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Submission to the Senate Foreign Affairs, Defence and Trade Standing Committee on the Fair Trade (Workers' Rights) Bill 2013

1. About AUSVEG

AUSVEG is the National Peak Industry Body representing the interests of Australia's 9,000 vegetable and potato growers. AUSVEG represents Australian vegetable and potato growers in a number of ways, including assisting the industry to invest in research and development that suits its changing needs, representation on issues in the media, and through advocacy programs to the Parliament and consumers.

AUSVEG welcomes this opportunity to contribute to the Senate Foreign Affairs, Defence and Trade Standing Committee's Inquiry into the Fair Trade (Workers' Rights) Bill 2013.

2. Queries

For more information regarding this submission, please contact AUSVEG Acting CEO, Mr Simon Coburn, on (03) 9822 0388 or at simon.coburn@ausveg.com.au.

Yours sincerely

Simon Coburn
Acting Chief Executive Officer



Fair Trade (Workers' Rights) Bill 2013

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AUSVEG

SUBMISSION
TO
THE SENATE FOREIGN AFFAIRS, DEFENCE AND TRADE COMMITTEE
ON
FAIR TRADE (WORKERS' RIGHTS) Bill 2013

AUSVEG is pleased to have this opportunity to submit, for the Committee's consideration, various concerns in respect of our members relating to the Fair Trade (Workers' Rights) Bill 2013 (the Bill).

AUSVEG is the Peak Industry Body for Australian vegetable and potato growers. AUSVEG is concerned that the interests of Australian vegetable and potato growers (Australian growers) may be overlooked when promoting 'free trade' agreements with overseas trading partners. We are of the belief that the Bill would be beneficial to our members' interests.

We submit that it is not the intention of our trade negotiators to harm the interests of Australian growers, but rather, it is the lack of awareness by our negotiators to the central factors impacting on the Australian growers.

The Bill gives as its "Objects"¹:

"It is the object of this Act to encourage Australia's trading partners to ensure that workers in their country are protected by certain internationally accepted minimum standards about workers' rights".

The Bill defines '*minimum standards about workers' rights*' at section 4 of the Bill as the meaning given in section 8. Section 8, in turn, states that the minimum standards about workers' rights means the minimum standards set out in each of the following conventions. It then lists eight International Labour Organisation (ILO) Conventions.

AUSVEG has considered the ILO Convention concerning Occupational Safety and Health, 1981 (No 155), which is referred to at paragraph (f) of section 8 of the Bill. In addition, AUSVEG has reviewed Part I and Part II of the ILO Provisional Record on the Committee Report (ILO Committee Report) relating to International Labour Standards².

As the ILO committee report was presented to the 2013 ILO Conference, AUSVEG submits it may be relevant, useful and the most recent for the Committee's consideration.

INTERESTS OF AUSTRALIAN GROWERS

¹ Fair Trade (Workers' Rights) Bill 2013, Section 3

² Reports presented to International Labour Conference at the 102nd Session in Geneva June 2013

Australians are subject to high standards of protection for employees, including workplace health and safety laws and higher wages. AUSVEG does not find fault in these high standards and recognises the essential dignity of each person. Additionally, AUSVEG is mindful that Australian growers have the right to a fair return on their labour, investment and fair protection against risks.

Australian growers comply with all labour laws, including the National Employment Standards. At the height of harvest, obtaining labour is very competitive and overtime is regularly required.

Australian growers meet their obligations to their employees and value their assistance and contribution, however, a competitive return on produce sold at the farm gate is what makes the vegetable industry viable.

It is AUSVEG's submission that the Australian public prefers Australian grown produce. Market research recently undertaken by AUSVEG found that 80 per cent of consumers want to buy Australian grown to support Australian farmers. With the assurance of quality control, clean water and permissible use of approved pesticides, fertilisers and practices, Australian grown produce is of extremely high quality.

Discrepancy in pricing between Australian grown produce and overseas imports can be a crucial factor detrimental to the Australian grower. Generally, produce pricing is governed by overheads and expenses. Produce grown overseas where growers are not subject to fair and decent labour standards enjoys an undeserved advantage over Australian grown produce, in this respect.

The unfortunate commentary is that it is not the quality of the produce, but the sales price of the produce that is compared.

With the above stated, AUSVEG submits various comments relating to ILO expectations.

ILO CONVENTION ON OCCUPATIONAL HEALTH AND SAFETY

To gain insight into the Bill's Objects, the Committee's attention is drawn to some of the Convention's essential features.

Article 3 defines relevant words as used in the Convention. For the assistance of the Committee members, the definitions are reproduced here:

Article 3

- (a) The term **branches of economic activity** covers all branches in which workers are employed including the public service;
- (b) The term **workers** covers all employed persons, including public employees;
- (c) The term **workplace** covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer;
- (d) The term **regulation** covers all provisions given the force of law by the competent authority or authorities.
- (e) The term **health**, in relation to work, indicates not merely the absence of disease or infirmity; it also includes the physical and mental elements effects on health which are directly related to safety and hygiene at work.

Part II of the Convention deals with “Principles of National Policy”.

Article 4 in Part II states:

1. *Each member shall, in the light of national conditions and practice, and in consultation with the most representative organisation all employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.*
2. *The aim of the policy shall be to prevent accident and injury to health arising out of, linked with or occurring in the course of work, by minimising, so far as is reasonably practicable, the causes of hazards inherent in the working environment.*

AUSVEG notes that Australia is a signature to the ILO and abides with the Conventions of the ILO. A casual glance of Article 4 readily brings to mind that domestic legislation on health and safety mirrors, and often exceeds, than the ILO standard.

It is a reasonable expectation that trading nations should observe and implement these standards. The Bill seeks that these standards, amongst other standards, should be acknowledged and implemented by our trading partners.

Even if trading nations do not enjoy the high standards and protection provided by our domestic laws, they do not escape the scope of the Convention as Article 6 of the Convention makes clear.

Article 6

The formulation of the policy in Article 4 of this Convention shall indicate the respective function and responsibilities in respect of occupational safety and health and the working environment of public authorities, employers, workers and others taking account both of the complementary character of such responsibilities and of national conditions and practice.

Trade negotiators and public officials should encounter no impediment in checking if a prospective trading nation in the field relevant to Australian growers complies with this Convention. For instance, Article 11 requires Nation States to give an account of steps taken to implement Article 4.

Article 11

To give effect to the policy referred to in Article 4 of this Convention, the competent authority or authorities shall ensure that the following functions are progressively carried out:

- (e) the publication, annually, of information on measures taken in pursuance of policy referred to in Article 4 of this Convention and on occupational accidents, occupational diseases and other injuries to health which arise in the course of or in connection with work;*
- (f) the introduction or extension of systems taking into account national conditions and possibilities, to examine chemical, physical and biological agents in respect of the risk to the health of workers.*

As paragraph (e) and (f) make clear, the requisite information should be on the public record of the relevant trading nation. The acquisition of such information by our trade negotiators and public officials should not be an onerous task. In the interest of levelling the playing field for the Australian growers, it should be a worthy pursuit.

ILO COMMITTEE REPORT ON INTERNATIONAL LABOUR STANDARDS

AUSVEG has reviewed Part I and Part II of the ILO Committee Report arising from the 102nd session held in Geneva in June 2013.

At paragraph 74 of Part I, comments were noted by the ILO Conference on addressing failures of the ILO supervisory system. The employer members' comments were reported as follows:

74. The Employer members observed that, as the ILO supervisory system was based on reports being sent in by governments at agreed intervals, the situation described in the report could not be considered satisfactory since barely more than two-thirds of the requested reports had been received.

The above merely notes that the situation requires additional measures to strengthen the monitoring of the ILO labour standards. Requiring countries to reaffirm their commitment to the ILO labour standards in Trade Agreements would be a step in the right direction.

At paragraph 90 of Part I, the Government members conveyed their comments. We quote:

90. The Government member of Australia, speaking on behalf of the Governments of the industrialized (sic) market economy countries (IMEC) reaffirmed the high level of importance placed by the IMEC group on the supervisory system of the ILO and its key role in facilitating the implementation of and adherence to international labour standards when seeking to improve working conditions across the globe. The ILO supervisory system was unique in the international framework of human rights procedures and the Conference Committee had the responsibility to help ensure that the capacity, visibility and impact of the ILO supervisory system continued to evolve positively despite the inherent challenges. ...

AUSVEG is entitled to assume, based on the above comments, that the Australian Government member to the ILO Conference had the authority of the Australian Government in posting the comments. On this assumption, it is clear that the Australian Government supports appropriate methods to improve working conditions across the globe.

Asking trading countries to acknowledge their obligations to lift working conditions is consistent with the Objects of the Bill.

One of the countries whose produce competes with that of Australian growers is China. In Part II of the Provisional Report, the following is noted³:

The Government member of China stressed that the 18th Amendment to the Constitution guaranteed the full autonomy of the Provinces and that a number of labour inspection powers had been devolved to them. The Government was currently in a transitional phase and needed more time to implement labour legislation, for which it should received ILO technical assistance.

The above is further evidence that labour standards in China require considerable attention. To the extent that our Trade Agreements with China overlooks or, worse, ignores the poor labour standards operating in that country, then to that extent, it is to the disservice of Australian growers and consumers.

CONCLUSION

To further illustrate why the Bill warrants support, certain parts of the Provisional Report deserve to be noted. The content of these parts also support AUSVEG's submission that in competing with imported produce, Australian growers are disadvantaged. Put simply, the playing field is not even. Successive Australian Governments have removed or significantly lowered tariffs and simultaneously pledged support for Free Trade Agreements. While this is a benefit to less developed countries, other factors should also be considered so as not to adversely affect Australian growers, who are trying to adhere to Australian workplace standards whilst also being internationally competitive.

It is our submission that, while assisting the economy of less developed countries, there should be an insistence that the payment for labour should be remunerated in line with ILO standards. It is a disservice to domestic growers to allow overseas produce to enter our markets and sell it at a cheaper price to that of Australian growers when the playing field is uneven. Furthermore, it is far from established that the consumer is better served in terms of hygiene, quality and taste, although the cheaper price may be a 'pyrrhic' sweetener.

If each country with whom we enter into a Trade Agreement is reminded and asked to pledge to international labour standards, then it is our submission that it levels the playing field slightly. The Bill should be supported.

³ ILO Provisional Record 102nd Session, Geneva, June 2013, Part II, p21.