



Senator the Hon Michaelia Cash
 ATTORNEY-GENERAL
 MINISTER FOR INDUSTRIAL RELATIONS
 DEPUTY LEADER OF THE GOVERNMENT IN THE SENATE
 SENATOR FOR WESTERN AUSTRALIA

Senator the Hon Marise Payne
 MINISTER FOR FOREIGN AFFAIRS
 MINISTER FOR WOMEN

DRAFT MEDIA RELEASE

31 March 2022

AUSTRALIA TO RATIFY INTERNATIONAL FORCED LABOUR PROTOCOL

The Australian Government will now ratify the most contemporary international labour standard to address forced labour, reflecting our longstanding commitment to combatting Modern Slavery in all of its insidious forms.

On 31 March 2022, the Federal Executive Council approved the ratification of the International Labour Organization (ILO) *Protocol of 2014 to Forced Labour Convention 1930 (No. 29)* (the Protocol). This followed the Joint Standing Committee on Treaties' recommendation that binding treaty action be taken with respect to the Protocol.

"Australia highly values our cooperation with other ILO members, and has long committed to ratifying the Protocol. In December 2021, the Western Australian Government passed legislation bringing its laws into line with Protocol, ensuring compliance across all state and territories. The Commonwealth proceeded as a priority towards ratification of the Protocol, demonstrating our ongoing commitment to core ILO standards, the protection of workers, and the global eradication of forced labour," Attorney-General and Minister for Industrial Relations, Minister Cash said.

The Protocol adds new elements to the ILO *Forced Labour Convention 1930 (No. 29)*, aimed at tackling the complexities of modern slavery and addressing the root causes of forced labour, with obligations to:

- prevent and suppress forced labour,
- protect victims and provide access to appropriate and effective remedies, and
- penalise the perpetrators of forced labour and end their impunity.

Australia's actions to combat modern slavery in all its forms extend beyond Australia's borders. The Minister for Foreign Affairs and Minister for Women, Minister Payne said that close to 25 million people worldwide are subject to forced labour practices, and many victims

Commented [A1]: Suggest including this earlier in the Media Release, noting the domestic focus of the Protocol, to avoid conflating domestic / international measures.

Suggest also including a transition sentence in the following paragraph.

are in our region, with an overwhelming majority being women or girls. The Coalition Government has zero tolerance for modern slavery wherever it is occurring. Ratifying the Protocol will build on Australia's comprehensive response including through the *National Action Plan to Combat Modern Slavery 2020-25*, and the *Modern Slavery Act 2018* (Cth), and support Australia's international engagement to eradicate ~~it~~ forced labour from societies around the world under Australia's International Engagement Strategy on Human Trafficking and Modern Slavery.

Australia's leadership on combatting forced labour, and other forms of modern slavery, including as co-Chair with Indonesia of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, is a key priority within Australia's foreign policy to uphold the international rules-based order, promote human rights, advance gender equality, counter security threats and strengthen economic growth and resilience, particularly to ensure a free and prosperous Indo-Pacific region" Minister Payne said.

~~The Protocol adds new elements to the ILO Forced Labour Convention 1920 (No. 29), aimed at tackling the complexities of modern slavery and addressing the root causes of forced labour, with obligations to:~~

- ~~— prevent and suppress forced labour,~~
- ~~— protect victims and provide access to appropriate and effective remedies, and~~
- ~~— penalise the perpetrators of forced labour and end their impunity.~~

"We are dedicated to working with all stakeholders to shine a light on these insidious crimes. We want and to ensure that states are not ignorant of, or ignoring, such activity occurring within their borders, and that Australian businesses are undertaking appropriate due diligence on the risks of modern slavery existing within their supply chains." Minister Payne said.

s 33(a)(iii)

MEDIA CONTACTS

s 22(1)(a)(ii) @ag.gov.au – s 22(1)(a)(ii)

s 22(1)(a)(ii)



RE: [SEC=OFFICIAL]

From Lucienne Manton <Lucienne.Manton@dfat.gov.au>

Date Tue 2021-03-02 3:50 PM

To Suzanne Mccourt <Suzanne.McCourt@dfat.gov.au>

Cc s 22(1)(a)(ii) @dfat.gov.au; Marie-Charlotte McKenna <Marie-Charlotte.McKenna@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au; s 22(1)(a)(ii) @dfat.gov.au

OFFICIAL

Hi Suzanne

Some information for you to reply to the office.

Thanks to s 22(1)(a)(ii) for putting this together.

Lucienne.

Update on ILO Conventions under consideration for ratification

- Australia is committed to tackling modern slavery through the effective implementation of international labour standards, in particular forced and child labour.
- Australia has ratified the ILO's Forced Labour Convention, 1930 and the Abolition of Forced Labour Convention, 1957.
- Australia is currently progressing ratification of Forced Labour Protocol
 - the Attorney-General's Department leads on this issue.
- One barrier to ratification by Australia remains at the state level in Western Australia
 - Western Australia currently has a gap in coverage for certain workers under its industrial relations framework
 - once Western Australia has amended its legislation, the Government can move ahead with the process to ratify the Protocol
 - in June 2020, the WA Government introduced the Industrial Relations Legislation Amendment Bill 2020 to the WA Parliament. The Bill then lapsed on 7 December when the WA Parliament was prorogued for the state election
 - the WA Government is currently in caretaker ahead of the 13 March 2021 election. The Attorney-General's Department will re-engage with the WA Government on this issue once the outcome of the election is known.
- 49 countries have ratified the Forced Labour Protocol.

Ratifications of P029 - Protocol of 2014 to the Forced Labour Convention, 1930

Country	Date	Status	Note
Argentina	09 Nov 2016	In Force	
Austria	12 Sep 2019	In Force	
Belgium	10 Sep 2019	In Force	
Bosnia and Herzegovina	09 Aug 2018	In Force	
Canada	17 Jun 2019	In Force	
Chile	19 Jan 2021	Not in force	The Protocol will enter into force for Chile on 19 Jan 2022.
Costa Rica	16 Nov 2020	Not in force	The Protocol will enter into force for Costa Rica on 16 Nov 2021.
Cyprus	01 Feb 2017	In Force	
Czechia	09 Jun 2016	In Force	
Côte d'Ivoire	01 Nov 2019	In Force	
Denmark	14 Jun 2017	In Force	
Djibouti	09 Mar 2018	In Force	
Estonia	24 Nov 2016	In Force	
Finland	27 Jan 2017	In Force	
France	07 Jun 2016	In Force	
Germany	19 Jun 2019	In Force	

3 of 108

	DFAT, RELEASED UNDER THE FREEDOM OF INFORMATION ACT 1982	LEX 13271
Iceland	14 Jun 2017	In Force
Ireland	04 Feb 2019	In Force
Israel	11 Oct 2018	In Force
Jamaica	13 Jun 2017	In Force
Kyrgyzstan	06 Oct 2020	Not in force
Latvia	07 Dec 2017	In Force
Lesotho	22 Aug 2019	In Force
Lithuania	05 Mar 2020	Not in force
Madagascar	11 Jun 2019	In Force
Malawi	07 Nov 2019	In Force
Mali	12 Apr 2016	In Force
Malta	14 Feb 2019	In Force
Mauritania	09 Feb 2016	In Force
Mozambique	14 Jun 2018	In Force
Namibia	06 Nov 2017	In Force
Netherlands	08 Aug 2017	In Force
New Zealand	13 Dec 2019	In Force
Niger	14 May 2015	In Force
Norway	09 Nov 2015	In Force
Panama	07 Sep 2016	In Force
Poland	10 Mar 2017	In Force
Portugal	23 Dec 2020	Not in force
Russian Federation	17 Jan 2019	In Force
Spain	20 Sep 2017	In Force
Sri Lanka	10 Apr 2019	In Force
Suriname	03 Jun 2019	In Force
Sweden	14 Jun 2017	In Force
Switzerland	28 Sep 2017	In Force
Tajikistan	24 Jan 2020	In Force
Thailand	04 Jun 2018	In Force
United Kingdom	22 Jan 2016	In Force
Uzbekistan	16 Sep 2019	In Force
Zimbabwe	22 May 2019	In Force

Source: [Ratifications of ILO conventions: Ratifications by Convention](#)

From: Suzanne Mccourt <Suzanne.McCourt@dfat.gov.au>

Sent: Tuesday, 2 March 2021 8:40 AM

To: Lucienne Manton <Lucienne.Manton@dfat.gov.au>

Cc: s 22(1)(a)(ii) @dfat.gov.au; Marie-Charlotte Mckenna <Marie-Charlotte.McKenna@dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au

Subject: FW: [SEC=OFFICIAL]

OFFICIAL

Dear Lucienne,

Please see below a text message sent last night from our FMO adviser - s 22(1)(a)(ii)

Sorry about the late message but I don't want to forget. Have seen this and it has raised two separate questions for legal.
<https://www.aspistrategist.org.au/what-should-australia-do-about-uyghur-forced-labour-in-china/>

1. *Why haven't we ratified the International Labour Organization's 2014 Forced Labour Protocol? Would you recommend ratifying? Could you send me the text, with analysis and noting which countries have signed on and what flow on effects exist from ratification in each country and how do they rank in terms of ending forced labour.*

2. *What is the plan for business Roundtables re Magnitsky (when, who, where, how many, what will the format be)?*

2/2/26, 4:53 PM

RE: [SEC=OFFICIAL] - s 22(1)(a)(ii) Outlook

3. Would you advise a broader corporate governance session which covers Magnitsky and modern slavery issues, highlighting the need for broader transparency in their supply chains? I know DFAT is looking into trade advisory business meetings in that context.

Are you in a position to answer question 1 and 3 (copying in ILB as well in case there is an angle for them)? We can answer question 2 (which will not be something we can do until we know the government response to the JSCFADT report).

Happy to chat.

Suzanne

OFFICIAL



Outlook

RE: For update: Cth law and practice report on ILO Forced Labour Protocol - Due 18 June 2021
[SEC=OFFICIAL]

From: s 22(1)(a)(ii) @dfat.gov.au>
Date: Wed 2021-06-30 12:17 PM
To: s 22(1)(a)(ii) @ag.gov.au>

📎 1 attachment (77 KB)

P29 Law and Practice Report Cth Revised June 2021 (for Cth comme.. CH edit CLEARED.docx;

OFFICIAL

Hi s 22(1)(a)(ii)

Apologies for the delay – please find attached the report with our cleared changes (in blue highlight).

Cheers,
s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @ag.gov.au>
Sent: Tuesday, 29 June 2021 4:28 PM
To: s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: For update: Cth law and practice report on ILO Forced Labour Protocol - Due 18 June 2021
[SEC=OFFICIAL]

OFFICIAL

Hi ^{s 22(1)(a)(ii)} just wondering if you could please provide your input as soon as possible as I am just finishing up the report now. Thanks, s 22(1)(a)(ii)

OFFICIAL

From: s 22(1)(a)(ii) @dfat.gov.au]
Sent: Monday, 21 June 2021 12:34 PM
To: s 22(1)(a)(ii) @ag.gov.au>
Subject: FW: For update: Cth law and practice report on ILO Forced Labour Protocol - Due 18 June 2021
[SEC=OFFICIAL]

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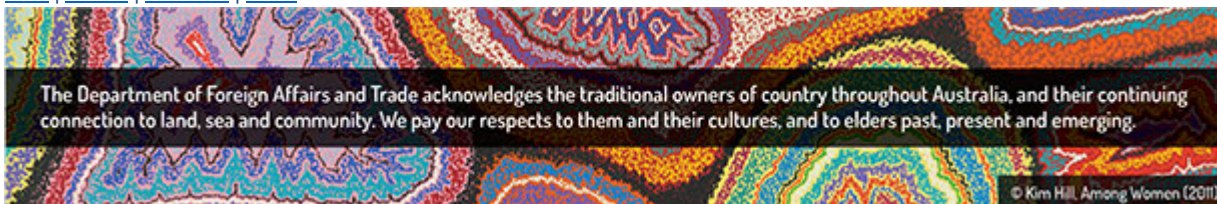
OFFICIAL

Hi s 22(1)(a)(ii)

Apologies by last week got away from us the some competing deadlines. I'll look at it this afternoon if it's not too late.

Cheers,
s 22(1)(a)(ii)

Assistant Director
Human Trafficking and Modern Slavery Section | People Smuggling and Human Trafficking Branch
International Security Division
Department of Foreign Affairs and Trade
T | s 22(1)(a)(ii) M | s 22(1)(a)(ii)
[Web](#) | [Twitter](#) | [YouTube](#) | [Flickr](#)



From: s 22(1)(a)(ii) @ag.gov.au>
Sent: Wednesday, 2 June 2021 4:26 PM
To: s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @ag.gov.au>; s 22(1)(a)(ii) @homeaffairs.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @abf.gov.au>; s 22(1)(a)(ii) @afp.gov.au>; s 22(1)(a)(ii) @cdpp.gov.au>; s 22(1)(a)(ii) @fwo.gov.au>; s 22(1)(a)(ii) @dss.gov.au
Cc: s 22(1)(a)(ii) @ag.gov.au>

Subject: For update: Cth law and practice report on ILO Forced Labour Protocol - Due 18 June 2021 [SEC=OFFICIAL]

OFFICIAL

Dear colleagues

FOR UPDATE: COMMONWEALTH LAW AND PRACTICE REPORT ON ILO FORCED LABOUR PROTOCOL (NO. 29) – DUE 18 JUNE 2021

The Government has been considering ratification of the International Labour Organisation (ILO) Protocol to the *Forced Labour Convention, 1930* (No.29). In 2017, your agencies contributed to an assessment of the Commonwealth's compliance with the Protocol. Since then, the department has been working with state and territory governments to ensure that their jurisdictions are compliant with the Protocol. We are just waiting on the WA Government to pass amendments to its industrial relations laws to bring them in line with the Protocol.

As we move towards the next step in the ratification process, we need to revise the Commonwealth's 2017 law and practice report to obtain a contemporary assessment of Australia's compliance with the Protocol. There have been a number of national developments in relation to forced labour, modern slavery and human trafficking over the past few years and I have begun to update the report based on our knowledge of these. **I am now seeking**

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your assistance to update the attached law and practice report. Please provide your updates (in track changes) to me by **18 June 2021**.

Please note that while I have highlighted a number of specific sections that require new input, I would appreciate you reviewing the entire document to ensure it represents an accurate assessment of the Commonwealth's law and practice with regard to the obligations under the Protocol.

This report will then be provided to the Office of International Law in AGD for a final assessment of the Commonwealth's compliance with the Protocol. The department will then be in a position to brief the Attorney-General on proceeding with the ratification process. In that case, the law and practice report will be used to inform the subsequent formal ratification documents (e.g. National Interest Analysis, etc).

Thank you in advance for your assistance, and please feel free to contact me if you would like to discuss.

Thanks,
s 22(1)(a)(ii)

Economics and International Labour Branch
Employment Conditions Division
Attorney-General's Department
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International Labour Organization

Protocol of 2014 to the Forced Labour Convention, 1930

Law and Practice Report of the Commonwealth of Australia

June 2021

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Overview

The Protocol of 2014 (the Protocol) to the *Forced Labour Convention, 1930* (No. 29) (the Convention) was adopted by the International Labour Conference (ILC) of the International Labour Organization (ILO) in June 2014 to address gaps in the implementation of the Convention. ILO member States that ratify the Protocol commit to taking effective measures to:

- i. prevent and eliminate the use of forced or compulsory labour
- ii. provide to victims protection and access to appropriate and effective remedies, and
- iii. sanction the perpetrators of forced or compulsory labour.

The Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203) (Recommendation 203), which was adopted alongside the Protocol, supplements the Convention and the Protocol. Recommendation 203 is not legally binding. However, it provides guidance to ILO member States in giving effect to the obligations under the Protocol, and provides examples of the types of measures envisaged in the Protocol.

Australia gives broad effect to realising the principle of effective and sustained suppression of all forms of forced or compulsory labour through prevention, victim protection and access to remedies. Primarily, this is given effect through Commonwealth law and practice. Australia's approach involves both regional activities in the Asia-Pacific and a range of domestic initiatives set out in Australia's National Action Plan to Combat Modern Slavery 2020-25 (the National Action Plan).¹ In 2018, the Government legislated the *Modern Slavery Act 2018* to establish a practical risk-based framework to directly target modern slavery practices in global supply chains, and support the Australian business community to identify and address their modern slavery risks.

Through these and other frameworks outlined in this report, including criminal, migration and industrial relations law, Australia has a comprehensive set of measures to prevent all forms of forced or compulsory labour consistent with the obligations under the Protocol.

¹ The *National Action Plan to Combat Modern Slavery 2020-25* was launched on 9 December 2020 by the Assistant Minister for Customs, Community Safety and Multicultural Affairs, the Hon Jason Wood MP. It replaces the *National Action Plan to Combat Human Trafficking and Slavery 2015-19*.

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Article 1

1. In giving effect to its obligations under the Convention to suppress forced or compulsory labour, each Member shall take effective measures to prevent and eliminate its use, to provide to victims protection and access to appropriate and effective remedies, such as compensation, and to sanction the perpetrators of forced or compulsory labour.
2. Each Member shall develop a national policy and plan of action for the effective and sustained suppression of forced or compulsory labour in consultation with employers' and workers' organizations, which shall involve systematic action by the competent authorities and, as appropriate, in coordination with employers' and workers' organizations, as well as with other groups concerned.
3. The definition of forced or compulsory labour contained in the Convention is reaffirmed, and therefore the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour.

Notes on compliance

Article 1(1)

Article 1(1) has three obligations in relation to suppressing forced or compulsory labour. These are to:

- prevent and eliminate its use
- provide to victims protection and access to appropriate remedies, and
- sanction the perpetrators of forced or compulsory labour.

The following measures demonstrate compliance with Article 1(1).

Prevent and eliminate the use of forced or compulsory labour

Looking first at the obligation to prevent and eliminate the use of forced or compulsory labour, the Australian Government currently undertakes a range of measures that give effect to this requirement, including by contributing to initiatives which tackle the root causes of exploitation, raising awareness amongst the general community, and building the resilience of groups who may be vulnerable to these practices. These actions are consistent with Paragraph 4 of Recommendation 203, which suggests that Members should take measures such as addressing the root causes of workers' vulnerability to forced labour, conducting targeted awareness-raising campaigns, and conducting skills training programmes for at-risk population groups.

While not specifically targeted at forced or compulsory labour practices, the legislative framework under the *Fair Work Act 2009* (Cth) (the Fair Work Act) sets out the minimum employment conditions and standards that must be met by employers covered by Australia's national industrial relations system. The Fair Work Act, as supported by an effective regulatory system of labour inspection through the Fair Work Ombudsman (FWO) and a national tribunal through the Fair Work Commission (FWC), operates as an effective measure to prevent and eliminate the use of forced or compulsory labour. The Fair Work Act covers all employees in Australia, regardless of their visa status.

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In 2017, the Government amended the Fair Work Act by legislating the *Fair Work Amendment (Protecting Vulnerable Workers) Act 2017* (Cth)² to address community concerns about the exploitation of vulnerable workers (including migrant workers) by a small minority of unscrupulous employers. The amendments:

- increased penalties under a new category of ‘serious contraventions’ of workplace laws
- increased penalties for breaches of recording-keeping and pay slip obligations
- introduced a ‘reverse onus of proof’ for employers in wage underpayment claims made in a court if they do not meet record-keeping or pay slip obligations can’t give a reasonable excuse
- made franchisors and holding companies responsible for underpayments by their franchisees or subsidiaries, in certain circumstances³
- expressly prohibited employers from unreasonably requiring employees or certain employees to make payments (e.g. demanding a proportion of their wages be paid back in cash)
- strengthened the FWO’s evidence-gathering powers, and
- introduced new penalties for giving the FWO false or misleading information, or hindering or obstructing its investigations.

Since 2016, the Government has provided the FWO with additional funding to prevent wage underpayment and protect employees from non-compliant employers, including through the commitment of over \$160 million in new funding to the FWO. Recent funding measures include:

- \$47.3 million over four years from 2020-21 to improve the FWO’s awareness among, and develop enhanced tools and education resources for business; establish a new Employer Advisory service for small businesses to help them understand their obligations and prevent underpayments from occurring; and establish a dedicated Corporate Sector Assurance team to respond to non-compliance by large corporates
- \$10.8 million over four years from 2019-20 to enhance the FWO’s capacity to conduct investigations into underpayment and related issues, and delivery information and education activities, and
- \$9.2 million from 2019-20 to establish a dedicated Sham Contracting Unit to investigate and address sham contracting practices.

In 2016, the Government established the Migrant Workers’ Taskforce, led by Professor Allan Fels AO, to provide expert advice on ways to deliver better protections for workers, including improvements in law, law enforcement and investigation. The Taskforce Report was released on 7 March 2019, together with the Government’s response to accept in-principle, all 22 recommendations of the Taskforce.⁴ The Government has implemented a number of the Taskforce’s recommendations, including:

- [add information here]

In 2016, the FWO and the Department of Home Affairs established an Assurance Protocol to support visa holders with a work right to go to the FWO for assistance in cases of workplace exploitation.

² Most provisions of the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017 (Cth) took effect on 15 September 2017. Further information on the Act can be found on the FWO’s website at:

<https://www.fairwork.gov.au/about-us/legislation/protecting-vulnerable-workers-reform>.

³ These specific changes took effect from 27 October 2017.

⁴ The Migrant Workers’ Taskforce Report and Government response are available at:

<https://www.ag.gov.au/industrial-relations/migrant-workers-taskforce>

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Under the Assurance Protocol, the Department of Home Affairs will not usually cancel a visa if the visa holder breached their work-related visa conditions because of workplace exploitation, and:

- The visa holder has sought advice or support from the FWO and is helping the FWO with its inquiries
- There is no other reason to cancel the visa (for example, for national security, character, health or fraud reasons), and
- The visa holder has committed to following their visa conditions in the future.

Further information on measures to prevent and eliminate the use of compulsory or forced labour is provided under Article 2.

Protection of victims and access to remedies [please update as required]

With regard to the protection of victims and access to remedies, the Government provides protection to victims of forced labour referred by the Australian Federal Police (AFP) through its Support for Trafficked People Program (STPP), which is administered by the Department of Social Services and delivered by the Australian Red Cross. A range of support services are available to victims through the STPP, including secure accommodation, medical treatment, financial assistance, and access to legal and migration advice. Since 2014 the number of cases referred to the AFP and the Support Program has more than doubled.⁵

Under the Migration Regulations 1994, Australia's Human Trafficking Visa Framework enables foreign nationals, who do not already hold a valid visa and are suspected victims of modern slavery, to remain lawfully in Australia. Like Australian citizens and other valid visa holders who are suspected victims of modern slavery, they are then able to access support through the STPP. All holders of valid visas receive the same support as clients who are Australian citizens, however their eligibility for some services, or ability to seek employment may be limited by visa conditions. Where a suspected victim has made a contribution to a modern slavery investigation or prosecution of an alleged offender and would be in danger if they returned home to their home country, they may be eligible for a permanent visa to remain in Australia. Under Action Item 20 of the National Action Plan, the Government will undertake a targeted review of Australia's visa framework, including to identify and reduce vulnerabilities to modern slavery.

It is important to note that based on the language used in Article 1(1) ('to provide to victims ... appropriate and effective remedies, such as compensation'), ILO member States are not under an obligation to provide financial compensation to victims. This point was made clear in discussions in the drafting committee at the 2014 ILC that negotiated the text of the Protocol and the Recommendation for adoption by the ILC.⁶ Instead, compensation is one example of an effective remedy. The right to an 'effective remedy' in this context encompasses an obligation to bring the perpetrators to justice, and also to provide appropriate reparation to victims. Reparation can involve measures including compensation, restitution, rehabilitation, public apologies, guarantees of non-repetition, and changes in relevant laws and practices.

⁵ National Action Plan, p 14

⁶ The report of the Committee on Forced Labour, which includes its record of proceedings, is available at http://www.ilo.org/ilc/ILCSessions/103/reports/WCMS_246188/lang--en/index.htm.

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Paragraph 12 of Recommendation 203 provides further guidance as to the measures member States should take to ensure victims have access to appropriate and effective remedies, including:

- ensuring that all victims have access to courts, tribunals and other mechanisms to pursue remedies
- providing that victims can pursue compensation and damages from perpetrator
- ensuring access to appropriate existing compensation schemes
- providing information and advice regarding victims' legal rights and the services available, and
- providing that all victims of forced and compulsory labour (nationals and non-nationals) can pursue appropriate administrative, civil and criminal remedies.

The Government provides victims of modern slavery with access to civil mechanisms, such as the FWO and FWC⁷, and with the ability to pursue civil and administrative remedies, including for unpaid wages and entitlements, irrespective of their nationality or visa status.

Under Australia's legal system, victims' of crime compensation has traditionally been a matter for the states and territories. Each jurisdiction has a victims' of crime compensation scheme, which may be available to victims of slavery and slavery-like practices such as forced labour. The Government intends to review the effectiveness of these schemes, to ensure that the needs of the victims are being met during the life of the National Action Plan.⁸

Currently there is no financial compensation scheme for victims of crime specific to Commonwealth criminal offences, apart from terrorism offences. However, courts in Australia may order offenders convicted of a Commonwealth offence to make reparation to victims for any loss suffered or expense incurred by reason of the relevant offence under section 21B of the *Crimes Act 1914* (Cth) (Crimes Act). The Government has agreed to take specific action on forced marriage, and is developing special remedies and civil protection.⁹

The Crimes Act provides protections for victims and survivors of modern slavery when giving evidence in court. Under Part 1AD of the Crimes Act and Division 279 of the Criminal Code, victims and survivors can:

- give evidence via closed-circuit television, video-link or video recording
- have their contact with the defendant or members of the public limited, and
- have a support person with them while they give evidence.

Part 1AB also makes it an offence to publish material identifying a victim or survivor of modern slavery, and allows victims or survivors of modern slavery to make victim impact statements to the court outlining the harm they have experienced.

Sanctioning perpetrators of forced and compulsory labour [please update as required]

Australia gives effect to the third obligation imposed by Article 1(1) to 'sanction the perpetrators of forced and compulsory labour.' Division 270 of the *Criminal Code* criminalises slavery and a range of slavery-like practices, including servitude and forced labour. Specific offences criminalising causing a person to enter into or remain in forced labour and conducting a business involving forced labour

⁷ For the functions of the FWC, see: <https://www.fwc.gov.au/about-us>

⁸ National Action Plan, Action Item 27, p 27

⁹ National Action Plan, Action Item 23, p 27

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are set out in section 270.6A of the *Criminal Code*. The maximum penalty for an offence of forced labour is 12 years' imprisonment for an aggravated offence and 9 years' imprisonment for a base offence. Division 271 of the *Criminal Code* also contains specific offences for trafficking in persons, including the trafficking of a person into, within or from Australia for the purposes of exploitation through forced labour or debt bondage. These offences carry penalties of up to 25 years' imprisonment. Under Action Item 19 of the National Action Plan, the Government committed to undertake a targeted review of the modern slavery offences in Division 270 and 271 of the Criminal Code.

[Add information on recent successful prosecutions]

The *Migration Act 1958* (Migration Act) creates offences of allowing a person to work, or referring a person for work, if the person is an unlawful non-citizen or a lawful non-citizen working in breach of a visa condition. The offences are escalated to aggravated offences if the worker is being exploited and the person knows of, or is reckless to, that circumstance. The Migration Act also provides for civil employer sanctions in the form of infringement notices and non-fault civil penalties, supplementing Australia's criminal offences.

In 2015, the Government legislated the *Migration Amendment (Charging for a Migration Outcome) Act 2015* to amend the Migration Act (including related changes to the *Migration Regulations 1994*)¹⁰ and introduce new criminal and civil penalties and visa cancellation provisions as part of a 'payment for visa sponsorship' framework. This framework allows for sanctions to be imposed on a person who asks for, receives, offers or provides a benefit in return for visa sponsorship or employment (that requires visa sponsorship) such as the 457 visa and 186 and 187 permanent employer sponsored visas.

Perpetrators of forced and compulsory labour can be penalised or otherwise exposed to sanction under the *Proceeds of Crime Act 2002* (Cth). The Act provides a scheme to trace, restrain and confiscate the proceeds of crime against Commonwealth law, including modern slavery offences. Perpetrators who breach the offences outlined in the Migration Act or the *Criminal Code*, may have their assets confiscated under this scheme. These proceeds can then be returned to the Australian community to fund anti-crime initiatives.

Article 1(2)

The National Action Plan sets out the strategic framework for Australia's response to modern slavery, inclusive of trafficking in persons, slavery and slavery-like practices.¹¹ The stated mission of the National Action Plan is 'for the Australian Government, working in partnership with others, to

¹⁰ Provisions took effect on 14 December 2015.

¹¹ The Government undertook extensive community consultation to develop the National Action Plan, including in conjunction with employers' and workers' organizations, as well as other groups concerned. On 4 December 2019, the Government invited public submissions on the National Action Plan to Combat Modern Slavery consultation paper. 47 written submissions were received from a range of stakeholders, including peak bodies, civil society and academia. From March to June 2020, the Government conducted 27 targeted community consultation workshops with 44 civil society organisations, international organisation and academia to focus on key issues to enhance Australia's response to modern slavery, including those raised in the public submissions. Further information, see <https://www.homeaffairs.gov.au/reports-and-publications/submissions-and-discussion-papers/combat-modern-slavery-2020-25>.

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actively prevent and combat all forms of modern slavery, wherever it occurs, including by supporting, protecting and empowering victims and survivors’.

The National Action Plan identifies five National Strategic Priorities to focus the Government’s efforts. These are:

- Prevent modern slavery by combating the drivers of these crimes and empowering individuals and groups that are vulnerable to modern slavery.
- Disrupt, Investigate and Prosecute modern slavery by identifying victims and survivors, implementing disruption strategies and holding perpetrators to account through effective investigations and prosecutions.
- Support and Protect victims and survivors by providing holistic and tailored victim centred support and protection.
- Partner across government and with international partners, civil society, business, unions and academia to ensure a coordinated response to modern slavery.
- Research by strengthening data collection and analysis to build the evidence base that supports our response to modern slavery.

The National Action Plan is underpinned by nine principles that will guide the Government’s work to implement the five National Strategic Priorities. These are:

1. Australia responds to modern slavery in a matter that is comprehensive, effective, timely, coordinated and consistent with our international obligations.
2. Australia addresses the unique needs of women and children, who are disproportionately affected by modern slavery.
3. Australia maintains a strong deterrence framework which promotes investigations, prosecutions and the enforcement of civil sanctions, and penalises offenders to the full extent of the law.
4. Australia provides holistic, gender-sensitive, culturally-responsive, trauma-informed, victim-centred protection and support to all victims and survivors of modern slavery.
5. Australia affords victims and survivors of modern slavery access to effective remedies.
6. Australia promotes a collaborative response that is built on the participation of victims and survivors of modern slavery, government, civil society, business, unions, academia and the broader community working in partnership to prevent and combat modern slavery.
7. Australia strives to be an international and regional leader and partner in deterring and combating modern slavery, and works cooperatively with other governments both internationally and regionally towards this end.
8. Australia promotes an evidence-based response to modern slavery, and its root causes and drivers, to build our understanding of modern slavery and how to prevent it.
9. Australia ensures the voices of victims and survivors, particularly women and children, inform our responses to modern slavery.

The National Action Plan contains 46 action items categorised under the five National Strategic Priorities. Action item 9 is for Australia to progress the ratification of the Protocol.

Between 2008 and 2020, the Government has provided more than \$6.2 million in funding to support Australian NGOs to deliver community-based initiatives to combat modern slavery. Under the National Action Plan, the Government will continue to provide funding to NGOs to support the vital role they play in combating modern slavery and raising community awareness of these crimes.

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The implementation of the National Action Plan is being undertaken in collaboration with members of the Australian Government's National Roundtable on Human Trafficking and Slavery (National Roundtable) and the Modern Slavery Expert Advisory Group. These include representatives from unions, civil society and business, and academia.

The Government has established a Monitoring and Evaluation Framework, developed by the Australian Institute of Criminology. The Monitoring and Evaluation Framework will track progress against short, medium and long-term outcomes of the National Action Plan. The Government will provide updates on implementation of the National Action Plan to Parliament. The National Roundtable will also be updated on the process of implementation of the National Action Plan.

To ensure the ongoing flexibility of Australia's strategy to combat modern slavery, the Government will review the action items and assess whether it is necessary or appropriate to amend or add new action items to the National Action Plan. This process will be undertaken in consultation with the National Roundtable.

The National Action Plan gives effect to Article 1(2).

Article 1(3)

Article 1(3) confirms the definition of forced labour set out in the Convention, but extends its scope to include situations relating to the trafficking in persons for the purposes of forced or compulsory labour.

As set out in Article 1(2), the *Criminal Code* contains specific offences for both forced labour and trafficking in persons. The trafficking in persons offences in the *Criminal Code* covers the trafficking of a person into, from, or within Australia for the purposes of exploitation through forced labour. Accordingly, Commonwealth laws are consistent with Article 1(3).

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Article 2

The measures to be taken for the prevention of forced or compulsory labour shall include:

- (a) educating and informing people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour;
- (b) educating and informing employers, in order to prevent their becoming involved in forced or compulsory labour practices;
- (c) undertaking efforts to ensure that:
 - (i) the coverage and enforcement of legislation relevant to the prevention of forced or compulsory labour, including labour law as appropriate, apply to all workers and all sectors of the economy; and
 - (ii) labour inspection services and other services responsible for the implementation of this legislation are strengthened;
- (d) protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process;
- (e) supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or compulsory labour; and
- (f) addressing the root causes and factors that heighten the risks of forced or compulsory labour.

Notes on compliance

Article 2(a)

The Government undertakes a range of awareness raising and education measures relevant to forced and compulsory labour.

There are seven action items in the current National Action Plan related to education and awareness-raising. The Government has committed to:

- delivering national awareness campaigns to the Australian community on modern slavery (Action Item 2)
- further targeted awareness-raising initiatives on a range of modern slavery issues (Action Item 3). Among other areas of the community, these campaigns will aim to reach individuals and communities in rural, regional and remote areas of Australia, and workers (particularly migrant workers) to raise awareness of their rights and protections under Australian workplace laws to identify exploitative workplace practices
- launching new online information, tools and resources on modern slavery, translated into community languages (Action Item 4)
- developing and distributing factsheets and resources on available support services and pathways on accessing support (Action Item 22)
- providing education and advice about workplace rights and protections under the Fair Work Act and FWO services, to protect and empower vulnerable workers (Action Item 5), and
- providing practical support and guidance to non-government organisations who are supporting victims and survivors, including through updating existing guidelines (Action Item 25).

[New section on new education and awareness-raising initiatives re modern slavery already implemented.]

These initiatives build on the initiatives under the 2015-19 National Action Plan, including targeted factsheets about labour trafficking, funded four specialist NGOs to support efforts to combat human

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trafficking and slavery and the development of an e-learning module about trafficking in persons and slavery-related exploitation by Anti-Slavery Australia.

[New section on FWO info to employers and workers (including vulnerable workers) re workplace rights.]

These measures give effect to the obligation in Article 2(a) to educate and inform people, especially those considered to be particularly vulnerable, in order to prevent their becoming victims of forced or compulsory labour.

Article 2(b)

The Government is working to educate and inform employers in order to prevent their becoming involved in forced or compulsory labour practices.

Under the National Action Plan, the Government has committed to:

- support businesses to improve pathways to effective remedies for victims and provide effective remediation in instances of modern slavery, through guidance and awareness raising activities (Action Item 28)
- developing a Modern Slavery Recognition Scheme to highlight innovative and collaborative business and civil society actions to address modern slavery risks in supply chains (Action Item 36)
- hosting a National Modern Slavery Conference to bring together civil society, business, and other relevant stakeholders to drive action to tackle modern slavery (Action Item 37), and
- providing business with guidance on compliance with modern slavery act statement requirements and good practice trends (Action Item 46).

[New section on what has actually taken place so far.]

[New section on role of Modern Slavery Act in educating employers.]

Under the 2015-19 National Action Plan, the Government published fact sheets for employers about labour trafficking and for members of the diplomatic corps in Australia about the exploitation of private domestic workers.

In addition to these measures on the risks of modern slavery and human trafficking, the FWO promotes compliance with the Fair Work Act by providing education, assistance and advice to employers. The FWO runs communication and education campaigns for employers and employees (including campaigns targeted specifically at migrant workers and employers) to increase their understanding of their rights and responsibilities under Australian workplace laws. For example, in 2019, the FWO launched the Horticulture Showcase to educate employers about their workplace obligations in the horticulture industry. [Further information from the FWO as appropriate.]

These measures give effect to the obligation in Article 2(b).

Article 2(c)

In respect to the requirement in Article 2(c)(i), regarding the application of relevant laws to all workers and sectors, the Fair Work Act applies to all workers regardless of nationality or visa status

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and all workplaces in all sectors of the economy. The Fair Work Act does not apply to predominantly public sector entities that continue to be covered by state legislation in some jurisdictions.¹²

In addition, Australia's criminal offences relating to trafficking in persons, slavery and slavery-like practices set out in the *Criminal Code* apply to the exploitation of a person's labour or services in any industry. These offences have a varying range of geographical jurisdiction. The slavery offences in the *Criminal Code* have universal jurisdiction while the trafficking in persons and slavery-like offences, including forced labour, have extraterritorial jurisdiction and apply if the conduct, or the result of the conduct, occurs wholly or partly in Australia, or if the conduct occurs outside Australia but the offender is an Australian citizen, resident, or body corporate.

These provisions give effect to Article 2(c)(i).

Article 2(c)(ii) requires member States to undertake efforts to strengthen the labour inspection services responsible for the implementation of legislation relevant to the prevention of forced or compulsory labour. Labour inspection services are a matter for the FWO and the Australian Border Force in respect of migrant workers. Since 2016, the Government has provided more than \$160 million in additional funding to the FWO to support its functions under the Fair Work Act, including in relation to education resources and investigating and prosecuting non-compliance, many of which deal with vulnerable workers.

Under the National Action Plan, the Government is working to deliver training, resources and awareness raising initiatives, in collaboration with civil society organisations, to a broad cross-section of frontline responders, to support the identification and referral of victims and survivors, and the disruption of modern slavery practices (Action Item 13). Frontline responders include law enforcement, workplace inspectors, education and health officials.

These measures give effect to Article 2(c)(ii).

Article 2(d)

The types of measures envisaged under this Protocol are further elaborated in paragraph 8 of Recommendation 203. Paragraph 8 provides that measures to eliminate abuses and fraudulent practices by labour recruiters and employment agencies should include eliminating the charging of fees to workers, requiring transparent contracts, establishing adequate and accessible complaint mechanisms, imposing adequate penalties and regulating or licensing these services. The specific measures elaborated in paragraph 8 of Recommendation 203 are intended to guide States as to the proper implementation of the Protocol, but are not in themselves legally binding.

Australian employers who wish to employ foreign workers must be willing and able to meet certain obligations, including complying with any requirements regarding the pay and conditions of workers that are set out under the Migration Act and Australian workplace laws.

In relation to visa sponsorship arrangements, [new section on Temporary Activities Sponsorship and 'pay for visa outcome' provisions, as well as any enforcement outcomes.]

¹² For further information, see <https://www.fwc.gov.au/about-us/the-national-workplace-relations-system/coverage>

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Under the Migration Act, it is a criminal offence for employers to allow a person to work, or refer a person to work, where the person is unlawfully in Australia or is working in breach of a visa condition.

[New section on OMARA registration where migration agents are involved in the recruitment and sending process].

All workers are entitled to receive the same protection under Australian workplace laws, regardless of nationality or visa status, including advice and assistance from the FWO regarding claims of underpayment and substandard working conditions. The FWO places a strong emphasis on assisting migrant and other foreign workers due to their vulnerability in the workplace. This role also includes monitoring compliance with aspects of Temporary Work (skilled) Visa sponsorship obligations. Under the Fair Work Act, it is an offence for an employer to make an employee or prospective employee spend their own money, or pay the employer (or someone else) money if it is unreasonable of the payment is for the employer's benefit, or the benefit of someone related to the employer. This means that an employer can't ask a prospective employee to pay money to receive a job offer or ask employees to pay money to keep their job.

Together, the broad measures outlined above give effect to Article 2(d).

Article 2(e)

Article 2(e) requires member States to support the due diligence efforts of the public and private sectors to prevent and respond to forced labour. Paragraph 4(j) of Recommendation 203 provides greater context to the type of support envisaged by this provision, by stating that Members should:

[provide] guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked.

The Government has undertaken a range of initiatives to support the due diligence efforts of the public sector to prevent and respond to forced labour. The Commonwealth Procurement Rules require that procurements use public resources in an efficient, effective, economical and ethical manner that is not inconsistent with the policies of the Commonwealth. Other initiatives include developing an ethical procurement information sheet on trafficking in persons for Commonwealth Government procurement officers. [Update as required]

Under the National Action Plan, the Government has committed to work collaboratively across Commonwealth Departments and agencies to progress new initiatives to combat modern slavery risks in Government procurement and investments (Action Item 32). Additionally, the Government is promoting the Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains (Action Item 11).

In 2014, the Minister for Justice established an expert, multi-stakeholder Supply Chains Working Group under the National Roundtable. The Working Group delivered its recommendations to Government on measures to address serious forms of labour exploitation in supply chains in early 2016.

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Following the Working Group's Recommendations, the Government committed to develop an Australian Modern Slavery Act. After detailed consultations with business and civil society stakeholders, the Government introduced the Modern Slavery Bill 2018 to the Australian Parliament on 28 June 2018. The Bill was subsequently passed by the Australian Parliament on 29 November 2018 and received Royal Assent on 10 December 2018.

The *Modern Slavery Act 2018* supports the due diligence efforts of the public and private sectors by requiring the Government and over 3,000 large entities in the Australian market to produce annual statements detailing their actions to address modern slavery risks in their operations and supply chains. The Act requires statements to address a series of mandatory criteria, including describing any due diligence or remediation processes put in place by that entity. The Act applies to a broad range of for-profit and not-for-profit employers, including incorporated and unincorporated entities. Smaller entities that are not directly covered by the Act can also choose to voluntarily comply.

The Australian Government has also established a Modern Slavery Business Engagement Unit in the Department of Home Affairs to advise and support businesses to comply with the Act. The Unit's key functions including advising business, raising awareness about modern slavery, promoting best-practice and monitoring compliance. The Government has also developed detailed guidance for business about how to identify and respond to modern slavery, including by implementing due diligence processes. [\[Include references where possible\]](#)

[\[New section on progress of Modern Slavery Act and first year of reporting requirements\]](#)

[\[New section on the Bali Process and its Government and Business Forum\]](#)

The Bali Process Government and Business Forum that Australia's Foreign Minister co-chairs, with Indonesia's Foreign Minister, brings together ministers and business leaders from the 45-member countries and 4 UN organisations of the Bali Process on People Smuggling, Human Trafficking and other related Transnational Crimes. The aim is to increase awareness of modern slavery and develop innovative strategies to tackle it, for example, by focusing on supply chain transparency, ethical recruitment and safeguards and redress for victims.

These measures give effect to the obligation in Article 2(e).

Article 2(f)

The National Action Plan outlines ways in which Australia contributes to initiatives which tackle the root causes of trafficking in persons and slavery, including slavery-like offences. Specifically, Principle 8 of the National Action Plan states: "Australia promotes an evidence-based response to modern slavery, and its root causes and drivers, to build our understanding of modern slavery and how to prevent it."¹³

The Government addresses factors which make people vulnerable to exploitation in a number of ways. It provides funding and practical support through Australia's overseas development program and domestic grants programs to address drivers of modern slavery and empower individuals and groups. [\[Provide more information on Australia's involvement in overseas initiatives, especially in the Asia-Pacific region\]](#)

¹³ National Action Plan, p 21

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The Government's ASEAN-Australia Counter Trafficking initiative (A\$80m, 2018-28) aims to contribute to ASEAN member states having effective justice systems that provide just punishment of traffickers and protect the rights of victims of human trafficking – including for labour exploitation. The program is implemented in Cambodia, Indonesia, Lao PDR, Myanmar, the Philippines, Thailand and Vietnam, while working with ASEAN in implementing regional activities. For over 15 years, Australia has played an important role in assisting ASEAN and its member states to end trafficking in persons in the region.

Australia also supports the Tripartite Action to Enhance the Contribution of Labour Migration to Growth and Development (TRIANGLE) in ASEAN (A\$24m, 2015-27). This program, implemented by the International Labour Organization, seeks to assist migrant workers to understand their rights and thereby reduce their vulnerability to trafficking.

Australia continues to be engaged with Alliance 8.7 (named for Sustainable Development Goal Target 8.7) that was formed to help all UN member States, UN agencies, business and civil society to help eradicate forced labour, modern slavery, human trafficking, and all forms of child labour.

Additionally, under Action Item 20 of the National Action Plan, the Government has committed to undertaking a targeted review of Australia's visa framework, including to identify and reduce vulnerabilities to modern slavery.

These measures give effect to the obligation in Article 2(f).

Article 3

Each Member shall take effective measures for the identification, release, protection, recovery and rehabilitation of all victims of forced or compulsory labour, as well as the provision of other forms of assistance and support.

Notes on compliance [Update as required]

The Government has implemented a range of measures to provide for the identification, release, protection and recovery and rehabilitation of victims of forced or compulsory labour.

Measures taken by the Government to provide for the effective identification of victims of forced and compulsory labour include the maintenance of a specialist Australian Federal Police (AFP) team to detect and investigate trafficking in persons and slavery. Formal collaborative arrangements have also been established between the AFP and state and territory police forces. The National Policing Protocol to Combat Modern Slavery guides cooperation between federal, state and territory law enforcement. Resources and training are provided for Australian Border Force officials and state and territory policy officers to identify and refer cases to the Australian Federal Police.

The Government provides for the protection, recovery and rehabilitation of victims of forced labour in a number of ways. Under the National Action Plan, the Government has committed to develop a Victim and Survivor Engagement and Empowerment Strategy (Action Item 31). Generally, the Government is ensuring that policies, legislation and operational procedures and guidelines uphold human rights, are non-discriminatory, and uphold the best interests of the child. It has also recognised the importance of protecting the privacy and identify of trafficked people, and

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conversely, supporting their right to express their views in all matters that affect them. Furthermore, there is recognition that minors may have special needs that require specialised protection.

Additionally, the Government has committed to the safe, and where possible, voluntary repatriation of trafficked people. The Government is also taking action to ensure that trafficked people have access to educational opportunities and safe, appropriately remunerated employment.

Trafficked people can also access support through the STPP (described under Article 1(1)). Furthermore, the Human Trafficking Visa Framework provides a permanent pathway through the Referred Stay (Permanent) visa, where the person has cooperated with authorities and (regardless of the outcome of that cooperation) would be in danger if they returned to their home country.

These measures give effect to Commonwealth compliance with Article 3.

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Article 4

1. Each Member shall ensure that all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation.
2. Each Member shall, in accordance with the basic principles of its legal system, take the necessary measures to ensure that competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

Notes on compliance (update as required)

Article 4(1)

The analysis of the obligation to ensure appropriate and effective remedies provided above in relation to Article 1(1) also applies to the Commonwealth fulfilling its obligations under Article 4. However, Article 4(1) contains the additional requirement that member States are to ensure all victims have access to remedies 'irrespective of their presence or legal status in the national territory'. This additional requirement can be further broken down into two elements: (i) access to remedies, irrespective of a victim's presence in the national territory; and (ii) access to remedies, irrespective of the victim's legal status.

In respect of the first element of the additional requirement under Article 4(1), Australia would be under an obligation to ensure all victims of forced or compulsory labour have access to appropriate and effective remedies 'irrespective of their presence ... in the national territory'.

As provided under Article 1(1), the FWO and the Department of Home Affairs have established an Assurance Protocol to support visa holders with a work right to go to the FWO for assistance in cases of workplace exploitation. Under the Assurance Protocol, the Department of Home Affairs will not usually cancel a visa if the visa holder breached their work-related visa conditions because of workplace exploitation, providing the visa holder commits to ongoing compliance and there are no other reason to cancel their visa.

The FWO can investigate matters related to, and take enforcement action on behalf of, workers irrespective of their visa status or presence in Australia. The FWO has litigated matters where employees have worked in excess of their visa conditions and secured back-pay in those cases.

[Update with recent examples if possible.] For example, in the matter of *Fair Work Ombudsman v Invivo Group Pty Ltd*, the court ordered that eight employees – including 417 Working Holiday Visa holders – receive back pay after their employer failed to pay their minimum entitlements. In this case, the FWO maintained contact with the employees, who had returned to their home country, and arranged for these employees to receive their back pay in accordance with a payment plan.

The FWO also holds back pay recovered for workers who cannot be located by their former employer or the FWO. For overseas employees whom may have returned to their home country, the FWO uses a variety of methods to locate, contact, and verify the identities of employees to ensure any outstanding entitlements are paid.

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Employees who are owed money can search their eligibility online at <https://www.fairwork.gov.au/how-we-will-help/helping-the-community/search-for-unpaid-wages>. If an employee is found eligible in the FWO's database, they are encouraged to contact the FWO in relation to their claim. An international contact number is available for employees who may have returned to their home country. These employees can contact the Fair Work Infoline on +61 2 6141 1387.

With regard to the second element – legal status – the Department of Home Affairs manages the Human Trafficking Visa Framework, which enables foreign nationals who do not already hold a valid visa and are suspected victims of trafficking in persons or slavery to remain lawfully in Australia. On 1 July 2015, a suite of regulatory reforms were introduced to the visa framework.

These included:

- eliminating the use of the Criminal Justice Stay Visa for trafficked people and instead using the redesigned Bridging Visa F (BVF) to facilitate an initial period of rest and recovery and allow them to remain in Australia while assisting in a criminal justice process
- renaming the Witness Protection (Trafficking) (Permanent) visa to the more neutral title of Referred Stay (Permanent) visa. This addresses the perceived stigma associated with the former title and affords greater privacy to trafficked people
- widening the circumstances under which the Attorney-General can issue a Referred Stay certificate for a trafficked person who has assisted a criminal justice process which does not result in a brief of evidence to the Commonwealth Director of Public Prosecutions
- facilitating targeted support and access to Australian Government services, including:
 - extending access to the Adult Migrant English Program (AMEP) for BVF holders
 - removing the two-year Newly Arrived Resident's Waiting Period for trafficked people granted a permanent visa, allowing immediate access to a broad range of social security payments and educational services.
- broadening the definition to encompass human trafficking, slavery and slavery-like offences, including forced labour and debt bondage, in migration legislation, and to capture a range of offences under State, Territory or Commonwealth criminal codes.

These activities encompass the definition in the Convention of 'forced and compulsory labour' which is reaffirmed in Article 1(3) of the Protocol as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.'

As noted under Article 1(1), compensation is referred to in Article 4(1) as an example of appropriate and effective remedies and is not an obligation of the Protocol.

Through the combination of the FWO's powers and the Human Trafficking Visa Framework, Commonwealth law and practice gives effect to the obligations of Article 4(1).

Article 4(2)

The Commonwealth legal system contains a range of protections to ensure that victims would not be prosecuted for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour. Such protections include the Commonwealth Director of Public Prosecution's 'Prosecution Policy of the Commonwealth', the drafting requirement for some offences to include a fault element and the availability of certain defences, such as duress. It is therefore considered that Australia's domestic framework at the

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Commonwealth level contains the appropriate 'necessary measures' to meet the obligation imposed under Article 4(2).

Where the visa of a victim of forced or compulsory labour is being considered for cancellation, for example for breach of work conditions, that decision is discretionary. The visa holder's individual circumstances and mitigating factors are taken into account. If a person has overstayed their visa, Department of Home Affairs will work with them and will generally consider granting a short-term bridging visa while they resolve their immigration status. People who approach the Department of Home Affairs voluntarily to resolve their immigration status will generally not be detained.

The Human Trafficking Visa Framework enables foreign nationals who do not already hold a valid visa and are suspected victims of human trafficking or slavery to remain lawfully in Australia. A person assessed by the AFP as a suspected trafficked person is eligible for a Bridging visa F (BVF) for up to 45 days if they hold no other valid visa. Before the expiry of the initial BVF, a further 45-day BVF may be granted if deemed necessary, or a longer term BVF may be granted at the request of the police. This longer term BVF will allow the holder to remain in Australia for as long as their presence is required for the administration of criminal justice.

Where a person already holds a valid visa and therefore does not require a BVF, the person may retain that visa, and their associated lawful status, while they are assisting with the administration of criminal justice. Upon expiry of the person's original visa, they can be considered for a BVF to be granted if they are required to remain in Australia for a further period for the administration of criminal justice.

A trafficked person who has made a contribution to an investigation or prosecution of an alleged offender and who would be in danger if they return to their home country may be eligible for the grant of a Referred Stay (Permanent) visa (RSV). This visa allows the holder to remain in Australia permanently, and immediate family members may be included in the visa application.

The amendments made to the Migration Act in December 2015 by the *Migration Amendment (Charging for a Migration Outcome) Act 2015* introduced new criminal and civil penalties and visa cancellation provisions as part of a 'paying for visa sponsorship' (PfVS) framework that allows for sanctions to be imposed on a person who asks for, receives, offers or provides a benefit in return for visa sponsorship or employment (that requires visa sponsorship). PfVS policy includes provisions that DIBP will not pursue visa holders under PfVS legislation if the visa holder has been subjected to exploitation, extortion, use of coercion/violence/deception, slavery or human trafficking, and that each circumstance will be considered on a case-by-case basis.

The Assurance Protocol agreed by the FWO and the Department of Home Affairs also applies in these circumstances.

These measures give effect to Commonwealth compliance with Article 4(2).

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Article 5

Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

Notes on compliance [Update with current initiatives]

Australia works to combat forced or compulsory labour by cooperating with other governments in our region and internationally. Under Action Item 38 of the National Action Plan, the Government promotes effective and coordinated international and regional responses to modern slavery in line with the *International Strategy on Human Trafficking and Modern Slavery* (see below). The Government plays a leadership role advocating for the promotion and protection of human rights, including adherence to international labour standards, in relevant international and regional fora (Action Item 8). The Government has committed to support projects which examine the nature of human trafficking and slavery domestically and in our region, and to deliver and fund overseas capacity-building activities to support the identification of victims and survivors, and the investigation and prosecution of modern slavery crimes (Action Item 21). Additionally, the Government has committed to providing funding to overseas anti-trafficking programs (Action Item 39).

Australia's next *International Strategy on Human Trafficking and Slavery 2021-25*, will build on the previous Strategy: *Amplifying our Impact* and complement the National Action Plan. It will provide a framework to coordinate Australia's international engagement at the bilateral, regional and multilateral levels. Australia's engagement spans regional cooperation and capacity-building in the Asia Pacific, including through bilateral international legal assistance work; and co-chairing the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. Australia also works with multilateral bodies, including the UN High Commissioner for Refugees, the International Organization for Migration, the International Labour Organization, and the UN Office on Drugs and Crime. Australia is involved in United Nations Human Rights Council sessions, and the Universal Periodic Review Process. As part of its 2015 Universal Periodic Review, Australia committed to undertake consultations on implementing the United Nations Guiding Principles on Business and Human Rights in Australia. The Department of Foreign Affairs and Trade worked closely with business and civil society in carrying out these consultations.

These forms of international cooperation ensure compliance with the obligation to cooperate with other member States in accordance with Article 5.

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Article 6

The measures taken to apply the provisions of this Protocol and of the Convention shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned.

Notes on compliance [Update to ensure it reflects recent consultation]

No legislative amendment is required to ensure compliance with this provision at the Commonwealth level. Appropriate mechanisms are in place for consultation on laws and regulations and other actions taken by competent authorities.

The National Roundtable is the primary consultative mechanism between the Government, civil society organisations, business and industry, and unions to ensure Australia's efforts to combat trafficking in persons and slavery are developed and implemented on a whole-of-community basis. For example, since its creation in 2008, the National Roundtable has help achieved:

- the 2009 reforms to the Support for Trafficked People Program and Human Trafficking Visa Framework to better protect and assist trafficked people
- driving an expansion to Australia's strategy to encompass all forms of labour exploitation, and
- contributing to the development of the *Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013*.

Under the National Action Plan, the National Roundtable will help support the implementation of Action Items established under the Plan. The Government will also review the action items and assess whether it is necessary or appropriate to amend or add new action items to the National Action Plan, in consultation with the National Roundtable.

The National Workplace Relations Consultative Council (NWRCC) comprises appointed representatives from the Australian Council of Trade Unions and peak employer groups and is chaired by the Minister for Industrial Relations. Established under the *National Workplace Relations Consultative Council Act 2002* (the NWRCC Act), the NWRCC allows the Government, employers and employees to consult together on workplace relations and work health and safety issues of national concern. The NWRCC Act permits the creation of committees on any matter relevant to the purpose of, or referred to it by, the NWRCC. The current NWRCC committees are the International Labour Affairs Committee and the Committee on Industrial Legislation (CoIL). CoIL is the relevant committee for consultation on laws and regulations.

NWRCC member organisations nominate participants to attend CoIL meetings to read draft legislation and provide technical input in confidential discussions with senior departmental officials. CoIL does not prevent NWRCC members from considering issues arising from proposed or existing legislation, although draft legislation is not made available at NWRCC meetings. CoIL has met previously to consider existing legislation.

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Article 7

The transitional provisions of Article 1, paragraphs 2 and 3, and Articles 3 to 24 of the Convention shall be deleted.

Notes on compliance

Article 7 is a technical amendment to the Convention and has no effect given the transitional period has expired.

The Convention allowed the use of forced or compulsory labour for public purposes as an exceptional measure during a transitional period. The expiry of this period has long been noted by the ILO's supervisory bodies and reflected in the practice of member States. It was recognised by the ILC, when, in 2004, it withdrew the Forced Labour (Regulation) Recommendation, 1930 (No. 36), an instrument that laid down rules to be observed when recourse was had to forced labour during the transitional period. It was also recognised by the ILO Governing Body in 2010 when adopting the revised report form for the Convention under Article 22 of the ILO Constitution.

The Preamble to the Protocol states that the transitional period has expired and the transitional provisions set forth in Article 1(2) and (3) and Articles 3 to 24 of the Convention are no longer applicable. Accordingly, this provision is a technical amendment. It is understood that the transitional provisions of the Convention were not given effect in Australian law. The *Abolition of Forced Labour Convention, 1957* (No. 105), which Australia ratified in 1960, required the immediate abolition of all forms of forced labour within its scope, and slavery and a range of slavery-like practices, including servitude and forced labour are Commonwealth criminal offences. As such, no legislative change is required to ensure compliance with Article 7.

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Article 8

1. A Member may ratify this Protocol at the same time as or at any time after its ratification of the Convention, by communicating its formal ratification to the Director-General of the International Labour Office for registration.
2. The Protocol shall come into force twelve months after the date on which ratifications of two Members have been registered by the Director-General. Thereafter, this Protocol shall come into force for a Member twelve months after the date on which its ratification is registered and the Convention shall be binding on the Member concerned with the addition of Articles 1 to 7 of this Protocol.

Article 9

1. A Member which has ratified this Protocol may denounce it whenever the Convention is open to denunciation in accordance with its Article 30, by an act communicated to the Director-General of the International Labour Office for registration.
2. Denunciation of the Convention in accordance with its Articles 30 or 32 shall ipso jure involve the denunciation of this Protocol.
3. Any denunciation in accordance with paragraphs 1 or 2 of this Article shall not take effect until one year after the date on which it is registered.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Protocol shall come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications, declarations and denunciations registered by the Director-General.

Article 12

The English and French versions of the text of this Protocol are equally authoritative.

Notes on compliance

Articles 8-12 contain the final clauses of the Protocol. These clauses include the requirements regarding ratification and accession, entry into force, denunciation, registration and authoritative texts. These are standard clauses in a treaty-level document and would not require domestic implementation.

JSCOT HEARING

ILO FORCED LABOUR PROTOCOL

Friday 11 March, 9:50am-12:00pm

Meeting Platform: Webex (use Chrome)

[Click to join the meeting](#)

Objectives:

- Demonstrate to the Committee that Australia is complying with the requirements of the Protocol
- In particular (for DFAT) Article 5 requires: *Members shall cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.*

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I. INTERNATIONAL COOPERATION ON FORCED LABOUR

The Government is strongly committed to combatting forced labour. International cooperation on forced labour is critical, as forced labour is a global problem. No country is immune and no country can address it in isolation. The Government has an active agenda of bilateral, regional, and multilateral engagement to promote international cooperation on ending forced labour.

Bilaterally, Australia's ministers, Ambassador for People Smuggling and Human Trafficking, and diplomatic network conduct targeted advocacy on this issue. We engage regularly with countries on their approaches and experiences. I have had direct discussions with the UK, the US and with Canada on their approaches to addressing forced labour in supply chains.

Regionally, Australia co-chairs with Indonesia the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime.

Australia plays a leading role in the Bali Process Government and Business Forum (GABF), a permanent track of the Bali Process. The GABF brings together governments, businesses and civil society to exchange views and best practice on these issues and drive progress in member parties. In 2018, Bali Process ministers adopted the AAA recommendations (Acknowledge, Act and Advance), which focused on: eliminating human trafficking and forced labour from supply chains; promoting ethical recruitment practices; and the development of safeguards and worker redress mechanisms. The GABF has held a number of sector-specific virtual consultations, involving businesses and government officials in our region and looking at addressing forced labour issues.

In addition, Australia undertakes a number of regional capacity building activities to deter modern slavery, train law and justice officials, promote stronger laws in the region, and assist victims [*pass to ABF for more details*].

Australia's official development assistance addresses forced labour and the drivers. For example, Australia supports the Tripartite Action to Enhance the Contribution of Labour Migration to Growth and Development (TRIANGLE) in ASEAN to assist migrant workers to understand their rights and thereby reduce their vulnerability to modern slavery practices.

Multilaterally, Australia also promotes international cooperation to end forced labour, including through the UN Human Rights Council, UN General Assembly, and other multilateral fora. Australia was the inaugural chair of Alliance 8.7, a unique, global partnership of governments, UN agencies, businesses, academics and civil society, which was formed to reach Goal 8.7 of the Sustainable Development Goals, on ending forced and child labour. Australia remains closely engaged with Alliance 8.7 and its Global Coordinating Group, which is leading work with Pathfinder countries, or those countries that have committed to taking accelerated actions to achieve SDG 8.7 and forced labour.

Specifics on Bali Process Government and Business Forum sessions

- Four sessions have been held to date:
 - the first focused on the role the financial sector can play to combat human trafficking and modern slavery in supply chains
 - *[held on 30 September 2020]*.
 - : The session was joined by around 110 participants from across the financial sector, civil society and member governments.
 - the second session focused on the fishing sector and key issues such as ethical recruitment, traceability and the use of technology to identify illegal fishing and labour practices
 - *[held on 13 October 2020]*.
 - : The session saw close to 80 participants from businesses from all parts of the seafood supply chain, government agencies, and other organisations active in the sector.
 - the third session focused on the electronics sector
 - *[held on 17 November 2021]*.
 - Attended by over 60 participants from governments, civil society, business and industry organisations, and international organisations.
 - the fourth session focussed on the garment and textiles sector
 - *[held on 25 November 2021]*.
 - : Attended by over 60 participants from governments, civil society, business and industry organisations, and international organisations.

s 33(a)(iii)

s 33(a)(iii) - this page, together
with the following pages 36-38
are exempt and have been
removed.

II. INQUIRY AND BILL TO BAN GOODS PRODUCED WITH FORCED LABOUR

Will the Government pass the Bill [ACTU recommendation 10]?

- There is currently a Bill before the House
 - this is a matter for Government.

If asked: Government response to the inquiry

- Government is considering the recommendations of the Senate Committee's report: *Customs Amendment (Banning Goods Produced By Uyghur Forced Labour) Bill 2020* closely and will put forward the Government response for tabling when final.
- The issues raised in the Senate Report affect multiples departments and agencies DFAT is preparing a whole-of-government response that reflects the input of all affected agencies.

Which agencies is DFAT consulting with on the response?

- DFAT coordinated the whole-of-government response between DFAT (seven divisions, including geographic, procurement policy, trade policy and legal teams) and eight other government agencies.
- DFAT is consulting closely with: ABF, PM&C, Home Affairs, AGD, Austrade, Finance, DISER; individually and via IDC meetings
 - [there have been two IDCs held on the Rex Patrick Inquiry response on 17 August and 23 September 2021.]

If pressed: Has / when has a draft Government response been provided to the Minister for approval?

- A draft whole-of-government response was provided on 23 December 2021
 - and a revised response provided on 11 February 2022.

Background: Rex Patrick Inquiry Report Timeline

Date	
8 December 2020	Senator Rex Patrick introduced the Customs Amendment (Banning Goods Produced by Uygur Forced Labour) Bill 2020 into the Senate
9 December 2020	The Bill was referred to the Senate Foreign Affairs, Defence and Trade Legislation Committee to conduct an inquiry
14 December 2020	DFAT was invited by the Committee to provide a submission into its Inquiry
15 March 2021	A whole-of-Government submission, coordinated by the Australian Border Force (responsible for the Customs Act) involving DFAT, Department of Home Affairs (named in submission) and other relevant agencies (PMC, Treasury, AGD) was lodged
27 April 2021	DFAT appeared, with ABF, at the public hearing
16 June 2021	Committee's report released
24 June 2021	Senator Patrick withdrew his original Bill and introduced <i>Customs Amendment (Banning Goods Produced by Forced Labour) Bill 2021</i>
29 June 2021	SHB informed by PRU that Home Affairs advised that DFAT should be the WOG lead for the draft response to the report recommendations
30 June 2021	DFAT and ABF exchange emails noting DFAT would be WoG lead for response unless Parliamentary areas agree otherwise
12 August 2021	SHB chairs an internal DFAT meeting (virtual)

17 August 2021	SHB chairs Inter-departmental Committee (virtual): <ul style="list-style-type: none"> - DFAT - ABF - Home Affairs - PMC - AGD - Finance - Austrade
23 August 2021	The <i>Customs Amendment (Banning Goods Produced by Forced Labour) Bill 2021</i> passed in the Senate and moved to the House of Representatives
17 September 2021	SHB emails draft response report to WOG for review/comment
20 September 2021	Meeting between A/PSHT and ABF GM Holben to discuss draft report (virtual)
23 September 2021	SHB chairs inter-departmental meeting (virtual): <ul style="list-style-type: none"> - DFAT - ABF - Home Affairs - PMC - AGD - Finance - Austrade - DISER SHB incorporates additional information and advice following the inter-departmental meeting and departmental inputs
22 October 2021	SHB emails draft response report to DFAT/WOG for final approval by 28 October 2021
16 November 2021	Draft WoG response sent to the FMO and TTIMO

22 November	An identical bill to the bill passed by the Senate on 23 August (titled <i>Customs Amendment (Banning Goods Produced by Forced Labour) Bill 2021 (No. 2)</i>), was presented to the House of Representatives by Rebekha Sharkie and read a first time.
s 47E(d)	
s 47E(d)	
s 47E(d)	
s 47E(d)	
s 47E(d)	
s 47E(d)	
s 47E(d)	
10 February 2022	Ministerial package with updated response document submitted through PDMS

III. LABOUR CHAPTERS IN AUSTRALIA'S FREE TRADE AGREEMENTS

Will the Government only ratify those trade agreements with labour protections [ACTU recommendation 19]?

- Australia considers inclusion of labour provisions in FTAs on a case-by-case basis.
- Five of Australia's 16 FTAs in force [United States, Korea, Chile, Peru, and the Comprehensive and Progressive Trans-Pacific Partnership] contain labour chapters
 - with provisions based on the ILO Declaration on Fundamental Principles and Rights at Work
 - including, the elimination of all forms of forced or compulsory labour.
- The A-UKFTA Labour Chapter is our most comprehensive to date and is consistent with the ground-breaking CPTPP.
- The UK FTA agreement for the first time in Australian FTA practice, includes a dedicated provision on modern slavery
 - including efforts to ensure that Parties' private and public sector entities take appropriate steps to prevent modern slavery in their supply chains.
- Australia and the EU are discussing how to reflect our shared high labour standards in the Australia – EU FTA.
 - The nature of the provisions remains under negotiation.
- We supported US text on effective WTO disciplines on illegal, unreported, unregulated subsidies associated with forced labour in the fisheries subsidies negotiations.

Background

- Of Australia's 16 FTAs in force, only four have labour chapters:
 - AUSFTA (the US); KAFTA (RoK); PAFTA (Peru) ; the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)
- Of these, the CPTPP is the most comprehensive in scope and enforceability, though A-UKFTA (the UK), once in force, will go beyond even CPTPP.
- The labour chapters of our earlier FTAs (i.e. AUSFTA and KAFTA) are not subject to the FTA dispute settlement mechanism.

IV. TREATY ON BUSINESS AND HUMAN RIGHTS

Will the Government constructively participate in negotiations on a UN Business and Human Rights Treaty [ACTU recommendation 20]?

- Australia does not support a proliferation of human rights instruments.
- Australia is of the view that the UN Guiding Principles – rather than a treaty – are the appropriate mechanism for addressing business and human rights
 - the Guiding Principles have only been in existence for a relatively short time, and Australia’s priority is to support local and international efforts to implement them.

Background

- The UN Guiding Principles on Business and Human Rights (Guiding Principles) set out guidance for states and business, in line with the three principles of the 2008 UN ‘Protect, Respect and Remedy’ Framework on Business and Human Rights. They were adopted unanimously by the Human Rights Council in 2011. Many states have developed National Action Plans (NAP) as an implementation mechanism of the guiding principles.
- In June 2017, then-Foreign Minister, Julie Bishop, announced the establishment of a Multi-Stakeholder Advisory Group on Implementation of the UN Guiding Principles on Business and Human Rights (the Advisory Group). The Advisory Group, comprised of 21 experts from business and civil society, released a report on the prioritisation of issues and actions to implement the guiding principles - which included 28 recommendations for the Government and noted that the group “sees value in the Australian Government delivering a coordinated policy statement in the form of a NAP.”
- On 10 October 2017, Ms Bishop wrote to members of the advisory group, thanking them for their work and advising them on actions being taken on business and human rights, including that the Government would not proceed with a NAP at this time.
- The Government has received ongoing criticism for its approach to business and human rights, especially its decision not to develop a National Action Plan to implement the UNGPs.

V. LABOUR MOBILITY (PALM AND AGRICULTURE VISA)

PALM

Are worker protections under the Pacific Australia Labour Mobility (PALM) scheme consistent with the obligations outlined under the Protocol?

- Yes
 - the PALM scheme's worker protections, employer compliance and assurance processes are consistent with obligations to prevent and eliminate forced or compulsory labour practices outlined the protocol.

Background

- The Australian Government does not tolerate the mistreatment of any worker, including underpayment of wages and entitlements.
- Under the PALM scheme workers have the same right to freedom of association as other employees in Australia and are briefed on this and other workplace rights by the Fair Work Ombudsman when they arrive in Australia.
- There are a range of worker protection measures in place to prevent mistreatment under the PALM scheme including;
 - all Approved Employers are vetted and must meet stringent criteria in order to participate, including compliance with Australian workplace relations laws, work health and safety laws, and immigration requirements;
 - rigorous monitoring and compliance framework to assure that the welfare of workers under the PALM scheme is protected which includes site visits and regular reporting requirements from employers, including pay data;
 - support to all Pacific workers through a 24-hour welfare hotline, and the Pacific Labour Facility's Worker Welfare Team.
 - funding to the Fair Work Ombudsmen to provide education and monitor compliance with workplace laws by Approved Employers for PALM Scheme.
 - The Fair Work Act 2009 protects freedom of association by ensuring that persons are free to become, or not become,

members of industrial associations, and are free to participate, or not participate, in lawful industrial activities.

- deductions guidelines and fact sheets on how to access help are translated into Pacific languages and provided to workers.
- Approved Employers must ensure that workers have sufficient income after paying tax and deductions to live on each week, and derive a reasonable financial benefit over the period of their stay in Australia.
- access for workers to a range of wellbeing supports including those provided by employers, case managers, staff in regional locations, a worker welfare hotline, and liaison officers from their own countries.

Is the PLS / SWP indentured labour?

- No.
- Workers are free to return to their home country anytime and are moved with their consent to other approved employers.
 - Workers cannot be moved to non-approved employers who have not signed the conditions of the deed, as workers would have less protections.
- Workers can be moved – and are moved to approved employers – where concerns arise in relation to their employer, place of employment, or available work hours.
 - Since March 2020, we have facilitated more than 16,300 redeployments of workers to enable them greater earning opportunities and to respond to industry needs.
 - Workers are only moved with their consent.
 - Workers are also able to return home any time and will be supported to return.
 - More than 2,500 workers have been assisted to return home during the pandemic.
- PLS/SWP is a sponsored employer visa program targeted to workforce gaps in rural and regional Australia.
 - Sponsorship is a common feature of Australia's migration system to ensure protection of Australia jobs, with most employment-based visas being sponsored (e.g. labour agreements).

Can workers switch employers?

- Yes.
- Workers can be moved - and are moved – to alternative Approved Employers where concerns arise in relation to their employer, place of employment, or available work hours:
 - we do not support movement of workers to non-approved employers for the promise of higher pay as workers would not have the protections required, including our ability to audit conditions
 - approved employers have high initial costs for flights and in COVID-19 paid for quarantine costs.

What is the Government doing to stop workers being mistreated?

- A range of measures are in place to protect Pacific workers:
 - all Approved Employers are vetted and must meet stringent criteria in order to participate, including compliance with Australian workplace relations laws, work health and safety laws, and immigration requirements;
 - we have implemented a rigorous monitoring and compliance framework which includes site visits and regular reporting requirements from employers, including pay data. 81 SWP Approved Employers (2021-22) and 50 PLS Approved Employers have been assessed so far this year. This is 34% of the seasonal employers approved to participate under the program; and
 - monitoring visits can be virtual or in person, announced or unannounced (this includes visiting the worksite, the accommodation and meeting with workers) and responding to tip-offs on issues.
- The Government provides support to all Pacific workers through a 24-hour welfare hotline, and the Pacific Labour Facility's Worker Welfare Team provides additional support to PLS workers
 - the Welfare Team connects workers with community groups, churches and diaspora groups.
- The Fair Work Ombudsman [AGD - s 22(1)(a)(ii) *attending as JSCOT witness*] is provided additional funding to provide education and monitor compliance with workplace laws by Approved Employers of both the Seasonal Worker Programme and the Pacific Labour Scheme.

- Workplace laws, work deductions guidelines and fact sheets on how to access help are translated into Pacific languages and provided to workers.
- DFAT works closely with Pacific Government Liaison officers which is an important channel to identify issues and resolve issues for workers.

If asked: Will the Government extend the PALM scheme requirement that relevant trade union be invited to inform workers of their rights on arrival [ACTU recommendation 10]?

- Refer Home Affairs (TBC).

Agriculture Visa

Strategic Message

- The Australian Agriculture Visa delivers on the Government's commitment to address workforce shortages and put in place a broad ranging visa to support the growth of Australia's agricultural industries.
- Clear requirements for employers and protections for workers will be key to the program's implementation. The Government has no tolerance for worker exploitation.

Will worker protections under the Australian Agriculture Visa scheme be consistent with the obligations outlined under the Protocol?

- The Agriculture Visa program is not yet operational and subject to final design and negotiation. It is expected to be consistent with obligations to prevent and eliminate forced or compulsory labour practices outlined in the Protocol.

If asked: How will the Agriculture Visa program protect workers?

- The Australian Government has no tolerance for visa fraud, illegal work, worker exploitation or worker underpayment of any kind.
- Compliance and monitoring arrangements will be key to the program's implementation.
- Employees under the Agriculture Visa program are protected by the same workplace rights
 - and laws as Australian employees, regardless of their citizenship or visa status. Employers
 - must pay wages and entitlements as set by law and provide a safe workplace.
- The Australian Border Force and the Fair Work Ombudsman play an important role in ensuring compliance with visa requirements and workplace laws respectively.
- The program mandates that only approved employers can participate, and that these employers are subject to requirements, reporting and monitoring.

Background

- On 23 August 2021, the Government announced the creation of a new Australian agriculture visa. This followed the announcement of 16 June 2021 by the Minister for Agriculture and Northern Australia, David Littleproud MP, that Australia would be introducing an agriculture visa to recruit workers from ASEAN countries. This came after Prime Minister Morrison announced that an Agreement in Principle had been reached on core elements of a free trade agreement with the UK, in which it was agreed that UK Working Holiday Makers (backpackers) would no longer be required to work in Australia's regional and rural agricultural sector in order to obtain a second-year visa extension.
- The Government has provided \$87.2 million over four years from 2021-22 to introduce the Agriculture Visa to respond to workforce shortages in the agricultural and primary industry sectors. The establishment of the program represents a long-term structural change to addressing workforce issues in the agriculture sector. It will supplement the existing Pacific Australia Labour Mobility scheme (PALM scheme), which will remain the primary scheme for meeting agricultural workforce shortages.
- Australia has commenced discussions with a small number of countries in Southeast Asia with recruitment to start after negotiations are complete.
- DFAT is working with a group of employers to establish a small initial cohort to test systems and processes before the program's expansion throughout 2022 when we expect a steady increase in workers arriving in Australia.

Attachment A: Forced Labour Protocol

Attachment B: List of ILO Forced Labour Protocol Signatories / Ratifications

Ratifications of P029 - Protocol of 2014 to the Forced Labour Convention, 1930

Date of entry into force: 09 Nov 2016

57 ratifications

See also

- Denounced: 0

1. [Countries have not ratified](#)

<h3>Display the list by:</h3>

Display the list by: Country

Status of convention

Number

Country	Date	Status	Note
Antigua and Barbuda	28 Jul 2021	Not in force	The Protocol will enter into force for Antigua and Barbuda on 28 Jul 2022.
Argentina	09 Nov 2016	In Force	
Austria	12 Sep 2019	In Force	
Bangladesh	20 Jan 2022	Not in force	The Protocol will enter into force for Bangladesh on 20 Jan 2023.
Belgium	10 Sep 2019	In Force	
Bosnia and Herzegovina	09 Aug 2018	In Force	
Canada	17 Jun 2019	In Force	
Chile	19 Jan 2021	In Force	

Country	Date	Status	Note
Comoros	15 Jul 2021	Not in force	The Protocol will enter into force for Comoros on 15 Jul 2022.
Costa Rica	16 Nov 2020	In Force	
Cyprus	01 Feb 2017	In Force	
Czechia	09 Jun 2016	In Force	
Côte d'Ivoire	01 Nov 2019	In Force	
Denmark	14 Jun 2017	In Force	
Djibouti	09 Mar 2018	In Force	
Estonia	24 Nov 2016	In Force	
Finland	27 Jan 2017	In Force	
France	07 Jun 2016	In Force	
Germany	19 Jun 2019	In Force	
Iceland	14 Jun 2017	In Force	
Ireland	04 Feb 2019	In Force	
Israel	11 Oct 2018	In Force	
Jamaica	13 Jun 2017	In Force	
Kyrgyzstan	06 Oct 2020	In Force	
Latvia	07 Dec 2017	In Force	
Lesotho	22 Aug 2019	In Force	

Country	Date	Status	Note
Lithuania	05 Mar 2020	In Force	
Luxembourg	18 Mar 2021	Not in force	The Protocol will enter into force for Luxembourg on 18 Mar 2022.
Madagascar	11 Jun 2019	In Force	
Malawi	07 Nov 2019	In Force	
Mali	12 Apr 2016	In Force	
Malta	14 Feb 2019	In Force	
Mauritania	09 Feb 2016	In Force	
Mozambique	14 Jun 2018	In Force	
Namibia	06 Nov 2017	In Force	
Netherlands	08 Aug 2017	In Force	
New Zealand	13 Dec 2019	In Force	
Niger	14 May 2015	In Force	
Norway	09 Nov 2015	In Force	
Panama	07 Sep 2016	In Force	
Peru	18 Jun 2021	Not in force	The Protocol will enter into force for Peru on 18 Jun 2022.
Poland	10 Mar 2017	In Force	

Country	Date	Status	Note
Portugal	23 Dec 2020	In Force	
Russian Federation	17 Jan 2019	In Force	
Saudi Arabia	26 May 2021	Not in force	The Protocol will enter into force for Saudi Arabia on 26 May 2022.
Sierra Leone	25 Aug 2021	Not in force	The Protocol will enter into force for Sierra Leone on 25 Aug 2022.
Spain	20 Sep 2017	In Force	
Sri Lanka	10 Apr 2019	In Force	
Sudan	17 Mar 2021	Not in force	The Protocol will enter into force for Sudan on 17 Mar 2022.
Suriname	03 Jun 2019	In Force	
Sweden	14 Jun 2017	In Force	
Switzerland	28 Sep 2017	In Force	
Tajikistan	24 Jan 2020	In Force	
Thailand	04 Jun 2018	In Force	
United Kingdom of Great Britain and Northern Ireland	22 Jan 2016	In Force	
Uzbekistan	16 Sep 2019	In Force	
Zimbabwe	22 May 2019	In Force	

Attachment C: National Interest Analysis

**National Interest Analysis [2022] ATNIA x
with attachment on consultation**

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

adopted at Geneva on 11 June 2014

[2022] ATNIF x

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

International Labour Organization Protocol of 2014 to Forced Labour Convention 1930 No. 29 adopted at Geneva on 11 June 2014

[2022] ATNIF x

Nature and timing of proposed treaty action

1. The proposed treaty action is ratification of the *International Labour Organization (ILO) Protocol of 2014 to Forced Labour Convention 1930 No. 29*, adopted at Geneva on 11 June 2014 (the Protocol).
2. In accordance with Article 8(2), the Protocol entered into force generally on 9 November 2016, being 12 months after the date on which the ratifications of two ILO Members had been registered by the Director-General. Article 8(2) provides that the Protocol is binding only upon ILO Members that have had their ratifications registered by the Director-General of the ILO.
3. It is proposed that Australia ratify the Protocol as soon as practicable. Under Article 8(2), the Protocol would enter into force for Australia 12 months after the date on which Australia's ratification is registered by the Director-General.
4. It is not proposed that Australia will make any reservation or declaration upon ratification.

Overview and national interest summary

5. The primary purposes of the Protocol include to ensure the effective prevention and elimination of forced or compulsory labour, to provide protection and access to appropriate and

effective remedies to victims, such as compensation, and to sanction perpetrators of forced or compulsory labour.

6. Ratification would greatly enhance Australia's standing in the international community and demonstrate Australia's ongoing commitment to the implementation of key ILO conventions and protocols.

7. Ratification would highlight the importance Australia places on addressing forced labour, as well as other forms of modern slavery, and enhance Australia's ability to address these practices authoritatively, particularly within the Asia-Pacific region.

Reasons for Australia to take the proposed treaty action

8. Ratification of the Protocol would reflect Australia's global leadership on modern slavery and forced labour issues. Ratification of the Protocol would build on a range of recent domestic law and policy initiatives which aim to prevent and eliminate forced labour and other modern slavery practices, including the *Modern Slavery Act 2018 (Cth)* (the Act) and the *National Action Plan to Combat Modern Slavery 2020-25*.¹ Ratifying the Protocol would validate and highlight Australia's continued commitment to the domestic and international effort to address forced labour practices.

9. A key objective of Australia's engagement with the ILO is to provide policy leadership within the Asia-Pacific region in promoting international labour standards and addressing forced labour practices. The ILO estimates that there are more than 11 million victims of forced labour in the Asia-Pacific region.² This accounts for more than fifty percent of the global estimated number of victims of forced labour. Ratification would enable Australia to play a greater and more authoritative role in promoting better implementation of the Protocol and measures to prevent and eliminate forced labour in the region.

10. The Protocol supplements and modernises the ILO *Forced Labour Convention, 1930 (No. 29)* (the Convention), which together with the ILO *Abolition of Forced Labour Convention 1957 (No. 105)*, provides an international framework and standards for the elimination of forced labour globally. Australia ratified the Convention on 2 January 1932 and the *Abolition of Forced Labour Convention* on 7 June 1960. Ratification of the Protocol at this time ensures that these

¹ Progressing ratification of the *Forced Labour Protocol of 2014* is Action Item 9 under the National Action Plan.

² International Labour Organization and Walk Free Foundation, "Global Estimates of Modern Slavery: Forced Labour and Forced Marriage", 2017.

Conventions remain effective in the modern context and that Australia's adoption of the international forced labour framework is comprehensive and responsive to modern forms of slavery. Ratification would also complement measures taken to implement other core international forced labour standards, including the *United Nations Convention against Transnational Organised Crime 2000* and its *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000*.

11. Ratification of the Protocol at this time would strengthen Australia's credentials within the broader international community by ensuring it has ratified key conventions and protocols relating to forced labour, as well as demonstrating its commitment to eradicating these practices globally. The Protocol is being increasingly adopted by the global community. Since 2015, the Protocol has been ratified by 56 of the 187 ILO Members including New Zealand, Canada, Germany, France, Denmark, Norway, Sweden and the United Kingdom. It would also support Australia's regional leadership through Co-Chairing the Bali Process on Trafficking in Persons and Related Transnational Crime and its Government and Business Forum.

Obligations

14. Article 1 of the Protocol obliges each Member to take effective measures to prevent and eliminate forced or compulsory labour, including developing a national policy and plan of action, provide to victims protection and access to appropriate and effective remedies and sanction perpetrators of forced or compulsory labour.

15. Article 2 of the Protocol requires Members to take certain measures to prevent forced or compulsory labour, including through education, ensuring laws cover all workers and sectors of the economy, protecting persons from possible abusive and fraudulent recruitment and placement practices, supporting due diligence in public and private sectors, and addressing the root causes and factors that heighten the risk of forced or compulsory labour.

16. Article 3 requires Members to take effective measures for the identification, release, protection, recovery and rehabilitation of victims of forced or compulsory labour.

17. Article 4 requires Members to ensure that all victims have access to appropriate and effective remedies, irrespective of their presence or legal status, and to take the necessary measures to ensure that authorities are entitled not to prosecute or penalise victims for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.

18. Article 5 requires Members to cooperate with each other to ensure the prevention and elimination of all forms of forced or compulsory labour.

19. Article 6 requires the measures taken by Members to apply the provisions of the Protocol and the Convention to be determined by national laws or regulations or by the competent authority, after consultation with organizations of employers and workers.

20. Under Article 22 of the ILO Constitution, each ILO Member must submit an annual report to the International Labour Office on the measures it has taken to give effect to the provisions of conventions to which it is a Party, at the discretion of the Governing Body of the ILO. The Governing Body determines which conventions are to be reported on in any given year. Under the current reporting schedule, Members are required to report on the implementation of each ratified 'fundamental' convention to the ILO Committee of Experts on the Application of Conventions and Recommendations on a three-year cycle from the date the convention enters into force for that Member. For this Protocol, the first report would be due on 1 September in the year after the Protocol enters into force for Australia.

Implementation

21. Law and practice at the Commonwealth, State and Territory levels is consistent with Australia's obligations under the Protocol. All State and Territory governments have advised that their jurisdictions will be in a position to comply with the Protocol by entry into force (see paragraphs 43-47 for details of consultations with States and Territories).

22. Implementation of the Protocol falls primarily within the jurisdiction of the Commonwealth and Australia gives broad effect to the Protocol primarily through Commonwealth law and practice. Australia's approach involves both regional activities in the Asia-Pacific and a range of domestic initiatives set out in Australia's *National Action Plan to Combat Modern Slavery 2020-25* (National Action Plan), the *Modern Slavery Act 2018*, as well as criminal, migration and industrial relations laws.

23. The Australian Government undertakes a range of measures which give effect to the obligation to prevent and eliminate forced or compulsory labour. The *Fair Work Act 2009* (Cth) (the Fair Work Act) sets out the minimum employment conditions and standards that must be met by employers covered by Australia's national industrial relations system. The Fair Work Act covers all employees in Australia's national industrial relations system, regardless of their visa

status. The Fair Work Act has specific protections for vulnerable workers, including migrant workers, from exploitation.

24. Australia's National Action Plan, launched in December 2020, sets out the strategic framework for Australia's national response to modern slavery, inclusive of trafficking in persons, slavery and slavery-like practices such as forced labour. The National Action Plan identifies five National Strategic Priorities to focus the Government's efforts (Prevent; Disrupt, Investigate and Prosecute; Support and Protect; Partner; and Research), and commits to the delivery of 46 Action Items.

25. The Government's Support for Trafficked People Program (STPP) provides a range of support services, including secure accommodation, medical treatment, financial assistance, and access to legal and migration advice to all victims of human trafficking, slavery and slavery-like offences identified and referred by the Australian Federal Police. Australia's Human Trafficking Visa Framework (HTVF) enables foreign nationals, who do not already hold a valid visa and are suspected victims of human trafficking, slavery and slavery-like practices, to remain lawfully in Australia for an initial period of rest and recovery, assist with criminal justice processes and, in some circumstances, remain here permanently.

26. Australia has comprehensive criminal offences that criminalise human trafficking, slavery and slavery-like practices, including servitude and forced labour. These offences, including specific offences criminalising causing a person to enter into or remain in forced labour and conducting a business involving forced labour, are set out in the *Criminal Code Act 1995* (Cth) and carry high maximum penalties (9 years' imprisonment, or 12 years' imprisonment for an aggravated offence). The *Migration Act 1958* (Migration Act) creates offences of allowing a person to work, or referring a person for work, if the person is an unlawful non-citizen or a lawful non-citizen working in breach of a visa condition. The offences are escalated to aggravated offences if the worker is being exploited and the person knows of, or is reckless to, that circumstance. The Migration Act also provides for civil employer sanctions in the form of infringement notices and non-fault civil penalties, supplementing Australia's criminal offences.

27. The Commonwealth has implemented a wide range of measures to prevent forced or compulsory labour, including by contributing to initiatives which tackle the root causes of exploitation, raising awareness amongst the general community, and building the resilience of groups who may be vulnerable to these practices. This includes the commitment of \$4.4 million under the *National Action Plan to Combat Modern Slavery 2020-25* Grant Program to fund civil society, business and industry groups and academia to deliver anti-slavery projects, including awareness raising activities, training and resources targeting criminal labour exploitation. The Fair Work Ombudsman (FWO) also promotes compliance with workplace laws by providing education, assistance, advice and guidance to employers and employees, including vulnerable

workers, in a number of languages and through various channels. The Australian Government also maintains specialist teams in the Australian Federal Police (AFP) to prevent, disrupt and investigate modern slavery and human trafficking practices; along with collaborative arrangements between the AFP, state and territory police forces, the Australian Border Force (ABF), the FWO and non-governmental organisations.

28. The *Modern Slavery Act 2018* (Cth) sets a clear standard for business action to address modern slavery in their global operations and supply chains. Under the Modern Slavery Act, thousands of businesses and other entities must submit annual modern slavery statements (statements) to the ABF for publication on an online register. These statements must address seven mandatory criteria set out in the Modern Slavery Act, including the reporting entity's actions to identify and address modern slavery risks in their global operations and supply chains. Under the Act, the Australian Government must also prepare an annual modern slavery statement which sets out the Government's due diligence efforts to address modern slavery practices in its own procurement activities.

29. The FWO and the Department of Home Affairs have established an Assurance Protocol to support temporary visa holders to go to the FWO for assistance in cases of workplace exploitation. Under the Assurance Protocol, temporary visa holders who have breached the work-related conditions of their visa because of exploitation will generally not have their visa cancelled as long as they meet certain criteria, including approaching the FWO for assistance. The Commonwealth legal system also contains a range of protections to ensure that victims would not be prosecuted for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour, including through the Commonwealth Director of Public Prosecutions, 'Prosecution Policy of the Commonwealth' and the availability of certain defences, such as duress.

30. The Australia Government provides victims of modern slavery with access to civil mechanisms, such as the FWO and Fair Work Commission, and with the ability to pursue civil and administrative remedies, including for unpaid wages and entitlements, irrespective of their nationality or visa status. Under Australia's federated legal system, victims of crime compensation has traditionally been a matter for the states and territories. Each jurisdiction has a victims of crime compensation scheme, most of which may be available to victims of slavery and slavery-like practices such as forced labour. Courts in Australia may also order offenders convicted of a Commonwealth offence to make reparation to victims for any loss suffered or expense incurred by reason of the relevant offence under the *Crimes Act 1914* (Cth).

31. Australia works to combat forced or compulsory labour by cooperating with other governments in the Asia-Pacific region and internationally. Australia plays a leadership role advocating for the promotion and protection of human rights, including adherence to international

labour standards, in relevant international and regional fora, including through Co-Chairing the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process), the Bali Process Government and Business Forum, and the Bali Process Working Group on Trafficking in Persons. Australia also supports the Tripartite Action to Enhance the Contribution of Labour Migration to Growth and Development (TRIANGLE) in the Association of Southeast Asian Nations (ASEAN) (\$24m, 2015-27). This program, implemented by the ILO, seeks to assist migrant workers to understand their rights and thereby reduce their vulnerability to trafficking. The Australian Government also funds ASEAN–Australia Counter Trafficking (\$80m, 2019-28), which supports ASEAN Member States to implement and report on their obligations under the ASEAN Convention against Trafficking in Persons, Especially Women and Children. Under the National Action Plan, Australia also delivers targeted, peer-to-peer technical assistance and capacity building to Indo-Pacific partner governments to strengthen and effectively implement legal and policy frameworks to combat modern slavery, including forced labour.

32. Australia’s response to modern slavery, as articulated in the National Action Plan, is implemented in close consultation with members of the Australian Government’s National Roundtable on Human Trafficking and Slavery and the Modern Slavery Expert Advisory Group. These forums include representatives from civil society, business, academia and unions to ensure Australia’s efforts to combat trafficking in persons and slavery are developed and implemented on a whole-of-community basis. Australia’s National Workplace Relations Consultative Council allows the Government, employers and employees to consult together on industrial relations and work health and safety issues of national concern, including forced labour issues.

33. In addition to the law and practice set out in the Commonwealth jurisdiction, all Australian States and Territories have advised that their law and practice will be in compliance with the obligations under the Protocol, where relevant, prior to ratification.

Costs

34. There are no costs associated with the ratification of the Protocol, as existing Commonwealth, State and Territory laws and practices comply with the provisions of the Protocol.

Regulation Impact Statement

35. The Office of Best Practice Regulation in the Department of Prime Minister and Cabinet has been consulted and has confirmed that a Regulation Impact Statement is not required.

Future treaty action

36. No future treaty action is expected to arise out of the ratification process for the Protocol. Unlike ILO Conventions, the Protocol does not provide a mechanism for its amendment. However, future revision of the Protocol could be made by a decision of the Governing Body of the ILO to place such revision on the agenda of the annual International Labour Conference (ILO Standing Orders Articles 34(4)) or of a preparatory technical conference (Constitution, Article 14(2); Standing Orders, Articles 34(5) and 36). Alternatively, the International Labour Conference may, by two-thirds of the votes cast by the delegates present, decide to include a subject on the agenda of the following session (Constitution, Article 16(3)) to revise the Protocol. Proposals to amend existing labour standards occur rarely.

37. Any proposal to take binding treaty action in respect of an instrument arising out of a revision of the Protocol would be subject to Australia's domestic treaty-making procedures, including tabling and consideration by the Joint Standing Committee on Treaties.

Withdrawal or denunciation

38. Article 9(1) of the Protocol provides that a Member may denounce the Protocol in accordance with Article 30 of the Convention. Article 30 of the Convention provides that a Member may denounce the Protocol during a twelve-month interval after the expiration of ten years from the date of the entry into force of the Convention. If this right is not exercised, Members will be bound for another period of five years and thereafter may denounce the Convention at the expiration of each successive five-year period (Article 30(2)). Such denunciation would take effect one year after the registration of the act of denunciation with the International Labour Office (Article 30(1)).

39. The ten-yearly interval for denunciation of an ILO Convention or Protocol is a standard period and is included in nearly all ILO Conventions and Protocols.

40. The next opportunity to denounce the Protocol would be in the 12 months following 9 November 2026 (the first ten-yearly interval after the date of entry into force of the Protocol).

41. Article 9(2) of the Protocol provides that, in accordance with Article 32 of the Convention, if the ILO Conference adopts a new convention that revises the Convention or Protocol in whole or in part, ratification of the new convention shall entail the immediate denunciation of the Convention and Protocol unless otherwise specified.

42. Any action to denounce the Protocol, or ratify a replacement convention, would be subject to Australia's domestic treaty-making procedures.

Contact details

Economic and International Labour Branch
Industrial Relations Group
Attorney-General's Department

ATTACHMENT ON CONSULTATION

International Labour Organization Protocol of 2014 to Forced Labour Convention 1930 No. 29 adopted at Geneva on 11 June 2014

[2022] ATNIF x

CONSULTATION

Consultation with State and Territory governments

43. There has been consultation with State and Territory governments on the Protocol at both the Ministerial and officials level.

44. States and Territories were provided with the opportunity to comment on the draft texts of the Protocol and to provide information for inclusion in the briefing for the Australian delegation to the International Labour Conference in 2014 (which was the Conference at which the Protocol was adopted).

45. State and Territory Governments have been advised of the Protocol through the Standing Committee on Treaties' (SCOT) Schedule of Treaty Action. The Protocol has been on the list of treaties under negotiation, consideration or review by the Australian Government since 2016. No objections or concerns were raised by the State or Territory Governments as a result of this notification.

46. The status of Australia's compliance with the Protocol and prospects of ratification has been periodically discussed at meetings of Commonwealth, State and Territory officials responsible for ILO matters. All State and Territory governments have made available advice indicating that their law and practice is consistent with the Protocol.

47. On 19 April 2016, the then Minister for Employment, Senator the Hon. Michaelia Cash, wrote to State and Territory industrial relations Ministers seeking their agreement to ratify the Protocol. All State and Territory Governments agreed to ratification except for Western Australia, which indicated that legislative amendments would be required to enable compliance in that jurisdiction, which were subsequently made in December 2021 and are expected to commence in March 2022.

Other consultation

48. The proposed treaty-action has been discussed at meetings of the International Labour Affairs Committee (ILAC) of the National Workplace Relations Consultative Council on a periodic basis since the Protocol was adopted by the ILO in 2014. The ILAC comprises the Commonwealth Attorney-General's Department, the Australian Council of Trade Unions (ACTU) and the Australian Chamber of Commerce and Industry (ACCI). These organisations are, respectively, the worker and employer organisations that represent Australia in the ILO. Most recently, the Protocol was discussed at the 9 December 2021 meeting of the NWRCC.

49. The ACTU and ACCI support Australia's ratification of the Protocol.

Attachment D: Opening Statement

Attachment E: ACTU Submission

Australian Council of Trade Unions – Submission

Recommendation	Issues raised	Agency responsible
<p>Recommendation 1: The Australian Government ratify the International Labour Organisation Protocol of 2014 to the Forced Labour Convention 1930 (No. 29) as soon as is practicable, without reservation.</p>	<ul style="list-style-type: none"> • Ratify the Protocol as soon as practicable, without reservation. 	<p>AGD (International Labour Policy)</p>
<p>Recommendation 2: The Australian Government must revise the National Action Plan 2020-25 to recognise the systemic nature of labour exploitation and the structural drivers of forced labour and develop strategies to address them, including reforms to Australia’s migration system and strengthening Australia’s workplace laws. <i>[Article 1(2) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Revise NAP to address the root causes of labour exploitation. • Reforms to Australia’s migration system to preference permanent, not temporary, migration. • Strategies to address labour exploitation that include strengthening workers’ rights and union rights. • National Labour Hire Licencing 	<p>ABF (including LEWG) Home Affairs AGD (Workplace Compliance and Enforcement)</p>
<p>Recommendation 3: The Australian Government must introduce a simple, quick and accessible means for workers to pursue wage and superannuation theft claims. <i>[Article 2(d)/4(1) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Remedies for wage theft for migrant workers • Barriers for temporary migrant workers accessing civil remedies. 	<p>AGD (Workplace Compliance and Enforcement)/Home Affairs</p>
<p>Recommendation 4: The Australian Government must introduce an amnesty for temporary migrant workers who make a complaint of workplace exploitation or seek to recover wages and entitlements to stay in Australia while their case is heard. <i>[Article 4(1)/4(2) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Inclusion of whistle-blower protections for workers who report exploitation, including in the <i>Migration Amendment (Protecting Migrant Workers) Bill 2021</i> 	<p>Home Affairs</p>

<p>Recommendation 5: The Australian Government must give unions the opportunity to brief all temporary migrant workers on their workplace rights and entitlements on arrival in Australia. <i>[Article 2(a)/(b) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> Extend requirement from PALM scheme that relevant trade union be invited to inform workers of their rights on arrival in Australia to all temporary migration schemes. 	<p>DFAT/Home Affairs</p>
<p>Recommendation 6: The Australian Government must abolish the 88-day work requirement for Working Holiday Visas. <i>[Article 2(d)/4(2) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> Greater protections for migrant workers who report exploitation against visa cancellation. Remove the 88-day work requirement for Working Holiday Maker Visas 	<p>Home Affairs</p>
<p>Recommendation 7: Assurance that workers who report exploitation will not face immigration-related consequences must be legislated. This must include whistle-blower protections to protect workers making complaints and providing evidence to an investigation, and an extension or bridging arrangement to enable workers for whom employer sponsorship is a requirement of their visa to find a new sponsor. <i>[Article 2(d)/4(2) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> Visa conditions and protections for temporary migrants who report exploitation, including new bridging arrangements. 	<p>Home Affairs</p>
<p>Recommendation 8: The Australian Government must implement a firewall between the Department of Home Affairs and the Fair Work Ombudsman that prevents the provision of information from the Ombudsman to the Department, except to facilitate the prosecution of employers for worker exploitation. <i>[Article 4(1)/4(2) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> Home Affairs/FWO Assurance Protocol 	<p>Home Affairs</p>

<p>Recommendation 9: The Australian Government must implement measures which improve the inspection of workplaces and detection of cases of labour exploitation and forced labour. <i>[Article 2(c)/4(1) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Remedies for wage theft of migrant workers. • National labour hire licencing 	<p>AGD (Workplace Compliance and Enforcement)</p>
<p>Recommendation 10: The Australian Government must pass the Customs Amendment (Banning Goods Produced by Forced Labour) Bill 2021. <i>[Article 2(e) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Strengthened inspection and enforcement of goods suspected to be produced with forced labour. • Import bans for goods produced with forced labour, as proposed in the <i>Customs Amendment (Banning Goods Produced by Forced Labour) Bill 2021</i> 	<p>DFAT/ABF</p>
<p>Recommendation 11: The Australian Government must implement a robust national labour hire licencing scheme that builds on the best elements of the state models. <i>[Article 2(c) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • National labour hire licencing scheme 	<p>AGD (Workplace Compliance and Enforcement)</p>
<p>Recommendation 12: The Australian Government must require all companies who employ workers on any form of temporary visa, including labour hire companies, to register on a public registry. <i>[Article 2(c)/2(d) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Stronger regulation of migration agents • National labour hire licencing scheme 	<p>AGD (Workplace Compliance and Enforcement)/Home Affairs</p>
<p>Recommendation 13: The Australian Government must introduce more stringent regulations of the migration agent sector, including reforming the Office of the Migration Agents Registration Authority (OMARA) to deal with complaints in a timely manner and forward serious breaches to the</p>	<ul style="list-style-type: none"> • Stronger regulation of migration agents 	<p>Home Affairs</p>

<p>appropriate courts for prosecution, and prohibit migration agents from being an associated entity of a labour hire provider. <i>[Article 2(c)/2(d) of the Forced Labour Protocol]</i></p>		
<p>Recommendation 14: The Australian Government must strengthen the Modern Slavery Act 2018 at its 2022 review. <i>[Article 2(e) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Include penalties for non-compliance in the <i>Modern Slavery Act 2018</i>. • Independent Anti-Slavery Commissioner to oversee implementation of the Act. • Withhold Commonwealth procurement contracts or companies that fail to report, provide false, incomplete or insufficiently detailed reports, or fail to act on modern slavery in their supply chains. • Publicly list entities required to report under the Act. • Lower the reporting threshold under the Act. • Apply the Act to State and Territory Governments. • Requires entities to engage with trade unions to improve workers' rights. • Include due diligence requirements to ensure the identification of modern slavery risks. 	<p>ABF</p>
<p>Recommendation 15: The Australian Government must introduce mandatory Human Rights Due Diligence legislation to hold companies legally liable for violations of workers' rights, including forced labour, in their operations and supply chains. <i>[Article 2(e) of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Introduce mandatory human rights due diligence for entities operating in Australia. • Require remedy for victims of modern slavery in supply chains. 	<p>ABF</p>
<p>Recommendation 16: The Australian Government must ensure temporary migrant workers are covered by Australia's social protection system.</p>	<ul style="list-style-type: none"> • Extend social protection to temporary migrant workers. 	<p>DSS</p>

<p><i>[Article 3 of the Forced Labour Protocol]</i></p>		
<p>Recommendation 17: The Australian Government should recognise and support the role and capacities of trade unions to support and assist victims of forced labour. <i>[Article 3 of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Strengthen protections for temporary migrant workers. 	<p>Home Affairs</p>
<p>Recommendation 18: The Australian Government must make a financial commitment towards the development and implementation of National Action Plans for countries in our region and support the wide ratification of the Protocol. <i>[Article 5 of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • International Strategy to Combat Human Trafficking and Modern Slavery • Regional capacity-building to strengthen responses 	<p>DFAT</p>
<p>Recommendation 19: The Australian Government must only ratify trade agreements with enforceable labour protections and should seek to renegotiate existing trade agreements that do not have such protections to ensure that they do <i>[Article 5 of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Inclusion of enforceable labour protections in FTAs. 	<p>DFAT/AGD</p>
<p>Recommendation 20: The Australian Government must constructively participate in negotiations to achieve a strong, binding UN Treaty on Business and Human Rights. <i>[Article 2(e)/5 of the Forced Labour Protocol]</i></p>	<ul style="list-style-type: none"> • Support a binding UN Treaty on Business and Human Rights 	<p>DFAT</p>

Attachment F: Instructions for Witnesses

**CONFERENCE OF THE PARTIES TO THE
UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME
6TH SESSION – 15-19 OCTOBER 2012**

AGENDA ITEM No. 2(b): Review of implementation of Trafficking Protocol

DOCUMENTATION

CTOC/COP/2012/2	Report of the Secretariat on the activities of the United Nations Office on Drugs and Crime (UNODC) to promote and support the implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol), supplementing the United Nations Convention against Transnational Organized Crime (UNTOC).
CTOC/COP/2012/3	Note by the Secretariat transmitting the recommendations of the Working Group on Trafficking in Persons at its meeting held in Vienna from 10 to 12 October 2011
CTOC/COP/WG.4/2011/8	Report on the meeting of the Working Group on Trafficking in Persons held in Vienna from 10 to 12 October 2011
CTOC/COP/2012/4	Report of the Secretariat on best practices for addressing the demand for labour, services or goods that foster the exploitation of others
CTOC/COP/2012/7	Report of the Secretariat on technical assistance provided to States in the application of the UNTOC to new forms and dimensions of transnational organized crime.

AUSTRALIA'S POSITION

- Australia supports the recommendations adopted by the Working Group on Trafficking in Persons, and its proposed areas for future work.
- Australia's whole-of-government strategy to combat people trafficking reflects our obligations as a Party to the UNTOC and its Trafficking Protocol.
- The Government is committed to combating people trafficking, and the number of trafficking victims in Australia remains low.
- Australia has legislation criminalising people trafficking and other exploitative practices, including slavery.
- The Australian Parliament is currently considering legislation that will strengthen the capacity of investigators and prosecutors to combat exploitation in all its forms, including by introducing new offences of organ trafficking, forced labour, forced marriage and servitude.
- Australia welcomed the recent visit by the UN Special Rapporteur on Trafficking, especially women and children, who identified Australia as a leader in the Asia-Pacific region on combating people trafficking.

INSTRUCTIONS TO THE DELEGATION

- If raised, the delegation should not be drawn on the issue of Australia's legal framework for paying compensation to victims of people trafficking.

TALKING POINTS

- Trafficking is a serious crime that requires a strong multilateral and regional collaborative approach.
- In Australia's view, UNTOC and its Trafficking Protocol are the primary international instruments in the fight against people trafficking.
 - Australia strongly encourages States that have not yet done so to ratify and fully implement them.
- Australia's anti-trafficking strategy addresses people trafficking in all its forms, including trafficking for organs, labour exploitation, sexual servitude, forced marriage and slavery.
- To strengthen the capacity of investigators and prosecutors to combat people trafficking, the Australian Government introduced a Bill in May 2012 to amend the Commonwealth Criminal Code.
 - The amendments will ensure that the broadest range of exploitative behaviour is captured and criminalised, including by introducing new offences of forced labour, forced marriage, servitude and organ trafficking.
- Australia is committed to working domestically and in partnership with other Member States and with international organisations and civil society to prevent trafficking, protect victims and prosecute offenders.
- Australia has taken an active role in international and regional efforts to combat people trafficking.
 - For the last ten years, Australia and Indonesia have worked closely to co-chair the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. The Bali Process involves 46 members including the UNHCR and IOM and a further 29 observer countries and organisations.
- Australia's aid program funds a number of activities to combat trafficking in person in the Asia Pacific region.
 - As part of Australia's engagement in the region, Australia has cooperated with the UNODC to produce a handbook on international legal cooperation in trafficking for ASEAN States.

BACKGROUND

Recommendations of the Working Group on Trafficking in Persons

From 10-13 October 2011, the Working Group on Trafficking in Persons met in Vienna. The Working Group was established to advise and assist the Conference of the States Parties to the UNTOC on the implementation of the Trafficking Protocol.

Australia was represented at the meeting, which focused on the topic of international cooperation in combating trafficking in persons, with an emphasis on addressing supply and demand, and improving capacity-building and awareness-raising. Another key topic was support and protection of the victims of trafficking, with an emphasis on the challenges involved in identifying persons who have been trafficked. These issues were the subject of recommendations adopted by the Working Group.

The Working Group further recommended that it should continue its work in advising and assisting the Conference in the implementation of the Trafficking Protocol. It recommended that future sessions of the Working Group focus on a range of issues, including crimes connected to trafficking, especially money-laundering and corruption, and different actors, for instance military, peacekeeping and humanitarian personnel.

The Working Group also endorsed recommendations proposed by the Chair of the Working Group at its previous meeting on 19 October 2010. These recommendations focused on encouraging States Parties to establish domestic compensation schemes for victims of people trafficking, regardless of

the victim's immigration status or the progress of any criminal proceedings.

In Australia, victim compensation schemes exist in the States and Territories, though access varies between the jurisdictions. The Commonwealth does not have a similar scheme, as the 'victim' of Commonwealth offences has historically been the Commonwealth itself. While the Commonwealth has legislation enabling a court to order a federal offender to pay reparations to a victim, in practice there can be issues with the offender's capacity to pay. The issue of a Commonwealth victims' compensation scheme has been raised in a number of people trafficking contexts, including a recent Senate Committee inquiry. The delegation should not be drawn on the issue.

Report of the Secretariat on best practices for addressing the demand for labour, services or goods that foster the exploitation of others

Earlier this year Australia responded to a request from the UNODC to provide information on best practices for addressing the demand for labour, services or goods that foster the exploitation of others. The Report of the Secretariat analyses responses received from Member States who contributed. Best practices were broad-ranging, and focused on capacity-building, regional cooperation, awareness-raising and grass-roots action to reduce the vulnerability of individuals to exploitation, such as increased access to higher education, social support and unemployment benefits. States also highlighted as good practice the protection of victims as a way to reduce vulnerability to re-trafficking and thus possibly reduce supply.

Australia's anti-people trafficking strategy

The Australian Government has taken a comprehensive, whole-of-government approach to combating trafficking in persons, implementing its anti-trafficking strategy in late 2003.

Key measures include:

- specialist teams within the AFP to investigate trafficking related matters
- legislation to criminalise trafficking in persons, and slavery and slavery-like offences, including servitude, forced marriage and forced labour
- a victim support program which provides individualised case managed assistance management support, including accommodation, financial assistance, access to legal advice, medical and counselling services, training and social support
- research into trafficking trends in Australia and our region by the Australian Institute of Criminology
- an Australian Policing Strategy to Combat Trafficking in Persons 2011-2013
- visa arrangements to enable suspected victims and witnesses of trafficking to remain in Australia
- specialist immigration officers posted in Thailand, China and the Philippines, who focus on people trafficking issues and aim to prevent trafficking in source countries
- support for the Commonwealth Director of Public Prosecutions to prosecute trafficking matters, including funding and training
- increased regional cooperation to combat trafficking in persons, and
- reintegration assistance for trafficking victims who are returned to key source countries in our region.

These initiatives reflect the four central pillars of Australia's anti-people trafficking strategy: prevention, detection and investigation, criminal prosecution, and victim support and rehabilitation, intended to address the full cycle of trafficking from recruitment to reintegration and give equal weight to the critical areas of prevention, prosecution and victim support.

Implementation of the Protocol

Before enacting the 2004 Criminal Code amendments, a substantive review was undertaken which mapped the obligations contained in the UNTOC and in the trafficking protocol to determine the extent to which new laws/offences were needed.

In framing the trafficking offences in the Criminal Code, a specific decision was made to take a

broadly inclusive approach that would “fully and comprehensively criminalise trafficking in persons”. Divisions 270 and 271 of the Code take a broad approach intended to cover conduct which:

- Occurs both across borders and within Australia – subject to constitutional limitations
- Is for a range of exploitative purposes, including servitude, forced labour, forced marriage, organ removal and slavery
- Includes men, women and children as victims
- Takes place with or without the involvement of organized crime groups

Australia’s migration legislation also makes it an offence to knowingly or recklessly employ a person who does not have a valid visa or who is working in breach of their visa conditions. This legislation includes aggravated offences where a person is being exploited through forced labour, sexual servitude, or slavery.

On 30 May 2012, the Australian Government introduced the Crimes Legislation Amendment (Slavery, Servitude and People Trafficking) Offences Bill (the Bill) into Parliament. The Bill strengthens the capacity of investigators and prosecutors to combat people trafficking in all its forms, including by introducing new offences of forced marriage, forced labour, servitude and organ trafficking. The Bill was passed by the House of Representatives on 22 August 2012, and is currently being considered by the Senate.

CLEARED BY:

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Trafficking in Persons – Definition of Debt Bondage

The international definition of ‘trafficking in persons’ is contained in the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (‘the Trafficking Protocol’), supplementing the *United Nations Convention against Transnational Organized Crime*. The Trafficking Protocol defines trafficking in persons as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Article 3(a) of the Trafficking Protocol states:

Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

‘Practices similar to slavery’ are defined in the Supplementary Convention (to the 1926 International Convention to Suppress the Slave Trade and Slavery) on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (‘the Supplementary Convention on Slavery’) and include debt bondage.

‘Debt bondage’ is defined as:

the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

The definition of ‘debt bondage’ in the US Trafficking Victims Protection Act of 2000 (the Act) conforms to the definition in the Supplementary Convention on Slavery. Debt bondage is included in the definition of ‘severe form of trafficking in persons’ and is explicitly defined as

the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied to toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

While in Australia there is no equivalent concept of ‘peonage’, ‘involuntary servitude’ or ‘forced labour’, almost all of the practices covered by the United States’ offences are covered by Australia’s broadly drafted slavery offence. Australia’s slavery offence is based on the internationally accepted definition of ‘slavery’ contained in the 1926 International Convention to Suppress the Slave Trade and Slavery.

As part of its commitment to combat trafficking in persons, the Australian Government is examining the possible enactment of a separate *Criminal Code* offence

of debt bondage which would attract a lower penalty than the slavery offence. Such an offence would be based directly on the definition of 'debt bondage' contained in the Supplementary Convention on Slavery. Such an offence would apply to a creditor where:

- the debtor has pledged his or her personal services or those of a person under his or her control as security for the debt, and
- the creditor does not apply the value of those services as reasonably assessed towards the debt or the creditor fails to limit and define the length and nature of those services.

The existing slavery offence would continue to apply i.e. it would continue to capture those instances of debt bondage where the offender exercises over the victim any or all of the powers attaching to the right of ownership.



**FW: ILO Forced Labor Protocol - Ratification Campaign [SEC=OFFICIAL:Sensitive]
[SEC=UNCLASSIFIED]**

From s 22(1)(a)(ii) @dfat.gov.au>
Date Fri 2020-01-17 2:45 PM
To s 22(1)(a)(ii) @dfat.gov.au>

3 attachments (560 KB)

20014 Reinforcing Commitments to International Labour Standards and Eradicating Contemporary Forms of Slavery (004) (002).dotx; Fwd ILO Forced Labor Protocol Ratification Campaign [SEC UNCLASSIFIED]; FW Thanks and the ILO Forced Labour Protocol 29 [SEC OFFICIAL];

UNCLASSIFIED

The Better Work stuff would be worth including too

From: s 22(1)(a)(ii) @jobs.gov.au>
Sent: Tuesday, 14 January 2020 2:41 PM
To: s 22(1)(a)(ii) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @jobs.gov.au>; s 22(1)(a)(ii) @jobs.gov.au>
Subject: ILO Forced Labor Protocol - Ratification Campaign [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

OFFICIAL: Sensitive

Hi s 22(1)(a)(ii)

Thank you for the opportunity to comment on the talking points you have prepared. Our team has reviewed the content relating to P029, C138, the Better Work program and the Violence and Harassment Convention (C190) and my colleague s 22(1)(a)(ii) has inserted a suggestion in relation to Better Work (in red in the attached).

Unfortunately there have been no further developments since the update that my colleague s 22(1)(a)(ii) provided to you in response to a similar enquiry from s 47F(1) in August 2019 (attached). We are happy for Post to use the same words with s 47F(1). We do support the Protocol and are following Australia's domestic ratification process, it just takes some time.

Since we are reliant on Western Australia to amend its IR laws to ensure Australia complies with the Protocol prior to ratification and we are unable to provide a definitive timeframe for ratification, our view is that the words you have already prepared are the best description of the current state of play. We've just updated the number of ratifications, the ILO website has it at 43 (up from 42).

Please feel free to contact either myself or my director s 22(1)(a)(ii) (cc'd here) if you would like to discuss, and thanks again for preparing these points.

Kind regards,

s 22(1)(a)(ii)

DFAT - RELEASED UNDER THE FREEDOM OF INFORMATION ACT 1982

LEX 13271

Assistant Director (A/g) – International Labour Strategy

Industries Engagement and International Labour Branch

Industrial Relations Policy Division

Attorney General's Department

Phone s 22(1)(a)(ii)

s 22(1)(a)(ii) @jobs.gov.au

From: s 22(1)(a)(ii)

@dfat.gov.au>

Sent: Monday, 13 January 2020 4:00 PM**To:** s 22(1)(a)(ii)

@jobs.gov.au>; s 22(1)(a)(ii)

@abf.gov.au>

Cc: s 22(1)(a)(ii)

@jobs.gov.au>; s 22(1)(a)(ii)

@ABF.GOV.AU>;

s 22(1)(a)(ii)

@abf.gov.au>

Subject: RE: ILO Forced Labor Protocol - Ratification Campaign [SEC=OFFICIAL] [DLM=For-Official-Use-Only][DKIM failed]**For-Official-Use-Only**

Hi s 22(1)(a)(ii)

Thanks for agreeing to take a look at the draft brief.

I would be grateful if you could get back to me by COB tomorrow as my AS will need to review the TPs on Wednesday 15 January.

s 22(1)(a)(ii) – We'll need some strong points on P29 (noting the attached email). I'm currently working remotely from Vanuatu. Let me know if you need to discuss and I'll call you.

Thank you

s 22(1)(a)(ii)

From: s 22(1)(a)(ii)

@jobs.gov.au>

Sent: Monday, 13 January 2020 12:00 PM**To:** s 22(1)(a)(ii)

@dfat.gov.au>

Cc: s 22(1)(a)(ii)

@jobs.gov.au>

Subject: RE: ILO Forced Labor Protocol - Ratification Campaign [SEC=OFFICIAL]**OFFICIAL**

Hi s 22(1)(a)(ii)

Thanks for the advance notice, much appreciated. I'll endeavour to set some time aside and if you require a certain level of clearance for the TPs, please let me know.

In case I need to contact you at short notice tomorrow to discuss anything, I'd also be grateful if you could let me know your direct number by reply email.

Since our interest in modern slavery policy issues relates to the implementation of international labour standards (specifically the Forced Labour Protocol), I am not aware of any relevant contacts at the Department of Employment. For background, the functions which transferred to AGD are connected to industrial relations (e.g. WHS, collective bargaining and conditions of employment), including representation at the International Labour Organisation (ILO).

My understanding is that the Department of Employment focuses more on economic policy issues such as job growth, labour market issues, workforce participation, skills and training, and small business, as well as liaison with the OECD and G20. Please note that from 1 February the recent MOG changes mean these functions will be transferred into the new Department of Education, Skills and Employment. However as we were formerly part of Employment, please don't hesitate to contact us if you do need a contact and we'll do our best to assist.

Kind regards,

s 22(1)(a)(ii)

Industries Engagement and International Labour Branch
 Industrial Relations Policy Division
 Attorney General's Department
 Phone s 22(1)(a)(ii)
 s 22(1)(a)(ii) [@jobs.gov.au](mailto:s 22(1)(a)(ii)@jobs.gov.au)

From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Sent: Monday, 13 January 2020 8:38 AM
To: s 22(1)(a)(ii) [@abf.gov.au](mailto:s 22(1)(a)(ii)@abf.gov.au)>; s 22(1)(a)(ii) [@jobs.gov.au](mailto:s 22(1)(a)(ii)@jobs.gov.au)>;
 s 22(1)(a)(ii) [@jobs.gov.au](mailto:s 22(1)(a)(ii)@jobs.gov.au)>
Subject: FW: ILO Forced Labor Protocol - Ratification Campaign [SEC=UNCLASSIFIED]

UNCLASSIFIED

s 47F(1)

We have been asked to provide TPs for a roundtable discussion on *'Reinforcing commitments to international labour standards and eradicating contemporary forms of slavery'* in New York. I'll prepare some points using recent briefing. Grateful if you could set aside some time tomorrow to review.

s 22(1)(a)(ii) – Should we also be looping in someone at Dept of Employment? I'm still confused with the division of labour between AGD and your former department.

Cheers
 s 22(1)(a)(ii)

From: s 22(1)(a)(ii) [@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Sent: Saturday, 11 January 2020 3:22 AM
To: s 22(1)(a)(ii) [@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Subject: Fwd: ILO Forced Labor Protocol - Ratification Campaign [SEC=UNCLASSIFIED]

UNCLASSIFIED

s 22(1)(a)(ii) - the invite for HOM to attend a forced labour event on 16 Jan is attached - are you able to provide TPs / guidance if HOM should attend?
 s 22(1)(a)(ii)

UNCLASSIFIED

From: s 47F(1)
Date: Thursday, 9 January 2020 at 2:08:15 pm
To: s 22(1)(a)(ii) [@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)
Subject: Re: ILO Forced Labor Protocol - Ratification Campaign [SEC UNCLASSIFIED]

Hello s 22(1)(a)(ii)

EASED UNDER THE FREEDOM OF INFORMATION ACT 1982

LEX 13271

I hope this email finds you well and you had a great holiday!

I wanted to share the Save the Date we are having with the French Mission.

I hope you and your Ambassador can attend.

Many thanks,
s 47F(1)

From: s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Sent: Tuesday, December 24, 2019 12:03 PM
To: s 47F(1)
Cc: s 47F(1)
Subject: RE: ILO Forced Labor Protocol - Ratification Campaign [SEC=UNCLASSIFIED]

UNCLASSIFIED

Many thanks s 47F(1)

I'll forward this to Canberra colleagues now and then follow-up with them in the new year.

Lovely to meet you too, we'll be in touch in 2020 and happy holidays in the meantime!

Kind regards,
s 22(1)(a)(ii)

Humanitarian Adviser | Australian Mission to the United Nations | New York

150 East 42nd Street, Floor 33 | New York | NY 10017-5612

Tel: s 22(1)(a)(ii)

Email: s 22(1)(a)(ii)@dfat.gov.au

From: s 47F(1)
Sent: Monday, 23 December 2019 11:51 AM
To: s 22(1)(a)(ii) <[s 22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s 22(1)(a)(ii)@dfat.gov.au)>
Cc: s 47F(1)
Subject: ILO Forced Labor Protocol - Ratification Campaign

Hello s 22(1)(a)(ii)

I hope this email finds you well.

It was a pleasure meeting with you last week to discuss the Forced Labor Protocol and the current status of the Protocol in Australia. I was able to gather a short campaign brief regarding our campaign alongside a draft of our petition letter.

Please view the attached word documents.

I have our ground partner,
ongoing support.

, copied on this email for

Please let us know if you have any questions and we will be happy to help.

Many thanks and happy holidays.

Best,
s 47F(1)

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Australian Government

Department of Foreign Affairs and Trade

Side Event: Reinforcing commitments to international labour standards and eradicating contemporary forms of slavery

Permanent Mission of France to the United Nations, 16 January 2020

What we want:

- Demonstrate Australia's domestic, regional and multilateral leadership in eradicating modern slavery

What they want:

- Update on Australia's efforts in ratifying and implementing international labour standards, including the ILO's Forced Labour Protocol (P29)

Key messages

- It is a pleasure to be here today to talk about Australia's efforts in the fight against human trafficking and modern slavery, including forced labour
 - no country or agency can tackle these complex crimes and practices alone.
- Australia is increasing its efforts to work with partners across the Indo-Pacific region to tackle human trafficking and other forms of modern slavery
 - strong cooperation on human trafficking and modern slavery helps to keep Australians safe and secure, ensures our goods and services are not tainted by exploitation, and assists partners to prosecute criminals and support victims.
- We engage with partner countries to build strong law, policy and operational frameworks to tackle these issues.
- We have an integrated approach acknowledging that criminal justice approaches alone are not sufficient to tackle human exploitation, and that we need to partner with business and civil society.

Domestic

- Australia's Modern Slavery Act came into effect this year. It requires more than 3,000 of our largest businesses and entities to report annually on modern slavery risks in their supply chains.
- And as one of the largest procurers in our economy, the Australian Government intends – in a world first – to lead the way by publishing its own annual statement on slavery risks in public investments and supply chains.
- We believe these legislative measures should constructively encourage businesses to do the right thing
 - to look for, find and actually address slavery-like practices in their supply chains

Prepared by: s 22(1)(a)(ii)

Cleared by: s 22(1)(a)(ii)

Date cleared: 15 January 2020

Consultation: Australian Border Force and Attorney General's Department



Australian Government

Department of Foreign Affairs and Trade

- rather than punitive measures that do not encourage problems that are found to be rectified
- we need to be working collaboratively with suppliers to address the risks.

Update on ILO Conventions under consideration for ratification

- Australia is committed to tackling modern slavery through the implementation of international labour standards, in particular forced and child labour.
- Australia is currently progressing ratification of the Protocol of 2014 to the Forced Labour Convention, 1930
 - interested to see the positive uptake of this standard by ILO member States (now at 43 ratifications)
 - only one barrier to ratification remains in Australia at the state level. The relevant state (Western Australia) has advised it is committed to bringing its industrial relations laws into conformity with the Protocol to enable Australia to ratify it.
- Australia has also formally commenced considering the Minimum Age Convention, No.138 (1973) for ratification.

[If pressed about progress of ratifying the Minimum Age Convention]

- Australia has now completed a comprehensive assessment of Australia's compliance with the Convention, and is considering whether to progress ratification in light of the law and practice assessment.
- Pleased to share that Australia has recently commenced a law and practice assessment of Australia's compliance with the new Violence and Harassment Convention, No.190 (2019). The assessment will inform the Government's decision on whether to formally progress ratification.

Bali Process

- Regionally, Australia is leading efforts as co-chair, with Indonesia, of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime
- Covering an area spanning from the Middle East, through South Asia, South East Asia and North Asia, to the Pacific and North America - it comprises 45 regional member countries and four international organisations.
- The Bali Process shares information, promotes constructive regional norms and national approaches, and facilitates cooperation and capacity building including:
 - helping to improve national legislation to better support trafficking victims
 - developing best-practice policy guides
 - strengthening cooperation between law and justice officials
 - coordinating police operations to disrupt people smuggling and human trafficking syndicates.
- The Bali Process Government and Business Forum is fostering closer collaboration between government and business on tackling modern slavery

Prepared by: s 22(1)(a)(ii)

Cleared by: s 22(1)(a)(ii)

Date cleared: 15 January 2020

Consultation: Australian Border Force and Attorney General's Department



Australian Government

Department of Foreign Affairs and Trade

- by working to implement recommendations endorsed by ministers and business leaders to eradicate modern slavery
- and focusing on supply chain transparency, ethical recruitment and employment and redress for victims.

Regional aid programs

- Australia is proud of its long-standing engagement with partners in the region to build strong law and policy frameworks to tackle modern slavery and support vulnerable workers, through;
 - recently renewed its commitment to support ASEAN in counter-trafficking, with a further A\$80 million over the next decade to protect victim rights and strengthen criminal justice responses
 - extended funding to the ILO's Better Work program in the Asia-Pacific region [Bangladesh, Indonesia, Cambodia, and Vietnam]. Better Work works with garment factories, brands and governments to improve conditions in garment factories (US\$3mil for 2019-2022)
 - providing targeted, peer-to-peer assistance to partner countries under the *Indo-Pacific Justice and Security Program*
 - the *TRIANGLE in ASEAN* program to promote labour migration policy and legislative reform, and provide legal and financial advice to migrant workers.

Global

- As the inaugural chair of *Alliance 8.7* (November 2017 to March 2019), we oversaw the partnership taking shape and building impetus
 - expanding to encompass more than 200 partner organisations and institutions
- Having handed the Chair role over to France, Australia is now looking to support the efforts of *Alliance 8.7* pathfinder countries in our region [Fiji, Nepal, Sri Lanka and Vietnam].
- Australia was a co-convenor of the *Financial Sector Commission on Human Trafficking and Modern Slavery (FSC)* along with Liechtenstein, the Netherlands and UN University.
- The FSC brought together experts from the financial sector, international organisations, law enforcement and civil society (including slavery survivors) to examine how the financial sector and its regulators can better counter modern slavery and human trafficking.
- The Commission's final report released at UNGA in September 2019 sets out a blueprint of goals providing immediate steps for governments, financial institutions, and industry to take, as well as setting out a plan for long-term structural change.
- Australia will be working with the Finance Against Slavery and Trafficking (FAST) initiative to disseminate the Blueprint into the Asia-Pacific region through specific outreach to governments and the private sector that generates tangible results.
- Australia is also working with Canada, New Zealand, the United Kingdom and the United States on common principles to guide government action to combat human trafficking in global supply chains
 - these principles are guiding our conversations in bilateral and multilateral fora.



Australian Government

Department of Foreign Affairs and Trade

- A coordinated approach is essential to tackling human trafficking and modern slavery so I look forward to continuing to work with many of you in the room on our efforts going forward.

s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @jobs.gov.au>
Sent: Tuesday, January 14, 2020 2:04 PM
To: s 22(1)(a)(ii)
Subject: FW: Thanks and the ILO Forced Labour Protocol 29 [SEC=OFFICIAL]

OFFICIAL

OFFICIAL

From: s 22(1)(a)(ii)
Sent: Thursday, 1 August 2019 3:46 PM
To: s 22(1)(a)(ii) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @jobs.gov.au>
Sub ur Protocol 29 [SEC=UNCLASSIFIED]

Hi s 22(1)(a)(ii)

Happy to help. The short answer is that we are still waiting for Western Australia to bring its laws into conformity with the Protocol. Unfortunately we cannot ratify the Protocol until that happens. As the Commonwealth has no control over this issue, we are unable to provide a definitive timeframe for ratification.

Hopefully the following will assist DHOM respond to s 47F(1) (I've included background on the actual compliance issue in case it is needed but wouldn't expect s 47F(1) to be interested in the specifics).

Current status (talking points)

- The Australian Government is progressing ratification of the Forced Labour Protocol.
- A comprehensive legal assessment of Australian, state and territory law and practice found that Australia complies with the Protocol with the exception two issues (ie risks of non-compliance) that need to be resolved prior to ratification.
 - The assessment identified the need to pass and implement the Commonwealth Government's modern slavery legislation and amend Western Australia's industrial relations legislation to ensure that protections for workers under the state framework extend to all workers.
- Now that the Australian Government's modern slavery legislation has passed, the only obstacle to ratification is Western Australia's gap in coverage for certain workers under its industrial relations framework.
 - Western Australia is currently making the necessary amendments to its IR legislation to ensure WA laws are compliant with the Protocol.

Background

- The Australian Government is committed to tackling forced labour through the effective implementation of international labour standards.
 - Australia has already ratified the parent Convention to the Protocol (Forced Labour Convention, 1930) and other significant international treaties to abolish this element of modern slavery including the Abolition of Forced Labour Convention, 1957 and the Worst Forms of Child labour, 1999.
- The Protocol is a binding international instrument that requires ILO member states that ratify it to commit to taking effective measures to prevent and eliminate the use of forced or compulsory labour, protect victims and provide access to remedies and sanction perpetrators of forced labour.

Western Australia compliance issue

- The Protocol requires that relevant legislation (including labour law) apply to all workers and all sectors of the economy.
- A comprehensive assessment of Australia's law and practice identified a need to extend the application of WA industrial relations laws to workers not currently covered by that framework.
 - Specifically, the *Industrial Relations Act 1979 (WA)*, *Minimum Conditions of Employment Act 1993 (WA)* and *Minimum Conditions of Employment Regulations* exclude several categories of workers from their definitions of 'employee'.
- This obstacle to compliance could be overcome by WA enacting the relevant legislative change to ensure that these groups of workers are covered by legislative protections.
- WA announced in April 2019 that the Government will progress a package of legislative reforms, including changes to the definition of employee in its IR legislation. These amendments will ensure that WA laws are compliant with the Protocol.

Please let me know if you require any further information.

Thanks,

s 22(1)(a)(ii)

Assistant Director

International Labour Strategy | International Labour Branch
 Industrial Relations Policy Division
 Attorney-General's Department
 s 22(1)(a)(ii)

@jobs.gov.au | www.ag.gov.au

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Thursday, 1 August 2019 8:38 AM
To: s 22(1)(a)(ii) @jobs.gov.au>
Subject: FW: Thanks and the ILO Forced Labour Protocol 29 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s 22(1)(a)(ii)

See below. We need to provide London Post with an update (beyond our whole of govt TPs) on Australia's efforts to ratify the ILO Forced Labour Protocol of 2014 to Convention 29 (P29). Grateful if you could send us a few points (including background) to share with s 22(1)(a)(ii) by COB if possible.

Many thanks

s 22(1)(a)(ii)

Assistant Director
 Department of Foreign Affairs and Trade

International Security Division
 People Smuggling and Human Trafficking Task Force

s 22(1)(a)(ii)
 E |
 T |

From: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Sent: Wednesday, 31 July 2019 11:39 PM
To: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Cc: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>; s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Subject: FW: Thanks and the ILO Forced Labour Protocol 29 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s 22(1)(a)(ii)

Thanks for the Talking Points on 8.7. The network launch went really well last night. Just about to do some social media posts on it. See the exchange below regarding ILO Forced Labour Protocol of 2014 to Convention 29 (P29). Deputy HC would like to be able to respond to CHRI providing context of why there seems to be a delay on our ratification. Please note they did not raise this at the event but have polity followed up after and it would be good if we can set any misunderstandings etc at ease.

Cheers,

s 22(1)(a)(ii)

Political Officer – Commonwealth & Development

Australian High Commission, Australia House

Strand, London, WC2B 4LA

T: s 22(1)(a)(ii)

M

E:



AUSTRALIA HOUSE
Australia's home in the UK



From: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Sent: Wednesday, 31 July 2019 1:53 PM
To: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Cc: s 22(1)(a)(ii) <[s22\(1\)\(a\)\(ii\)@dfat.gov.au](mailto:s22(1)(a)(ii)@dfat.gov.au)>
Subject: FW: Thanks and the ILO Forced Labour Protocol 29 [SEC=UNCLASSIFIED]

UNCLASSIFIED

Grateful advice – she did pull me aside last night to say she was surprised we had not yet ratified the 2014 protocol and asked whether there was any particular impediment to it. Would be useful to know.

Best

s 22(1)(a)(ii)

From: s 47F(1)
Sent:
To: s 22(1)(a)(ii) @dfat.gov.au>
Subject: Thanks and the ILO Forced Labour Protocol 29

Dear s 22(1)(a)(ii)

Thank you once again for hosting us yesterday evening at the High Commission. On behalf of the Commonwealth Human Rights Initiative, we're thankful to have launched the Commonwealth 8.7 Network with your support, the grand surroundings undoubtedly helped us attract an impressive audience of influencers.

In my capacity as s 47F(1), we are entering into a partnership with the New York branch of the United Nations Association to support the ILO's 50 for Freedom campaign to increase ratifications of the ILO Forced Labour Protocol of 2014 to Convention 29 (P29). As you mentioned in your speech, Australia has committed to ratify the Protocol, a pledge made repeatedly including in 2017 at the Buenos Aires conference on child labour: <https://www.ag.gov.au/industrial-relations/industrial-relations-publications/Pages/australias-pledge-progress-ratification-forced-labour-protocol.aspx>

Bearing in mind that Australia has a Modern Slavery Act, I'm keen to know progress on ratification of P29, including timelines and plans or whether there are sticking points holding the process up.

Please feel free to call me on the number below.

Looking forward to hearing from you.

Best wishes

s 47F(1)



RE: ILO Forced Labor Protocol - Ratification Campaign [SEC=UNCLASSIFIED]

From s 22(1)(a)(ii) @dfat.gov.au>
Date Tue 2020-01-14 4:51 PM
To s 22(1)(a)(ii) @dfat.gov.au>
Cc s 22(1)(a)(ii) @dfat.gov.au>; s 22(1)(a)(ii) @dfat.gov.au>

2 attachments (269 KB)

200114 Review of the National Action Plan to Combat Human Trafficking and Slave....docx; SAVE THE DATE.pdf;

UNCLASSIFIED

Hi s 22(1)(a)(ii)

HOM's talking points for the 16 January event have now been cleared. See attached.

Let me know if you require anything else.

Cheers
s 22(1)(a)(ii)

From: s 22(1)(a)(ii)
Sent: Tuesday, 14 January 2020 4:45 PM
To: s 22(1)(a)(ii) @dfat.gov.au>
Cc: s 22(1)(a)(ii) @dfat.gov.au>
Subject: RE: ILO Forced Labor Protocol - Ratification Campaign [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s 22(1)(a)(ii)

You'll receive HOM's TPs for the s 47F(1) roundtable by COB tomorrow.

In the meantime, we provided the following information to DHOM London in July 2019, following similar representations by s 47F(1). I checked with AGD and the points and background are still current:

Current status (talking points)

- The Australian Government is progressing ratification of the Forced Labour Protocol.
- A comprehensive legal assessment of Australian, state and territory law and practice found that Australia complies with the Protocol with the exception two issues (ie risks of non-compliance) that need to be resolved prior to ratification.
 - The assessment identified the need to pass and implement the Commonwealth Government's modern slavery legislation and amend Western Australia's industrial relations legislation to ensure that protections for workers under the state framework extend to all workers.
- Now that the Australian Government's modern slavery legislation has passed, the only obstacle to ratification is Western Australia's gap in coverage for certain workers under its industrial relations framework.

- DEAT - RELEASED UNDER THE FREEDOM OF INFORMATION ACT 1982 LEX 13271
- Western Australia is currently making the necessary amendments to its IR legislation to ensure WA laws are compliant with the Protocol.

Background

- The Australian Government is committed to tackling forced labour through the effective implementation of international labour standards.
 - Australia has already ratified the parent Convention to the Protocol (Forced Labour Convention, 1930) and other significant international treaties to abolish this element of modern slavery including the Abolition of Forced Labour Convention, 1957 and the Worst Forms of Child labour, 1999.
- The Protocol is a binding international instrument that requires ILO member states that ratify it to commit to taking effective measures to prevent and eliminate the use of forced or compulsory labour, protect victims and provide access to remedies and sanction perpetrators of forced labour.

Western Australia compliance issue

- The Protocol requires that relevant legislation (including labour law) apply to all workers and all sectors of the economy.
- A comprehensive assessment of Australia's law and practice identified a need to extend the application of WA industrial relations laws to workers not currently covered by that framework.
 - Specifically, the *Industrial Relations Act 1979 (WA)*, *Minimum Conditions of Employment Act 1993 (WA)* and *Minimum Conditions of Employment Regulations* exclude several categories of workers from their definitions of 'employee'.
- This obstacle to compliance could be overcome by WA enacting the relevant legislative change to ensure that these groups of workers are covered by legislative protections.
- WA announced in April 2019 that the Government will progress a package of legislative reforms, including changes to the definition of employee in its IR legislation. These amendments will ensure that WA laws are compliant with the Protocol.

Cheers
s 22(1)(a)(ii)

From: s 22(1)(a)(ii) @dfat.gov.au>
Sent: Saturday, 11 January 2020 3:21 AM
To: s 22(1)(a)(ii) @dfat.gov.au>
Subject: Fwd: ILO Forced Labor Protocol - Ratification Campaign [SEC=UNCLASSIFIED]

UNCLASSIFIED

Hi s 22(1)(a)(ii)

Here's the summary email from s 47F(1) seeking our support for Australia to ratify the forced labour protocol no. 29 - there's a cal commitment to ratify at federal and state levels but WA had an issue with needing to amend state legislation to fix an inconsistency with the protocol. s 47F(1) are of course keen for momentum not to be lost having got this far. I can cable this but wanted a read out from you first to see where this sits within our priorities in the modern slavery/ forced labour space? I'll forward an invite also just received from s 47F(1) to attend an event next week on forced labour.

Cheers, s 22(1)(a)(ii)

UNCLASSIFIED

From: s 47F(1)

Date: Monday, 23 December 2019 at 11:51:20 am

To: s 22(1)(a)(ii) @dfat.gov.au>

Cc: s 47F(1)

Subject: ILO Forced Labor Protocol - Ratification Campaign

Hello s 22(1)(a)(ii)

I hope this email finds you well.

It was a pleasure meeting with you last week to discuss the Forced Labor Protocol and the current status of the Protocol in Australia. I was able to gather a short campaign brief regarding our campaign alongside a draft of our petition letter.

Please view the attached word documents.

I have our ground partner, s 47F(1), copied on this email for ongoing support.

Please let us know if you have any questions and we will be happy to help.

Many thanks and happy holidays.

Best,
s 47F(1)



Australian Government

Department of Foreign Affairs and Trade

Side Event: Reinforcing commitments to international labour standards and eradicating contemporary forms of slavery

Permanent Mission of France to the United Nations, 16 January 2020

What we want:

- Demonstrate Australia's domestic, regional and multilateral leadership in eradicating modern slavery

What they want:

- Update on Australia's efforts in ratifying and implementing international labour standards, including the ILO's Forced Labour Protocol (P29)

Key messages

- It is a pleasure to be here today to talk about Australia's efforts in the fight against human trafficking and modern slavery, including forced labour
 - no country or agency can tackle these complex crimes and practices alone.
- Australia is increasing its efforts to work with partners across the Indo-Pacific region to tackle human trafficking and other forms of modern slavery
 - strong cooperation on human trafficking and modern slavery helps to keep Australians safe and secure, ensures our goods and services are not tainted by exploitation, and assists partners to prosecute criminals and support victims.
- We engage with partner countries to build strong law, policy and operational frameworks to tackle these issues.
- We have an integrated approach acknowledging that criminal justice approaches alone are not sufficient to tackle human exploitation, and that we need to partner with business and civil society.
- We are currently working with businesses and civil society to develop our new National Action Plan to Combat Modern Slavery 2020-25.
 - combating forced labour will be a key area of focus under the plan.

Domestic

- Australia's Modern Slavery Act came into effect this year. It requires more than 3,000 of our largest businesses and entities to report annually on modern slavery risks in their supply chains.
- And as one of the largest procurers in our economy, the Australian Government intends – in a world first – to lead the way by publishing its own annual statement on slavery risks in public investments and supply chains.

Prepared by: s 22(1)(a)(ii)

Cleared by: s 22(1)(a)(ii)

Date cleared: 14 January 2020

Consultation: Australian Border Force and Attorney General's Department



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- Our online public register of business reports will also provide a valuable source of data about forced labour in supply chains and business responses.
 - we expect the register will be operational in May 2020.
- We believe these legislative measures set a clear practical standard for meaningful business action
 - to look for, find and actually address slavery-like practices in their supply chains
 - rather than punitive measures that do not encourage problems that are found to be rectified
 - we need to be working collaboratively with suppliers to address the risks.

Update on ILO Conventions under consideration for ratification

- Australia is committed to tackling modern slavery through the implementation of international labour standards, in particular forced and child labour.
- Australia has already ratified the International Labour Organization's (ILO) *Forced Labour Convention, 1930* and the *Abolition of Forced Labour Convention, 1957*.
- Australia is currently progressing ratification of the Protocol of 2014 to the Forced Labour Convention, 1930
 - interested to see the positive uptake of this standard by ILO member States (now at 43 ratifications)
 - only one barrier to ratification remains in Australia at the state level. The relevant state (Western Australia) has advised it is committed to bringing its industrial relations laws into conformity with the Protocol to enable Australia to ratify it.
- Australia has also formally commenced considering the Minimum Age Convention, No.138 (1973) for ratification.

[If pressed about progress of ratifying the Minimum Age Convention]

- Australia has now completed a comprehensive assessment of Australia's compliance with the Convention, and is considering whether to progress ratification in light of the law and practice assessment.
- Pleased to share that Australia has recently commenced a law and practice assessment of Australia's compliance with the new Violence and Harassment Convention, No.190 (2019). The assessment will inform the Government's decision on whether to formally progress ratification.

Bali Process

- Regionally, Australia is leading efforts as co-chair, with Indonesia, of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime
- Covering an area spanning from the Middle East, through South Asia, South East Asia and North Asia, to the Pacific and North America - it comprises 45 regional member countries and four international organisations.

Prepared by: s 22(1)(a)(ii)

Cleared by: s 22(1)(a)(ii)

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- Through its Working Groups, the Bali Process shares information, promotes constructive regional norms and national approaches, and facilitates cooperation and capacity building including:
 - helping to improve national legislation to better support trafficking victims
 - developing best-practice policy guides
 - strengthening cooperation between law and justice officials
 - coordinating police operations to disrupt people smuggling and human trafficking syndicates.
- The Bali Process Government and Business Forum is fostering closer collaboration between government and business on tackling modern slavery
 - by working to implement recommendations endorsed by ministers and business leaders to eradicate modern slavery
 - and focusing on supply chain transparency, ethical recruitment and employment and redress for victims.

Regional aid programs

- Australia is proud of its long-standing engagement with partners in the region to build strong law and policy frameworks to tackle modern slavery and support vulnerable workers, through;
 - recently renewed its commitment to support ASEAN in counter-trafficking, with a further A\$80 million over the next decade to protect victim rights and strengthen criminal justice responses
 - extended funding to the ILO's Better Work program in the Asia-Pacific region [Bangladesh, Indonesia, Cambodia, and Vietnam]. Better Work works with garment factories, brands and governments to improve conditions in garment factories (US\$3mil for 2019-2022)
 - providing targeted, peer-to-peer assistance to partner countries under the *Indo-Pacific Justice and Security Program*
 - the *TRIANGLE in ASEAN* program to promote labour migration policy and legislative reform, and provide legal and financial advice to migrant workers.

Global

- As the inaugural chair of *Alliance 8.7* (November 2017 to March 2019), we oversaw the partnership taking shape and building impetus
 - expanding to encompass more than 200 partner organisations and institutions
- Having handed the Chair role over to France, Australia is now looking to support the efforts of *Alliance 8.7* pathfinder countries in our region [Fiji, Nepal, Sri Lanka and Vietnam].
- Australia was a co-convenor of *the Financial Sector Commission on Human Trafficking and Modern Slavery (FSC)* along with Liechtenstein, the Netherlands and UN University.
- The FSC brought together experts from the financial sector, international organisations, law enforcement and civil society (including slavery survivors) to examine how the financial sector and its regulators can better counter modern slavery and human trafficking.



Australian Government

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- The Commission's final report released at UNGA in September 2019 sets out a blueprint of goals providing immediate steps for governments, financial institutions, and industry to take, as well as setting out a plan for long-term structural change.
- Australia will be working with the Finance Against Slavery and Trafficking (FAST) initiative to disseminate the Blueprint into the Asia-Pacific region through specific outreach to governments and the private sector that generates tangible results.
- Australia is also working with Canada, New Zealand, the United Kingdom and the United States to promote and implement common principles to guide government action to combat human trafficking in global supply chains
 - these principles are guiding our conversations in bilateral and multilateral fora.
- A coordinated approach is essential to tackling human trafficking and modern slavery so I look forward to continuing to work with many of you in the room on our efforts going forward.

ILO Forced Labour Protocol petition hand-in event

30 July 2020, New York, USA

Introductory Remarks

Australian Ambassador and Permanent Representative to the United Nations, the Hon Mitch Fifield

Acknowledgments

- . Event organisers, s 47F(1)
- . Fellow speakers s 47F(1)

- . Distinguished representatives
- . Invited guests.

- . Let me begin by acknowledging the traditional custodians of the land from where each of us are participating today.

- . I would also like to particularly acknowledge the contribution – and presence virtually today – of those who have survived slavery or trafficking and who are now helping to address these terrible crimes.

Introduction

- . It is a pleasure to speak to you today, on World Day against Trafficking in Persons, to provide an update on Australia's efforts in the fight against human trafficking and modern slavery, including forced labour.

- . We meet in unprecedented times.

- . COVID-19 is having a severe impact on at-risk populations worldwide, including victims of trafficking and slavery.

- . As a result, it has only increased the urgency of our work to combat these crimes.
- . Australia recognises that a coordinated approach, working with partners in the public and private sector at the domestic, regional and global level, is key to successfully addressing these challenges.
- . I am pleased to speak to you today about the national approaches we are taking.

Domestic

- . Domestically, Australia's Modern Slavery Act came into effect last year. It requires more than 3,000 of our largest businesses and entities to report annually on modern slavery risks in their supply chains.
- . And as one of the largest purchasers in our economy, the Australian Government intends – in a world first – to lead the way by publishing its own annual statement on slavery risks in public investments and supply chains.
- . The Act requires entities with an annual revenue of more than 100 million Australian dollars (which is about 70 million US dollars) to submit a modern slavery statement, which must address certain criteria.
 - The Australian Government maintains a central register of all statements.
- . This system supports businesses to respond to modern slavery and increase information available to consumers and investors by providing a practical, risk based framework for transparency
 - it is increasing awareness of modern slavery and reducing modern slavery risks in Australia

- and driving a business 'race to the top' to improve workplace standards and practices
- in another world first, the Australian Government will publish all statements on a searchable online register.
- . The reporting requirement does not include penalties, because reputational risk and market and consumer pressure will be more effective drivers of compliance
 - penalties would not address likely reasons for non-compliance over the first three years – lack of awareness and lack of ability to comply
 - these issues are better addressed by providing support to business.
- . The Australian Government has also established a Modern Slavery Business Engagement Unit, which provides support and advice to business, delivers training and awareness-raising activities, and administers the central register.
- . The Government will review the Act after three years.

Update on ILO Conventions under consideration for ratification

- . Australia is also committed to tackling modern slavery through the effective implementation of international labour standards, in particular forced and child labour.
- . This brings me to the ILO's Forced Labour Protocol - the subject of the petition you've presented me with today.
- . Australia has already ratified the ILO's Forced Labour Convention, 1930 and the Abolition of Forced Labour Convention, 1957.
- . Australia is currently progressing ratification of Forced Labour Protocol

- Following the entry into force of the Modern Slavery Act last year, only one barrier to ratification remains in Australia, at the state level in Western Australia.
- I am pleased to confirm that the government of Western Australia recently introduced legislation to the state parliament which includes amendments designed to bring state industrial relations laws into compliance with the Protocol.

Conclusion

- . The COVID-19 pandemic has made our work more difficult, but more important than ever.
- . I commend the work of all those joining us virtually today who work to eradicate modern slavery, human trafficking, and forced labour
 - and am pleased to report that Australia has taken significant steps to progress ratification of the Forced Labour Protocol.

677 words (approx. 4.5 – 5 minutes)