

adidas Group Submission
Australian Parliamentary Inquiry into Modern Slavery
Joint Standing Committee on Foreign Affairs, Defence and Trade

Introduction

adidas Group has been supportive of the enactment of the UK Modern Slavery legislation, specifically its provisions for driving greater transparency and disclosure of the actions taken by companies to identify and address forced labour and human trafficking in global supply chains.

We welcome the Joint Standing Committee's inquiry and efforts to identify international best practice for the prevention of modern slavery and human trafficking and your examination of the relevance and effectiveness of the UK legislation; with a focus on possible improvements should the Australian government choose to enact similar legislation.

adidas Group has a mature social compliance programme which was founded at the end of 1990's. Our programme was developed around a set of Workplace Standards, which incorporate core international labour rights and human rights conventions. Our focus has been on ensuring fair, safe and healthy working conditions for the workers who make our products in alignment with international standards and norms, whilst at the same time working within the limits of the national laws that govern the operations of our contract suppliers; often in countries with weak regulatory enforcement.

In this respect, forced labour, child labour and migrant labour are all issues which we have dealt with in the past and which we continue to address through our monitoring of our direct supply chain (where we have formal contractual relationships) and through our Modern Slavery Outreach Programme, which tackles risks in our upstream suppliers, including raw material suppliers providing agricultural commodities: natural rubber, leather and cotton.

For the purposes of this submission we have limited our comments to those topics where our knowledge and practical experience may be of assistance to the Committee. In particular, we offer comments on:

- Industry best practice;
- Supply chain transparency; and
- Application of Part 6 of the UK Modern Slavery Act 2015.

Relevant links:

- http://www.adidas-group.com/en/sustainability/reporting/policies-and-standards/standards-and-policies/http://www.adidas-group.com/media/filer_public/52/da/52da31a6-93d0-4e01-a4d5-e3d96fef949/adidas_group_response_to_knowthechain_20june2016.pdf
- https://knowthechain.org/wp-content/plugins/ktc-benchmark/app/public/images/benchmark_reports/KTC_A&F_ExternalReport_Final.pdf

Industry Best Practice

For adidas Group, we conceptualise modern slavery in broad terms, to include overlapping issues and concerns related to forced labour, migrant labour and the eradication of the worst forms of child labour.

Child Labour

In the early years of our programme we were deeply engaged over the issues of child labour in the football stitching industry in Sialkot, Pakistan and in Jalandhar, India. The 1997 Atlanta Agreement, and the actions that stemmed from it, is a good example of industry-government collaboration to tackle child labour issues in the developing world. Twenty years on, this initiative remains a good example and one which is well documented by the ILO.

To reduce the risks of child labour and better manage working conditions, local football manufacturers began building dedicated stitching centres, formalising employment and replacing the community-based cottage industry. In doing so it adversely impacted women workers, who relied on seasonal home-stitching as a source of income to support their families and especially their children. Because of religious and cultural reasons the female stitchers could not travel unaccompanied to the newly built stitching-centres, which were located some distance away from their homes, nor was acceptable for them to work alongside male stitchers. adidas Group responded by developing village-based women-only stitching centres, with inbuilt crèches for pre-school children.

We would recommend that the Committee examine the way the collaborative efforts in Pakistan unfolded with respect to the Atlanta Agreement, the use of export tariffs to fund independent monitoring (led initially by the ILO), and the complementary funding by FIFA and adidas Group to build school infrastructure and support children's educational needs. We have shared below a link that describes our work on the women stitching centres and child labour.

It is our firm belief that only through coordinated and collaborative approaches – those which bring together industry players, government agencies and civil society partners - can the worst forms of child labour, and the most egregious situations of forced labour, be addressed. In a developing world setting, the root causes of forced labour and human trafficking are highly complex and challenging, interwoven with questions of poverty, development needs, labour migration patterns, government capacity, regulatory enforcement and, often, underlying issues of corruption. To tackle modern slavery in all its many forms, one requires deep insights and continuous engagement with local communities in order to build trust and to drive the best outcomes to safeguard vulnerable groups against exploitation.

Relevant links:

- <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=2125&context=globaldocs>
- http://www.ilo.org/wcmsp5/groups/public/---ed_mas/---eval/documents/publication/wcms_149869.pdf
- http://www.csr-asia.com/report/Joining_the_dialogue-Vulnerable_children_and_business.pdf
- <http://www.fairplayforchildren.org/pdf/1299571715.pdf>

Forced Labour

Recently, the electronics industry has taken positive steps to address forced labour in the manufacturing supply chain in Malaysia. This was built on the back of 3 years of research commissioned by the US Department of Labor; with the researchers utilising the ILO's forced labour indicators to map the exploitation and hardship faced by vulnerable migrant workers. The research identified issues that a decade earlier the apparel industry, in partnership with the Malaysian Bar Council and the Fair Labor Association, had also sought to tackle.

It should be acknowledged that the US DOL research was timely and impactful: it acted as a "wake-up call" and catalyst for change. In response the electronic industry re-examined its policies and practices on migrant labour. This spurred the adoption of a revised and updated Code of Conduct for the industry that called for:

"A1. Freely Chosen Employment: Forced, bonded (including debt bondage) or indentured labor, involuntary prison labor, slavery or trafficking of persons shall not to be used. This includes transporting, harboring, recruiting, transferring or receiving persons by means of threat, force, coercion, abduction or fraud for labor or services. There shall be no unreasonable restrictions on workers' freedom of movement in the facility in addition to unreasonable restrictions on entering or exiting company-provided facilities. As part of the hiring process, workers must be provided with a written employment agreement in their native language that contains a description of terms and conditions of employment prior to the worker departing from his or her country of origin. All work must be voluntary and workers shall be free to leave work at any time or terminate their employment. Employers and agents may not hold or otherwise destroy, conceal, confiscate or deny access by employees to employees' identity or immigration documents, such as government-issued identification, passports or work permits, unless the holding of work permits is required by law. Workers shall not be required to pay employers or agents recruitment fees or other aggregate fees in excess of one month's salary. All fees charged to workers must be disclosed and fees in excess of one month's salary must be returned to the worker."

We would recommend that the Joint Standing Committee consider how the funding of independent research can positively aid in identifying modern slavery issues and how this can drive responsible sourcing practices. This may be an area for the Australian government to consider in its allocation of foreign aid, university grants, or other forms of research support.

Relevant links:

- <http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1942&context=globaldocs>
- <https://www.verite.org/wp-content/uploads/2016/11/VeriteForcedLaborMalaysianElectronics2014.pdf>
- <http://www.eiccoalition.org/standards/code-of-conduct/>
- <http://www.eiccoalition.org/news-and-events/news/eicc-combating-forced-labor/>

Migrant Labour

Our own experience in dealing with migrant labour shows how important the local context can be in defining issues. Governments can have a positive influence, reducing the potential for labour exploitation, by ensuring that proper safeguarding measures are in place and enforced, and by offering victim protection in the case of human trafficking.

But government policies can also act an impediment. Malaysia, for example, is one among a number of countries in Asia that has chosen to impose a levy on those securing work as a migrant labourers. Employers pay for the levy, which is then deducted from the foreign workers' wages. This places a significant burden on a particularly vulnerable group of workers – who may already be heavily indebted to unscrupulous middlemen or exploitative recruitment agencies. Such is the burden of debt that for some workers several years may go by before they are able to actively save, or send money home to their families.

Leading international brands, such as the adidas Group, require our suppliers to absorb government levies on foreign labour, rather than passing these costs on to workers. Such action is part of a broader movement by international companies, supported by labour advocacy and human rights groups, to address the pervasive issue of recruitment fees, worker debt and other costs associated with labour migration abroad. This has given birth to a number of initiatives in recent years, including the *Dhaka Principles* (published in 2012) call for “migration with dignity” and the *Leadership Group for Responsible Recruitment*, which is committed to the ‘Employer Pays Principle’, whereby “no worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer”. Moreover, since 2011 the *Fair Labor Association* (FLA) has required fees associated with the employment of workers to be “the sole responsibility of employers” and for suppliers to exclude the use employment agencies that require workers to pay recruitment and/or employment fees. As a participating company and founding member, adidas Group is bound by code provisions of the FLA.

Responsible recruitment demands partnership-based solutions, including the involvement of sending and receiving countries, the regulation of intermediaries and employment agencies, and transparency over government “fees” and clearance processes. We would recommend that the Committee consider not only existing best practices, but also ways the Australian government could actively encourage and support collective action by companies, States and civil society groups, working towards the common goal of *shared responsibility*.

Relevant Links:

- http://www.google.com.sg/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&ved=0ahUKEwjpV_uXxazSAhXGro8KHepvCOUQFgg6MAY&url=http%3A%2F%2Fwww.fairlabor.org%2Fsites%2Fdefault%2Ffiles%2Ffla_complete_code_and_benchmarks.pdf&usg=AFQjCNE-gzaxX03luYQF7knO7UbWTVrcdA&bvm=bv.148073327,d.c2l
- <http://www.dhaka-principles.org/>
- <https://www.ihrb.org/news-events/news-events/the-leadership-group-responsible-recruitment>

Supply Chain Transparency

Over the years we have learned that identifying, preventing and mitigating human rights risks across our global supply chain is complex, challenging, and resource intensive. It demands expertise, outreach and the right partnerships. It also requires perseverance and a willingness to push the boundaries of what is possible and look for new ways of working. Aligned with this approach, in early 2016 adidas Group completed a risk-based assessment of its extended supply chain, i.e. our Tier 2 processing suppliers and Tier 3 raw material sources that fall outside the mainstream coverage of our labour monitoring programme.

The review was triggered by a simple question: “If we are to manage the risk of modern slavery in our wider supply chain, where should we prioritise our efforts?”

In posing such a question, most enterprises are hampered by a simple fact: they are unclear as to their supply chain relationships. Full traceability - from source to final point of sale - remains an ideal, but one that has yet to be realized for the vast majority of companies. Indeed, the larger the enterprise or the more diverse its product offering, the more complex the challenge. adidas Group is better placed than many, in that our Product Operations team has over the course of the past decade consolidated our supply chain, such that today over 80 percent of all products are made in fewer than 110 primary factories. Product Operations also has broad visibility into our key materials sourcing relationships, including the natural and man-made materials that flow into the manufacturing process. It is not a perfect picture - far from it - but it is a good starting point for the purposes of building a modern slavery outreach programme. And this is what we are now working towards.

Based on the risk assessments conducted in 2016, we have set three near term priorities for our Modern Slavery Outreach:

- **STRATEGY 1** - Tailored training including the development of a **Modern Slavery Training & Awareness Module** for Tier 2 supply chain (especially in locations of migrant labour concern) to drive awareness and provide practical guidance on good work practices. This is currently being piloted and will be progressively rolled out in 2017-18.
- **STRATEGY 2** - Forging **multi-stakeholder partnerships and collaborations** with the Fair Labor Association, the International Labour Organisation, civil society groups and other brands with similar agricultural supply chains, to jointly address risks associated with leather and rubber sourcing from hot spot (i.e. high risk) countries.
- **STRATEGY 3** – In sourcing conventional cotton, making **Turkey** our primary focus for engagement through the development of collaborative models. Given the Syrian refugee situation, Turkey currently has the highest risk profile of any of our cotton sourcing locations.

The above activities complement our ongoing and direct monitoring of child labour, forced labour and migrant labour in our Tier 1 manufacturing partners and selected Tier 2 materials suppliers and our long standing involvement with the Better Cotton Initiative (BCI), which incorporates core international labour standards. By 2018 BCI will account for all conventional cotton sourced by adidas Group.

Again, our aim has been to develop approaches that address modern slavery without necessarily providing a one-to-one link between our sourcing footprint and the issues at hand. In Turkey, for example, we have not sought to

identify specific cotton farms in our supply chain, but have identified those key cotton growing areas where agricultural labourers, Syrian refugees, and their children, are likely to be at risk of exploitation. We have then partnered with the Turkish government, the United Nations High Commissioner for Refugees and local NGOs to design forced labour and child labour protection strategies. These efforts include the creation of booklets and posters in Arabic and Turkish to educate refugees on their rights and relevant Turkish labour laws, providing a hotline number to call and disseminating leaflets for employers and cotton farmers highlighting the risks associated with employing child labour.

A great deal of attention and debate has been directed at supply chain disclosure and traceability. We would argue that broad based risk mapping should suffice to identify critical areas of concern and enables enterprises to focus their attention on possible impacts in their supply chain, which they need to address by creating leverage through local partnerships. This may be a more viable approach for many businesses than full traceability.

Another approach, one which has been outlined by the OECD in its recently published *Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector* is to focus on specific choke points. A 'choke point' is a key point of transformation in the supply chain, where materials and processes converge, and where the responsible producer should have "visibility and control over the circumstances of production and trade upstream". Examples cited by the OECD include global commodities merchandisers (e.g. for cotton and rubber), exporters, processors, wholesalers (e.g. for fragmented supply chains), chemical plants (e.g. for synthetic fibres) and smelter and refiners (e.g. for metals). A choke point approach calls for enterprises "to identify suppliers operating at choke points in its supply chain for products that are linked to severe impacts upstream (i.e. beyond where the enterprise has visibility)" and to "verify that enterprises operating at choke points are identifying, preventing and mitigating harms linked to their suppliers".

A recent example of the above approach is the Responsible Sourcing Networks' Yarn newly launched *Ethically and Sustainably Sourced* (YESS) initiative, which aims to drive slavery out of cotton supply chains. In order to secure more ethical sourcing of upstream cotton, the YESS initiative focuses on one specific point in the supply chain: spinning mill operators and their buying decisions.

Relevant Links:

- [https://business-humanrights.org/sites/default/files/documents/adidasGroup_Summary_Modern%20Slavery%20Risk%20Assessment_Aug2016rev%20\(002\).pdf](https://business-humanrights.org/sites/default/files/documents/adidasGroup_Summary_Modern%20Slavery%20Risk%20Assessment_Aug2016rev%20(002).pdf)
- <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-Garment-Footwear.pdf>
- <http://www.sourcingnetwork.org/yess/>

Slavery & Human Trafficking Statements

We believe the requirement under section 54 of the UK Modern Slavery Act to publish an annual statement is a positive measure and one which any responsible business should support. Given the maturity of our in-house labour and human rights due diligence programmes, and our long standing commitment to supply chain transparency, compliance with this provision does not present a burden to the adidas group. It is not costly, given

our established monitoring programmes and risk management approach. It may however present a challenge for small to medium enterprises (SMEs), with less developed systems for reporting social impacts in their global supply chains. It is the SMEs that require the greatest assistance, encouragement and guidance in order to comply with the UK Modern Slavery Act, or any similar law contemplated by the Australia government.

Whilst adidas Group is a strong advocate for disclosure, from a business perspective we are concerned that parallel legislative requirements in different parts of the world (including Australia) could create duplication in effort or multiple, varied approaches. This should be avoided.

We would recommend that the Committee examine how future legislation would complement the UK Modern Slavery Act, and in particular bring clarity to the specific areas of disclosure required by companies and whether this is best served through Public Statements published on company websites, or through other mechanisms – for example a global register that would act as a common platform for all businesses.

Currently section 54(5) of the UK's Modern Slavery Act outlines what a statement MAY include, but there is no prescribed form of content or length for a statement. It remains flexible. Perhaps that is appropriate, given that some 6,000 different businesses, large and small, domestic and international, fall within its scope. However a more uniform reporting standard would be helpful for larger enterprises, which may have greater reach and impact in terms of global supply chains.

Supplementary guidance from the UK Home Office, at paragraph 4.2, states that a business MUST state the steps they have taken during the financial year to ensure slavery is not taking place, or if they have taken no steps at all. Section 54 of the Modern Slavery Act also prescribes how the statement should be published and who must approve it. Despite these obligations, there are no material statutory sanctions for non-compliance. Thus, the principal sanction of not taking steps to ensure that “slavery is not taking place” and publishing a statement is driven largely by potential reputational risks. This can be a strong motivator for consumer-facing companies, such as adidas, but less effective for businesses where their public profile, scale, services or products, are not reputation-sensitive.

In the context of the UK legislation, it appears that there is an expectation that the advocacy community takes a leading role in tracking and benchmarking companies; calling out those who do not appear to be doing an adequate job with disclosure. This is divesting government of its responsibilities and perhaps weakens the overall effect of the UK Modern Slavery Act, which under section 54 lacks an enforcement mechanism.

We believe that governments that share a common interest and concern over modern slavery in relation to global supply chains should work collectively to agree a standard reporting approach. That would allow a common interchange or exchange of information between different legal jurisdictions.

Perhaps this is an area where the Australian government could show leadership.