

Submission to the UN Committee on Economic, Social and Cultural Rights

77th Session (10-28 February 2025)

Anti-Slavery International

Introduction

1. This report has been submitted by Anti-Slavery International. We write in advance of the 77th session of the Committee on Economic, Social and Cultural Rights (hereafter “The Committee”) regarding its review of the United Kingdom of Great Britain and Northern Ireland’s compliance with the International Covenant on Economic, Social and Cultural Rights (hereafter “The Covenant”).
2. This submission includes information on violations of **Articles 2, 6 and 7** in relation to the critical need for effective legislation to stop businesses from exploiting workers throughout their supply chains and to enable survivors of modern slavery, or those at risk, to access justice.
3. Our call is for the Government of the UK to ensure and protect workers’ rights under the Covenant and meaningfully exercise human rights due diligence in UK business operations and supply chains. We ask that the Committee’s recommendations to the State party support this call.

Article 2(1), Articles 6 and 7

I. Business and human rights (List of Issues, paragraph 6)

CESCR List of Issues: *Please provide information on the results achieved regarding implementing the updated 2016 National Action Plan on implementing the UN Guiding Principles on Business and Human Rights. Please provide further information on compliance mechanisms and means of enforcement to ensure respect for economic, social and cultural rights and exercise of human rights due diligence in business operations abroad or supply chains, particularly with respect to chemical manufacturing and extractive industries. Please provide information on the legislative and administrative measures in place to ensure the legal liability of companies and effective remedies for human rights violations committed abroad by corporations domiciled under the State party’s jurisdiction, and provide concrete examples of enforcement mechanisms and remedial actions.*

Government response to LOI, paras 21-23: *In response to the UN Guiding Principles (UNGPs), the UK was the first State to produce a National Action Plan and we continue to develop our approach in line with the Modern Slavery Act 2015. Under Section 54 of the Act, commercial businesses with a turnover of £36m+ are required to report annually on the steps they have taken to prevent modern*

slavery. The UK works through several international mechanisms to promote responsible business practice to reduce and prevent conflict and protect human rights. This includes supporting the Organisation for Economic Co-operation and Development (OECD)'s Due Diligence Guidance for Responsible Mineral Supply Chains and the Kimberley Process, to help stem the flow of conflict diamonds....The UK has a range of judicial and state-based non judicial mechanisms that help to support access to remedy for human rights abuses by business enterprises. The UK operates a National Contact Point (UK NCP) to promote the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct (the Guidelines).

Our response

1. Once perceived as a leader in the fight against modern slavery, the UK has fallen woefully behind global legislative developments to curb corporate harm in value chains,¹² and is not in line with the Covenant's articles on decent work or the UN Guiding Principles on Business and Human Rights (UNGPs). As evidenced below and in our submission to the Committee's List of Issues, UK private and public sector supply chains are rife with forced labour and yet meaningful action is not being taken by the State.
2. Anti-Slavery International's understanding of meaningful action – as guided by the UNGPs, the International Labour Organization and existing good practice – is that human rights and environmental due diligence (HREDD) is necessary for businesses to mitigate, address and prevent harm in their supply chains, and must be legally required. The UNGPs indeed stress the obligation of States to “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights”. The UK places no such legal requirement on businesses. Its National Action Plan has not been updated since May 2016, and points to UK common law, the Modern Slavery Act and voluntary measures, all of which have been proven to be inadequate at securing access to justice for victims of harm and changing business practice, particularly in addressing modern slavery in global value chains.³ The NAP is not fit for purpose, given the current understanding of how human rights abuses in global value chains can be mitigated, prevented and remediated.

¹ As recognised recently even by the UK's House of Lords committee in reviewing the 2015 Modern Slavery Act. Modern Slavery Act 2015 Committee, 'The Modern Slavery Act 2015: becoming world-leading again' Report of Session 2024-25, (HL Paper 8 16 October 2024), available at: <https://publications.parliament.uk/pa/ld5901/ldselect/ldmodslav/8/802.htm> (accessed 10 January 2025)

³ Business & Human Rights Resource Centre 'Modern Slavery Act: Five years of reporting, conclusions from monitoring corporate disclosure', (February 2021), available at: https://media.business-humanrights.org/media/documents/Modern_Slavery_Act_2021.pdf (accessed 10 January 2025).

3. The following examples illustrate the continued presence of forced labour in the supply chains of the UK Government and UK businesses since the introduction of the NAP and the Modern Slavery Act.

The National Health Service: During the COVID-19 pandemic in 2022 the National Health Service (NHS) substantially increased its orders from a latex glove supplier in Malaysia whose products had already been banned from the US due to forced labour.⁴ Findings from a UK Government review in December 2023, which analysed 1,361 NHS suppliers, revealed that over 20% of these suppliers (producing goods such as surgical instruments, gloves, gowns, uniforms and face masks), were at high risk of utilizing modern slavery.⁵

Uyghur Forced Labour: The UK Overseas Business Risk guidance⁶ highlights the risk of Uyghur forced labour in key industries, such as cotton, textiles, automobiles, electronics and polysilicon. Some estimates suggest as much as 93% of China's cotton originates in the Uyghur Region,⁷ and major UK brands including Tesco, Reiss and River Island have been found to be at high risk of exposure to Uyghur Region cotton.⁸ Moreover, an estimated 40% or more of the UK's solar industry has been linked to Uyghur forced labour,⁹

⁴ Orders were found to have increased by 314%. Samuel Lovett, 'Government to face court hearing over links to PPE supplier accused of modern slavery' (The Independent, 19 May 2022), available at: <https://www.independent.co.uk/news/uk/politics/ppe-supplier-high-court-uk-supermax-b2082105.html> (accessed 31 May 2024).

⁵ Department of Health and Social Care and NHS England, 'Review of risk of Modern Slavery and Human Trafficking in the NHS Supply Chain' (December 2023), <https://assets.publishing.service.gov.uk/media/657c40ab91864e000d08bdb9/review-of-risk-of-modern-slavery-and-human-trafficking-in-the-nhs-supply-chain.pdf>, p.8 (accessed 31 May 2024).

⁶ GOV.UK, 'Overseas business risk: China' (6 July 2023), available at: <https://www.gov.uk/government/publications/overseas-business-risk-china/overseas-businessrisk-china> (accessed 31 May 2024).

⁷ United States Department of Agriculture, 'Cotton Products Annual' (2 April 2024), available at: https://apps.fas.usda.gov/newgainapi/api/Report/DownloadReportByFileName?fileName=Cotton%20and%20Products%20Annual_Beijing_China%20-%20People%27s%20Republic%20of_CH2024-0053.pdf (accessed 26 June 2024).

⁸ Laura T Murphy et al, 'Laundering Cotton: How Xinjiang cotton is obscured in international supply chains' (November 2021) available at: <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/laundered-cotton> (accessed 31 May 2024).

⁹ Jillian Ambrose and Jasper Jolly, 'Revealed: UK solar projects using parts from firms linked to Xinjiang forced labour' (The Guardian, 25 April 2021), available at: <https://www.theguardian.com/environment/2021/apr/23/revealed-uk-solar-projects-using-panels-from-firms-linked-to-xinjiang-forced-labour> (accessed 31 May 2024). See also Laura T Murphy and Nyrola Elima, 'In Broad Daylight: Uyghur Forced Labour and Global Supply Chains' (May 2021), available at: <https://www.shu.ac.uk/helenakennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight> (accessed 31 May 2024); Alan Crawford and Laura T Murphy, 'Over Exposed: Uyghur Region Exposure Assessment for Solar Industry Sourcing' (November 2023), available at: <https://www.shu.ac.uk/helena-kennedy-centreinternational-justice/research-and-projects/all-projects/over-exposed> (accessed 31 May 2024).

and – with the global automotive industry, facing substantial risks –¹⁰ it is not surprising that the supply chains of prominent British companies like London Electric Vehicle Company, Aston Martin, Bentley, Jaguar Land Rover and Rolls-Royce have been found to be similarly exposed.¹¹ Finally, in December 2024, a BBC investigation showed tomato puree on the shelves of major UK supermarkets, such as Tesco, Asda, Waitrose and Morrisons, appeared to contain tomatoes grown and picked in China using forced labour.¹²

Further agricultural supply chain abuses: Research from a report by the non-profit collective, Ethical Consumer in March 2023, alleged that UK supermarkets are further connected to endemic workers' rights abuses including forced labour, in the Spanish regions of Almeria and Huelva, through their fruit and vegetable supply chains.¹³ The research suggests that all nine major UK supermarkets source from Almeria and Huelva.¹⁴ A 2022 investigation alleged that beef from a Brazilian meat company linked to forced labour was found in UK supermarkets,¹⁵ and the supply chain of the British Armed Forces.¹⁶

¹⁰ Laura T Murphy Kendyl Salcito, Yalkun Uluyol, Mia Rabkin, et al, 'Driving Force: Automotive Supply Chains and Forced Labor in the Uyghur Region' (December 2022), available at: <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/driving-force> (accessed 31 May 2024)

¹¹ Helena Kennedy Centre for International Justice at Sheffield Hallam University and NomoGaia, 'Companies', available at: <https://www.shuforcedlabour.org/drivingforce/companies/> (accessed 31 May 2024).

¹² BBC World Service Documentaries, 'Blood on the Shelves: the Secrets of Xinjiang's tomato Industry' (3 December 2024), available at: https://www.youtube.com/watch?v=dtv_1eafJn4&t=115s (accessed 9 January 2025).

¹³ Ethical Consumer, 'Produce of exploitation: UK supermarkets and migrant labour in southern Spain, are supermarkets failing to meet their ETI commitments in their fruit and vegetable supply chains?' (March 2023), available at: <https://research.ethicalconsumer.org/sites/default/files/inline-files/Produce%20of%20Exploitation%20-%202023%20-%20Ethical%20Consumer%20Research%20Association.pdf> (accessed 18 June 2024).

¹⁴ Ethical Consumer, 'Produce of exploitation: UK supermarkets and migrant labour in southern Spain, are supermarkets failing to meet their ETI commitments in their fruit and vegetable supply chains?' (March 2023) page 6, available at: <https://research.ethicalconsumer.org/sites/default/files/inline-files/Produce%20of%20Exploitation%20-%202023%20-%20Ethical%20Consumer%20Research%20Association.pdf> (accessed 18 June 2024).

¹⁵ Global Witness, 'Cash Cow: How beef giant JBS's link to Amazon deforestation and human rights abuses is aided by UK, EU and US financiers, importers and supermarkets' (June 2022), <https://www.globalwitness.org/en/campaigns/forests/cash-cow/> (accessed 18 June 2024).

¹⁶ Earthsight, 'British troops fed by corrupt Brazilian meat farm tied to illegal Amazon deforestation' (17 September 2019) <https://www.earthsight.org.uk/news/idm/british-troops-brazil-beef-firm-illegal-amazon-deforestation>. See also, Corporate Justice Coalition, 'Beef: human rights abuses, deforestation and land conversion on the menu (Brazil)' (November 2023), available at: https://static1.squarespace.com/static/631c8fe186220651da78a4f0/t/6655964c739fac76d72e5179/1716885069725/CJC_CaseStudy_Beef.pdf (accessed 18 June 2024)

Recommendations

4. To ensure and protect workers' rights under the Covenant and ensure meaningful human rights due diligence in UK business operations and supply chains, we ask the Committee to recommend the following to the Government. That it:
 - Introduce a new Business, Human Rights and Environment Act that creates a duty for commercial organisations and public authorities operating in the UK to prevent negative human rights and environmental impacts.
 - Introduce primary legislation to ban the import of goods tainted with forced labour. The ban should cover products made (in whole or in part) or transported using forced labour. It should include a rebuttable presumption for goods that come from or use materials from regions where there is strong evidence of state-imposed forced labour.

II. The Modern Slavery Act and supply chains (List of Issues, paragraph 19)

CESCR List of Issues: Please provide information on the steps taken by the State party to build the capacities of business entities, both in the private and public sector, to monitor, identify, prevent and be accountable for forced labour in their operations or supply chains under the Modern Slavery Act 2015.

Government response to LOI, para 130: Modern Slavery Act 2015:

Under Section 54 of the Modern Slavery Act 2015, commercial businesses operating in the UK with a turnover of £36m or more are required to report annually on steps taken to prevent modern slavery in their operations and supply chains. Businesses must ensure their statement has been approved by the Board and is available on their website. The purpose of these provisions is to provide transparency for consumers, investors and civil society. To enhance transparency further, in March 2021 the Government launched the modern slavery statement registry to bring modern slavery statements 24 together on a single platform. Since launch, over 13,000 statements covering around 45,000 organisations have been submitted to the registry on a voluntary basis. The public sector is not required to produce modern slavery statements but began voluntarily doing so in 2020. Government officials take a risk-based and proportionate approach to working with suppliers to tackle modern slavery in their supply chains. In 2019, the Government launched the Modern Slavery Assessment Tool (MSAT) which supports public bodies to assess their own supply base for modern slavery risks. The Procurement Act 2023 provides contracting authorities with stronger powers to exclude suppliers from public procurements where there is compelling evidence of modern slavery within their supply chains and allows Ministers to put a supplier on a published debarment list where they consider the supplier should be excluded, or considered for exclusion, from procurements.

Our response

5. There have been early positive steps made by the new government – after the former government had responded to the List of Issues – to strengthen business approaches to forced labour. This has included the formation of a Forced Labour Group by the Home Office and commitments to update the significantly outdated Section 54 Transparency in Supply Chains (TISC) Guidance, with business and civil society organisations. In addition, we have welcomed efforts through the Foreign, Commonwealth and Development Office to produce a National Baseline Assessment on the Implementation of the UNGPs. This will provide an important evidence-based approach to further needed legislative, policy and practice responses.
6. Section 54 of the Modern Slavery Act – which requires commercial organizations over a certain size to publish an annual slavery and human trafficking statement – has raised the awareness in some businesses on the risk of modern slavery in their supply chains. Yet it doesn't provide clarity on how companies can ensure that their supply chains are free of modern slavery, and it lacks teeth. There is no requirement for companies to take steps to reduce risks of modern slavery in supply chains, even if their statements are in line with the letter of the law. There appear to have been no steps to use the enforcement measures in the Act. The Act meanwhile only deals with the worst forms of exploitation, even though our experience in the sector has led us to advise that contemporary forms of slavery works along a continuum: survivors tend to drift between labour exploitation and more egregious forms of abuse, and effectively prohibiting modern slavery and human trafficking involves approaching this continuum as a whole.
7. Ensuring that victims of corporate harm have access to justice and remedy is a key principle of the UNGPs, the State duty to protect human rights, and the corporate responsibility to respect human rights. Currently, victims of harm in the global supply chains of UK companies can only hold companies liable through tortious liability. This is despite the UK Supreme Court's decision – in *Okpabi v Shell*,¹⁷ which affirmed the principles in *Vedanta v Lungowe* –¹⁸ that parent companies can, under certain circumstances, have a duty of care to stakeholders affected by the acts of their subsidiaries overseas. Without statutory reform, affected stakeholders face barriers to seeking justice and lengthy court proceedings, while irresponsible businesses can continue to exploit governance gaps in complex supply chains and subsidiary structures to evade common law liability. This stands in stark contrast to jurisdictions that are putting HREDD and forced labour import ban legislation in place, which we argue, aligns far more closely with the UNGPs obligation on states to require business enterprises to respect human rights, not merely report on it. It is notable that a 2017 report from the UK Parliament's Joint Committee on Human

¹⁷ *Okpabi and others (Appellants) v Royal Dutch Shell Plc and another (Respondents)*, 12 February 2021. Available at: <https://www.supremecourt.uk/cases/uksc-2018-0068> (accessed 10 January 2025).

¹⁸ *Vedanta Resources PLC and another (Appellants) v Lungowe and others (Respondents)*, 10 April 2019. Available at: <https://www.supremecourt.uk/cases/uksc-2017-0185> (accessed 10 January 2025).



Rights 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”.¹⁹ It also recommends that that the legislation be along the lines of relevant provisions of the Bribery Act 2010.

Research comparing the impact of transparency legislation (meaning reporting requirements such as in TISC) and bribery legislation (for criminal offences) found that the former had little impact on corporate policies and practices.²⁰ By contrast, bribery legislation yields meaningful corporate policy and practice change in terms of prevention. We and other analysts conclude that without such liability provisions it is unlikely that businesses will substantially change their behaviour.²¹ The Failure to Prevent model is also critical for access to justice, since this would flip the burden of proof from the victim, where it currently lies, to the company. Currently, if a large UK-based brand sells products containing components manufactured via forced labour in another country, it is hugely difficult for the victims to bring claims against the UK brand; rules of conflict of laws often obstruct victims’ efforts to sue a corporation in its home state.

8. With regard to procurement, the implementation of the Procurement Act 2023 was delayed until early 2024, and time has not been sufficient to monitor it in practice. We note that mandatory exclusion grounds include conviction of modern slavery offences (as regulated under the Modern Slavery Act), including forced labour. In the absence of a conviction, sufficient evidence of modern slavery can trigger discretionary exclusion grounds. This leaves it to the discretion of the relevant authorities whether or not to exclude a potential supplier.

Recommendations:

9. To effectively combat forced labour in global value chains, we ask the Committee support the following recommendations, along with the two given above. That the Government:

¹⁹ House of Lords House of Commons Joint Committee on Human Rights, ‘Human rights and Business 2017: Promoting responsibility and ensuring accountability’, Sixth Report of Session 2016-17, 4 April 2017 (HL PAPER 153, HC 443), available at: <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/443.pdf> (accessed 10 January 2025).

²⁰ Genevieve LeBaron & Andreas Ruhmkorf, ‘Steering CSR Through Home State Regulation: A Comparison of the Impact of the UK Bribery Act and Modern Slavery Act on Global Supply Chain Governance’ (25 May 2017) available at: <https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12398> (accessed 10 January 2025).

²¹ Ibid.



- Publishes any subsequent National Baseline Assessment on the implementation of the UN Guiding Principles on Business and Human Rights with clear recommendations for future legislation and policy that have been formed in consultation with civil society organizations and trade unions.
- Enforces existing transparency in supply chains legislation and legislates for mandatory Human Rights and Environmental Due Diligence Legislation, modeled on the Bribery Act 2010, which would shift focus to harm prevention and would shift the burden of proof, enabling greater access to justice for victims.