



UK Mission
Geneva

UK Mission Geneva
PO Box 6
Avenue Louis Casarí 58
1216 Cointrin GE

Tel: 022 918 2453
Fax: 022 918 2333

Note Verbale No. 259

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 JAL GBR 8/2022, further to the letter dated 5 July 2022 from the Special Rapporteur on trafficking in persons, especially women and children; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences and the Working Group on discrimination against women and girls.

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, 1 September 2022

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

ANNEX

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

The UK government is concerned to hear about allegations of trafficking in persons and forced labour in tobacco farms in Malawi and that companies headquartered in the UK may be involved in these allegations.

The UK's Presidency of the G7 in 2021 and the resulting commitments from G7 leaders to tackle forced labour in global supply chains was further strengthened in October 2021 by G7 Trade Ministers who agreed a Statement on Forced Labour. Our support for the commitments to eradicate forced labour from global supply chains during the current Presidency, demonstrates our continued commitment to ending modern slavery.

As the alleged abuses took place in Malawi, the UK does not have first-hand knowledge of the events and considers that Malawi bears responsibility for investigating the allegations and, where appropriate, taking measures to address human rights abuses committed in its territory and/or jurisdiction, and to uphold compliance with international human rights conventions and standards.

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 has consistently supported the UN Guiding Principles (UNGPs) on business and human rights, which are widely regarded as the authoritative international framework to steer practical action by Governments and businesses worldwide on this important agenda. Implementation of the UNGPs supports access to justice and remedy for victims of business-related human rights abuses, wherever these occur, and encourages businesses to voluntarily adopt due diligence approaches to respecting human rights.

The UK was the first state to produce a national action plan (NAP) to respond to the UN Guiding Principles. We are clear we expect all our businesses should comply with all applicable laws; identify and prevent human rights risks; and behave in line with the Guiding Principles - including their management of supply chains here and overseas.

The Government is clear that it expects all UK businesses to respect human rights throughout their operations, in line with the UNGPs. The UK was the first country in the world to require businesses to report on the steps they have taken to tackle modern slavery. The landmark ‘Transparency in Supply Chains’ provision in section 54 of the Modern Slavery Act 2015 (MSA) requires organisations with a turnover of £36m or more, to report annually on the steps they have taken to prevent modern slavery in their operations and supply chains. The Government encourages companies to monitor their supply chains with rigour to uncover and remedy any associations they may find with forced labour or other labour abuses. Following a public consultation in

2019 the Government committed to extending reporting requirements to public bodies with a budget of £36 million or more to create public and private sector parity; mandating the specific reporting topics statements must cover; and requiring organisations to publish their statement on the Government modern slavery statement registry. To further bolster our commitment to tackle modern slavery, in January 2021, the UK government announced that financial penalties would be introduced for organisations who fail to meet their statutory obligations to publish annual modern slavery statements. These measures require primary legislation and as announced in the Queen’s Speech in May 2022, we intend to legislate in the forthcoming Modern Slavery Bill.

Transparency has driven a change in business culture, spotlighting modern slavery risks on boardroom agendas and within the international human rights community. Since the UK introduced transparency legislation, we have seen more businesses open up about their supply chain risks and introduce tailored steps to support vulnerable workers. Senior leaders are crucial to driving change and in many cases transparency legislation has brought this vital issue to their attention for the first time.

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, the impact on the community and environment of the company’s operations and the desirability of the company maintaining a reputation for high standards of business conduct.

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 their 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.

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 £132¹ 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 to strengthen the modern slavery due diligence of our suppliers. As of May 2022, over 2,600 assessments of the latest version, launched in March/April 2019, have been completed. 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 reached over 1,000 public sector officials through

¹ [Whole of Government Accounts 2019-20.pdf \(publishing.service.gov.uk\)](#)

workshops and events on the key steps they should take to tackle modern slavery and created a range of tools to support them.

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 public 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. In 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. In November 2021 all UK ministerial departments published their first 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.

The UK National Action Plan on Business and Human Rights sets out a number of actions taken by the Government to promote access to remedy. Domestically, these include supporting access to remedy for human rights abuses by business enterprises through its employment tribunals for cases of labour rights, avenues for civil law claims, and specific criminal law provisions.

The UK is also an adherent to the Organisation for Economic Cooperation and Development Guidelines for Multinational Enterprises (“the Guidelines”). The Guidelines are voluntary standards intended to promote responsible business conduct

by enterprises based in the adherent countries. The complaints mechanism can include the examination of instances where abuses of human rights may have occurred. The UK National Contact Point (UK NCP) raises awareness of the Guidelines and operates a complaints mechanism.

5. Please provide information on the measures taken by your Excellency's Government to prevent diseases due to chemicals reportedly used by business enterprises domiciled in its territory and or/ Jurisdiction and ensure the right to health, including reproductive health, of all the reported workers, including women and children.

The UK Government is committed to using its platform internationally to phase out the most harmful pesticides that cause a disproportionate amount of harm to humans and the environment. We are actively working with other countries to improve the management of environmental and health risks associated with pesticides through the Basel, Rotterdam, and Stockholm Conventions; OECD; Beyond 2020 framework; and the Convention on Biological Diversity. This includes promoting the development of biopesticides, minimal risk pesticides and the uptake of integrated pest management.

6. Please explain how the above mentioned allegations including with regard to trafficking in persons and forced labour in supply chains, are compliant with the UK Modern Slavery Act 2015.

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. Under the MSA, the UK Government was the first in the world to require businesses to report on the steps they are taking to tackle the risks of modern slavery in their operations and supply chains.

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 MSA an organisation’s modern slavery statement must be:

- Published annually;
- 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 the statement must be made available to anyone who requests it within 30 days).

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’. 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 announcing the introduction of financial penalties for organisations that fail to meet their obligations under section 54 of the MSA.

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

2021, over 8,500 statements covering over 28,700 organisations have been submitted to the service on a voluntary basis.