

# Briefing for Second Reading of the Modern Slavery Bill

## Transparency in the Supply Chain

13 November 2014



## 1. Introduction

This briefing has been prepared on behalf of a coalition of corporate accountability, fair trade, development and anti-slavery groups who are campaigning for effective measures on supply chain transparency to be included in the Bill.

We strongly support the Government's introduction at Report Stage in the House of Commons of a measure to address transparency in the supply chain in respect of modern slavery. This was in response to clear cross-party support for a reporting requirement to be included within the Modern Slavery Bill.

However, we believe that the amendment that has been added to the Bill must be strengthened in several areas if it is to be effective.

## 2. Why disclosure on supply chain transparency is needed

The Modern Slavery Bill provides an important opportunity to legislate within the UK to tackle the global and domestic problem of modern slavery.

According to the International Labour Organization around 21 million men, women and children around the world are in a form of slavery, estimated to generate a profit of \$150 bn per annum.

Recent research<sup>1</sup> into the scale of forced labour in the UK found that some cases of labour exploitation including forced labour and domestic servitude are linked with trafficking, as shown by the National Referral Mechanism. There were 3,061 potential cases of trafficking between the start of April 2009 and the end of September 2012, 48 per cent of which were classed as labour exploitation or domestic servitude. Prosecutions for trafficking for forced labour have risen<sup>2</sup> and the scale of forced labour is likely to be significantly greater than the anticipated number of cases prosecuted as criminal offences.

<sup>1</sup> [Joseph Rowntree Foundation, Forced Labour in the UK, June 2013](#)

<sup>2</sup> Inter-departmental Ministerial Group on Human Trafficking 2012

A new report<sup>3</sup> published by The Salvation Army revealed a dramatic rise in the number of victims referred to it for support, and found that cases of labour exploitation have overtaken sexual exploitation and are rising at a faster rate for the first time.

Requiring big businesses to state publicly each year what action they have taken to ensure that their supply and product chains are slavery free will be a major step forward in preventing and reducing the use of forced labour in supply chains both at home and abroad.

Whilst some businesses are already taking positive action to address this issue, not all are. Experience over several decades shows that whilst there is a role for voluntary mechanisms in improving labour rights, reliance on a purely voluntary approach has not been effective in ensuring that UK companies meet minimum labour standards throughout their international supply chains. The 2013 factory building collapse in Bangladesh that killed more than 1,130 workers highlights the life-threatening conditions faced by garment supply chain workers in low-cost sourcing countries and is one example of this gap between industry codes and the real situation on the ground.

There is a growing public expectation that businesses should be acting ethically and taking action to ensure that forced labour does not occur in their supply chains. The Government has recognised this and has cited the information that the measure will provide to customers, civil society and shareholders in support of the decision to legislate.

The measure would be wholly compatible with UN Guiding Principles on Business and Human Rights, which recommends companies conduct 'human rights due diligence' to address their impacts across all their business relationships, including their supply chains.

In conclusion, there is a clear rationale for intervention to incentivise more businesses to ensure that their supply chains are slavery free. Whilst the measure is welcome, it should be regarded as a starting point rather than the end point in addressing slavery in supply chains.

### **3. Benefits of the provision on transparency in supply chains**

The Government's Impact Assessment<sup>4</sup> of the Modern Slavery Bill concluded that the provision will lead to a number of important benefits including:

- Reduced victimisation
- Significant social and economic benefits within the UK and abroad
- A fair situation for affected businesses by ensuring that they all face the same rules
- Information to inform consumer choices about the goods they buy

By acting on transparency in supply chains, businesses will derive a number of other operational and reputational benefits, including:

- Safeguarding reputation and brand image
- Gaining competitive advantage
- Improving recruitment, retention and staff loyalty
- Fostering greater productivity
- Securing and maintaining a licence to operate
- Ensuring active stakeholder engagement
- Meeting investor expectations

---

<sup>3</sup> <http://news.salvationarmy.org.uk/62-rise-human-trafficking-victims-seeking-support>

<sup>4</sup> <http://www.parliament.uk/documents/impact-assessments/IA14-10A.pdf>

The Ethical Trading Initiative<sup>5</sup> responded<sup>6</sup> to the measure as follows:

“We are delighted that the UK Government has come to recognise that far from seeing accountability and reporting as a burden, companies that are committed to ethical trade welcome the inclusion of legislation that hold businesses accountable for their actions. It’s a move that reinforces the UK’s claims to be leading in the international efforts to tackle modern slavery. Responsible businesses will know that they are no longer on their own.”

#### **4. The measure does not go far enough**

Drawing on our wide experience of corporate responsibility and supply chain management, and also in light of experience of the implementation of the California Transparency in Supply Chains Act of 2010, we believe that the provision needs strengthening in a number of key areas if it is to be effective. This would also help the Government to deliver its ambition for this to be a world-leading law.

We set out below the five areas which we believe are in need of improvement: (i) coverage; (ii) minimum requirements; (iii) reporting; (iv) monitoring and enforcement; and (v) review.

##### **(i) Coverage**

The coverage of the proposed provision is such that it will apply to both non-listed and publicly-listed companies, subject to a threshold. This is welcome as unquoted and quoted companies can be exposed equally to risks of slavery in the supply chain. It will also apply to large businesses with significant global receipts regardless of the nature of a company or what it supplies, whether goods or services, and is an improvement on the California legislation, which only applies to sellers and manufacturers.

We understand that foreign companies doing business in the UK, as well as British companies, will also be covered. That is also very welcome, as it will ensure that there is a level playing field and that British companies are not disadvantaged by the measure.

The Government’s current position is that the size of company that will be caught by the measure will be set by regulations. **We believe that a £60m worldwide receipts threshold should be specified on the face of the Bill.** This provides a consistent approach with the size and international nature of companies covered by the Californian law.

##### **(ii) Minimum requirements of the provision**

We want the actions that companies take as a result of the new requirement to make a genuine difference to working conditions in supply chains. **In our view a set of minimum criteria for disclosure must be specified on the face of the Act.** This will not only meet the Government’s aspirations for greater transparency but it will also provide a level playing field between businesses.

---

<sup>5</sup> ETI members include global companies with thousands of suppliers, and familiar high street brands such as ASDA, Debenhams and Marks and Spencer.

<sup>6</sup> <http://www.ethicaltrade.org/news-and-events/blog/peter-mcallister/Modern-slavery-bill-the-power-of-collaboration>

Without this specificity, we doubt that the measure will be effective in providing the information that the Government has said<sup>7</sup> is needed to hold big business to account whilst supporting companies to do the right thing. The information will also be important for investors interested in selecting businesses not subsidised by slavery.

The Government has indicated that guidance will be produced at a future date setting out the kind of information that might be disclosed to help companies to comply. Whilst this is welcome, we do not believe that guidance is the appropriate place to specify minimum requirements; the place for that is primary legislation, with the underpinning guidance then providing further detail on these requirements.

**Instead, we believe that clearer and firmer terms must be defined on the face of the Bill for what a company must actually do to comply with the proposed measure, for example by providing information on:**

- **due diligence regarding slavery and forced labour risks identified throughout the supply chain and measures taken to eliminate those risks**
- **monitoring and verification systems**
- **procurement systems and processes for working with suppliers**
- **training for individuals responsible for managing supply chains**
- **the recruitment practices of suppliers**
- **action to assist and support victims**

### **(iii) Reporting requirements**

Location of the information disclosed by companies will be a key factor in determining its effectiveness. There should be a central point for all company disclosure reports to be filed and it is of paramount importance that the report should be included in the Director's report<sup>8</sup> for it to have sufficient weight to effect internal change. **We would therefore be looking to the Minister to commit to:**

- **A requirement on the face of the Bill that a company's report on slavery in the supply chain must be referenced in the Directors' Report for each financial year**
- **A requirement in the Bill that reports should be placed in a prominent position on the company's website (prominently linked to from their homepage)**
- **A central repository of the company reports on a government website**
- **Clarification on the face of the Bill that the provision should be the responsibility of the Board and/or CEO**
- **A recognition that year on year reporting should be progressive**

### **(iv) Monitoring and enforcement**

Monitoring of compliance with and enforcement of the provision will be central to its effectiveness in driving change. **We are concerned that the provision is currently weak on how monitoring and enforcement will be undertaken.**

---

<sup>7</sup> <https://www.gov.uk/government/news/big-business-to-be-held-to-account-to-keep-supply-chains-slavery-free>

<sup>8</sup> As required in Section 416 of The Companies Act 2006 Regulations 2013

Experience in implementing the California law on transparency in supply chains has highlighted the importance of publishing a list of companies required to disclose under this provision and of identifying an effective enforcement mechanism that complements the scrutiny that will be provided by consumers and other stakeholders. Each year, the Government should also publish a list of companies not in compliance with the provision.

The Government's approach relies on a civil enforcement procedure by the Secretary of State, which means that in reality the measure would be unlikely to deter any businesses other than those who would in any case seek to comply on a voluntary basis.

There are other possible alternative models through which to achieve compliance, such as including a specific responsibility on enforcement of non-disclosure and on raising awareness of the measure across government within a widened role for the Anti-Slavery Commissioner and/or the Equality and Human Rights Commission. However, if this route is to be followed, the independence of the Anti-Slavery Commission must be assured and a careful definition of priorities and dedicated resources would also be needed. We were surprised that the role of Anti-Slavery Commissioner had already been advertised and interviews held, in advance of the completion of the legislation and notwithstanding the possibility that the role might be further developed and clarified.

**(v) Review**

**The Bill should be amended to require a review of implementation of the supply chain transparency requirement after three years to gather learning and evaluate its effectiveness.**

Ruth Chambers, Consultant: Transparency in Supply Chains Coalition  
Telephone 07971 102 156; Email [ruth@naturalcampaigner.co.uk](mailto:ruth@naturalcampaigner.co.uk)