



THE LAW SOCIETY  
OF NEW SOUTH WALES

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Ms Margery Nicoll  
Acting Chief Executive Officer  
Law Council of Australia  
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By email: [alex.kershaw@lawcouncil.asn.au](mailto:alex.kershaw@lawcouncil.asn.au)

Dear Ms Nicoll,

**Australian Government Consultation Paper on a new International Strategy on Human Trafficking and Modern Slavery**

Thank you for the opportunity to contribute to the Law Council's submission to the Department of Foreign Affairs and Trade on its Consultation Paper on a new *International Strategy on Human Trafficking and Modern Slavery* ("Consultation Paper").

The Law Society's Human Rights Committee has contributed to this submission, which addresses questions 1, 2, 3 and 5 in the Consultation Paper.

**Questions 1 and 2: Additional and existing objectives of the 2020 Strategy**

The Law Society agrees with the relevance and importance of the five existing objectives contained in the Consultation Paper on a new *International Strategy on Human Trafficking and Modern Slavery* ("2020 Strategy"). These objectives reflect important priorities for Australia in its contribution to the international effort to eliminate human trafficking and modern slavery.

Regarding the need for additional objectives or actions, the Law Society suggests the 2020 Strategy would be strengthened by requiring the Australian Government to prepare guidance for Australian businesses with an international supply chain on remediation processes to respond to instances of modern slavery. Depending on the circumstances, remediation processes can include formal apologies, compensation, steps to ensure the harm does not recur, grievance mechanisms, or supply chain hotlines. Government guidance on this issue would ideally be tailored to specific sectors and geographic regions, though we appreciate there may be resource constraints that require a priority focus on high-risk sectors and regions.

In making this recommendation, we note that a June 2018 report commissioned by signatories to the 2015 Australian Business Pledge against Forced Labour – which includes Woolworths, Coles, Big W, Masters, Simplot, Goodman Fielder, Inghams and Officeworks – determined that:

"[L]eading retailers are perceiving a role in understanding and remedying the broader drivers of forced labour within regions and beyond suppliers' premises. While such initiatives continue to take shape, it is also clear that the mainstream features of responsible

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sourcing programs, while important in many respects, are not geared to the effective remedy of forced labour drivers in most instances”.<sup>1</sup>

The report found in particular that many existing grievance mechanisms ignore the acute imbalances of power that give rise to human rights abuses in the first instance.

Since the Australian Business Pledge against Forced Labour report was published, the *Modern Slavery Act 2018* (Cth) (“MSA”) has entered into force. The MSA has reportedly resulted in large Australian companies increasing their human rights due diligence of supply chains.<sup>2</sup> However while the MSA requires entities based in Australia with consolidated revenue of more than \$100 million to report annually on due diligence and remediation processes in a modern slavery statement, there is currently limited practical guidance from the Government on effective remediation processes, beyond a one-page summary of the concept in the *Guidance for Reporting Entities* prepared by the Department of Home Affairs. The provision of clear guidance from the Government to businesses on how to respond upon an identification of modern slavery would complement the requirements in the MSA, and assist in achieving the 2017 *Foreign Policy White Paper* commitment to ensure goods and services are not tainted by exploitation.

### **Question 3: Promoting integration of human rights and labour standards in responses to human trafficking and modern slavery**

The Law Society recommends that the 2020 Strategy take into account relevant international human rights instruments Australia has endorsed or voted to adopt since the 2016 *International Strategy to Combat Human Trafficking and Slavery* was prepared. These include the 2030 Agenda for Sustainable Development<sup>3</sup> and the Call to Action to End Forced Labour, Modern Slavery and Human Trafficking.<sup>4</sup> By referring to these instruments in the 2020 Strategy, Australia’s contributions to the elimination of modern slavery and human trafficking will be informed by the most recent internationally recognised principles and norms. Moreover, and in light of Australia’s historical advocacy on modern slavery, express recognition and support for these instruments will bolster international efforts to address the issue.

### **Question 5: How can the 2020 Strategy support a stronger emphasis on evidence and research to tackle human trafficking and modern slavery?**

The 2020 Strategy could support a stronger emphasis on evidence and research to tackle human trafficking and modern slavery through encouraging and facilitating the publication of data, resources and advisory information on human rights and modern slavery. One way of achieving this would be through making funding available to support cross-sectoral research on the best evidence-based approaches to identify, respond to and remedy instances of modern slavery. This would have a positive influence on communication and ideas sharing between relevant stakeholders, including government and the private sector.

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<sup>1</sup> Australian Business Pledge against Forced Labour, *The business response to remedying human rights infringements: The current and future state of corporate remedy* (June 2018), 1.

<sup>2</sup> Justine Nolan and Jolyon Ford, *Regulating Transparency and Disclosures on Modern Slavery in Global Supply Chains: A ‘Conversation Starter’ or a ‘Tick-box Exercise’?* (Research Paper No. 19-57, UNSW Law, 8 August 2019) 13.

<sup>3</sup> UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, 21 October 2015, A/RES/70/1.

<sup>4</sup> Prime Minister the Rt Hon Theresa May MP, *A Call to Action to end Forced Labour, Modern Slavery and human trafficking*, 19 September 2017 <<https://www.gov.uk/government/publications/a-call-to-action-to-end-forced-labour-modern-slavery-and-human-trafficking>>.

Should you have any questions or require further information, please contact Andrew Small, Policy Lawyer, on (02) 9926 0252 or email [andrew.small@lawsociety.com.au](mailto:andrew.small@lawsociety.com.au).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'R Harvey', with a stylized flourish at the end.

Richard Harvey  
**President**