



MARITIME UNION OF AUSTRALIA (MUA)

**SUBMISSION TO THE PARLIAMENTARY
JOINT STANDING COMMITTEE ON FOREIGN
AFFAIRS, DEFENCE AND TRADE**

**INQUIRY INTO ESTABLISHING A MODERN
SLAVERY ACT IN AUSTRALIA**

4 MAY 2017

1. About the MUA

- 1.1 The Maritime Union of Australia (MUA) represents nearly 13,000 workers in the shipping, stevedoring, port services, offshore oil and gas and diving sectors of the Australian maritime industry.
- 1.2 Members of the MUA work in a range of occupations across all facets of the maritime sector including on coastal cargo vessels (dry bulk cargo, liquid bulk cargo, refrigerated cargo, project cargo, container cargo, general cargo) as well as passenger vessels, towage vessels, salvage vessels, dredges, ferries, cruise ships, and recreational dive tourism vessels.. MUA members work on LNG tankers engaged in international Liquefied Natural Gas (LNG) transportation. In the offshore oil and gas industry, MUA members work in a variety of occupations on vessels which support offshore oil and gas exploration, construction and operations.
- 1.3 In ports, MUA members work as stevedoring workers, as well as directly for port authorities across Australia, including as safety officers, pollution control and oil spill response officers, emergency response personnel, dredging crew, pilot boat crew, and in vessel traffic control. MUA members also work in port services which are often sub-contracted, for example, tug boats, lines and mooring services (although these services are also provided by some port authorities), and in container and bulk and general stevedoring.
- 1.4 The MUA is a member of the International Transport Workers Federation (ITF) which is the peak global union federation for over 700 unions representing over 4.5 million transport and logistics workers worldwide. Among the IYF affiliates are several hundred seafarer unions representing international seafarers who work on the worlds ships as well as unions covering transport workers in global product supply chains.
- 1.5 The ITF is an active participant in the implementation of the ILO Maritime Labour Convention and is actively involved in the work of the IMO.
- 1.6 The MUA welcomes the opportunity to present a submission to Parliamentary Joint Standing Committee on Foreign Affairs, Defence and Trade Inquiry into Establishing a Modern Slavery Act in Australia.

Recommendation

The MUA recommends that the Committee support and advocate the development and passage of a Modern Slavery Act for Australia.

We recommend that the weaknesses in the UK *Modern Slavery Act 2015* (UK Act) be addressed in development of an Australian Modern Slavery Act.

We recommend that the Committee adopt the proposals in the ACTU submission and in this submission, as the matters that will address weaknesses in the UK Act for inclusion in an Australian Modern Slavery Act.

2. The MUA supports and endorses the submission made by the Australian Council of Trade Unions (ACTU)

- 2.1 The MUA supports the ACTU submission to the inquiry and endorses its key proposals regarding
- The need for an Australian Act to apply extra-territorially.
 - A lower threshold than the UK 36M pound cut off for reporting.
 - Better disclosure by companies.
 - The need for a central (government) repository for accountability statements.
 - The inclusion of penalties for failure to issue a statement, issuing a fraudulent statement and lack of appropriate policy on forced labour and human trafficking.
 - Mandating for companies to conduct human rights due diligence audits in their supply chains.
 - Inclusion of a mix of voluntary and mandatory measures in the Act i.e. similar to the framework under Australian homeworkers legislation.

3. MUA proposals for an Australian Modern Slavery Act

- 3.1 The MUA submits that in circumstances where an Australian company that falls within the scope of an Australian Modern Slavery Act is found guilty of an offence created by s1(b) of the UK Act, the reparation order provisions be strengthened such that the determining tribunal must make a reparations order based on the full liabilities owing to the victim/s based on entitlements that the person would have been entitled to under the provisions of: (i) if the offence occurred in Australia's labour law jurisdiction, the *Fair Work Act 2009* (FW Act), an Award or Enterprise Agreement made under the FW Act; and (ii) if the offence occurred in another country outside the jurisdiction of the FW Act, the entitlements that the person should have been entitled to under the labour laws of that country and or entitlements imposed by the nation's ratification of ILO Conventions.
- 3.2 We also submit that the end-user beneficiaries of the products or services produced by forced labour be ultimately liable if the person who committed the offence cannot pay (which we say is a very likely in the circumstances of forced labour in developing nation supply chains).
- 3.3 We are therefore proposing that the chain of responsibility principles should apply in the penalty regime provided in an Australian Modern Slavery Act.
- 3.4 The MUA also submits that in circumstances where a person is guilty of a trafficking offence or a slavery offence and the victim/s is or has been removed from their home country, the reparation provisions should include a repatriation obligation so that the victim/s is supported in being returned to their country of origin, if that is the wish of the victim/s.
- 3.5 This is important in the case of shipping and victims of ship piracy, and is a feature of the ILO Maritime Labour Convention (MLC) which is given effect through the Australian *Navigation Act 2012* and Marine Orders Issued under that Act, specifically Marine Order 11 of 2013 (Living and working

conditions on vessels). We refer to Clauses 95 and 97 of Marine Order 11 which incorporate the principle of repatriation based on the ILO MLC and which establishes the responsibility for meeting the cost of repatriation.

- 3.6 In relation to the maritime enforcement provisions of an Australian Act, we submit that it will be important that such legislation covers State, Territorial and Commonwealth waters within its scope.