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Mr Chris Crewther, MP
Chair
Foreign Affairs and Aid Sub-Committee
Joint Standing Committee on Foreign Affairs, Defence and Trade
PO Box 6021
Parliament House
Canberra ACT 2600

20th April 2017

Dear Chris,

Thank you for your letter of 1 March to the Prime Minister, Foreign Secretary and me about your inquiry into whether Australia should introduce modern slavery legislation comparable to the UK Act that received Royal Assent in 2015.

The UK values its longstanding, close relationship with Australia and we are grateful for the opportunity to share our thinking about fighting slavery. I am replying on behalf of the UK Government.

Like Australia, the UK is coming to terms with the fact that modern slavery is happening in our country and globally on a scale that was until recently unthinkable. It is challenging to measure the true scale of modern slavery. It is a serious crime that remains largely hidden, often in plain sight: many victims do not self-identify as such, and many more are reluctant to ask the authorities for help.

We know that it is a truly global problem however: slavery has been found in every country that has looked for it; there are around 46 million people enslaved worldwide¹; and the International Labour Organisation estimates human costs to be \$150 billion.

¹ Walk Free Foundation (2016)

We also know that this barbaric crime is seen by traffickers and slave-drivers as a high-reward, low-risk enterprise. We know that a significant proportion of slavery is fuelled by demand for cheap goods. And we know that in parts of the world slavery is built into prevailing societal and economic norms.

That is why our Prime Minister has said that modern slavery is one of the great human rights issues of our time. And that is why she is championing an unprecedented push against modern slavery, chairing a cross-government taskforce to accelerate progress. We are at the early stages of this journey and have much still to do, and I would like to share with your Committee what we have learned thus far.

The first lesson we have learned is that fighting any hidden crime, including slavery, requires everyone in society to shine a light on the issue. It must be made visible. In the UK, public awareness of the scale of the problem grew on the back of a report published by the Centre of Social Justice in 2013. The report resonated with Parliamentarians and the public. The Home Office Chief Scientific Adviser subsequently produced the first ever estimate of the number of slaves in the UK – between 10,000 to 13,000 – which has been critical to driving home the message that modern slavery is happening right here, right now.

The second lesson is that modern slavery is an issue that can unite politicians from different parties and viewpoints. In the UK, the fight against slavery is largely a non-partisan issue: there was broad support for the Government's first ever modern slavery strategy (published in November 2014) and strong cross-party support for the Modern Slavery Act 2015.

The third lesson is that introducing dedicated modern slavery legislation can make a significant operational difference, and is a game-changer in raising the issue in public consciousness. The UK's Modern Slavery Act 2015 introduced important reforms – listed below – and it signalled that our society was truly committed to mobilising a response to slavery that was commensurate with the scale and seriousness of the crime. **This is why the UK Government strongly encourages Australian law-makers to enact your own modern slavery legislation.**

The Modern Slavery Act 2015 introduced the following reforms:

- **Consolidated numerous existing slavery and trafficking offences, which were spread across several pieces of legislation, into two offences under one Act.** We did this because law enforcement agencies told us that this will make it easier for them to bring perpetrators to justice. And it has already done so, though we have also learned that training law enforcement is critical in translating the new powers into more prosecutions and convictions.

- **Increased the maximum penalty for these offences from 14 years to life imprisonment, reflecting the seriousness of the crime.** This sent the message that modern slavery was a serious crime that would be treated as such by the Courts.
- **Introduced two civil orders to enable the Courts to place restrictions on those convicted of modern slavery offences, or those involved in such offences but not yet convicted.** These give law enforcement and the Courts additional ways to mitigate the risk posed by people whom they have reason to suspect may become involved in modern slavery in the future.
- **Provided mechanisms for seizing traffickers' assets and channelling the money to compensate victims.** This brought modern slavery into line with other crimes where the State can seize the assets of criminals who benefit from exploiting others.
- **Introduced new maritime enforcement powers to enable law enforcement officers across the UK to pursue modern slavery perpetrators at sea.** This to ensure that slave-drivers have nowhere to hide.
- **Created a duty for specified public bodies to notify the Government about potential victims of modern slavery whom they encounter, even if those victims do not wish to receive specialist support.** This means that we are now receiving better data on potential slavery victims who do not wish to engage with the State.
- **A commitment to consult on the future remit and powers of the Gangmasters Licensing Authority (GLA), a UK agency that protects vulnerable workers employed by gangmasters in the agricultural, horticultural, shellfish gathering and associated processing and packaging sectors. Following the consultation, we used the Immigration Act 2016 to expand the GLA's remit, renaming it the Gangmasters and Labour Abuse Authority and giving it stronger police-style enforcement powers to investigate serious offences relating to worker exploitation across the UK economy. To support the Authority as it transforms, we have also significantly increased its budget for this year.**
- **Created a new statutory defence from prosecution for slavery or trafficking victims compelled to commit certain criminal offences (there are important exemptions) as a direct consequence of their slavery or trafficking situation.** This is designed to encourage more victims to ask for help and give evidence against their traffickers, without fear that they themselves will be prosecuted.

- **Provided for the creation of specialist independent child trafficking advocates to support trafficked children. This has not yet been brought into force though we are trialling the approach in several local areas.** The purpose of these advocates is to represent the interest of trafficked children when they interact with and seek support from numerous and sometimes complex statutory agencies and systems.
- **Placed a duty on large companies who operate in the UK, with an annual turnover of £36m or more, to publish annual statements signed by their Board setting out what action they have taken to prevent modern slavery from their supply chain.** The approach was developed in close consultation and with strong support from business. More on this below.
- **Introduced protective measures for victims of slavery who give evidence in court.**
- **Established the office of the Independent Anti-Slavery Commissioner,** whose role is to encourage best practice in the fight against slavery and provide independent assessments on the effectiveness (or not) of action taken by the Government and other actors to fight slavery. Kevin Hyland, first holder of the post, will also be giving evidence to your inquiry.

Last year the UK Government asked Caroline Haughey, an independent barrister with a proven track record of prosecuting slave-drivers, to review the early impact of the criminal justice provisions in the Modern Slavery Act².

Despite the fact that many of the provisions had only been in place for a short time, Haughey found that there had already been good progress. She found that the Act itself had set a bar to which other jurisdictions should aspire, but more work is needed to ensure that the provisions in the Act are consistently used to full effect.

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In particular, Ms Haughey noted the following achievements in the first year of the Act:

- More victims identified: in 2015, 3,266 potential victims were identified and referred for support, a 40% increase on the previous year.
- Better victim protections are now in place.
- Increased number of proactive and reactive police investigations.
- Increased number of prosecutions and convictions. Latest published statistics show that in 2015, 289 modern slavery offences were prosecuted and there were 113 convictions for modern slavery offences, continuing an upward trend from 2014³. More prosecutions have followed in 2016 and I would be happy to share these figures with the inquiry once they are cleared for publication.
- Prosecutors are enhancing their understanding of the law and the particular needs of slavery victims through use of vulnerable witness tools.
- Judicial awareness is increasing and more training is being put in place.

But Ms Haughey also found that a lot more work is needed to ensure that statutory agencies were making full use of the powers in the Act. She found (as did the Independent Anti-Slavery Commissioner in his review published in October 2016) that police forces, the Crown Prosecution Services, Local Authorities and other partners needed to ensure a more consistent response to slavery.

The 2015 Act and the aforementioned reviews have helped us to mobilise a major cross-agency effort to fill remaining capability gaps in our response to slavery, including:

- Investment of £8.5m in stronger police capabilities to deal with modern slavery, including more analysts, a cross-agency assessment centre, professional trainers, and a best practice centre.
- Stronger guidance on crime reporting and referral of potential victims into specialist support and investment in new systems, including IT, to make it easier for law enforcement to collect and exploit modern slavery data.
- The National Crime Agency made modern slavery one of its top intelligence-collection and operational priorities.

³ Many of these offences were prosecuted under previous anti-slavery legislation, reflecting the fact that many of the corresponding investigations and prosecutions began before the new offences came into effect (modern slavery investigations and prosecutions usually take a long time to complete). Despite the very recent introduction of the Act, 27 offences were prosecuted under the Act in 2015 and more have followed in 2016.

All of this is a work in progress. So the fourth lesson we have learned is that legislation is necessary but not sufficient. There needs to be continuing political focus and investment in developing the capabilities of frontline staff to deal with modern slavery.

It is also clear that law enforcement, however, effective, cannot on its own achieve our objective of eradicating modern slavery. We need to attack this wicked issue on all fronts.

One major opportunity involves working with business to reduce modern slavery in global supply chains. I understand that Australia is considering introducing transparency in supply chains legislation of your own. I want to share our experience of the approach to transparency that we adopted in the Modern Slavery Act 2015.

The Transparency in Supply Chains provision (section 54 of the Modern Slavery Act) applies to any commercial organisation which:

- is a body corporate or partnership,
- supplies goods or services,
- has an annual turnover of £36m or more and
- carries on a business or part of a business in the UK.

We estimate that there are around 12,000 commercial organisations that meet these conditions. Those businesses must publish a 'slavery and human trafficking statement' every financial year of their organisation. The statement must set out the steps they have taken to ensure there is no modern slavery in their business and supply chains. The legislation does not say what those steps must be.

The UK was the first country in the world to introduce this kind of transparency legislation, although we learned much from similar legislation in California. The key differences are that the Californian legislation applies to businesses with a turnover above \$100m (higher than our £36m threshold), and only applies to retailers and manufacturers whereas our legislation includes businesses that provide any goods or services. California's legislation also sets out five areas of activity that businesses *must* address in their disclosure, whereas the UK's Act lists six areas of activity that businesses *could* address but which are not mandatory.

It is worth reflecting on how the UK arrived at the decision to introduce our variant of transparency legislation, since you may find yourselves weighing up similar issues during your inquiry. In the UK, there was widespread consensus that business had a key role to play in fighting slavery. But there was a wide range of views about how it could do so most effectively. Some argued for cast-iron regulation while others argued for a laissez-faire approach.

Ultimately the single most decisive factor in shaping the UK's approach was the views of businesses themselves. When we ran a public consultation on this measure, the overwhelming majority of businesses told us that they welcomed State involvement. They said that the single most useful thing government could do was to create a level playing field: an environment where responsible businesses (that take action to identify and prevent slavery in their supply chains) are rewarded and recognised, rather than being singled out for criticism or under-cut by unscrupulous competitors. They wanted the State to use legislation to create the conditions for a (fair) race to the top, while leaving each business to work out how best to fight slavery in the context of their unique situation.

That is why the UK Government adopted an approach that requires businesses to be open (at Board level) about the steps that they have taken to prevent slavery, but which avoids stating in advance what those steps must be. Our intention is that information published by businesses will be used by consumers, investors, activists and competitors to give positive recognition to businesses who take action against slavery, while exposing laggards to public pressure and scrutiny that would ultimately hurt their brand and bottom line.

We decided to avoid setting minimum standards in the Act because this would run the risk of incentivising businesses to achieve the bare minimum – compliance and nothing more – instead of creating a space for business leaders to work collaboratively with us on innovative and creative ways to pull up slavery by the root.

By applying Section 54 only to large businesses, we aimed to reduce the administrative burden on smaller businesses while simultaneously ensuring that the actions (or inaction) taken by small businesses who act as suppliers to large businesses would be indirectly captured in those larger companies' statements.

It is too early reliably to evaluate the impact of Section 54 but early signs are promising. Many companies have now published their first statement. Businesses have responded positively and tell us that modern slavery has been discussed in many board-rooms for the first time. NGOs are setting up online registries to collate the statements, making them readily accessible to 'armchair auditors'. Many business leaders have taken significant action to identify and confront modern slavery in their supply chain, and many are working collaboratively with us because they recognise the strong moral and business case for doing so.

So the fifth lesson is that we think there is merit in governments adopting a legislative approach that incentivises and supports business to take action against slavery, without too many restrictions or red tape. We believe that introducing similar transparency legislation in key countries will encourage even more businesses to take action against slavery, while minimising the burden on businesses (because it would require them to comply with a single, shared regime rather than with multiple variants). That is why I would encourage you to consider introducing similar transparency legislation in Australia.

To drive a step change in delivery, the Prime Minister established a taskforce on tackling human trafficking and modern slavery, drawing in national and local government, law enforcement, academics, civil society and independent experts. The terms of reference of the taskforce are attached.^[1] This is driving a whole of government approach to tackling slavery.

The UK recognises that this is not a fight we can undertake alone: modern slavery often crosses borders, as do the organised criminal networks which seek to profit from this crime. The Prime Minister's taskforce has considered how we can work more effectively with internationally on this issue.

We are stepping up our approach to work with international partners in countries from where we receive a high number of victims but also building partnerships with countries which have a high prevalence of slavery to tackle this scourge. This bilateral work is important, but we need effective multilateral cooperation to eradicate this crime. That is why the UK is looking to drive coordinated global action across the international system. The UK is keen to work alongside Australia to achieve these objectives.

The Bali Process, which Australia co-chairs with Indonesia, is an effective example of how multilateral cooperation is promoting regional awareness of the consequences of crimes of people smuggling, trafficking in persons and related transnational crime. It enables the platform to set out the practical opportunities to cooperate in building capacity of member states. I am also encouraged that the Bali Process will hold an inaugural Business Forum in August, which will be pivotal in bringing together key organisations, from both the public and private sector to consider their role in preventing and combating human trafficking and the exploitation of human beings.

^[1] <https://www.gov.uk/government/news/pm-calls-for-global-action-to-stamp-out-modern-slavery>

To summarise, strong national action to tackle modern slavery, supported by a comprehensive legislative framework is essential if we are to eliminate slavery on a global scale. By bringing it to the forefront of public consciousness, driving progress with a wide range of partners, including business, and stepping up effective international cooperation on this issue, we may together make eradicating slavery a possibility.

We stand ready to share any further information with the Committee, to assist Parliamentarians, in their consideration of the development, of what could be a landmark piece of legislation for Australia.

I attach to my letter copies of the UK's Modern Slavery Act 2015 and our public consultation on the Transparency in Supply Chains provision. My officials stand ready to share any further information with the Committee to assist your consideration of what could be a landmark piece of legislation for Australia. I look forward to reading the results of your inquiry.

I am copying this letter to the Prime Minister, the Foreign Secretary and Independent Anti-Slavery Commissioner.

With best wishes,

**Rt Hon Amber Rudd MP
HOME SECRETARY**