Globally, including in the UK, businesses are responsible for human rights abuses in their supply chains. Adverse human rights impacts, some of which amount to modern slavery, can occur at any level of a supply chain. Voluntary corporate social responsibility initiatives have failed to protect people from modern slavery, as slavery tainted goods and services still find their way into our every-day purchases.

In 2015, as a welcome step to address modern slavery, the UK introduced the Modern Slavery Act, with the Transparency in Supply Chains Clause (TISC). However, the past eight years of implementing the TISC have shown that it is simply not enough, having failed to drive tangible positive systemic change in supply chains and for workers. Ultimately, transparency and reporting legislation is insufficient to drive change in corporate behaviour, ensure corporations abide by the same standards, and prevent modern slavery.

There is an urgent need for new binding standards which benefit all workers and their communities. Without effective policies and practices in place, companies and the public sector may continue to be profiting from, or linked to, forced labour, trafficking, or other severe labour abuses. Stronger laws with accountability measures and paths for remedy are essential.

Over the past few years, support has been increasing from policymakers, business, investors, and the general public for legislation that makes businesses legally responsible for respecting the rights of workers in their supply chains. Moreover, a number of countries around the world, as well as the EU, have started to act upon the need to implement stronger laws. They have adopted or have started to consider legislation that embeds elements of HREDD into their legislative framework. Failure on the part of the UK to keep step with global developments on this issue would create an uneven playing field between UK businesses and their global counterparts.

A new Business, Human Rights and Environment Act would:

- **Compel businesses to undertake human rights and environmental due diligence.** Companies, financial institutions and the public sector would be required to identify, prevent, mitigate, and account for human rights abuses, including modern slavery, and environmental damage caused by their operations, subsidiaries, and value chains. Companies would need to proactively take action to prevent these risks, including by addressing the impact of their own business models.
Help to level the playing field between businesses and provide clarity and certainty on legal obligations. Currently, businesses taking appropriate steps to respect the human rights of their workers face considerable disadvantages against competitors profiting from lower costs gained through the exploitation of workers. A new law is key to ensuring that efforts by companies to address modern slavery risks in their supply chains are not undercut by the lack of a uniform standard of conduct applying to all business actors.

Hold companies and other organisations accountable for failure to prevent abuses through liability provisions. The inclusion of strong accountability measures and liability provisions are fundamental to compel effective action on modern slavery.

Enable victims of abuses, including modern slavery, to access justice. Currently, victims of modern slavery in UK company and public sector supply chains face enormous obstacles to access remedy or justice. The new law would provide victims of abuses with clear paths to access these.

Recommendations to the UK Government for reforming regulation:

Principal elements of a Business, Human Rights and Environment Act must include:

- The obligation to respect all internationally recognised human rights and environmental standards.
- A scope that covers a broad range of commercial and other non-commercial organisations, no matter their size or sector, and the entirety of the value chain.
- The obligation to identify, cease, prevent, mitigate, monitor and account for human rights and environmental adverse impacts through an ongoing due diligence process.
- The provision for or cooperation in the remediation of adverse impacts in their global value chains and within their operations and business.
- Mandatory and meaningful engagement with stakeholders who are affected by companies’ activities.
- The obligation to publish a forward-looking plan and an assessment of the effectiveness of actions taken, as well as supply chain disclosure requirements.
- Liability for harm, loss and damage arising from their failure to prevent adverse human rights and environmental impacts of their domestic and international operations, products and services including in their supply and value chains.

Alongside the Business, Human Rights and Environment Act, a toolbox of measures that complement and reinforce each other would strengthen Britain’s approach to addressing modern slavery in global supply chains and its root causes. Import controls are a vital part of the toolbox for the UK to end human rights abuses wherever they occur, and so that consumers can be confident that the goods they buy in the UK are free from modern slavery.

The UK must now make sure it plays its part in addressing modern slavery in supply chains, aligning UK policy with global developments and the growing consensus on the need for mandatory due diligence laws.
A call for a UK Business, Human Rights and Environment Act

May 2023

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1. Introduction

Globally, including in the UK, businesses are responsible for cases of human rights abuses that occur in their value chains, some of which amount to modern slavery. However, voluntary corporate social responsibility initiatives have failed to protect people from exploitation. In 2015, the UK Government introduced the Modern Slavery Act, with the Transparency in Supply Chains Clause (TISC), which was seen as ground-breaking at the time. TISC requires businesses trading in the UK, with a global turnover of over £36 million, to publish an annual Modern Slavery Statement. Although TISC has improved awareness of modern slavery by UK businesses, the past eight years of the law’s implementation have shown that this is simply not enough to drive change by business.

Under current UK laws, companies operating in the UK are not compelled to take meaningful action to prevent or remedy modern slavery. It is extremely difficult to hold companies to account for harms in their value chains, and victims of modern slavery face enormous obstacles in accessing justice.

Anti-Slavery International is calling for the introduction of a new UK Business, Human Rights and Environment Act to create a corporate duty to prevent negative human rights and environmental impacts, mandating companies, financial institutions and the public sector operating in the UK to conduct human rights and environmental due diligence (HREDD) across their operations, subsidiaries and value chains.

This law would require companies and financial institutions to identify, prevent, mitigate and account for human rights abuses, including modern slavery, and environmental damage caused by their operations, subsidiaries and value chains. It would oblige companies to proactively take action to prevent these risks, including by addressing the impacts of their own business models. The new law must also hold UK companies accountable if they fail to prevent human rights abuses and environmental harm and enable victims of abuses to access justice and remedy. This law should be modelled on the civil and criminal duties to prevent tax evasion and bribery found in the UK Criminal Finances Act 2017 and the Bribery Act 2010.

Calls for a new UK legislative approach to prevent corporate human rights abuses and environmental harm have been growing. Civil society, trade unions, businesses, MPs and the public are all now calling for the UK to introduce a mandatory human rights and environmental due diligence law. We hope the UK Government will meet its G7 commitment to the coherent implementation of and compliance with international standards relating to human rights, environment, and labour rights across global supply chains and show global leadership by introducing the proposed UK Business, Human Rights and Environment Act.

This briefing document gives an overview of the rationale behind our legislative call. It outlines the UK’s current lack of mechanisms to hold companies accountable for a failure to prevent abuses, the need to level the playing field between businesses, as well as the urgency for guaranteeing access to justice for victims of corporate abuses.

A toolbox approach

In this paper we provide a series of recommendations to ensure the UK plays its part in addressing modern slavery in global value chains. This includes both the principal elements of the proposed Business, Human Rights and Environment Act and a toolbox of additional measures. Import controls are a vital part of the toolbox to end human rights abuses wherever they occur. Import controls will stop Britain from being a dumping ground of rerouted products made with forced labour and bring confidence to consumers that the goods they buy in the UK are free from modern slavery. Additional elements in the toolbox include labour rights and anti-slavery protections in trade agreements, development policies focused on addressing the root causes of forced labour, as well as domestic protections and enforcement.

2. Background: Modern slavery in UK value chains

Global supply chains are very complex. They encompass all business functions required to produce and deliver goods and services in our global economy. Adverse human rights impacts, including modern slavery, can occur at any level of a supply chain: from first tier direct suppliers, all the way down to people working at raw material level, for example harvesting crops on farms, mining metals, or in the processing of raw materials.

The 2021 Global Estimates of Modern Slavery released by Walk Free, the International Labour Organisation (ILO) and the International Organization for Migration (IOM) indicate there are nearly 50 million people living in a situation of modern slavery on any given day. Forced labour accounts for 27.6 million of those in modern slavery. Concerningly, the 2021 figures show about 10 million more men, women, and children who have been forced to work or marry in the period since the previous estimates were released in 2017. More than 60 per cent of people in forced labour are exploited in the private sector, likely linked to the value chains of international businesses providing goods to global markets, including the UK. In the UK, forced labour remains the most common form of exploitation identified by the Modern Slavery Helpline.

Forced labour, being the most common form of modern slavery globally, is also the most extreme form of labour exploitation. It is sometimes associated with physical violence, but often occurs through more insidious means such as deception, coercion and debt bondage. Socially excluded groups, such as many marginalised communities, migrants, women and girls, are often at greater risk of forced labour.

Many root causes of forced labour are systemic – linked to poverty, discrimination, social exclusion and weak rule of law. However, corporate practices and business operations in global value chains often contribute to the demand for forced labour. The constant search for low prices and high profits, the drive for ever quicker turnaround of products, the move to sub-contracted rather than directly employed labour, and the reliance on weak monitoring approaches, coupled with ongoing restrictions to freedom of association, all increase the risk of modern slavery. Over the past years, we have seen a rise in forced displacement worldwide driven by factors such as the current climate crisis and conflict. Climate change has amplified the detrimental impact of environmental events on human lives, for example, with the floods in Pakistan and the devastating droughts in the Horn of Africa. We have also witnessed new and ongoing situations of conflict, such as the war in Ukraine, with millions of people fleeing their home countries in search of work elsewhere. These situations of forced displacement significantly increase the risk of migrant workers and refugees suffering from exploitation.

The COVID-19 crisis further exposed the burden of risk carried by workers in value chains, underscoring current gaps in UK legislation around corporate legal accountability. During the pandemic, workers faced heightened risks of labour exploitation and modern slavery in industries and services, such as food, PPE production, and delivery. In the garment industry, COVID-19 had a disproportionate impact on migrant workers and women, who represent the majority of workers in the garment manufacturing industry.

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2 [https://www.walkfree.org/reports/global-estimates-of-modern-slavery-2022/]
4 [https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/confronting-root-causes/]

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Top Glove: appalling conditions in factories supplying PPE to the UK

Unsurprisingly, global demand for PPE increased during the pandemic. Malaysia supplies the majority of medical gloves used by the NHS, the single biggest purchaser of gloves in the world. Substantial evidence of forced labour can be found within the Malaysian medical gloves industry, and this increased during the pandemic.9 Top Glove, a Malaysian PPE company, is the biggest manufacturer of rubber gloves in the world for multiple brands which supply the NHS. During the pandemic, workers at Top Glove allegedly worked 12-hour days, six days a week, with some earning as little as £7 per day.10 Social audits had been undertaken at Top Glove, yet the auditing firm11 alleged there was no forced labour in the facility, underscoring the inadequacy of audits to identify modern slavery risks. The abuses led the USA to impose an import ban on PPE from Top Glove in July 2020. However, in the UK, imports from Top Glove increased by 314 per cent between January and July 2020.12 Similarly, the UK has allegedly been sourcing PPE made with forced labour from the Uyghur Region13 and North Korea.14

In January 2022, a judicial review in The High Court challenged the public sector’s procurement processes in relation to another PPE supplier of latex gloves, Supermax.15 The case was settled, and it was decided that there must be change in how the risk profile of potential suppliers is assessed in sourcing for the NHS. The existence of forced labour within the sector reveals that the procurement systems used by the NHS and UK Government are insufficient.16

There is an urgent need for new binding standards that benefit all workers and their communities. Without effective policies and practices in place to prevent and mitigate risks, companies and the public sector may continue to be profiting from or linked to forced labour, trafficking or other severe labour abuses through their business activities.

3. The current legal approach: The Transparency in Supply Chains provision of the UK Modern Slavery Act

The Transparency in Supply Chains (TISC) provision of the 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.17 Among investors, TISC has seemingly contributed to an increase in the attention paid to modern slavery risks in national and global supply chains, showing senior management that this is a serious issue.18 It has also driven the creation of a number of multi-stakeholder initiatives and industry action to understand and address modern slavery risks. However, despite these benefits, TISC is simply not enough. Eight years since its introduction, TISC has not led to tangible, positive changes to identify, address and prevent modern slavery in supply chains and for the workers they employ.

As a reporting and transparency obligation in nature, TISC’s focus is solely on disclosure of information. Crucially, TISC does not compel companies to take action to prevent, mitigate or remedy modern slavery. A 2022 study by the Financial Reporting Council analysing the reporting practices of a sample of 100 major UK companies found that many of them are still providing limited and often superficial commentary on this key business risk. The same patterns of poor reporting practice identified in previous research continues in key areas, such as due diligence, risk assessment, and performance measurement and effectiveness.19

9 https://modernslaverypec.org/latest/forced-labour-malaysia-medical-glove
11 https://www.reuters.com/world/asia-pacific/audit-gave-all-clear-others-alleged-slavery-2021-05-19/
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From the companies that have published statements, the quality has varied tremendously. Some companies have responded meaningfully, providing detailed information on their supply chain structures, their due diligence processes to identify and address risks, and, in rare instances, concrete instances of modern slavery in their supply chains. However, the majority have approached TISC as a compliance exercise, meeting only the basic legal requirements of the law, which are to publish a statement of any quality signed by the board/director on a prominent part of the website. Crucially, companies can comply with TISC without altering the commercial practices that lead to modern slavery and exploitation. Overall, evidence suggests that this reporting obligation has seen little impact on most company behaviour, beyond the yearly publication of a modern slavery statement.

What’s happening in practice?

KnowTheChain is an initiative that benchmarks current corporate practices, evaluating companies’ efforts to assess forced labour risks in their supply chains. KnowTheChain’s research has proven the discord between companies’ policy commitments and their implementation in practice:

- **Grievance mechanisms of UK companies**: Data based on 10 UK-headquartered companies from the apparel & footwear and food & beverage sectors shows that 80 per cent of the companies disclosed having grievance mechanisms available to suppliers’ workers. However, only 40 per cent disclosed data on the use of such grievance mechanisms. It is unclear whether the mechanisms are effective, and whether workers know the mechanisms exist, how to use them, and trust them.

- **Recruitment fees in global businesses**: Assessing the policies and their implementation around the exploitation of migrant workers in 180 of the largest global companies in high-risk sectors across the electronics, food and apparel sectors, more than 50 per cent of companies are disclosing policies prohibiting worker-paid recruitment fees in their supply chains. However, with regards to implementing these policies, the bar appears to be far too low as just 13 per cent disclose such evidence. This evidence could include proving that companies are taking the necessary steps to ensure remedy for migrant workers, such as repayment of recruitment fees.

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.

Following calls to improve the UK’s legal framework on corporate accountability, in September 2020 the Government committed to strengthen TISC. This included by extending TISC to the public sector, introducing key sections that the statements must cover and a new single reporting deadline. In January 2021, it was further confirmed that financial sanctions would be introduced ‘for businesses that do not comply with their transparency obligations’. It remains unclear when some of these changes will be passed into law, and it is doubtful that they will address the inefficiencies that hinder meaningful action by companies. Although these proposed changes to TISC are welcome, a more ambitious approach is needed to drive effective action on modern slavery. Under the current improvements, companies will still only be sanctioned for failing to publish a statement, but not for failing to prevent, mitigate and remediate modern slavery in their supply chain.

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23 Workers are often made to bear the costs of their recruitment expenses. These costs and the interest on loans taken out to pay them can leave workers in situations of debt bondage.
24 According to the ILO, “recruitment costs can amount to nine months or more of average monthly earnings.” Such large sums leave workers in debt bondage, meaning they are forced to work in order to pay off the debt.
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Uyghur forced labour: A case study in the weakness of TISC

The Chinese Government has detained an estimated 1-1.8 million Uyghurs, Kazakhs and other Muslim and Turkic-majority peoples in the Xinjiang Uyghur Autonomous Region (Uyghur Region). This is the largest internment of a religious and ethnic minority group since the Second World War, and forced labour is a key part of the system of persecution. Many Uyghurs and other Turkic and Muslim-majority peoples have also been forcibly transferred to factories in other areas of China. UN human rights experts have determined the abuses may constitute crimes against humanity,27 and legal and human rights experts have declared that the abuses amount to genocide.28 The end of these atrocities is not in sight.

The UK Overseas Business Risk guidance29 has noted the risk of Uyghur forced labour being present in the cotton industry, textiles, automobiles, electronics and polysilicon – a key material for solar panels.30 UK companies are directly profiting from this forced labour in various sectors, in particular textiles, solar, automobiles, PVC flooring and electronics, due to the global reach of Chinese supply chains.

Research31 has shown that dozens of well-known international brands, including UK companies such as Tesco and River Island, are at risk of using cotton that is produced or processed by Uyghur forced labour. China is the biggest exporter of textiles in the world, with 84 per cent of cotton produced in the country originating in the Uyghur Region.

In relation to solar panels, it is estimated that up to 97 per cent of all solar panels globally could be linked to Uyghur forced labour, due to China’s importance globally in polysilicon production.32 In the UK specifically, some estimates state 40 per cent of the solar industry is potentially linked to forced labour in the Uyghur Region.33 However, this estimate was published by the Guardian in 2021 and came prior to a Sheffield Hallam research, which provided greater detail as to how the solar industry is exposed to Uyghur forced labour throughout different stages of the solar supply chain. As AntiSlavery International, we would therefore suggest that the estimate that 40 per cent of the UK’s industry is implicated is an underestimate, and the exposure of the UK solar industry is likely far higher.34

In addition to the above, a 2022 Sheffield Hallam University and NomoGaia study35 concluded that the global automobile industry, including battery production in electronic vehicles, is significantly exposed to the risk of Uyghur forced labour. Sheffield Hallam and NomoGaia allege that the supply chains of Daimler, London Electric Vehicle Company – the supplier of EV black cabs in London, Aston Martin, Bentley, Jaguar Land Rover, Rolls Royce, among many other auto companies, are all at risk.36 In terms of electronic vehicles, due to the dominance in the market of two of the Uyghur Region companies in question, Sheffield Hallam and NomoGaia state that “practically all EV battery manufacturers are exposed”.

Sheffield Hallam University has also investigated the increased manufacturing of PVC (polyvinyl chloride or vinyl) through state-sponsored labour transfers in the Uyghur Region and the routes by which the resulting building materials make their way into international markets.37 PVC can be found in everyday products, including in the UK, from shower curtains to shoes soles or credit cards, and it is also widely used in building and construction.

29 The UK Government provides information for UK businesses on political, economic and security risks when trading overseas through their UK Overseas Business Risk guidance, which can be accessed here: https://www.gov.uk/government/collections/overseas-business-risk
32 https://issuu.com/eventideassetmanagement/docs/eventide-specialreport-uyghur-092921-single?fr=ZGQ2ZiQwMTUzODk
34 https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight
35 https://www.shuforcedlabour.org/drivingforce/companies/
36 https://www.shuforcedlabour.org/drivingforce/companies/
37 https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/built-on-repression
In 2021, the US introduced an import ban on all cotton, tomatoes and downstream products from the Uyghur Region by issuing a Withhold Release Order under the US Tariff Act. In 2022, the Uyghur Forced Labor Prevention Act came into effect, establishing for the first time a rebuttable presumption that all products produced in the Uyghur Region or using raw materials, like cotton, from the Region are made with forced labour and are banned from importation into the US. In the UK, there is no ban equivalent to the US Tariff Act or the Uyghur Forced Labour Prevention Act. With its focus on disclosure alone, TISC does not compel meaningful action by companies to address linkages to these egregious abuses. The weakness of TISC in relation to corporate linkages to Uyghur abuses has been recognised by UK MPs:

“The Modern Slavery Act is out of date, has no teeth, and we do not accept that businesses should be excused from doing basic due diligence to guarantee that their supply chains are fully transparent and free from forced labour and slavery.” “Uyghur forced labour in Xinjiang and UK value chains”, Business Select Committee, March 2021.

The weakness of the Modern Slavery Act in relation to the Uyghur abuses crudely demonstrates the urgency for new legislation which mandates businesses to address risks through human rights and environmental due diligence, and holds companies accountable for a failure to prevent abuses. If meaningfully enforced, such legislation would require companies to map and trace the risks of being linked to Uyghur forced labour through their supply chain, employing all reasonable measures to do so, and ceasing relationships where such links are found. Furthermore, it would have a significant ‘levelling the playing field’ effect, requiring all companies to take meaningful steps, rather than the patchwork of efforts currently seen.

39 https://www.cbp.gov/trade/forced-labor/UFLPA
40 https://publications.parliament.uk/pa/cm5801/cmselect/cmbk6/1272/127202.htm
4. The legal approach we need: a Business, Human Rights and Environment Act

Ultimately, transparency and reporting legislation is not enough to drive change in corporate behaviour, ensure corporations abide by the same standards, and prevent modern slavery. Around the world, there is a growing recognition of the need for more robust legislation to hold businesses to account.

The UK urgently needs a new Business, Human Rights and Environment Act which introduces a corporate duty to prevent human rights abuses and environmental harms. This law would:

a. Compel businesses to undertake human rights and environmental due diligence to identify, address, prevent, mitigate and remedy harms in their operations and value chains;

b. Hold companies and other organisations accountable for a failure to prevent abuses through liability provisions;

c. Help to level the playing field between businesses and provide clarity and certainty on legal obligations;

d. Enable victims of abuses, including modern slavery, to access justice.

a. Human rights and environmental due diligence

Relevant due diligence legislation would focus on businesses taking responsibility for the impact of their actions throughout their domestic and international operations, products and services across their value chains. The UN Guiding Principles on Business and Human Rights (UNGPs) – the relevant international standard the UK has committed to implement – sets out businesses’ responsibilities to respect human rights, requiring both policy commitment 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”.

A due diligence obligation must cover all internationally recognised human rights and environmental standards. Isolating a due diligence obligation to modern slavery alone will be insufficient to bring about meaningful efforts to address the root causes and drivers of modern slavery. Modern slavery does not occur in isolation from other human rights abuses, but sits within a spectrum of abuses, such as lack of payment of minimum wages, restrictions to freedom of association, forced overtime or gender-based violence. If a company is not proactively taking action to examine the impacts of its purchasing practices and respect basic labour rights in its value chain, including ensuring workers can join trade unions and are being paid a living wage, then it is not taking effective action to prevent modern slavery.

Similarly, a due diligence obligation must include an obligation to prevent, mitigate and remedy environmental harms, including climate change impacts. Connections between the environment and human rights have increasingly been recognised by governments, courts, international organisations and societies. This is also demonstrated by the unique and disproportionate ways in which climate change and other forms of environmental damage impact vulnerable and marginalised groups, including increasing vulnerability to modern slavery. By introducing due diligence requirements for both human rights and environmental impacts, it provides consistency and legal clarity, to enable businesses to take comprehensive, effective and adaptable due diligence action to address their negative impacts.

42 https://pubs.iied.org/sites/default/files/pdf/2021-09/20441G.pdf
b. Accountability measures with strong liability provisions

The inclusion of strong accountability measures and liability provisions are fundamental to promote effective action on modern slavery. Most businesses lack the willingness to actively address the root causes of human rights violations. There is a need for a law that, through accountability measures, places the focus on the need for abuses to be prevented in the first place.

Research comparing the impact of transparency legislation, which establishes reporting requirements such as in TISC, and bribery legislation, which establishes corporate criminal offences, found that transparency legislation had little impact on corporate policies and practices. In contrast, the research found that bribery legislation did yield meaningful changes in corporate policies and practices to prevent bribery in supply chains. Without liability provisions, therefore, it is unlikely that businesses will substantially change their behaviour.

An effective legal model

Our recommendation is for the due diligence obligation to have accountability measures modelled on the duties to prevent tax evasion and bribery found in the Criminal Finances Act 2017 and the Bribery Act 2010. The British Institute of International and Comparative Law (BIICL) found this to be a legally feasible model and applicable to businesses’ human rights and environmental obligations.

Such a law would incentivise companies to take action to prevent abuse from happening, by undertaking reasonable human rights and environmental due diligence, and hold companies accountable if they failed to do so. Companies could be held liable in a UK court for harm, loss and damage arising from their failure to prevent harmful impacts. Evidence that they had put in place reasonable due diligence, for example by exerting leverage with suppliers, to mitigate and prevent harm could form part of their defence.

This would distinguish from other options of a “mandatory human rights and environmental due diligence law”, which could risk creating tick-box obligations around the due diligence process, or incentivising companies to simply disengage from higher-risk contexts. By placing the onus on a failure to prevent abuses through reasonable due diligence, the focus is instead on achieving positive outcomes.

c. Levelling the playing field

As outlined above, some companies have used the transparency requirements in TISC as an opportunity to advance discussion and action on human rights due diligence. However, many companies have not. This puts those businesses allocating resources and implementing actions to respect the human rights of their workers at considerable disadvantages against their competitors, which are operating with lower costs due to the exploitation of workers, for example through abusive purchasing practices.

A new law compelling due diligence with accountability provisions is key to make sure that efforts by companies to address modern slavery risks in their value chains are not undercut by the lack of a uniform standard of conduct applying to all business actors. This is one of the reasons why 49 companies, investors and business associations, as well as 39 UK investors representing more than £4.5 trillion in assets under management, have publicly come out in support of due diligence laws in the UK that would drive a ‘race-to-the-top’ among the industry and would help to rebalance power between workers and companies.

In terms of the cost meaningful human rights and environmental due diligence would have on a company, a study by the European Commission shows that for small and medium size enterprises (SMEs), the additional recurrent company level cost of such activity would be around 0.14% of their revenue; for larger companies, the number is reduced to 0.09%. A failure to prevent model would be advantageous in this regard because the focus is not on a series of compliance-based tick-box exercises and is instead on preventative activity.

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44 https://www.biicl.org/documents/84_failure_to_prevent_final_10_feb.pdf
45 https://media.business-humanrights.org/media/documents/5MR_Embargoed.pdf
47 https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en
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proportionate to the level of risk a company faces. This is particularly relevant to SMEs who would be able to focus on their highest risk areas and streamline resources accordingly.

Labour exploitation in Leicester and the case of Boohoo

For years, the underpayment of workers in garment factories in Leicester has been well documented. Hourly rates of £3 per hour are common. Due to increased online shopping, Boohoo was successful during the coronavirus pandemic and saw a share value increase of 22 per cent. Yet while Boohoo shareholders enjoyed such success, research found that, in contrast, workers in Boohoo’s supply chain were victims of exploitation. Factories remained open during lockdown, but without providing hand sanitiser or PPE. Workers showing symptoms of COVID-19, and even those who tested positive, were told to continue coming into work and to remain silent about their test results with the threat of losing their jobs. There were also allegations indicating forced labour at these factories, such as migrant workers who had their documents retained by their employers. Migrant workers will often fear speaking out due to worries about deportation or investigation and are therefore more likely to accept poor working conditions without formal contracts.

Following the exposés of summer 2020, Boohoo commissioned an independent review into the company’s Leicester supply chain. The review concluded that Boohoo had “not felt any real sense of responsibility for the factory workers in Leicester because they are largely invisible to them”. The review found that Boohoo’s monitoring of its Leicester supply chain had been inadequate for many years and that senior Board members had known about examples of seriously unacceptable working conditions.

Notably, the review found no evidence that Boohoo’s actions constituted criminal wrongdoing, and that Boohoo had complied with its responsibilities under TISC. The fact that Boohoo could technically comply with current UK law despite the situation in Leicester shows the law’s flaws and failings. Furthermore, other UK fashion companies had, in this same time period, been going beyond statutory requirements to address the exploitation risks in Leicester, emphasising that there is no level playing field between companies that take steps to respect the rights of workers, and those that do not.

Furthermore, the review found that “there may be evidence of breaches of the UN Guiding Principles on Business and Human Rights”, but that “it has no force of law in the UK and thus a breach could not by and of itself amount to the commission of a criminal offence”. According to a separate legal opinion commissioned in 2021, “Boohoo could have been found liable for breaches of the Guiding Principles under mandatory human rights due diligence/UK ‘failure to prevent’ legislation in the form of the BIICL Model Legal Provision, had such legislation been in place during the relevant period of time.”

What if a BHREA law had been in place?

The Legal opinion concludes: “Of course, it is difficult to speculate as to whether Boohoo might have behaved differently had such legislation been in place. However, Boohoo’s story is a compelling example of a situation in which such legislation might have made a difference, either by encouraging appropriate action to be taken earlier or by providing a means of redress for those affected by the allegations found to be substantially true.”

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51 https://www.antislavery.org/boohoo-bargains-but-at-a-human-cost/
52 In 2014, a group of UK fashion retailers developed an “audit and improvement” programme called Fast Forward, in response to the concerns of exploitative practices in UK fashion manufacturing going undetected by existing social compliance audits. Anti-Slavery International is unable to comment on the efficacy of this programme. However, notably, Boohoo did not join this programme until mid-2021. https://www.fastforwarduk.org/public-statement-by-fast-forward-regarding-issues-highlighted-within-the-leicester-garment-industry-9th-july-2020/
d. Access to remedy and justice

As outlined by the UNGPs, workers and any victims of corporate harm should be able to access remedy in two ways: through the courts (judicial remedy) and through non-judicial mechanisms.56

Currently, victims of modern slavery in the supply chains of UK companies face enormous obstacles to accessing remedies or justice. As an example, KnowTheChain data57 shows that eight out of 10 UK companies assessed had received allegations of forced labour in their supply chains and only one of the 10 companies disclosed providing remedy for the workers affected in the allegation. None mentioned engaging with affected stakeholders as part of their response to the allegation, and none disclosed evidence indicating that any remedy provided was satisfactory to the workers.

Barriers to judicial redress in UK courts are particularly high. Notably, the “burden of proof” currently rests with the victim rather than the company in question, requiring the victim to prove the company’s alleged failures and their connection to the harm they suffered. Enormous challenges are faced for modern slavery victims to hold UK companies accountable in court for abuses abroad. Efforts by victims to sue corporations in the latter’s home states are often obstructed by rules of conflict of laws.58

Barriers to justice. The case of Okpabi vs Shell.

A key barrier to justice for victims of any human rights or environmental abuses committed abroad, where the harm has been caused by or linked to a UK company, has been establishing whether English courts have jurisdiction where a subsidiary of a UK parent company has committed harms abroad.59

In a landmark case against Shell, approximately 50,000 claimants from the Niger Delta region of Nigeria were affected by terrible environmental destruction resulting from oil spills.60 The UK Supreme Court determined that the Nigerian victims were able to sue Shell, the parent company, in English courts even though the damage was caused by its Nigerian subsidiary.61

Okpabi vs Shell confirms the Supreme Court’s previous decision in Lungowe vs Vedanta; here a village’s land and waterways were poisoned as a result of mining pollution where the mine was owned by KCM, a Zambian subsidiary of Vedanta.62 In this case, the Supreme Court allowed the villagers to pursue their case against the British parent company, Vedanta, in the UK courts, rather than making them pursue the matter against KCM in the Zambian courts.63

We, along with other actors such as CJC, commend the development of these cases64 However, we do not yet know if this case will be successful, as it has not been adjudicated on its merits and enormous challenges to access justice remain. Such barriers would arguably be even greater for modern slavery victims, where the harm tends to occur in a company’s supply chain. In such cases, companies continue to evade responsibility for the harm that takes place in their supplier’s entity, despite the significant leverage they likely have over suppliers, for example due to being a supplier’s primary customer. Further down a supply chain, supply chains’ opaqueness can hinder the possibility to establish links with the ultimate buyer, making it harder for victims and their representatives to bring UK companies to court.

The Supreme Court reaffirmed that there were numerous ways by which a parent company could adopt responsibility for the impacts of a subsidiary including through management, issuing defective advice or policies, implementing group-wide policies, or exercising supervision or control over a subsidiary. This decision opened up the route for the communities to proceed with their claims against both Shell and The Shell Petroleum Development Company of Nigeria. In early 2023, an Ogale group claim register was filed at the High Court in London, confirming that 11,317 people and 17 institutions, including churches and schools, from Ogale are seeking compensation for loss of livelihoods and damage against Shell. This is in addition to the 2,335 individual claims which were issued at the High Court in 2015.

56 A Non-Judicial Grievance Mechanism (NJGM) is a formal, non-legal complaint process that can be used by individuals, workers, communities and civil society organisations that are affected by corporate harm. There are both state and non-state based NJGM, such as National Human Rights Institutions, Ombudsperson offices, National Contact Points (NCPs) under the OECD Guidelines for Multinational Enterprises, etc. https://globalnaps.org/logue/non-judicial-grievance-mechanisms/
57 https://knowthechain.org/benchmark/
63 https://corporatejusticecoalition.org/news/victory-over-vedanta/
The barriers to taking cases to court against UK companies underscore the urgent need for a new law to enable better access to justice. It is important that workers and communities that are victims of human rights and environmental abuses can bring cases to UK courts without barriers. The law must ensure that all barriers and obstacles are removed, crucially including reversing the “burden of proof” so that it instead rests on the company to show its due diligence has been appropriate and adequate and that it has taken all necessary steps to prevent the harm from happening in the first place. Notably, the reversal of the burden of proof forms part of the UK Bribery Act.

5. Growing support for Mandatory Human Rights and Environmental Due Diligence Laws

Over the past few years there has been growing support from policymakers, leading businesses, investors and the general public to make businesses legally responsible for respecting the rights of workers in their value chains.

a. Government and parliamentary support

Calls from within the UK Government to bring forward stronger legislation requiring companies to prevent human rights abuses in their operations is not something new, and we have seen an increasing number of such calls being made over the past years.

The UK’s Global Resource Initiative (GRI) Taskforce, a taskforce of leaders from business and environmental organisations sponsored by the Department for Environment, Food & Rural Affairs (DEFRA), the Department for Business, Energy & Industrial Strategy (BEIS), and the Foreign, Commonwealth & Development Office (FCDO), has urged the UK Government to introduce legislation which goes beyond the reporting requirements of TISC. A 2017 report from the UK Parliament’s 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”.

In July 2021, in its inquiry on “Xinjiang Detention Camps” the Parliament’s Foreign Affairs Committee recommended not just the imposition of punitive fines for non-compliance with the reporting elements of the Modern Slavery Act, but it also recommended the Government “introduce new legislation that will create a legal requirement for businesses and public sector bodies to take concrete measures to prevent and remove the use of forced labour in their value chains. This new duty should be backed up by meaningful sanctions and penalties for non-compliance.”

Political parties are also incorporating into their policy commitments the introduction of corporate accountability legislation. For example, in the Labour Party’s 2022 Green Paper on Employment Rights, the Party committed to introducing legislation to provide joint and several liability between companies across the supply chain to ensure there is accountability if slavery or criminal labour exploitation is uncovered at any stage in the production process.

As of May 2023, 25 MPs across different political parties support a new law on business, human rights and the environment to protect people and planet from abuse, recognising that UK businesses, investors, the public and civil society groups are calling for mandatory human rights and environmental due diligence legislation for business and the public sector. These UK policy makers agree that voluntary initiatives have failed to protect human rights and the environment, and agree that we need a new law that includes accountability mechanisms, encompassing enforcement and the provision of access to justice for victims.
b. Business and investor support

The 2020 study ‘A UK Failure to Prevent Mechanism for Corporate Human Rights Harms’ by BIICL found that UK businesses would support legislation that penalises companies failing to prevent human rights harms, indicating that additional regulation may bring benefits to business through providing legal certainty and levelling the playing field, holding competitors and suppliers to the same standards. 75 per cent of businesses surveyed by the BiICL disagreed with the statement “existing law provides business with clarity about what are corporate human rights obligations.”

In September 2022, 49 leading businesses, investors, business associations and initiatives operating in the UK, including the British Retail Consortium, the Ethical Trading Initiative, John Lewis & Partners, Nestle, ASOS, Primark and Tesco calling for the UK Government to urgently bring forward ambitious primary legislation to mandate companies to carry out human rights and environmental due diligence (HREDD). In their statement, the organisations also state that, in order to level the playing field in practice, this legal requirement will need to be accompanied by strong enough consequences that ensure businesses carry out HREDD and that victims have access to justice.

Similarly, in August 2022, 39 UK investors representing more than £4.5 trillion in assets under management, including Aviva, Legal & General and CCLA, released a statement saying that businesses “should be held legally liable for harm, loss and damage arising from their failure to prevent adverse human rights and environmental impacts within their operations and throughout their global value chains”, adding that they should be “required to adequately compensate victims of abuse”.

ASOS calls for mandatory human rights due diligence legislation with liability

In a 2021 opinion piece by ASOS, the large UK retailer called for the UK to adopt legislation which keeps the UK at the forefront of world-leading Environmental Social Governance (ESG) regulation. ASOS called for making human rights due diligence mandatory, requiring UK-based businesses to report on their efforts to mitigate risk and protect people in supply chains globally”, and to reinforce this through creating liability for companies who fail to prevent human rights harms. ASOS specifically endorsed the BIICL study on the Bribery Act as setting a model for best practice UK legislation.

c. Public support

Public opinion also supports new rules to hold companies accountable. A public petition, with more than 114,000 signatures as of May 2023, is calling on the UK Parliament to support a Business, Human Rights and Environment Act against human rights abuses and environmental destruction in value chains.

A YouGov poll of 1,802 adults commissioned by Anti-Slavery International and the Corporate Justice Coalition shows an overwhelming public support for stronger legislation, with 4 in 5 of the British public wanting a law to prevent business human rights and environmental harm. The polling reveals that 87% of the British public support new laws to prevent businesses from exploiting people in their supply chains; 83% of the British public support new laws that would force companies to ensure their supply chains do no avoidable damage to the environment. Support for new laws is over 75% across all UK age groups, regions of the UK and supporters of the three main parties – Conservative, Labour and Liberal Democrat - in the 2019 General Election, in addition to both Remain and Leave voters in the 2016 Brexit referendum.

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70 https://www.biicl.org/documents/84_failure_to_prevent_final_10_feb.pdf
73 https://www.thetimes.co.uk/article/the-uk-must-take-the-global-lead-against-modern-slavery-once-more-gs7kr2fr7
74 https://www.biicl.org/documents/84_failure_to_prevent_final_10_feb.pdf
75 https://corporatejusticecoalition.org/our-campaigns/due-diligence-law/
6. Recommendations to the UK Government for reforming regulation

The UK must now ensure it plays its part in addressing forced labour in value chains, aligning UK policy with international developments and growing business consensus on the need for mandatory due diligence laws. The UK Government should introduce a new **UK Business, Human Rights and Environment Act**. Under this law, companies would have to take action to prevent human rights abuses and environmental harm through carrying out human rights and environmental due diligence.

**a. Principal elements of a Business, Human Rights and Environment Act**

- Commercial and other organisations must have an obligation to respect all **internationally recognised human rights**, including the promotion of all labour rights standards and protection from contemporary forms of slavery, as well as adhering to all relevant environmental standards in their own operations, in their global value chains and within their business relationships. Business relationships should include suppliers, contractors and sub-contractors, joint venture partners, franchises and business customers etc.

- To ensure it is fully effective, the law would need to cover a **broad range of commercial and other non-commercial organisations, no matter their size or sector**, including large, listed corporations, but also non-listed companies and small and medium-sized enterprises, as human rights abuses can occur in their value chains too. The law should also include public sector bodies, along with those using public procurement and other public bodies providing financial and other support to businesses, such as export credit agencies, development agencies and development finance institutions, while recognising that accountability provisions for the public sector may differ.

- Commercial and other organisations must have an obligation to identify, cease, prevent, mitigate, monitor and account for potential and actual adverse human rights and environmental impacts through an **ongoing due diligence process**, in accordance with existing international due diligence standards. This must include **identifying and addressing how their business models and decisions, such as trading and purchasing practices, risk creating or contributing to actual and potential negative human rights and environmental impacts**, including modern slavery.

- There must be an obligation to respect human rights and the environment across the **entire value chain**, as extreme forms of human rights violations, such as forced labour, can occur at any stage of the value chain, from the raw materials to the production, delivery and use of goods and the delivery of services.

- Business enterprises must provide for or cooperate in the **remediation of adverse impacts** in their global value chains and within their operations and business. Remedies may include, but are not limited to, financial or non-financial compensation, reinstatement, apologies, restitution, rehabilitation, contribution to investigation, as well as the prevention of additional harm through, for example, guarantees of non-repetition.

- There must be **mandatory and meaningful engagement with stakeholders**, who are affected by companies’ activities. This engagement must target trade unions, credible representatives of actual and potentially affected stakeholders, workers and communities, including local, indigenous and marginalised groups, who may face barriers to participation in other processes. Workers and their organisations need also to be given a meaningful role in implementing and monitoring mHREDD, which includes remediation.

- Commercial and other organisations must **publish a forward-looking plan** describing the procedures to be adopted in the forthcoming financial year, and an assessment of the effectiveness of actions taken in the previous financial year. Commercial and other organisations, and their senior managers, should be subject to a civil penalty if they fail to develop, implement and publish a due diligence plan within a reasonable time, or publish a misleading or inadequate plan.

- The law should establish **supply chain disclosure requirements, including the origin of raw materials**, and disclosure of information such as verifiable information on workers and wages and benefits paid.
- Commercial and other organisations should be held liable for harm, loss and damage arising from their failure to prevent adverse human rights and environmental impacts of their domestic and international operations, products and services including in value chains. It could be a defence from liability for damage or loss, unless otherwise specified, for commercial and other organisations to prove that they acted with due care to prevent human rights and environmental impacts. Commercial and other organisations, and their senior managers, shall be subject to a criminal penalty if they fail to prevent serious human rights or environmental impacts. Such penalties would be modelled on the civil and criminal duties to prevent tax evasion and bribery found in the UK Criminal Finances Act 2017 and the Bribery Act 2010.

- Audit reports and certification schemes, as well as membership in industry or multi-stakeholder initiatives for dialogue and learning, should not be considered evidence of due diligence.

A call for meaningful consultations in the design of the law

To ensure that law and policy translate into best practice, national, local and grassroots organisations working with people affected by corporate abuses and environmental harm must be part of the conversation. These actors work closely with workers and communities whose trust they have gained over time. Local NGOs and trade unions hold key knowledge of and expertise in what needs to happen on the ground. Taking into account practical realities on the ground contributes to the effectiveness of designed and implemented legislation. It is essential that the UK seeks avenues to engage these actors across the world and ensures the voices of workers and affected communities are brought into designing the laws that must protect them.

b. A toolbox approach

In order to address forced labour in global value chains there is no silver bullet. A range of approaches are essential to address forced labour in global supply chains and its root causes. Even though this paper focuses on the need for the UK to introduce human rights and environmental due diligence legislation, Anti-Slavery International is also calling on the UK Government to both adopt additional primary legislation, such as import controls, and strengthen existing domestic protection and enforcement. This toolbox of measures, if designed to complement and reinforce each other, would allow Britain to put human rights at the heart of UK value chains. Alongside the Business Human Rights and Environment Act, import controls are a vital part of the toolbox for the UK to end human rights abuses wherever they occur, and so that consumers can be confident that the goods they buy in the UK are free from modern slavery.

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 (see section 7) in order to be able to block or seize products with forced labour. Import controls are a different legislative tool 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 and remediate workers when harm is found. 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.
State Imposed Forced Labour

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 (see Uyghur case study above). 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.

‘Every year, tens of thousands of Turkmen citizens are forced to pick cotton in hazardous and unsanitary conditions, under the vigilance of the country’s extremely oppressive regime. Shockingly, products tainted with forced labour cotton from Turkmenistan continue to enter global markets and could be present in many of the goods we buy. Due to the scale of these abuses, it is currently impossible for businesses to improve the human rights situation on the ground. Businesses’ economic power needs to be channelled differently if the industry truly wants to drive meaningful change. We need an effective instrument that would ban the imports of goods made with forced labour into the UK market.’

Ruslan Myatiev, Founder and Executive Director of Turkmen.news

Import controls can be an effective way to put pressure on companies profiting from forced labour specifically. Seizing a product at the border because there is evidence it was made with forced labour can be a strong incentive to make companies act swiftly to address forced labour within their value chain and to remediate those who have been affected.

However, these laws need to be carefully designed and focused on achieving positive changes for workers. 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. The UK 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.

77 https://www.antislavery.org/turkmenistan-new-harvest-findings-how-governments-should-address-forced-labour/
Complementary measures

1. Improved labour market enforcement and inspections

The UK Government should also implement a more comprehensive policy approach to preventing labour exploitation within the UK, including improved labour market inspection and enforcement.79 The enforcement strategy should recognise the continuum between labour abuses, such as a failure to pay the National Minimum Wage, which can develop into more severe forms of exploitation, for example due to debt accumulation heightening vulnerability to deception and abuse. There needs to be a separation of powers between labour enforcement bodies and the Home Office’s immigration controls, including by ending the practice of joint operations, immigration raids under the guise of safeguarding and on reporting undocumented workers.80

2. Migrant workers

The UK Government should take steps to reduce migrant workers’ vulnerability to exploitation and forced labour. These measures should include ensuring that visas are not limited to a particular employer or sector; that workers are never charged any recruitment fees or costs; and that migrants who have been exploited can seek remedies and are not themselves criminalised due to their irregular immigration status, as above.

It is of note that under the proposals of the new Illegal Migration Bill, access to protection and support will be effectively removed for victims of exploitation who have arrived in the UK irregularly. This will embolden perpetrators and create a culture of fear further preventing migrant workers coming forward. The new law builds on a tightening of access to modern slavery support introduced under part five of the Nationality and Borders Act 2022, which allowed for disqualification from support based on public order grounds, undermining the non-punishment principle at the heart of victim support. The UK Government should take steps to roll back these harmful policies.

3. Trade, development and foreign policies

As the UK Government examines its trade and development policies and approaches following Brexit and secures new trade agreements, it must ensure that the advancement of human rights and environmental protections, including the prevention of modern slavery, are at the centre of all trade, development and foreign policies and agreements and their implementation, for example including the use of the UK’s Global Human Rights Sanctions regimes.81

4. Strengthen current legislation

While the UK Government should focus its efforts on introducing a Business, Human Rights and Environmental Act, work should also be undertaken to reform the existing TISC clause of the Modern Slavery Act. This should be done through the addition of accountability measures, such as sanctions for false reporting or failure to report. In September 2020, the Home Office published its response to the TISC consultation, committing to the introduction of sanctions for non-compliance.82 More than a year later, we would still like to see the UK Government effectively implement this commitment.

5. Regulation of the garment industry

The UK Government should proceed with considerations to introduce a Garment Adjudicator, which, comparable to existing legislation in the grocery sector, would regulate large retailers’ relationships with their suppliers, and thereby address abusive purchasing practices.83

79 For example, through the creation of the proposed Single Enforcement Body.
80 This recommendation is based on evidence of the increase in immigration enforcement measures (including raids and joint operations) during the past decade: “Since 2010, local level enforcement measures have been extended in order to create a ‘hostile environment’ for people without secure immigration status in the UK. This has included new measures to reduce access to private rentals, driving licenses and bank accounts, and the contentious 2013 ‘go home vans’ initiative by the Home Office”. Migration Exchange, Taking Stock and Facing the Future, April 2020. Retrieved from: https://global-dialogue.org/taking-stock-and-facing-the-future/
81 The UK’s Global Human Rights Sanctions regime provide the UK Government with the ability to sanction persons implicated in human rights abuses anywhere across the globe.
83 https://committees.parliament.uk/publications/5023/documents/50076/default/
7. Legislative developments around the world to address modern slavery in value chains

Several jurisdictions around the world have started to act on the need to implement laws that drive companies to effectively address modern slavery in their value chains. Over the past few years, a number of countries and regional bodies have adopted or started to consider legislation that:

a. embeds elements of HREDD into their legislative framework, and
b. bans products made in whole or in part with forced labour

In relation to mandatory HREDD, over the past years we have seen a global push, particularly in European countries, like France,\(^{84}\) Germany,\(^{85}\) Norway,\(^{86}\) among other countries,\(^{87}\) and at the EU-level,\(^{88}\) to introduce laws which make it a legal obligation for companies headquartered or operating in their country to undertake human rights and environmental 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 similar laws.

Adopting a leading position on mandatory HREDD, the EU is set to introduce a Corporate Sustainability Due Diligence Directive,\(^{89}\) requiring companies of a certain size operating within the EU to prevent, and reduce the risk of, negative human rights and environmental impacts to workers and communities in their operations and supply chains through mandatory due diligence. This not only provides a model for this sort of action, but it will also directly affect UK business.

With regard to import controls, the best examples of this type of law are the US Tariff Act 1930 and the Uyghur Forced Labour Prevention Act 2022. The US Customs and Border Protection has used the US Tariff Act 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.\(^{90}\) On Uyghur products in particular, the Uyghur Forced Labor Prevention Act establishes, for the first time, a rebuttable presumption that all products produced in the Uyghur Region or using raw materials, like cotton, from the Region are made with forced labour and are banned from importation into the US.\(^{91}\) After the United States-Mexico-Canada agreement entered into force, the agreement which governs their free trade, both Canada and Mexico were obliged to introduce comparable laws to the US Tariff Act. In 2020 Canada amended its Customs Tariff to prohibit imports produced by forced labour, and, becoming effective in May 2023, Mexico introduced a Forced Labour Regulation prohibiting the importation of goods produced with forced labour.\(^{92}\)

In addition to the above, the EU has specific targeted legislation on fisheries and conflict minerals which are relevant to forced labour, and, in September 2022, the European Commission published its proposal for forced labour regulation, which would allow for the banning of forced labour products both produced in the EU and imported into the EU. In addition to these legislative developments, as of mid-2022, parliament members in Australia and the UK have called for comparable laws.

The UK must keep step with global developments on this issue. A failure to do so would lose the UK its former global leadership on the issue of modern slavery, as well as risk making the playing field between businesses operating in the UK even more "unlevel".

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84 https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626/
85 https://eserver.bundestag.de/btd/19/286/1928649.pdf
86 https://stortinget.no/no/Saker-og-publikasjoner/Vedtak/AvslutningenLovvedtak/2020-2021/vedtak-20202021-176
92 https://www.lexology.com/library/detail.aspx?g=a635401e-7634-41ab-a299-217e07e8b0dc
8. Conclusion

Current UK policy and legislation remains insufficient to adequately compel UK companies to take meaningful action to prevent modern slavery in their value chains. Therefore, a new Business, Human Rights and Environment Act should be introduced to establish a corporate duty to prevent human rights abuses and environmental harm, and effective access to remedy and justice.

Such legislation would also:

- Be in line with the UK’s commitments under the G7 2022 communiqué, where it is stated a commitment to “coherent implementation of and compliance with international standards relating to human rights, environment, and labour across global supply chains”, including via, “mandatory measures that protect rights-holders, provide for greater multilateral cooperation to address abuses, and support remedy, thus enhancing predictability and certainty for business.”93;
- Contribute to the Sustainable Development Goals by making human rights and responsible business practice central to broader business and trade policies;
- Expand the availability of decent work and directly contribute to the reduction of poverty;
- Retain the UK’s position as a world leader in preventing modern slavery in global value chains.

The UK must take action to ensure proper protections and access to remedy for those exploited in the value chains of UK companies. A Business Human Rights and Environments Act would keep the UK in step with leading global counterparts, provide a level playing field for businesses and future-proof UK business and supply chains. The calls for leadership on this issue cut across civil society, businesses and investment communities; it’s time to put words into action.