



BRIEFING

Addressing modern slavery in international supply chains

Date:	4 March 2021	Priority:	Medium
Security classification:	In Confidence	Tracking number:	2021-1964

Action sought		
	Action sought	Deadline
Hon Michael Wood Minister for Workplace Relations and Safety	Agree the scope and proposed policy objectives	11 March 2021

Information for Minister(s)		
	Action sought	Deadline
Hon Nanaia Mahuta Minister of Foreign Affairs	For information only	
Hon Damien O'Connor Minister for Trade and Export Growth	For information only	
Hon Kris Faafoi Minister for Immigration	For information only	
Hon David Clark Minister for Commerce and Consumer Affairs	For information only	

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Nita Zodgekar	Manager, International Labour Policy	04 901 3889	s 9(2)(a)	✓
Rebekah Hood	Principal Policy Advisor		s 9(2)(a)	
Paramita Turner	Senior Policy Advisor	s 9(2)(a)		

The following departments/agencies have been consulted
Ministry of Foreign Affairs and Trade and Customs.

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

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Purpose

To seek your agreement on the scope and proposed policy objectives for further work on options to address modern slavery in international supply chains.

Executive summary

In November 2020, you directed officials to investigate whether we are adequately protecting workers in New Zealand and elsewhere from modern slavery, including through the work on the Plan of Action against Forced Labour, People Trafficking and Slavery and investigating the options for addressing slavery through international supply chains.

This work also responds to the commitment in Labour's 2020 Manifesto to "[explore] the implementation of modern slavery legislation in New Zealand to eliminate exploitation in supply chains".

Modern slavery is a significant problem that is found in every country. While there are significant methodological challenges in attempting to estimate its scale, current estimates from the International Labour Organization (ILO) suggest there are over 40 million victims of slavery around the world (comprising 25 million victims of forced labour, including sexual exploitation, and 15 million victims of forced marriage). We know that modern slavery is also occurring in New Zealand, though our current information based on prosecutions is unlikely to reflect the full spectrum of people who are trafficked or exploited in New Zealand.

New Zealand is delivering a robust framework for addressing exploitation domestically (including through recent changes arising from the Migrant Exploitation Review), but it does not effectively address modern slavery in international supply chains where slavery is found most often. While New Zealand is actively engaged on these issues in bilateral and multilateral fora, there is an opportunity to take further action to address modern slavery in international supply chains.

We recommend that further assessment of potential options to address modern slavery in international supply chains be guided by the following policy objectives:

1. Maintain and enhance our international reputation
2. Reduce the prevalence of modern slavery internationally
3. Raise awareness of modern slavery, and drive behavioural and cultural change
4. Support New Zealand's domestic framework in preventing exploitation, protecting victims, and enforcing the law.

A wide range of approaches have been taken by other countries to address modern slavery in supply chains. These approaches range from light touch to more intensive, and can include (for example) specific awareness-raising initiatives, mandatory supply chain reporting obligations through legislation, import bans on goods made with forced labour, and overseas development assistance.

Recommended actions

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that the 2020 Labour Manifesto included a commitment to “exploring the implementation of modern slavery legislation in New Zealand to eliminate exploitation in supply chains”.
Noted
- b **Note** that New Zealand has a robust framework for addressing modern slavery domestically, and this is being enhanced through further work including the legislative, policy and operational changes arising from the Migrant Exploitation Review and the Plan of Action against Forced Labour, People Trafficking and Slavery.
Noted
- c **Note** that there are gaps in our approach to addressing modern slavery in international supply chains, for which our current response is primarily through intergovernmental engagement.
Noted
- d **Agree** the policy objectives to guide further work should be to:
- i. Maintain and enhance our international reputation
 - ii. Reduce the prevalence of modern slavery internationally
 - iii. Raise awareness of modern slavery, and drive behavioural and cultural change
 - iv. Support New Zealand’s domestic framework in preventing exploitation, protecting victims, and enforcing the law.
- Agree / Disagree*
- e **Agree** to officials undertaking work to investigate legislative and non-legislative options for addressing modern slavery within international supply chains, and assess the appropriateness and effectiveness of these options within a New Zealand context.
Agree / Disagree
- f s 9(2)(f)(iv) [REDACTED]
Agree / Disagree
- g **Note** that you are meeting with officials on the 10 March to discuss this briefing.
Noted

Nita Zodgekar
Manager, International Labour Policy
Labour, Science & Enterprise, MBIE

..... / /

Hon Michael Wood
Minister for Workplace Relations and Safety

..... / /

Background

1. Worker exploitation and modern slavery practices take many forms. They can range from breaches of minimum employment standards to more controlling/coercive criminal behaviour. At the most extreme end of the spectrum, they can include subjecting persons to debt-bondage, serfdom, forced labour, forced marriage, exploitative child labour, human trafficking and other slavery-like practices. Collectively, these practices have become known as “[modern] slavery” in international fora.
2. In November 2020, you directed officials to investigate whether we are adequately protecting workers in New Zealand and elsewhere from modern slavery, including:
 - a. finalising and implementing the national Plan of Action against Forced Labour, People Trafficking and Slavery;
 - b. expanding our knowledge base/evidence on the scale of the modern slavery and forced labour issue in New Zealand; and developing our understanding of different approaches or mechanisms for addressing modern slavery within supply chains
 - c. providing advice on the legislative and non-legislative options with regards to addressing modern slavery within international supply chains [briefing 2021-1137 refers].
3. In relation to (a), Cabinet agreed the new Plan of Action against Forced Labour, People Trafficking and Slavery (‘Plan of Action’) in December 2020 [DEV-20-MIN-0178 refers] and you will be launching it on 16 March 2021. This paper provides further information and advice on (b) and (c).
4. This work responds to the commitment in Labour’s 2020 Manifesto to “[*explore*] the implementation of modern slavery legislation in New Zealand to eliminate exploitation in supply chains”. It also responds to the Government’s agreement, as part of New Zealand’s 2019 Universal Periodic Review, to “consider introducing legislation requiring businesses to report publicly on transparency in supply chains”. This action is reflected in the Plan of Action.
5. s 9(2)(f)(iv)

Modern slavery is a significant problem that is found in every country

6. There are significant methodological challenges in attempting to accurately measure the extent of slavery and worker exploitation. The hidden nature of this activity, and the difficulties of accessing victims, makes data collection difficult.
7. The most used data set for understanding the prevalence of slavery at a country-level is the Global Slavery Index (GSI) developed by the Walk Free Foundation. This is an internationally recognised estimation that provides national estimates of modern slavery using a mixture of survey data and predictive modelling based on risk factors. On this basis, the GSI has estimated that there are approximately 3,000 victims of slavery in New Zealand.
8. In 2018, the GSI estimated that internationally there are over 40 million victims of slavery, comprising 25 million victims of forced labour and 15 million victims of forced marriage. 70 per cent of these victims are women and girls. Slavery was found to be most prevalent in

Africa, followed closely by Asia and the Pacific region. The Walk Free Foundation considers that these estimates are conservative, given the gaps in data in key regions.

9. A victim of slavery can face physical and emotional harm that can last for the rest of their lives. This human suffering is hard to quantify or summarise, but can range from initial health costs linked to physical or sexual violence through to mental health and wellbeing concerns.
10. The costs, whilst mostly felt in the domestic labour market that survivors are a part of, can nevertheless contribute to wider economic impacts felt across the globe. Modern slavery can include the denial of economic agency, which impacts international and domestic economies. This can include significant impacts on productivity, which are felt throughout global supply chains.
11. Current estimates on the extent and nature of these hidden crimes in New Zealand are derived from overseas experience, and do not align with New Zealand's experience to date. Most of the 51 trafficking victims identified in New Zealand to date have been migrant men who were trafficked for the purpose of labour exploitation. This is unlikely to reflect the full spectrum of people who are exploited in New Zealand, as the hidden nature of these crimes means that vulnerable people are less likely, or able, to seek help or report their experience.
12. Independent research commissioned by MBIE identified that exploited temporary migrant workers suffer both physical and psychological harm, and that harm also affects their families. Key types of exploitation identified in the research included the under-payment or non-payment of wages; non-compliance by employers with employment agreements; the non-payment of taxes; and denial of annual holidays and holiday pay. Some workers experienced controlling and coercive behaviours, such as surveillance while working, control of their accommodation and movement, intimidation, and threats related to their immigration status.
13. Increasing awareness of the scale of the problem has helped draw attention to it, including the role that businesses play in driving forced labour through international supply chains. Global dialogue has increased in recent years as governments, businesses and non-governmental organisations drive global efforts to tackle what is a global issue (for example through the Bali Process¹). This has led to greater awareness and also pressure for New Zealand to take further action against modern slavery in international supply chains.

New Zealand is developing a robust framework for addressing exploitation, and this is being further strengthened

14. New Zealand's domestic legal framework criminalises the range of practices often associated with modern slavery. This includes specific criminal provisions against slavery, dealing in persons under 18 (including for sexual exploitation or forced labour), trafficking in persons (including for sexual exploitation or forced labour), and the exploitation of unlawful employees and temporary migrant workers. Immigration New Zealand and Police are directly responsible for enforcement, and coordinate and cooperate as appropriate to address these forms of offending.
15. The Plan of Action against Forced Labour, People Trafficking and Slavery includes an action to consider amending the *Crimes Act 1961* to strengthen provisions for the criminalisation of trafficking in those under 18 years.
16. New Zealand's existing framework will be further supported by the changes arising from the Migrant Exploitation Review, which the Government initiated in 2018. In July 2020, Cabinet

¹ The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime ("Bali Process"), of which New Zealand is a member, was established in 2012 is a forum for policy dialogue, information sharing and practical cooperation to help the region address these challenges.

agreed to invest \$50 million over four years to support a wide-ranging set of legislative, policy and operational changes identified through the review and tested in public consultation.

17. Many of those changes to address migrant exploitation are currently being developed or implemented, and it will be some time before evaluations are undertaken. The overall work programme is still ongoing, and includes providing further advice on the new duty to prevent employment standard breaches [briefing 2021-2383 refers].
18. Changes to New Zealand Government Procurement have also been undertaken in recent years to support domestic and international efforts to reduce exploitation:
 - a. In 2018, the Governments of Australia, Canada, New Zealand, United Kingdom and the United States jointly launched the *Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains*. These principles were focused on governments taking steps to prevent and address human trafficking in government procurement practice; encouraging the private sector to take similar action; and encouraging governments to advance responsible recruitment policies and practices.
 - b. Government Procurement Rule 19 was introduced in 2019 and requires that for designated contracts², agencies must require their suppliers to ensure and demonstrate that they, and their domestic supply chain, comply with all relevant employment standards and health and safety requirements. They must also conduct sufficient monitoring to ensure the commitments made for ensuring good working conditions are delivered and reported on. This is in accordance with the United Nations Guiding Principles on Business and Human Rights.

19. s 9(2)(g)(i)

20. New Zealand is also contributing to a variety of Overseas Development Initiatives to support work addressing slavery and exploitation. s 6(a)

Through our development assistance programme, New Zealand funded a number of anti-trafficking and related exploitation projects for vulnerable communities in Fiji, Indonesia, Mexico and South Africa for 2018-2019. MFAT has also entered into a NZD \$8.2 million Negotiated Partnership programme with Tearfund for 2021-2026 to bring Tearfund's community-based livelihoods work together with their anti-trafficking and exploitation work programme. The programme will be focused in the Solomon Islands, Fiji, Vanuatu, Myanmar, and Sri Lanka.

But there are gaps in our approach to addressing modern slavery in international supply chains

21. While New Zealand's domestic framework provides for a comprehensive approach to addressing exploitation in New Zealand, it does not effectively address modern slavery in international supply chains where slavery is found most often.

² The designated contract areas for this priority outcome area are cleaning services, security services, and forestry contracts in relation to employment standards, and all contracts with a particular focus on forestry contracts and construction contracts in relation to health and safety.

22. Currently, New Zealand's engagement on these issues is primarily driven through bilateral and multilateral engagement. This includes:
- a. Promoting the inclusion of labour chapters in Free Trade Agreements which place obligations on parties in relation to the ILO's Fundamental Principles and Rights at Work (including the elimination of all forms of forced or compulsory labour).
 - b. Engagement in multilateral fora, such as the:
 - i. Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime ("Bali Process"), which brings together governments from across Asia-Pacific to strengthen cooperation against these practices. This includes active participation in the Bali Process Government and Business Forum, which enables engagement between governments and the private sector to combat human trafficking and related exploitation.
 - ii. Pacific Island Forum Fisheries Agency and the Western and Central Pacific Fisheries Commission (WCPFC). In the WCPFC, New Zealand is leading work to improve labour standards on fishing vessels through the development of legally binding measures.
23. New Zealand also has an ongoing presence in a range of countries which involves supporting both those countries and New Zealand to address exploitation and forced labour. This includes:
- a. Sharing information on forced labour, people trafficking and slavery through the Pacific Island Development Community (PIDC)
 - b. Providing support through immigration liaison officer positions in South-East Asia
 - c. Developing capacity building modules on trafficking in persons, forced labour and slavery to Pacific Island partners as part of the Hakili Matagi Immigration Core Elements Curriculum
 - d. Offshore presentations that support the disruption and prosecution of forced labour, people trafficking and slavery (through channels such as the Bali Process, Fiji Police and Immigration workshops, the Samoan Police awareness programme, offshore INZ Risk and Verification Manager training).
24. While these engagements are not specifically focused on preventing modern slavery in supply chains, reducing forced labour and trafficking within the Pacific and South-East Asia regions can assist in protecting the integrity of goods and services supplied to New Zealand enterprises.
25. Addressing this issue further may contribute to sustaining the social licence for New Zealand trade policy and is consistent with New Zealand's long-held active approach to human rights issues. The Government has accepted the Trade for All advisory board's recommendation to review legislation to ensure forced labour is adequately addressed.
26. During the development of the Plan of Action, a targeted public consultation was carried out with key stakeholders including across civil society and business. The majority of respondents (28 out of 37) to the consultation commented specifically on Action 16, to "*Consider introducing legislation requiring businesses to report publicly on transparency in supply chains, to help eliminate practices of modern slavery*". All who commented were in favour of this action, and most submitters also recommended that it be treated as a major priority.
27. In addition, there has been a significant rise in news coverage and public interest on modern slavery issues. You have been lobbied, as have officials, regarding the potential for modern

slavery legislation in New Zealand. This has included a call by the Walk Free Foundation for New Zealand to conduct an official inquiry into the need for legislation, as Australia did in 2017.

28. The Ministry of Foreign Affairs and Trade (MFAT) have also been approached by civil society groups such as the Business and Human Rights Resource Centre, encouraging the Government to support work throughout the Pacific and in our own development programme procurement processes, to promote compliance with the UN Guiding Principles on Business and Human Rights.
29. The Walk Free Foundation (which produces the Global Slavery Index) ranked New Zealand 52nd out of 183 countries assessed based on their responses to modern slavery³. One of Walk Free's criticisms of New Zealand was the lack of response to international supply chains and the impact of New Zealand businesses in this context.

Market failures suggest the need for further government intervention

30. Modern slavery presents a significant social and financial cost to victims and their communities. It also presents a competitive disadvantage for businesses that conduct trade fairly, and is a barrier to productive, inclusive and sustainable economic growth.
31. There is also an increasing societal expectation for transparency in supply chains, including on the prevalence of modern slavery within them, which may have future trade implications.
32. Furthermore, there is an opportunity for New Zealand to take a leadership role with government support for actions that address modern slavery. The need for a more level-playing field based on minimum standards of business practice, in combination with the public good outcomes that could be achieved by such practice, suggests that government intervention may be warranted in this case. Proposed policy objectives and potential interventions are discussed in more detail below.

We propose four policy objectives to guide further work to address modern slavery in international supply chains

33. We recommend that the following policy objectives guide the next stages of this work:
 1. Maintain and enhance our international reputation
 2. Reduce the prevalence of modern slavery internationally
 3. Raise awareness of modern slavery, and drive behavioural and cultural change
 4. Support New Zealand's domestic framework in preventing exploitation, protecting victims, and enforcing the law.
34. These objectives will inform further work on policy options for addressing modern slavery within international supply chains. Any assessment will also include consideration of the cost-effectiveness of each intervention.

Objective 1. Maintain and enhance our international reputation

35. As a small nation lacking significant economic and strategic power, New Zealand is dependent on strong international connections and the rules-based multilateral system. It is through these connections that New Zealand influences relevant agendas and it is recognised as a strong advocate of international law, sustainable development, and human rights. Our reputational strength lies in our observance of international standards and

³ Walk Free Initiative: Measurement, Action, Freedom, June 2019

commitment to universal human rights and it is vital that this is retained. In relation to modern slavery, we do this primarily through relationships at fora such as the ILO and the Bali Process where there is an increasing focus on the issues of modern slavery and what members are doing to address them.

36. A significant number of our closest world economies have adopted legislation aimed at addressing modern slavery in international supply chains (see Annex Two). For example, three of our 'Five Eyes' partners (Australia, Canada, and the UK) have taken or started to take legislative action requiring businesses to publicly report on their supply chain practices. The UK and Australia brought in modern slavery legislation in 2016 and 2018 respectively, and Canada is currently taking legislation through Parliament. In the United States, California was one of the first in the world to introduce this type of legislation (in 2012). Early in 2021, responding to reports of forced labour in the Xinjiang region of China, the UK and Canada announced additional initiatives addressing forced labour in international supply chains, further strengthening their existing modern slavery measures.
37. Other key international partners, such as many of the EU Member States and near EU countries, have either implemented or are in the process of implementing supply chain transparency legislation as well. The majority of these approaches require businesses to report on slavery within their supply chains in some form. The approaches are summarised in Annex Two.
38. Given these international developments, it is likely that the question of what New Zealand is doing to address modern slavery in international supply chains will continue to be asked.
s 6(a)

Objective 2. Reduce the prevalence of modern slavery internationally

39. New Zealand needs to take action alongside our global partners to address and reduce slavery, as it will take a collective global effort of like-minded countries to reduce slavery around the world.
40. Supply chains have become more complex and larger in size over the last few decades, as economies around the world have opened to international trade. Multinational businesses account for the majority of international trade but even small local businesses are now trading across the world. These developments, together with sometimes weaker responses in other nations, mean that tackling modern slavery will take a collective global effort.
41. These risks are exacerbated by the economic and social impacts of COVID-19. The ILO has noted that COVID-19 is disproportionately affecting women, while the UN Office on Drugs and Crime has indicated that criminals are adjusting their business models to the 'new normal', especially through the use of modern communications technologies.

Objective 3. Raise awareness of modern slavery, and drive behavioural and cultural change

42. Government action to address modern slavery in supply chains can only be done successfully when it is in partnership with businesses and consumers. Consumers are increasingly aware of slavery and other ethical issues but there is evidence⁴ to suggest that most, whilst being against these practices, are not aware of the scale at which it occurs domestically and within the supply chains of the products they buy.

⁴ For example, a poll conducted by the University of Hull, United Kingdom in 2017 found that whilst 75% of those interviewed were aware that slavery took place, only 8% had any idea of its scale.

43. We expect that businesses do not want slavery to exist within their supply chains, including for the purpose of avoiding legal and reputational risks. There may also be a financial business case for eradicating slavery within supply chains, as well as a moral one. A report by the CORE Coalition⁵ discussed the benefits to businesses as ranging from improved risk assessment and investor relations, through to increased staff retention and improved relationships with consumers in an increasingly ethically conscious market. Conversely, Sports Direct (a large UK based business) lost 11 per cent from its share price in the wake of serious allegations of how workers were treated.

Objective 4. Support New Zealand’s domestic framework in preventing exploitation, protecting victims, and enforcing the law

44. Taking action on slavery in international supply chains should work in partnership with the domestic framework already established, the changes taking place following the Migrant Exploitation Review and the actions agencies have committed to through the Plan of Action.
45. Measures to address modern slavery in supply chains can help to increase the publicity of these practices domestically. An independent review of the UK Modern Slavery Act suggests it has helped increase awareness of modern slavery and led to an increase in reporting to the police. The number of live police investigations into modern slavery in the UK increased from 188 in December 2016, to 1,640 in May 2020. In addition, in 2019 there was a 67 per cent increase in offences identified compared to 2018, resulting in a 17 per cent increase in prosecutions and 27 per cent increase in convictions for modern slavery-related crimes.
46. There may also be parallels between the new duty to prevent employment standards breaches currently under development [briefing 2021-2383 refers] and the supply chain management and transparency obligations that are typical to modern slavery legislation. The new duty to prevent employment standards breaches will apply to lead firms’ domestic supply chains, and not their international supply chains (as in modern slavery legislation). However, the responsible business conduct it will incentivise may complement any international supply chain reporting and management obligations that could be included in a Modern Slavery Act in New Zealand, were such legislation to be introduced.

There are a range of possible interventions to address modern slavery in supply chains

47. There are various approaches taken by other countries globally, which New Zealand is not currently doing, to address the issue of modern slavery in supply chains. These approaches range from light touch to more intensive, and include the following:
- Supply chain transparency through mandatory reporting and other due diligence obligations (through legislation)
 - Awareness campaigns with consumers and businesses, including providing best practice guides
 - Creating a new office as a watchdog over businesses
 - Facilitating business leadership
48. These approaches are discussed below and summarised in Annex Two.
49. There are limited evaluations available for these approaches, as many have either been recently adopted or are under development. However, initial evaluations are starting to

⁵ CORE is a UK civil society coalition on corporate accountability.

emerge for those approaches which have been in place for a longer period of time, which are discussed below.

International approaches to addressing modern slavery in supply chains

Supply chain transparency through mandatory reporting and other due diligence obligations (legislation)

50. Supply chain legislation has been introduced in other countries requiring large businesses to report publicly on slavery within their international supply chains, including the steps they are taking to address any problems. This does not seek to enforce the labour laws of each country in foreign jurisdictions, but rather supports international laws and agreed standards. There are various forms and approaches that these interventions have taken.
51. The legislation takes many different forms in each jurisdiction. Jurisdictions vary in terms of the size of businesses they target and the related support (eg independent commissioners and toolkits). There are also differences in the level of duty placed on organisations. Some require public statements of efforts to identify slavery; others have a requirement to thoroughly audit supply chains; and some (such as the EU) go further by placing a duty of care liability to prevent and protect workers in supply chains from exploitation.
52. Supply chain transparency legislation seeks to raise awareness domestically and internationally of these issues. It drives modern slavery into the public and business domain to contribute to the eradication of these practices through consumer choice and business relationships. Further, it intends to raise awareness that this activity can also occur domestically, and by creating more public responsibility and awareness, lead to an increase in prosecutions.
53. The UK was one of the first countries to implement a Modern Slavery Act (MSA) in 2016 with supply chain reporting requirements, although the US state of California had brought in similar legislation in 2012. Since the UK, other countries have followed suit including the EU Member States and Australia, and Canada is considering adopting a similar approach.
54. This approach has been supported in the UK and Australia by the development of a public repository of reports, and establishment of units to support good business practice.
55. Financial penalties for non-compliance have been a controversial component of this approach. The UK MSA now includes a financial penalty if businesses do not comply with the requirements of the statements, following an independent review of its law. Australia will be reviewing whether penalties should be introduced as part of a forthcoming statutory review of the legislation.
56. This approach varies in terms of which businesses are targeted. This is usually decided through specifying a threshold based on revenue or number of employees.
57. There is a question of how many New Zealand businesses trading internationally are already reporting in other countries as a result of their legislation. However, more work needs to be done to understand this number further. This must be done in conjunction with assessing the requirements of each one of these approaches and any gaps which may exist; as well as how they meet the policy objectives outlined above.
58. There are limited evaluations for the legislative approach as many are still new. However, an independent review of the UK approach suggested it had helped increase awareness of modern slavery and led to an increase in reporting to the police. This has in turn resulted in

an increase in the number of prosecutions and convictions. There is also evidence⁶ that voluntary initiatives do not on their own, drive compliance.

Awareness campaigns with consumers and businesses, including providing 'best practice guides'

59. Examples of this type of initiative include Walk Free Foundation's Business and Investor Toolkit, the UN Guiding Principles on Business and Human Rights, OECD Guidelines for Multinational Enterprises and New Zealand's own work on Procurement Principles and ethical and sustainable work practices through Employment New Zealand.
60. These awareness campaigns contain a range of information and guidelines which include:
 - a. Advice on why businesses should care about slavery in their supply chains and generally from both a moral and business perspective
 - b. Tools to use to take action such as listing firms who can help with auditing supply chains
 - c. Links to other examples of best practice and resources from other businesses and international organisations.
61. These initiatives could benefit from being more cost effective to implement and designed to harness action from businesses which want to independently take action for commercial reasons, and also to reinforce their own values.
62. However, as discussed in paragraph 58 above, evidence⁷ suggests that these voluntary initiatives alone will not drive wholesale change in this area. It therefore does not directly target those who are not already motivated to take action in this space.

Creating a new office as a watchdog over businesses

63. In Canada, the role of Ombudsperson for Responsible Enterprise was established in 2018 and mandated to investigate allegations of human rights abuses linked to Canadian corporate activity abroad. The Ombudsperson undertakes collaborative and independent fact-finding, makes recommendations, monitors implementation of those recommendations, and reports publicly throughout the process.
64. In the UK, an Anti-Slavery Commissioner role has also been established through legislation as part of the modern slavery response. Its role includes advocating for victims and the elimination of these practices, and holding the government to account.
65. There are limited evaluations of the effectiveness of this approach but more analysis will be completed over the coming weeks. It is also worth noting that the UK Anti-Slavery Commissioner is part of its legislation and compliments its mandatory reporting. Canada is implementing similar legislation as well.

Facilitating business leadership

66. There is an opportunity to facilitate business leadership to drive the adoption of practices to address modern slavery in supply chains. A key barrier is the lack of coordination across businesses, meaning there can be little visibility over how actions are implemented in practice.
67. The Government currently leverages procurement to drive good employment practices in the domestic supply chains of contracted businesses (particularly in the cleaning, security and forestry sectors). However, more could be done to facilitate best-practice information sharing

⁶ United Nations: Report of the working group on the issue of human rights and transnational corporations and other business enterprises, 16 July 2018 (A/73/163)

⁷ United Nations: Report of the working group on the issue of human rights and transnational corporations and other business enterprises, 16 July 2018 (A/73/163)

to support efforts to improve these practices across international supply chains. This could follow from approaches that have been undertaken to promote environmental sustainability, such as the organising of fora and engagement with key business groups, while involving others including unions and NGOs.

Other considerations in combatting modern slavery in supply chains

68. This work on supply chain transparency is specifically focused on ensuring that businesses are taking action to address modern slavery in their own supply chains. Actions can also be taken to address modern slavery outside of a supply chain transparency approach. These interventions include directly stopping the flow of goods made as a result of slavery, or tackling the root causes of such practices (including through overseas development assistance). They are therefore primarily foreign policy and trade issues and any further work would need to be prepared through those portfolios.

Placing import bans on goods made with forced labour

69. The US has prohibited the import of any products produced wholly or in part by forced labour. Canada is considering the introduction of legislation which would enable it to similarly ban the import of goods produced with forced labour. Some countries have implemented bans on specific products and regions associated with allegations of forced labour. For example, the US issued a Withhold Release Order against cotton products and tomato products produced in Xinjiang in January 2021. The Australian Senate is currently considering a Bill that would prohibit importation of all goods from Xinjiang region and other regions in China using forced labour.
70. In New Zealand, two previous Bills proposing to ban foreign slave labour goods (in 2009 and 2016) failed to progress, due to difficulties in defining slavery or forced labour and the ability to enforce such a ban. There is currently no feasible way to assess the exact origin of goods and the conditions under which they were produced.
71. More work would need to be undertaken to understand if this approach could be re-worked to make it a feasible option for New Zealand. This would include consideration of how well it has worked in other jurisdictions s 9(2)(f)(iv)

Addressing controls on the export of goods to prevent their diversion towards forced labour

72. Another consideration in combatting forced labour in international supply chains is addressing whether measures could be adopted to ensure goods exported overseas are not used as inputs to products produced by forced labour, or are not diverted towards repression, arbitrary detention or forced labour, for example security equipment.
73. Under New Zealand's current export controls regime, exports which may be used (directly or indirectly) for a military, paramilitary, militia or police purpose require an export permit. There is, however, limited scope for exploring if export controls could be widened to more effectively control for goods which could contribute to forced labour. This would involve legislative change to the definition of 'military' to 'security' which could then encompass other internal security organisations.

Targeting overseas development assistance initiatives

74. Practices associated with modern slavery can be addressed through programmes such as those led by the ILO and the International Organization for Migration (IOM), which can be reliant on external funding including from governments and businesses.
75. As summarised earlier, New Zealand currently contributes to a range of overseas aid projects which are working towards reducing the instances of slavery globally. These range from partnerships with Tearfund to work with their anti-trafficking and exploitation projects s 6(a)

76. The impact of overseas development assistance initiatives can vary based on the nature of the intervention and other contextual factors.

Next steps

77. If you agree, officials will provide you with an assessment of policy options to address modern slavery in supply chains by May 2021. This analysis will include an assessment against the policy objectives you agree to and how these approaches would translate into the New Zealand context.

78. Following this, we will provide you with further advice to agree our response to the manifesto commitment and seek Cabinet approval.

79. An indicative timeline for the next stages of this work is as follows:

Milestone	Timing
s 9(2)(f)(iv)	

Annexes

Annex One: Approaches to addressing modern slavery in New Zealand

Annex Two: Summary of the approaches taken by other countries/jurisdictions

Annex One: Approaches to addressing modern slavery in New Zealand

"[Modern slavery] refers to situations of exploitation that a person cannot refuse or leave because of threats, violence, coercion, deception, and/or abuse of power."

ILO & Walk Free Foundation (WFF), 2017

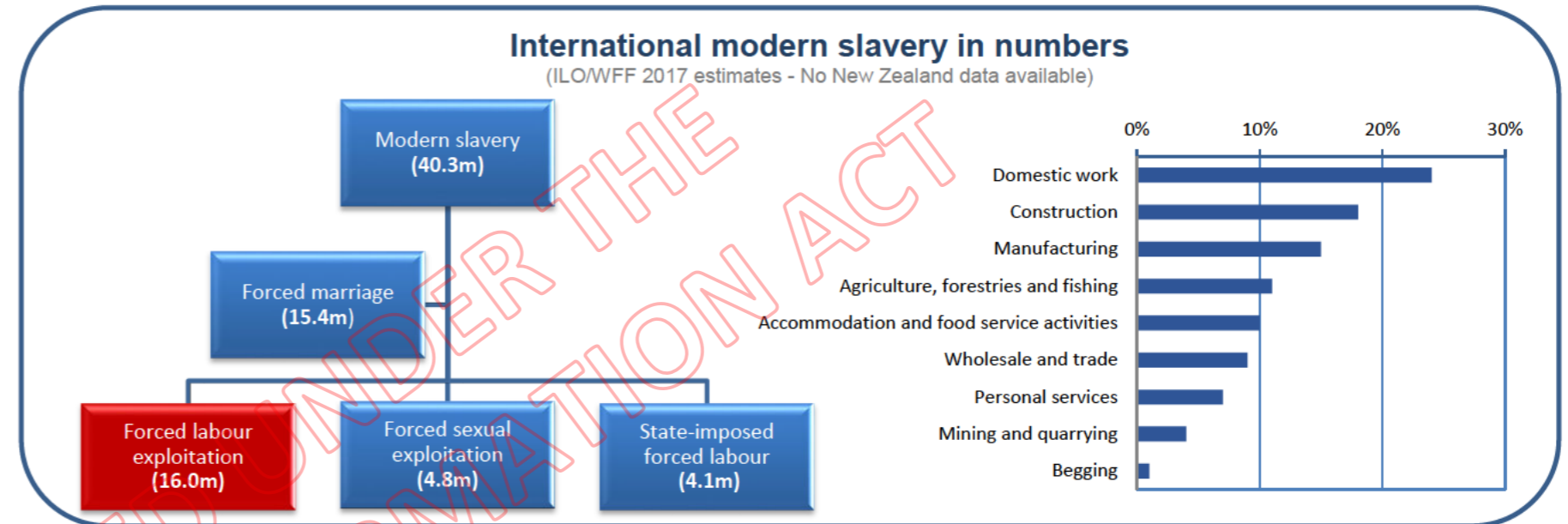
① Modern Slavery is a serious global issue which affects New Zealand

- 40.3 million victims of modern slavery in the world [ILO/WFF survey-based estimate]
- 3,000 victims of modern slavery in New Zealand [WFF survey-based estimate]

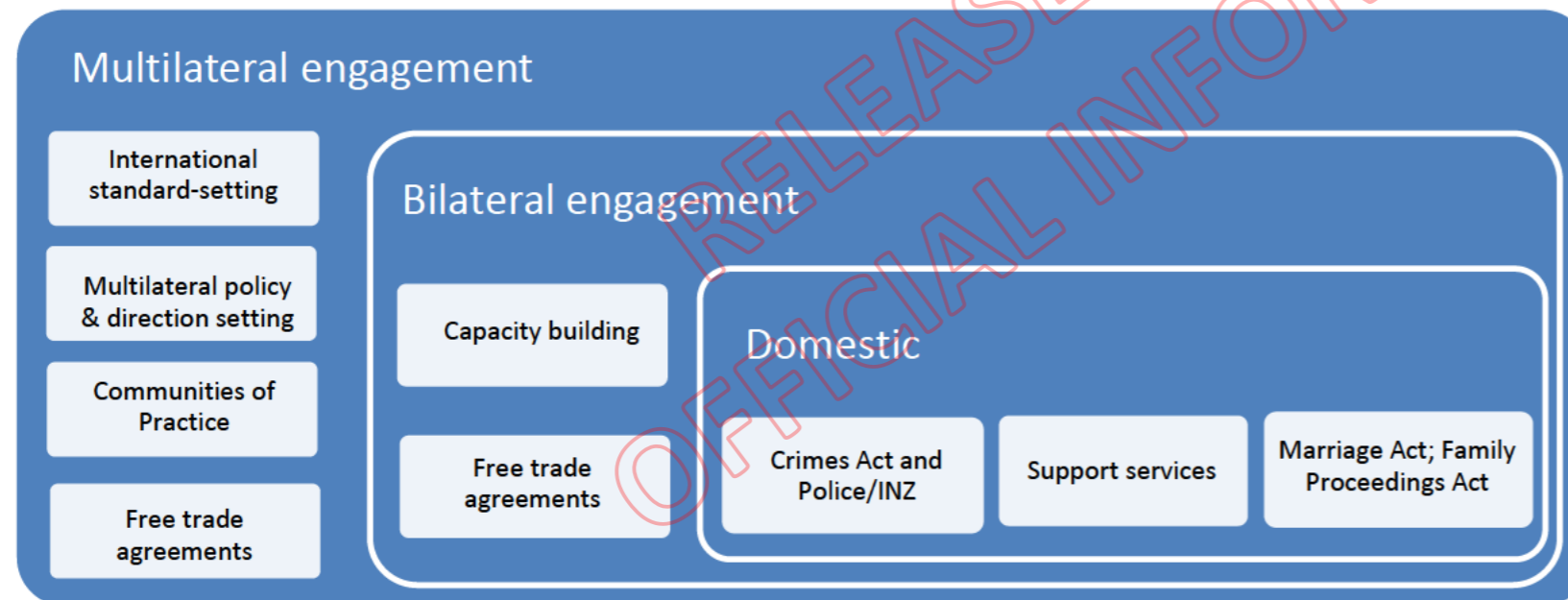
Modern slavery presents a significant social and financial cost to victims and their communities. It also presents a competitive disadvantage for businesses that conduct trade fairly, and is a barrier to productive, inclusive and sustainable economic growth.

There is an increasing societal expectation for transparency in supply chains, including on modern slavery, which may have future trade implications.

There is an opportunity to take a leadership role with Government support for actions that address modern slavery.



② New Zealand's current approach to addressing modern slavery is multi-layered...



③ ...and there are changes underway



④ But these won't fully address the international supply chain issue and we recommend that we undertake more work to strengthen our approach

We recommend four objectives to govern this work

- Maintain and enhance our international reputation
- Reduce the prevalence of modern slavery internationally
- Raise awareness of modern slavery, and drive behavioural and cultural change
- Support New Zealand's domestic framework in preventing exploitation, protecting victims, and enforcing the law

s 9(2)(f)(iv)



Annex Two: Summary of the approaches taken by other countries/jurisdictions

COUNTRY	Approach Summary
Australia	<p>The Commonwealth Modern Slavery Act 2018</p> <ul style="list-style-type: none"> • Requires publication of modern slavery statements which includes areas such as the structure of supply chains and the risks of slavery within them; actions taken to address slavery tasks and due diligence actions; and measurements of success. • Covers all entities trading in Australia who have an annual revenue of AUD \$100 million. • It also covers the Australian Government • Places accountability at the Board level but no penalties for non-compliance • Mandates a public register of all the statements • Toolkits and guidance documents were also created to support businesses to comply with the Act <p>Import Bans The Australian Senate is currently considering a Bill that would prohibit importation of all goods from Xinjiang region and other regions in China using forced labour</p>
Australia (NSW)	<p>Modern Slavery Act NSW (not yet enacted)</p> <ul style="list-style-type: none"> • Adds in the establishment of an Independent Anti-Slavery Commissioner • Other key differences to the federal bill are: <ul style="list-style-type: none"> ➢ Lowers the threshold of businesses required to comply to those with annual revenue of AUD \$50 million and above ➢ Penalties for failure to prepare a statement, failing to make it publically available and/or providing false or misleading information
United Kingdom	<p>Modern Slavery Act 2015</p> <ul style="list-style-type: none"> • The legislation includes an Independent Anti-Slavery Commissioner which primarily focuses on the domestic slavery issues • A new role of a Government International Envoy on modern slavery • Requires organisations to report annually on the steps, if any, taken to ensure that modern slavery is not taking place in their organisation and supply chains (or to state that no steps have been taken): <ul style="list-style-type: none"> ➢ Targets companies with an annual turnover of GBP £36 million ➢ Covers both commercial organisation and government departments ➢ The statements will now be published in a publically available website ➢ Places accountability at the Board level ➢ Enforcement will now be through a Single Enforcement Body which is currently being consulted on (this is likely to include financial penalties) ➢ There are also government guidelines and templates on what the reports should contain <p>Modern Slavery Innovation Fund A GBP £11 million fund launched in 2016 to support projects tackling modern slavery around the world. The fund was aimed at tackling the root causes of modern slavery, strengthen efforts to combat slavery and reduce vulnerability. Ten projects were funded in the first round which were a mixture of research and intervention projects.</p>
France	<p>Corporate Duty of Vigilance Law 2017</p> <p>In 2017, France became the first country to adopt a law on 'duty of care' or due diligence. This legislation establishes a criminal relationship between the parent company of a multinational corporation and its subsidiaries and subcontractors in the event of human or environmental rights violations.</p> <p>It targets companies which employ at least 5,000 employees (based in France); or, at least 10,000 employees (based outside France).</p> <p>It requires them to implement a 'vigilance' plan which must include:</p> <ul style="list-style-type: none"> • a risk mapping that identifies, analyses and prioritises action; • regular evaluation procedures for the situation of subsidiaries, subcontractors or suppliers with whom an established commercial relationship has been maintained; • appropriate actions to mitigate risks or prevent serious harm; • a mechanism for alerting and collecting reports relating to the existing or potential risks; and • a system for monitoring the measures implemented and evaluating their effectiveness. <p>The vigilance plan and implementation reports must be made public and included in the management report of the company.</p>
USA	<p>California: Transparency in Supply Chains Act 2012</p> <ul style="list-style-type: none"> • Requires companies to disclose the extent of their efforts with regards to supply chain transparency over five years; however, a company can disclose that they take no action in any of the areas. • Targets companies with annual worldwide gross receipts over USD \$100 million. • Covers retail sellers or manufacturers doing business in the State of California (identified via their California state tax returns).

	<ul style="list-style-type: none"> There are no penalties prescribed for non-compliance. However, the Attorney-General may file a civil action for injunctive relief.
	<p>Import Bans The US has prohibited the import of any products produced wholly or in part by forced labour. For example, they have issued an order against cotton products and tomato products produced in Xinjiang in January 2021.</p>
Canada	<p>Modern Slavery Act Bill S-216 (no date - yet to be enacted)</p> <ul style="list-style-type: none"> Amends the Customs Tariff Requires publication of modern slavery statements by the business Mandates ministerial responsibility for a public repository of these statements Targets companies with either over \$20 million in total assets, over \$40 million in revenue or at least 250 employees who produce, sell or import goods in Canada or controls an entity that does one of those The Bill provides for fines and far-reaching investigative powers in the event of non-compliance. The Minister may order any reasonable measures to bring the entity into compliance and any entity found guilty of an offence is liable to a fine of up to \$250,000 per offence. There is also director, officer and agent liability if they are involved in the business' avoidance of requirements. <p>Canadian Ombudsperson Investigates allegations of human rights abuses linked to Canadian corporate activity abroad. Undertakes independent fact-finding, makes recommendations, and monitors implementation of recommendations, and reports publicly.</p> <p>Import Ban Canada has prohibited the import of any products produced wholly or in part by forced labour</p>
European Union (27 Member States)	<p>Directive 2014/95/EU (Non-Financial Reporting Directive) Now adopted by all 27 Member States</p> <ul style="list-style-type: none"> A non-financial statement which must include an "understanding of the company's approach regarding respect for human rights..." Covers business with either a balance sheet total of more than €20 million, or have a net turnover of more than €40 million Also, Public Interest Entities with more than 500 employees (that belong to at least one of the EU's Member States) The directive leaves penalties to Member States to decide as they implement. Thus there is a variance (e.g. Germany has a fine for failing to comply, which can range from €50,000 to €10 million). <p>New human rights duty of care legislation with regards to international supply chains [draft legislation] The EU Legal Affairs Committed has voted to approve draft legislation for a new human rights due diligence law that requires companies to comply with human rights and environmental standards within their value chains. The draft legislation requires:</p> <ul style="list-style-type: none"> Companies be held accountable and liable when they harm or contribute to harming - human rights, the environment and good governance Due diligence requiring companies to identify, address and remedy their impact on human rights and the environment throughout their value chain Rules should apply to all companies operating in EU internal market, including those from outside the EU Business to be fined for causing harm or contributing to it, unless they can prove that they have acted in line with due diligence obligations and taken measures to prevent such harm. Legal support for victims of corporations in third countries Ban on import of products linked to severe human rights violations such as forced or child labour
Germany	<p>Human Rights Due Diligence legislation</p> <p>In addition to implementing the EU Directive detailed above, an agreement has been reached on mandatory human rights due diligence legislation that will introduce fines for companies procuring parts or materials abroad from suppliers who fail to meet minimum human rights and environmental standards.</p> <ul style="list-style-type: none"> Financial penalties will be implemented and the current suggestion is for this to be up to 10% turnover of the company The entities covered are still to be confirmed but draft legislation states that it applies to companies with more than 3,000 employees from 2023, and smaller companies, with more than 1,000 staff, the year after.
Switzerland	<p>The Swiss Parliament's Indirect Counter-Proposal</p> <ul style="list-style-type: none"> Requires businesses to publish a report on 'child labour' within the business chain Targets businesses with an annual revenue of at least 40 million (or 20 million in total assets) and Public Interest Entities with at least 500 employees and 40 million/20 million in revenue or assets respectively Includes a fine of up to 100,000 CHF on any company violating the UN Guidelines on business and human rights. Also includes criminal sanctions for non-compliance or false statements.
Netherlands	<p>Child Labour Due Diligence Law</p> <ul style="list-style-type: none"> Requires companies to exercise due diligence; determining whether there is a reasonable suspicion of child labour in their supply chain. If so, the company must develop an action plan and statement of progress There is no financial threshold as it requires all companies that sell or supply goods or services to Dutch consumers (regardless of company's base location or size) Includes a EUR €4,100 fine for failing to comply with legislation. For repeated offending within 5 years, non-compliance is punished under the Economic Offences Act (up to 4 years' imprisonment, community service, or a fine of up to EUR €83,000).