

3 March 2022

Committee Secretary
Joint Standing Committee on Treaties
PO Box 6021
Parliament House
Canberra ACT 2600

Dear Secretary

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

The Australian Human Rights Commission (the Commission) welcomes the opportunity to make this submission to the Joint Standing Committee on Treaties inquiry into the International Labour Organization Protocol of 2014 to Forced Labour Convention 1930 (No. 29) (Forced Labour Protocol).

Business and human rights is one of the Commission's key priority areas. The Commission remains committed to delivering strategic policy and project outcomes to address forced labour and business and human rights issues across a broad range of sectors.

The Commission strongly supports ratification and implementation of the Forced Labour Protocol.

The Forced Labour Protocol supplements the *Forced Labour Convention, 1930* (No. 29),¹ which Australia ratified on 2 January 1932, and the *Abolition of Forced Labour Convention, 1957* (No. 105),² ratified by Australia on 7 June 1960. It requires states to take measures to prevent forced labour, to provide protection and access to appropriate and effective remedies to victims, such as compensation, and to sanction perpetrators. To date, 57 states including the United Kingdom, New Zealand, France and Germany have ratified the Protocol.³

Forced labour is a form of modern slavery. Forced labour is defined in the ILO Convention No. 29 as work that people must perform against their will under the threat of punishment.⁴ Forced labour is a significant global human rights issue with an estimated 24.9 million people worldwide trapped in forced labour.⁵ Australia is not immune to this scourge. Australian supply chains are well

documented as being closely linked with businesses in the Asia Pacific region, where it is estimated that over two thirds of the victims of modern slavery are based.⁶ It has also been documented that migrant workers in Australia are particularly vulnerable to labour exploitation.⁷

International human rights law unequivocally prohibits slavery and forced labour. Article 8 of the *International Covenant on Civil and Political Rights* protects the right to freedom from slavery and forced labour.⁸ Target 8.7 of the United Nations Sustainable Development Goals commits all States to 'take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking...'.⁹

The Commission commends the Australian Government in taking significant steps to combat modern slavery including:

- The passing of the *Modern Slavery Act 2018* (Cth) to establish a Modern Slavery Reporting Requirement. The Act requires certain companies to report on their efforts to identify and address risks of modern slavery in their operations and supply chains.
- Developing a National Action Plan to Combat Modern Slavery 2020–25 (National Action Plan).¹⁰
- The establishment of Magnitsky-style sanctions that enable Australia to impose sanctions on individuals and entities engaging in, responsible for, or complicit in, egregious conduct including serious human rights violations, such as modern slavery practices.¹¹
- Providing regional leadership through co-chairing the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, and investment in programs such as ASEAN-Australia Counter-Trafficking and TRIANGLE in ASEAN.

In November 2017, by way of a pledge to the IV Global Conference on the Sustained Eradication of Child Labour, the Australian Government announced its intention to progress ratification of the Forced Labour Protocol.¹² This intention was again affirmed in the National Action Plan, which lists progressing ratification of the Forced Labour Protocol as Action Item 9 under National Strategic Priority 1: Prevent.¹³

We note that in previous consultations with State and Territory Governments, Western Australia had indicated that legislative amendments would be required to enable compliance with the Forced Labour Protocol in that jurisdiction.¹⁴

On 22 February 2022, the Western Australian Government announced its support for ratifying the Forced Labour Protocol and confirmed that Western Australian laws will now comply with the requirements of the Protocol.¹⁵ The Commission understands that there are now no factors preventing the immediate ratification of the Forced Labour Protocol.

The Commission considers that ratification of the Forced Labour Protocol will complement and amplify Australia's legislative and policy framework to combat modern slavery and forced labour as well as solidify Australia's ongoing leadership role globally and regionally on these issues. Australia has been at the forefront of efforts to counter modern slavery in the Asia Pacific region which suffers a high prevalence rate of forced labour. Ratifying and implementing the Forced Labour protocol would provide Australia additional leverage in its regional efforts.

The Commission notes that the National Interest Assessment states that there are no costs associated with ratification, as law and practice at the Commonwealth, State and Territory levels is consistent with the provisions of the Protocol.¹⁶

For the reasons outlined above, the Commission recommends that the Australian Government ratify and implement the Forced Labour Protocol.

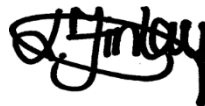
The Commission is happy to provide further assistance to the Committee if required in its consideration of these important matters.

Yours sincerely



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¹ *Convention Concerning Forced Labour*, 1930 (No. 29), opened for signatures 28 June 1930, C29 (entered into force 1 May 1932).

² *Abolition of Forced Labour Convention*, 1957 (No. 105), opened for signature 25 June 1957, C105 (entered into force 17 January 1959).

³ International Labour Organization, 'Ratifications to PO29 – Protocol of 2014 to the Forced Labour Convention, 1930', (Webpage, 2022), <www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:3174672>.

⁴ *Convention Concerning Forced Labour*, 1930 (No. 29), opened for signatures 28 June 1930, C29 (entered into force 1 May 1932), Article 2.

⁵ International Labour Organization and Walk Free Foundation, 'Global Estimates of Modern Slavery: Forced Labour and Forced Marriage', *ILO* (Report, 19 September 2017) 9 <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf>.

⁶ Joint Standing Committee on Foreign Affairs, Defence and Trade, Parliament of Australia, *Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia* (Final Report, December 2017), 65.

⁷ Joint Standing Committee on Foreign Affairs, Defence and Trade, Parliament of Australia, *Hidden in Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia* (Final Report, December 2017), 269.

⁸ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), [1980] ATS 23 (entered into force for Australia 13 November 1980).

⁹ *Transforming our world: the 2030 Agenda for Sustainable Development*, GA Res 70/1, 70th sess, UN Doc A/Res/70/1 (25 September 2015), 20.

¹⁰ Australian Government, 'National Action Plan to Combat Modern Slavery 2020 – 2025', (2020) <<https://www.homeaffairs.gov.au/criminal-justice/files/nap-combat-modern-slavery-2020-25.pdf>>.

¹¹ *Autonomous Sanctions Amendment (Magnitsky-style and Other Thematic Sanctions) Act 2021* (Cth)

¹² Attorney-General's Department, 'Australia's Pledge to progress ratification of the Forced Labour Protocol', (Form, 16 November 2017), <<https://www.ag.gov.au/industrial-relations/publications/australias-pledge-progress-ratification-forced-labour-protocol>> .

¹³ Australian Government, 'National Action Plan to Combat Modern Slavery 2020 – 2025', (2020) <<https://www.homeaffairs.gov.au/criminal-justice/files/nap-combat-modern-slavery-2020-25.pdf>> 23.

¹⁴ National Interest Analysis [2022] ATNIA 5, *International Labour Organisation Protocol of 2014 to Forced Labour Convention 1930* (No. 29), 10.

¹⁵ Government of Western Australia, 'WA supports ratification of international modern slavery protocol', (Media Statement, 22 February 2022) <www.mediastatements.wa.gov.au/Pages/McGowan/2022/02/WA-supports-ratification-of-international-modern-slavery-protocol.aspx>.

¹⁶ National Interest Analysis [2022] ATNIA 5, *International Labour Organisation Protocol of 2014 to Forced Labour Convention 1930* (No. 29) , 7.