Principles for strengthening measures on Supply Chains through the new Modern Slavery Bill

The Government has announced a new Modern Slavery Bill which aims to reduce the prevalence of modern slavery in supply chains, strengthen protection and support for victims and ensure law enforcement agencies have strong tools to tackle this crime. This paper addresses solely the first of these aspects.

There is huge potential for action by businesses to reduce modern slavery around the world. The Transparency in Supply Chains provision of the UK’s Modern Slavery Act 2015 led the world in addressing modern slavery in company supply chains. However, non-compliance and poor quality reporting has limited its effectiveness and it has become evident that additional legal approaches beyond reporting
are necessary. The forthcoming bill is an opportunity to strengthen our legislation and give the UK the tools needed to prevent goods produced through forced labour entering UK supply chains. Below we have set out an overview of the principles and key elements that we consider to be *some of the minimum* actions needed to give the UK an effective mechanism against modern slavery in UK companies’ supply chains, supported by a range of civil society organisations and academics working to enhance protections against modern slavery in supply chains.

These recommendations are foreseen as part of a wider approach which includes the introduction of *new separate primary legislation* which mandates companies, financial institutions and the public sector to undertake due diligence to identify and address human rights abuses and environmental harm in their supply chains, and holds such entities accountable for a failure to prevent harm. Import controls and due diligence legislation should be seen as complementary, but not interchangeable, policy tools.

### 1. Strengthening supply chain transparency under s54 MSA 2015

- **Extension to scope:**
  - Public authorities need to be brought into the transparency obligations, including public bodies providing financial and other support to businesses, such as export credit agencies, development agencies and development finance institutions.
  - Guidance should be provided to specify which public authorities fall within the obligations under the section and necessary information given to assist public authorities to determine if they are so obligated.
  - Definitions of commercial organisation should explicitly include investment organisations.

- **Mandatory minimum reporting requirements** need to include all suggested forms of information under the current provisions, with additional mandatory requirements to include, at a minimum:
  - An assessment of effectiveness in ensuring that slavery and human trafficking is not taking place in its business or supply chains - to include an assessment of the impact of its trading, procurement and pricing practices and its use of grievance mechanisms;
  - A full list of the countries and companies from which the business or public authority sources;
  - Details of the organisation or public authority’s processes for the remediation of victims;
  - Details of all instances of forced labour identified, grievance reports made, and remediation activities undertaken, and where no incidences are found the statement needs to set out evidence and reasons for believing no such incidents exist; and
  - Details of the organisation or public authority’s engagement with trade unions and other worker associations.

- **Government-run registry of modern slavery statements** to be given a statutory basis in the Act and to include a list of companies within scope of the obligations.

- **Penalties to be introduced for failure to comply with the section**, including disqualification from holding a Director’s position for any person who knowingly or recklessly supplies a false or materially incomplete statement; and a fine for the company concerned set at an appropriately dissuasive level proportionate to an organisation’s turnover. The single enforcement body (once
established) should have responsibility for enforcing these penalties, and must be sufficiently resourced, financially and administratively, to do so.

2. Establishment of a legal framework for the transparent imposition of import controls

A framework to target specific companies and goods affected by forced labour, that will encourage the remediation of forced labour practices as well as preventing goods from entering the UK market. Such a framework should exhibit the following features.

- **Establishment of a formalised and secure complaints procedure** for reports to be made by stakeholders, trade unions, NGOs or affected workers, with protections from retaliation, including the ability to submit complaints anonymously.

- **Published guidance as to the criteria that will be used to assess** the possibility that the goods have been produced or transported, in-whole or in-part, using forced labour, based on ILO definitions and indicators of forced labour including with reference to the ILO “Hard to see, harder to count” guidelines.

- **A clear and published process for the imposition of an import ban on specific goods, entities (eg importers, manufacturers) or industries from specific geographical regions** including investigation of complaints and engagement with credible, independent and legitimate representatives of potentially affected rightsholders, and affected businesses, and consideration to be given to the impact of an import ban on those believed to be victims, or potential victims.

- **Published details of what evidence an importer/retailer/manufacturer of goods must provide in order to contend a seizure of its goods/ a ban, and what conditions must be met for goods subject to an import ban to be released**, including steps taken to address and prevent forced labour practices and to remediate harm to victims of forced labour. The evidence and conditions should take account of the challenges for due diligence in relation to regions at risk of state-imposed forced labour, and the limitations of social auditing and certification schemes to monitor and prevent forced labour.

- **A published list of sanctioned entities, regions and products** to be created and maintained.

- **Engagement with affected stakeholders** to assess action on remediation or preventative measures prior to lifting of import bans.

- **Guidance and advice for UK businesses** to help reduce their risk of business disruption associated with import bans, including publication of a risk register detailing goods, entities or industries from specific geographical areas which present a high risk of slavery and human trafficking being present in supply chains including, but not limited to, those that have previously been sanctioned. This should include specific guidance on regions where there is evidence of state-imposed forced labour.

- **Coordination with global counterparts**, including the USA, Canada and, once applicable, Mexico and the EU, to share evidence standards and align procedures, including with the possibility to trigger UK investigations on the basis of a determination from third countries.
• **Mandatory disclosure of supply chain information by importers/retailers** in order to situate forced labour risk for enforcement purposes, requiring companies that import goods into the UK to disclose the name and address of the manufacturers, suppliers and sub-suppliers to the UK Customs Authorities.

• **Product exclusion in certain situations in compatibility with WTO laws.** This should be supported by UK trade deals containing strong anti-slavery provisions.

**These principles are supported by:**

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