



BALI PROCESS GOVERNMENT AND BUSINESS FORUM

The *Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime*, Co-Chaired by Australia and Indonesia, brings together governments of 45 countries in the Asia-Pacific region and three UN organisations. In 2017, the Bali Process will be expanded to include the private sector by launching the **Bali Process Government and Business Forum** to eradicate **human trafficking, modern slavery and forced labour**.¹ Private sector participants will exchange views with governments on how to prevent and combat these crimes, and share experiences on best practice. It is also a forum to promote and implement humane, non-abusive labour practices throughout the supply chains. The Bali Process covers 4.5 billion of the world's population; the combined force of both business and government in this Forum is the most powerful weapon modern slavery has ever encountered.

Andrew Forrest, founder and chairman of Fortescue Metals Group and founder of the Walk Free Foundation, has been selected as Australia's business Chair. Walk Free is a global leader in raising awareness on modern slavery issues, and releases the annual Global Slavery Index assessing the scale of and response to the problem. **Eddy Sariaatmadja**, founder of media group Emtek, has been selected as Indonesia's business Chair. With a history of generous philanthropy, Forrest and Sariaatmadja will be influential Co-Chairs. The Forum will be launched at a two-day event in Perth on 24-25 August 2017, and will become a permanent track of the Bali Process.

Bali Process Co-Chairs are working with business to develop the Forum. It will:

- **Bring together Bali Process ministers and senior private sector leaders from the region to exchange views on ways to prevent, combat and ultimately eradicate modern slavery.** The Forum will operate in a similar fashion to the B20 or Davos, with interactions between business participants and governments on how best to tackle this.
- **Be driven by the private sector.** To ensure real change, business leaders will develop their own program of work and drive discussions, independent of governments. Participants will also have autonomy to determine the structure of the Forum. The Business Co-Chairs will invite senior private sector leaders from other Bali Process countries to participate as leaders.
- **Share experiences on best practice.** There is a plethora of guidelines in existence, so any commitments made at the Forum should not be new principles. Rather, the Forum will support implementation of existing guidelines and initiatives, and provide a space for sharing advice and tools to support businesses.
- **Include a diverse range of sectors.** Business leaders will represent a range of sectors. Businesses from outside the region, but whose supply chains reach into the region, will also be invited to join. Civil society and intergovernmental organisations will play an advisory role.

¹ Human trafficking, modern slavery and forced labour are closely related crimes. They are defined differently across jurisdictions, but broadly refer to situations of exploitation that a person cannot refuse or leave, because of coercion, threats or deception. In this note, 'modern slavery' refers to all such abusive practices. This is in line with the target of the United Nations Sustainable Development Goals 8.7: "take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms."



The problem

Modern slavery is a hidden crime that affects every country and permeates all economic sectors. **No country or industry is immune.** Risk factors in supply chains include the use of labour contractors or recruiters; heavy reliance on migrant and/or unskilled labour; corruption; lack of supply chain oversight and control; and operational sites that are difficult to monitor. Businesses may also inadvertently facilitate modern slavery by receiving, holding or managing funds associated with the crime; providing financial resources, products or services to perpetrators; and through relationships with suppliers, sub-contractors or business partners who are linked to slavery.

World leaders have recognised modern slavery as a global problem, and have agreed to work together to eradicate this human rights violation. Nearly all countries have laws criminalising slavery, and most also have separately criminalised human trafficking and forced labour. While governments play a lead role in responding to these human rights abuses, these practices exist because they are profitable. It is therefore only in partnership with business that their eradication will be ensured. Operating across borders and industries, businesses have unique tools and leverage to respond to the risk of these abusive practices. **Ending modern slavery is no longer just a moral imperative, but a collective business and political imperative.**

Changing context

Due to the complexity of global supplier relationships and the arm's-length nature of agreements with contractors and subcontractors, corporations may have historically had limited visibility of modern slavery in their own supply chains. However, recent years have seen an increase in businesses voluntarily taking steps to address the practice. Ensuring supply chains are free from such exploitation makes good business sense. Aside from being morally repugnant, these crimes expose businesses to litigation and major reputational risks. **Tackling these hideous crimes should be the core business of every corporation.**

In parallel, several jurisdictions have introduced legislation to promote transparency in tackling these crimes. Mandatory reporting laws like the UK *Modern Slavery Act 2015* and the Californian *Transparency in Supply Chains Act 2012* are now in force, and a similar EU Directive will shortly enter into force. These laws require large organisations to report on efforts taken to ensure their supply chains are free from modern slavery. The laws provide a framework for businesses to examine their supply chains, deal with slavery wherever it is found, and work to ensure these crimes are eradicated from their operations. The laws apply to large organisations carrying out business in these jurisdictions, not just those listed on UK, US or European stock exchanges.

Additionally, a recent amendment to the US *Tariff Act 1930* prohibits the import of goods produced in forced labour conditions; US Customs and Border Protection have begun seizing imports in accordance with the Act's provisions. On government procurement, the US Federal Acquisition Regulation scheme requires all high-value suppliers to have compliance plans addressing the risk of modern slavery, and certifying no goods or services produced through forced labour or slavery are supplied. Without plans in place, contracts are not available. Finally, stock exchanges around the



world require listed companies to report on environmental, social and governance issues. Modern slavery is a pervasive risk, and as such, is increasingly being treated as a material business issue.

Opportunities and risks for business

Opportunities:

- **Industry leadership.** Proactive businesses can assume a leadership role within their industry and the broader business community. The Forum presents an opportunity for businesses to influence the global agenda on public-private engagement in this space.
- **Strengthened commercial ties.** Banding together and encouraging business partners or other corporations to participate in coordinated actions around modern slavery can help build stronger commercial relationships.
- **Access to finance and contracts.** In industry sectors or countries with a high incidence of modern slavery offences, responsible businesses may be rewarded with preferred supplier status. Additionally, investors have become an increasingly active group in demanding corporate transparency. In the UK, for example, a group of investors representing £940 billion in assets lobbied policymakers for the inclusion of transparency reporting in the UK *Modern Slavery Act 2015*. In this context, responsible businesses stand to benefit, while companies failing to address the possibility of human rights abuses in their operations risk divestment. Increasingly, governments are looking at how they can ensure only responsible businesses are awarded government contracts.
- **Reputational benefit.** The UK *Modern Slavery Act*, Californian *Transparency in Supply Chains Act*, and EU Directive, all focus on harnessing the risk of reputational damage to motivate organisations. Those businesses that demonstrate their commitment to preventing and combating modern slavery stand to be rewarded, with both brand value and corporate image amongst consumers and investors enhanced.

Risks:

- **Reputational damage.** Offences can present threats to brand value, company reputation, and consumer and investor trust. Reputational damage can also taint entire industry sectors, threaten both existing and future business partnerships, lead to increased scrutiny from regulators, and threaten share value.
- **Criminal sanctions.** Criminal sanctions against companies and their directors are rare, but the legal framework for such prosecutions does exist. The French, Swiss and Australian criminal codes extend criminal liability for human trafficking and slavery crimes to corporates. Prosecutors have an increasing appetite to pursue company directors who act in blatant disregard of human rights. Various international and regional conventions also criminalise human trafficking and require governments to strengthen measures to combat it.
- **Director's liability.** Building on the increasing trend towards criminal liability, directors may have a duty to consider their company's impact on human rights, even if it conflicts with shareholder interests like profit. This is required in the UK, and is being debated in other jurisdictions.
- **Customs restrictions.** Governments exercise considerable control over business operations through import/export requirements. Allegations of trafficking have begun to result in goods being seized.



- **Civil sanctions.** These include fines, orders to pay compensation to victims, and deregistration. Lawmakers globally are pushing for greater civil sanctions to punish and prevent those organisations that are complicit in offences.

Next steps

Modern slavery is an abhorrent crime; it is imperative it be eradicated. By working collectively and with governments, the Bali Process Government and Business Forum presents an opportunity to make a difference. We hope you will join us in this struggle, and look forward to working together.

Bali Process members

Afghanistan	Australia	Bangladesh	Bhutan
Brunei Darussalam	Cambodia	China	DPR Korea
Fiji	France (New Caledonia)	Hong Kong SAR*	India
Indonesia	Iran	Iraq	Japan
Jordan	Kiribati	Lao PDR	Macau SAR*
Malaysia	Maldives	Mongolia	Myanmar
Nauru	Nepal	New Zealand	Pakistan
Palau	Papua New Guinea	Philippines	Republic of Korea
Samoa	Singapore	Solomon Islands	Sri Lanka
Syria	Thailand	Timor-Leste	Tonga
Turkey	United Arab Emirates	United States of America	Vanuatu
Viet Nam			
IOM	UNHCR	UNODC	

Further information on the Bali Process can be found at www.baliprocess.net