



International
Labour
Organization

Combating Forced Labour

7

Case Studies

A Handbook for Employers & Business
Special Action Programme to Combat Forced Labour

Combating Forced Labour
A Handbook for Employers & Business

7
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Case Study # 1

Country: Brazil
Commodity: Pig Iron
Industry: Automobile Manufacturing

The Issue

It is estimated that around 25,000 Brazilian workers are in conditions analogous to slavery in Brazil today. Most are trapped in situations of debt bondage in camps of the Amazon region where they work and forced to pay for transportation, food, lodging, and tools. Although the workers will generally enter into employment voluntarily, it is the role of the 'gatos' (recruitment agents) to persuade individuals to join the camps through promises of good pay, good working conditions and benefits. Once employed, the individuals often discover that they are not free to leave because of the debts they incurred and the threat of physical violence.

Individuals forced to work in such circumstances are denied the possibility of leaving their employer, as their debts increase and armed guards patrol the working camps. Upon arrival, workers have their work registration card confiscated. This prevents them from accessing their rights to protection and benefits, which are otherwise available in the formal sector. Workers work very long hours and often remain unpaid for long periods; testimonies note that workers are reluctant to demand back-payment for fear of not receiving any income at all.

In 2006, several major news stories focused on the use of forced labour in the supply chains of major vehicle manufacturers in Europe, Japan and the US. In Brazil, forced labour occurred in the 'charcoal camps' which provide charcoal to major pig iron exporters. Although this represents only a very small percentage of the activities that use forced labour in Brazil, about 90 per cent of the pig iron produced from this charcoal is exported to the United States.

In recent years, the Government of Brazil has taken a number of important steps to combat forced labour, many of these in partnership with the business community. In 1995, it set up a Special Mobile Inspection Group (Grupo Especial de Fiscalização Móvel) to investigate and raid camps accused of using forced labour. The Government also maintains a "dirty list" registry of the properties and companies found to have used slave labour. As of mid-2008, it contained over 200 persons and entities, mainly in cattle-raising, followed by charcoal and sugar.

The Brazilian business sector launched in 2005 a National Pact to Eradicate Slave Labour, together with civil society groups. The Pact brought together more than 400 signatories, including Brazilian and multinational companies, trade unions and civil society organisations. By signing the Pact, companies agreed to sever their links with suppliers caught using slave labour. Apart from raising awareness, under a follow-up process, a “Social Observatory Institute” monitors the performance of signatories to the Pact and documents good practice.

Business Responses to the Issue

Collective action by Brazilian companies

The Brazilian industry group for pig iron manufacturers works to eradicate forced labour in the supply chain. From 2004, the Citizens Charcoal Institute (CCI) has been sending labour inspectors to charcoal camps to assess compliance and to circulate a code of conduct for the industry, which was developed in 1999. When faced with non-compliance, suppliers are decertified, and members of the industry group subsequently cease to do business with them. The CCI also produces a ‘dirty list’ to supplement the work carried out by the Government. Additionally, in August 2004, 14 pig iron companies in Brazil signed a joint commitment to end slave labour in the production of charcoal.

Individual action by Brazilian companies

In September 2007, one leading iron ore producer stated it would no longer sell iron to pig iron companies purchasing charcoal from camps using slave labour. It required its clients to prove they were not directly or indirectly involved in using forced labour and conducted a private audit at ten of them to this effect. As a result of the audit, the company suspended its supply to seven clients, citing forced labour and environmental problems as serious infractions. Four of these clients subsequently had contracts unilaterally terminated by the company. However, in undertaking this action, the company had to proceed with caution in order not to fall foul of anti-trust regulators since the company is the only iron ore producer in that region of Brazil.

One pig iron company in Brazil made the direct link between forced labour and deforestation in the Amazon. It stated that pig iron producers were buying charcoal from the illegal camps because it would otherwise take many decades to grow the trees necessary to produce the same amount of charcoal using the wood burning technique. This company instead uses its own employees and has its own eucalyptus forest to produce the wood required.

Collective action by US companies

On 4 December 2006, a press release announced that five major automobile manufacturing companies were working together to offer collective training for suppliers on how to avoid purchasing supplies produced using forced labour. This initiative was first coordinated by the Automotive Industry Action Group (AIAG) from October 2005 and then by Business for Social Responsibility from December 2006. Initial projects from the initiative include joint statements to create a shared industry voice on various issues relating to working conditions, including forced labour.

Individual action by US companies

In response to a Bloomberg cover story in late 2006,¹ and to other press reports on the use of slave labour in the US car manufacturing industry, various companies adopted a number of measures, including:

- Immediately ceasing to purchase pig iron traced to slave labour in Brazil; and
- Requesting suppliers to certify that their pig iron was produced without slave labour, and ceasing to do business with suppliers who fail to do so.

Initial Lessons from the Issue

It is evident that there is room for greater cooperation on this issue in order to move towards the complete eradication of forced labour in the supply chain of major car manufacturers. There has already been progress in terms of the willingness of companies to work together on this, as seen in both the CCI venture and the AIAG initiative. Additionally, the steps taken by one company to stop supplying iron ore to pig iron producers that use charcoal produced with slave labour is a step in the right direction. However, there could be greater cooperation at the governmental level to ensure that steps taken to block or boycott particular suppliers do not fall foul of anti-trust provisions. Moreover, further government support could be provided to US companies wishing to break the cycle which perpetuates forced labour in their supply chain.

It is also worth noting that the large majority of companies involved in this debate are significant actors in the industry. For smaller companies, the resources to act on these issues are more limited. In such instances, a pro-active position taken by an industry body can have particularly significant results.

The issue of available timber is an important one and should not be

¹ Michael Smith and David Voreacos, "The secret world of modern slavery," Bloomberg Markets, December 2006.

underestimated. A move from charcoal to coke-based pig iron production may be helpful. However, this would require financial assistance for the pig iron producers due to the increased costs this would create.

In terms of auditing and monitoring the charcoal camps, the work carried out by the Brazilian government's Special Mobile Inspection Group, assisted by the mobile courts which can ensure speedy judgments and liberation of workers, is to be encouraged. There seems to be space for a collaborative effort between this group, the auditors of the ICC, and US and Brazilian business involved in steel production.

It is unclear which entities are running the charcoal camps where forced labour is being used. However, there seems to be significant interconnectivity between the camps and pig iron producers. On occasions where the camps have been closed down by mobile inspectors, pig iron producers (i.e. purchasers of the camps' charcoal) have been required to pay back wages to individual workers. Greater clarity in terms of the bargaining power of pig iron producers would be welcomed.



Case Study # 2

Country: China
Industry: Electronics

The Issue

This case study focuses on allegations of forced labour in factories in China and on the actions taken in response by one major US electronics company. The factories in question were owned by two different companies and both were assembling separate products for the US multinational. One factory in particular attracted greater criticism in the media.

The descriptions of working conditions ranged from workers who were forced to work very long hours, live in cramped and insufficient accommodation, forced to pay for accommodation and food, and prevented from leaving the facility. In addition, there were allegations of child labour in the manufacture of some products, and use of disciplinary actions which involved workers being made to stand still for long periods. The allegations first appeared in a report which was not available on the Internet but which included some pictures of factory conditions that were later reproduced in the international press. The story was first published by a UK paper and then, shortly afterwards, by a business journal in China.

Business Responses to the Issue

The US company in question responded with a statement within 3 days of the abovementioned allegations. It stated that the company was taking steps to investigate the situation and that it took the allegations seriously.

The US company took steps to investigate the allegations through extensive factory visits and worker interviews. It published a report on its website within six weeks of the initial media coverage. In the report, the company states that an audit team sent to the factory was made up of staff from its human resources, operations and legal departments, and that the evidence gathered was cross-checked against many sources of information from employees, management and staff records. It also points out that, in auditing for forced labour, security records were checked to look for false identification papers. The report goes on to summarize findings related to the working and living environment, compensation, overtime, and worker treatment.

Although the company report states that there was no evidence of forced labour

or child labour, it made public the observation that the company's own weekly limit on hours worked, as stated in the company's code of conduct, was being exceeded. The company stated that, as a result of its findings, the supplier was changing its policy to ensure compliance with the weekly overtime limits. In addition, the company noted that improvements to the sleeping facilities were required but that the supplier was in the process of acquiring more land to build further facilities.

The supplier in question was quoted as having opened the factory to its customer and provided access for the audits to take place. It is noteworthy that this supplier is a significant company in the industry and has grown rapidly in recent years. The supplier was quoted as being satisfied that the US company's report cleared up the allegations about working conditions in their factory. It is also quoted as saying that the incident resulted in the company reflecting on being more open about its business than it had previously been.

It is interesting to note that the Business and Human Rights Resource Centre, which has a policy of requesting responses from companies cited in human rights abuse allegations, records this particular case in its summary as having been resolved prior to the company responding. It is the only case which appears with this indicator.

Initial Lessons from the Issue

The US company in question was using around 15% of the total workers employed by the factory in China. The same factory was being used by other major high street electronics brands although there is little mention of these companies' reactions to the story. Nevertheless, this percentage share did not limit the access the company had in producing its audit findings.

The story also highlighted the Electronics Industry Code of Conduct, a sector-specific tool and initiative which brings together over 40 (as of September 2008) companies working in the electronics industry. This initiative is aimed at improving working conditions in the industry supply chain. At the time the story was published, the China-based supplier was a member of the EICC but the US company was not. However, in its report detailing the audit and its findings, the latter indicated that it would be joining the EICC.

Shortly after the publication of the company report, a related human rights issue was highlighted by the international media, involving the journalists who had initially published the story in the British and Chinese press. A wholly-owned subsidiary of the subcontractor based in China took legal action on grounds of defamation against the journalists in their own personal capacity. The lawsuit demanded a large sum of money and once the court accepted the case, the journalists' assets were frozen. The paper in question stood by

its journalists and criticised the action being brought. There followed requests from press freedom NGOs to both the supplier and to the US company asking them to act so that the case could be dropped. The US company said that it was working behind the scenes to help solve the issue. The case was dropped shortly thereafter.

This case demonstrates that by acting quickly and being thorough in their response, the company quelled concern about the particular working conditions involved in the manufacture of key products. In addition, when the story took a different turn and moved into the sensitive political field of press freedom, it seems that the company was prepared to remain involved. Nevertheless, the case highlights the difficulties in ensuring compliance with company codes in situations where there is extensive outsourcing. The US company's decision to join the EICC demonstrates again the added-value of working in cooperation with other companies facing similar difficulties which may be seen as endemic to the industry.





Case Study # 3

Country: Jordan
Industry: Garments & Textiles

The Issue

Since 2000, Jordan has benefited from a preferential trade agreement with the US through the Jordan-US Free Trade Agreement (FTA). This agreement is designed to ensure that both countries uphold ILO standards, including the prohibition of forced labour. As a result, when a full and frank investigation was carried out into working conditions in Jordanian factories, both the US and Jordanian governments were implicated, along with companies based in both countries.

In May 2006, the US-based National Labour Committee (NLC) published a highly critical report which examined working conditions in textile factories across Jordan that were producing goods for US-based companies.² The study looked at factories based in Qualified Industrial Zones (QIZ) which benefit from preferential access to the US market.

As of July 2006, there were 13 QIZs in Jordan which contained over 110 companies in total, employing over 54,000 workers. The American Chamber of Commerce in Jordan states that these QIZ factories are made up of 66% foreign workers, known as 'guest workers', who are brought in from China, Bangladesh, Sri Lanka and India. Although the QIZs were designed to encourage foreign direct investment and provide employment to the local population, the factories involved rely on a predominantly migrant workforce.

The NLC report sets out a thorough investigation of harsh working conditions, including physical and sexual abuse, the lack of remuneration, the lack of access to adequate food and water, and poor living conditions. Individual guest workers were required to pay large sums of money in their home country to get a job, but in Jordan they were earning a fraction of what they had been promised, with some not seeing wages for long periods of time. In addition, upon arrival at the factories, workers' passports were reportedly confiscated and should there be complaints regarding lack of wages, there were incidences of workers being forcibly removed back to their country of origin to face the debt they could not repay. Having no access to their passports and no means of complaining without risk of removal, imprisonment, beatings or being denied

² National Labour Committee, U.S.-Jordan Free Trade Agreement Descends into Human Trafficking & Involuntary Servitude, New York, 2006.

food and drink, workers were effectively trapped both in Jordan and by the mounting debt incurring large sums of interest in their home country.

Furthermore, according to Jordanian law, non-Jordanian citizens, even those with a work permit to work in the QIZs, are prohibited from joining a trade union and therefore have no recourse to their assistance.

Shortly after the issues set out above were made public, the Jordanian government responded and the Ministry of Labour inspection teams, accompanied by representatives of the embassies of India, China and Sri Lanka, visited four of the QIZs to investigate the allegations. A number of penalties were issued and some establishments were closed.

Business Responses to the Issue

Collective action

On 21 September 2006 the American Federation of Labour and Congress of Industrial Organisations (AFL-CIO) together with the National Textile Association (NTA) in the US filed a joint complaint with the US government requesting that it invoke the dispute settlement procedures of the FTA as a result of Jordan's "gross" violations of workers' rights. The complaint alleged that Jordan was in violation of its commitment to respect the core labour standards of the ILO and to effectively enforce Jordanian labour law. This was the first time business organisations filed a workers' rights case under a trade agreement.

Individual responses

In direct response to the NLC report, companies responded as follows:

One company stated that it does not work directly with the factories, but with vendors and that it expects all vendors and factories to follow local laws and their own standards. The company clarified that – of the five factories listed – it only works with one and it will follow up with the vendor concerned to monitor and work closely with them. The company stated that it is committed to taking corrective action.

Another apparel company stated that one of the factories in question had produced a valid certification from a recognized program. Following the report from the NLC, the company followed up with its own investigation and found some of the issues contained in the report to be present. The company noted that it attempted to encourage corrective action at the factory but also notes that its orders represent less than 1% of the factory's production capacity. The company concluded that: 'consequently we do not have any leverage or bargaining power with the factory'. As a result of the findings and the lack

of cooperation from the factory, the company made the decision to not place further orders with them.

The response from a distribution company highlights a September 2006 onsite audit by its own internal auditors, which was followed up by a second visit in October 2006 where improvements were noted. The company observed that interviews with workers supported the evidence of improvement. The company also expressed its concern that, should it simply discontinue business with a particular factory, it would lose influence to negotiate for improvements in practice. However, the company does specify that where 'factory violations are egregious, such as prison labour, [it] immediately terminates [its] business with the supplier factory.' The company finally stated that it is working collectively with the Jordanian government, other retailers and the ILO to address the issues. Government, ILO and corporate engagement in the garment sector led to the establishment of Better Work Jordan in 2008,³ a programme that aims to improve compliance with labour standards, including the elimination of forced labour, in Jordan's apparel industry through workplace assessments, customized advisory services and training.

Initial Lessons from the Issue

It is clear that, although the main parties implicated in this case were the Jordan and US governments, the brands involved were also seen to be responsible for the conditions in the factories supplying them. The overall purpose behind the FTA with Jordan was to promote employment for domestic workers and attract foreign direct investment. However, it became apparent that the large migrant population brought into Jordan to fill the positions in the factories suffered most from the situation.

It seems that there is potential for companies to work collectively with the governments in question, the supplier factories and the ILO to aim at improving the situation. Companies should also look to working together with other companies that are supplied by the same factory. However, this does raise an issue for smaller suppliers attempting to tackle such problems since, if they are part of a significant supply chain, their influence may be limited. In such cases, a proactive industry body working on these issues with a large number of companies of different sizes can have a positive and welcome effect.

Finally, it is evident from the work of the NLC and the subsequent steps taken by companies that there is wide discrepancy in the effectiveness of audit procedures, in particular in recognizing and documenting instances of forced labour. For example, instances were reported of factory managers briefing workers on what they ought to say in response to questions posed by auditors.

³ <http://betterwork.org/jordan/>



Case Study # 4

Country: USA
Commodity: Raw Food Stuffs
Industry: Agriculture & Food

The Issue

The majority of individual workers on US farms who suffer from situations of forced labour are migrant workers from Mexico, Guatemala and Haiti. These individuals are sometimes trafficked directly from their country of origin or, increasingly, targeted upon arrival in the United States.

A number of cases have been documented by the Coalition of Immokalee Workers (CIW), an organisation established in 1993 by farm workers based in Florida. The CIW describes itself as a community-based worker organisation with members made up of Latino, Haitian, and Mayan Indian immigrants working in low-wage jobs in Florida.

According to the CIW, there is forced labour in practice on Florida farms which results from debt bondage whereby workers are required to work long hours and then see deductions from their wages for transport, tools and equipment. In several instances, these workers do not see the pay they are owed over long periods. They are kept at camps, live in poor conditions and often kept under surveillance by armed guards. The CIW has been instrumental in bringing about the prosecution of forced labour cases by working undercover with workers on the farms.

Several stories have been reported relating to poor working conditions and on 19 December 2007 three migrant workers who were working as fruit pickers escaped from their employer and relayed the conditions they had been subjected to. This included being forced into debt, beaten and being forced to pay for water to take a shower.

The CIW has focussed on a central issue of very low wages being paid to these workers, wages which have only marginally improved since the 1980s. They began a specific campaign targeting the tomato growers responsible for running the farms and then turned their attention to globally recognised international food brands.

Business Responses to the Issue

In response to the campaigns spearheaded by CIW, international food brands have been involved in tackling the issue of forced labour in their supply chains.

In March 2005, one of these brands agreed to pay one penny more per pound of tomatoes it buys from the Florida farms. This was coupled with the condition that the company would henceforth only work with suppliers who could guarantee the money was reaching the individual workers directly. Another brand reached a similar agreement with CIW in April 2007, which included a commitment to work on a code of conduct for the tomato growers and to increase the involvement of farm workers in monitoring compliance with the code. To date, similar agreements have been reached with nine other US-based and international companies.

CIW has maintained its position of targeting fast food giants rather than growers, but in May 2008, it put an end to its campaign against one of the brands after the announcement that the company would work together with CIW to improve working conditions for farm workers.

Fast food industry leaders agreed to take part in the increased wage programme and, together with CIW, called for industry-wide participation. In order to encourage growers' involvement, one brand committed to fund the incremental payroll taxes and administrative costs that would be incurred as a result of the increase in wages. The company and CIW also adopted zero tolerance guidelines which prescribe that certain unlawful practices of growers require their immediate termination from the supply chain. The company also committed to ensure farm workers' participation in the monitoring of growers' compliance with its vendor code of conduct.

Initial Lessons from the Issue

This case study sits in the wider context of responsible business practice relating to migrant workers. A study published in March 2007 by the Southern Poverty Law Center (SPLC)⁴ notes that individuals coming into the United States as migrant workers on the guest worker programme are at risk of abuse. As the report states: “[b]ound to a single employer and without access to legal resources, guest workers are:

- Routinely cheated out of wages;
- Forced to mortgage their futures to obtain low-wage, temporary jobs;

⁴ *Close to Slavery: Guestworker Programs in the United States*, March 2007. Available at: <http://www.splcenter.org>.

- Held virtually captive by employers or labour brokers who seize their documents;
- Forced to live in squalid conditions; and
- Denied medical benefits for on-the-job injuries.”

The CIW campaign and subsequent media coverage of the issue have focused principally on the poor wages paid to workers rather than on their working conditions amounting to forced labour. However, even if more companies were to pay an extra penny per pound to workers, the conditions for forced labour may well still exist and need to be addressed.

The danger here is that companies involved in the debate focus on the extra penny per pound campaign to the detriment of solving the more widespread problem set out in the SPLC report, which relates to instances of forced labour.

Additionally, there is scope here for questions to be asked about the private employment agencies which are responsible for recruiting workers in their home countries, who then are employed in the US agricultural sector. At present, this industry is highly unregulated to the extent that workers arrive in the US bound by high debts with exorbitant interest rates. Although US local law includes provisions requiring that the worker’s travel and visa costs are repaid, in practice full refunds are rare.

It is hoped that the companies publicly targeted through the work of the CIW are also able to examine the agencies, which provide workers to their tomato growers. It is to be hoped that a collaborative effort from several companies, industry bodies, relevant governments and the ILO could address the issue proactively. The pioneering work commenced by the signing and promotion of the Athens Ethical Principles is a helpful reference in this context.



Case Study # 5

Region: Middle East & Gulf
Industry: Food & Drink

The Issue

In early 2009, one of the world's largest beverage companies began auditing its suppliers in the Middle East and Gulf Region. This included 19 independent bottling plants and 2 owned and operated by the company itself. The countries covered included Bahrain, Kuwait, Oman, Qatar, United Arab Emirates and Yemen. In the first several assessments by third party auditors, it became immediately clear that almost all of the facilities in the region were withholding the passports of migrant workers. When auditors asked why this was taking place, facility managers typically said that this was either required by law, a customary practice or a requirement of insurance companies to safeguard against cash theft.

Although withholding personal documents is not automatically an indicator of forced labour or coercion in the workplace, nevertheless the practice can be considered an indication of abuse if workers cannot access their passports at their own discretion or if they feel unable to leave their jobs without losing the document. Withholding the passports of migrant workers can:

- Limit their freedom of movement;
- Indicate a lack of consent to employment;
- Inhibit workers' ability to obtain another job should they want to do so; and
- In some cases, even limit their access to social or health care services to which they might be entitled.

Business Responses to the Issue

Individual engagement

The company's response to these findings was immediate. It commissioned a third party review of national laws and regulations of the countries concerned, and followed up with a tour of the region and its suppliers by senior management from regional and global headquarters. On this basis, the Company developed guidance and implementation guidelines on the issue of passport retention, supplementing its existing supply chain compliance resources. This guidance

was developed and validated in a two stage process and subsequently shared with supplier facilities, supported by face-to-face training, ongoing written communication and one-to-one follow-up with managers.

The new guidelines explicitly set out the company's expectations. They require that workers have access and control over passports and similar documentation at all times, in accordance with local law and regulations. In practice, this means that suppliers can provide a "lock box" to workers for secure storage of their personal identification, for example if workers request storage facilities for their valuables; or it can involve the election of a worker representative to keep migrant workers' passports in a secure location. Whatever the solution, the focus of the guidelines is to ensure that workers' freedom of movement is not impeded in any way.

After disseminating the new guidelines across the region, the company held a one-day seminar for all suppliers in the countries concerned. The seminar offered business partners the opportunity to discuss the new policies, raise questions about them and identify the necessary next steps in implementing operational changes. The consultative process and the clarity of the new guidelines led to agreement amongst suppliers and their subsequent adoption and implementation of the recommendations. Since implementing the policy in mid-2009, no instances of passport retention have been reported or detected by ongoing audits. The guidelines are now integrated into the Company's regular supplier auditing programme and the passport retention issue features regularly in supplier communications, awareness raising and forums. Building on this success, the company will roll out similar guidelines to address worker contract and recruitment practices.

Collective engagement

As part of its overall approach to these issues, the company is also a leading member of a network established by the European Brands Association (AIM) and the US Food, Beverage and Consumer Products Association (GMA). This network is called AIM-PROGRESS, and its mandate focuses on a key compliance challenge faced by many companies operating in different sectors and industries:

- The audit fatigue felt by suppliers that are required to meet the diverse social and environmental standards of different buyers; and
- The related inefficiencies and unnecessary costs faced by both brands and suppliers, resulting from the duplication and overlapping of effort.

AIM-PROGRESS brings together over 40 of the world's largest consumer products companies. It promotes responsible sourcing practices and sustainable production systems with a key focus on developing and promoting



common audit and assessment methods to evaluate CSR performance in supply chains. A vital element of this work is joint training and capacity building for suppliers, and awareness raising on compliance risks faced by participating brands. The latter include forced labour and the risks faced by migrant and foreign contract workers, for example passport retention and the impediments to freedom of movement. To address these risks, the company works through AIM-PROGRESS to promote policy dialogue and industry-wide responses. A key element of this work is support for common audit procedures capable of identifying and addressing potential cases of abuse based on evolving good practice.

Initial Lessons from the Issue

- A collaborative approach that engages suppliers directly in the change process can greatly facilitate such change and improvements in the supply chain.
- Long-term business relationships and ongoing, regular contact between buyers and suppliers can have a positive impact on implementing compliance-related changes in the workplace.
- A company's sphere of influence may extend not only to its immediate suppliers, but to sub-contractors and even third party business partners that provide labour or other employment services.
- Although within the CSR community social auditing has its critics, the process – when performed well – can play an essential role in bringing to light certain risks of abuse within the supply chain.
- Leading by example and pioneering change and improvements at directly owned and operated facilities can enhance the credibility and legitimacy of those requesting the improvements.
- Working together with other brands to address common issues and concerns not only reduces inefficiencies and avoids the costly duplication of effort, it promotes better compliance across supply chains and can lead to more widespread implementation of preventive and corrective action against forced labour.

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Special Action Programme to Combat Forced Labour

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