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**Note Verbale No. 124**

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to submit the response to communication AL GBR 10/2020, further to the letter dated 12 March 2021 from the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on trafficking in persons, especially women and children.

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 10 May 2021

Special Procedures Branch  
Office of the United Nations High Commissioner for Human Rights

## **ANNEX**

### **RESPONSE FROM THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND TO THE JOINT COMMUNICATION FROM SPECIAL PROCEDURES, JAL GBR 10/2020**

#### **1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.**

The UK remains deeply concerned about the human rights situation in the Xinjiang Uighur Autonomous Region (Xinjiang). The evidence of the scale and the severity of the human rights violations being perpetrated in the region against the Uyghur Muslims is far-reaching, and paints a truly harrowing picture.

The UK Government has led international efforts to hold China to account for its human rights violations in Xinjiang. We read the first two formal joint statements on Xinjiang at the UN Third Committee and UN Human Rights Council on this issue, and have used our diplomatic network to increase international awareness of the situation. The Foreign Secretary has made clear, including in his personal address to the high level session of the Human Rights Council in February 2021, that we believe China should grant unrestricted access to the region to the UN High Commissioner for Human Rights, or another independent UN observer, to assess the situation on the ground.

In view of our serious concerns, on 22 March, under the UK's Global Human Rights sanctions regime, the UK imposed asset freezes and travel bans against four senior Chinese Government officials and one entity responsible for human rights violations in Xinjiang. These measures were taken alongside the US, Canada and the EU, sending a clear message that the international community will not turn a blind eye.

On the issue of forced labour specifically, the UK Government shares the concerns set out in the joint letter and has repeatedly condemned these practices. Allegations of forced labour are supported by a large, diverse and growing body of evidence that includes:

- First hand reports from British diplomats who visit Xinjiang, the first hand testimony from victims who have fled the region;
- Satellite imagery showing the scale of the internment camp and the presence of factories inside them;
- Extensive and credible third party reports from NGOs such as Human Rights Watch and Amnesty International, with the UN and other international experts also expressing their very serious concerns.

The Chinese authorities' own publicly-available documents show statistical data on recruitment in Xinjiang. They contain extensive references to coercive social measures presented as poverty alleviation programmes. There are leaks of classified and internal documents that contain guidance on how to run internment camps and lists showing how and why people have been detained.

In response to this evidence, on 12 January, we announced a series of measures to help ensure UK businesses and the public sector are not complicit in human rights violations in Xinjiang. These measures target those profiting from forced labour or those who would financially support it, whether deliberately or otherwise.

These measures include:

- **Strengthening the UK's Overseas Business Risk (OBR) guidance** to make clearer the risks to UK businesses investing in, or with supply chains in, Xinjiang.
- **A review of export controls as they apply to the situation in Xinjiang** to ensure we are doing all we can to prevent the export of goods that may contribute to human rights violations in Xinjiang.
- **The introduction of financial penalties** for organisations who fail to comply with the transparency obligations of the Modern Slavery Act.
- **Increasing support for UK public bodies** to use public procurement rules to exclude suppliers where there is sufficient evidence of human rights violations in their supply chains.

These measures build on the UK's existing measures to respond to Xinjiang, including guidance to help UK businesses conduct due diligence to ensure supply chains are free of forced labour. We have also invested in research to help build evidence for interventions that can address these issues. For example, the 'Uyghurs for Sale' report by the Australian Strategic Policy Institute, part funded by the Foreign & Commonwealth Office, has been vitally important in drawing international attention to forced labour in global supply chains.

The UK has also repeatedly drawn attention to our concerns on forced labour in Xinjiang internationally. The Foreign Secretary raised the issue of forced labour in his intervention at the Human Rights Council in February. The UK has also worked with partners to highlight the issue, raising concerns about forced labour in a joint statement at the UN General Assembly Third Committee in October which was signed by a total of 39 countries.

2. **In regard to the above allegations, please highlight the steps and/or legal policy measures that your Excellency's Government has taken, or is considering to take, to ensure that business enterprises domiciled in its**

**territory and/or jurisdiction, respect human rights throughout their operations and supply chain. This may, for example, include requiring such businesses to conduct effective human rights due diligence, in line with the UN Guiding Principles on Business and Human Rights, to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operations. More specifically, please provide any relevant information on measures taken to operationalize the expectation of your Excellency's Government that "businesses...respect human rights throughout their operations", and that "companies have human rights policies and processes to manage and avoid human rights risks embedded in their objectives and operations" as set out in the National Action Plan to implement the United Nations Guiding Principles on Business and Human Rights. Please also provide information on measures taken to effectively implement Section 172 of the Companies Act 2006, "which makes it clear that in fulfilling their duty to act in a way which they consider would be most likely to promote the success of the company, directors must think about matters which might have a bearing on that success, including the interests of the company's employees and the impact on the community of the company's operations".**

The UK is fully committed to implementing the UN Guiding Principles on Business and Human Rights (UNGPs). To set the UK's expectation on the responsibility to respect (UNGP 2), the UK has already enacted legislation to promote respect for human rights throughout the supply chains of enterprises domiciled in the UK, and it intends to enact further legislation to address online harms. It has also pursued multilateral initiatives that encourage businesses to respect human rights, as set out below.

### **UK National Action Plan**

The UK was the first country to produce, in 2013, a National Action Plan (NAP) to respond to the Guiding Principles. The plan sets out expectations of UK businesses' conduct. These include: compliance with relevant laws and respect for internationally recognised human rights; treating as a legal compliance issue the risk of causing human rights abuses; adopting appropriate due diligence policies to identify and prevent human rights risks; and consulting people potentially affected in project design and implementation.

Within this approach, the Government has introduced and updated legislation for corporate transparency, e.g. section 54 (Transparency in Supply Chains provisions) of the Modern Slavery Act 2015, and enhanced Companies Act reporting (2013, 2016). The UK has endorsed new tools to encourage business to account for human rights to a greater extent, e.g. the Corporate Human Rights Benchmark (an international initiative to rank corporates by their human rights performance). It has



also supported human rights guidance for businesses. The UK has shared best practice of the NAP with other countries.

## **Section 54 Modern Slavery Act**

The UK is the first country in the world to require businesses to report on the steps they have taken to tackle modern slavery. Section 54 of the Modern Slavery Act 2015 requires commercial organisations with a turnover of £36m or more to publish a modern slavery statement for each financial year of their organisation. The modern slavery statement must set out what steps an enterprise has taken during the financial year to ensure that modern slavery is not taking place in their supply chains and in their own organisation. If an organisation has taken no steps to ensure that modern slavery is not taking place, they must still publish a statement stating this to be the case. Organisations are legally required to ensure that their statement has been approved by the board, signed by a director, and is available via the homepage of their website (if they have one). This transparency requirement applies to all commercial organisations above the specified turnover which supply goods or services and that carry on a business, or part of a business, in the UK.

In this way, the UK Government has required businesses to 'show and tell', in line with UNGPs 3(d) and 21. The UK Government considers that such transparency requirements incentivise human rights due diligence (UNGP 15-21), and support consultation and communication with stakeholders (UNGP 18, 20, 21). As a means to bolster such transparency, the UK Government has committed to strengthen section 54 in line with recommendations by an Independent Review of the Modern Slavery Act in 2019. Following a public consultation and widespread support from a broad coalition of business, civil society and public sector organisations, in September 2020, the [Government committed](#) to an ambitious package of changes to strengthen the duties on businesses reporting under section 54 of the Modern Slavery Act 2015.

At present, the Modern Slavery Act sets out six suggested areas for reporting which organisations are encouraged, but not required, to address in their modern slavery statements. Specifically, section 54(5) of the Act sets out that such statements may include information about an organisation's: (i) structure, business and supply chains; (ii) policies; (iii) due diligence processes, including with respect to its supply chain; (iv) slavery and human trafficking risks (specifically, the parts of the business and supply chain which give rise to such risks) and the steps taken to assess and manage that risk; (v) effectiveness in mitigating the risks of slavery and human trafficking occurring in the business or supply chain (by reference to appropriate performance indicators); and (vi) training. As part of the measures to strengthen the legislation, the Government has committed to mandating the reporting areas that statements must cover and to introducing a single reporting deadline.

Addressing modern slavery risks is a complex, long-term task, and the new measures are designed to enhance transparency, increase the quality of reporting, incentivise

organisations to demonstrate year-on-year progress in key areas and take targeted action based on where their risks are highest. Building on this, in January 2021 the Government also committed to introduce financial penalties for organisations who fail to meet their obligations under section 54 of the Act. These measures will require legislative change and will be introduced as soon as Parliamentary time allows.

### **Government Modern Slavery Statement Registry**

On 11 March 2021, the UK Government launched an online modern slavery statement registry. The Government is now encouraging all organisations in scope of the legislation to submit their statement to the registry to demonstrate that they reported under section 54 of Modern Slavery Act 2015. We are very pleased that within one month of launch, over 2500 statements covering over 8000 organisations have been submitted to the registry on a voluntary basis.

In future, we will mandate that organisations in scope of section 54 of the Modern Slavery Act 2015 submit their statement to the registry, as part of the proposed changes to strengthen section 54. The registry will be a key tool for the Government to monitor and drive compliance with section 54 of the Modern Slavery Act 2015. The ultimate goal of the registry is to bring all modern slavery statements in one place and radically enhance transparency by enabling investors, consumers, and civil society to scrutinise the action organisations are taking to prevent modern slavery.

### **Legislation on Corporate Behaviour**

Legislation regulating corporate behaviour also encourages respect for human rights and corporate due diligence, as part of mainstream corporate practice, to level the playing field and encourage a 'race to the top'. Section 172 of the Companies Act 2006 makes it clear that, in fulfilling their duty to act in a way which they consider would be most likely to promote the success of the company, directors must think about matters which might have a bearing on that success, including the interests of the company's employees and the impact on the community of the company's operations.

Since 2019 companies have been required to produce a Section 172 statement which sets out how the directors of the company have had regard to these and other external interests in their decision-making. This obligation sits amongst a wider set of statutory requirements covering non-financial corporate reporting which continues to evolve. For instance, in respect of human rights, in 2013, the UK Companies Act was amended to require listed companies to report on material human rights impacts relevant to the understanding of the business. This was amended further in 2016 to strengthen the requirement to provide a fuller framework for strategic reporting, including on due diligence arrangements where they are in place. These statutory requirements are underscored by the Corporate Governance Code, which sets out the expectation that

company boards should carry out robust assessments of emerging and principal risks and confirm how these are addressed in the annual report.

The UK Government has recently launched a wide-ranging consultation on audit and corporate governance reform, “Restoring trust in audit and corporate governance: consultation on the Government’s proposals”. This consultation (open until 8<sup>th</sup> July) includes proposals for companies to prepare an audit and assurance policy, subject to a shareholder vote, which explains how the company is assuring the quality and the reliability of its disclosures beyond the statutory audit of the financial statements.

### **Multilateral Initiatives**

As announced by the Foreign Secretary on 12 January, the UK Government has been engaging with businesses and UK trade bodies as part of a programme of support to British businesses operating in China. Business, Energy & Industrial Strategy Minister Scully hosted a retail sector council on the issue of Xinjiang in February 2021 and the Secretary of State for International Trade hosted two roundtables on the issue of forced labour in Xinjiang in March 2021. The Home Office will be hosting a CEO-level Business against Slavery Forum later this year. The UK Government is keen to encourage businesses to continue to share their perspectives on how they are responding to the situation in Xinjiang.

Given the global nature of supply chains and the workforce that empowers them, the UK believes that multilateral action is essential. It has pursued a number of multilateral initiatives to encourage States and enterprises to protect and respect human rights respectively. Some examples of that action are set out below.

During the 42<sup>nd</sup> session of the Human Rights Council in 2019, the UK with Australia led efforts to renew the mandate of the United Nations Special Rapporteur on Contemporary Forms of Slavery. The UK also continues to use the Universal Periodic Review process to make constructive recommendations for every Government to drive forward policies on modern slavery that will make the achievement of Sustainable Development Goal (SDG) 8.7 a reality.

The UK, together with Australia, Canada, New Zealand, and the United States, also developed Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains. Those Principles are intended to align with the UNGPs and call on all States to encourage the private sector to prevent and address human trafficking in its supply chains. These principles follow the Call to Action to End Forced Labour, Modern Slavery and Human Trafficking in 2017, which now has over 90 endorsements.



Some apparel companies have reconsidered their presence in Xinjiang. A number of companies have conducted a review of their supply chain and some have pulled out of Xinjiang altogether.

**3. Please indicate the measures taken by your Excellency's Government to ensure that its public procurement of goods and services is only from business enterprises which have not caused, contributed to, or are directly linked to human rights abuses such as those alleged in the present letter.**

The UK Government is harnessing its spending power to ensure exploitative businesses do not take a share of the £50 billion that central Government spends on goods and services each year. We have introduced a range of policies and tools to support public bodies mitigate modern slavery risks and incentivise responsible business conduct, including:

- Requiring most new central Government procurements to take account of social value criteria, such as reducing modern slavery risks, in the award of contracts, where relevant and proportionate, and place a minimum weighting of 10% of the total score for social value to ensure that it carries a heavy enough score to be a differentiating factor in bid evaluation.
- Launched the [Modern Slavery Assessment Tool](#) and directly worked with around 500 suppliers on implementing effective modern slavery due diligence. More than 1,500 organisations have completed the assessment since March 2019.
- Published [guidance](#) setting out the steps that all Government departments must take to identify and mitigate modern slavery risks throughout the commercial life cycle.
- Increased the capability of commercial teams across Government to prevent modern slavery. We have delivered training to over 250 commercial staff on how to carry out modern slavery risk assessments so they can put guidance into practice in their departments.

In January 2021, the Government announced it will provide guidance and support for all UK public bodies to use public procurement rules to exclude suppliers where there is sufficient evidence of human rights violations in supply chains. Compliance will be mandatory for central Government, non-departmental bodies and executive agencies.

We are also committed to being transparent about the measures we are taking to prevent modern slavery and human rights abuses in public sector supply chains. On 26 March 2020, we became the first country to publish a [Government Modern Slavery Statement](#) setting out the steps we have taken to identify and prevent modern slavery in central Government supply chains. The Home Office will publish a progress update



in September 2021 summarising how ministerial departments have met the goals set out in the Statement.

From September 2021 onwards, ministerial departments will publish their own annual statements. We have also announced that we will become the first country in the world to require public bodies (such as local authorities and police forces) with a budget of £36 million or more to produce annual modern slavery statements.

**4. Please indicate the steps that your Excellency's Government has taken, or is considering to take, to ensure effective access to domestic judicial mechanisms for victims of business-related human rights abuses, including for overseas victims of serious human abuses such as those alleged in the present letter.**

There are a range of judicial mechanisms that help to support access to remedy for human rights abuses by business enterprises both at home and overseas. They include:

- (i) Employment Tribunals which provide access to remedy for abuses of labour rights;
- (ii) Avenues to pursue civil law claims (e.g. under tort law) before UK courts in relation to human rights abuses by business enterprises, including when they occur overseas and are the result of the activity of a foreign subsidiary of a UK-domiciled company (see e.g., *Vedanta Resources PLC and another v. Lungowe and others* [2019] UKSC 20); and
- (iii) Specific criminal law provisions, including under the Bribery Act 2010, Modern Slavery Act 2015, Serious Crime Act 2007, Corporate Manslaughter and Homicide Act 2007, and the Gangmasters (Licensing) Act 2004.

**5. Please indicate the steps that your Excellency's Government has taken, or is considering to take, to ensure that business enterprises domiciled in its territory and/or jurisdiction establish effective operational-level grievance mechanisms, or cooperate with legitimate remedial processes, to address adverse human rights impacts that they have caused or contributed to.**

Business enterprises are required to comply with UK law and are subject to the judicial grievance mechanisms set out above.

As to operational-level grievance mechanisms, the UK Government has:

- (i) Tasked UK Trade and Investment (UKTI) teams in the markets where they operate to advise UK companies on establishing or participating in grievance mechanisms for those potentially affected by their activities, and to collaborate with local authorities in situations where further State action is warranted to provide an effective remedy;
- (ii) Encouraged companies to extend their domestic UK practice of providing effective grievance mechanisms to their overseas operations, adapting them where necessary according to local circumstances and consulting interested parties. This also applies to dispute arbitration/mediation mechanisms through their sector of activity or collective industry organisations; and
- (iii) Supported projects through the Foreign, Commonwealth and Development Office Human Rights and Democracy Programme Fund on remedy procedures in other countries, including to support to business efforts to provide, adopt, or participate in effective grievance mechanisms.

The UK also supports other non-judicial grievance mechanisms for business-related human rights abuses. A signatory to the Organisation for Economic Cooperation and Development (“OECD”) Guidelines for Multinational Enterprises (“the OECD Guidelines”), the UK operates an OECD National Contact Point (“UK NCP”), a complaints mechanism that can examine instances where business-related human rights abuses may have occurred. The UK NCP seeks to mediate an agreement between the parties. But where this is not possible, a determination of whether the enterprise has acted inconsistently with the Guidelines is published and available for public dissemination. The UK Government thereby provides a neutral forum to address business-related human rights harms.

In addition, there are independent organisations that support non-judicial grievance mechanisms in the UK. They include internal company grievance procedures and arbitration, adjudication, mediation, conciliation, and negotiation. The Citizens’ Advice Bureau and the Advisory, Conciliation and Arbitration Service (ACAS) can advise on or offer those services.

**6. Please explain how the above mentioned allegations, including with regard to forced labour in supply chains, are compliant with the UK Modern Slavery Act 2015. Please also indicate if under the act, annual statements have been submitted by companies which are allegedly complicit in the forced labour of Uyghurs in China and if so, which action has been taken in this regard by your Excellency’s Government.**

It is right that there is an increased focus on Xinjiang’s place in international supply chains, and the risk that international businesses may be inadvertently contributing to human rights violations in the region. The UK is committed to upholding human rights

and ensuring that UK businesses act responsibly in tackling modern slavery and labour exploitation, both domestically and internationally.

As part of a range of tools to address these issues, the UK takes a “transparency in supply chains” approach, promoting a business culture where businesses are transparent about what their risks are, where they have found modern slavery abuses in their operations and supply chains and the action that they have taken in response. Greater transparency from businesses allows consumers, investors, campaigners and others to hold them to account.

Modern slavery statements are part of this transparency approach. In order to be compliant under section 54 of the Modern Slavery Act 2015, an organisation’s modern slavery statement must be:

- Published annually on their website;
- Approved by the Board of Directors;
- Signed by a Director; and
- Published on the organisation’s website (or if the organisation does not have a website then it the statement must be made available to anyone who requests it within 30 days).

Under the Act, organisations are not required to submit their statements directly to the Government. Whilst the Government has undertaken an audit of compliance to assess whether organisations identified as in scope of the Act have met their obligation to publish a statement, the Government does not verify or approve the content of individual modern slavery statements.

The prevalence of modern slavery and complexity of global supply chains means that it is highly unlikely that any sector or company is immune from the risks of modern slavery. Therefore, section 54 does not require organisations to certify that their supply chains are ‘slavery free’ but the legislation is intended to encourage companies to report transparently about any incidents of modern slavery or risks they have identified, mitigating action and the steps they are taking to remediate victims of exploitation and enhance protections for vulnerable workers in their supply chains where appropriate. If a company does not comply with the requirement to publish a statement, the Home Secretary can apply for a court injunction requiring compliance. To enhance the impact of transparency, the Government has also committed to a range of measures to improve reporting quality and compliance, including introducing a requirement for statements to include information on key topics such as due diligence and financial penalties for organisations that fail to meet their obligations under section 54 of the Modern Slavery Act 2015.

In the meantime, the Government has launched an online registry of modern slavery statements, to make statements available in one place and provide accessible

information to investors, consumers and others. Since launching on 11 March, over 3000 statements covering over 9000 organisations have been submitted to the service on a voluntary basis.

**10 May 2021**