

# **Human Trafficking & Global Supply Chains: A Background Paper**

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**Prepared for the expert meeting convened by the UN Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo**

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\* The views expressed in this paper are those of the authors and do not necessarily reflect the views of the Special Rapporteur.

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## Abbreviations

CIS – Commonwealth of Independent States

CITIM – Interagency Commission against Trafficking in Persons and Smuggling of Migrants

CSR – Corporate Social Responsibility

EHTN – End Human Trafficking Now Campaign

IBCE – Bolivian Foreign Trade Institute

ICCPR – International Covenant on Civil and Political Rights

IHRB – Institute for Human Rights and Business

ILO – International Labour Organisation

IOM – International Organisation for Migration

NAP – National Action Plan

NGO – Non-Governmental Organisation

OHCHR – Office of the High Commissioner for Human Rights

UAE – United Arab Emirates

UDHR – Universal Declaration of Human Rights

UN – United Nations

UNGC – United Nations Global Compact

UNGIFT – United Nations Global Initiative to Fight Human Trafficking

US TVPA – United States Trafficking Victims Protection Act

## 1. Introduction

This paper has been prepared as a reference document for the expert meeting convened by the UN Special Rapporteur on trafficking in persons, especially women and children, Ms. Joy Ngozi Ezeilo, who devoted her 2012 report to the UN General Assembly to the issue of trafficking in supply chains (A/67/271). The paper presents an overview of the ways trafficking in persons and related human rights abuses such as forced labour can impact global trade and the production chains of multinational enterprises. The paper examines where brands and supply chains can be vulnerable to risks of human trafficking, and the different ways that these risks can manifest themselves across diverse industries and sectors. The paper argues that human trafficking is a significant threat to supply chain security, and that this threat can exist for companies at multiple levels. Brands are advised to take effective and sustained action, lest they leave themselves vulnerable to potential legal, reputational, trade-related and investment-based challenges in the future. The paper also presents the many ways that companies have responded to human trafficking. It outlines the new policies, capacity building programmes and transparency initiatives that have developed to mitigate these risks, as well as the emerging civil society and multi-stakeholder efforts to promote consumer and public awareness. The paper complements these initiatives with a roadmap of recommendations and proposals to promote effective and sustained engagement, concluding with a call to action and a draft set of Ethical Principles for a Trafficking-Free Supply Chain that businesses could voluntarily endorse.

## 2. Legal Review

### 2.1 International Standards

Over the last decade, there has been growing concern across stakeholder groups about human trafficking for sexual and labour exploitation. This concern led the international community to adopt a new instrument in 2000 called the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.<sup>1</sup> The Protocol supplements the UN Convention against Transnational Organised Crime, and came into force in December 2003. The Protocol offers UN member states, lawmakers and the global community an internationally-agreed definition of human trafficking, which is defined as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

While complex, this definition emphasizes the following key points:

**Action:** Human trafficking involves recruitment, transportation, transfer, harbouring and/or receipt of a person.

**Means:** Human trafficking involves the threat or use of force, deception, abduction, the abuse of power or a position of vulnerability, or other forms of coercion.

**Purpose:** The purpose of human trafficking is exploitation, which can include the prostitution of others, forced labour, slavery or servitude.

Referencing exploitation, the Protocol makes a direct link to forced labour, slavery and practices similar to slavery, key issues related to human trafficking in the global economy. This recalls human rights abuses falling under the jurisdiction of other legally-binding instruments, notably core ILO Conventions and international human rights instruments. Forced labour and slavery are crimes punishable under international law. In 1926, the first international treaty prohibiting slavery was adopted by the League of Nations, which offered the following definition: slavery is “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”<sup>ii</sup> The prohibition of slavery was strengthened with the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, the UN Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (Supplementary Convention on the Abolition of Slavery) in 1956 and the International Covenant on Civil and Political Rights in 1966.<sup>iii</sup> Significantly, the Supplementary Convention on the Abolition of Slavery, by referencing practices “similar to slavery,” updated the 1926 definition to include other forms of exploitation including servitude and debt bondage, highly relevant to contemporary considerations of human trafficking.

A few years following the adoption of the 1926 Slavery Convention, the International Labour Organisation (ILO) adopted its first international instrument against forced labour, Convention 29 of 1930, which in 1998 was identified by ILO constituents as one of eight “core” ILO Conventions.<sup>iv</sup> Convention 29 includes the internationally-recognised definition of forced labour, which is identified as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” Taken together, the concept of trafficking for the purpose of forced labour can be understood as referring to the recruitment, transportation and harbouring of a person by illicit or coercive means for work or service that is undertaken against a person’s free will, backed-up by a threat or a penalty of any kind. For business and other labour market actors, understanding the definition and risks associated with trafficking for labour exploitation is of the utmost importance.

In this context, it is also relevant to note the development of non-binding principles on State responses to human trafficking. In 2002, the Office of the High Commissioner for Human Rights (OHCHR) issued the *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, which set out that States should consider criminalizing all practices covered by the definition of trafficking, including debt bondage, forced labour and enforced prostitution.<sup>v</sup>

## **2.2 Non-Binding Frameworks Relevant to Human Trafficking & Global Supply Chains**

Legally-binding instruments are central reference points for business. For ratifying countries, they set out a framework for national law to which companies and employers must adhere in every jurisdiction in which they operate. However, as business has become increasingly global, the

international community has responded by adopting non-binding global frameworks that are directly addressed to business. These are set out in two key UN initiatives: the UN Global Compact and the UN Guiding Principles on Business and Human Rights.<sup>vi</sup> Taken together, these initiatives offer companies guidance on key themes that range from labour and human rights to the environment and anti-corruption. Both frameworks are highly relevant to trafficking and forced labour.

The **UN Global Compact (UNGC)** is a broad-based multi-stakeholder initiative addressed to business. It brings together governments, employers, civil society groups and trade unions, as well as other stakeholders, on the basis of ten universally-accepted principles of human rights, labour, environment and anti-corruption. The principles are drawn from key UN and ILO standards, with human trafficking figuring prominently in the categories of human rights and labour. According to the Global Compact and UN Global Initiative to Fight Human Trafficking (UNGIFT), human trafficking is a violation of human rights, which concerns UNGC principles one and two; and, if child or forced labour are involved, labour principles four and five are implicated.<sup>vii</sup> In adhering to these principles, businesses are encouraged to promote markets, commerce, technology and finance in ways that benefit economies, societies and the environment. Since the UNGC's launch in July 2000, over 8,700 participants from over 130 countries have joined.

The recently adopted **UN Guiding Principles on Business and Human Rights** mark the emergence of a new, non-binding platform for corporate and multi-stakeholder engagement. These principles – covering all aspects of human rights, including reference to ILO core labour standards – were endorsed by the UN Human Rights Council in June 2011. Following the endorsement of the Guiding Principles, the UN Human Rights Council also established the Working Group on the issue of human rights and transnational corporations and other business enterprises, which is mandated to, *inter alia*, promote the effective and comprehensive dissemination and implementation of the Guidelines. The Guidelines provide a common, authoritative standard and reference point for mitigating the risk of negative human rights impacts linked to business, based on the three pillars of (1) the State Duty to Protect Human Rights; (2) the Corporate Responsibility to Respect Human Rights; and (3) the Access to Remedy.<sup>viii</sup> Although trafficking is not explicitly referenced, the Guiding Principles set out protections against it in the general framework of business responsibility. Notably, the principles clarify the respective roles of State actors and business enterprises on human rights, emphasizing the objective of enhancing standards and practices to achieve tangible results for affected individuals and communities, thereby contributing to a socially sustainable globalisation.

### **2.3 National & Sub-National Law**

The legal and regulatory environment of 25 countries around the world has been surveyed in the preparation of this report.<sup>ix</sup> This research has found that while forced labour and human trafficking remain significant problems across countries, regions and economies, encouraging steps have been taken in regulatory affairs that can be highlighted and, in some cases, replicated.

Following the adoption of the Palermo Protocol in 2000,<sup>x</sup> many countries have improved their legal infrastructure in order to define, prohibit and sanction human trafficking, and protect its victims. Over the last five years, a number of countries have passed comprehensive anti-trafficking laws, while other countries have created legal mechanisms to monitor and/or punish companies that

are found to be engaging in forced labour or trafficking for labour exploitation. Still other countries have passed laws to better regulate private recruitment agencies or establish protections for migrant workers and foreigners living within their borders. What follows is a summary of some of the legal and regulatory developments found in the countries surveyed.

### **Surveying new laws to combat human trafficking**

A key feature in policy engagement has been the development and adoption of new laws to combat human trafficking. In recent years, this has been done in countries as diverse as China, Peru and the Czech Republic.

In China, for example, the country's Criminal Law, amended as recently as 2011, states that employers found guilty of illegally forcing another person to work are subject to fines and prison sentences of between three and ten years. A key element of the law refers to individuals found guilty of recruiting, transporting or luring people into conditions of forced labour, whether in the formal or informal economy.<sup>xi</sup> Similarly, in Argentina, in April 2008, the country's Congress approved a new law prohibiting all forms of human trafficking. This law establishes sanctions of three to fifteen years imprisonment for offenders.<sup>xii</sup> A new law in Chile, approved in April 2011, also sets prison sentences of up to fifteen years, with a minimum sentence of ten years for those who are found trafficking children,<sup>xiii</sup> and in the Czech Republic the new Criminal Code enacted in January 2010, added human trafficking and the deprivation of human freedom to the list of crimes the government has a duty to prevent.<sup>xiv</sup> In Southeast Asia, the Malaysian government adopted the Anti-Trafficking in Persons Act in 2007, thus criminalizing human trafficking.<sup>xv</sup> This new law sets prison sentences of up to fifteen years and fines of between MYR 50,000 and MYR 500,000 for individuals found guilty of trafficking.<sup>xvi</sup> While this is not to imply in any way that these laws conform to international standards, the increasing adoption of new legislation on human trafficking around the world demonstrates an increasing level of political will and commitment to combat human trafficking.

Finally in Peru and Russia there have been important new developments. In Peru, a 2007 anti-trafficking law mandates a minimum twenty-five year prison sentence for persons involved in trafficking for forced labour,<sup>xvii</sup> while a November 2009 law against human trafficking and the illicit trafficking of migrants takes the step to delegate responsibilities for combating trafficking to different government agencies. The latter also mandates the establishment of a national hotline for victims of trafficking.<sup>xviii</sup> Russia passed an amendment to anti-trafficking legislation in 2008, strengthening penalties and further defining the concept in legislation.<sup>xix</sup> Under the new law, the responsibility for monitoring foreign workers in the country is assumed by the federal government, which now has the authority to conduct annual scheduled or unscheduled inspections of establishments employing such workers.<sup>xx</sup>

### **National Action Plans & Institutional Development**

Alongside the development of new laws like these, many countries have also taken steps to ensure these laws are effectively implemented. Some have developed a coordinated response in the form of national strategies or action plans against human trafficking, while others have established new public institutions with anti-trafficking mandates. These institutions can take various forms, including high-level inter-ministerial commissions or new departments within existing government agencies. Still other countries have formalized ties with neighbours or regional country partners. In this case,

bilateral agreements or Memoranda of Understanding are common, for example on cross-border labour migration.

In the Czech Republic, a National Strategy to Combat Trafficking in Human Beings was adopted for the period 2008 to 2011. This strategy involved collaboration between national and international partners to coordinate anti-trafficking efforts, implement new laws, identify best practices and establish preventive measures.<sup>xxi</sup> The strategy also included measures to improve data collection, strengthen border controls and raise public awareness.<sup>xxii</sup> In the Dominican Republic, in 2007, an Interagency Commission against Trafficking in Persons and Smuggling of Migrants (CITIM) was created by Decree No. 575-07. This Commission – composed of the key public institutions responsible for combating human trafficking – approved a National Plan of Action against Trafficking and Smuggling of Migrants for the period 2009 to 2014. This Plan focuses on three strategic areas of engagement: (1) prevention; (2) detection and prosecution of traffickers; and (3) protection of victims and witnesses. Similarly, in Peru, the government established a National Commission to Combat Forced Labour in January 2007 with the goal of coordinating action between the ministries of labour, education, agriculture, justice, interior, tourism, and women and social development. This Commission involves representatives of Peruvian workers’ and employers’ organisations and is supported by technical engagement by the ILO.<sup>xxiii</sup> The Commission also provided the institutional framework for the launch, in May 2007, of the National Action Plan to Combat Forced Labour.<sup>xxiv</sup> This Plan integrates measures to address structural factors that contribute to risks of forced labour, provides assistance to strengthen labour inspection services, targets investigations in economic sectors where forced labour is prevalent and outlines a communications strategy for raising public awareness.<sup>xxv</sup> Other examples of countries that have elaborated national strategies or institutions against trafficking or forced labour include Chile, Poland and Thailand.

### **Legal and regulatory developments addressed to business and supply chains**

Armed with a broad array of laws, policies, strategies and, in some cases, new anti-trafficking institutions, some countries have also opted to focus greater attention on the private sector. In these cases, new laws have been passed to better monitor the behaviour of multinational and national enterprises, requiring them to submit to greater scrutiny and transparency. In other cases, governments have led the way in establishing national certification or labelling systems that integrate anti-trafficking and forced labour measures.

Brazil is perhaps the best-known example of policy action that targets the private sector. In this country, the Ministry of Labour maintains a public record of people and corporations found to be using slave labour. Updated biannually, this so-called “dirty list” currently includes the names of almost 300 employers.<sup>xxvi</sup> Companies that are on the list are publicly shamed. They are also subject to severe financial sanctions, including fines and prohibitions on receiving important national subsidies, tax exemptions and loans from state banks.<sup>xxvii</sup> The national policy of the Bank of Brazil, for example, denies financing to landowners who use slave labour, while Brazil’s Ministry of National Integration has formally recommended that private sector lenders also deny such financing.<sup>xxviii</sup> In parallel, in May 2005, the Brazilian government also supported the development of the National Pact to Eradicate Slave Labour, a multi-stakeholder initiative involving business, financial institutions, NGOs, trade unions and the ILO. The National Pact currently has over 180 company and associated signatories, including large supermarket chains such as Wal-Mart Brazil, and industrial and financial



groups. Under the Pact, a “Social Observatory Institute” monitors the performance of signatories and documents existing and emerging good practice.<sup>xxix</sup>

Other countries where legal and regulatory efforts have been made to better monitor the actions of employers and business include neighbouring South American countries such as Argentina and Bolivia. In Argentina, the National Institute of Industrial Technology (INTI) – a federal agency established in 1957 – provides technology-related services to over 9,000 companies around the country. On anti-trafficking matters, INTI recently established a comprehensive national certification system for companies operating in the textile industry. The agency offers “certificates of quality” to firms that refrain from using forced labour and provide their employees with decent working conditions, including internal and international migrants. Participating companies granted the certificate are eligible to bid on lucrative state textile contracts, including the contracting of military uniforms.<sup>xxx</sup> In a similar spirit, Bolivia operates a certification programme called Triple Seal. This is an instrument promoted by the Bolivian Foreign Trade Institute (IBCE) in coordination with the Ministry of Labour, Employment and Social Security. Triple Seal is designed to encourage compliance with national labour laws and the labour principles of the UNGC. It is awarded to those companies that demonstrate the prohibition of child labour, discrimination and forced labour across their entire production chains.<sup>xxxi</sup>

Finally, in the United States, the subject of human trafficking and global supply chains has become a particularly significant issue recently. In this country, federal and state-level authorities have sought new ways to increase oversight of US-based companies’ international business interests and associated risks of trafficking in persons. This has led to the adoption in California of Senate Bill 657 – the California Transparency in Supply Chains Act – which came into force in January 2012. This Act requires all retailers and manufacturers operating in the State with annual global revenues of over US \$100 million to disclose information concerning their efforts to eradicate slavery and human trafficking from their direct supply chains. In a related development, a similar Bill – H.R. 2759, the Business Transparency on Trafficking and Slavery Act – was recently introduced at the federal level in the US with bipartisan support, while in the United Kingdom a private members Bill on “Transparency in UK Company Supply Chains (Eradication of Slavery)” is currently before the UK House of Commons.<sup>xxxii</sup> See **Box 1** below for more on the new California law.

**Box 1: California Transparency in Supply Chains Act**  
In October 2010, Senate Bill 657, the California Transparency in Supply Chains Act, was signed into law. The Act came into effect on January 1<sup>st</sup>, 2012 and applies to all retailers and manufacturers with annual global revenues of over \$100 million doing business in the US state. The Act requires these businesses to disclose information about their efforts to eradicate slavery and human trafficking from their direct supply chains where they make tangible goods for sale.

These businesses are required to publicly post information on their websites describing the extent to which they engage in verification, auditing, certification, internal accountability and training. This disclosure must be posted on the company’s website. Penalty for non-compliance is injunctive relief by the California Attorney

General, meaning that companies will not face monetary penalties for non-compliance, but they may face an order to take remedial action. At a minimum, companies are expected to report on the extent to which they undertake the following:

- a) Verify product supply chains to evaluate and address risks of human trafficking and slavery, clarifying whether verification is conducted by a third party.
- b) Audit suppliers to evaluate their compliance with company standards for trafficking and slavery in supply chains, specifying whether the audit was independent and unannounced.
- c) Require direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business.
- d) Maintain internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking.
- e) Provide company employees and managers, who have direct responsibility for supply chain management, with training on human trafficking and slavery, particularly with respect to mitigating risks within product supply chains.

In a related development, US President Obama in September 2012 issued a new Executive Order targeting human trafficking in government contracting. This new law uses the economic power of the US Government as the single largest purchaser of goods and services in the world to strengthen protections against trafficking in persons. It prohibits federal contractors, sub-contractors and their employees – among them major companies in industries ranging from aerospace and defence to information technology, construction and energy – from engaging in trafficking-related activities, identified as the following:

- Using misleading or fraudulent recruitment practices;
- Charging employees recruitment fees; and
- Destroying, concealing, confiscating, or otherwise denying an employee access to their identity documents, such as passports or drivers' licenses

The Order requires contractors and sub-contractors to agree to fully cooperate, by contractual agreement, in providing reasonable access to enforcement agencies to conduct audits, investigations and other actions to assess compliance with the law.<sup>xxxiii</sup>

### **Laws to Promote Corporate Social Responsibility**

Finally, it should also be noted that a number of countries have passed a wide range of laws on CSR in recent years. While these laws do not specifically focus on human trafficking, they have put increasing pressure on companies around the world to improve and report on their CSR performance and impact. In some respects, these laws can be considered as important precursors to laws such as the California Act that specifically address trafficking in persons. In the United Kingdom, France and

Denmark, for example, recent legislation requires companies to report on CSR performance,<sup>xxxiv</sup> while in Indonesia, a 2012 law requires state-owned companies, extractives industries and companies in natural resource management to implement mandatory CSR activities.<sup>xxxv</sup> In India, although an effort to pass legislation mandating company investment in CSR failed in July 2012, the country established voluntary guidelines on CSR spending and there have been encouraging talks of offering tax relief to companies that adhere to the guidelines.<sup>xxxvi</sup>

## 2.4 Gaps in International Standards & National Law

Recent developments in public policy around the world have been encouraging as increasing numbers of countries adopt new laws or reform old ones to enhance their fight against human trafficking. However, despite these notable improvements, laws in a number of countries often remain inadequate to the task of preventing and prosecuting trafficking, and protecting its victims. This owes partly to the complex definition of trafficking in persons found in the Palermo Protocol. There is much confusion around some of the key concepts in the definition, such as the “abuse of a position of vulnerability”, and as a result, the definition is not clearly understood, interpreted and implemented in many countries. At a practical level, there are a number of key concerns: (1) in some countries, the legal framework actually makes foreign documented or undocumented workers more vulnerable to abuse; (2) in other countries, public authorities lack the mechanisms to implement laws effectively, including adequately investigating and prosecuting suspected perpetrators; and (3) in still other countries, authorities not only fail to protect victims of trafficking but sometimes take punitive actions against them. The following presents a survey of some of the gaps in existing international standards and national law.

According to the ILO, in one Latin American country, the State lacks integrated criminal, labour and civil laws to comprehensively address forced labour. This impedes law enforcement and renders the government incapable of adequately investigating and penalising abuse. Other sources indicate that the government recently discontinued its investigation of forced labour in the country’s mining sector. In recent years, the country managed to prosecute only a small number of forced labour cases, with none of these prosecuted successfully.

Other countries are reportedly plagued by slow court procedures, a lack of resources and corruption, including bribery and complicity of customs and immigration officials and police officers. This has led to trafficking cases taking an average of three to four years to make their way through the courts, with slow and expensive proceedings encouraging trafficking victims to pursue mediation as an alternative to criminal trials. According to the US Department of State, in some countries governments have had little success in achieving anti-trafficking convictions, despite the relative strength of laws and regulations.

At times countries’ regulatory frameworks actually exacerbate the vulnerability of migrant workers within their borders. In one North American country, for example, temporary foreign workers arriving under federal guest worker programs receive work visas directly linked to their employer. This means that their immigration status is dependent on their employment circumstances, resulting in an imbalance of power between the worker and the employer. This leads many temporary migrant workers to accept whatever living and working conditions are offered to

them, with little opportunity for grievance or recourse, for fear that loss of employment will result in undocumented status and possible deportation. In a similar case, a country in Latin America requires that temporary migrant workers hold a temporary worker card in order to obtain legal employment for stipulated periods within an authorized location. This card must be carried by temporary workers at all times, and failure to do so or to keep it up-to-date can result in deportation. Under the country's federal migration law, temporary workers also face a legal restriction on their freedom of movement by requiring that migrant workers remain in their "authorized zone" (i.e. their location of employment) under threat of deportation should they not comply.

Finally, there are also examples of countries that do not fully protect the rights of trafficking victims within their borders and, in some cases, even take action to punish them. In this case, legal and regulatory weaknesses are frequently linked to the migration status of temporary workers. In one North African country, for example, the government reportedly conflates human trafficking with human smuggling. This makes it difficult to protect trafficking victims, who are often wrongly treated as undocumented aliens and thus subject to detention, arrest and deportation without access to redress. In another case, in a Southeast Asian country, reports indicate that adult victims of trafficking can sometimes be held in government detention centres for years prior to being repatriated. In 2010, this resulted in a number of trafficking victims fleeing the centres in the face of slow legal proceedings, distrust of government representatives, and language and cultural barriers. In an extreme example of failing to protect victims of trafficking, another country in Southeast Asia "monitors" foreign workers through voluntary organisations that are empowered to conduct raids and detain suspected "illegal" migrants. Reports indicate that these state-sanctioned organisations have been implicated in abuse including intimidation, physical assault, extortion and theft, taking place at temporary detention centres where they are responsible for security.

### **3. Trafficking in Persons: Making the case for Business & Supply Chain Engagement**

Human trafficking is widespread and affects developing and industrialized economies alike, as well as countries in transition. It has been identified as a problem across economic sectors, both for domestic and global markets, including agriculture, forestry, fishing, travel and tourism, hospitality, mining, garments and textiles, and food processing. Nevertheless, human trafficking has not been high on the agenda of many global companies in recent years, or the burgeoning Corporate Social Responsibility (CSR) movement. As the ILO, UNGC and UNGIFT noted in a recent survey, only a small number of companies and business leaders consider trafficking a serious risk to the security of their supply chains.<sup>xxxvii</sup> This is beginning to change as awareness within business circles grows, but for many change is not happening quickly enough. This section outlines the case for why human trafficking should be prioritized as a key issue for business, particularly in the context of global supply chains.

#### **3.1 Why is human trafficking an issue for business?**

Companies and employers have a pivotal role to play in the fight against human trafficking, particularly in global industries and markets. They are well-placed at a number of levels to provide

effective and sustainable action: for example, (1) in their own operations; (2) in the communities where they do business; (3) alongside their suppliers and business partners; and (4) in the global economy. In recent years, many observers have noted that business engagement is an essential aspect of global anti-trafficking campaigns.

Companies and businesses are affected by trafficking in a number of important ways, both directly and indirectly. In the first instance, employers face a *direct* liability for trafficking if a victim is recruited into the company or into one of its own subsidiaries. This can happen whether or not the company is aware of it, or whether its own management or human resources department is at fault or a third-party labour provider, for example a private employment agency. At the level of global brands and the first tier of global supply chains, forced labour and human trafficking can often be hidden from view, the result of complex and frequently outsourced recruitment and hiring practices. Companies can also be directly implicated if their products, services or premises are used by traffickers. This can occur in the hospitality, tourism and transport sectors, where global brands face considerable risk.

In the second instance, employers can also be *indirectly* linked to trafficking. This refers to actions by suppliers, sub-contractors and business partners, where the operations of otherwise independent companies can place the reputations of global brands at risk. In this case, supply chain insecurity linked to human trafficking grows as contracting and sub-contracting grow and become increasingly complex, for example in the global garment and electronics industries. The following chart sets out some of the key forms of risk businesses face in relation to trafficking and forced labour. Whether directly or indirectly implicated, these risks can be legal, reputational, trade-related and finance- or investment-based.

<b>Forms of Business Risk Associated with Forced Labour &amp; Human Trafficking</b>	
<b>Legal Risk</b>	Forced labour and human trafficking are considered crimes in most countries around the world. Companies found involved or complicit in such activity could face prosecution resulting in criminal or civil sanctions including fines, compensation to victims and imprisonment. Forced labour and human trafficking are also violations of international human rights law.
<b>Threats to Brand Value &amp; Company Reputation</b>	Allegations of forced labour and human trafficking can present serious threats to brand value and company reputation, particularly for those companies operating in consumer goods industries. Brand “contamination” can be difficult to reverse, and allegations such as these can threaten both existing and future business partnerships, resulting in a loss of contracts and/or future business opportunities.
<b>Trade-Related Risk</b>	In some countries, trade regulations strictly prohibit the import of goods that have been produced by trafficked or forced labour. In these jurisdictions, allegations of abuse can result in imported goods being seized by public authorities, inspected, and released only when shown to be untainted.
<b>Threats to</b>	Allegations of human rights abuse, forced labour and human trafficking

<b>Investment &amp; Finance</b>	can significantly threaten investor relations and risk divestment from both ethical and mainstream investors. They can also jeopardize access to public funds such as export credits, as public authorities increasingly link the financial support they provide to business with proven ethical performance.
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Source: Verité, [Fair Hiring Toolkit](#)

According to the ILO, there are also other reasons why employers and business should be concerned about trafficking. These include ethical and moral considerations – human trafficking, forced labour and abuses understood by the term modern-day slavery are morally unacceptable – but also the growing importance of voluntary policies such as codes of conduct.<sup>xxxviii</sup> Trafficking is emerging as a nascent issue within these policies and, in some cases, is integrated into business contracts and brand due diligence programmes. This means companies working in global supply chains are likely to face new expectations that recruitment and employment conditions in the production of their goods comply with internationally-recognised human and labour rights standards.

At the same time, as noted by UNGIFT, employers and business also have positive reasons for addressing human trafficking. Companies face key risks in their supply chains, but they also face opportunities and incentives to establish themselves as leaders among their peers. These include:

1. **Assuming a leadership role:** Taking an active role in the fight against human trafficking presents companies with an opportunity to be identified as leaders within their industry and society at large.
2. **Brand value:** Action against trafficking can enhance brand value and company reputation amongst consumers and other influential stakeholders.
3. **Stakeholder and community engagement:** Taking action in the community can help companies build trust and a strong foundation with local stakeholders.
4. **Comparative influence:** Companies have access to workers and workplaces in ways that few other stakeholders have. The private sector has significantly greater comparative influence when it chooses to take action in its sphere of influence.
5. **Business-to-business influence:** Companies also have unique access to their corporate peers and other business actors, further enhancing their potential impact.
6. **Strengthening business relationships:** Sustained action against human trafficking undertaken in co-operation with business partners can lead to stronger and more sustainable business relationships.
7. **Ensuring market access:** Companies with strong engagement against human trafficking can better guarantee uninterrupted access to international markets and global business partners.

8. **Strong investor relations:** Companies can build strong relations with the investment community and gain access to capital and markets by taking a decisive stance against human trafficking.
9. **Advocacy:** Businesses operating at national and international levels have an authoritative voice in advocacy and public policy debates against human trafficking.
10. **New business opportunities:** A company with strong policies and programmes to combat human trafficking can attract new clients and business opportunities, while being recognised as a preferred employer within the labour market as a result of socially responsible engagement.<sup>xxxix</sup>

### 3.2 Human Trafficking & the Global Economy

The majority of countries around the world today are affected by human trafficking as source, transit and/or destination countries for trafficking victims. According to the ILO, there are a minimum of 20.9 million people in forced labour around the world at any given time.<sup>xl</sup> This includes 11.7 million forced labourers in Asia, 3.7 million in Africa and 1.8 million in Latin America, the regions with greatest prevalence of abuse. The chart below provides a regional breakdown of the ILO's recent global estimate.

Regional Breakdown of Forced Labour	
Asia and the Pacific	11,700,000
Africa	3,700,000
Latin America and the Caribbean	1,800,000
Central and South Eastern Europe and CIS	1,600,000
Developed Economies and European Union	1,500,000
Middle East	600,000
<b>Total</b>	<b>20,900,000</b>

Source: ILO, [Global Estimate of Forced Labour](#), 2012.

The ILO's previous global estimate, conducted in 2005, placed the number of *trafficked* forced labourers at approximately 2.45 million. This included 43% of victims trafficked into commercial sexual exploitation, 32% into economic exploitation and 25% into a mixture of both.<sup>xli</sup> According to UNICEF, an estimated 1.2 million children are trafficked each year, while the

International Organisation for Migration (IOM) estimates that a majority of trafficking victims are between the ages of 18 and 24.<sup>xliii</sup> The estimated illicit profit generated by trafficked labourers is placed at approximately US \$32 billion annually, while the cost of coercion to workers in the form of lost wages, deductions, excessive fees and/or overcharges is estimated at almost US \$21 billion.<sup>xliiii</sup> Some argue that this makes human trafficking the third most profitable global business for organised crime, following illicit drugs and the arms trade.

At the same time, human trafficking also features regional patterns. For example, in many cases, cross-border trafficking is carried out between countries in the same region, particularly between neighbouring countries, although there is also clear evidence of long-distance or intercontinental trafficking, with countries in Europe and the Americas considered coveted destinations for trafficking victims. Trafficking is reported to affect over 160 countries around the world: 127 of these are affected as countries of origin, while 137 are identified as countries of destination where trafficking victims are exploited.<sup>xliiv</sup> The following presents a short summary of regional patterns identified in research conducted by international organisations such as UNGIFT and the ILO.

**Box 2: Regional patterns in human trafficking**

**Latin America and the Caribbean** are frequently reported as source regions for victims of human trafficking. A majority of reports indicate that women constitute the largest percentage of victims, but trafficking of minors is also reported. Trafficking for forced labour has been detected in the region, targeting migrant workers – both men and women – in underground “sweatshops,” remote regions, and in a range of industries, some of them export-oriented, including charcoal, timber, pig iron and several agricultural sectors. In some cases, abuse is closely linked to patterns of discrimination and inequality, particularly against indigenous peoples. Research in the region indicates that the main pattern of forced labour is through debt bondage, whereby workers are recruited through informal and unlicensed intermediaries who entice recruits through the payment of advances, and then make profits through inflated charges. This process can take place both within and across national borders.

**Europe** is affected as both a source and destination region of trafficking victims. Western Europe serves primarily as a destination region, while Central and South Eastern Europe are reported as source and transit regions. Throughout Europe, the spotlight has been on the trafficking of irregular migrants, both for sexual and labour exploitation. Alongside the sex industry and prostitution, sectors reportedly affected include construction, agriculture, domestic service and hospitality.

**Africa** is primarily considered a source region for victims of trafficking, with Western Europe identified as the main destination region. Trafficking of children – both girls and boys – is frequently reported, as is trafficking of adult women. In some parts of the region, vulnerability to trafficking occurs in the context of seasonal or longer-term migration for employment. For example, a baseline study conducted in one West African country indicated that persons migrating for seasonal work were susceptible to forced labour, with young men and women particularly vulnerable. Such work was in some cases linked to export industries. Internal trafficking (the movement of persons within the boundaries of a single country) is also reported as widespread, involving children and young women moving from rural to urban areas for domestic work and prostitution.



The **Middle East and Gulf States** are frequently reported as a destination region for victims of human trafficking from Central and South Asia, and further afield. Throughout the region there has been a steady growth of trafficking in recent years, including domestic workers and foreign contract workers in the construction and garment industries. Critical reports have highlighted harsh conditions of work for migrant workers as well as challenging policy environments where, in some Gulf States, the *Kafala* system of individual employer sponsorship for temporary contract workers increases vulnerability to trafficking and forced labour.

**Asia** is a source as well as destination region for trafficking. Victims are predominantly adult women, but also include children – both girls and boys. Reports indicate there is widespread incidence of trafficking for both sexual and labour exploitation, paralleling the large scale movement of people from poorer to wealthier countries in the region, as well as from Asian countries to the Middle East, Europe and the Americas. Reports from some countries also indicate internal trafficking of women and children from rural to urban areas for prostitution and, in larger countries, of men and women from poorer provinces to those with significant industrial growth for work in various industries.

**Source:** UNGIFT, Human Trafficking and Business: An eLearning course on how to prevent and combat human trafficking.

Research at the national level has also been conducted in recent years to better understand trends and developments in specific countries. This research has been led by the US Department of State's Office to Monitor and Combat Trafficking in Persons, resulting in the annual Trafficking in Persons Report.<sup>xlv</sup> This Report – a key diplomatic tool for the US government – is a comprehensive resource focused on global anti-trafficking campaigns, tracking such efforts on a country-by-country basis.

### 3.3 Economic Sectors at Risk

Reliable statistical information on the economic sectors at-risk of human trafficking and forced labour is difficult to gather.<sup>xlvi</sup> According to the ILO, however, alongside commercial sexual exploitation in the sex industry, a number of sectors and industries are frequently among those reportedly affected, including:

#### **Agriculture & horticulture**

Instances of human trafficking have been frequently reported in the agricultural sector in many countries around the world. Sugar cane, cut flowers, fruits and vegetables, and even tropical nuts have all been included in these reports, with countries in North America, the Caribbean, Europe, Latin America and Asia affected. Agricultural production often features long-standing problems such as substandard housing and excessive working hours, and has traditionally relied on temporary labour, with the bulk of its seasonal workforce increasingly comprised of migrant workers, some of whom are in an irregular status, while others fall under seasonal or guest worker schemes that are negotiated between governments. Complex contracting and sub-contracting chains are also a common feature and, with tremendous competition over costs, risks of forced labour entering at the bottom of the supply chain are significant. In Europe, according to the ILO, agriculture features as one of the top three sectors (alongside the sex industry and construction) that are most prone to forced labour in countries such as France, Germany, Hungary and the United Kingdom, where

workers from Central Asia and Eastern and South Eastern Europe have been identified as trafficking victims.<sup>xlvii</sup>

### **Construction**

The construction industry around the world and, in particular, in the Middle East and Gulf States has been implicated in numerous reports on human trafficking.<sup>xlviii</sup> These allegations often involve irregular migrants or foreign contract workers living on temporary work visas. Unlike other industries, construction cannot be outsourced, and often involves arduous and dangerous work. In many countries, forced labour practices occur through informal and clandestine recruitment systems involving internal or international migrants. In some cases, internationally recruited workers are in trafficked or forced labour situations when they are tied to one employer without the right to leave or when unlawful deductions are made from their wages.

### **Garments & textiles under sweatshop conditions**

Many reports have alleged human trafficking and forced labour conditions in the global garment industry and the supply chains of well-known international brands. These focus on the first tier of supply chains but also shine a light on abuses at sub-contracted facilities – sometimes home-based workshops – operating on the margins of the formal economy. Sub-contractors such as these represent a key step in supply chain production, but are often overlooked in brand due diligence and CSR programmes. Trafficked workers in the garment sector often live and work in deplorable conditions, as in a case reported on by an Australian news channel in July 2008.<sup>xlix</sup> In this case, an investigative report produced for Australian Channel 7 news exposed poor housing, withheld passports and monthly wage deductions among over 1,000 migrant workers from Bangladesh, Vietnam and other countries at a factory in north Kuala Lumpur, Malaysia. The factory was a major, long-term T-shirt manufacturer for several US-based brands.

### **Tourism & Hospitality**

Tourism and hospitality companies are never far from the spotlight in reports discussing trafficking for commercial sexual exploitation of both minors and women. Resorts and hotels, but also owners of cafés and restaurants, travel agencies and tour operators, periodically feature in exposés of prostitution rings and criminal activities linked to sex tourism. Yet, in recent years, attention has also focused on the vulnerability of migrant and temporary workers in the tourism and hospitality industries. This has highlighted cases of severe abuse involving excessive working hours, delayed or non-payment of wages, verbal abuse, unexplained deductions from pay and deception or lack of transparency during recruitment and contracting. These, alongside other concerns, have led some observers to fear trafficking for forced labour in the industry.

### **Building & Security Services**

Janitors and security personnel are not often considered in discussions about workers in the global economy that are vulnerable to human trafficking and forced labour, but recent reports suggest otherwise. A number of global and regional media outlets have alleged that women and men in these professions, notably in Asia, have found themselves in trafficking situations, having been lured by the promise of high-paying jobs in other countries.<sup>1</sup> Such conditions have recently found their way into the supply chains of large, high-street supermarkets based in the UK. Stores operated by these brands in countries such as Malaysia have been linked to the exploitation of contracted janitorial

staff, largely migrant workers from countries such as Bangladesh, with debt bondage featuring high among the forms of abuse. According to one report in the Asia edition of *Newsweek*, migrant workers from Bangladesh were discovered in a Kuala Lumpur supermarket owned by a UK-based company, working 13 hours every day and earning half the amount originally promised at the time of recruitment, less still following deductions for food, housing and job-placement fees. One of the workers described the situation as akin to having landed in a “kind of prison.”

### **Food processing & packaging**

Food processing and packaging plants are an essential feature of the global economy, with packaged goods travelling all over the world to be sold in overseas markets. Like other industries, however, food processing is increasingly characterized by complex contracting and sub-contracting arrangements and recent reports have surfaced that workers have been trafficked into jobs by criminal labour brokers. For example, the Special Rapporteur raised concerns about the widespread incidence of trafficking for labour exploitation in the fish and seafood processing industry in Thailand, whereby migrant workers are recruited from neighbouring countries with a fraudulent promise of lucrative employment opportunities and forced to work on fishing boats under inhumane conditions. Food processing in industrialised countries has been identified by the ILO as an industry in which cases of debt bondage involving migrant workers have been documented, involving coercive recruitment and employment practices.<sup>ii</sup> For example, in a study on returned migrants in four Eastern and South Eastern European countries, a sample of 300 forced labour victims revealed that food processing (alongside light manufacturing and hospitality) was among the industries into which migrants were trafficked.

Other economic sectors featured regularly in reports on human trafficking include mining; logging and forestry; transportation; domestic service; and private health care and cleaning work.

### **3.4 Identifying Trafficking & Forced Labour in Practice**

Research on the nature of human trafficking in global supply chains reveals a great deal about the circumstances that workers find themselves in after they become trapped in conditions of trafficking or forced labour. These situations frequently include deception or coercion in the recruitment process, a lack of consent to work and the menace of a penalty that represents a defining feature of forced labour. Other characteristics include:

- Deception or false promises about the terms or types of work;
- Excessive fees levied on workers for recruitment or placement services;
- The withholding or non-payment of wages, or other fraudulent practices related to wage payments;
- Retention of identity documents or other valuable personal possessions;
- Physical confinement to the workplace, living quarters or other limitations on freedom of movement;
- Physical or sexual violence, or threat thereof; and the
- Threat of deportation or denunciation to authorities, for example in the case of migrant workers in an irregular status.

These factors, in some cases on their own but often in combination, have the result of binding the worker (or workers) to their job. They can be considered indicators of forced labour and should be identified by businesses as red flags of risk and vulnerability. To illustrate, take the example of the IT and fishing sectors profiled in the *Newsweek Asia* article referenced above.<sup>lii</sup> In this report, the authors allege that a “growing back channel of global trade tricks millions into forced labour,” with workers “lured into bondage.” With a focus on IT companies in Malaysia and fishing boats across Southeast Asia, they describe the coercive conditions that face migrant workers around the region. These include mandatory passport retention by employers; deception and fraud during the recruitment and migration process; lower than promised wages once on the job; and excessively high and illegal placement fees that are charged by labour brokers. In fishing, these conditions are exacerbated by long periods at sea, long working hours, the more-or-less unregulated nature of the industry, and in some cases contract terms that include financial penalties for quitting. Taken together, these circumstances result in workers being trapped by deception, threats and debt at the combined mercy of their employers and the recruitment agents that placed them in their jobs. **Box 3** below describes the specific circumstances facing a migrant worker in the IT industry in Taiwan.

**Box 3: Benny from the Philippines: Deceived & in Debt**

After graduating from a four-year computer school in the Philippines, Benny could not find any work so he turned to a labor broker to help him get a job in an IT factory in Taiwan. He was charged US\$2,223 for his recruitment and traveling fees, for which he borrowed money from his mother. Upon arrival in Taiwan, he was told that his fees were converted to Taiwanese dollars which increased his debt by 150%. He was also only paid half of what he was expecting due to cost of living expenses and a forced savings of 30%. Benny was required to work six to seven days a week, 12 hours a day and overtime was mandatory. By the end of his contract he was forced to pay another US\$444 to extend his contract. Soon after that, the factory announced that they could no longer afford to keep all of the employees but his extension fee would not be returned to him. He was also informed that his forced savings were slotted for his return ticket home. Benny returned to the Philippines with no money. His family’s home was flooded by a typhoon, and he is applying for more work in Taiwan. This time, he hopes to go with an “honest” broker.

Source: Verité, [Help Wanted: Hiring, Human Trafficking and Modern-Day Slavery in the Global Economy](#), 2010.

### 3.5 Key Lessons for Business

- Human trafficking can present direct and indirect risks to business in its own operations, amongst business partners and across global supply chains.
- Human trafficking can present legal, reputational, trade-related and investment-based risks, but brands also have positive incentives for taking action. These include

strengthening business and investor relations, increasing brand value and ensuring uninterrupted market access.

- Human trafficking is a global phenomenon, affecting all countries and regions around the world. It impacts numerous sectors and industries integrated into the global economy, including garments and textiles, IT, food processing and agriculture.
- Deception, fraud and coercion in recruitment, migration and employment are among the defining features of human trafficking and forced labour in the global economy.

## 4. Managing Risk: The Response of the Private Sector

### 4.1 What can business do to address human trafficking?

In recent years, business actors of all kinds have taken a number of steps in the fight against human trafficking. This can be broadly categorized as “preventive” or “protective” action, with the former focused on awareness raising, communications and media campaigns, and the latter including measures to protect or correct wrongs suffered by trafficking victims. Preventive action is taken by companies to mitigate the threat of trafficking and forced labour in their supply chain, while protection can be conceived as short-, medium- and long-term activities taken where cases of trafficking are found. Here is a snapshot of both types of engagement:

**Prevention:** Policy engagement and codes of conduct  
Supply chain risk assessments, mapping and social audits  
Awareness raising and capacity building of staff and suppliers  
Establishment of effective grievance mechanisms for workers  
Supporting community-level engagement, e.g. public awareness campaigns

**Protection:** Implementing corrective action where a case of trafficking is discovered  
Providing for the immediate protection of victims  
Ensuring the right to redress and compensation  
Supporting the longer-term economic and social rehabilitation of victims, and reintegration into the community

In both cases, companies can act at the enterprise level, across their industries, nationally, in their communities of operation and internationally. Each “level” has its own opportunities, benefits and challenges, but in most cases companies will prioritise engagement where they face the greatest risk or have the greatest leverage or potential for impact, for example in their own operations or among their first tier suppliers. It is here that most examples of brand engagement against trafficking can be found.

### Risk Mapping & Policy Development

As a first step, many brands may wish to conduct a risk assessment or risk mapping. This can help them determine their level of exposure to risk, whether or not trafficking is an issue for them, and where their exposure is greatest. A risk assessment can help companies focus their attention on a

particular issue (e.g. recruitment fees), raise awareness about that issue and support efforts to identify strategic priorities. It can also help build company consensus on an issue that internally may not be considered a high priority.

Brands may also wish to develop a new corporate policy, or adjust and refine their existing one. As noted above, anti-trafficking provisions are not well-integrated into codes of conduct and the social policies of most global companies, an observation that also applies to many industry-based and multi-stakeholder initiatives. This needs to change. High-level, company-wide anti-trafficking provisions prohibiting human trafficking are a key step in taking comprehensive and sustained action. These should apply to all levels of the supply chain and be integrated into agreements and contracts with business partners. **Box 4** provides an example of new provisions integrated into a US-based retailer’s code of conduct. They target trafficking abuses and uphold the rights of foreign contract workers in the company’s supply chain. **Annex 3** builds on this, and provides recommendations for new code provisions on issues such as recruitment fees, contracts of employment, document retention and the payment of wages.

**Box 4: Establishing Effective Corporate Policies to Combat Human Trafficking & Protect the Rights of Contract Workers in the Supply Chain**  
Some pioneering companies have adopted new policies or revised existing ones to more effectively address the risk of trafficking and forced labour in their supply chain. One such company developed a new and comprehensive set of provisions that currently supplement its code of conduct. They address common abuses facing migrant and contract workers such as excessive recruitment fees, retention of passports, contract substitution and deception in contract terms such as wages, working hours and housing. The supplement represents one of the most comprehensive anti-trafficking policies among brands today. As a model, it sets out supplier responsibility and accountability for ensuring that foreign contract workers receive full disclosure during the recruitment process, sign their employment contracts in their home countries, and can return home for any reason and at any time without fear of reprisal and without extraordinary debt.

**Raising Awareness & Building Capacity in the Supply Chain**

Companies can also act in other important ways. This includes raising awareness amongst relevant staff, including senior managers and social compliance officers, and capacity building for key suppliers. For many, raising awareness is an important first step. Many managers and CSR staff, including social auditors, will not know enough about human trafficking, although they may be more familiar with the concepts of forced labour and bonded labour. Raising awareness not only helps the company better understand the risks it faces, it also helps staff better implement new policies, code provisions and programmes. Capacity building is similarly important. It can target company personnel (for example auditors or mid-level managers), but should also focus on core supply chain actors. Training for first tier suppliers is one of the many measures companies can take to build capacity. This can include face-to-face instruction or online programmes, and can be facilitated by the brand or a third-party training provider. One leading example of this is a global IT company that focused its

supplier compliance training on anti-trafficking measures, the rights of foreign contract workers and best practice in the prevention of involuntary labour. This training was conducted for suppliers in one country over a two-day period and examined direct hiring procedures, onsite management of foreign workers, and best practice methods for monitoring labour brokers. The success of this training led the company to expand its engagement to include other priority countries. Other forms of company engagement include:

- Establishing grievance mechanisms or so-called “hotlines” for potential victims to seek redress;
- Public reporting to enhance transparency vis-à-vis stakeholders or to meet new legal obligations, for example under the California Transparency in Supply Chains Act; and
- Social audits that integrate more effective measures to identify cases of trafficking.

### **Trafficking & Forced Labour: Challenges for Social Auditors**

Social audits are a key element in company due diligence programmes. They are a practical tool used by many brands to assess their own facilities and those of their suppliers to detect code violations in the workplace. Audits provide brands with a direct view of working and employment conditions in the supply chain, and cover a diverse set of issues including core labour and human rights risks. Human trafficking, however, does not feature prominently in most social audits; and auditors themselves are often not well-trained on the issue. This means that trafficking, forced labour and coercion can often go undetected during the audit process. This problem is compounded by the often limited scope of social auditing. Most assessments concentrate only on conditions in the workplace, without investigating how workers (for example, internal or cross-border migrants) get their jobs. In the case of human trafficking, a third party labour broker or intermediary may play an important part in recruiting and/or employing workers; and it can be here that deception and coercion occur. Social audits typically have little visibility at this stage of the employment cycle.

Human trafficking and forced labour are complex issues. They are often hidden, characterized by deception, and the result of complex pressures, abuses and exploitation levied not by a single employer but by a number of abusive actors at different stages of the recruitment, hiring and employment process. To account for this, companies need to develop new assessment strategies, strengthen their audit procedures, improve auditor training, and ensure that a spotlight is shone on the areas of greatest risk, including sub-contracted facilities and the companies that provide labour, both foreign and domestic. Companies need new tools, protocols and policies to effectively audit trafficking and establish new mechanisms to protect workers. Auditors themselves are on the frontlines of the global economy and better placed than many to detect and prevent abuse. It is essential that they are properly equipped to do so. Resources to this effect have been developed by organisations such as the ILO and Verité.<sup>liii</sup> Among these are checklists for assessing compliance and guidance on conducting interviews with employers, workers and labour providers. **Box 5** below provides an overview of the key questions developed by the ILO to guide and strengthen forced labour audits.

#### **Box 5: Key questions in auditing forced labour<sup>liv</sup>**



#### Freedom and Termination of Employment

- Do all workers have the right to enter into employment voluntarily and freely, without the threat of a penalty?
- Do workers have the freedom to terminate employment at any time without a penalty?

#### Threat of Violence, Harassment and Intimidation

- Is there any evidence of the use or threat of physical or sexual violence, harassment or intimidation against workers, their families or close associates?

#### Coercion in Wage Payment, including Debt Bondage and Bonded Labour

- Does the employer use irregular, delayed, deferred or non-payment of wages as a means to bind workers to employment?
- Are non-cash or “in-kind” payments used as a means to create a state of dependency of the worker on the employer?
- Is there any evidence that wages are paid in the form of vouchers, coupons or promissory notes?
- Do workers earning wages on a piece-rate or performance-related basis earn the legally mandated minimum wage?
- Is there any evidence that workers are required to lodge deposits or that unlawful or unauthorised deductions from wages are made with the aim of indebting workers?
- Do wage advances or loans provided to workers comply with national law?
- Are workers forced to work in order to repay an actually incurred or inherited debt?

#### Freedom of Movement

- Is there evidence that workers are physically confined to the workplace or to employer-operated residences (e.g. dormitories) outside working hours?

#### Migration for Employment and Recruitment of Migrant Workers

- Are migrant workers treated fairly and do they benefit from conditions of work that are no less favourable than those available to locally-recruited workers?
- Is there any evidence that migrant workers or their family members have been threatened with denunciation to the authorities to coerce them into entering or maintaining employment?
- Are workers required to pay a fee to the employer or an intermediary to get a job?
- Do workers retain control over their personal documents (e.g. birth certificates, passports, work permits, residence permit and/or identity cards)?
- Is there any evidence that employers withhold or confiscate worker identity documents?
- Have measures been taken by the employer to prevent abusive conditions and fraudulent practices that may lead to coercion and trafficking for labour exploitation?

#### Private Employment Agencies and Contract of Employment

- Is there evidence that employers who engage private employment agencies have taken measures to monitor such agencies and prevent abuses related to forced labour and human trafficking?
- Are written contracts of employment provided to all workers in language that they can easily understand?
- Do contracts of employment clearly indicate the rights and responsibilities of workers with regard to wages, working hours, valid grounds for termination, and other issues related to forced labour?



Alongside auditing and policy improvements, pioneering companies are also working with other stakeholders both inside and outside their supply chains. In some cases, this is the result of the limited impact social audits have had on egregious problems like forced labour and human trafficking, while in others it is borne out of an interest in broader, partnership approaches to solving complex supply chain problems. This approach emphasizes the mutual accountability of brands, suppliers and business partners in fighting abuse and promoting better supply chain labour and human rights conditions. In this case, some suppliers – multinational companies in their own right – are taking actions similar to the brands to which they provide goods, products and services.

Like their clients, suppliers are in a strong position to take action against risks of human trafficking in their own facilities, in their supply chain and amongst business partners. They, too, can develop wide-ranging CSR programmes to establish high-level corporate policies, self-assessment systems, corrective action plans, and internal training and awareness raising programmes. Unlike brands, they are well-placed to use their own human resource management systems to ensure the elimination of coercive practices that place workers, including migrant workers, at risk. It is here that supply chain actors have a key role to play.

Many suppliers are already implementing social responsibility programmes. They do so to meet the social, labour and human rights criteria established by their customers or as a result of direct involvement in industry-wide or business-led initiatives such as the Electronics Industry Citizenship Coalition (EICC) or the Business Social Compliance Initiative (BSCI). These companies may already have policies, procedures and programmes in place to screen out and manage risks of forced labour and trafficking within their own operations. However, many may not have developed the robust management systems and operational procedures that are needed to effectively address these risks, particularly those related to the movement of migrant workers. Alongside policy engagement, suppliers will require effective, practical measures to ensure their policies are supported by an institutional structure and written procedures for enforcement, monitoring and reporting. These can include:

- Implementing systems for on-site management of migrant workers;
- Screening third-party labour providers against social responsibility requirements;
- Managing and monitoring labour providers against such requirements;
- Ensuring social responsibility principles are integrated into human resource management processes;
- Establishing effective grievance mechanisms, procedures for investigation and reporting, and protection for whistle-blowers; and
- Ensuring the integration of feedback and continuous improvement in management systems and processes.

For more guidance on how companies – both brands and suppliers – can take action, UNGIFT has elaborated a clear set of proposals involving risk assessment, policy development, training, monitoring and measuring impact, taking corrective action, action in the community and reporting. These proposals are provided in **Annex 2** below. **Annex 1** complements this with a series of short case studies summarizing what selected companies have done in their supply chain. **Box 6** considers a global retailer's response to allegations of child trafficking in its Indian supply chain.

#### **Box 6: Addressing Fundamental Causes of Child Trafficking in India**

In October 2007, a well-known global retailer faced allegations in a UK newspaper that a subcontractor was using “slave” children in India. The report described conditions of long hours of unwaged work and children “housed” on the factory rooftop. In response, the brand took immediate action. It investigated the report, confirmed its allegations and reacted swiftly to protect the children involved. But it also took the longer-term view. The company initiated a programme to address the fundamental causes of child trafficking in India, collaborating with government, other brands, suppliers and NGOs. This led to the establishment in July 2008 of a multi-stakeholder Think Tank in India to promote public-private partnerships to prevent and combat human trafficking. To address supply chain risks of trafficking and forced labour effectively and sustainably, the company recognised that a broader vision and strategy was required beyond its own corporate and supply chain interests. In other words, the solution to this problem lay beyond the reach of a single company, requiring brands to promote broader engagement across business, civil society and government.

## **4.2 Multi-Stakeholder & Civil Society Engagement**

As private sector engagement against trafficking has grown, so too has action by civil society and multi-stakeholder initiatives. This has taken the form of NGO campaigns, normative engagement, stakeholder dialogue and the development of certification and ratings systems often focused on consumer engagement, policy advocacy and public awareness. Some of these initiatives engage companies directly, while others adopt a more critical approach. Taken together, this engagement is a central feature of global efforts to eliminate trafficking from global supply chains.

### **New & Emerging Policy Frameworks**

At the policy level, the End Human Trafficking Now (EHTN) Campaign, a Geneva-based non-profit organisation, led the way in January 2006 with the development of the *Athens Ethical Principles*.<sup>iv</sup> These principles – which companies are asked to sign up to – set out seven key areas of engagement for business, including policy development, public awareness-raising and strategic planning. The principles require companies to:

1. Demonstrate the position of zero tolerance towards trafficking in human beings, especially women and children for sexual exploitation (Policy Setting).
2. Contribute to prevention of trafficking in human beings including awareness-raising campaigns and education (Public Awareness-Raising).
3. Develop a corporate strategy for an anti-trafficking policy which will permeate all activities (Strategic Planning).
4. Ensure that personnel fully comply with anti-trafficking policy (Personnel Policy Enforcement).
5. Encourage business partners, including suppliers, to apply ethical principles against human trafficking (Supply Chain Tracing).

6. In an effort to increase enforcement it is necessary to call on governments to initiate a process of revision of laws and regulations that are directly or indirectly related to enhancing anti-trafficking policies (Government Advocacy).
7. Report and share information on best practices (Transparency).

The Athens Principles are supported by “The Luxor Protocol,” which sets out implementation guidelines for understanding and applying them.<sup>lvi</sup> The Luxor Protocol acknowledges that signatories to the Principles must not only abide by them but also commit to implement them as a key contribution to the eradication of human trafficking.

Another key policy framework is offered by the *Dhaka Principles for Migration with Dignity*.<sup>lvii</sup> These principles, developed by the UK-based Institute for Human Rights and Business, set out a normative framework for the broader issue of labour migration. Addressed to business, the framework provides a common reference point for all relevant stakeholders to raise the standard of protection for migrant workers throughout the migration and employment cycle: from recruitment through employment to safe return to the migrant’s country of origin. The Dhaka Principles – currently undergoing consultation – set out the following ten standards:

1. No worker fees for recruitment;
2. Clarity and transparency of worker contract;
3. Non-retention of passports and ID documents;
4. Inclusive codes of conduct;
5. Non-discrimination;
6. Fair and direct remuneration;
7. Worker representation;
8. Access to grievance mechanisms;
9. Adequate health and safety measures; and
10. Safe and timely return guaranteed.

Finally, the *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism* also sets out key principles for business, this time in a targeted sector.<sup>lviii</sup> This Code, supported by ECPAT International with advisory partners in UNICEF and the UN World Tourism Organisation, involves business actors directly and sets out six criteria to promote responsible tourism. The Code itself – focused on combating the commercial sexual exploitation of children and child trafficking – requires signatory companies:

1. To establish an ethical policy regarding commercial sexual exploitation of children.
2. To train the personnel in the country of origin and travel destinations.
3. To introduce a clause in contracts with suppliers, stating a common repudiation of commercial sexual exploitation of children.
4. To provide information to travellers by means of catalogues, brochures, in-flight films, ticket-slips, home pages, etc.
5. To provide information to local "key persons" at the destinations.
6. To report annually.

## Programme Engagement & Consumer Awareness

Parallel to these developments, civil society groups and multi-stakeholder initiatives have also emerged to provide practical guidance to companies seeking to meet their obligations under national law, international standards and voluntary principles like these. The EHTN Campaign, for example, has developed an eLearning course for companies, which sets out an introduction to human trafficking, why it is an issue for business and the forms of engagement companies can take to support anti-trafficking measures.<sup>lix</sup> Working closely with UNGIFT and Microsoft, EHTN provides the modular training programme free of charge, but also works with companies to tailor the materials to company- and industry-specific circumstances. The course represents an important contribution to awareness raising and capacity building efforts both for brands and their suppliers. Another example of practical guidance is provided by the Fair Hiring Toolkit developed by Verité and launched in 2011.<sup>lx</sup> This toolkit gives companies comprehensive materials to help them improve their codes of conduct, strengthen their social audits and better understand the complexities and risks of human trafficking in their supply chains, in particular those introduced by third party labour providers. The toolkit presents tailored guidance for brands *and* suppliers (as well as other stakeholders), and covers:

- Improving codes of conduct and company policies;
- Raising awareness and building capacity;
- Strengthening assessments and social audits;
- Taking corrective action and developing systems improvement plans;
- Reporting and transparency;
- Multi-stakeholder and multi-brand engagement; and
- Public policy advocacy.

For suppliers, the toolkit provides additional material on screening and evaluating labour brokers, managing brokers, monitoring for ethical recruitment, ensuring good practice in human resources management, and establishing effective grievance mechanisms and protections for whistle-blowers.

Finally, consumer-based initiatives and public awareness campaigns have also emerged in recent years. These focus on modern-day slavery and human trafficking, and seek to raise consumer and public awareness about human and labour rights conditions involved in the goods and services we buy. The IOM's "Buy Responsibly" campaign is one such initiative.<sup>lxi</sup> It looks at consumer products like cocoa, coffee, sugar and shrimp, and identifies how each of these can be linked to forced and child labour in global supply chains. Another such initiative is the Slavery Footprint campaign.<sup>lxii</sup> It personalises modern-day slavery by asking consumers "how many slaves work for you." The campaign raises awareness about the levels of human trafficking linked to each person's consumption, including products such as electronics, food, apparel and other household items. Finally, another initiative that uses the power of the internet is the Free2Work application for mobile phones.<sup>lxiii</sup> This application provides consumers with information about specific products and how they relate to modern-day slavery. It rates companies based on their anti-trafficking commitments, assigning them each a grade on a scale from "A" to "F." This rating is designed to inform and encourage ethical consumerism.

### 4.3 Key Lessons for Business

- Risks of human trafficking to business can be addressed at many levels, including in company operations, across an industry, within communities and at regional and international levels.
- Businesses can take preventive and protective action, including risk assessments, policy interventions, awareness raising and training, social audits, disclosure mechanisms and corrective action, where incidents of trafficking are found. They can play a broader role in public campaigns, media and communications, and economic or social rehabilitation of former victims.
- Employers working alone will not solve the problem of human trafficking. Multi-stakeholder and civil society initiatives offer creative measures for other stakeholders to engage in the fight against human trafficking, in many cases working alongside private actors.

## 5. Next Steps for Supply Chain Engagement: Recommendations for Business & Governments

The recently adopted *UN Guiding Principles on Business and Human Rights* offer a clear framework for promoting business engagement against human trafficking. They set out the unique roles and responsibilities of governments and businesses, and identify where these differ and where they are complementary. As noted above, the framework sets out the State duty to *protect* human rights, the corporate responsibility to *respect* human rights and the access to *remedy*.

### 5.1 Protecting Human Rights & Promoting Engagement: The Role for Governments

Under the *Guiding Principles*, States are responsible for protecting against human rights abuses within their territory and/or jurisdiction, including the abuses of modern-day slavery and human trafficking. This requires States to take appropriate measures to prevent, investigate, punish and redress such abuses through effective policies, legislation, regulations and adjudication. States should set out clear expectations that business enterprises operating within their territory respect human rights across their operations.

In addition to this primary obligation, governments can also play a number of roles to promote effective private sector engagement against human trafficking in the supply chain. As the examples above illustrate, governments can adopt policy frameworks to establish an enabling environment for CSR and encourage – through legislation or voluntary guidelines – greater transparency and reporting on social and human rights performance. Governments can also encourage multi-stakeholder dialogue, voluntary initiatives, certification schemes and socially responsible investment, each of which can address human trafficking alone or focus on a wider range of human and labour rights issues. On trafficking itself, some governments have opted to promote

market mechanisms for “trafficking-free” goods and services. While innovative, many of these, such as product labels, have remained “niche” initiatives relative to national consumer goods markets. Other initiatives, such as new legislation that requires reporting on anti-trafficking programmes in supply chains, are encouraging, but too recent to evaluate impact. Nevertheless, the range of initiatives surveyed here indicates that governments have numerous tools at their disposal. To promote effective business responses to trafficking, government should consider the following, reflecting both the “carrot” and the “stick” approaches to public policy:

- Governments should ratify relevant international Conventions that set out the agreed framework for national laws and regulations. On this basis, they should adopt progressively stronger and more comprehensive laws to effectively tackle trafficking-related abuses.
- To support the implementation and enforcement of national laws, governments should promote institutional development and strengthen enforcement mechanisms across relevant agencies, including immigration, border patrol, justice and labour administration.
- Governments should consider adopting new laws – like the California Transparency in Supply Chains Act – that target supply chain actors and businesses directly. Where applicable, such laws can draw on existing legislation that promotes transparency in CSR performance.
- To reinforce legal and regulatory efforts, governments should consider different ways to promote voluntary initiatives. These can include supporting public-private dialogue and partnership; the creation of certification, labelling or other market-driven mechanisms; or the broader use of voluntary initiatives to promote CSR as an entry point to addressing human trafficking.

## **5.2 Scaling-up & sustaining engagement: The role for business**

For their part, under the *Guiding Principles*, companies should respect human rights, avoid infringing on such rights and address adverse human rights impacts where they are involved. The responsibility to respect human rights requires companies to avoid causing or contributing to such abuses, and to mitigate adverse impacts that are directly linked to their operations, products or services. To meet this responsibility, the *Guiding Principles* recommend that companies establish policies and processes appropriate to their size and circumstances. This includes a clear policy commitment; human rights due diligence to identify and account for their human rights impacts; and a process to enable remediation of any adverse impacts they may cause or contribute to. In short, drawing on the *Guiding Principles*, while governments are responsible for setting out clear legal, regulatory and judicial protections against human trafficking, business enterprises of all sizes, including brands, their suppliers and business partners, are required to respect such protections and embed their anti-trafficking engagement in clear policies, due diligence systems and effective remediation.

Human trafficking is an emerging issue in CSR and the policies of some of the world’s largest companies. But despite the good work of these business pioneers – some of whom have been

profiled here – the majority of companies around the world have failed to prioritize this as an issue that requires urgent attention. As a breach of human rights, trafficking in persons must rise in importance on businesses’ agendas across industries and sectors. Anti-trafficking engagement – to be truly global – must reach beyond the business pioneers and establish itself as a key feature alongside other human and labour rights within CSR. Such campaigns must be scaled-up, deepened and sustained in order to having a lasting and meaningful impact, for workers, communities and for business. Achieving this will enable business actors – working together with other stakeholders – to develop the necessary framework for a trafficking-free supply chain.

Yet this too will not be enough. Businesses will need to act beyond their own operations and the “silos” of their supply chains in order to institutionalize multi-stakeholder and civil society engagement. They will need to find creative and effective ways to work with other business peers and industry actors as well as NGOs, trade unions, governments and international organisations, to name a few. With this, the problem of human trafficking and forced labour in supply chains can be effectively addressed; without it, the engagement of business, though commendable, will fail in its effort to stem the tide of abuse. These points are considered in greater detail below:

- At the company level, anti-trafficking policies should be integrated into all aspects of corporate social and human rights due diligence.
- Increasing numbers of corporate actors should be brought on board in the fight against human trafficking. Companies can use their standing in the business community to engage industry peers and look beyond industries to engage companies in other sectors.
- Apparel, IT, hospitality and employment services are among the sectors that have pioneered anti-trafficking initiatives. Sectoral engagement in industries such as forestry, mining and agriculture, where trafficking is frequently reported, should be prioritized.
- As a matter of urgency, supply chain engagement against trafficking must look beyond the first tier of the supply chain to integrate measures targeting sub-contractors and other business partners. It is here that risks of abuse are most significant.
- Human trafficking and forced labour thrive on the margins of the formal economy. To be effective, companies need to develop new strategies to address risk wherever it is found, including in the informal sector.
- Finally, companies can play an important, progressive role in lobbying for legal and regulatory reform. This includes anti-trafficking advocacy in public policy dialogue, unilaterally or through membership organisations such as trade and industry associations.

## 6. Conclusion

Human trafficking in global supply chains represents a significant risk to global companies and their national and international business partners. This risk, however, has not yet been treated with the

urgency it deserves, and many companies around the world remain ignorant to the ways that they may be linked to exploitation.

It is therefore proposed that the development of draft Ethical Principles for Trafficking-Free Supply Chains be discussed at the expert group meeting for which this paper has been prepared. These draft principles (which could be endorsed by business on a voluntary basis) represent a contribution to the nascent dialogue encouraging companies to develop greater mechanisms for anti-trafficking engagement. The principles themselves are not new norms or standards but rather are distilled from existing internationally-agreed labour and human rights standards and build on proven examples of corporate engagement. They can lead in practice to effective and sustained action against trafficking. It is hoped that through such engagement the private sector can enhance its own contribution to the fight against this abuse. A first draft of these ethical principles is provided below and can be used to inspire further discussion during the expert meeting.

## **6.1 Proposing Draft Ethical Principles for Trafficking-Free Supply Chains**

Business enterprises should:

- I. Adopt high-level corporate policies or codes of conduct that explicitly prohibit human trafficking. These policies should apply to all enterprises in a company's product or supply chain and should be integrated into contracts and agreements with suppliers and business partners.
- II. Establish an effective management system to support the implementation of anti-trafficking policies. Include recruitment and human resource practices that minimize risk of trafficking and promote good practice in the management of workers, including migrant workers.
- III. Implement comprehensive supply chain assessments, such as social audits, to identify human trafficking in practice. To support this, companies are encouraged to train auditors and develop appropriate mechanisms to enhance the effectiveness of assessments.
- IV. Train human resource, compliance and other relevant staff on the risks of human trafficking, company anti-trafficking policies and translating these policies into effective and sustainable practice.
- V. In cases where human trafficking is discovered in the supply chain, adopt a victim-centred approach, considering the needs and well-being of the affected worker(s) first and foremost. Identify and cooperate with victim service providers to ensure those affected receive the assistance they require.
- VI. Establish effective, credible and confidential grievance mechanisms to enable workers to voice concerns and promote an institutionalised mechanism for resolving workplace conflict.
- VII. Contribute to programmes that assist identified victims of trafficking, for example through vocational training or other appropriate measures.



- VIII. Communicate regularly with stakeholders, including investors, on company policies, programmes, performance and impact against human trafficking.
- IX. Wherever possible, work together with other stakeholders to translate corporate anti-trafficking commitments into action. Consider pursuing anti-trafficking agreements, policies and dialogue with relevant stakeholders such as industry and business peers, civil society groups and trade unions.
- X. Progressively engage governments and other public actors, including international organisations, to advocate for positive legal, regulatory and policy reform that supports anti-trafficking efforts.
- XI. Take action in the community of operation and find innovative ways to engage local, national and international media to raise public awareness about human trafficking.

## 7. Resources

Beate Andrees and Patrick Belser, *Forced Labour: Coercion and Exploitation in the Private Economy*, 2009.

BSR, *Good Practice Guide: Global Migration*, 2010.

BSR, *International Labour Migration: A Responsible Role for Business*, 2008.

BSR, *Migrant Worker Management Toolkit: A Global Framework*, 2010.

EHTN Campaign, *Athens Ethical Principles*, no date.

EHTN Campaign, *Luxor Implementation Guidelines to the Athens Ethical Principles: Comprehensive Compliance Programme for Business*, no date.

ICCR, *Effective Supply Chain Accountability: Investor Guidance on Implementation of the California Transparency in Supply Chains Act and Beyond*, November 2011.

IHRB, *Dhaka Principles for Migration with Dignity*,

ILO, *A Global Alliance Against Forced Labour*, Geneva, 2005.

ILO, *Combating Forced Labour: A Handbook for Employers and Business*

ILO, *Cost of Coercion*, Geneva, 2009.

UNGIFT, *Global Report on Trafficking in Persons*, 2009.

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UNGIFT, *Human Trafficking and Business : An eLearning Course on How to Prevent and Combat Human trafficking*

UN Human Rights, *Guiding Principles on Business and Human Rights*, 2011.

US Department of State, *Trafficking in Persons Report*, 2012.

Verité, *Compliance is Not Enough: Best Practices in Responding to the California Transparency in Supply Chains Act*, November 2011.

Verité, *A Fair Hiring Framework for Responsible Business*, June 2011.

Verité, *Fair Hiring Toolkit*, June 2011.

Verité, *Help Wanted: Hiring, Human Trafficking and Modern-Day Slavery in the Global Economy*, June 2010.

Verité, Understanding the Policy Context of Hiring, Human Trafficking and Modern-Day Slavery: A Brief for Responsible Business, June 2011.

Verité and Manpower Group, An Ethical Framework for Cross-Border Labour Recruitment: An Industry/Stakeholder Collaboration to Reduce the Risks of Forced Labour and Human Trafficking, February 2012

## Websites

Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism  
<http://www.thecode.org/>

ECPAT International  
<http://www.ecpat.net/EI/index.asp>

End Human Trafficking Now! Campaign  
<http://www.endhumantraffickingnow.com/>

Global Forum on Migration and Development  
<http://www.gfmd.org/en/>

International Confederation of Private Employment Agencies (Ciett)  
<http://www.ciett.org/>

International Labour Organisation:  
<http://www.ilo.org/global/lang--en/index.htm>

International Organisation for Migration:  
<http://www.iom.int/jahia/jsp/index.jsp>

Institute for Human Rights and Business  
<http://www.ihrb.org/>

Migration Linkages:  
<http://migrationlinkages.bsr.org/>

Office of the High Commissioner for Human Rights:  
<http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

UN Global Initiative to Fight Human Trafficking:  
<http://www.ungift.org/knowledgehub/>

UN Global Compact Dilemmas Forum: Human Trafficking:  
<http://human-rights.unglobalcompact.org/dilemmas/human-trafficking/>

UN Inter-Agency Project on Human Trafficking:  
<http://www.no-trafficking.org/>

## Annex 1: Case Summaries

### Apple

Apple has reported in its 2011 and 2012 Supplier Responsibility Reports on the ways it is protecting foreign contract workers and ending indentured migrant labour in the electronics industry supply chain. In response to audit discoveries of problems linked to unethical hiring practices, Apple has launched investigations that revealed risks of involuntary labour and debt bondage resulting from excessive recruitment fees. Apple implemented measures to ensure reimbursement to workers, a new policy of limiting broker fees to one month's net wages, new auditing procedures, and a supplier training programme on direct recruitment, onsite management of foreign workers and best practice in monitoring recruitment agencies.

### Body Shop

Body Shop has worked in partnership with ECPAT International on a global campaign against child trafficking, the "Stop Sex Trafficking of Children & Young People " Campaign. Over a three year period from 2009 to 2011, this campaign provided support to child victims of sex trafficking and sought to create long-term change through awareness raising of communities and the public, and advocacy targeting decision-makers to strengthen action against the trafficking of children for sexual purposes. To support the campaign, Body Shop developed and marketed a new product called "Soft Hands Kind Heart" hand cream to help raise funds for anti-child sex trafficking initiatives. With the campaign's global launch, Body Shop and ECPAT International held a series of press conferences and workshops on the issue, provided information to the public via campaign brochures and videos, enlisted the support of government representatives and celebrities, and involved youth in campaign activities.

### Carlson

As a company, Carlson has adopted a proactive approach to addressing human rights and, in particular, its efforts to combat the sexual exploitation of children in the travel and hospitality industry. Carlson was the first global hotel company in North America to sign the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism in 2004. To meet its obligations under the code, in particular the requirement to educate employees and customers about the issue, Carlson created a training kit for staff on assessing and recognizing potential situations of sexual exploitation of children, including child trafficking. This kit contains a Manager's Guide and visual presentations of real-life scenarios that hotel personnel might encounter. The company has also been an outspoken advocate of child protection at high level forums such as the Clinton Global Initiative. In 2010, Marilyn Carlson Nelson, former CEO of the company, was presented with the Business Leader Award by UNGIFT, the UN Global Compact and the End Human Trafficking Now Campaign for her pioneering efforts to prevent child sex tourism in the travel sector.

### **Gap Inc.**

Gap has taken a leadership role in the fight against human trafficking in the global garment industry. It has taken a long-term view of the problem, for example in India, initiating a program to address the fundamental causes of child trafficking. Working closely with government, NGOs and other stakeholders, the company has supported multi-stakeholder awareness raising events and led the way to establishing a multi-stakeholder Think Tank in the country in July 2008 to promote public private partnerships to prevent and combat human trafficking. The company works in the Mewat region of northern India – a region vulnerable to child labour and human trafficking – and has teamed up with its local suppliers, a government-supported NGO and a national buying house to help over 600 women learn hand embroidery skills to obtain work in the export market. This has enhanced their ability to earn a living, and reduced their vulnerability to trafficking. Gap is scaling up this project in its next phase.

### **Hewlett Packard**

HP has taken a leading role in public forums advocating for business engagement against human trafficking. It has raised awareness of the human and labour rights risks in the electronics industry supply chain linked to labour migration, for example representing the corporate sector at a special session of the UN General Assembly Thematic Debate on Human Trafficking in June 2008.

### **Manpower**

Manpower, Inc. has established itself as a pioneer in the fight against human trafficking. It was the first company to sign the Athens Ethical Principles, which articulate a “zero tolerance” policy towards trafficking in human beings. In October 2007, the company also signed an expression of interest with the International Organization for Migration in Colombia to work together on an anti-trafficking project in the country’s second largest city. Through this engagement, Manpower developed programmes to support disadvantaged groups to gain access to training and employment opportunities. Working with IOM, Manpower offered training to 30 youth vulnerable to human trafficking to enhance their skills, education and employability. The company provided the necessary training facilities, equipment, technology and trainers, and provided trainees with a vocational assessment, online training, access to courses in business skills and professional development, and IT training. Manpower has also worked closely with UNGIFT, ILO and IOM at global, regional and national levels. It has played a key role in raising awareness about business engagement against human trafficking and, through CIETT, the recruitment industry’s international trade association, has strongly advocated for ratification of ILO Convention 181 as a key step in setting minimum standards for the recruitment industry around the world.

### **Microsoft**

Microsoft partners with local NGOs and other organisations to support projects aimed at empowering unemployed youth, marginalized women and rural communities. These projects, implemented in countries such as India and the Philippines, reach out to victims of human trafficking and communities vulnerable to this abuse, providing basic computer literacy and IT training, and increasing local employment opportunities. Through its Unlimited Potential programme, the

company has established community technology centres, which offer free or low cost access to the Internet and opportunities to participate in community activities, develop IT skills and explore career alternatives. Microsoft has also worked closely with UNGIFT at the international level to support the development of an eLearning platform for business to raise awareness about human trafficking and the risks it can pose to brands and global supply chains.

### **Nestlé**

Under the model of public-private partnership, Nestlé has supported rehabilitation programmes for victims of human trafficking in India. These programmes offer skills development and enhancement of employment opportunities as part of economic rehabilitation of victims.

### **Nike**

Following media reports of unacceptable conditions facing migrant workers in its Malaysian supply chain, Nike worked with factory management and required a series of actions to resolve the violations of its code of conduct. The following steps were taken: workers were provided free access to their passports; all wage deductions made for work permits were stopped; dormitory conditions were improved; a system was established to reimburse migrant workers for the recruitment fees they had paid; and the factory committed to pay the full repatriation cost of any worker affected by the violations.

## **Annex 2: UNGIFT's Proposed Action for Business against Human Trafficking**

### **I. Risk Assessment & Policy**

- Identify risks and opportunities and priorities for action against human trafficking.
- Conduct a risk or impact assessment on human trafficking.
- Develop a clear policy that explicitly prohibits human trafficking.
- Ensure that the policy applies to both company operations and the supply chain, including business partners like private employment agencies.
- Integrate the policy into agreements and contracts with suppliers and business partners.

### **II. Training**

- Train CSRR managers, human resource personnel and other relevant company representatives on human trafficking, i.e. how to identify it and the measures to address it.
- Consider providing joint training and awareness raising exercises with business partners, including suppliers.

### **III. Monitoring & Measuring Impact**

- Establish measures to effectively monitor suppliers and sub-contractors.
- Extend monitoring to include agencies that provide contract labour, especially across international borders.
- Consider using third party groups to ensure anti-trafficking policies are being applied.

### **IV. Taking Corrective Action**

- Develop appropriate mechanisms for taking corrective action before a problem occurs.
- If a case of human trafficking is suspected within the company's sphere of influence, to the greatest extent possible, provide for the protection of victims and support their rehabilitation and reintegration.
- Co-operate with victim service providers and contribute to programmes that assist former victims, for example through reintegration schemes.

### **V. Action in the Community**

- Help raise awareness about human trafficking in your industry or community of operation.

- Launch a global, national or local campaign in co-operation with the media to promote awareness of the issue and support prevention programmes.
- Support national or international events to identify key issues in the fight against human trafficking and to share good practice.
- If you are a business or trade association, establish a task force on human trafficking to raise awareness amongst your members and within your industry.
- Build bridges between government, law enforcement agencies and civil society groups to promote joint action against human trafficking.
- Participate in re-integration and prevention programmes by providing skills development, job training and/or employment opportunities to former victims of human trafficking and persons vulnerable to trafficking.

## **VI. Communications & Reporting**

- Communicate anti-trafficking policies and procedures to employees and business partners.
- Report to stakeholders on performance and progress of anti- trafficking activities and engagement.
- For UN Global Compact participants, submit these communications to the Global Compact.



## **Annex 3: Verité’s Sample Code of Conduct Provisions to Prohibit Human Trafficking & Forced Labour**

It is important that your corporate policy or code of conduct explicitly prohibits forced labour and human trafficking and sets out protections for migrant workers. Currently, most codes make only general reference to this kind of exploitation. The sample provisions below can be used by suppliers as they consider how best to create, strengthen or revise their own supply chain policies. These provisions address factors that are “enablers” or contributors to situations or risks of human trafficking and forced labour.

### **Forced or Involuntary Labour**

Workers shall not be subject to any form of forced, compulsory, bonded, indentured, or prison labour. All work must be voluntary and workers shall have the freedom to terminate their employment at any time without penalty, given notice of reasonable length.

### **Recruitment Fees**

Workers shall not be charged any fees or costs for recruitment, directly or indirectly, in whole or in part, including costs associated with travel, processing official documents and work visas in both home and host countries.

### **Contracts of Employment**

Written contracts of employment shall be provided to migrant workers in a language they understand, clearly indicating their rights and responsibilities with regard to wages, working hours and other working and employment conditions. Migrant workers shall be provided with their employment contract prior to deployment. The use of supplemental agreements and the practice of contract substitution (the replacement of an original contract or any of its provisions with those that are less favourable) are strictly prohibited.

### **Document Retention**

Confiscating or withholding worker identity documents or other valuable items, including work permits and travel documentation (e.g. passports), is strictly prohibited. The retention of personal documents shall not be used as a means to bind workers to employment or to restrict their freedom of movement.

### **Deposits**

Migrant workers shall not be required to lodge deposits or security payments at any time.

### **Humane Treatment**

The workplace shall be free of any form of harsh or inhumane treatment.

Disciplinary policies and procedures shall be clearly defined and communicated to all workers, and shall not include any inhumane disciplinary measure, including any corporal punishment, mental or physical coercion, or verbal abuse of workers; nor shall they include sanctions that result in wage deductions, reductions in benefits, or compulsory labour.

The use or threat of physical or sexual violence, harassment and intimidation against a worker, his or her family, or close associates, is strictly prohibited.

### **Workplace Equality**

All workers, irrespective of their nationality or legal status, shall be treated fairly and equally.

Migrant workers shall benefit from conditions of work (including but not limited to wages, benefits, and accommodations) no less favourable than those available to country nationals.

Migrant workers (or their family members) shall not be threatened with denunciation to authorities to coerce them into taking up or maintaining employment.

### **Wages and Benefits**

All workers shall be paid at least the minimum wage required by applicable laws, and shall be provided all legally mandated benefits. Wage payments shall be made at regular intervals and directly to workers, in accordance with national law, and shall not be delayed, deferred, or withheld.

Only deductions, advances, and loans authorized by national law are permitted and, if made or provided, actions shall only be taken with the full consent and understanding of workers.

Clear and transparent information shall be provided to workers about hours worked, rates of pay, and the calculation of legal deductions. All workers must retain full and complete control over their earnings. Wage deductions must not be used as a disciplinary measure, or to keep workers tied to the employer or to their jobs. Workers shall not be held in debt bondage or forced to work in order to pay off a debt.

Deception in wage commitments, payment, advances, and loans is prohibited.

### **Working Hours**

Workers shall not be forced to work in excess of the number of hours permitted in national law. Where the law is silent, normal working hours shall not exceed eight per day and forty-eight per week, and total working hours including overtime shall not exceed sixty.

All overtime shall be purely voluntary, unless part of a legally recognized collective bargaining agreement.

No worker shall be made to work overtime under the threat of penalty, dismissal, or denunciation to authorities. No worker shall be made to work overtime as a disciplinary measure, or for failure to meet production quotas.

### **Freedom of Movement and Personal Freedom**

Workers' freedom of movement shall not be unreasonably restricted. Workers shall not be physically confined to the workplace or related premises, such as employer- or broker-operated residences; nor shall any other coercive means be used to restrict workers' freedom of movement or personal freedom. Mandatory residence in employer-operated facilities shall not be made a condition of employment.

**Grievance Procedures**

An effective grievance procedure shall be established to ensure that any migrant worker, acting individually or with other workers, can submit a grievance without suffering any prejudice or retaliation of any kind.

**Private Employment Agencies and Labour Brokers**

Companies should hire migrant workers directly whenever possible. When the subcontracting of recruitment and hiring is necessary, companies shall ensure that the labour agencies they engage operate legally, are certified or licensed by the competent authority, and do not engage in fraudulent behaviour that places workers at risk of forced labour or trafficking for labour exploitation.

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- <sup>i</sup> See: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Protocols Thereto, 2004. (<http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>).
- <sup>ii</sup> See: League of Nations, Convention to Suppress the Slave Trade and Slavery. (<http://www2.ohchr.org/english/law/slavery.htm>).
- <sup>iii</sup> See: Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. (<http://www2.ohchr.org/english/law/slavetrade.htm>).
- <sup>iv</sup> See: ILO, Forced Labour Convention, 1930 (No. 29). ([http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312174:NO](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312174:NO)).
- <sup>v</sup> See: <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>.
- <sup>vi</sup> See: <http://www.unglobalcompact.org/> and Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, 2011. ([http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf))
- <sup>vii</sup> See: UNGIFT, Human Trafficking and Business: Good Practices to Prevent and Combat Human Trafficking, 2010. ([http://www.ungift.org/doc/knowledgehub/resource-centre/GIFT\\_Human\\_Trafficking\\_and\\_business.pdf](http://www.ungift.org/doc/knowledgehub/resource-centre/GIFT_Human_Trafficking_and_business.pdf)).
- <sup>viii</sup> See: UN, Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, 2011.
- <sup>ix</sup> Countries include: Argentina, Brazil, Chile, China, Colombia, the Czech Republic, Egypt, Hungary, India, Indonesia, Malaysia, Mexico, Morocco, Pakistan, Peru, Philippines, Poland, Russia, South Africa, South Korea, Taiwan, Thailand, Turkey, and the United Arab Emirates (UAE). Verité has also carried out in-depth research on trafficking and forced labour in Bangladesh, Bolivia, the Dominican Republic, Guatemala, Liberia, Nepal, the Philippines and the United States,
- <sup>x</sup> In the same year, the government of the United States adopted the Trafficking Victims Protection Act (TVPA). This law and the annual publication of reports on country efforts to eradicate trafficking (e.g. the US Department of State’s Trafficking In Persons Reports) have added further impetus to the articulation and adoption of new anti-trafficking laws in many countries around the world.
- <sup>xi</sup> Government of the People’s Republic of China. *Criminal Law: Article 244*. U.S. Department of State. Office to Monitor and Control Trafficking in Persons. *2011 Trafficking in Persons Report Country Narratives*. 2011. (<http://www.state.gov/g/tip/rls/tiprpt/2011/164231.htm>)
- <sup>xii</sup> ILO, International Labour Conference Committee on the Application of Conventions and Recommendations.
- <sup>xiii</sup> Ley 20507. <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/86404/97492/F2012489622/CHL86404.pdf> U.S. Department of State. *Trafficking in Persons Report 2011*. Office to Monitor and Combat Trafficking in Persons, 2011. <http://www.state.gov/i/tip/rls/tiprpt/2011/164231.htm>
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<sup>xlv</sup> See: <http://www.state.gov/j/tip/rls/tiprpt/index.htm>.

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<sup>xlvii</sup> See, for example, the research reports prepared by Verité for a project funded by the United States Department of Labour. These reports examine indicators of forced labour in shrimp, sugar, coffee, fishing, cattle, corn, Brazil nuts and peanuts across different regions.

([http://www.verite.org/research/indicators\\_of\\_forced\\_labor](http://www.verite.org/research/indicators_of_forced_labor)) See also the annual US Department of State Trafficking in Persons report, which frequently identifies cases of human trafficking, forced labour and child labour in agricultural industries around the world. (<http://www.state.gov/j/tip/rls/tiprpt/2012/>)

<sup>xlviii</sup> Amnesty International has published a report on Nepalese migrant workers, identifying exploitation and forced labour in different sectors and industries including construction. See: AI, [False Promises: Exploitation and Forced Labour of Nepalese Migrant Workers](#), 2011. See also the following report from the International Trade Union Confederation: ITUC, [Hidden faces of the Gulf miracle](#), 2011. For a report on preventing forced labour and promoting good practice in the Russian construction industry, see: ILO and European Bank for Reconstruction and Development, [Preventing Forced Labour Exploitation and Promoting Good Labour Practices in the Russian Construction Industry](#), 2009.

<sup>xlix</sup> A report produced by the US-based group Business for Social Responsibility summarizes the case. See: BSR, [International Labour Migration: A Responsible Role for Business](#), 2008.

<sup>i</sup> See references to building service workers in: George Wehrfritz, Erika Kinetz and Jonathen Kent, *Lured into Bondage*, in *Newsweek Asia*, 2008.

<sup>ii</sup> See: ILO, *A global alliance against forced labour*, 2005.

<sup>iii</sup> George Wehrfritz, Erika Kinetz and Jonathen Kent, *Lured into Bondage*, in *Newsweek Asia*, 2008.

<sup>iiii</sup> Two key resources from the ILO and Verité provide important guidance for auditors. Booklet 4: A Checklist & Guidance for Assessing Compliance in ILO, *Combating forced labour: A handbook for employers and business* ([http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/instructionalmaterial/wcms\\_099626.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/instructionalmaterial/wcms_099626.pdf)); and the materials found in Verité's Fair Hiring Toolkit under the heading "Strengthening Assessments & Social Audits" (<http://www.verite.org/helpwanted/toolkit/brands/strengthening-assessments-social-audits>).

<sup>liv</sup> This box presents an abridged version of Booklet 4: A Checklist & Guidance for Assessing Compliance, taken from: ILO, *Combating forced labour: A handbook for employers & business*, 2008.

<sup>lv</sup> See: [http://www.endhumantraffickingnow.com/?page\\_id=77](http://www.endhumantraffickingnow.com/?page_id=77).

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<sup>lx</sup> See: <http://www.verite.org/helpwanted/toolkit>.

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