

Addressing Forced Labour in Global Supply Chains

17.3 million people are estimated to be in forced labour in the private sector and 3.9 million in state-imposed forced labour. Tackling the root causes that drives this forced labour requires a toolbox of measures.

The [root causes](#) of forced labour in global supply chains include factors such as **weak governance**, including weak labour laws and enforcement, and a closed or limited enabling environment for NGOs and trade unions, **poverty** and **lack of access to other available livelihood options**, and **discrimination and marginalisation**. Often discriminated against groups, such as women, migrant workers, and marginalised communities in specific countries (for example, Dalits in India, or Uyghurs in China), are at high risk of forced labour in the private sector.

Business models and strategies are also a root cause of forced labour. This means business models focused on producing low-priced goods at quick turnaround rates, and companies' extensive outsourcing and long, globalised supply chains. It also includes companies' ongoing reliance on weak social auditing and certification schemes, and attempts to block workers' access to their rights, such as restrictions on unions.

What is Anti-Slavery International calling for?

A range of approaches are essential to address forced labour in global supply chains and its root causes. There is no silver bullet. Broadly, we are currently calling for the following:

- **Mandatory human rights and environmental due diligence legislation:** laws which require companies, financial institutions and the public sector to take meaningful action to address forced labour, and other abuses, in their operations and value chains, and which hold organisations accountable when they fail to prevent abuses. These laws need to allow victims of harm to access justice in court.
- **Laws which control the import of products made with forced labour:** trade and customs measures which allow countries to block or seize products made by forced labour.

- **Trade agreements:** using trade agreements between countries to encourage and support trading partner national governments to introduce and implement labour rights and anti-slavery protections.
- **Development policy:** using development policies to support programmes which address the root causes of forced labour in supply chains.
- **Domestic protections and enforcement:** how laws and policies at national and local levels can be reformed or better implemented to protect workers from forced labour. This includes labour laws, such as wage policies, labour inspections, migration policies and the rights given to migrant workers and other groups potentially at heightened vulnerability.

What are due diligence laws?

In 2011 the UN Human Rights Council endorsed with unanimous consensus the “[United Nations Guiding Principles on Business and Human Rights](#)”. Although there were a number of frameworks relating to corporate responsibility before then, these guiding principles are considered the first global standard for preventing and addressing the risk of adverse impacts on human rights linked to business activity. They have been widely accepted by governments and businesses globally. These guiding principles set out the *duty* of governments to protect people from corporate human rights abuses, and the *responsibility* of businesses to respect human rights. This responsibility is not just about a company’s direct operations, for example, the workers in their own retail stores – but the responsibility that companies to make sure they take steps to respect the rights of workers all down their supply chain, for example the workers harvesting or mining the raw materials, like cotton or metals, for their products.

These principles outlined that companies should undertake a process called *human rights due diligence* in order to respect human rights. In this process, companies should identify, assess, prevent, mitigate and account for potential and actual negative human rights impacts in their operations and value chains. Crucially, this due diligence process focuses on risks posed to *people*, not to the business. Due diligence is also at the core of the [OECD Guidelines for Multinational Enterprises](#), the international standard setting out practical due diligence frameworks for companies.

Due diligence involves a business being *proactive* to identify and address actual and potential harm, engaging meaningfully with workers and trade unions to do so, and internalising ongoing business respect for human rights as part of the day-to-day work of the business. [Studies](#) have found this does not create large costs for the business – an academic study found that the cost of due diligence for a large company was less than 0.01% of revenue, and for a small-to-medium sized company, less than 0.14%.

However, the UN Guiding Principles are only voluntary. Therefore, although many companies are undertaking this process, the majority are not. In fact, in 2020, the EU [found](#) that only one in three businesses in the EU is currently undertaking due diligence on human rights and environmental impacts.

This is why in recent years there has been a global push, particularly in European countries, like France, Germany, Norway, and at the EU-level, to introduce laws which make it a *legal* obligation for companies headquartered or operating in their country to undertake human rights due diligence. Beyond Europe, the trend is also growing, with Thailand and New Zealand, among other countries, having in 2022 announced they would consider introducing such a law. Approaches have varied: some countries have only required due diligence on human rights impacts, while others have included the environment. Due to the links between modern slavery, environmental degradation and climate change, Anti-Slavery International strongly advocates for such laws to cover both human rights and the environment.

Overall, these laws should:

- Compel businesses to undertake human rights and environmental due diligence to identify, address, prevent, mitigate and remedy harms in their operations and value chains;
- Hold companies and other organisations accountable for a failure to prevent abuses through liability provisions;
- Help to level the playing field between businesses and provide clarity and certainty on legal obligations;
- Enable victims of abuses, including modern slavery, to access justice through the courts of the home country of the lead company in a supply chain. For example, if a German company is a key client of a factory in Malaysia, then workers in that factory should be able to take the Germany company to court in Germany for the harm they have suffered.

What are import controls?

Products made with forced labour are being traded around the world every single day. In recent years, governments have introduced laws through their customs processes in order to be able to block or seize products with forced labour.

Import controls are quite different from mandatory due diligence laws, and the two approaches should be considered complementary, but not interchangeable.

As described above, due diligence laws are about an overarching obligation on companies to proactively identify and address human rights risks, including beyond forced labour, as an integrated part of day-to-day business.

Import controls, in contrast, are an enforcement tool which allow government authorities to use their trade and economic power to respond to specific cases of forced labour and put immediate pressure on companies in question to change practices. This also allows governments to directly target the practices of suppliers in third-countries, which wouldn't necessarily fall under direct scope of their due diligence laws, particularly where they do not import directly into the market with due diligence law.

For example, import controls can be used to put pressure on the supplier of a product to end forced labour and remedy workers, as it will be in the factory's interest to not lose access to their key export markets, like the USA or EU. An existing case study of a US import ban on a rubber glove supplier in Malaysia led to the company agreeing to refund migrant workers who had paid recruitment fees to agents, totalling as much as USD 34 million, and to improve workers' living standards. This then also led to the other top three rubber glove manufacturers in Malaysia announcing million dollar repayments to migrant workers, in order to avoid falling under the same US ban.

However, these laws need to be carefully designed and focused on achieving positive changes for workers. Crucially, they shouldn't be a protectionist tool designed to protect domestic markets' economic interests, or solely to help consumers in large markets feel confidence about buying slavery-free goods. Instead import controls need to be introduced with remedy, conditions that companies introduce to restore workers their rights (such as returning passports and paying withheld wages) and to improve the working conditions of workers, in order to have bans on their products lifted. Governments should consult carefully with potentially affected workers and their representatives when considering introducing bans, and make sure that the process of introducing a ban is transparent.

Further, import controls are particularly powerful in cases of state-imposed forced labour, where there is systemic forced labour across an entire industry, like cotton in Turkmenistan and the Uyghur Region. In these cases, governments can ban the import of these products into their country, compelling importers to root out such products from their supply chain and end their profiteering from state-imposed forced labour, and putting economic pressure on the perpetrating governments to end their abuse of their citizens.

The best example of this type of law is the US Tariff Act 1930. This law was rarely used until 2016 when a loophole was removed from the law which had allowed forced labour products to be imported if "domestic production was not sufficient to meet the demand". Since then, the US Customs and Border Protection has used this

law extensively, for example to target PPE made with forced labour in Malaysia, palm oil from Indonesia, cotton from Turkmenistan, and products from the Uyghur Region.

Canada has now adopted similar legislation, and Mexico is also expected to do so, as both countries are obligated to introduce comparable rules under the United States-Mexico-Canada Agreement, which governs their free trade. As of mid-2022, parliament members in Australia and the UK have called for comparable laws.

In the EU, no such law currently exists, although the EU does have more specific targeted legislation on fisheries and conflict minerals which are relevant to forced labour. In September 2022, the European Commission published its proposal for forced labour regulation, which would allow for the banning of products both produced in the EU and imported into the EU.

What about the Transparency in Supply Chains clause in the UK Modern Slavery Act?

The Transparency in Supply Chains (TISC) provision of the UK Modern Slavery Act 2015 was a welcome step to address modern slavery. TISC requires all businesses trading in the UK with a global turnover of more than £36 million to publish an annual Modern Slavery Statement. A modern slavery statement should establish the steps a company has taken to ensure there is no modern slavery in their own business or in their supply chains.

Since its introduction, TISC has arguably improved awareness of modern slavery among UK businesses, particularly in sectors such as fashion, food retail and construction, and investors.

However, despite these benefits, TISC has not led to tangible, positive changes to modern slavery in supply chains and for the workers they employ. The majority of companies have approached TISC as a compliance exercise, meeting only the basic legal requirements of the law in terms of disclosure. Overall, [evidence](#) suggests that this reporting obligation has seen little impact on most companies' behaviour beyond the yearly publication of a modern slavery statement. Crucially, companies [can](#) comply with TISC without altering the commercial practices that lead to modern slavery and exploitation and generally taking meaningful action to prevent, mitigate or remedy modern slavery.

Furthermore, TISC has no mechanism to hold companies accountable for a failure to address modern slavery risks or to enable victims of modern slavery in a company's supply chain to access remedy or justice.

Overall, although TISC was ground-breaking when introduced, the evidence since it has been introduced shows that reporting legislation is wholly insufficient. This is why new legal approaches – mandatory due diligence laws and import controls – are necessary. They would compel companies to take meaningful steps to forced labour, and include meaningful accountability measures for a failure to do so, such as liability through due diligence laws, and the seizure of products through import controls.

What is Anti-Slavery International doing to achieve these laws and reforms?

In the past five years, we have focused on legal change in the EU and the UK. As the world's largest single market, EU supply chain laws can have a rippling global effect. As a UK-headquartered organisation, we use our profile and experience in the UK to advocate for change. We also work at global levels, working with partners around the world to advocate for meaningful commitments from G7 leaders and supporting peer NGOs in their own advocacy in other countries, ranging from countries from Chile to New Zealand.

Our campaigns on state-imposed forced labour in Turkmenistan and the Uyghur Region also link in here, as we call for import controls and due diligence laws to stop companies sourcing products from these areas.

In the EU, we have been working in coalition with like-minded organisations since 2017 to call for a mandatory due diligence law, and more recently since 2020 advocating for import controls. In February 2022, the European Commission published its proposal for an EU-wide due diligence law and in September 2022 its proposal for a ban on forced labour goods. These announcements were a game-changer and came about as a result of our sustained campaigning. We are now working with our partners in the EU and around the world to make sure these commitments turn into legislation that drives respect for people and the planet.

In the UK, we have been working since 2019 to call for mandatory due diligence, calling for a UK Business Human Rights and Environment Act. In this time, we have built growing business, investor and public support from across the UK for our campaign.

By Spring 2023, the UK Government is expected to table a Modern Slavery Bill, with its proposed amendments to the Modern Slavery Act. Together with civil society partners, we will be calling on MPs to introduce amendments to this Bill that lead to introduction of import controls in the UK. However, this work is seen as part of our longer-term aim to achieve the Business, Human Rights and Environment Act, which should be introduced as new separate primary legislation in the UK.