

COVID, ESGs and Going to the Moon: How Business Can Unite to Eliminate Forced Labour

“The private sector will eliminate forced labour from its supply chains by 2030 without a negative effect on productivity.”



Introduction

On the surface, this statement may seem like just another contribution to the world of hyperbole. *A Drug-free ASEAN by 2015* anyone? The difference here is that we are dealing with practices that the vast majority of people consider have no place in society, and that are simply unsustainable from a business point of view.

We also know that great things can be accomplished when people are drawn together by a common vision. Almost 60 years ago, for example, with the US space program characterised by a lack of clarity, wastage and duplication, President Kennedy announced the country's commitment “to achieving the goal, before this decade is out, of landing a man on the Moon and returning him safely to the Earth.” The Moon goal sought to harness the commitment of a wide range of people with many technical abilities, problem-solving skills and pioneering ideas through setting a common vision. It was right on the borderline between hugely ambitious and completely unrealistic. Many people simply said it couldn't be done.

Today, we face similar issues responding to modern slavery – a large number of highly committed people working without a common vision, and limited evidence of effective progress. The authors of this paper believe that the above goal fits in this category – highly ambitious, but not impossible. A goal that could free millions of people from exploitative labour practices, while not forcing business to choose between what is right, what is sustainable and what is profitable. A goal that forces attention on efficiency, cooperation and innovation. So, for example, we don't just focus on who pays the recruitment costs for migrant workers but on why these costs are four or five times higher than they should be – working together to target poorly focused regulatory efforts and change incentives in the recruitment process.

Moreover, there is really no viable alternative in a post-Covid-19 reality. The pandemic has shown how little difference there really is between society, business and the economy. This realisation should not be new to the many companies in Asia that have long embraced their interdependence with the communities around them.

This white paper offers a draft unified strategic operational plan to ground this goal in a comprehensive modern slavery response among a range of manufacturers and service providers. It offers an initial blueprint that the private sector can rally behind and implement together.

Guiding principles

To achieve this goal, we suggest there be seven basic guiding principles to embody the philosophy and spirit of this approach. These principles can be used to define how to make decisions and face challenges. They also provide a framework for the way forward, recognising that there is no one ideal solution to anything – just the right direction. They are:

1. Take the best of what is already available and apply it across the board;
2. Support and promote genuine collaboration among those willing to participate;
3. Ensure that all initiatives are empirically based;
4. Ensure that all initiatives have the right technical support needed for interventions to meet a high standard and quality;
5. Instil a sense of urgency – move initiatives forward at a pace that allows the project to show tangible results;
6. Promote practical solutions relevant to the real world; and
7. Demonstrate a measurable, sustainable impact in addressing modern slavery within supply chains

The issue

More than 40 million men, women and children are estimated to be trapped in modern forms of slavery. These victims, who can be found in factories, construction sites, fisheries and sex venues, are forced to work for little or no pay, deprived of their freedom, and often subjected to unimaginable suffering. Out of this figure, an estimated 16 million are in forced labour within the private economy.

Against this background, responses to modern slavery are falling short in both practice and theory because:

- It appears that fewer than one per cent of the 25 million victims of forced labour are receiving assistance;
- Many victims actively seek to avoid being identified due to lack of appropriate remedy and unsuitable services;
- Awareness-raising initiatives targeting potential victims are frequently not raising awareness, let alone changing behaviour. Despite 20 years of multi-million-dollar investment in awareness raising in South East Asia, for example, only one in seven migrants has access to information they need to reduce the risks inherent in the legal migration process¹; and
- Many initiatives are based on (generally unarticulated) assumptions that are at best unproven and at worst manifestly false.

COVID-19 has increased the focus on ESG

More encouragingly, the past few years have seen a normative shift with regard to exploitative labour practice in global supply chains and the responsibility that the private sector has to help address it. This trend will only accelerate as the world faces the consequences of the COVID-19 pandemic.

It should come as no surprise that the greatest public health crisis in living memory has underlined the importance of almost all of the 2030 Sustainable Development Goals agreed by the United Nations. The pandemic has also demonstrated that society expects far more from companies than their products and services alone: it also expects positive environmental and social impact, as well as good governance.

But boards and executives in the region should be aware that how they are expected to act and report on Environmental, Social and Governance (ESG) factors has changed. Today, the way that a company addresses ESG issues – including the risk of forced labour in its supply chain – has already become a key factor in determining its access to capital, customers and talent.

1. International Labour Organization and International Organization for Migration (2017). Risks and rewards: Outcomes of labour migration in South-East Asia, Bangkok.

The rise of ESG investment

Sustainable investing has built up astonishing momentum over the last decade. The 521 asset owners – such as pension funds and sovereign wealth funds – that have signed up to the United Nations' Principles for Responsible Investment have collective assets under management of US\$23.5 trillion. Including asset managers as well, the signatories' AUM rises to US\$103 trillion, up from US\$20 trillion in 2010.²

This momentum is expected to accelerate into the next decade, especially as evidence grows that ESG investments are outperforming markets as a whole. According to research released by Morningstar in June 2020, close to 60 per cent of European sustainable funds delivered better returns than similar conventional funds over the last 10 years.³

As ESG becomes the dominant investment theme of our times, it is clear that shareholders will increasingly expect companies to improve disclosure and action on the full spectrum of environmental and social issues.

Customers and employees are raising the bar

Research conducted by Edelman in late March 2020 showed that COVID-19 was making consumers even more conscious of how a company behaves. Nearly two-thirds of 12,000 respondents around the world said that the way brands respond to the pandemic will have a "huge impact" on how likely they are to buy products from those brands. In China, it was 88%.⁴

During this year, there has also been an historic awakening in many countries to racism and injustice towards minorities. Companies have taken action to address customer and employee expectations on this issue. For example:

- PepsiCo said it would increase Black managerial representation by 30% and more than double its business with Black-owned suppliers.
- Adidas committed to filling 30% of new positions with Black or Latinx workers; Google aims to achieve at least 30% minority representation on its executive team by 2025
- IBM has stopped investing in facial recognition software used by police forces, Microsoft will no longer share its version with the police, and Amazon will stop sharing its software with police for a year.⁵

2. <https://www.unpri.org/about-the-pri>

3. https://www.morningstar.com/content/dam/marketing/emea/shared/guides/ESG_Fund_Performance_2020.pdf

4. <https://www.prweek.com/article/1678755/edelman-trust-barometer-consumers-put-brands-notice-coronavirus-behaviour>

5. <https://justcapital.com/news/notable-corporate-responses-to-the-george-floyd-protests/>

Employees care, too. For many millennials (those born since about 1980) and younger Gen Z workers, there is a growing expectation that their employer should take a stand on social and political issues.⁶

As with investors, it is reasonable to expect that customers and employees will demand corporations to set and adhere to ambitious standards on environmental and social matters, including modern slavery. This consensus among the most important stakeholder groups for large companies points to the need to establish a clear goal, set of principles and reporting framework for modern slavery.

This would mirror what exists to focus companies' efforts on climate change: the overarching target of the Paris Agreement, principles such as the United Nations Principles for Responsible Investment (UNPRI) and reporting frameworks like those provided by the Taskforce on Climate-related Financial Disclosure (TCFD). The 40 million enslaved men, women and children in the world today deserve nothing less.

The law is closing in on exploitative business practice

New legislation is increasingly requiring companies to report on measures taken to address this topic, and there is already discussion within some governments of introducing (1) stronger legislation if these measures are insufficient and (2) more stringent anti-slavery requirements in relation to their own procurement practices, action that would directly affect the largest market for many companies.

Further, companies are now facing direct action in the form of (1) bans of imports of goods made by forced labour, and (2) lawsuits from affected populations and consumer groups. Together these measures signal that while governments prefer softer, collaborative approaches to change, they will get tough if these don't work.

Most importantly of course, slave-like conditions are and will always be incompatible with good business.



6. <https://www.glassdoor.com/about-us/corporate-activism-survey/>

Overall goal

This proposal aims to help the private sector to eliminate forced labour from its supply chains by 2030, with a particular focus on the manufacturing sector. This goal does not take as a given that there is a trade-off between worker rights and shareholder obligations, nor between the incentives of business to remain profitable and the need to treat all people with decency. Instead, it challenges the private sector to come up with new approaches and innovative solutions – a challenge that business knows how to meet. Moreover, there are huge opportunities to offset the costs of responding to modern slavery through:

- Reducing overlap and duplication in programming, particularly materials production and investment in technology-based solutions;
- Reframing or abandoning activities demonstrated to have limited impact;
- Eliminating unnecessary costs for companies (such as ineffective compliance requirements or activities) and workers (such as recruitment intermediaries, excessive interest rate charges, long waiting times, and caps on income due to externally imposed overtime limits⁷);
- Generating economies of scale (such as accepting audits by other companies, co-developing training programs, sharing worker feedback tools, common advocacy, and jointly funded response and remediation mechanisms); and
- Targeting the areas of highest risk and greatest reward.

The proposal will achieve this through:

- Uniting the business community and service provider organisations working to address the modern slavery issue within supply chains;
- Providing all key stakeholders with the information they need to implement effective responses based on accumulated knowledge to date;
- Supporting the most effective and efficient responses to forced labour in supply chains, through (1) highlighting areas of greatest risk, (2) reducing duplication, (3) encouraging the widespread application of what has shown to work, (4) ensuring that workers have a genuine voice in decisions that affect their lives, including the adequacy of remedy for labour violations, and (5) promoting smarter, rather than just more, innovation, particularly around the use of technology; and
- Measuring progress over time and refining approaches based on lessons learned along the way.

7. The imposition of overtime limits by buyers well below that established in national law, although well-intended, has led to suppliers losing migrant workers – who are keen to maximise their income – to non-compliant worksites.

Target groups

There are two target groups encompassed by this plan: those companies seeking to identify and address modern slavery within their supply chains, primarily manufacturing brands and suppliers; and those participating in the provision of expertise and services including audit companies, law firms, accounting firms, specialised NGOs, private service providers and universities.

Outlining the components for the private sector to achieve this goal

The proposed approach has the following five components:

1. Build a clear and common understanding of modern slavery and why business must respond

Problem definition: Accurate, up-to-date comprehension of modern slavery is crucial to all aspects of the response. Yet, understanding of the issue of modern slavery and its relevance to the private sector remains limited to basic awareness. Further, in the absence of a recognised repository where responders can quickly and easily locate key material, valuable resources continue to be frittered on duplication of tools and resources, unnecessary or unused research, and prevention activities long proven to be ineffective. For example, the Organization for Security and Co-operation in Europe has identified over 230 initiatives intended to address modern slavery through technology. Many of these initiatives do similar things, and the vast majority have not passed beyond the pilot stage. Considerable wastage is being generated by ongoing investment in tech-based solutions that either already exist or seek to address problems that have not been adequately defined.

Proposed solution: To deal with this shortcoming, detailed, standardised information related to modern slavery, including why business needs to address it, must be systematically shared within private sector communities at all levels. This includes operational guides, training resources, conference presentations, and e-learning formats that go beyond general awareness. This will develop the common understanding required and reduce the need for companies to invest in their own materials.

This work largely involves the collation of the many existing materials already available across a wide range of organisations into user-friendly resources on a specific web portal, able to act as a one-stop shop. The portal will also encourage networking and exchanging of ideas. The potential value of this growing community is enormous – it can help normalise the private-sector response to modern slavery in a powerful new way. The portal will also gather metrics and pay attention to feedback. This feedback will be used to refocus on what's working.

Targets

- A recognised web portal is put in place as a one-stop shop for information on modern slavery in supply chains. This will include: a listing of multi-stakeholder efforts underway; an online survey to help businesses evaluate their present efforts against industry standards; and an online blog format to allow companies to ask questions related to the topic;
- Standardised and regularly updated information and training resources on modern slavery in supply chains are available to all actors;
- A system is in place to train and link focal people working within the private sector to update their understanding and response capability related to this issue;
- Major brands in manufacturing and retail routinely train their staff on the issue of modern slavery; and
- A repository of service providers offering training services is available to assist companies to select the appropriate organisation.

2. Equip counter-slavery actors with the information they need to act effectively, efficiently and decisively against modern slavery

Problem definition: Information required to respond effectively to modern slavery issues is currently piecemeal. For example, many companies either do not map their supply chains or do not share this data, or cannot meaningfully use shared data. As a result, vital information is frequently unavailable that would help to assess and address the risks of violations at specific sites. Such information might include worker demographics, supplier production demand, prior audit non-conformance or complaint incidents at worksites, and performance data relating to other social and environmental concerns.

Proposed solution. Closely related to the previous component, this component will focus on the specifics of how to respond to modern slavery issues. It will collate existing data on specific patterns and trends, including through feedback from enhanced social audit scope and engagement and monitoring, feedback and remedy systems (components 3 and 4). It will also make information readily accessible to business and other partners on how to enhance their individual responses: (1) issues to consider when developing different types of interventions⁸; (2) a user-friendly database of existing

8. As an example of such a guide prepared for trafficking in persons, see http://icat.network/sites/default/files/publications/documents/16-10273-ICAT_toolkit.pdf

technology-based options, with a view to reducing proliferation in this area; and (3) examples of approaches that are demonstrated to be effective, those showing promise and those that are not working.

Additional attention will be given to the issue of procurement practices in creating pressure on suppliers, for example through procurement impact assessments. Tools will facilitate the transparent exchange of current production demands, measure them against the latest supplier capacity data and provide prompt assessments of the extent to which new orders may place undue pressure on sites.

Targets

- Information on tools, techniques and organisations available to address modern slavery is readily accessible in a consolidated repository on a website portal;
- A common supplier database is available with information on location, workforce and feedback from monitoring processes (see component 3);
- Working groups/task forces bring communities together to exchange information and approaches, and establish practical collaboration;
- Detailed typology reports are produced based on an analysis of data provided by the respective community representatives;
- Publicly available information – such as research on geographical and sector trends, intervention models and recruitment patterns – is collected and analysed by key organisations (e.g. Walkfree/ILO/IOM), summarised and made available in an accessible format; and
- Procurement impact assessment mechanisms are developed and trialled in suitable pilots.

3. Establish multi-stakeholder monitoring, feedback and remedy systems to identify, address and prevent further labour violations.

Problem definition: Remedy for their situation is what almost all victims of forced labour want and what very few receive. Although many companies have developed operational grievance mechanisms (OGMs) to address worker-related issues, these currently have a number of common constraints:

- Existing OGMs are largely passive, relying on exploited workers to come forward with any complaints, despite widespread recognition of the significant barriers they face and clear evidence that these result in extreme reluctance to do so;
- Despite clear areas of overlap in relation to workplace conditions, OGMs routinely operate independently of social audit processes in identifying issues, resolving them and reporting on the outcomes;
- Almost all OGMs are site-based and lack independent worker representation;

- There is a lack of transparency around the treatment of complaints and grievances; and
- Where sourcing companies receive reports of a forced labour situation in their supply chain, many don't know what to do in response and, because of the business risk associated with this scenario, may be reluctant to engage with those that do (worker rights organisations such as NGOs, unions and law enforcement).

Proposed solution: There is a major opportunity for companies to collaborate on the establishment and implementation of standardised monitoring, feedback and remediation (MFR) mechanisms. Advantages of multi-stakeholder collaboration in this area include: (1) reduction of individual company reputational risk described above; (2) major economies of scale in implementing such mechanisms across suppliers' workplaces, sourcing companies and industry sectors; (3) opportunities for common advocacy to government about policies and processes that facilitate exploitation and/or create inefficiencies and unnecessary costs – successful examples already exist of such collaboration; (4) potential for companies to jointly contribute to a meaningful funding pool to provide remedy including compensation to workers – again, such examples exist; and (5) the potential for companies to learn from incidents occurring elsewhere so as to take pre-emptive action in their own supply chain. These mechanisms will seek to provide fair remedy for the worker as well as identifying and addressing underlying causes and systemic issues to anticipate and prevent further modern slavery violations.

Targets

- Agreement on how the manufacturing community should respond to forced labour situations when they arise;
- Multi-stakeholder monitoring, feedback and remedy mechanisms covering sectors and/or geographical locations rather than individual worksites or supply chains. These incorporate five key components:
 - Pre-departure education for migrant workers;
 - Proactive outreach to workers, including through integration with social audit;
 - Multiple channels for making and receiving feedback and complaints;
 - Clear and just procedures for independent investigation and responses to complaints. These should address both the specific cases (remedy for workers, appropriate sanction for violators) and underlying causes (systems, policies, procurement practices, etc.); and
 - Integrated data management and transparent reporting.⁹
- Standardisation and routine use of effective approaches within the business community.

9. These components are based on recommendations developed by RCG to support IOM's International Recruitment Integrity System (IRIS).

4. Enhance the value of social audit processes through improvement and integration

Problem definition: Available information unequivocally concludes that social audits have proven ineffective in identifying labour violations in company supply chains. Less clear, however, is whether the problem is inherent in the audit process itself or relates to how the process is applied. Constraints identified include: (1) lack of appropriate skills for auditors in addressing labour issues; (2) limited incentives for auditors to be proactive in identifying violations; (3) inadequate audit instruments; (4) limited opportunity for auditors to engage constructively with workers, particularly where there are language barriers; and (5) lack of connection to worker remedy processes. Further, although a vast array of audit data is collected, the lack of a common approach, overly restrictive confidentiality requirements, and proprietary controls by auditing companies mean that this data cannot be aggregated and compared over time, sector and geographical location.

Other considerations include: (1) the burden placed on suppliers in having to allocate significant management and production resources to multiple audits by different companies; and (2) the complexities involved in auditing small and medium enterprises with limited management system resources.

Proposed solution: Building on a successful pilot, the vast array of audit data related to forced labour and modern slavery will continue to be systematically collected in an anonymised way and analysed by a neutral, third party organisation to offer insights into trends and lessons learned. A minimum, core, agreed-upon set of forced labour questions should be included in all social auditing tools used by standard holders, brands, and audit companies. This will enable aggregation of data and comparison across location and time, while allowing users to retain their own unique questions.

Worker feedback gathered during social audits will play a critical role in informing companies' due diligence and remediation plans. In order to reinforce this process: (1) social auditors will be supported to improve their interviewing skills; (2) building upon successful pilots, innovative ways of collecting feedback will be provided to auditors to overcome barriers such as language and time constraints; and (3) a system will be put in place to collect and analyse consistently the information gathered, track factories' performances and inform ongoing corrective action plans.

In addition, the integration of social audit data with other feedback and complaints received via monitoring, feedback and remedy mechanisms (see component 3) will have a number of benefits in: (1) assisting to validate complaints; (2) streamlining processes to provide remedy for migrants and prevent further violations; and (3) identifying any

potential gaps in the audit process through comparing issues raised by workers with those identified through social audits. This will help address issues around both auditor skills and motivation.

Targets

- Integrated worker feedback systems (tech and non-tech) and social audit processes (baseline to be established);
- Integrated social audit non-conformance findings and corrective outcomes with complaints made by workers to OGMs;
- Standardised set of forced labour audit questions: (1) developed, tested and accepted by manufacturing brands and service providers; and (2) routinely used in the manufacturing and retail sectors;
- Anonymised supplier site audit information collected and analysed by a neutral entity;
- This information used to regularly improve training and capacity building tools;
- Increase in companies accepting results of audits by other companies; and
- Special audit tools and processes for small and medium enterprises.

5. Support ethical migrant worker recruitment solutions

Problem definition: The Walk Free Foundation estimates that two-thirds of those in forced labour are bound to their workplace by debt. This debt comes primarily from the recruitment process, where workers are often required to pay large sums of money for their jobs. These sums go well beyond the legitimate costs involved in recruitment to include: payments to sub-brokers; bribes and kickbacks paid by recruiters to officials and employers; usurious interest rates charged by local lenders; and general inefficiency in recruitment processes arising from recruiters being able to pass on any and all costs to the migrants, thereby constantly profiting from very high worker turnover. Further, exploitative actors have already demonstrated some ability to circumvent current ethical recruitment initiatives, such as the Employer Pays Principle, under which recruitment fees are covered by employers, not workers.

Although workplace violations and recruitment violations are often linked, different approaches are needed to address these. Workplace monitoring systems, for example, can address the former but are unsuited to addressing many recruitment issues, particularly where excessive fees have already been paid. Both suppliers and buyers may have limited leverage over those to whom the money was paid, particularly where these involve village-level brokers and/or money lenders.

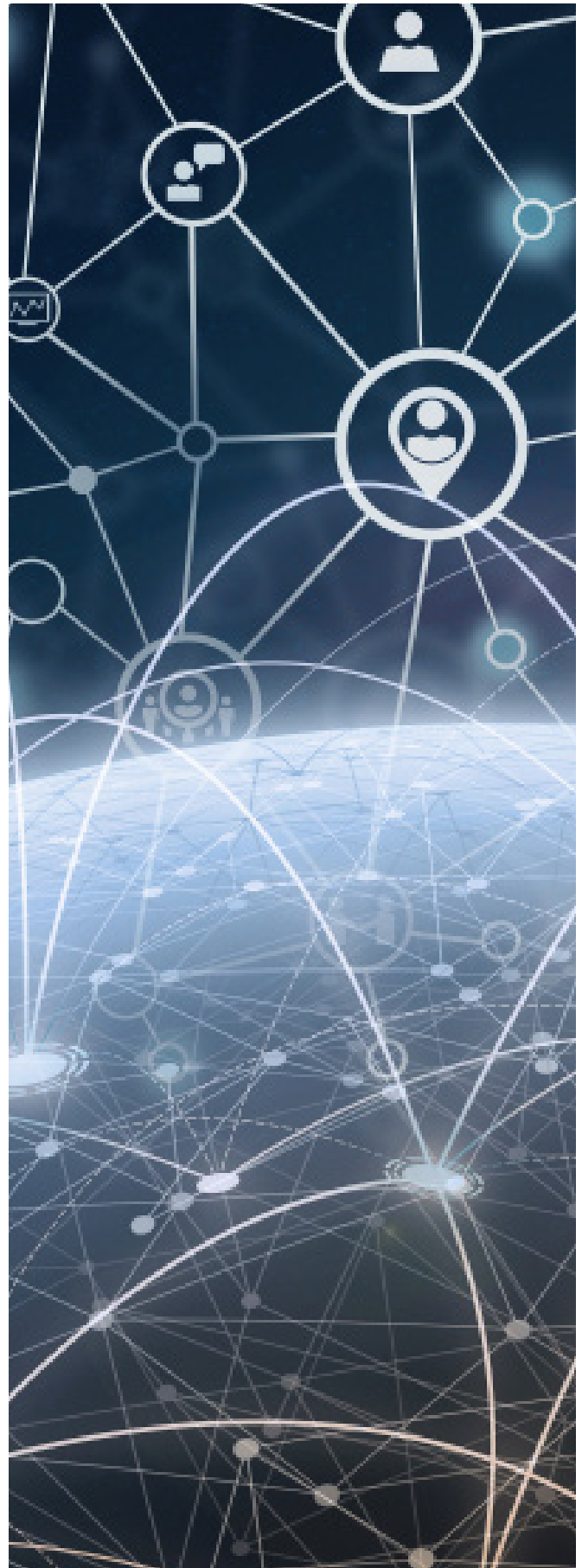
Proposed solution: Recruitment is an area of high return on investment as better policies, better-informed migrants and greater transparency offer the opportunity to simply bypass many of the exploitative actors. Activities will include: (1) identifying successful pilots equipping migrants with information they need to negotiate their recruitment; (2) establishing new pilots to either eliminate the role of exploitative sub-brokers through, for example, facilitated online recruitment at community level or bring these sub-brokers into the formal system to be covered by regulation; (3) identifying and coordinating joint action to eliminate inefficiencies in recruitment and compliance processes; (4) encouraging and incentivising ethical recruitment certification processes; and (5) anticipating and developing counter-measures to attempts by exploitative actors to circumvent these efforts.

Technologies that facilitate more transparent worker recruitment and greater ease of information sharing, such as making use of blockchain technology for securing migrant worker documentation, should play an increasingly important role in standardising recruitment practices. This, coupled with more widespread education and accreditation of recruitment agencies, will lead to crowding out of bad actors as workers are able to make better informed decisions.

Targets

- Successful pilots equipping migrants with the information they need to negotiate the recruitment process;
- New pilots to eliminate and/or better regulate the role of exploitative sub-brokers;
- Participating businesses have feasible ethical recruitment options, including certification processes;
- Substantial overall reduction in recruitment costs (baselines to be established);
- The manufacturing sector actively supports and incentivises ethical recruitment processes; and
- Data is collected on efforts by exploiters to circumvent ethical recruitment initiatives, such as the Employer Pays Principle, in order to develop counter-measures.

The combination of these five categories offers a vision of how we can respond to the issue of modern slavery in a united and cost-effective way, all built on initiatives that are already in place, drawing on what is already working, what appears promising and what is not proving effective. If the talented people in the private sector could work together to eliminate forced labour from supply chains by 2030, this would be a great achievement that would go well beyond the business community. To reach this goal, those involved will need to focus on the essential elements and then work under a unified strategic plan.



Ten-year targets

- There is a recognised web portal where all actors responding to forced labour in supply chains can share the latest information on the issue and how to respond;
- Global database of supplier site information provides capability to identify more than 50% of a suppliers' site sourcing companies in all instances of complaints, thereby providing enough information to establish leverage in remedying causal factors;
- Procurement impact assessments evaluate more than 50% of new orders planned prior to sourcing companies placing those orders;
- Social audit programmes have improved to the point where they validate worker complaints already made to OGMs and through other MFR mechanisms;
- Metrics measuring company performance against forced labour have been consolidated and refined with an emphasis on impact;¹⁰
- 80% of all affected workers have access to a multi-stakeholder monitoring, feedback and remedy system, fully integrated with social audit processes and appropriate government regulatory systems; and
- Fewer than 5% of migrant workers arrive at worksites covered by MFR systems having incurred debt as a result of illegal recruitment fees. When this happens, such workers are able to self-identify, have their cases assessed promptly and fees paid are reimbursed.

About the Mekong Club

The Mekong Club is one of the first not-for-profit organisations of its kind in Asia to use a 'business-to-business' approach to fight modern slavery. Bridging the gap between the public and private sectors, the Mekong Club helps companies of all sizes to understand the complexities of modern slavery and to reduce their vulnerability within their supply chains/business environment. Together with business partners, the Mekong Club is spearheading innovative and strategic projects to achieve a slave-free world.



About Research and Communications Group (RCG)

Remedying Forced Labour and Exploitation (Reflex) is a dedicated program of the Research and Communications Group, a small, specialised consultancy company committed to improving social development outcomes. Reflex brings together professionals with experience in counter-trafficking, manufacturing, auditing, and migration research to help organisations implement practical, timely solutions to labour issues within their supply chains, grounded in an in-depth understanding of the realities faced by migrant and non-migrant workers.



Ashbury Communications


Ashbury is an Asia-focused, content-led and sustainability-driven strategic communications consultancy. We strive to bring our clients new thinking and the ability to develop outstanding content because we believe this maximises the value of communications and helps organisations fulfil their own purposes. We are committed to enabling clients to make Environmental, Social and Governance (ESG) factors central to their strategic communications. This is driven by our conviction that sustainability is vital to our future, and that ESG will become an ever-greater driver of access to capital, revenue growth and talent.



10. A number of initiatives currently seek to assess company performance, including the Know the Chain Benchmark and The Mekong Club Business Pledge against Modern Slavery.




Contact us at:

 info@themekongclub.org

 www.themekongclub.org

Follow us on:

 [@themekongclub](https://www.facebook.com/themekongclub)

 [@themekongclub](https://twitter.com/themekongclub)

 [@themekongclub](https://www.linkedin.com/company/themekongclub)