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**Submission by the Synod of Victoria and Tasmania, Uniting Church
in Australia to the inquiry into the *Modern Slavery Amendment
(Australian Anti-Slavery Commissioner) Bill 2023*
18 January 2024**

The Synod of Victoria and Tasmania, Uniting Church in Australia, welcomes this opportunity to make a submission on the *Modern Slavery Amendment (Australian Anti-Slavery Commissioner) Bill 2023*. We support the Bill and urge the Committee to recommend its passage through the Parliament.

The Bill could be improved, and the Committee should recommend such improvements. We outline our suggestions for areas of improvement below. However, even if the suggested areas for improvement are not adopted, the Bill should still be passed in its current form.

The Synod has committed itself to supporting measures to curb modern slavery. For example, in 2011, the meeting of Uniting Church delegates from congregations across Victoria and Tasmania adopted the following resolution:

11.6.18.2.3 *The Synod resolved:*

- (a) *To support and encourage industries and businesses to take all reasonable steps to make sure the products they supply into the Australian market are free from the involvement of slavery, forced labour and human trafficking in their production;*
- (b) *To call on the Federal Government*
 - (i) *to follow the lead of the US Department of Labor and develop a list of goods imported into Australia where there is evidence that slavery, human trafficking or forced labour are likely to have been used in the production of the goods;*
 - (ii) *to ensure that Government procurement processes take practical steps to exclude products made with slavery, human trafficking or forced labour in their production;*
 - (iii) *to require industries and businesses to take reasonable steps to ensure slavery, forced labour and human trafficking have not been used in making products supplied to the Australian market; and*
 - (iv) *At a minimum, to require companies importing goods identified through the research outlined in clause (i) of this resolution to report publicly what they are doing to ensure they are not importing goods produced with slavery, human trafficking and forced labour; and*



- (c) *To write to the Prime Minister, the Minister for Trade, the Minister for Foreign Affairs, the Minister for Home Affairs, the Leader of the Opposition, the Shadow Minister for Trade, the Shadow Minister for Foreign Affairs, the Shadow Minister for Home Affairs, and the Leader of the Greens to inform them of this resolution.*

We support the functions of the Commissioner as outlined in Section 20C(1). However, we believe the Commissioner should have a role in coordinating a whole-of-government response to modern slavery.

Further, concerning 20C(1)(e), the Commissioner should have the role of facilitating victims of modern slavery to exercise their own agency whenever possible and appropriate, rather than speaking on behalf of them after consulting with them.

In addition, the Commissioner should have the ability to assist survivors of modern slavery to report their abuse to the appropriate law enforcement agencies.

Additionally, we are aware of cases of reporting entities under the *Modern Slavery Act* are not treating the Act seriously and are not taking meaningful steps to ensure the goods they are importing have not involved modern slavery in their production in cases where there is a high risk of such abuses having been present in the production of the goods. For example, the Outlaw Ocean Project wrote to the following reporting entities under the *Modern Slavery Act* in July 2023, stating there was strong evidence they were linked to Chinese seafood suppliers that were using forced labour:¹

- Woolworths;
- FTA Food Solutions;
- Oriental Merchant;
- Simplot; and,
- Superior Food Service, who were purchasing from FTA Food Solutions.

FTA Food Solutions, Oriental Merchant and Superior Food Service did not respond to the e-mail.

Simplot replied that they had never sourced from the Chinese supplier in question, Rongcheng Haibo. The Outlaw Ocean Project stated they had trade records that showed that Simplot Australia had imported *Todarodes Pacificua* Squid Tubes from Rongcheng Haibo in February 2022.²

The Outlaw Ocean wrote to Woolworths stating that Woolworths stocked products from Dagim Tahorim and Oriental Merchant. Trade records showed that Dagim Tahorim had taken shipments from Yantai Sanko Fisheries. Yantai Sanko Fisheries received workers from Xinjiang under the state-imposed labour transfer program. Oriental Merchant imported shipments of seafood Woolworths from Shandong Haidu, which also received persons from the Xinjiang region under the Chinese regime labour transfer program. Woolworths offered engagement with their human rights team, provided it was off the record from a media perspective. The Outlaw Ocean Project declined to go off the record, after which Woolworths did not reply to subsequent e-mails.³

¹ https://www.theoutlawocean.com/investigations/china-the-superpower-of-seafood/discussion/?utm_source=substack&utm_medium=email#co

² Ibid.

³ Ibid.



The Chinese company Chishan owns the Rongchen Haibo Seafood and Shandong Haidu Ocean Product plants. They process 30% of all squid from China.⁴ Chishan revealed in company newsletters posted on its website that it was taking Uyghur workers transferred from Xinjiang.⁵ Another company newsletter stated that Rongchen Haibo had set up a special canteen to serve migrant workers from Xinjiang.⁶ Uyghur workers at the Rongchen Haibo plant posted pictures of themselves at the plant on social media.⁷ However, an e-mail to the Outlaw Ocean Project from Rongchen Haibo stated that the plant “has never employed any Xinjiang workers”.⁸ A representative from the plant said, “There is no use of illegal workers from Xinjiang or other countries, and we recently passed human rights audits.”⁹ The Rongchen Haido plant was subject to SEDEX audits.¹⁰

The Commissioner should have a role in encouraging reporting entities under the *Modern Slavery Act* to undertake meaningful risk assessments and then take appropriate actions concerning those risks. Such an amendment would be in line with Recommendation 27 of the statutory review of the *Modern Slavery Act*, which stated the Minister or Anti-Slavery Commissioner should have the power to make a written declaration of a region, location, industry, product, supply or supply chain that is regarded as carrying a high modern slavery risk. Further, the declaration could prescribe the extent to which reporting entities must have regard to the declaration in preparing their modern slavery statement.¹¹

A previous private member’s Bill from Senators Storer, Hinch and Patrick for an Independent Anti-Slavery Adviser also had the adviser having the function of identifying victims of modern slavery. We would urge that such a function be added to 20C(1)(d) or (e). The UK Independent Anti-Slavery Commissioner has overseen a massive increase in the detection of victims of modern slavery. In 2014, before the UK Commissioner was established, there were 2,340 referrals of potential victims of modern slavery to the National Referral Mechanism.¹² In 2021, the number of referrals had increased to 12,727.¹³ In the 2015 – 2016 financial year, UK police recorded 884 modern slavery-related offences.¹⁴ With the attention of the UK Commissioner, that number increased to 9,158 modern slavery-related offences recorded by UK police in the 2021 – 2022 financial year.¹⁵

We disagree with the formulation of Section 20C(2). We agree that the Commissioner should not be investigating complaints about individual instances of modern slavery that are in the jurisdiction of Australian law enforcement agencies. However, the Commissioner should have the power to investigate cases that point to systemic problems in the Australian

⁴ Ian Urbina, “How One Company Using Forced Labor Taints Much of the World’s Seafood”, *The Outlaw Ocean Project*, 29 November 2023.

⁵ Ian Urbina, “The Uyghurs Forced to Process the World’s Fish”, *The New Yorker*, 9 October 2023.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ John McMillan, “Report of the statutory review of the Modern Slavery Act 2018 (Cth)”, Commonwealth of Australia, 2023, 103.

¹² UK Independent Anti-Slavery Commissioner, “Independent Anti-Slavery Commissioner Annual Report 2015 -2016”, 2016, 2.

¹³ UK Independent Anti-Slavery Commissioner, “Independent Anti-Slavery Commissioner Annual Report 2021 – 2022”, April 2022, 12.

¹⁴ UK Independent Anti-Slavery Commissioner, “Independent Anti-Slavery Commissioner Annual Report 2015 -2016”, 2016, 3.

¹⁵ UK Independent Anti-Slavery Commissioner, “Independent Anti-Slavery Commissioner Annual Report 2021 – 2022”, April 2022, 25.



Government's response to modern slavery, where such an investigation will not interfere with an on-going investigation of any Australian law enforcement agency. Further, the Commissioner should be given the power to accept complaints and mount its own investigations into cases of modern slavery associated with imported goods and services into Australia. To our knowledge, the Australian Federal Police have not allocated meaningful resources to investigate cases of goods produced with modern slavery being imported into Australia with a view to prosecute the importer, even if the importer was reckless or negligent in the importation of such goods. Similarly, other than child sexual abuse material, we are not aware of the Australian Border Force investigating and seizing goods imported into Australia produced with the involvement of modern slavery. Thus, at the moment when an individual or organisation has evidence of goods being imported into Australia with the involvement of modern slavery, there is no Australian law enforcement agency that would mount a meaningful investigation into the evidence. The Commissioner would provide an opportunity to fill that gap.

Section 270.3 of the *Criminal Code* states:

(2) *A person who:*

(a) *whether within or outside Australia:*

(i) *enters into any commercial transaction involving a slave; or*

(ii) *exercises control or direction over, or provides finance for, any commercial transaction involving a slave; or*

(iii) *exercises control or direction over, or provides finance for, any act of slave trading; and*

(b) *is reckless as to whether the transaction or act involves a slave, slavery, slave trading or the reduction of a person to slavery; commits an offence.*

Penalty: Imprisonment for 17 years.

(3) *In this section:*

"commercial transaction involving a slave" *includes a commercial transaction by which a person is reduced to slavery.*

Yet, to our knowledge, there has never been a successful prosecution of an Australian individual or entity for commercial transactions involving goods produced through the use of people held in slavery.

We note that the 2019 review of the UK *Modern Slavery Act 2015* pointed out that the UK Independent Anti-Slavery Commissioner needed to have sufficient access to Government data to be able to carry out the duty of scrutinising the Government's performance in responding to modern slavery.¹⁶ The Bill should be amended to ensure the Australian Anti-Slavery Commissioner can also access Government data needed to carry out their role.

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¹⁶ Frank Field, Elizabeth Butler-Sloss and Maria Miller, "Independent Review of the *Modern Slavery Act 2015*: Final Report", May 2019, 32, 37.