

Australian Tamil Congress

A Unified Voice for All Tamils



2nd April 2012

Senate Foreign Affairs, Defence and Trade References Committee.

Dear Committee Members

'Indian Ocean Region and Australia's Foreign, Trade and Defence Policy'

Australian Tamil Congress, Queensland Chapter, welcomes the inquiry into '*Indian Ocean Region and Australia's Foreign, Trade and Defence Policy*'. In this context we wish to focus our submission on Sri Lanka and how Australia's Foreign Policy can be implemented to human rights issues.

Trade between Sri Lanka and Australia has been increasing steadily over the past decade. Two-way trade between Australia and Sri Lanka in 2010-11 was valued at \$335 million, with exports totalling \$213 million. Vegetables, dairy products and wheat were the main merchandise exports. Tea, clothing and rubber tyres were Australia's main imports from Sri Lanka.
http://www.dfat.gov.au/geo/sri_lanka/sri_lanka_country_brief.html .

Australia's trade, military policy and Human Rights

Australia's Department for Foreign Affairs and Trade states: "Australia's commitment to human rights is enduring: we were an original signatory to the Universal Declaration of Human Rights sixty years ago. We have been a leading proponent of its consistent and comprehensive implementation. Protection and promotion of the human rights encapsulated in the Declaration is vital to global efforts to achieve lasting peace and security, and freedom and dignity for all. Australia's commitment to the aims and purposes of the Universal Declaration of Human Rights reflects our national values and is an underlying principle of Australia's engagement with the international community." http://www.dfat.gov.au/hr/hr_for_all.html

If human rights values are "an underlying principle of Australia's engagement with the international community" then it can be argued that given trade is such an important part of that international engagement, human rights should also be central to trade policy.

The below arguments made by a few organisations:

- **Australia Fair Trade and Investment Network:** *"we advocate that the objective of trade and economic policy is not simply to increase economic growth and volumes of trade, but to improve living standards and the quality of life in the context of human rights, labour rights and the protection of the environment. More generally, Australian Labor Party policy recognises that the achievement of*

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these goals requires not only economic growth but action by governments to correct market failures, ensure that the benefits of economic growth are distributed fairly, and protect the environment.”

<http://aftinet.org.au/cms/campaigns/australian-trade-policy-review-2010>

- **Human Rights Law Centre and National Association of Community Legal Centres:** *“Human rights should be central to Australia’s trade policy. We urge the Australian Government to include human rights safeguards in trade and investment agreements. Australia should also undertake Human Rights Impact Assessments as a core part of doing business abroad, including in the areas of trade, investment and military cooperation.”*
<http://www.hrlc.org.au/content/topics/esc-rights/un-human-rights-council-australia-urged-to-adopt-human-rights-based-approach-to-aid-and-development-31-may-2011/>

Case study of linking Human rights and trade – The European Union.

- Since 1995 the EU has incorporated a human rights clause as an essential element in all framework agreements with trade countries, stipulating that respect for human rights and democratic principles should form the basis of the agreement. **Linking human rights with trade is, therefore, not without precedent.**
- **EU GSP Plus Suspension:** The European Union withdrew Sri Lanka's preferential trade access to EU markets, known as GSP plus, after it failed to improve its human rights record. The concessions were suspended on 15 August 2010 after Sri Lanka refused to implement human right conventions. The decision to withdraw GSP+ from Sri Lanka was based on the findings of an exhaustive Commission investigation launched in October 2008 and completed in October 2009. This investigation relied heavily on reports and statements by UN Special Rapporteurs and Representatives, other UN bodies and reputable human rights NGOs. These reports identified significant shortcomings in respect of Sri Lanka's implementation of three UN human rights conventions – the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture (CAT) and the Convention on the Rights of the Child (CRC). – **Australia is a signatory to all three conventions, surely this should be of concern to Australia given its human rights policy and its growing trade links with Sri Lanka.**
- "We very much regret the choice of Sri Lanka not to take up an offer made in good faith and in line with the EU commitment to a global human rights agenda," EU foreign affairs chief, Catherine Ashton, said in a statement on the suspension of GSP Plus. **Australia also has a commitment to a 'global human rights agenda', given that the then Foreign Minister Hon Kevin Rudd MP has stated that Australia is a “principled advocate of human rights for all”. In light of this, it could be argued that a similar human rights element could become part of Australia’s trade policy with other nations, including Sri Lanka’s.**

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Why Australia should link human rights issues in their trade and defence with Sri Lanka

In recent years the very name Sri Lanka has become synonymous with “Human Rights Hazardous Place”. At present the human rights violations affect all communities not just the Tamil community (eg. white van abduction and disappearances) as was the case for the last six decades. In fact in recent months numerous writers from the majority community have voiced their criticism of current HR situations in Sri Lanka.

Unlike China and Iran, Sri Lanka is somewhat an enigma. Sri Lanka touts itself as a democracy, signs up for all UN rights covenants like Australia, but operates with impunity.

At the 2000 “Towards a Community of Democracies” Conference in Poland, the Hon. David Kilgour MP, Former Secretary Of State (Latin America And Africa) cautioned that “Another obstacle to democracy is that the value of its name often exceeds the principles of its practice”.

At present Sri Lanka undisputedly fits this category as one of the world’s most controversial countries. Sri Lanka uses the banner of democracy to inflict oppression, corruption, terror, abduction and murder. The situation in Sri Lanka is further supported by credible organisations like the Amnesty International, International Crisis Group, Human Rights Watch etc.

We seek human rights mechanisms like trade embargo or suspensions as part of meaningful reconciliation to bring the facts and obtain justice. We wish to bring to this Committee’s attention some of our arguments:

1. The need to have a reality check on Sri Lankan civil war – the human rights violations particularly the culture of impunity, the culture of denial of atrocities committed and reflexive cries ‘of lies and propaganda’, whenever a new allegation surfaces. Different opinion to that of the government is considered unpatriotic or pro-LTTE and dealt heavy handed. Such actions have resulted in killing of journalists, Tamil Parliamentarians and even Christian and Hindu priests.
2. To address war crime ‘accountability’ issues and Sri Lanka government’s Lessons Learnt and Reconciliation Commission recommendations. In this regard US and its ally at the UN Human Rights Council (22nd of March 2012) successfully moved a resolution for ‘technical assistance’ to Sri Lanka.
3. To apply pressure on the Sri Lankan government to implement the April 2011 UN Panel findings.
4. To look into post-war (May 2009) human rights violations and state terrorism including, continuing militarisation in traditional Tamil lands, state brutality, loss of

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- livelihood, resettlement, systematic evictions, land grabs and occupation and creation of Sinhala settlements.
5. To avoid war crime charges Sri Lanka appoints suspected war criminals as High Commissioners and Ambassadors. This has even occurred in Australia with the ex-Admiral's appointment. The recent appointment of General S. Silva to the UN reveals that Sri Lanka is determined to exploit existing international mechanisms like the diplomatic immunity to protect the wrong doers.

How Australia could promote trade with human rights

- A) Susan Ariel Aaronson, Research Associate Professor at George Washington University, and a leading expert on trade and human rights have produced several books and articles on the issue. In a 2008 article she posed the question how should policymakers use trade to promote human rights abroad? <http://www.policyinnovations.org/ideas/commentary/data/000050>. Some of her comments stated below may of assistance to this Committee consideration:

“Policymakers should think of human rights as a market. They can best increase the supply of human rights abroad with incentives such as increased market access, technical assistance and training, and funding for improved governance. Policymakers should also focus on ways to bolster the inherent demand for human rights among their developing-country trade partners.

The European Union follows this approach when helping candidate countries join. Candidate countries are required to protect human rights, and the EU provides candidate countries with considerable foreign aid, financial assistance, and technical expertise. If candidate countries do not meet human rights objectives, they can't accede. In this way, the EU is able to bolster the supply and demand for human rights as it enhances trade. The United States tries to do this also by incorporating provisions for political participation and due process rights in its free trade agreements.

[...]With careful deliberation, trade and human rights can be made coherent. Trade should not be wed to human rights simply because it provides a way for citizens of one country to express their displeasure over the human rights practices of other countries. Instead, if policymakers carefully assess the human rights impact of their trade policy choices, they may create an enduring and effective match, and not just a marriage of convenience.”

- B) Gillard Government Trade Policy Statement: Trading our way to more jobs and prosperity (April 2011)- <http://www.dfat.gov.au/publications/trade/trading-our-way-to-more-jobs-and-prosperity.html#objectives>
- C) Australia is the founding member of the Indian Ocean Rim Association for Regional Cooperation (IOR-ARC). The objective of IOR-ARC is to promote

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regional economic cooperation in the Indian Ocean region. Australia when applying the below trade policies to its member States, we emphasise to consider the State's human rights performance and accountability as indicators to administer trade as part of Australia's international interest.

- When removing market access barriers;
- Export credit policy;
- Trade policy coordination and business liaison;
- Trade consultation (eg. World Economic Forum, Trade Policy Advisory Council etc); and
- Direct Aid Program.

Conclusion

Security of this region can only be maintained if conditions of justice, human rights and equality among citizens are established. Global bilateral trading underpins a country economy and prosperity. Hence, we wish this Committee considers and implements the above discussed tools and mechanisms to a 'global human rights agenda'. Human rights value based assessment of trade between Australia - Sri Lanka, will place adequate pressure on Sri Lanka to bring true reconciliation and lasting peace.

Yours sincerely,