

A call for UK ban on products tainted with forced labour

Executive Summary

July 2024

To fulfil its commitment to eliminate forced labour from global value chains, the UK must introduce import controls on products tainted with forced labour. **Anti-Slavery International calls on the UK Government to 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.** This briefing document outlines the rationale behind this call, as well as the elements that the proposed law must include.

In 2021, the International Labour Organization (ILO) estimated that 21.2 million people are in forced labour, either at the hands of private sector actors or governments. Forced labour is deeply embedded in the value chains of corporations around the world, including those operating in the UK. It is clear that voluntary initiatives have failed to protect workers or end forced labour in value chains.

The UK Modern Slavery Act 2015, with its Transparency in Supply Chains provision (TISC), was seen as a landmark legislative effort to address modern slavery in supply chains. However, in practice, it has not meaningfully changed corporate behaviour or succeeded in eradicating modern slavery from the UK's global supply chains. Ultimately, legislation that focuses solely on transparency and reporting is too weak to drive positive systemic change.

Without effective policies and practices in place, companies continue to profit from forced labour and goods tainted with forced labour continue to feature heavily among UK consumer purchases. The UK needs stronger laws that hold companies accountable and drive remedy for workers who have experienced harm. Adopting targeted measures to eliminate forced labour and protect the most vulnerable groups is therefore a matter of urgency.

Import control legislation is one such measure. A powerful tool, it can be used to enforce companies' obligation to identify and address forced labour in their value chains, remediate affected workers and introduce corrective measures to prevent further harm. It is integral to driving positive outcomes for victims of forced labour.

Import control legislation can also play a critical role in combating state-imposed forced labour, such as in Turkmenistan and the Xinjiang Uyghur Autonomous Region (Uyghur Region). By blocking market access, it puts pressure on perpetrating governments to end their abusive practices.

Support for import controls has been increasing among policymakers, businesses, the general public and civil society organisations. Many countries and regions – including the US and the European Union – have already acted on the need to implement stronger laws. The US Tariff Act, for example, bans the import of goods linked to forced labour and establishes a number of enforcement measures (such as Withhold Release Orders). The US Uyghur Forced Labor Prevention Act focuses specifically on goods from the Uyghur Region. It puts the onus on companies to prove their goods were not made with forced labour.

The UK's failure to keep pace with global efforts to address forced labour in value chains risks the UK becoming a dumping ground for goods tainted with forced labour.

Effective import controls would:

- Stop companies importing products tainted with forced labour into the UK.
- Stop companies profiteering from state-imposed forced labour, end UK corporate and government complicity in state-imposed forced labour and put meaningful pressure on perpetrating governments to end this practice.
- Compel companies to map and disclose their value chains.
- Incentivise meaningful corporate due diligence, by requiring companies to identify and remediate abuses, and implement corrective measures to prevent their reoccurrence.
- Facilitate immediate and effective remediation for victims of forced labour.
- Safeguard the UK from products tainted with forced labour that have been rerouted from countries with stronger legislation.

Recommendations for the UK Government on the introduction of import controls

Import control legislation to end forced labour in UK value chains must:

- Empower the relevant authorities to investigate and make determinations on whether goods have been made with forced labour, and enforce import controls.
- Provide for the potential to target specific entities or groups of entities and, in situations of state-imposed forced labour, entire regions or industries.
- Require determinations of forced labour to be qualified against the ILO's forced labour indicators and its handbook *Hard to see, harder to count: Handbook on forced labour surveys*.
- Establish a formal procedure for workers, communities or their representative groups to make complaints.
- Allow stakeholders to alert the authorities anonymously and ensure they are protected against retaliation.
- Oblige the relevant authorities to meaningfully and safely consult potentially affected workers and their representatives before enforcing any import controls. This would help make sure any controls imposed won't cause further harm.
- Require public disclosure of the results of investigations and the rationale for decisions to ban products from entering the UK.
- Place the onus on companies to prove that their goods were not made (in whole or in part) or transported using forced labour.
- Oblige companies to map and disclose their supply chains.
- Require companies to provide effective remedy to workers as a pre-condition of lifting any ban.

To end forced labour in UK value chains, import controls should be introduced as part of a broader, complementary mix of measures. Such measures include:

- Introducing a [Business, Human Rights and Environment Act](#) that requires companies, financial institutions and the public sector operating in the UK to conduct human rights and environmental due diligence;
- Improving domestic enforcement of labour rights and migrant worker protections;
- Other relevant trade and development policies.

The UK must play its part in ending forced labour in value chains by aligning UK policy with global developments and heeding the growing consensus on the need for import controls.

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1. Introduction

Forced labour remains pervasive worldwide. Despite its firm prohibition under international law,¹ there are an estimated 21.2 million people in forced labour,ⁱ either at the hands of private sector actors (privately-imposed forced labour) or governments (state-imposed forced labour). This egregious abuse takes place in almost every country and is deeply embedded in the global value chains of multinational corporations, tainting many products sold to UK customers. It can be present at all levels of a value chain, from the extraction of raw materials to distribution. The illicit profits generated globally from privately-imposed forced labour alone amount to approximately \$236 billion annually.²

Not only does forced labour violate human rights; it impedes economic growth and hinders poverty reduction. By depriving individuals of their economic agency, slavery and slavery-like practices have cascading effects on the broader economy, leading to long-term and intergenerational harms.³ These effects hamper sustainable development and negatively impact society as a whole.⁴

There is therefore an urgent need for targeted action to eliminate forced labour, protect the most vulnerable groups and effectively address the root causes of forced labour.ⁱⁱ Such root causes include

ⁱ ILO, Walk Free, and IOM UN Migration, 'Global Estimates of Modern Slavery: Forced Labour and Forced Marriage' (September 2022) pg. 26, available at: https://www.ilo.org/wcmsp5/groups/public/-/-ed_norm/-/-ipecc/documents/publication/wcms_854733.pdf (accessed 7 November 2023). This figure includes privately-imposed labour exploitation (the publication's term for forced labour in the private sector excluding commercial sexual exploitation) and state-imposed forced labour. In this paper, we use the term "privately-imposed forced labour" rather than "privately-imposed forced labour exploitation" and likewise exclude forced commercial sexual exploitation from the definition being used in this paper, because it is less relevant to debates on value chain laws.

ⁱⁱ For an analysis of root causes of forced labour see: Open Democracy, 'Confronting root causes: forced labour in global supply chains' (19 March 2019), available at: <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/confronting-root-causes/> (accessed 7 November 2023).

poverty, weak governance, discrimination, inadequate legal protection, and irresponsible business models and purchasing practices.

Although some companies voluntarily work to identify and prevent the risk of forced labour in their value chains, many do not or do not do so effectively. Such patchy and inconsistent efforts are unable to effectively tackle the pervasive problem of forced labour.

Jurisdictions⁵ around the world, including the US and EU, are already enacting stronger legislation to compel companies to identify and address forced labour in their supply chains. But in the UK, progress on this issue has stalled significantly. Without swift action, the UK risks becoming a safe haven for products tainted with forced labour banned from other markets.

Anti-Slavery International calls on the UK Government to introduce primary legislation to ban the import of goods made (in whole or in part) or transported using forced labour. Enacting and enforcing import controls is crucial if the UK is to fulfil its commitment to eliminate forced labour from global value chains.⁶

Introducing import control legislation would stop companies profiting from forced labour in their value chains, help victims of forced labour access swift remedy, and ensure the UK keeps pace with developments worldwide. Not only can import controls improve the lives of victims of privately-imposed forced labour, but they can also be particularly effective at combating state-imposed forced labour, such as in Turkmenistan and the Uyghur Region.

We strongly recommend that this new import control legislation cover not just goods made in whole or in part with forced labour, but also services used within a product's value chain. This is because many of the services required to get a product to retail – such as transport and logistics – are at high risk of forced labour.ⁱⁱⁱ The global shipping industry, for example, carries 90% of the world's trade and has been identified as particularly susceptible to modern slavery.⁷

The UK Government must act now to ban goods tainted with forced labour from the UK to prevent the UK from becoming a dumping ground.

ⁱⁱⁱ The transportation of the final product is considered part of the value chain, and therefore its inclusion is called for in import control legislation.



Cotton being harvested in Turkmenistan

Definitions

Import controls: Laws that control the import of products. Import controls on products tainted with forced labour are trade and customs measures that allow countries to block or seize products made with forced labour at the border.

Forced labour: According to the ILO Forced Labour Convention, 1930 (No. 29), forced or compulsory labour is: “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.”⁸ The ILO’s Indicators of Forced Labour⁹ and *Hard to see, harder to count*¹⁰ guidelines present an operational definition of forced labour, and indicators to help identify it. Forced labour can also occur if someone agrees to work but once they start working, they discover that they were deceived about the conditions or the nature of the work and that they are not free to leave without repercussions.

Privately-imposed forced labour: Forced labour exploitation in the private economy imposed by private individuals, groups or companies. This definition excludes commercial sexual exploitation.

State-imposed forced labour: Forced labour imposed by state authorities as described in Article 1 of the ILO Convention on the Abolition of Forced Labour, 1957 (No. 105).¹¹ State-imposed forced labour includes the use of forced labour as punishment for the expression of political views, for the purposes of economic development, as a means of labour discipline, as punishment for participation in strikes or as a means of racial, religious or other discrimination.

Child labour: The ILO defines child labour as work that deprives children of their childhood, potential and dignity, hinders their education, and harms their physical and mental development.¹² Child labour refers to work that is socially, mentally, physically or morally harmful to children and interferes with their education and healthy development.¹³ Not all child labour constitutes forced labour, which would still require the work to be involuntary and subject to the threat of penalty. The threshold for determining whether a child is subject to forced labour is, however, much lower than for an adult.¹⁴

Supply chain: All the individuals, organisations, resources, activities, and technology that are directly related to the production of goods or the provision of services. For example, the design, extraction, sourcing, manufacture, storage, transport, and supply of raw materials, products or parts of products, and development of the products or services.

Value chain: Entities with which a company has a direct or indirect business relationship, understood as all types of business relationships – suppliers, franchises, licensees, joint ventures, investors, clients, contractors, customers, consultants, financial, legal, and other advisers – and any other non-state or state entities linked to its business operations, products or services. It is understood as all types of business relationships, which either (a) supply products or services that contribute to the company’s own products or services, or (b) receive products or services from the company.¹⁵ For example, the marketing, distribution, transport, storage, use, and disposal of the goods or services.

Remediation: The process of ensuring that people subjected to forced labour have access to appropriate and effective remedies. These remedies should aim to repair the damage caused by forced labour. Remediation goes hand in hand with the implementation of corrective measures to prevent further harm. Remedies can take the forms of apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.

2. Forced labour in UK value chains

Forced labour is systemic in UK value chains. Research from 2023 estimates that \$26.1 billion (roughly £20.36 billion) worth of products at risk of being made with forced labour – such as garments, electronics, fish, textiles and timber – are imported into the UK each year.¹⁶

Evidence of forced labour in UK value chains

Since the enactment of the Modern Slavery Act 2015, there has been growing awareness of, and concern about, the risk of forced labour in UK value chains.

- During the COVID-19 pandemic, the NHS increased orders by 314% from a latex glove supplier in Malaysia whose products had been banned from the US due to forced labour.¹⁷ This was unlikely to be an isolated incident. Findings from a UK Government review in December 2023, which analysed 1,361 NHS suppliers, revealed that over 20% of these suppliers are at high risk of modern slavery. These suppliers provide products including surgical instruments, gloves, gowns, uniforms and face masks.¹⁸ The review highlights ongoing concerns about high NHS reliance on high-risk suppliers. It also calls attention to potential exposure to state-imposed forced labour, particularly in places like the Uyghur Region and Turkmenistan.
- A 2022 investigation alleged that beef from a Brazilian meat company linked to forced labour was found in UK supermarkets, including Asda, Iceland, Morrisons, and Sainsbury's.¹⁹ The same Brazilian meat company has also been linked to the supply chain of the British Armed Forces through a long-standing Ministry of Defence supplier. Beef from the company was found in a wide range of ration packs and military meals.²⁰
- The UK Overseas Business Risk guidance²¹ highlights the risk of Uyghur forced labour in key industries, such as cotton, textiles, automobiles, electronics and polysilicon. China's dominance of textile exports puts global supply chains at risk of exposure. Estimates suggest as much as 93% of its cotton originates in the Uyghur Region.²² Major UK brands including Tesco, Reiss and River Island have been named as at risk of using Uyghur Region cotton.²³ Moreover, an estimated 40%²⁴ or more²⁵ of the UK's solar industry has been linked to Uyghur forced labour. The global automotive industry, encompassing electronic vehicle battery production, also faces substantial risks.²⁶ The supply chains of prominent British companies like London Electric Vehicle Company, Aston Martin, Bentley, Jaguar Land Rover and Rolls-Royce are allegedly exposed.²⁷
- Research from a report by Ethical Consumer in March 2023 alleged that UK supermarkets are connected to endemic workers' rights abuses, including forced labour, in the Spanish regions of Almeria and Huelva, through their fruit and vegetable supply chains.²⁸ The research suggests that all nine major UK supermarkets (Aldi, Asda, Co-op, Lidl, Marks & Spencer, Morrisons, Sainsbury's, Tesco and Waitrose) source from Almeria and Huelva.²⁹
- Research by SOMO and Arisa found direct and indirect links between UK companies and garment factories in Tamil Nadu, India, where there is evidence of forced labour. The research found links between Next, Sainsbury's and Tesco and the spinning mills investigated, while other large apparel importers, such as Asda, Marks & Spencer and River Island, are named as likely to have links to forced labour in the region.³⁰
- British tobacco companies British American Tobacco and Imperial Brands have been accused of facilitating human trafficking and allowing dangerous working conditions amounting to forced labour on Malawian tobacco farms.³¹ In a High Court judgment, an application to strike out the claims was dismissed because the claimants had properly pleaded the central allegation that British American Tobacco and/or Imperial Brands had purchased tobacco they had grown and used it to make cigarettes and other tobacco products.³²

- A recent investigation by the Outlaw Ocean Project revealed that UK supermarkets – including Tesco, Sainsbury’s, Waitrose and Morrisons – are at risk of sourcing seafood produced using Uyghur forced labour, due to their alleged supply chain links to certain importers.³³
- Independent reports from Turkmen rights groups reveal that the UK continues to import cotton products directly from Turkmenistan, where the entire cotton industry is reliant on state-imposed forced labour.³⁴ UK companies are also indirectly implicated through supply chain networks in intermediary countries like Turkey, which are heavily reliant on Turkmen cotton.³⁵ This web of trade relationships significantly heightens the risk of UK supply chain exposure to Turkmenistan’s state-imposed forced labour regime.

3. Why we need import controls in the UK

Seizing products suspected of being made with forced labour can act as a strong incentive for companies to act swiftly. Import control legislation would empower the relevant customs authorities to block and/or seize goods tainted with forced labour at the UK border, preventing them from being sold in the UK. Import controls that require companies to identify forced labour in their value chains, end it, remediate affected workers, and introduce corrective measures to prevent further harm would put pressure on companies profiting from forced labour and incentivise better business practices that put people before profit.

Countries and regions worldwide are working to implement bans on products made with forced labour. Initiatives are already underway in the US, Canada, Mexico and the EU (see box below on global legislative developments). Yet companies unwilling to address forced labour in their supply chains can still find safe haven in the UK.

The UK is, therefore, also at risk of becoming a target market for ‘split’ supply chains tainted with forced labour. This happens when a company splits its supply chains to create one or more purportedly ‘forced-labour-free’ supply chain for countries that have adopted import controls, while continuing production on tainted supply chains for countries that have not.³⁶ Moreover, without a UK import ban, when tainted products are stopped at the borders of countries with bans, companies will simply reroute them to the UK, rather than address the forced labour.

We need a strategic mix of policy and legal interventions to effectively address the root causes of forced labour. Import control legislation to end the trade of goods tainted with forced labour is an integral part of that mix. It would complement a UK Business, Human Rights and Environment Act^{iv} that requires businesses to conduct human rights and environmental due diligence on their value chains and holds them accountable if they fail to prevent harm. This would be further complemented by strong domestic enforcement of labour rights and migrant worker protections, as well as corresponding trade and development policies.

^{iv} Anti-Slavery International calls for a new UK Business, Human Rights and Environment Act. This Act would establish a duty to prevent adverse human rights and environmental impacts. It would oblige companies, financial institutions and public-sector entities operating in the UK to conduct human rights and environmental due diligence across their operations, subsidiaries and value chains. See, Anti-Slavery International, ‘A call for a UK Business, Human Rights and Environment Act (May 2023), available at: <https://www.antislavery.org/wp-content/uploads/2023/05/ASI-briefing-UK-BHREA-report-May-23.pdf> (accessed 31 May 2024).

Global legislative developments

Several countries and regions have already adopted or implemented stronger laws to address forced labour in global supply chains. The summary below sets out the market control measures in the US, Canada, Mexico and the EU. Policies that require companies to conduct human rights and environmental due diligence of their value chains have also been developed by France,³⁷ Germany,³⁸ Norway,³⁹ the EU,⁴⁰ Thailand,⁴¹ South Korea⁴² and New Zealand.⁴³ While the details of these policies aren't provided below, they are notable nonetheless. The UK has neither type of legislation.

United States – US Tariff Act 1930⁴⁴

In the US, section 307 of the US Tariff Act bans the import of goods produced in whole or in part with forced labour anywhere in the world. It explicitly includes indentured child labour within its scope. If customs officers suspect that imported goods were made with forced labour, they can issue Withhold Release Orders (WROs) to temporarily stop the goods from entering the US.⁴⁵ If they then determine that the goods were made with forced labour, these goods are seized and forfeited.⁴⁶ Previously, the Tariff Act included an exception for products made with forced labour if no comparable domestic product was available in the US or if the level of domestic production failed to meet US consumptive demand. This exception was removed in 2015. Since then, the Tariff Act has been very effective: US authorities stopped 4,415 shipments valued at \$1.44 billion in 2023.⁴⁷

United States – Uyghur Forced Labor Prevention Act 2021⁴⁸

The Uyghur Forced Labor Prevention Act (UFLPA) was adopted based on credible evidence of widespread and systemic forced labour in the Uyghur Region. It presumes that goods produced in the Region or by 'listed entities' are tainted with forced labour.⁴⁹ It therefore created a rebuttable presumption that requires importers to provide clear and convincing evidence (a high level of proof) that their products were not made with forced labour. The UFLPA is arguably the most robust forced labour law introduced in recent years.

United States-Mexico-Canada Agreement⁵⁰

The United States-Mexico-Canada Agreement is a free trade agreement between the three countries. It replaced the North American Free Trade Agreement (NAFTA). The agreement requires the US, Mexico and Canada to ban the import of products made with forced labour. This requirement was primarily catalysed by the US's introduction of such a ban and the desire to create a level playing field within the free trade zone.⁵¹

Canada

In 2020, Canada adopted regulations in line with the United States-Mexico-Canada Agreement, to stop goods produced in whole or in part with forced labour from entering Canada.⁵² Canadian customs officers can detain shipments at the border for inspection if they suspect the goods were made with forced labour.⁵³ Data on implementation is limited⁵⁴ and enforcement has been weak so far.⁵⁵ While a positive step, it is clear that the Canadian Government must improve its enforcement of the regulation.⁵⁶

Mexico⁵⁷

In compliance with the United States-Mexico-Canada Agreement, Mexico adopted a regulation to ban the import of goods produced with forced labour. There is still limited information about its implementation given that it only entered into force in May 2023. Nevertheless, it represents a welcome and promising step in the right direction.

European Union

In April 2024, the European Parliament agreed a new Forced Labour Regulation (FLR), prohibiting the import, internal trade and export of products made with forced labour.⁵⁸ The FLR empowers the Commission and national competent authorities within the EU to ban, withdraw, dispose of and ban the export of products made with forced labour. The FLR is due to take effect in 2027.[▼] Notably, the FLR will work in tandem with the EU's Corporate Sustainability Due Diligence Directive, also due to enter into force in 2027. This Directive requires companies of a certain size to conduct human rights and environmental due diligence.

▼ While the Forced Labour Regulation was approved by the European Parliament and is expected to become law, it has not yet been formally approved by the EU Council. Once approved, it is expected to come into effect in 2027. See, European Parliament, 'Products made with forced labour to be banned from EU single market' (23 April 2024), available at: <https://www.europarl.europa.eu/news/en/press-room/20240419IPR20551/products-made-with-forced-labour-to-be-banned-from-eu-single-market> (accessed 10 June 2024).

Import controls on state-imposed forced labour

The UK's import control legislation should contain provisions that specifically target state-imposed forced labour and the unique challenges it presents. State-imposed forced labour happens on a massive scale in many countries and severely restricts people's rights and freedoms. Because the state plays a central role in abuses, companies cannot conduct credible due diligence on the ground, nor can they conduct credible audits or certification processes, or credibly or safely engage with workers. In situations of state-imposed forced labour, companies cannot use or increase their leverage to improve conditions, and direct remediation for affected individuals is almost impossible.⁵⁹ A company's only recourse to make sure it is not using or benefiting from state-imposed forced labour is to end all ties with exposed industries and, where necessary, regions.

Import controls must therefore be able to be applied to specific production **sites, importers and regions** where there is evidence of state-imposed forced labour. For example, import controls should be able to target forced labour in Turkmenistan's cotton industry and in all industries in the Uyghur Region, where the UN Special Rapporteur on Contemporary Forms of Slavery found that instances of Uyghur forced labour "may amount to enslavement as a crime against humanity".⁶⁰ The US 'rebuttable presumption' system for the Uyghur Region (under the Uyghur Forced Labour Prevention Act – UFLPA) provides a good model that the UK should follow.

A **rebuttable presumption** establishes the assumption that goods have been made with forced labour if they were made with materials or in regions where there is strong evidence of state-imposed forced labour. This approach allows enforcement authorities to ban the import of certain product groups from specific countries or regions (like all cotton from Turkmenistan or all products from the Uyghur Region). It shifts the burden of proof onto companies to show that their goods are free from forced labour. The aim is to incentivise companies to swiftly exit these regions.

The rebuttable presumption under the UFLPA sends a clear and powerful message to the Chinese Government and companies complicit in Uyghur forced labour: that profiting from persecution in the Uyghur Region is unacceptable. As of July 2024, US Customs and Border Protection (CBP) has targeted 9,128 shipments valued at \$3.46 billion.⁶¹ Affected product groups include electronics, textiles, manufacturing materials and chemicals, which have all been linked to Uyghur forced labour.

The UFLPA's impact on commercial ties to the Uyghur Region is increasingly apparent as companies adopt more responsible sourcing and supply chain practices. Research indicates that there has been a notable shift in investment patterns in the solar industry, primarily in response to the UFLPA. Companies are moving away from sourcing from the Uyghur Region and establishing alternative supply chains that do not rely on inputs from the Region.⁶² Media reports also suggest that a decline in the global demand for cotton from the Uyghur Region is attributable to the UFLPA, among other factors.⁶³

Import controls targeting state-imposed forced labour would have a dual benefit: they would stop UK companies profiteering from state-imposed forced labour and put meaningful pressure on perpetrating governments to end these abusive practices. Such controls would work to end UK corporate and government complicity in forced-labour systems of abuse and persecution. This is particularly important given that state-imposed forced labour can constitute a crime against humanity under international law.^{vi}

Import controls on privately-imposed forced labour

For privately-imposed forced labour, import controls can increase companies' leverage and incentivise them to engage with suppliers to end forced labour, remediate workers and prevent its recurrence. When there are potential financial consequences, compliance with an agreed standard can be appealing.

To effectively combat exploitative practices and act as a strong deterrent, import controls must be designed and enforced carefully. At a minimum, they must ensure transparency and deliver effective enforcement, compelling companies to eliminate forced labour from their operations. However, they must

^{vi} Enslavement is a crime against humanity when "committed as part of a widespread or systematic attack directed against any civilian population" (Article 7.1), and is "pursuant to or in furtherance of a State or organizational policy to commit such an attack" (Article 7.2), Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3, available at: <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf> (accessed 19 June 2024). See also, Chloe Cranston, Anita Dorett, Edie Martin, Laura T Murphy et al, 'Respecting Rights in Renewable Energy: Investor guidance to mitigate Uyghur forced labour risks in the renewable energy sector' (January 2024) pg. 20, available at: <https://www.antislavery.org/wp-content/uploads/2024/01/ASI-HCIJ-IAHR-Investor-Guidance.pdf> (accessed 19 June 2024).

also require companies to take into account possible unintended adverse consequences for workers and their communities and provide remediation to victims. In doing so, they can help create a more robust and responsible business environment and work against a 'cut-and-run' approach.

Various research reports suggest that well-designed import controls would have a positive impact on workers. Research by Justice and Care found that the most effective import controls:

- Target individual companies and specific sectors where human rights abuses have been verified, rather than entire sectors or countries (except in cases of state-imposed forced labour);
- Prioritise the remediation of victims, instead of simply seeking to stop goods at the port of entry;
- Involve a coordinated effort by multiple countries and international organisations.⁶⁴

Research commissioned by the European Parliament's Subcommittee on Human Rights attests to the effectiveness of import controls:

*Import restrictions were highlighted by several interviewees as extremely effective in engaging the business community in supply chain mapping, due diligence, and addressing risks of modern slavery in their supply chains. The significant disruption presented by the seizure of goods, in particular, was emphasised as catalysing business action in ways that other measures had not achieved.*⁶⁵

Import controls further disincentivise the use of forced labour by stopping businesses and governments from profiting from the competitive advantage it might afford.⁶⁶ Such a level playing field – in which all products made with forced labour are banned from a market – can incentivise businesses to act more responsibly.⁶⁷

For import controls to have real impact on the ground, workers must receive remedy. As outlined in the UN Guiding Principles on Business and Human Rights, remedies may include apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm, for example, through injunctions or guarantees of non-repetition.⁶⁸ This could mean making sure workers are paid withheld wages and reimbursed recruitment fees, which trap them in debt. It could also mean returning passports or providing treatment or counselling. The potential effectiveness of import control legislation for providing remedy to victims has already been demonstrated: since 2016, over \$200 million in compensation has been paid to victims of forced labour as a result of the US Tariff Act.⁶⁹

Requiring evidence of remediation from importers as a pre-condition to lifting a product ban would ensure that victims of forced labour receive timely and effective remedies. Requiring evidence of remediation and corrective measures to prevent the repetition of forced labour would also drive structural changes with benefits beyond a single worker.

Research by the Remedy Project found that actual or potential enforcement action by the CBP under the US Tariff Act prompted companies in Malaysia's rubber glove and palm oil industries to commit to repaying over \$115.4 million in recruitment fees to nearly 82,000 migrant workers.⁷⁰ The report also reveals that CBP action (WROs) against companies in the palm oil industry has led them to improve their recruitment and employment practices and accelerate the implementation of reform initiatives and corrective measures.⁷¹ After the CBP issued a WRO on seafood caught by Taiwanese fishing vessel Da Wang, the Taiwan Government implemented an official Action Plan for Fisheries and Human Rights. This state-level policy plan encompasses a range of improvement measures, including an increase in the monthly minimum wage for distant water fishing workers.⁷² Prosecutors in Taiwan also charged nine people for exploiting and abusing foreign crew on a longline fishing boat.⁷³

Import controls should not be used as a trade protection tool

Import controls should not be considered or used as a trade protection tool. Import controls on goods made with forced labour are justifiable under the World Trade Organization (WTO) General Agreement on Tariffs and Trade (GATT 1947) because they meet the exception criteria of protecting public morals.⁷⁴ The objective of import controls must therefore be to incentivise positive outcomes on the ground for actual or potential victims of forced labour.

4. The inadequacies of the UK's current approach

Modern Slavery Act 2015

The Transparency in Supply Chains provision (TISC) of the UK Modern Slavery Act 2015 was seen as a pioneering legislative effort to tackle modern slavery. TISC requires businesses trading in the UK with a global turnover over £36 million to publish a statement detailing their actions to prevent modern slavery and human trafficking in their operations and supply chains.⁷⁵

While TISC increased awareness of modern slavery in supply chains, its impact has been disappointingly limited.⁷⁶ A 2022 study by the Financial Reporting Council on a sample of 100 major UK companies found that many provide only a limited and often superficial commentary on the risk of modern slavery in their supply chains.⁷⁷ Patterns of poor reporting practice continue in key areas, such as due diligence, risk assessment, and performance measurement and effectiveness. Crucially, it is possible to comply with TISC without changing any business practices that lead to modern slavery.⁷⁸ Ultimately, the reporting and transparency requirements under TISC have proven unable to drive meaningful corporate behaviour change or eradicate modern slavery from the UK and its global supply chains.

Health and Care Act 2022

The Health and Care Act 2022 (HCA) is primarily designed to reform the NHS — the UK's largest public procurer — following the COVID-19 pandemic.⁷⁹ One aim of the HCA is to eliminate slavery and human trafficking from NHS supply chains.⁸⁰ The modern slavery provision was introduced following serious concerns⁸¹ about NHS procurement of personal protective equipment (PPE) during the COVID-19 pandemic from regions where forced labour was reported, particularly in Malaysia⁸² and the Uyghur Region.⁸³ Debates on the inclusion of this provision demonstrated that there is strong support across both Houses of Parliament to end modern slavery in NHS supply chains.⁸⁴

Although the HCA is a welcome development, its impact will be limited because it only regulates NHS procurement. Moreover, the implementing regulations to end modern slavery and human trafficking in NHS supply chains are still being drafted and have not yet come into force.⁸⁵ We do not yet know how strong their provisions will be.

Foreign Prison-Made Goods Act 1897 and Proceeds of Crime Act 2002

The Foreign Prison-Made Goods Act 1897 (FPMGA) bans the import of goods wholly or partially produced in foreign prisons.⁸⁶ Despite having been in effect for nearly 126 years, research suggests the FPMGA has never been enforced.⁸⁷

Under the Proceeds of Crime Act 2002 (POCA), authorities have the power to investigate suspected money laundering offences relating to the import of goods made with forced labour. Such goods could be considered criminal property and trading in them could be considered criminal conduct.

In 2020, civil society groups wrote to the UK's customs authorities calling for action to stop the import of cotton products from the Uyghur Region, because of state-imposed forced and prison labour in the Region.⁸⁸ A subsequent judicial review claim was then brought for the failure to investigate (pursuant to the FPMGA and POCA) whether shipments contained products made with Uyghur forced labour.⁸⁹ The court agreed with the decision not to investigate on the grounds that no link had been proven between a specific consignment of goods destined for the UK and their manufacture either in a foreign prison (for a prohibition under the FPMGA) or using forced labour (for an offence under the POCA). In June 2024, the Court of Appeal overturned the decision, therefore requiring the UK authorities to reconsider their decision.⁹⁰ This judgment is significant and is expected to result in UK authorities carrying out investigations of cotton imports from the Uyghur Region. However, this judgment alone is not sufficient to stop goods made with forced labour from entering the market, nor can it provide effective remediation to victims of harm. Therefore, it demonstrates why we need a new law that is stronger.

Procurement Act 2023

The Procurement Act 2023 regulates grounds for excluding suppliers from public procurement processes.⁹¹ Mandatory exclusion grounds include conviction of modern slavery offences (as regulated under the Modern Slavery Act 2015), including forced labour.⁹² In the absence of a conviction, sufficient evidence of modern slavery can trigger discretionary exclusion grounds.⁹³ This leaves it to the discretion of the relevant authorities whether to exclude a potential supplier. The relevant provisions are due to come into force in October 2024, so we do not yet know how the new regime will work in practice.

While these efforts are welcome, they fall short of delivering a comprehensive strategy that encompasses all products affected by forced labour. It is therefore imperative that the UK adopt more robust and inclusive legislation to effectively combat forced labour in global value chains.

5. Growing support

Policymakers, businesses, the general public and civil society increasingly support the introduction of stronger legislation to prevent the UK from becoming a dumping ground for goods tainted with forced labour.

Government and parliamentary support

The UK Government has recognised that forced labour is widespread in UK supply chains and must be eradicated.⁹⁴ The Government has estimated that forced labour costs the UK over £4 billion.⁹⁵ A number of official inquiries have also recognised the need for urgent action to end forced labour in UK value chains, as well as the UK Government's failure to act.

The House of Commons Business, Energy and Industrial Strategy Committee (BEIS) expressed concern that the Modern Slavery Act 2015 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.”⁹⁶ The BEIS further called for companies operating in the Uyghur Region to have to prove that they are not complicit in modern slavery or other human rights abuses.⁹⁷

The House of Commons Foreign Affairs Committee (FAC) highlighted that the Modern Slavery Act 2015 “does not compel [companies] to remove the use of modern slavery when it is found” and rejected “the idea that Government guidance, as well as non-binding rules [...] will encourage businesses to do the right thing”.⁹⁸ The FAC has also repeatedly called for the UK Government to introduce legislation with a rebuttable presumption that prohibits the import of goods mined, produced or manufactured in the Uyghur Region, following the US model.⁹⁹ In November 2023, the FAC reiterated this recommendation, further recognising that UK supply chains might be facilitating forced labour in the cotton fields of Turkmenistan.¹⁰⁰

Policymakers across the political spectrum have called for import bans on products made with forced labour, either in public debates or calls targeting specific Ministers. For example, Tom Sheppard (SNP),¹⁰¹ Sir Iain Duncan Smith (Conservative)¹⁰² and Afzal Khan (Labour)¹⁰³ have all stressed the need for import controls, with a particular focus on Uyghur forced labour. At the 2022 Labour Party Conference, David Lammy stated that, under a Labour Government, “British shelves will never be stocked with products of modern slavery. We will end cotton imports from [the Uyghur Region]”.¹⁰⁴ A recent letter, highlighting the substantial risk of forced labour in the solar industry, signed by 32 civil society organisations and 43 MPs from across the political spectrum, calls for import bans.¹⁰⁵

Business support

Without stronger legislation, UK businesses are forced to operate on an uneven playing field. Indeed, the absence of import controls allows unethical companies to undercut their competitors, evade their due diligence responsibilities and rely on forced labour to prop up their business models. Import controls can force these companies to change their practices, while placing no extra burden on companies already upholding human rights standards.

Companies themselves have voiced support for bans on products made with forced labour. For example, during the drafting of the EU's FLR, investors,¹⁰⁶ businesses (including cocoa sector giants Mondelez, Mars, Unilever and Ferrero¹⁰⁷) and trade associations¹⁰⁸ publicly announced their support for the proposal.

Public support

A 2024 YouGov poll commissioned by Anti-Slavery International shows that 82% of the respondents want it to be illegal to import goods made with forced labour into the UK.^{vii} This overwhelming public support for stronger legislation is consistent across all age groups and UK regions, across all major political parties and among supporters of both “remain” and “leave” in the 2016 Brexit referendum.

Civil society support

There is also strong support for import control legislation among civil society. When the UK Government announced plans to introduce a new Modern Slavery Bill in 2023, 29 civil society organisations, academics and trade unions¹⁰⁹ published an agreed set of principles to incorporate into the legislation, including import controls. While the Modern Slavery Bill never came to fruition, support has remained strong for standalone legislation banning the trade of goods made with forced labour.^{viii} Calls for this legislation continue from organisations that work closely with affected workers, including in countries where forced labour is most prevalent.^{ix}

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6. Conclusions and recommendations

The UK Government rightly recognises that forced labour is widespread and must be eliminated from value chains. However, the lack of adequate legislative measures jeopardises its ability to uphold its commitment to end modern slavery. By imposing import controls, the UK can send a clear message to the international community that it is committed to human rights and eradicating forced labour and that it will not become a dumping ground for goods tainted with forced labour. Faced with the risk of being barred from a major market like the UK, countries and businesses profiting from forced labour will be incentivised to change their ways. The UK Government must act now to ensure forced labour in the UK value chains can no longer go on with impunity.

Recommendations for the UK Government on an import control framework

We call on the UK to introduce legislation that bans the import of goods made (in whole or in part) or transported using forced labour.

Import control legislation to end forced labour in UK value chains must:

- Empower the relevant authorities to investigate (ex officio or following a petition) and make determinations on whether goods have been made with forced labour, and enforce import controls.
- Provide for the potential to target specific entities or groups of entities and, in situations of state-imposed forced labour, entire regions or industries where it can be presumed that goods are made with forced labour.
- Require determinations of forced labour to be qualified against the ILO's forced labour indicators¹¹⁰ and its handbook *Hard to see, harder to count: Handbook on forced labour surveys*.¹¹¹ These resources provide an operational definition of forced labour, and indicators with which to identify it.
- Establish a formal procedure for workers, communities or their representative groups to make complaints regarding forced labour in UK value chains. Possible worker representatives include trade unions, civil society organisations, non-governmental organisations and other credible representatives.
- Allow stakeholders to alert the authorities anonymously (should they wish) and have their identity protected to safeguard them from retaliation.
- Oblige the relevant authorities to meaningfully and safely consult potentially affected workers and their representatives (such as civil society, trade unions and other groups). This should be done as part of an impact assessment before enforcing any import controls, to ensure any controls imposed won't cause further harm.
- Require public disclosure of the results of investigations and the rationale for decisions to ban a product from entering the UK, while protecting the anonymity of affected workers/stakeholders.
- Once it has been determined that goods have been made with forced labour, shift the burden of proof to importers to prove that their goods were not made (in whole or in part) or transported using forced labour, or that remediation has taken place and indicators of forced labour are no longer present.
- Oblige companies to map and disclose their supply chains to allow authorities, civil society and the public to identify whether a company is importing or retailing a product at high risk of being made with forced labour. This can also help small and medium-sized enterprises conduct their own due diligence, because they can compare their suppliers against the supplier information provided by larger companies.
- Require companies to provide effective remedy to workers. Import controls should only be lifted if the importer can prove that (1) forced labour is no longer present, (2) remedy has been provided to affected workers, and (3) corrective measures have been implemented. This must be done in consultation with affected stakeholders and independently verified.

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