



Submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade's Inquiry into a *Modern Slavery Act* for Australia

Shannon Walker
Executive Director
Australian Sporting Goods Association Inc (ASGA)
Ph: 03 9320 2655

Suite 1.03, Level 1 / 492 St Kilda Road
Melbourne VIC 3004

Context

The Australian Sporting Goods Association Incorporated (ASGA) welcomes the opportunity to make a submission to the Joint Standing Committee on Foreign Affairs, Defence and Trade's Inquiry into a Modern Slavery Act for Australia.

ASGA was formed in 1981 as the national industry association representing a broad spectrum of sporting and active lifestyle goods industry participants, including brands, manufacturers, distributors and retailers.

Members of ASGA include the world's leading sports brands and major Australian retailers.

The sporting goods industry is a major player in the global supply chain, sourcing raw product and manufacturing goods, ranging from basketballs to t-shirts, to running shoes, from all corners of the globe.

ASGA is a leading industry voice on issues impacting the health, trade, regulation and taxation of the sporting and active lifestyle goods industries. ASGA aims to foster market growth, provide services and advocate for increased participation in sport and physical activity.

All ASGA members are expected to abide by our Code of Conduct¹, which states:

The ideals of ASGA are the ideals of sport, and the organisation seeks to promote fairness, honesty, mutual understanding and high ethical standards not only on the sports field but throughout the industry, from the manufacturers of sporting goods, to the wholesalers and retailers.

The relationship between ASGA and their Members must be based on trust, mutual respect and common values. ASGA is committed to fostering a sporting goods industry in which Member companies actively build business partnerships with those who share the values of sport and take responsibility of making the values real through active involvement.

Members must ensure that all activities related to the production and/or sale of sporting goods at least comply with the all relevant applicable mandatory legal requirements.

Responses to the Terms of Reference

ASGA and our members support Australia adopting a Modern Slavery Act similar to the UK Act, that will complement other international efforts to combat modern slavery.

With regard to the Terms of Reference for this inquiry, this submission will concentrate on looking at those terms that will most affect our members and which we are most able to comment on:

- ToR 2: The prevalence of modern slavery in the domestic and global supply chains of companies, businesses and organisations operating in Australia;
- ToR 3: Identifying international best practice employed by governments, companies, businesses and organisations to prevent modern slavery in domestic and global supply chains, with a view to strengthening Australian legislation;
- ToR 5: Provisions in the United Kingdom's legislation which have proven effective in addressing modern slavery, and whether similar or improved measures should be introduced in Australia;
- ToR 6: Whether a Modern Slavery Act should be introduced in Australia.

¹ <http://www.asga.com.au/wp-content/uploads/2015/01/ASGA-Code-of-Conduct-June-2015.pdf>

The prevalence of modern slavery in the domestic and global supply chains and identifying best practice

Research suggests there are around 46 million people enslaved worldwide², while the International Labour Organisation (ILO) estimates the illegal profits of forced labour to be around US\$150 billion³.

Sporting and active lifestyle goods brands have been at the forefront of combating modern slavery for many years. While the actions of individual companies vary, both large and small sporting goods businesses take these issues seriously.

Through their membership of ASGA (and often independently of ASGA for international corporations), Australian sporting and active lifestyle goods companies are affiliates of the [World Federation of Sporting Goods Industry \(WFSGI\)](#).

The WFSGI plays a significant role in representing the interests of the sporting and active lifestyle goods industry in international forums. They work with organisations like the United Nations and the ILO to ensure global best practice by their members.

As stated in the WFSGI document 'Rules of the Game', which outlines how members can adhere to the Association's Code of Conduct:

WFSGI's Code of Conduct provides a comprehensive and systematised view of the challenges inherent in this global industry with complex networks of suppliers and buyers, workers, brands, consumers, and regulators. This is especially important for smaller industry players like brands and suppliers that rely on outside support to research and develop programmes for responsible business operations.

The different sections, or Principles, of the Code of Conduct provide the foundation for a comprehensive approach that makes the difference between meeting minimum legal requirements and leading change in the face of complex and entrenched social and environmental issues.

These Principles are based on the international labour standards outlined in the relevant Conventions of the International Labour Organisation (ILO).⁴

The Principles in the WFSGI Code of Conduct (which have been adapted for use in the ASGA Code of Conduct) relate to a variety of issues member companies are expected to address, including environmental concerns, community involvement, health and safety and the like. In relation to this Inquiry, the Code includes Principles about forced labour and child labour:

Forced Labour

Employers shall not use forced labour, whether in the form of prison labour, indentured labour, bonded labour, or otherwise. No employee can be compelled to work through force, the threat of force, or intimidation of any form.

Child Labour

No person shall be employed at an age younger than 15 (or 14 where the country of operation allows), or younger than the age for completing compulsory education in the country of manufacture where such age is higher than 15. All legal requirements for employees under 18 shall be followed and no person under the age of 18 shall be engaged in hazardous work or conditions, or any work at night.⁵

As an example, these Principles have been put into action through, amongst other programs, an agreement between the WFSGI, its members, and the Federation Internationale de Football Association (FIFA) the global governing body for soccer.

Since 1997 the organisations have worked together to eliminate child labour in the football stitching industry in Pakistan and India.

² Global Slavery Index 2016 - <http://www.globallslaveryindex.org/findings/>

³ <http://www.ilo.org/global/topics/forced-labour/policy-areas/statistics/lang--ja/index.htm>

⁴ http://www.wfsgi.org/system/files/2017-03/WFSGI_Application%20of%20Code%20of%20Conduct_0.pdf (p. 3)

⁵ <http://www.wfsgi.org/system/files/2017-01/WFSGI%20Code%20of%20Conduct%202016.pdf>

Today, any company that wishes to sign a FIFA license agreement and become part of the FIFA Quality Programme must first sign a WFSGI Pledge, together with their manufacturer, confirming they are both in compliance with the WFSGI Code of Conduct. This requirement now covers not only soccer ball manufacturers but also artificial turf and goal line technology producers.

To verify compliance, WFSGI requires FIFA licensees to submit a comprehensive audit report, issued by an internationally recognised third party auditor. Reviewed annually, non-compliance with the code can result in withdrawal of the FIFA licence.⁶

Smaller companies in the sporting and active lifestyle goods sector may sign up to the WFSGI Code, or work with other compliance and accreditation bodies to assist them in meeting their international obligations.

For example, Canberra-based Bottles of Australia (an ASGA member) operate the only Worldwide Responsible Accredited Production (WRAP) compliant factory in Australia.⁷ By doing so BoA have signed up to a stringent set of standards that prohibit child and forced labour and ensure the manufacturer follows anti-discrimination and fair workplace laws.

Similarly, larger, international brands have their own internal standards and policies (see, for example, the submission to this inquiry by the adidas Group) and often also sign up for international programs like the Fair Labor Association (FLA).

As noted on their website, since the late 1990's the FLA has been fighting abusive labor practices by "offering tools and resources to companies, delivering training to factory workers and management, conducting due diligence through independent assessments, and advocating for greater accountability and transparency from companies, manufacturers, factories and others involved in global supply chains."⁸

The FLA does this by:

- Holding affiliated companies accountable for implementing FLA's Code of Conduct across their supply chains
- Conducting external assessments so that consumers can be assured of the integrity of the products they buy
- Creating a space for Civil Society Organisations to engage with companies and other stakeholders to find viable solutions to labor concerns.⁹

Note that ASGA is not affiliated with the FLA and is not proposing their methodology above any other particular program. They are, however, a good representation of the effectiveness of business and non-government organisations working together to combat modern slavery within the international supply chain.

We would suggest that, as per the UK legislation, the use of and adherence to such voluntary codes of conduct as discussed above could form one reporting opportunity for Australian businesses complying with the legislation.

Feedback from our members operating under the UK Act and the Californian *Transparency in Supply Chains Act* suggests that international best practice is based around the ideas of shining a light on the issue and recognising businesses for doing the right thing.

There is a danger in setting minimum standards in any proposed Modern Slavery Act, as this could well incentivise some businesses to only comply with the bare minimum, rather than encouraging industry leaders to apply creative and global solutions within their own businesses to fight slavery in their supply chains.

ASGA members want a level playing field, one where responsible brands and manufacturers can take a leadership role and provide a positive example of corporations that take active steps to combat modern slavery. This seems best served by creating a framework, through legislation, that requires businesses to report on what actions their company has taken to prevent slavery in their supply chains, without being overly prescriptive about what those steps must be.

⁶ http://www.wfsgi.org/system/files/2017-03/WFSGI_Application%20of%20Code%20of%20Conduct_0.pdf (p. 6)

⁷ <http://www.wrapcompliance.org/wrap-facilities-worldwide>

⁸ <http://www.fairlabor.org/>

⁹ <http://www.fairlabor.org/our-work>

Provisions in the United Kingdom's legislation and how they can be improved

In this section we'll discuss both the UK *Modern Slavery Act* and also the Californian *Transparency in Supply Chains Act*, their differences and similarities and how important it is for the Australian legislation to be consistent, as much as possible, with both.

Section 54 of the UK's *Modern Slavery Act* – that part of the Act that deals with transparency in supply chains – sets out which companies that provision applies to:

- A body corporate or partnership
- Supplies goods or services
- Has an annual turnover of £36 million (approx. AU\$62 million) or more
- Carries on a business of part of a business in the UK.

ASGA believes this definition of a company that must adhere to a proposed Modern Slavery Act is a good one (relative to the Australian context), with the only real question being about the level of turnover for the Australian legislation. It is important the legislation capture businesses heavily involved with the international supply chain, but that it does not impose unnecessary burdens on small businesses.

ASGA would argue that, for the Australian economy, the US\$100 million threshold in the Californian legislation is too high and that such a figure would miss companies that should be reporting on their efforts to combat slavery in their supply chains.

The UK Act requires companies meeting the above criteria to publish a statement, each financial year, on what steps the organisation has taken during that financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its own business. Or a statement that the organisation has taken no such steps.¹⁰

The Californian Act has a similar requirement.¹¹

ASGA supports such a provision in any Australian Modern Slavery Act. International best practice suggests that, by highlighting those businesses that are taking positive steps, while identifying those businesses that could do more, is the best way for Government to ensure companies operating in Australia are, in fact, taking such steps.

We agree with the UK requirement that any such statement should be signed off at the Board (or equivalent) level. ASGA and our members believe this will create a proactive culture around these issues at the highest levels of leadership within these businesses, which is vital for ensure it is adopted within the entire business. The goal of any such legislation should be more than just forcing companies to produce a statement once a year – it should be aimed at turning those businesses into crusaders against slavery, not because they have to, but because they want to. And that comes right from the top.

Both the UK and Californian Acts set out specific areas that must be (in the case of California) or should be (the UK) included in the statement. ASGA agrees any Australian legislation should contain guidance as to what is contained within the statement. We recommend adopting the UK model and not being as prescriptive as the Californian Act.

More importantly, the guidance in both Acts is consistent – while they word it differently, both are asking for essentially the same information.

ASGA strongly recommends that public statements about a business's efforts to fight slavery, as required by an Australian Modern Slavery Act, be consistent with both the UK and Californian legislation. In particular, we don't want to see unnecessary duplication across the three jurisdictions – if the requirements of all three can be consistent, the administrative effort to comply with each Act will be substantially reduced. While that is not a massive issue at this point, there are at least two other jurisdictions that are about to enact or are considering similar legislation and that number is only likely to grow as more countries take the lead of the UK (and Australia) and introduce their own measures to fight modern slavery in the global supply chain.

ASGA also supports both the UK and Californian Acts' requirements that businesses prominently publish their statements on their websites, or if they don't have a website to provide it on request within 30 days.

¹⁰ <http://www.legislation.gov.uk/ukpga/2015/30/section/54/enacted>

¹¹ http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf

We would go further than both the UK and Californian models and suggest there should be a central repository for all the statements. The UK, as part of their legislation, introduced the office of the Independent Anti-Slavery Commissioner¹². We recommend that, should the Australian Act include the appointment of a similar role, that office could host a public repository of statements, as well as a list of companies that have not provided such a statement. As well as publishing the statements on their own websites, businesses would be required to submit those statements to the repository within a reasonable timeframe.

This would ensure businesses doing the right thing are operating on a level playing field with companies that are shirking their responsibilities under the Act. It will also allow the Government and non-government organisations the opportunity to find the relevant statements in one central location, rather than trawling through thousands of websites.

Should a Modern Slavery Act be introduced in Australia?

ASGA and our members support the introduction of a Modern Slavery Act in Australia. In particular, we support the inclusion of a section similar to Section 54 in the UK *Modern Slavery Act*, which mandates certain measures requiring companies to report on their efforts to fight slavery in their global supply chains.

Our biggest concern is that any such Act in Australia is consistent with similar legislation in other jurisdictions, most notably the United Kingdom and California.

We do have some concerns about the definitions of terms like ‘forced labour’ and ‘child labour’ and would expect such terms to, again, be consistent with international standards.

We note that modern slavery is still not well understood, and that some countries either turn a blind eye to the practice or do not have the resources in place to deal effectively with these crimes (if indeed they are considered crimes at all). We encourage the Australian government, as part of adopting a Modern Slavery Act, to consider what resources it can commit to the fight, which may include:

- Research into modern slavery and best practice on how to fight it
- International aid to countries where these crimes are a significant problem
- Police and investigative resources to fighting international slavery
- Collaborating with other jurisdictions on international efforts to fight slavery.

ASGA and our members look forward to working with the Government to draft legislation for an Australian Modern Slavery Act.

Conclusion

The Australian Sporting Goods Association and our members support the introduction of an Australian Modern Slavery Act.

Slavery, forced labour and child labour are a scourge on the international economy and a gross violation of human rights that are unacceptable in the modern age.

An Act to fight slavery in the international supply chain, that is consistent with similar Acts around the world, is a positive move for Australia. ASGA supports Australia adopting similar legislation to the UK’s *Modern Slavery Act*.

Our members thank the Committee for the opportunity to be involved in this inquiry and I would be pleased to discuss this submission further, at your convenience.

ENDS

¹² <http://www.antislaverycommissioner.co.uk/>