

Written submission by Anti-Slavery International and the CORE Coalition to the BEIS Committee consultation on Forced labour in UK value chains

Anti-Slavery International. Founded in 1839, we are the oldest international human rights organisation in the world. We draw on our experience to work to eliminate all forms of slavery and slavery like practices throughout the world. We work in partnership with our supporters, governments, businesses, like-minded organisations and global movements to bring about long-term, sustainable change.

The **CORE Coalition** is the UK's long-standing civil society network with a membership spanning NGOs, trade unions and law firms. We work to ensure greater corporate accountability in the UK, and access to justice for people and communities around the world who suffer from corporate abuses of human rights and the environment.

This submission has been submitted in parallel with and to complement our written submission with peer members of the Coalition to End Forced Labour in the Uyghur Region, and intends to provide more information to the BEIS Select Committee on the below key issues highlighted by BEIS:

- *The mechanisms in place, including company audit and monitoring, to ensure goods, materials and services are not imported to the UK which are the product of forced labour;*
- *The effectiveness of the audit system and its ability to identify the presence of businesses within value chains which make use of forced labour;*
- *The Government's position regarding the risks of sourcing from XUAR and contracting with the companies with strong links to the region;*
- *The advice provided to British businesses by Government to help assess risk, ensure compliance, and avoid engaging value chains which rely on forced labour.*

The failure of existing law and policy to hold companies to account for human rights abuses in the Uyghur Region

1. The ongoing links between the supply chains of the UK apparel sector and the forced labour of Uyghurs and other Turkic and Muslim-majority peoples as outlined in our parallel submission have underscored **the urgent need for legislation that makes businesses operating in the UK legally responsible for preventing forced labour and other human rights impacts in their supply chains.**
2. **Current law and policy have proved wholly inadequate to prevent human rights abuse in the Uyghur region.** Currently, UK companies and companies operating in the UK have no legal responsibility to take action to prevent human rights abuses in their supply chains. They are not legally obliged to undertake due diligence to ensure goods in their supply chain, including those they import into the UK, are not the products of forced labour.
3. **The Transparency in Supply Chains Provision (TISC) of the UK's Modern Slavery Act is insufficient on its own to achieve decent work and prevent forced labour.** The TISC provision requires companies only to disclose the steps they are taking to prevent slavery in their supply chains but does not oblige them to take any steps. While some companies have used

transparency measures as an opportunity to advance efforts to address modern slavery, many have not.

4. **This disparity in business approaches to tackling human rights abuse has been exposed in corporate responses to the Uyghur issue.** Some companies have taken prompt action to address the risks in their supply chains by ceasing relationships as appropriate and conducting other due diligence measures, however the majority of the apparel and textile industry has thus far failed to recognise the severity of the issue, and continue to maintain financial relationships with Chinese companies which have been identified by credible research to be directly or indirectly supporting the Chinese government's system of control and forced labour. Please refer to our parallel submission.
5. **Audits have proved an inadequate tool by which to address labour abuses in supply chains.** In particular, audits are not a reliable approach to identify the risks of forced labour in supply chains, due to the fact that forced labour is often hidden, the vulnerabilities faced by workers trapped in forced labour, the fact that audits provide only a "snapshot" in time, and the complexities of forced labour.¹ Due diligence, in contrast, is an *ongoing* process of risk identification, prevention and mitigation, which requires companies to assess and address the causes of forced labour risks in their supply chains.
6. A report² by Clean Clothes Campaign showed that far from being an effective tool to detect, report, and remediate violations, **corporate-controlled audits often actively aggravate risks for workers by providing misleading assurances of workers' safety and undermine efforts to truly improve labour conditions.** Lack of transparency is a key characteristic of the business-led social compliance industry. Social audits are not only proving to be ineffective at protecting workers and highlighting labour rights issues, they can also be willingly manipulated, with well-documented audit fraud cases. Social audits also lack meaningful worker engagement, as workers and their representatives continue to be marginalised in the design, monitoring, and follow-up of labour compliance initiatives. These shortfalls underscore the need for brands to not solely rely on social audits and adopt an effective due diligence approach to identifying and addressing human rights risks in their international supply chains. ELEVATE, a well-known social auditing company, has stated³ previously that it "*acknowledges that social audits are not designed to capture sensitive labor and human rights violations such as forced labor and harassment*".
7. **The inadequacy of audits has been particularly exposed in the Uyghur Region, where audits are not a credible or reliable measure to identify the risks of forced labour.** Recognising the impossibility of credible audits, in September 2020 a number of global auditing firms often used by UK brands and retailers announced⁴ that they will no longer conduct audits in the Uyghur Region. Two of these companies - WRAP and Bureau Veritas - had previously conducted audits of the operations of Chinese companies in the region, Heitan Taida Apparel Co. and Yili Zhuowan Garment Manufacturing Co. respectively, and allegedly found no evidence of forced labour. These Chinese companies have since been subject to US sanctions/ Withhold Release Orders due to their use of forced labour.⁵

Our recommendation: new legislation to hold companies accountable for human rights abuses

8. There is an urgent need for legislation that goes beyond reporting legislation and beyond audits: to ensure that companies identify and prevent forced labour in their supply chains. **We**

urge the introduction of a corporate duty to prevent negative human rights and environmental abuses, building on a 2017 recommendation for such a law from the UK's Joint Committee on Human Rights.

9. The proposed law would require commercial organisations of all sectors and sizes to conduct **human rights and environmental due diligence** - to identify and manage the risks that their activities pose, across their operations, subsidiaries and value chains – both in the UK and globally. In contrast to reporting legislation such as the TISC provision, the legislation that we are proposing would *mandate* business to address risks and impacts through human rights due diligence, in line with the **UN Guiding Principles on Business and Human Rights (UNGPs)**⁶, which the UK has committed to implement. The UNGPs set out the corporate responsibility to respect human rights, requiring both policy commitments and due diligence “in order to identify, prevent, mitigate and account for how they address their adverse human rights impacts,” including “assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.”
10. Tangibly, for Uyghur forced labour, mandatory human rights due diligence would entail companies identifying the risks of being linked to Uyghur forced labour through supply chain mapping and traceability, employing all reasonable measures to do so, and **ceasing relationships where such links are found and other prevention, mitigation and remediation measures are not possible** - in line with the UNGPs.
11. Legislation establishing a corporate duty to prevent negative human rights and environmental impacts should hold UK companies of all sectors and sizes liable if they failed to take all reasonable and appropriate measures to prevent harmful human rights or environmental impacts. The law should include **effective and deterrent sanctions and liability provisions** and provide for effective access to justice for victims.
12. The law should **extend to the financial sector and public sector**. We note the high risk that UK PPE used during the Covid-19 pandemic was manufactured through the forced labour of Uyghurs. The New York Times⁷ found evidence of several factories across China which reportedly use Uyghur labour, manufacturing medical grade protective equipment for global export – some of which ended up in the United States and other countries. Such a shipment was traced to a medical supply company in the U.S. state of Georgia.
13. The law that we are proposing should be modelled on the civil and criminal duties to prevent tax evasion and bribery found in the Criminal Finances Act 2017 and the **Bribery Act 2010**. A 2020 study by the British Institute of International and Comparative Law confirms that this is legally feasible.⁸

Support for due diligence legislation

14. There is a growing consensus on the need for new laws to address supply chain injustices across business, the public and policymakers.
15. Due diligence legislation is already in place or under development in several European states, including the Netherlands, France, Switzerland, Germany and Finland. **The EU has committed**

to introducing mandatory human rights and environmental due diligence legislation, including legal liability, consolidating these advances. The EU's legislative proposal is expected to apply to all companies operating in the single market - which would include UK businesses. A consultation on the law is due to begin imminently. Failure on the part of the UK to keep step with the EU on this issue would put UK business at a competitive disadvantage.

16. A survey by the British Institute of International and Comparative Law indicates that **most UK businesses support new legislation** due to anticipated benefits such as providing legal certainty and levelling the playing field - holding competitors and suppliers to the same standards. This support mirrors business sentiment expressed across Europe.⁹ Large businesses, such as Primark¹⁰, H&M¹¹, Mondelez¹² have publicly expressed their support for mandatory human rights and environmental legislation. A group of 105 international investors representing US\$5 trillion in assets under management has also called on governments to introduce due diligence legislation.
17. **Public opinion supports new rules to hold companies accountable.** Polling by Think Tank 'Onward' in 2019 found that two thirds of people across all ages support punishing companies¹³ that do not act responsibly (p.72, table 9). Other polling has found that most younger Leave voters¹⁴ want big business regulation to increase (45%) or stay the same (7%) vs a minority (7%) who want less, and that two-thirds¹⁵ of people want the government to intervene to create a fairer economy after Covid-19.
18. The **UK's Global Resource Initiative Taskforce**, a taskforce of leaders from business and environmental organisations - sponsored by DEFRA, BEIS and FCDO - has urged the UK government to introduce a mandatory due diligence obligation covering both human rights and environmental risks and impacts. The GRI recommends to initially focus on forests and land conversion, before extending to wider impacts. A 2017 report from the **Joint Committee on Human Rights** also recommended that "the Government bring forward legislation to impose a duty on all companies to prevent human rights abuses...[which] would require all companies to put in place effective human rights due diligence processes [...] both for their subsidiaries and across their whole supply chain.

Complementary measures

19. In addition to the introduction of mandatory due diligence legislation, the UK Government must adopt a **smart-mix of legislative and policy measures** to ensure goods, materials and services are not imported to the UK or sold in the UK market which are the product of forced labour.
20. Specifically to address the linkages between UK apparel supply chains and Uyghur forced labour, the Department for Business, Energy and Industrial Strategy should:
 - a. **Urgently write to all UK brands and retailers retailing textile and apparel products to request:**
 - i. **The disclosure of any business relationships they hold with suppliers or sub-suppliers operating in or sourcing from the Uyghur Region**, including information on whether brands/retailers hold any business relationships, at any level and in any location – i.e. with the parent company or a facility within the company structure – with companies which have subsidiaries or operations located in the Uyghur Region that have allegedly accepted Chinese

government subsidies and/or employed workers provided by the government. Please refer to our parallel submission.

ii. **Information on the steps taken by said brand/retailer to identify and address the risk of being directly or indirectly linked to the forced labour of Uyghurs and other Turkic and Muslim-majority peoples in their supply chain**, including through mapping of supply chains.

- b. **Issue guidance to the UK apparel and textile sector on the ways by which the UK apparel industry is exposed to the risk of being linked to the use of Uyghur forced labour**, based on the evidence provided in this submission which outlines the four ways by which the apparel and textile industry faces risk exposure.
 - c. **Work with other relevant UK government departments to provide support to the apparel and textile industry to urgently identify and use alternate sources of supply of cotton/yarn/fabrics.**
 - d. **Work with HMRC to suspend the import of products produced in part or in whole in the Uyghur Region and consider seizing products already in the UK through the *Foreign Prison-Made Goods Act 1897*, by responding in full to the submission¹⁶ filed by GLAN and WUC in April 2020 to HMRC.** The introduction of a regional ban is considered a priority in the case of the Uyghur Region, due to the scale of forced labour in the Region, and the impossibility to meaningfully prevent or mitigate forced labour risks on the ground through supplier engagement. In other contexts, such measures may not be appropriate.
 - e. Ensure coherence across UK Government departments in the UK Government's response to the unfolding abuses of Uyghurs and other Turkic and Muslim-majority peoples. Approaches to ensure that UK companies undertake appropriate due diligence and supply chain mapping to end all links with forced labour of Uyghurs and other Turkic and Muslim-majority peoples must be matched by **strong diplomatic measures and the use of foreign policy tools to put pressure on the Chinese government to end abuses of Uyghurs and other Turkic and Muslim-majority peoples**, including sanctions on Chinese companies and individuals complicit in the persecution, supporting demands to the GOC to allow immediate, unfettered and meaningful access to the Uyghur Region for independent observers, and supporting calls for a human rights mechanism on China at the UN.
 - f. Take all relevant steps, as above, to ensure the UK public sector undertakes appropriate due diligence to ensure the exclusion of goods tainted with forced labour of Uyghurs and other Turkic and Muslim-majority peoples from public procurement.
21. These immediate measures must be taken as a precursor to longer term, broader measures to address forced labour in the supply chains of companies operating in the UK. **In addition to the introduction of mandatory due diligence legislation, as discussed above, the UK Government should:**
- a. Explore complementary options to require the UK textile and garment industry to increase transparency and traceability of their supply chains. This should include work with other relevant UK Government departments to **initiate amendments to UK customs-related regulations to ensure that all companies that import goods into the UK disclose to UK customs authorities important information**, including the name

and address of manufacturers of goods and products, and that this **information is publicly accessible.**

- b. Work with other relevant UK Government departments to **ensure UK trade and tariff measures complement the impact of mandatory human rights due diligence and ensure that international human rights and labour rights standards are upheld in UK trade agreements and trade.**
- c. This could include **steps to examine legislative options to introduce punitive tools to exclude products produced in whole or in part with forced labour from the UK market, learning the lessons from comparable legislation in the United States.**¹⁷ If pursued, such measures should be developed to establish maximum positive impact for affected workers, ensuring that the measures are effective in promoting supplier engagement, providing prompt remediation, and preventing adverse consequences to workers. The rationale to levy such sanctions on any product must be transparent and disclosed, and the UK government must ensure that such measures are employed solely in the interests of upholding human rights. Further, **the introduction of such punitive measures should not replace, or distract from, the responsibility over the buyers of products to conduct due diligence to identify, prevent, mitigate and remediate risks as determined by the UN Guiding Principles on Business and Human Rights - as would be imposed by the introduction of mandatory human rights due diligence legislation** - working closely with suppliers to do so in contexts where this is credible and feasible, including to examine the impact of buyers' own purchasing practices on labour violations.

¹ Anti-Slavery International. Effective monitoring Systems. Retrieved from: <https://www.antislavery.org/take-action/companies/monitoring-forced-labour/>

² Clean Clothes Campaign. Fig Leaf for Fashion. How social auditing protects brands and fails workers. 2019. Retrieved from: <https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf/view>

³ Elevate. ELEVATE Response to Clean Clothes Campaign report, "Fig Leaf for Fashion: How social auditing protects brands and fails workers". 2019. Retrieved from: https://media.business-humanrights.org/media/documents/files/documents/ELEVATE_response_to_CCC_report_Fig_Leaf_for_Fashion_20190930.pdf

⁴ The Wall Street Journal. Auditors to Stop Inspecting Factories in China's Xinjiang Despite Forced Labor Concerns. 2020. Retrieved from: <https://www.wsj.com/articles/auditors-say-they-no-longer-will-inspect-labor-conditions-at-xinjiang-factories-11600697706>

⁵ Sourcing Journal, Xinjiang Confidential: What Auditor Exodus Means for Apparel Sourcing, September 22 2020, <https://sourcingjournal.com/topics/labor/xinjiang-china-forced-labor-uyghur-audits-wrap-bureau-veritas-cotton-233093/>

⁶ United Nations Human Rights Office of the High Commissioner. Guiding Principles on Business and Human Rights. 2011. Retrieved from: https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf

⁷ The New York Times. China Is Using Uighur Labor to Produce Face Masks. 2020. Retrieved from: <https://www.nytimes.com/2020/07/19/world/asia/china-mask-forced-labor.html>

⁸ British Institute of International and Comparative Law. A UK Failure to prevent Mechanisms for Corporate Human Rights Harms. 2020. Retrieved from: <https://www.biicl.org/publications/a-uk-failure-to-prevent-mechanism-for-corporate-human-rights-harms>

⁹ Business and Human Rights Resource Centre. List of large businesses, associations & investors with public statements & endorsements in support of mandatory due diligence regulation. Retrieved from:

<https://www.business-humanrights.org/en/latest-news/list-of-large-businesses-associations-investors-with-public-statements-endorsements-in-support-of-mandatory-due-diligence-regulation/>

¹⁰ Business and Human Rights Resource Centre. Unsere Verantwortung in einer globalisierten Welt. Retrieved from: <https://www.business-humanrights.org/de/schwerpunkt-themen/mandatory-due-diligence/gesetz/>

¹¹ Business and Human Rights Resource Centre. List of large businesses, associations & investors with public statements & endorsements in support of mandatory due diligence regulation. Retrieved from: <https://www.business-humanrights.org/en/latest-news/list-of-large-businesses-associations-investors-with-public-statements-endorsements-in-support-of-mandatory-due-diligence-regulation/>

¹² VOICE Network. Cocoa companies call for human rights and environmental due diligence requirements. 2019. Retrieved from: <https://www.voicenetwork.eu/2019/12/cocoa-companies-call-for-human-rights-and-environmental-due-diligence-requirements/>

¹³ ONWARD. Onward research: Generation Why? 2019. Retrieved from: <https://www.ukonward.com/generationwhy/>

¹⁴ Unchecked.uk. NEW POLL: Attitudes of Younger Leave Voters to Regulation and Deregulation. 2020. Retrieved from: <https://www.unchecked.uk/wp-content/uploads/2020/05/Attitudes-of-Younger-Leave-Voters-to-Regulation-and-Deregulation.pdf>

¹⁵ The Guardian. People want a fairer, greener Britain after Covid, inquiry reveals. 2020. Retrieved from: <https://www.theguardian.com/society/2020/sep/16/people-want-a-fairer-greener-britain-after-covid-inquiry-reveals>

¹⁶ Global Legal Action Network. UK & US: Halt Forced Prison Labour Goods From China. 2020. Retrieved from: <https://www.glanlaw.org/uyghur-forced-labour>

¹⁷ Corporate Accountability Lab. Using the Master's Tools to Dismantle the Master's House: 307 Petitions as a Human Rights Tool. 2020. Retrieved from: <https://corpaccountabilitylab.org/calblog/2020/8/28/using-the-masters-tools-to-dismantle-the-masters-house-307-petitions-as-a-human-rights-tool>.