

## Addressing Tomorrow's Slavery Today

Input from Fairtrade Norway on the upcoming report of the UN Special Rapporteur on Contemporary Forms of Slavery, Ms Urmila Bhoola

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### **About Fairtrade**

*Fair trade is an alternative, on-ground approach to conventional trade based on a partnership between producers and traders, businesses and consumers. The international Fairtrade system—made up of Fairtrade International and its member organisations—represents the world's largest and most recognised fair-trade system.*

*Fairtrade Norway is a full and active member of Fairtrade International. Fairtrade Norway is responsible for delivering support to producer groups that are Fairtrade Certified in the Norwegian market.*

*Slavery, including child and forced labour are largely result of poverty, discrimination, exploitation and a lack of transparency. Fairtrade's work addresses these complex root causes on the ground. Fairtrade exists to secure better prices, decent working conditions, and fair terms of trade for farmers and workers. Our work supports the development of thriving farming and worker communities; communities that have more control over their futures and are able to protect the environment in which they live and work.*

*Child Labour and Forced Labour are devastating and endemic problems in many parts of the world in which Fairtrade operates. For nearly 30 years we have been a global leader working with producers, industry, trade unions, and governments to reduce and eradicate such exploitation, in compliance with applicable national labour laws and the International Labour Organization (ILO) conventions.*

*Fairtrade also strives to increase proactive understanding, protection and support for vulnerable children and adults. Critical to this is ensuring business purchasing and trading practices cover the cost of production, provide for transparency, and provide decent work for those employed, directly or indirectly, in their supply chains. To that end, this submission focuses on transparency and proactive management of slavery risks in supply chains.*

**We thank you for the opportunity to provide input on the upcoming report.**

### QUESTIONS

**Q1: Please provide a name or affiliation to be associated with the submission.**

Fairtrade Norway

**Q2: Please provide an email address at which we can reach the author.**

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**Q3: Do you consent to the submission being published on this site?**

Yes

**Q4: What can we expect from tomorrow's slavery?**

Modern slavery, including child and forced labour are truly global problems, and while some countries and industries face particular challenges, all are affected.

In 2012, the ILO estimated that around 21 million people were in forced labour, generating a profit of around US\$150 billion, with dividends to every region of the world.<sup>1</sup> More than half of those in conditions of forced labour are women and around a quarter are children. Further, the *2016 Global Slavery Index* estimates the *total* number of human beings in slavery more broadly at 45.8 million in 167 countries.<sup>2</sup>

Most instances of modern slavery occur in Asia, notably India, China, Pakistan, Bangladesh and Central Asia. These areas supply world markets a great many food products, textiles, and technology items using relatively inexpensive, low-skilled labour. Asia is also where forced labour is thought to yield its highest profits: nearly US\$52 million per year.<sup>3</sup>

Slavery in the twenty-first century is more than human trafficking. The International Labour Organization (ILO) recognises a continuum of exploitation, including: forced labour, child labour, debt bondage, isolation and confinement (including in prisons and private detention facilities), exploitative practices (e.g. excessive overtime), abusive working and living conditions, restriction of movement, physical and sexual violence, intimidation and threats, retention of personal documents, withholding wages, deception, and the abuse of vulnerability.<sup>4</sup>

Human trafficking, and forced and child labour are criminal offences in most countries, and companies found to be involved risk legal action. Relatively little attention, however, has been paid to using the law to capitalise on the power of businesses to transform supply chains or address the underlying causes of exploitation and modern slavery.

Acknowledging modern slavery as a continuum helps to shift attention solely from criminal law enforcement to the root causes of the problem, and hence effective and appropriate and remedies.<sup>5</sup> This means not just eradicating forced labour and other kinds of slavery, but actively promoting decent work.

Modern slavery, including child and forced labour are largely results of poverty, discrimination, exploitation and a lack of transparency. Modern slavery flourishes in conditions of weak governance and corruption, insufficient labour laws—poorly enforced, informal markets, cheap labour, isolation, undemocratic regimes, and where market power is concentrated. Modern slavers prey on the most vulnerable people, particularly those living a precarious existence, with very low and uncertain incomes. Migrants and indigenous people, and women and children, are among those most at risk of forced labour.

Slavery and child labour are by no means confined to low-income countries, however. A key finding of the *2016 Global Slavery Index* is that all regions and most countries are implicated in modern slavery in some way, regardless of development status.<sup>6</sup> The supply chains for many products consumed every day—chocolate, cotton, electronics, footwear, coffee, etc.—are global, frequently opaque, and complex. This makes it hard for consumers and even businesses themselves to know the extent and nature of their entanglement with modern

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<sup>1</sup> ILO, *Statistics on forced labour, modern slavery and human trafficking* (Geneva: International Labour Organization, 2017), <http://www.ilo.org/global/topics/forced-labour/statistics/lang--en/index.htm>, accessed 9 April 2017.

<sup>2</sup> K Bales et al., *Global Findings, The Global Slavery Index* (Nedlands, Western Australia: The Walk Free Foundation, 2016), <http://www.globalslaveryindex.org/findings/>, accessed 9 April 2017.

<sup>3</sup> E Wright, *How poverty contributes to labor trafficking* (Seattle: The Borgen Project, May 2015), <https://borgenproject.org/category/forced-labor/>, accessed 9 April 2017.

<sup>4</sup> Special Action Programme to Combat Forced Labour, *ILO indicators of Forced Labour* (Geneva: International Labour Office, 2012), [http://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_203832/lang--en/index.htm](http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm), accessed 9 April 2017.

<sup>5</sup> K Skrivankova, *Between decent work and forced labour: examining the continuum of exploitation*, JRF programme paper: Forced Labour (York, UK: The Joseph Rowntree Foundation, 2010).

<sup>6</sup> Bales et al., *ibid.*

slavery. Many consumers and companies may rely on forced labour and other forms of slavery without realising it.

Most businesses would be shocked to discover slavery in their supply chains. The shock would be greater and more damaging, however, if others discovered and exposed it first. Allegations of modern slavery can have serious repercussions for a company's reputation and brand.

Companies are often uniquely positioned to detect and prevent instances of modern slavery in ways that complement government efforts. Indeed, the private sector has a crucial leadership role to play—raising standards across operations, dealings and supply chains, setting an example for sector and public policy, and calling for stronger laws.

## Q5: Today's anti-slavery

### Fairtrade's Approach to Supply Chain Integrity

The Fairtrade System has existed for more than 25 years, and operates in 125 countries. An independent third party (FLO-CERT, which meets ISO 17065 accreditation) audits Fairtrade-certified supply chains. In most cases, Fairtrade Standards aim to ensure physical traceability of products through the whole length of the supply chain.

*The Fairtrade Producer Standards, Fairtrade Trader Standard, and Fairtrade Hired Labour Standard* call for compliance with applicable national labour laws and the fundamental ILO conventions to prevent forced labour and child labour in all parts of the supply chain.<sup>7</sup> The Trader Standard goes further, by encouraging supply chain actors to voluntarily adopt best practice.<sup>8</sup> The *Producer Standard* also encourages producers to adopt sustainable development measures. Producers develop of self-governing, continuously improving, community-based monitoring and remediation systems on child labour. Producer organisations in several countries now have in place such systems to check and respond to child labour risks.<sup>9</sup> They include Belize, Paraguay, Dominican Republic, Mexico, Côte de Ivoire, Madagascar, and Kenya. If Fairtrade International identifies or receives information on any violation of the rights of children or vulnerable adults, this triggers Fairtrade's internal protection procedures that include reporting to relevant national protection bodies.<sup>10</sup>

Fairtrade International *Guidelines for Child and Forced Labour* which includes its *Protection Policy for Children and Vulnerable Adults*, also call on producer organisations to develop both reactive and proactive measures—including a monitoring and remediation system—to identify and respond to child labour and forced labour.<sup>11</sup>

### The role of legislations

Laws can encourage businesses to tackle modern slavery through due diligence. Laws can enable civil society to check compliance and assist business towards best practice. In this way, they may minimise and mitigate

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<sup>7</sup> Fairtrade International, *Fairtrade Trader Standard*, 01.03.2015 v1.2 (Fairtrade Labelling Organizations International e.V., 2005), <https://www.fairtrade.net/standards/our-standards/trade-standard.html>, accessed 9 April 2017; Fairtrade International, *Fairtrade Standard for Small Producer Organizations*, 01.05.2011\_v1.4 (Bonn: Fairtrade Labelling Organizations, International e.V., 2005–2011), <https://www.fairtrade.net/standards/our-standards/small-producer-standards.html>, accessed 9 April, 2017; Fairtrade International, *Fairtrade Standard for Hired Labour*, 15.01.2014\_v1.2 (Bonn: Fairtrade Labelling Organizations International e.V., 2005), <https://www.fairtrade.net/standards/our-standards/hired-labour-standards.html>, accessed 9 April 2017.

<sup>8</sup> Fairtrade Foundation, *Media Statement: Modern Slavery Act* (Fairtrade Foundation, 1 April 2016), <http://www.fairtrade.org.uk/en/media-centre/news/april-2016/modern-slavery>, accessed 9 April 2017.

<sup>9</sup> Fairtrade Foundation, *Op. cit.*

<sup>10</sup> Fairtrade International, *Fairtrade Standard for Small Producer Organizations*, *Ibid.*

<sup>11</sup> Fairtrade International, *Child Labour and Forced Labour Guidelines* (Fairtrade International), [https://www.fairtrade.net/fileadmin/user\\_upload/content/2009/programmes/2015-fairtrade-child-forced-labor-guidelines.pdf](https://www.fairtrade.net/fileadmin/user_upload/content/2009/programmes/2015-fairtrade-child-forced-labor-guidelines.pdf), accessed 9 April 2017.

risks to all stakeholders—consumers, investors, employees, governments, and NGOs. In several countries, there are or soon will be laws driving transparency in supply chains.<sup>12</sup>

### *The UK Modern Slavery Act*

There is a clear role for government in addressing what is not simply a moral problem and a business risk, but also a market failure. The United Kingdom's Modern Slavery Act has come to be widely regarded as model legislation.

Introduced in March 2015, the Modern Slavery Act requires that companies operating in the UK publish an annual statement spelling out the measures taken to implement and fulfil the principles of the Act in their own business and supply chains.<sup>13</sup> The statement must be approved by the board and signed by at least one company director. What, at minimum, should be included in the statement is guided by the Act. Only companies with an annual turnover of £36 million or more are bound by the Act. This means that more than 12,000 firms worldwide are affected. The Act also establishes an office of Independent Anti-Slavery Commissioner.

### *Other legislations*

The UK Act is one of several stronger legal imperatives for companies to identify and address forced labour and other kinds of modern slavery. This includes California's Transparency in Supply Chains Act of 2010 (TISCA), a European Union Directive (2014/95/EU) on the disclosure of human rights and other non-financial matters.<sup>14</sup> Similar legislation has been or is being introduced in several other countries.

The Australian Modern Slavery Act was adopted in 2018<sup>15</sup>. Australia was able to learn from the experience of the UK Modern Slavery Act and apply its lessons. Thus, the Australian Act builds on important strengths of the UK legislative model<sup>16</sup>.

Clearly, there is an important global trend in acknowledging the current environment. The global Fairtrade System firmly welcomes legislation that aim to tackle modern slavery, and the transparency and collaboration it seeks to encourage.

### *Effects of legislations*

Assessing the effectiveness of legislations and their utility as a tool for addressing human rights abuses in supply chains is important. The UK Modern Slavery Act has evidently yielded some important developments, including incorporating conditions addressing slavery into supply-chain contracts, as well as the introduction of improved training and grievance mechanisms in some cases.<sup>17</sup> One year after its introduction, the Act

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<sup>12</sup> Walk Free Foundation, *Harnessing the Power of Business to End Modern Slavery* (The Minderoo Foundation Pty Ltd, 2016), <http://walkfreefoundation.org-assets.s3-ap-southeast-2.amazonaws.com/content/uploads/2016/12/01213809/Harnessing-the-power-of-business-to-end-modern-slavery-20161130.pdf>, accessed 9 April, 2017.

<sup>13</sup> HM Government, *Modern Slavery Act 2015* (London: The National Archives, 2015), <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>, accessed 9 April 2017.

<sup>14</sup> Walk Free Foundation, *ibid*.

<sup>15</sup> <https://www.legislation.gov.au/Details/C2018A00153>

<sup>16</sup> <https://www.business-humanrights.org/en/the-australian-modern-slavery-act-2018-%E2%80%93-will-it-live-up-to-expectations>

<sup>17</sup> ETI, *New report and survey finds Modern Slavery Act is galvanising leadership action in progressive companies* (London: Ethical Trading Initiative, 2016),

<http://www.ethicaltrade.org/blog/new-report-and-survey-finds-modern-slavery-act-galvanising-leadership-action-in-progressive>, accessed 9 April 2017.

appeared to have had a significant positive effect on the UK's senior corporate leadership.<sup>18</sup> At the same time, company compliance with the reporting requirements of the Act was poor overall as depicted in a report by the UK Business and Human Rights Resource Centre (BHRRC).<sup>19</sup> Note that studies of compliance to California's Transparency in Supply Chains Act of 2010 (TISCA), which also requires reporting on risk assessment and management efforts, paint a similar picture. Four years after TISCA was introduced, while 61 per cent of companies had attempted to comply, only 14 per cent actually had.<sup>20</sup>

### *The importance of mandatory reporting*

By ensuring all firms meet the same legal standard, mandatory reporting obligations, when properly enforced, have a clear advantage over voluntarism or poor enforcement. This means that no company is penalised for doing the right thing, i.e. investing considerable time and money in its due diligence.

It is important to ensure that monitoring for compliance does not trigger cut-and-run scenarios amongst companies, with potentially disastrous effects on impacted populations. The protection of impacted populations is crucial, ensuring they do not get displaced into more hidden forms of slavery, which may be harder to detect. This would simply re-distribute the problem outside the value chain. Any enforcement action should ensure victims of slavery, and any other vulnerable adults and children vulnerable, are well protected.

## **Q6: Tomorrow's anti-slavery.**

### **Guidance on transparency and integrity in supply chains**

Modern Slavery legislation signals to the private sector that human rights issues are core business. It creates a powerful incentive for companies to investigate, know how to find, report on, and remedy instances of slavery in their supply chains, while reducing business risk. The complexity of global supply chains and slavery's clandestine nature make risk assessment inherently difficult, and even many progressive companies still seem to struggle to identify and deal with human rights risks.<sup>21</sup> Governments can help to minimise transitions risks and enhance compliance by proactively facilitating awareness and understanding of companies' responsibilities, as well as providing guidance on best practice.

We believe guidance in transparency in supply chains should go hand-in-hand with proactive business engagement with its supply chain actors—as part of a progressive approach to tackling modern slavery through better practices and better partnerships with other organisations. The purpose should be not only to encourage transparency but also to encourage businesses to be proactive in their sphere of influence.

Consistent with growing global community expectations, considerable progress has been made in recent years in the development of detailed, well-researched guidance on risk assessment and management of human rights issues in supply chains. The OECD Guidelines for Multinational Enterprises documents are detailed recommendations to companies to carry out supply chain due diligence to identify, prevent, mitigate and

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<sup>18</sup> ETI, *Op. cit.*

<sup>19</sup> CORE and BHRRC, *UK Modern Slavery Act: First 75 statements in*, Media release (London: CORE Coalition and Business and Human Rights Resource Centre, 7 March 2016), [http://www.hrprocurementlab.org/wp-content/uploads/2016/09/CORE-BHRRC-press-release-modern-slavery-statements\\_160307\\_.pdf](http://www.hrprocurementlab.org/wp-content/uploads/2016/09/CORE-BHRRC-press-release-modern-slavery-statements_160307_.pdf), accessed 9 April 2017.

<sup>20</sup> L Messinger, 'California law aimed at slowing human trafficking and forced labor should do more, report says', *The Guardian* (20 January 2016), <https://www.theguardian.com/sustainable-business/2016/jan/22/california-anti-slavery-law-development-international-sun-maid-asia-human-trafficking>, accessed 9 April 2017.

<sup>21</sup> ETI, *ibid.*

account for all human rights risks, including child and forced labour.<sup>22</sup> Note that the OECD Guidelines recommend that businesses enlist independent third-party auditors to verify their due diligence at key points in the supply chain. These certification systems add value through their rigour, knowledge and experience in addressing challenges in supply chains and can help share the load associated with any increased reporting requirements. Companies could also seek to disclose a summary of their audit findings and reward suppliers for good practice.

### **Living wage and living income, a crucial tool in the fight against modern slavery**

Fairtrade believes that ensuring a living wage for workers and a living income for farmers at every stage of the supply chain lessens the likelihood of them becoming victims of forced labour or child labour.

Governments should recognise that enabling living incomes are central to the realisation of human rights in global supply chains, and integrate this recognition into policy. This could include:

- **Making living incomes a priority for development aid:** Development aid agencies should put achieving living incomes and wages at the heart of their Economic Development strategy, supporting programmes and businesses that take living income seriously. This could include the establishment of a strategic match-fund facility that would support businesses committed to achieving living incomes for farmers and looking to innovate in their supply chains.
- **Incorporate living income into Government Business and Human Rights policies:** Fairtrade recognises that a living income is a human right. It should be upheld by measures aimed at implementing the United Nations Guiding Principles on Business and Human Rights, including Government policy on business and human rights, and other relevant government policy. There should be a level playing field for companies that understand the need to address living income but struggle to do so in isolation.
- **Expanding public procurement policies to encourage government bodies to procure goods where people are paid living incomes.** Public procurement authorities are thus also recognizing the need for inclusion of social conditions, in line with societal expectations, in contracts with vendors for goods and services.
- Include in **national legislations** a requirement that an organisation's slavery and human trafficking statements **include information on the progress** they are making to ensure farmers and workers in their supply chains achieve a living income or are paid living wages.

## CONCLUSION

Fairtrade Norway thanks the UN Special Rapporteur on Contemporary Forms of Slavery, Ms Urmila Bhoola for this opportunity to present our views on modern slavery in global supply chains. We believe that living wage and living income is a human right and must be a priority in fighting poverty as a root cause to modern slavery.

We believe that civil society has a key role to play in tackling modern slavery and its root causes. We would welcome further discussions and encourage governments and other stakeholders to consider ongoing consultation with organisations like Fairtrade, with considerable experience in the field.

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<sup>22</sup> OECD, *Guidelines for multinational enterprises* (Paris: Organisation for Economic Co-operation and Development, 2016) <http://www.oecd.org/corporate/mne/>, accessed 9 April, 2017.