



Submission No 58

Inquiry into Slavery, Slavery-like conditions and People Trafficking

Organisation: No Slavery Australia



No Slavery Australia

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Inquiry into Slavery, Slavery-like Conditions and People Trafficking.

Joint Standing Committee on Foreign Affairs, Defence and Trade

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Summary

No Slavery Australia (NSA) is a not for profit organisation which aims to promote awareness about the various forms of slavery that affect Australians.

The cost of eliminating slavery will pay enormous dividends to the Australian and the world economy. NSA asks the Australian Government to consider the true costs of slavery and human trafficking when appropriating funds and resources to this very important issue.

The focus of this submission is to provide comments regarding slavery and human trafficking in the supply chains of companies, specifically, companies which provide goods or services into Australia. NSA believes targeting slavery in the supply chains of companies is where a huge impact can be made on global human trafficking and slavery, with relatively little investment. Failing to address this trade issue, will have high economic costs for Australia and the world.

Slavery costs Australian jobs

The Australian Food and Grocery Council estimates that 330,000 direct Australian jobs will be lost by 2020 in this industry alone.¹ Further indirect job losses from supporting industries are difficult to estimate. The report also suggests that there would be significant challenges in encouraging capital expenditure or investment in the industry. This will further reduce innovation and competitiveness within the food industry. These losses to Australia's largest industry would bring significant stresses to the Australian economy. The need to sustain food security will no doubt result in bailout strategies and further grants for innovation, as

¹ Australian Food and Grocery Council, *Industry at the Crossroads*, November 2011

we are seeing by the current Government. This loss of competitiveness can be attributed to cheap imports. Since 2008 Australia is now a net importer of food.

Slavery is Illegal

Slavery is an illegal and unsustainable factor in world markets. It is a significant threat to sustainability of economic liberalisation of world trade agreements. NSA understands the important economical benefits of multilateral free trade. However this must be achieved in conjunction with the protection of human rights and the environment. Ignoring these factors is not sustainable, and threatens the viability of multilateral free trade and even the entire capitalist ideology. Trade must be fair and legal, not just free.

The liberalisation of world markets and the constant striving to reduce barriers to trade has had a detrimental effect in many countries. Trading partners who do not enforce international anti slavery laws and International Labour Organisation, (ILO) conventions are able to supply low cost and/or slave labour, this is considered a competitive advantage in terms of trade. In Australia, industries operate within strict regulatory frameworks, including industrial relations requirements. Australian Industries cannot meet the expenses of these regulations and remain competitive with unregulated imports. While a protectionist approach may have detrimental effect for consumers in the immediate term,(in the form of price adjustments). The collapse of major local industries or the expense of keeping them afloat with continuous grants and bail outs, coupled with massive job losses must outweigh this.

Slavery affects our balance of trade

Post the Global Financial Crisis, a significant shift to protectionist strategies is occurring worldwide. Increasing the regulation of imports and the promoting community awareness, will have a similar effect as increasing tariffs on goods imported into the country. NSA believes that regulating imports and informing Australians about slavery in the supply chain of companies is an opportunity to employ some such protectionist measures for the Australian economy with a minimal expense to the tax payer, and minimal opposition from key stakeholders. Increasing regulatory reporting requirements, (to include supply chain auditing), for imports of goods and services would increase the competitiveness of Australian industry. Labelling requirements for goods and services that cannot guarantee a slavery free supply chain would empower consumers with the knowledge to make ethical choices when purchasing. The intention is to reduce human trafficking and slavery. International human rights and labour laws provide strong legal argument to the World Labour Organisation, (WLO) for the impact of any new import regulations on our trade agreement commitments. Jurisprudence in this area is not favourable with the WTO panel typically not considering external treaties and laws when delivering its rulings. If a dispute progressed to the Appellate Body, strong legal representation could be maintained based on section 4 of the *General Agreement on Trades and Tariffs*, (GATT) ,² and article 31.1.1 *The Vienna Convention on Treaties*, that all treaties are to be enforced "in context and in the light of its object and purpose".³ The preamble to the WTO, and the extrinsic evidence

² General Agreement on Trades and Tariffs (1994)

³ Vienna Convention on Treaties Article (1969) 31.1.1

contained in other GATT articles such as article xx (a), (b) and (e), suggests that trade law does not supersede other international laws such as human rights law or international labour laws. Success on appeal would allow breaches of international labour laws and human rights laws to be enforced against trading partners who currently use trade law to shield themselves from their obligations.

The Australian community would be for the most part supportive of protectionist measures if regulation was aimed at removing slavery from the supply chains of companies. Industry and lobby groups would be supportive as this could protect local industry and employment.

Human rights

The human rights outcome would be a reduction in the demand for goods and services that are produced using slavery in their supply chains. Successful arbitration with the WTO would establish an important precedent, and align Human Rights Law, International Labour Law and International Trade Laws. No precedents exist either before the WLO panel or the Appellate body for successfully restricting or regulating trade based on human rights or labour laws. The Appellate rulings in the cases of *Shrimp – Turtle*, *Tuna – Dolphin*, *Gasoline* and *the Asbestos* establish important legal principles that could be referred to, however are likely to be distinguished. These cases give a general insight about what terms the regulatory response could be administered, such as multilateral and consistent application, and time frame for compliance. OECD Nations must recognise the threat that international labour violations and also environmental degradation by trading partners has to the entire global trade systems. OECD Nations must move towards a zero tolerance for the unsustainable and illegal practice of slavery in the supply chains of companies.

It is clear and uncontested that slavery and human trafficking is a breach of numerous international treaties and laws.

The importation of slave made goods to be sold in Australia is illegal under the *Proceeds of Crime Act 2002*.⁴ Reparations must be made to victims of trafficking and slavery under this Act.

Eliminating slavery from all company supply chains is probably impossible as an immediate goal. Raw resources that are mined are also tainted by slavery. In the cases of metals, it is virtually impossible for companies to eliminate slavery from the supply chain. Tantalum for example is used in electronic components which are found in mobile phones and computers. No Government would endeavour to ban the imports or use of mobile phones or computers.

NSA would suggest focussing on some of the key industries where slavery is known to exist at the higher levels of the supply chain. Import and labelling regulations could begin by targeting industries that are specifically important to the Australian economy.

⁴ Proceeds of Crime Act (2002)

A case example - the Australian Prawn Farming Industry

Australia imports 34,000 tonnes of prawn products per year from countries where there have been numerous reported incidences of sweatshop style slavery.⁵ These countries have other problematic issues such as, severe environmental degradation, chemical and medication use, poor hygiene, and introduction of disease into Australian prawn stocks. Virtually every Australian eats prawns imported from these countries, every supermarket and restaurant sells imported prawns. Australian prawn farmers cannot compete with imports that breach ILO requirements for industrial relations. Australian prawn farmers operate using sustainable practice, however increased regulations and non-profitability means that no new operations have been established in recent times. Applications for new operations can take over 10 years and be approved with excessive restrictions enforced.⁶ Australian prawn farmers have been forced out of all markets except the “large prawn” market. Small to medium prawns are completely dominated by imports. Value added and processed product such as peeled or crumbed prawns cannot be produced competitively. Minimal innovation or investment can occur in the industry. Currently the Australian Prawn Farming Industry produces 4000 tonnes per year.⁷ Comparatively Australia imports over 34000 tonnes of prawn products per year.⁸ (These figures under represent import production figures as Australian prawns are weighed as whole wet weight, however imports include total imports such peeled prawns without heads for example, which represent greater production volume per tonne of product).

It is not the role of Government to protect local industry against all international competition. However when the international competition is known to be operating illegally to provide a competitive advantage and this is directly affecting the local industry, the government must employ protective measures. The Government must also be willing to advocate and defend its position in the global arena, particularly with the WLO. There is a democratic deficit in Australia’s trade policy that is favouring reducing barriers to trade, instead of protecting international human rights and local industry.

In this instance a Multi-faceted response is required,

- Policy to stop the importation of prawns that cannot guarantee a slavery free supply chain is optimal.
- Regulation additional to country of origin labelling, to label these imports as potentially using slavery in their supply chains would be beneficial.
- Decreased regulatory burden and increased support for the local prawn industry.

⁵ US Department of State Archives, Mark P. Lagon, Director, Office to Monitor and Combat Trafficking in Persons Washington DC, May 9, 2007 Testimony Before the Senate Committee on Foreign Relations Accessed 17-03-2013 at <http://2001-2009.state.gov/g/tip/rls/rm/07/85072.htm>

⁶ Australian Prawn Farming Association, Helen Jenkins, Greentape Reduction Project Submission, July 2011, accessed on 17-03-2013 at <http://www.apfa.com.au/wp-content/uploads/2012/01/APFA-Submission-to-greentape-reduction-July-20112.pdf>

⁷ Australian Prawn Farming Association figures for 2009 accessed 17/03/2013 at <http://www.apfa.com.au/>

⁸Source: ABS, *International Trade, Australia*, cat. no. 5465.0, Canberra. Figures for 2010 Accessed 17/03/2013 at http://adl.brs.gov.au/data/warehouse/agcstd9abcc002/agcstd9abcc0022011/ACS_2011_1.0.3.pdf

- Increased consumer awareness of Australian prawns as Tier 1 products, which do not use slavery in their supply chains.

Reduce the demand for slavery

This type of approach would need to be on an industry by industry basis. It has the outcome of removing the demand for slavery in source countries, and bolstering the local economy.

There is an increasing trend for multinational companies to take on social responsibility agendas. Companies can be encouraged to eliminate supply chain slavery and trafficking with consumer awareness initiatives. Multinationals can be thought of as the ultimate democracy, in the sense that they respond to consumer demands. Consumers empowered with knowledge about the purchases they are making, can bring about change in the market at a rapid rate. The Australian Government could utilise NGO's to create awareness on an increased level. Of the worlds' top 100 economies, over half are multinational companies. This gives a true representation of economic share, and a fair indication of social responsibility that can be expected from multinationals. NSA supports the notion that companies who move towards sustainable practice, should be rewarded with profits. This is only possible if consumers are aware of the relevant social issues.

The requirement for public disclosure of companies, outlining steps taken to reduce slavery in the supply chains would be a welcome initiative. NSA believes that Australian consumers are also entitled to expect labelling of goods and services that may also contain slavery in their supply chains. Labelling would allow consumers to make a choice about what they are purchasing at the time of transaction. Labelling creates awareness in the community and would support local Australian industries.

Government must lead by example. Australian Public Service superannuation funds should be ethically invested as much as possible. Procurement of goods and services must be sourced from ethical suppliers. ACT Treasurer Andrew Barr in the Canberra Times newspaper defends the Governments investment in companies that use child labour and slavery as "balancing the need for proper returns with good governance and corporate practices" and "maintaining its long term investment return of 5 per cent a year above inflation".⁹ While avoiding slavery completely is impossible in an investment portfolio, public statements such as these send a direct message of acceptance to the community, and to companies and countries breaching international labour laws.

Slavery and Human Trafficking is a burden on source countries creating profits for slaveholders, organised crime and corrupt officials. Slaves cannot pay taxes, educate their children or contribute to communities. Slavery is removing productive members of society from local economies. Trading partners must be educated to understand the true negative impacts of slavery and trafficking to their economies.

⁹ Canberra Times 20 August 2012, *No ACT Funds for Cigarette Makers* accessed on 17-03-2013 at <http://www.canberratimes.com.au/act-news/no-act-funds-for-cigarette-makers-20120819-24gxf.html>

Corruption in trading partner's political frameworks makes it difficult to enforce ILO requirements. Officials receiving bribes and kickbacks from allowing slavery to persist must be sent a clear economic message. International sanctions of countries that cannot improve their evaluation by the ILO or the UN must be enacted and enforced. The relatively small bribery payments will be overshadowed by the dire consequences of economic sanctions. Australia must use its political influence and UN seat to push for international action on slavery and human trafficking in the supply chains of companies.

Sustainable and long term approaches to removing slavery from the supply chain of companies is needed. This would need to be on an industry by industry and with tripartite consultation between Legislature, Industry and NGO's. Reparations must be made to victims of slavery and human trafficking. Support must be provided to eliminate the vulnerability that can create a relapse into slavery.

Conclusion

The cost of removing slavery from the world economy will pay enormous dividends to the world and local economies. The recent bailout of global financial institutions estimated at costing over 6 trillion of dollars is proof that financial restrictions do not exist.

NSA asks the Australian Government to consider the true costs of slavery and human trafficking when appropriating funds and resources to this very important issue. NSA asks the Australian Government to be courageous in its attempt to align international human rights law and international labour law, with international trade law.

NSA thanks the standing committee for the opportunity to present suggestions. NSA would be willing to discuss the above recommendations at any time. NSA has further recommendations on various other issues relating to human trafficking and slavery, however believes that the issues discussed in this paper are where a large impact can be made on this global problem.

Kurt Gruber
Chairperson
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