

**Briefing for Report Stage of the Modern Slavery Bill
Transparency in the Supply Chain
3 November 2014**

Introduction

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

Government amendment to introduce New Clause 11 on Transparency in Supply Chains

We strongly support in principle the Government's introduction of a measure to address transparency in the supply chain in respect of modern slavery.

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

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

However, the current content of the Government's amendment needs to be improved in order to be effective, in particular to set out clear principles for what companies need to report. In advance of Report Stage, we would like to draw the following four key points to your attention:

1. Coverage of the proposed provision

The coverage of the proposed provision is such that it will apply to all commercial organisations, not just listed companies, subject to a threshold. It will also apply to businesses regardless of the nature of a company or what it supplies, whether goods or services. This is welcome as unquoted and quoted companies can be exposed equally to risks of slavery in the supply chain.

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.

In drawing up its proposals, the Government has recognised that many businesses have argued for a legislative requirement in transparency because they understand the potential reputational and investment benefits.

The Ethical Trading Initiative¹ responded² to the Government's amendment 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."

We are keen to ensure that the threshold is not too high so that it excludes many of the companies who are suppliers to the major supermarkets and retailers. There is evidence that major companies believe that the provision would empower them to root out slavery from their supply chains if their suppliers were also subject to this provision.

¹ ETI members include global companies with thousands of suppliers, and familiar high street brands such as ASDA, Debenhams and Marks and Spencer.

² <http://www.ethicaltrade.org/news-and-events/blog/peter-mcallister/Modern-slavery-bill-the-power-of-collaboration>

2. Minimum requirements of the provision in the Modern Slavery Bill

It is essential that the provision contains some key principles so that companies have clarity but also so that it achieves a real change. This requires strengthening of the wording of the Government's amendment.

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 minimum measures of 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. Without this specificity, we doubt that the measure will be effective in providing the information that the Government has said³ is needed for consumers and campaigners to hold big business to account whilst also supporting companies to do the right thing. The information will also be important for ethical investors interested in selecting businesses not subsidised by slavery.

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

Instead, we believe that clearer and firmer terms must be defined on the face of the Act for what a company must actually do to comply with the proposed measure.

3. 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 the company reports to be filed and it is of paramount importance that the report should be included in the Directors' report⁴ for it to have sufficient weight to effect internal change. Year on year reporting should be progressive – the amendment alludes to this but could be more explicit.

4. Monitoring, compliance and enforcement

Monitoring of compliance with the provision needs to be taken seriously as this will be central to its success in driving change. We are concerned that the provision is currently weak on how monitoring and enforcement will be undertaken. 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 several possible remedies to this, such as including a specific responsibility on enforcement within the duties of the Anti-Slavery Commissioner and/or the Equality and Human Rights Commission.

It is important to learn from experience in implementing the California law⁵ on transparency in supply chains. A new Federal Bill is being prepared in the U.S. which may also provide some useful pointers on compliance. As a first step, the list of companies required to disclose under this provision should be made public.

A review of implementation of the measure should be done in three years so that an objective assessment can be made of its success and how implementation could be improved.

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

³ <https://www.gov.uk/government/news/big-business-to-be-held-to-account-to-keep-supply-chains-slavery-free>

⁴ As required in Section 416 of The Companies Act 2006 Regulations 2013

⁵ California Transparency in Supply Chains Act 2010