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29<sup>th</sup> August 2008

Senate Foreign Affairs, Defence and Trade Committee

By Email: fadt.sen@aph.gov.au

Dear Senate Committee,

**Re: Inquiry into the main economic and security challenges facing Papua New Guinea and the island states of the Southwest Pacific**

Please find attached the submission of the Liquor, Hospitality and Miscellaneous Union (LHMU) on the Senate Committee's Inquiry into the main economic and security challenges facing Papua New Guinea and the island states of the Southwest Pacific.

The LHMU welcomes the opportunity to make this submission.

Within this submission, the LHMU seeks to represent the concerns of all of our 140,000 members. As LHMU members, those workers could be from any of the diverse range of industries and occupations we cover, including:

- Cleaning
- Security
- Care work (attending to the young, frail, aged, ill and disabled)
- Hospitality
- Manufacturing

Please contact Danae Bosler on (02) 8204 3014 should you wish to discuss any aspect of this submission further. All correspondence should be addressed to Locked Bag 9, Haymarket, NSW, 1240.

Yours faithfully,

**TROY BURTON**  
**ASSISTANT NATIONAL SECRETARY**

**Liquor, Hospitality and Miscellaneous Union (LHMU) submission to the Senate Foreign Affairs, Defence and Trade Committee's Inquiry into the main economic and security challenges facing Papua New Guinea and the Island States of the Southwest Pacific**

## **Introduction**

The LHMU recognises that the Southwest Pacific region, which Australia is part of, is made up of many culturally diverse nations with indigenous histories, and that these countries are “independent and sovereign entities” whose independence must be respected.<sup>1</sup>

To indicate its ongoing support of human rights and to recognise labour rights as inherent human rights, the Australian Government should ratify the UN's International Convention on the Protection of the Rights of Migrant Workers and Their Families.

As a secure, democratic and economic leader in the Southwest Pacific, Australia (in partnership with New Zealand) has an obligation to assist its neighbouring states to achieve economic security.

The Australian Government is in a privileged position, where it can study, assess and benefit from the New Zealand Recognised Seasonal Employer (RSE) scheme.

With extreme unemployment and underemployment, especially among young men, in Papua New Guinea (PNG) and the Southwest Pacific Islands, it has been noted the increasingly urgent need to find jobs for Pacific Island workers and that “this coincides with the emergence of gaps in the labour force of developed nations”, namely Australia.<sup>2</sup> The LHMU, however, holds some strong reservations addressed below.

Firstly and foremost, all human and labour rights must be upheld. Unions are an important mechanism to ensure that labour rights are protected, and the relevant unions must be involved in the process to establish any labour mobility schemes. In line with recommendations from the International Labour Organisation (ILO), the LHMU is seeking a rights-based approach to labour mobility in the Southwest Pacific.<sup>3</sup>

## **Labour mobility schemes must be negotiated separately from any free trade agreement**

The LHMU supports the calls of the United Nations (UN), the ILO and other non-governmental organisations (NGOs) to negotiate labour mobility schemes separately from any free trade agreements. At the most basic human rights level, workers must not be treated as tradable commodities.

The World Trade Organization (WTO) and international trade law has no mandate or jurisdiction to ensure that worker's rights are protected. Further, free trade agreements lock in nations to ongoing agreements, with punishment if these agreements are not upheld. Labour markets are much too volatile to be held ransom by free trade agreements.

Further, labour mobility schemes, such as that underway in New Zealand and soon to be trialled in Australia, are short-term solutions to labour market shortages. Any labour mobility scheme to assist an Australian industry segment must be part of a broader industry workforce strategy. Guest worker schemes are not long-term, sustainable solutions and hence should remain separate from free trade negotiations.

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<sup>1</sup> Senate Foreign Affairs, Defence and Trade Committee, *A Pacific engaged: Australia's relations with Papua new Guinea and the islands states of the Southwest Pacific*, Commonwealth of Australia, 12 August 2003

<sup>2</sup> Nic Maclellan & Peter Mares, *Labour mobility in the Pacific: creating seasonal work programs in Australia*, Stewart Firth (ed.) Globalisation and Governance in the Pacific Islands, ANU E Press, The Australian National University, Canberra, Australia, p.138

<sup>3</sup> See, International Labour Organisation, ILO Multi-lateral Framework on Labour Migration, International Labour Office, Geneva, 2006

## **Labour mobility schemes must be linked to training and real skill acquisition**

Even if the intake of seasonal workers coming to Australia and New Zealand were to rise to 50,000 workers a year, the impact on the Pacific would be negligible. To be other than symbolic, recruitment would have to be focused on those small islands that are not already becoming ghost economies through emigration. For most Pacific islanders a Pacific guest worker scheme would thus be a cruel deception.<sup>4</sup>

- Dr Helen Hughes & Gaurav Sodhi

Estimated figures from PNG and the Southwest Pacific Islands suggest that there are over four million people who are currently unemployed or underemployed and that in the larger nations, such as PNG, some 80% of the male population is unemployed or underemployed.<sup>5</sup>

To ensure that any labour mobility scheme is not just a “cruel deception”, it must be linked to real, quantifiable training and skills development in industry segments that benefit those Southwest Pacific nations most in need.

A labour mobility scheme should assist Southwest Pacific nations in achieving economic stability through both remittances and skill development. Guest workers must gain recognised and certified skills that can be taken home to their Southwest Pacific nations and utilized there.

Further to this, a short-term labour mobility scheme must not become a safety valve that takes the pressure off industries that have failed to develop sustainable labour markets. To ensure this does not occur, there should be critical assessment, involving all key stakeholders, of any Australian industry in which labour mobility schemes may be proposed.

## **Labour mobility schemes must be regulated and monitored to reduce abuse**

It has been argued by some stakeholders that the Australian Government can provide a solution to the many economic challenges facing PNG and the Southwest Pacific Islands by introducing a labour mobility scheme.

The LHMU envisages serious challenges in the implementation of any such scheme. The LHMU’s submission to the Visa Subclass 457 Integrity Review on Issues Paper #1: Minimum Salary Level / Labour Agreements drew attention to the concerns regarding labour agreements. These concerns also apply to short-term labour mobility programs.<sup>6</sup>

Any labour mobility scheme must be tightly regulated and monitored and this must include the following:

- that the employer is required to employ guest workers in accordance with the provisions of the relevant industrial instrument, particularly in regard to key employment conditions including hours of work, rostering protections, leave, overtime, shift penalties, superannuation, allowances and other loadings;
- that the industry and/or employer covers the guest workers’ travel, medical (including insurance), relocation and accommodation expenses;
- that the industry receiving guest workers must develop ongoing labour market strategies to address it’s own shortages;
- that all guest workers are provided with English Language training up to the appropriate level, as well as real skill development through Australian certified

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<sup>4</sup> Helen Hughes & Gaurav Sodhi, *Should Australia and New Zealand open their doors to guest workers from the Pacific? Costs and Benefits*, Policy Monograph 72, The Centre for Independent Studies, 2006, p.7

<sup>5</sup> Helen Hughes & Gaurav Sodhi, “The Bipolar Pacific”, *Issue Analysis*, The Centre for Independent Studies, No.98, 21<sup>st</sup> August 2008

<sup>6</sup> A segment of the LHMU’s submission is attached in Appendix A.

training programs – allowing overseas workers to return home with applicable skills;

- that the Australian Government establish a fair, efficient system for guest workers to transmit their remittances to the home nation in the Southwest Pacific Islands. Currently, the cost of transmitting remittances to this region is the highest in the world;<sup>7</sup>
- that there is a clear identification of the specific work sites at which guest workers will be located, and that the relevant unions are provided with a private 30 minute meeting during the guest worker's induction process in addition to the current right of entry provisions; and
- that guest workers be employed in an area of occupation that leads to quantifiable skills outcomes.

### **Addressing the social implications of labour mobility schemes**

Migrants very often face poverty; discrimination and exploitation; alienation and a sense of anonymity; limited access to social, education and health services; separation from families and partners; and a sense of disconnect from the socio cultural norms that guide behaviour. Many common underlying factors sustain mobility, such as an unbalanced distribution of resources, growing unemployment especially in rural areas, socio-economic instability and political unrest. Some of these pose a threat to safe migration, and thereby expose migrants and their families to heightened risk of exploitation, diseases and HIV.<sup>8</sup>  
-Asia Pacific Migration Research Network (ASMRN)

Although a guest worker scheme with the Southwest Pacific nations of PNG, Vanuatu, Kiribati and Tonga has been announced, the LHMU feels compelled to draw the Inquiry's attention to possible social implications of the Australian Government's actions should greater labour mobility be undertaken without critical assessment of its broader implications.

The UN and other international NGOs draw clear links between labour mobility and

- The increased chance of HIV/AIDS infection for the guest worker<sup>9</sup>
- An increase in domestic violence, including sexual assault and rape, on return of the migrant worker and
- The disintegration of the family unit.

These issues arise from the upheaval and dislocation experienced by guest workers, and must be addressed through education and support services.

The New Zealand Government's Responsible Seasonal Employer (RSE) program also revealed that while in New Zealand, guest workers experienced

- Substance abuse, including drugs and alcohol and
- Gambling and other financial mismanagement.<sup>10</sup>

The Australian Government must conduct extensive research and establish education and community programs funded by the Australian Government to minimise the social harm caused within Southwest Pacific communities by any labour mobility scheme. Both the research and programs should be transparent and include substantial consultation with local community and welfare groups.

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<sup>7</sup> Nic Maclellan, *Workers for All Seasons? Issues from New Zealand's Recognised Seasonal Employer (RSE) Program*, Institute for Social Research, Swinburne University of Technology, Melbourne, Australia, May 2008

<sup>8</sup> Asia Pacific Migration Research Network, *No Safety Signs Here*, November, 2004, p.5

<sup>9</sup> See, Economic and Social Commission for Asia and the Pacific, *Gender and HIV/AIDS in the Asia and Pacific Region*, Gender and Development: Discussion Paper Series 18, December 2005

<sup>10</sup> See, Nic Maclellan, *Workers for All Seasons? Issues from New Zealand's Recognised Seasonal Employer (RSE) Program*, Institute for Social Research, Swinburne University of Technology, Melbourne, Australia, May 2008

The Australian Government must carry out thorough social impact assessments, as well as public interest tests, both in the labour receiving region in Australia and the labour supplying region in the Pacific.

Especially in rural Australian areas, where guest workers used in the agricultural industry are most likely to be placed, there must be access to welfare and support services, pastoral care, infrastructure and public transport.

Further, there should be a public interest test and education programs for the broader Australian community to ensure that racial tension does not develop.

The Australian Government should explore the possibility that the benefiting industry, where the guest workers would be placed, contribute to covering costs here.

To fully assess the impact of any labour mobility scheme, obtaining accurate data is essential. It has been noted that “demographic and social data in the Pacific are sparse and unreliable”<sup>11</sup>. This critical knowledge gap must be filled through funding from the Australian Government.

If the Australian economy is to benefit from the hard-working efforts of workers from the Pacific Islands nations – a ready supply of labour available on demand – it is a responsibility of the Australian Government to reduce the harmful impacts and social implications such a scheme may have on the, already fragile, labour supplying nations of the Southwest Pacific.

## Conclusion

The Pacific economies should not be stagnating. They are well endowed with agricultural and timber resources, a number have minerals, they have marine stocks, many have beautiful tourist locations and they are close to burgeoning Asian markets.<sup>12</sup>

- Dr Helen Hughes and Gaurav Sodhi

As an economic leader in the Southwest Pacific, Australia has an obligation to assist its neighbouring nations to achieve economic stability.

In its submission to this Senate Inquiry, the LHMU sought to draw attention to five key areas of concern surrounding labour mobility schemes. Any labour mobility scheme

- Must be negotiated separately from free trade agreement talks;
- Should be linked to education, training and real skill development;
- Must be regulated and monitored to reduce the risk of abuse;
- Must not be used as a safety valve to prop up Australian industries that have failed to develop sustainable labour markets; and
- Must include social impact assessments and community-assistance and education programs to help offset the social implications.

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<sup>11</sup> Helen Hughes & Gaurav Sodhi, “The Bipolar Pacific”, *Issue Analysis*, The Centre for Independent Studies, No.98, 21<sup>st</sup> August 2008, p.3

<sup>12</sup> Helen Hughes & Gaurav Sodhi, *Should Australia and New Zealand open their doors to guest workers from the Pacific? Costs and Benefits*, Policy Monograph 72, The Centre for Independent Studies, 2006, p.17

## **Appendix A: LHMU submission to the Visa Subclass 457 Integrity Review regarding Issues Paper #1: Minimum Salary Level / Labour Agreements**

### **Extract**

- 3.1** Labour Agreements must be subject to negotiation between the employer and/or industrial group and the relevant unions, including full disclosure of the details and terms of the proposed Agreement. The Australian Government (represented by DIAC and DEEWR) should only approve Labour Agreements where it has the consent of both industrial parties.
- 3.2** Labour Hire companies should be restricted from being a party to a Labour Agreement unless the Agreement contains details of the employers to which the workers will be outsourced, as well as undertakings that the terms of the relevant Labour Agreement will apply to those employers, especially including training requirements and obligations.
- 3.3** Labour Agreements must contain the following provisions:
- 3.3.1** identification of numbers and occupations of visa holders, including their salary levels, expressed as both a weekly and hourly pay rate;
  - 3.3.2** an undertaking by the employer to employ people in accordance with the provisions of the relevant industrial instrument, particularly in regard to key employment conditions including but not limited to hours of work, rostering protections, leave, overtime, shift penalties, superannuation, allowances and other loadings;
  - 3.3.3** an undertaking to cover the temporary overseas workers' travel, medical (including insurance), relocation and accommodation expenses;
  - 3.3.4** details of the ongoing strategies that the employer has adopted to permanently increase the skills base of the existing workforce to ensure its ability to meet future demands for skilled workers. These strategies should involve certified training measured against Australian Standards and specify the specific geographical regions to which they are targeted. The employer should also be made to provide regular reports on these strategies and their effectiveness to the parties, including the relevant unions;
  - 3.3.5** an undertaking to provide all temporary overseas workers with English Language training up to the appropriate level, in combination with a broader strategy of ongoing training support and up skilling for those workers;
  - 3.3.6** an undertaking by the employer and/or industry body to improve (in real terms) the terms and conditions of employment provided to local workers, and for the terms of the temporary overseas workers to at least match those terms and conditions;
  - 3.3.7** details of the induction and initial training processes that the employer intends to adopt regarding the temporary overseas workers;
  - 3.3.8** an undertaking to provide right of entry to unions to visit these workers, and to provide the relevant unions with a private 30 minute meeting during their induction process;
  - 3.3.9** an undertaking to investigate the establishment of a feasible scheme to facilitate remittances to the temporary overseas workers home country where they seek to make them;

- 3.3.10** a clear identification of the specific work sites at which temporary overseas workers will be engaged and an undertaking by the employer and/or industry body to obtain the consent of other parties to the agreement prior to engaging/relocating temporary overseas workers on work sites that are not specified in the Agreement;
- 3.3.11** an undertaking that workers will be employed in their area of occupation;
- 3.3.12** an undertaking by the employer and/or industry body to facilitate monitoring by relevant state and federal authorities as well as the relevant industrial parties with the terms and conditions of the agreement, including the provision of regular reports to those parties; and
- 3.3.13** a dispute resolution procedure.