm businesses by 6 per cent in the 10 years to 2003, the number of people employed in the horticultural industries across Australia increased by more than 40 per cent to approximately 68,000. The ratio of employees to employers in horticulture in the decade to 2001 rose from 2.8:1 to 3.8:1 and the proportion of large turnover farm businesses (i.e. larger than \$2 million) was greatest in the horticulture sector. Consistent with the distribution of horticultural farm businesses across Australia, horticultural employment is concentrated in NSW, Qld and Victoria with each accounting for 20-25 per cent of total horticultural employment.¹¹

The trend to higher employee to employer ratios is repeating the experience with Kanak labour in the sugar industry on plantations at the turn of the last century subsequently rejected by Australia.¹² It is unacceptable to consider indenturing labour in a comparable way through seasonal migration in order to maintain international competitiveness in any industry in Australia and should not form the basis of any future industry policy in agriculture or other industry.

Future trends in horticulture

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The gross value of horticultural production in Australia in 2002 was estimated by the industry to be A\$9.65 billion dollars, and by the ABS to be A\$6.75 billion.¹³

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However, after rapid growth in the late 1990s, the fruit and vegetable industry currently faces significant challenges:

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- Internationally, the high dollar has made Australian fruit and vegetables more expensive in markets where it must compete with subsidised European and North American produce and with produce from lower-wage countries like China, South Africa and Chile.
- Domestically, the supermarket duopoly, increasing concentration in the food processing sector, cheap imports of canned and frozen food and rising input costs (like water, fuel and fertilizer) have growers in the grip of a cost-price squeeze.¹⁴

As a result of these pressures, traditional family farms are increasingly giving way to industrial scale agriculture that can produce more efficiently through economies of scale.

In 1991, 49 per cent of the horticultural sector work force were wage and salary earners, 32 per cent self-employed sole operators, 17 per cent were employers and 2.5 per cent unpaid workers.

By 2001 approximately, 60 per cent of those employed in horticulture were wage and salary-earning staff, while 20 per cent were self-employed sole operators. A further 16 per cent were employers and less than 2 per cent were unpaid workers.

The increase in the number of people employed in horticulture in the decade to 2001 (from 24,000 to 42,000) accounts for the reduction over this period in the proportion of the farm sector workforce categorised as self-employed sole operators.¹⁵

Given past trends in the farm workforce and continuing lack of economic growth in the farm sector, the total number of people employed in the farm sector is unlikely to change dramatically in the foreseeable future, but the opportunity for labour switching out of broadacre and dairy into horticulture exists. The relative importance of horticultural employment as a share of total agriculture employment has increased in each state in Australia. However, much of the labour shortage stems from the exit of skilled people from the farm workforce principally due to uncompetitive pay conditions to higher paying occupations in the other sectors of the economy and from the available farm workforce having less than ideal mix of skills, knowledge and attributes.¹⁶

b) The availability and mobility of domestic contract labour and the likely effects of such a scheme on the current seasonal workforce;

The labour force

With few exceptions the agricultural labour force consists of independent, unstructured individuals, frequently employed on piecemeal rates, part time, short-term casual or long term unskilled/semi-skilled and with little career structure or opportunity for

advancement or development of their skill-base. They are badly remunerated. In 2003, median weekly earnings for full-time paid employees in agriculture were around one third lower than those for all full-time employees, making agriculture workers the lowest paid workers in the economy on average.¹⁷ Based on ABS labour mobility data¹⁸ in agriculture, forestry and fishing for those working less than 12 months in their current position, 55 per cent had left the industry within the previous 12 months compared with an economy average of 25 per cent.

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Agriculture is in contrast to most other industries where career structuring EBAs, incentives to manage one's personal skill set and to work more efficiently and be more productive have been a major focus of change over the last two decades in order to achieve a smarter and more productive workforce.

As identified by the Australian Farm Institute, it is management skills that will be increasingly important with the increase in technological solutions in agriculture, the privatisation of extension support and global competition.¹⁹

The ageing farm worker

Forty four per cent of those employed in the agriculture, forestry and fishing industry in November 2003 were 45-64 years old compared to only 33 per cent in the workforce as a whole. The average age of a farmer has risen to 50.

This is consistent with the trend for fewer young people to enter farming as a vocation and with farmers often working beyond the age of 65 years. A study conducted by the Victorian Department of Primary Industries has revealed that just 3300 people aged under 25 entered farming between 1996 and 2001.

Studies indicate that within agriculture, the impact varies: dairy and cropping were relatively stable with more young people; whereas beef and sheep industries were mostly populated with people in the 50-64 years age categories.²⁰

Over the last two decades Australian farming families have become increasingly dependent on off-farm income to maintain their standard of living. In 2000-01 average off-farm income from all sources was valued at \$29,300 for broadacre farms and \$35,700 for dairy farms (just under half of the average total family income).

Small farms with lower incomes, rather than medium or larger farms, are more likely to be dependent on off-farm income. Consistent with the shift towards two income families, and the trend towards part-time farming in other developed countries, a major part of off-farm income comes from off-farm employment.²¹ This runs counter to the skills shortage debate.

At the same time the sustainability of rural communities is under question because they have been the traditional suppliers of farm labour, specialist contractor services (eg shearing and crop harvesting) and general services (eg technical, legal and accounting

services) to the farm sector. Agriculture contributes more than 30 per cent of employment in 66 per cent of small non-coastal towns. Generally, there would be sufficient unemployed to supply much of the immediate labour shortfalls in agriculture in a particular region. It is likely however that the social problems stemming from long-term unemployment will be hidden within the community and local farmers and business people will complain of having unfilled seasonal or casual work vacancies.²²

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The horticultural workforce

Horticultural production is highly seasonal in its labour requirements. A report by the National Harvest Trail Working Group (NTHWG 2000)²³ found there was uncertain but increasing demand for harvest²⁴ labour resulting from:

- The trend towards increasing farm business sizes to obtain economies of scale;
- Growing export markets for Australian fruit and vegetables;
- Emphasis on quality requiring increased labour input;
- The introduction of new crops which have higher labour requirements;
- The conversion of farm businesses from low labour input commodities such as sugarcane and beef to more labour intensive commodities such as fruit, vegetables and cotton.

Currently primary producers in Australia's agriculture and horticulture sectors rely on both documented ("legal") and undocumented ("illegal") workers to meet seasonal labour market needs. The documented workforce includes itinerant farm labourers, family members, local casual workers, students, grey nomads (retirees travelling around Australia) and backpackers on the Working Holiday Maker Scheme.²⁵ The undocumented workforce consists of unauthorised residents (primarily from Pacific Island, Southeast Asian and Chinese backgrounds), overseas students working in excess of permitted hours, Australians working while in receipt of benefits and foreign travellers working without authorisation.

The guest worker

The rural sector is one of the four major areas of employment for undocumented workers in Australia.²⁶ A significant proportion of Victoria's fresh fruit crop is picked by undocumented workers who are highly vulnerable to exploitation and in some cases are offered wages as low as A\$3 per hour.²⁷ Meanwhile, primary producers are vulnerable to immigration raids that can have a devastating effect on output during highly time-sensitive harvest periods.

The NFF is also campaigning to lower applicable taxes and introduce a new range of visas to boost the number of overseas workers in agriculture.²⁸ The proposed new class of visa is short-changing young Australians because it allows unskilled people to migrate to Australia and become apprentices in regional areas. Unemployed Australians should be filling the shortages. The areas in which they've introduced are the areas of regional Australia with the highest youth unemployment.

The AWU does not support casualisation of the farm workforce as being in anyway the answer to labour shortages. Casual workers who are effectively sub-contractors and who are not even covered by an award will do nothing to lift productivity. In fact, they risk pushing parts of the formal economy into the informal sector. In order to attract and retain younger skilled workers as a career choice, we need to improve wages, conditions and farm safety to become employers of choice. This has already been recognised by the NFF.²⁹ NFF has also called for better training, improved human resource management on farms and safer farm practices. The AWU supports targeting spouses who currently provide off-farm income support for special training assistance to encourage their participation in agriculture.

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Existing business visa arrangements need to be overhauled. For example, the AMWU has raised allegations of a situation in Western Australia where Korean trades people claim they were brought to Australia under false pretences and ruthlessly exploited by a labour hire outfit using federal Section 457 visas.³⁰ Employers were using imported labour to undercut negotiated trades rates by more than 50 per cent. There have been numerous reports of the lack of proper policing of visas by the Australian Government which has meant that labour is either coming to Australia without the necessary skills and / or exploited on their arrival. The Australian Computer Society agrees that unskilled workers are being brought to Australia as cheap labour, which is having a devastating impact on graduate employment in the sector³¹.

The Australian Council of Trade Unions (ACTU) has asked the Commonwealth Ombudsman to investigate.³² Unions call for better policing of the wages and entry requirements of migrant workers in order to prevent unscrupulous employers and labour hire agencies undermining local wages and standards by taking advantage of these workers who possess little bargaining power. With existing skilled labour visas being flouted and mismanaged the answer is not additional seasonal migrant workers from the Pacific under new visas but a more flexible and skilled Australian work force and more rather than less investment in plant and machinery.

Determinants of labour supply

Pay, conditions and career structures are probably the major impediments to improved farm labour supply and labour productivity. In large part, this reflects a cost-reducing outlook by farm management rather than a sales and profit-generating outlook. However, agriculture and management knowledge and skills will be increasingly critical with the exponential increase in the application of technologically based solutions in agriculture, the privatisation of extension support and global competition demanding an unprecedented level of business management acumen. Improving management skills amongst farmers/ farm managers is critical in improving the supply and productivity of the farm workforce.

The Australian Farm Institute notes that only farmers can break the cycle of low pay for labour inputs allied to marginal productivity.³³ This will entail a paradigm shift in the farmer organisations' industrial relations posture to one that is more collaborative. Given the changing role of unions the Institute argues the time may be opportune for the

development of a new farmer-union compact to bring the farm labour force into the 21st century. Ultimately, if farmers do not act proactively, market forces will prevail and force up cost structures without gaining increases in productivity.

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The heavy reliance of farmers on the award system could be addressed by industry level organisations entering into collective agreements with workers which were more flexible including allowing for the awarding of work based training skills recognised across different agricultural industries and which give workers a career structure in agriculture.

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The farm labour force is only as good as the quality of its new entrants and the skill development of its existing workforce. The increasing role of new technology and 'new management' techniques in farming as well as the increasing size and complexity of farm businesses will require a higher capability in the workforce at all occupational levels, including in people management and personal management skills. Fundamental to this is the opportunity for continuous learning and in turn literacy and numeracy skills.

The role of education and training

The cyclical and seasonal nature of farming requires that its labour force is flexible and adaptable to a wide range of rural occupations. Often rural people can attain full employment only by sequencing a mix of contract, casual or part-time work throughout the calendar year. However, much of VET is targeted on single, generalised occupations. But in many regions there are other industries or fields with seasonal requirements such as road construction, forestry, fishing, aquaculture, construction and service sectors such as tourism and aged care.³⁴

The image of agriculture as a career and/or prime business opportunity is critical to the supply of suitable farm workers. Current images held by the key stakeholders in the career making decision process (young people, parents and teachers) are deeply ingrained by the negative media images which could be called prejudice and accepted as truth and few stakeholders challenge them.

More than that, agriculture as an educational topic is where it is still part of the secondary curriculum, regarded as the domain of under-achievers.

Employment brokerages

The Australian Farm Institute³⁵ has recommended community based employment and training brokerages to manage the continuous employment and lifelong skilling of the labour force in a rural region. Such brokerages would charge fees for placements and gather training needs information and broker training for which a fee would again be charged. The AWU would be willing to work with such a model along the lines outlined below.

The productivity challenge

Despite fewer farmers, the total size of Australia's agricultural land remained at 769 million hectares throughout the decade but the total value of farm production has increased from \$23 billion to \$36 billion over the decade.³⁶

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Typical of the economy as a whole, increasing productivity, measured by output per hour worked is driven by factors which improve productive efficiency such as: increasing the size of the farm reaping economies of scale and scope; or, applying up-to-date technology and know-how, including workplace arrangements, to the farming enterprise. Constraints on budget and funds means that application of technology and know how are the way forward for the majority.³⁷

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Farmers have been adopting new technologies and improving practices with fervor. Despite problems with the provision of communications infrastructure, the percentage of Australian farms with access to the Internet has increased - the poultry farming industry reported the highest proportion of farms using the Internet (50%), while the grain, sheep and beef cattle farming and dairy cattle farming industries reported the lowest proportion of farms using the Internet (both 41%). As farm size increased, so did the proportion of farms using a computer and the Internet for business purposes.

A future reliance on guest workers will cut across these positive trends and reduce incentives to adopt new technologies and practices.

The Australian Farm Institute calls for a collaborative approach to the productivity challenge. The Institute proposes a farmer-union compact to bring the farm labour force into the 21st century.³⁸ The Institute concludes by recommending that farm organisations and the union movement initiate a program to:

- 1) Professionalise the farm labour force which encompasses strategies to improve the skills of employers, managers and operators under a Certified Australian Farm Employer Scheme. Increasing capabilities at all levels will be required to deal with the increasing size and complexities of farm businesses. And the cyclical and seasonal nature of farming requires that its labour force is flexible and adaptable to a wide range of rural occupations;
- 2) develop and implement community-based skills initiatives in rural regions;
- 3) introduce a certificate of rural or farm operations that enables trainees to gain continuous local employment (in particular for seasonal workers across different agricultural enterprises). The AWU supports an emphasis on skills acquisition and recognition for prior learning and prioritising support for education;
- 4) develop strategies aimed at increasing the intake of students into agriculturally related secondary and post-secondary education³⁹. At the same time as the Howard Government spends money on another inquiry into the shortage of soil scientists, government funding cuts to university chemistry departments has seen HECS fees increase and as a consequence, students turn away from chemistry degrees which are vital to soil science training,⁴⁰ and
- 5) extend the eligibility for training support to all farm employees under various programs, eg, the eligibility for Farmbis⁴¹ support and the available courses to

encompass the needs of permanent, contract and short-term casual employees irrespective of the extent of their responsibility for farm management.

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Although agriculture's share of Australian merchandise exports has more than halved over the past four decades, the sector has become even more export oriented. Australia, in 2002, was the sixth largest exporter of agricultural products, after the European Union, the United States, Canada, Brazil and China.⁴²

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The challenges we confront should bring us together. Australia has a current account and debt crisis. Despite agriculture's contribution, Australia has recorded 46 monthly trade deficits in a row following the deficit of \$2.7 billion in February 2006. This has contributed to a record current account deficit of \$57 billion; a record negative contribution of net exports to economic growth for the past four years; and record foreign debt of \$473 billion.

Practical real economy experience leads to the observation that the critical workplace contributions to growth, productivity and participation are not found by reducing 20 minimum safety net conditions to 16 or keeping unfair dismissal rights only for companies employing more than 100 employees.⁴³

We need to focus on the issues that matter.⁴⁴ The shortage of skilled labour in the bush and elsewhere is part of the decline in human and physical capital that is taking place in Australia leading to our uncompetitive economic and trade performance. When seen in the broader context of the deskilling of Australia as a consequence of this underinvestment and in conjunction with the new IR policies, the AWU is opposed to seasonal labour schemes because it does nothing to address these fundamental problems.

c) Social and economic effects of the scheme on local communities

Rural communities may have lower disposable income, lower levels of education and have higher levels of unemployment and less educational and employment opportunity. This has implications for local communities and any future Pacific Region seasonal contract labour scheme.

Australia's seasonal workers usually come from a number of sources and includes the following categories of workers:

- Working holiday makers (primarily backpackers);
- Students (both domestic and international);
- Permanent workers (and their family members) who already have an established position with the landholder;
- Local labour made-up of local community residents;
- Itinerant workers; and
- Older, retired Australians.

A 2003 study by the University of Queensland⁴⁵ investigated the gender, age, family units and birthplaces of the causal harvester. The findings were:

- There are generally more males than females in the harvest work;
- Ages of employees vary, but the majority of workers are between 25 and 50 years of age;
- Couples now represent an important component in seasonal labour; and
- There is a high ethnic diversity due to the larger presence of working holiday makers and overseas born Australians that comprise a large percentage of the permanent itinerant group.

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Some of the factors that may contribute to lower local employment participation in seasonal harvesting may be that the work is associated as an activity that carries a low social status with very little potential for career progression; the remoteness of some of the regions and locations; wages may also not be as attractive as other forms of employment and the period of employment may be unstable due to unpredictable weather or poor crop conditions.

The increasing importance of off-farm employment reflects, in part, the increased participation of women in the workforce, as well as the increasing incidence of multiple job-holdings by farmers.

One of the stated aims of the Government's welfare to work policy is to generate opportunities for Australians not currently in the workforce who are on welfare benefits to participate. Although the welfare to work program has been badly designed and lacks support and necessary training and vocational development components, seasonal job schemes make the prospects of success of this program even less likely. This is because what opportunities may have existed in regional Australia for single parents and the disabled particularly in unskilled areas will be snapped-up by overseas labour simply adding to the pool of unemployed.

The bottom line is that it is more prudent to first deal with local unemployment levels in regional Australia which generally are significantly higher than in the cities by addressing some of these causal factors in preference to adopting seasonal labour simply because these problems have not been adequately addressed in the first place.

Imported, seasonal workers will crowd out local employment by moving to other regional areas and industries where pay rates are more attractive particularly if rural industries try and exploit new IR changes in order to drive down wages and conditions in the workplace. Unless proscribed from doing so they will simply move to mining or to coastal cities. Labour shortages will persist.⁴⁶ Will any new scheme allow seasonal workers who become unemployed or ill to draw on social security in Australia? Almost 70 percent of migrants arrived under the Skill Stream program between 1999 and 2004 derive their main source of income from wages or salary, compared to 37 per cent of Family Stream program.⁴⁷

d) Likely technical, legal and administrative considerations for such a scheme:

Existing workplace arrangements

For agricultural employees there are a number of different workplace arrangements:

- Agricultural employees are a mix of contract workers through Labour Hire firms and direct employees on farm. They should all be covered by an industrial award or in Victoria from 1 January 2005 a common rule award.⁴⁸
- Although the agriculture, forestry and fishing sector has the lowest rate of union membership of any sector of the economy, at only 5 per cent, all employees are still entitled to the basic conditions specified in their award.⁴⁹
- The Federal Workplace Relations System covers a significant proportion of agricultural employees under the Federal Pastoral Industry Award or the Federal Horticultural Industry Award. AWU members working in pastoral and dairy industry are covered under Federal Awards.
- Awards are given legal force by legislation - both Federal or State - that broadly says that once certain procedures are followed, and the wages and conditions that have been settled are registered, the instrument (award) will be enforced by a court (and tribunal set-up to watch over the industrial relations in the particular state or by the Australian Industrial Relations Commission (AIRC)).
- The general principle of the award system is that it is designed as a 'floor' for wages and conditions.
- Employees and employers can also be covered by a collective enterprise agreement (EBAs) or an individual agreement (most commonly an Australian Workplace Agreement (AWA)).⁵⁰
- Collective bargaining at the enterprise level has been strongly supported by both unions and employers and there is solid empirical evidence that they have contributed to strong productivity growth in the economy.⁵¹

An example of what can be achieved, the Southcorp Wines Pty Ltd Barossa Wineries Maintenance Enterprise Agreement 2004 provides flexibility such as the necessity for employees to respond to changed working hours and positions, the use of contract labour as well as provision for job training and career progression. And that is a reflection of the success of the wine industry today as an innovative and high performance export earner for this country generating \$ 2.7 billion in earnings in the 12 months to July 2005.⁵²

We can learn from successful sectors such as wine to develop innovative industries in other parts of agriculture and the economy.⁵³ It is the interrelationships between relevant players, including government, institutions, companies and unions and a fresh

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approach that can lead to world leading industries.⁵⁴

The China effect

Is it right that Chinese workers earn as little as 65 cents an hour? Such low wages create an incentive for Australian businesses to exploit those workers through short-term guestworker programs. Australian fruit growers want to import 10,000 Chinese workers for 4 months a year to pick fruit. But we should not exploit people we want to be in partnership with, and instead should be helping them get better working conditions in China. Any agreement with the Pacific Islands would create a precedent for a future influx of still cheaper labour beyond the Pacific Islands. This is a race to the bottom.

In Australia, trade union leaders stress that any seasonal work scheme must not be used to undercut wages and conditions for Australian workers, and must adhere to core labour conventions and standards.⁵⁵ The International Labour Organisation (ILO) also has a range of conventions covering core labour standards. The ILO also has specific conventions 97 and 143 covering migrant workers, yet these have not been ratified by Australia or by any Pacific island governments.⁵⁶ The Pacific Conference of Churches (PCC) has also called on Pacific governments to sign, ratify and implement the provisions of the Convention on Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention).⁵⁷ The Convention came into force in July 2003, but so far has not been signed or ratified by Australia, New Zealand and any other member of the Pacific Islands Forum.⁵⁸

The experience in Canada - which operates a Seasonal Agricultural Workers Program - suggests that problems will arise when migrant workers are tied to a specific employer, especially if there is no ability for them to organise collectively. Workplace health and safety coverage is also non-existent or unclear in Canada.⁵⁹ In the event that despite legitimate community opposition there is a seasonal labour scheme in Australia, it would need to have safeguards built in to protect workers' rights, and guarantee freedom of association. There should also be a mechanism of independent dispute resolution to manage conflicts when they arise.

Together with sectors such as construction and mining, farming and agricultural work are amongst the most hazardous industries for workers and compliance with occupational health and safety laws will be essential – there could be complex legal and practical issues for workers to claim treatment and compensation for workplace injuries after they return home.

A great deal of the employment utilised in the harvest industry is short-term casual, which paves the way for a lack of investment in training, communication or in the development of attractive career structures. Let's call it the return of the Kanak culture. As a result, many casual employees have little or no training on OHS, harvesting the crop or working around farm machinery. There is also a significant challenge for employers to manage short-term explosions in workforces.

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On the basis that a temporary guest worker scheme may disadvantage local workers, exploit foreign workers and/or lead to employees not returning to their country of origin, a number of suggestions have been put forward.⁶⁰ These include:

- Providing guest workers with freedom of movement within the host country's labour market aimed at avoiding ghettoisation and exploitation;
- Native employers' to be charged the real supply price of the foreign workers plus an industry policy component aimed at restructuring of the economy towards capital and technology intensive industries;
- Acknowledge native workers' entitlement to share in the economic benefits obtained from guest workers and compensate them by charging employers a fee for each foreign worker employed; and
- Standardise guest worker programs to accommodate foreign workers of all skills aimed at ensuring that not just unskilled workers enter the country avoiding an underclass of guest workers who have less rights and access to residency than other more valued guest workers.

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Conclusion:

It is also important to recognise that there are alternatives to guest workers. Labour shortages can be met through the application of R&D and new technology aimed at raising the capital intensity of horticulture.

The AWU supports the conclusion of the Australian Farm Institute that we cannot escape the fundamental relationship between demand and supply for labour and relative rates of pay. To quote the Farm Institute, 'there is no persuasive reason for governments to introduce preferential working conditions for a particular industry sector'.⁶¹

Any seasonal labour program would fail because of the need to take account of taxation arrangements (or the lack of them) between Australia and the Pacific. Currently, non-residents who perform harvest labour in Australia (working holiday makers) are taxed at a higher rate than resident workers (29 per cent rather than 15 percent) and do not benefit from the tax-free threshold. Pacific Islanders performing seasonal work could find themselves subject to double taxation.

Harvest work is seasonal by nature, the vast majority of employees are casual and pay rates may vary from crop to crop. Some of the pay structures in the harvest industry include:

- Wages paid on a 40-hour weekly basis;
- Casual work paid on an hourly basis;
- Piecework paid on a per unit harvested basis; and
- Negotiation agreed on a start to finish basis.

This range of pay structures provides sufficient flexibility to meet most if not all employment requirements for horticultural harvesting.

However, a Working Group (NHTWG 2000) examining conditions of farm work on the Harvest Trail, found that many growers and employees were unclear as to the appropriate wage that should have been applied for the work completed.⁶² Standardising and improving wage entitlements and introducing clear and transparent information to all stakeholders may assist in decreasing the incidence of earnings being a barrier to harvest employment for both domestic and international employees. Providing potential employees with up-to-date and reliable information may help to reduce the number of employees becoming disillusioned with the harvest industry.

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In addition, in order to attract a greater number of locals to work in the seasonal harvest sector, the government may consider removing actual and perceived conflicts between welfare, wages and tax. Australia's comprehensive means-testing of welfare benefits imposes very high rates of effective tax on people in the workforce on low incomes. As their earnings rise, not only do they pay more tax but also their benefits are withdrawn. So fundamental tax reform would go some way in playing its part in addressing labour shortages .

Some single mothers and people coming off Newstart Allowance pay an effective rate of 70 per cent, while some low-income families can be taxed up to \$1.04 for every \$1 earned, more than twice the rate of a millionaire.

Again, however, there is no persuasive reason for governments to introduce discriminating welfare or tax arrangements for casual workers in a particular industry sector.

Employers should also share the costs of any seasonal workers scheme in Australia. Monetary incentives force employers to look first to the local labour market to secure workers. Employers could be told to contribute to a Trust Fund devoted to the skilling and employment of young Australians as part of any agreement to access foreign workers with the assistance of employment brokers described above. The Trust Fund would be overseen by labour representatives and focus on areas of skills shortage where such a Fund could complement state and federal responsibilities.

e) The effects of the scheme on the economies of Pacific nations

Significant social impacts have been identified from migrant worker schemes. The benefits of increased income for the family and community must be weighed against the social costs, especially for women and children. There are also questions of how many benefits from remittances go directly to families, while the cost and burdens of welfare and social adjustment are carried by government at a time when many Pacific governments are often stretched to capacity in providing basic services.

Pacific Islands Forum Secretary General Greg Urwin has noted that seasonal migration to Australia by Pacific islanders is different to past waves of post-war migration from

southern Europe in that many islanders are landowners, maintain connections with extended family groups and have an ongoing status in their home country.⁶³ These workers therefore are more than unskilled itinerants, but rather the fabric of communities' forced to take on this role in order to provide for their families.

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In an unregulated environment, the North-South disparity in wealth and opportunity mean recruitment agencies can extract exorbitant 'application fees' from would-be migrant workers who are hungry for jobs and then drive down the conditions and pay under which they are expected to work. This will tend to impose the greatest cost on the most disadvantaged workers. The role of for-profit private sector recruitment agencies needs to be tightly regulated.

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In summary, there is concern with the unregulated role of private recruitment contractors, the social impact on family life and the capacity of the government to support workers with pay disputes or post-deployment health problems. These are in addition to social impact of labour migration on the family and community life of those left at home.

However, we recognise that Pacific Island countries see an increase in remittances from overseas workers as an important source of boosting foreign reserves and addressing the balance of payments gap between Australia, New Zealand and Pacific Island neighbours.⁶⁴ There is a concern that the Pacific Agreement on Closer Economic Relations (PACER) including all Forum members, will add to the already substantial pool of unemployed labour, so remittances from the export of unskilled labour to Australia and New Zealand may turn out to be an important counterbalancing flow which reduces the size of the deficit and the high rates of unemployment in the region.

This is a perverse development outcome from PACER. Regional economics determines that the largest economy in such regional arrangements will dominate resource flows within the group. But that is not in the longer term interests of the Pacific Islands states and needs to be addressed through counterbalancing and compensatory development policies aimed at retaining a higher proportion of skilled workers to stem the impact of the current 'brain drain' and promoting employment opportunities for the unskilled. Integration of new members into the European Union is evidence of this process and how it has been addressed there.

The AWU believes that development of Pacific Island states is a critical but separate question to be addressed through appropriate policy settings. First-best solutions include training and skills development in-country and in the fostering of domestic employment opportunities through industry development and access to Australia's markets through our development assistance program and trade policies. Possessing a non-school qualification in country recognised in Australia is more likely to allow migrant workers to find employment than for migrant workers without a non-school qualification.⁶⁵ This is the only way to avoid the development of a culture of dependency for employment, denying the Pacific states at its most fundamental level - through the development of its people - opportunity for sustainable future economic growth and prosperity.

Australia has an incentive for promoting economic development in the Pacific including generating the skills base of Pacific nations. Part of this approach is a consequence of irresponsible energy policies leading to the impact of climate change threatening the viability of Pacific Island states. Domestic skills and expertise will be critical in dealing with these threats. It is also in our interests to work towards higher skills levels in the event that future Australian governments are asked or offer to take in future victims of the impacts of climate change - so called environmental refugees.

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Concluding remarks

Australia's agricultural industries have been based on abundant cheap land and scarce labour. We have been successful because we developed family farms which used our scarce labour resources efficiently. Australian farmers used technology and skills to maximize their output. The family farm size is increasing which in turn is increasing the productivity of farmers. However, the economic efficiency of our agriculture industries will be compromised if we turn on the tap of Kanak type labour.

Artificially reducing the input cost of seasonal agricultural workers by supplying indentured labour will distort price signals for farmers. Farmers will demand more cheap seasonal labour instead of investing in technology, capital, training and other inputs to make farm workers and farm enterprises more productive. The supply of cheap labour will last only so long as farmers can prevent workers from demanding higher wages or leaving (as almost all overseas migrants choose to live in regions which offer better employment opportunities over time).

Low wages are not sustainable and agricultural businesses that have been based on the supply of cheap indentured labour will be squeezed. We will have encouraged farmers who cannot survive without government subsidies, let alone compete internationally. If we add up the economic cost to these valuable Australian export industries it would be better to give a direct subsidy to countries in the Pacific.

Endnotes

¹ And the AWU is proud of its origins as the first union to secure a federal award under the conciliation and arbitration system - the Pastoral Industry Award. With this award, the AWU was able to ensure that workers, not just bosses, had a say in setting pay rates and workplace conditions.

² [National Farmers' Federation | The voice of Australian Farmers for 25 years.,
http://www.nff.org.au/pages/pub/LSAP%20Final.pdf](http://www.nff.org.au/pages/pub/LSAP%20Final.pdf)

³ Australia is now the fourth largest exporter of wine in the world after France, Italy and Spain. The value of Australian exports increased from \$116 million in 1988-89 to \$2.5 billion in 2003-04 — an annual rate of growth of 24 per cent.
<http://www.pc.gov.au/research/crp/agriculture/agriculture.pdf>

⁴ See for example Labour mobility in the Pacific: creating seasonal work programs in Australia by Nic Maclellan and Peter Mares. Paper for conference on “Globalisation, Governance and the Pacific Islands.”

State, Society and Governance in Melanesia Project (SSGM) Australian National University, Canberra, 25 - 27 October 2005.

⁵ The AMWU has three goals in dealing with imported labour – ensuring that Australians have first option on jobs, developing the domestic skills base, and protecting imported workers from exploitation.

<http://www.amwu.asn.au/default.asp?action=LoadArticle&ID=2323>

⁶ Farm managers, like other managers have their wages/salaries and conditions set-down in contracts of employment. In agriculture non-salary items such as accommodation and a share in profits or use of additional land often also form part of this contract. So farmers are by and large still working in the centralised environment of the Award system.

⁷ ABS Cat No 5206, Industry gross valued added for Dec Quarter 2005

⁸ [http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/Lookup/70AC02A724F4033FCA256D3A0006B054/\\$File/41020_2003.pdf](http://www.ausstats.abs.gov.au/Ausstats/subscriber.nsf/Lookup/70AC02A724F4033FCA256D3A0006B054/$File/41020_2003.pdf)

⁹ Productivity Commission: “Trends in Australian Agriculture”, Research Paper, Canberra, June 2005 p.31.

¹⁰ DEWR Job Outlook, 2004

¹¹ *Australian Farm Sector Demography*, August 2005, at

www.farminstitute.org.au/publications.

¹² Kolsen T, 2003, Social Science Fiction, paper presented to the Sugar Summit organised by the Australian Cane Farmers Association,

www.newsweek.com.au/articles/2003mar08_sugar.html

¹³ Horticulture Australia Limited: *The Australian Horticulture Statistics Handbook 2004*

¹⁴ Labour mobility in the Pacific: creating seasonal work programs in Australia by Nic Maclellan and Peter Mares. Paper for conference on “Globalisation, Governance and the Pacific Islands.” State, Society and Governance in Melanesia Project (SSGM) Australian National University, Canberra, 25 - 27 October 2005.

¹⁵ *Australian Farm Sector Demography*, August 2005, at

www.farminstitute.org.au/publications.

¹⁶ It is interesting to note Almost 40% of Australian farm businesses had an annual turnover of less than \$100,000, and the operators of these farms generated 91% of their annual net income from off-farm sources.

¹⁷ <http://www.pc.gov.au/research/crp/agriculture/agriculture.pdf>

¹⁸ ABS Cat No 6209, Labour mobility

¹⁹ *Australian Farm Sector Demography*, August 2005, at

www.farminstitute.org.au/publications.

²⁰ Barr N 2004, The microdynamics of change in Australian agriculture: 1976-2001, ABS Cat No 2055.0.

²¹ Off-farm income has, on average, accounted for around 65 per cent of all household income on broadacre farms since 1989-90.

<http://www.pc.gov.au/research/crp/agriculture/agriculture.pdf>

²² *Australian Farm Sector Demography*, August 2005, at

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²³ National Harvest Trail Working Group (NHTWG) 2000, *Harvesting Australia*, Report of the NHTWG, Commonwealth of Australia, Canberra

²⁴ Harvest work includes the pruning and trimming of vines and trees, thinning and trimming flowers and bunches, general maintenance crop work and crop harvesting or picking.

²⁵ Glenys Harding and Elizabeth Webster: *The Working Holiday Maker Scheme and the Australian Labour Market*, Melbourne Institute of Applied Economic and Social Research, University of Melbourne September 2002, [online] <http://www.ecom.unimelb.edu.au/iaesrwww/mipub/other.html> .

²⁶ The other main sectors being hospitality, the sex industry and factories.

²⁷ Gary Hughes and Larry Schwartz: "Outlaw labour, rorts and all", *Sunday Age*, 28 March 2004, pp 1 & 8.

²⁸ [National Farmers' Federation | The voice of Australian Farmers for 25 years.](#)

²⁹ Labour shortage action plan, 2005 <http://www.nff.org.au/pages/pub/LSAP%20Final.pdf>

³⁰ <http://www.amwu.asn.au/default.asp?Action=featured&ID=1>

³¹ Australian 14 March 2006, James Riley Visas being rorted say ACS, ACTU

³² ACTU's view is the growing use of temporary business visas drives down conditions for Australian workers and leave migrants vulnerable to exploitation. Since the Howard government came to power 10 years ago, the number of temporary business visas issued each year has almost doubled — from 197,941 in 1996-97 to 339,242 in 2004-05. These include four-year employer-sponsored visas, which rose by 24 per cent to 49,855 in 2004-05, and short-stay visas for visits of up to three months, which increased by 136 per cent to 339,242 in that year. The unions are concerned that in issuing these s457 and s456 visas, the Department of Immigration and Multicultural Affairs is not obeying the rules that are supposed to ensure importing a skilled worker will not disadvantage Australians. **AFR 13 March 2006, Sophie Moms and Mark Skulley Unions lodge visas complaint.**

³³ *Australian Farm Sector Demography*, August 2005, at www.farminstitute.org.au/publications

³⁴ as above

³⁵ as above

³⁶ It should be noted that measures of productivity in agriculture are unreliable for two reasons: seasonal fluctuations; the correlation with good seasons and farm sales leading to greater aggregation. These factors are also likely to occur in tandem resulting in a much wider variation in measured productivity at a point in time.

³⁷ A key source of productivity growth in agriculture has been the generation and adoption of new knowledge or technologies. Some examples include:

- the development of more sophisticated farm machinery and equipment;
- the development of improved herbicides, fertilisers and other chemicals that have enhanced yields; and
- genetic modification involving the manipulation of the genetic structure of living organisms (more directly than through conventional plant and animal breeding), which has created opportunities for raising the productive potential of plants or animals by, for example, enhancing their resilience to disease.

Productivity growth has also come about as farmers have made better use of available technologies and management practices. Key influences in this context have been pressures

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from competing overseas producers, the enabling effects of new process technologies such as IT and the internet, as well as changes to various institutional and regulatory arrangements (including reforms to statutory marketing arrangements for several industries).

In addition, productivity growth within the agriculture sector has been shaped by structural changes such as increases in farm size, shifts in the industry mix of the sector and the exit of lower performing farmers. <http://www.pc.gov.au/research/crp/agriculture/agriculture.pdf>

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³⁸ *Australian Farm Sector Demography*, August 2005, www.farminstitute.org.au/publications.

³⁹ For example, increasing HECS on chemistry students is acting as a deterrent to increasing student numbers in an area of vital R&D.

⁴⁰ Brendan O'Keefe, *The Australian* 28 September 2005.

⁴¹ The AAA FarmBis program provides financial assistance to primary producers and rural land managers to undertake business and natural resource management training and education activities. <http://www.farmbis.gov.au/>

⁴² <http://www.pc.gov.au/research/crp/agriculture/agriculture.pdf>

⁴³ Bill Shorten: *Beyond the next election- Policy challenges for Australia's future workforce*, Sydney Institute, 20 September 2005, www.awu.net.au/national/speeches/.

⁴⁴ These include an ageing workforce; encouraging greater female participation; retaining older workers; acceptance of older workers; fixing the skills shortage; education and training initiatives; skilled migration policies balanced with retaining our highly trained skilled workers; creating a fairer tax system by reducing effective marginal tax rates, providing incentives for welfare recipients to return to work; building research and development and better national infrastructure (see Bill Shorten's speech above).

⁴⁵ Hansen and Bell 2003, Queensland's fruit and vegetable industry, Discussion paper 2003/08, Queensland Centre for Population Research School of Geography, University of Queensland

⁴⁶ ABS Cat No 6250.0, labour force status and other characteristics of migrants, Australia, November 2004.

⁴⁷ ABS Cat No 6105, Labour outcomes of migrants, November 2004

⁴⁸

<http://www.wagenet.gov.au/WageNet/templates/PageMaker.asp?category=FactSheets&file Name=../FactSheets/DataFiles/States/VCRAFactSheet.html>

⁴⁹ Awards are legally enforceable instruments containing wages and conditions applicable to employees in an industry covered by a particular award.

⁵⁰ Certified Agreements (CAs) also exist in the wine, piggery, tomato and mushroom industries.

⁵¹ For example, Professor Mark Wooden of the Melbourne Institute has demonstrated that collective agreements including EBAs contributed to Australia's record rate of productivity in the 1990s and that AWA's are ill suited to team based work. *The Australian* 27 September 2005.

⁵² That is an increase of 15.2% in volume and 9.5 % in value on the corresponding period to July 2004.

<http://www.abs.gov.au/Ausstats/abs@.nsf/0/b8722966368e8b91ca2568b700190afd?OpenDocument>.

⁵³ Also see the Productivity Commission's report, *Trends in Australian Agriculture*, 2005. At <http://www.pc.gov.au/research/crp/agriculture/agriculture.pdf>

⁵⁴ The Grape Wine R&D Corporation has brought stakeholders together with industry directing the research process with government matching industry funds resulting in international competitiveness and product and process innovation. Bill Shorten: Beyond the next election- Policy challenges for Australia's future workforce, Sydney Institute, 20 September 2005, www.awu.net.au/national/speeches/

⁵⁵ Interview with Rajeshwar Singh, President, South Pacific Council of Trade Unions (SPOCTU), Suva, June 2005; as reported in *Labour mobility in the Pacific: creating seasonal work programs in Australia* by Nic Maclellan and Peter Mares. Paper for conference on "Globalisation, Governance and the Pacific Islands."

⁵⁶ ILO C. 97 Migration for Employment Convention (Revised), 1949 and ILO C. 143 Migrant Workers (Supplementary Provisions) Convention, 1975.

⁵⁷ *Labour mobility in the Pacific: creating seasonal work programs in Australia* by Nic Maclellan and Peter Mares. Paper for conference on "Globalisation, Governance and the Pacific Islands." State, Society and Governance in Melanesia Project (SSGM) Australian National University, Canberra, 25 - 27 October 2005.

⁵⁸ Members: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Republic of the Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, Vanuatu.
http://www.dfat.gov.au/geo/spacific/regional_orgs/spf.html

⁵⁹ *Labour mobility in the Pacific: creating seasonal work programs in Australia* by Nic Maclellan and Peter Mares. Paper for conference on "Globalisation, Governance and the Pacific Islands." State, Society and Governance in Melanesia Project (SSGM) Australian National University, Canberra, 25 - 27 October 2005.

⁶⁰ Ruhs (2002), Paper presented to the Centre for Comparative Immigration Studies

⁶¹ *Australian Farm Sector Demography*, August 2005,
www.farminstitute.org.au/publications.

⁶² National Harvest Trail Working Group (NHTWG) 2000, *Harvesting Australia*, Report of the NHTWG, Commonwealth of Australia, Canberra.

⁶³ *Labour mobility in the Pacific: creating seasonal work programs in Australia* by Nic Maclellan and Peter Mares. Paper for conference on "Globalisation, Governance and the Pacific Islands." State, Society and Governance in Melanesia Project (SSGM) Australian National University, Canberra, 25 - 27 October 2005.

⁶⁴ As above

⁶⁵ ABS Cat No 6250.0, *labour force status and other characteristics of migrants*, Australia, November 2004.

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