

Asset Recovery and Restitution

Leveraging Inter-agency and Multi-stakeholder
Cooperation to Facilitate Compensation for Victims
and Survivors of Forced Labour and Human Trafficking

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About FAST

Finance Against Slavery and Trafficking (FAST) is a multi-stakeholder initiative based at United Nations University Centre for Policy Research (UNU-CPR) that works to mobilize the financial sector against modern slavery and human trafficking. Through its alliance-building approach and grounding its work in evidence-based approaches and rigorous analysis, FAST provides tools and training to financial sector stakeholders to take meaningful, sustained action against modern slavery and human trafficking. UNU-CPR is an independent think tank within the UN system based in New York. It combines research excellence with deep knowledge of the multilateral system to generate innovative solutions to current and future global public policy challenges.

Acknowledgements

This research project was managed by Mr. Andy Shen (Government and Multilateral Organizations Lead, FAST) and co-written with Dr. Loria-Mae Heywood (Research Associate, FAST) who also drafted the questionnaire instruments used to support the conduct of this study. This project and its research instruments also benefited significantly from internal review and feedback from present and former FAST team members, as well as external stakeholders.

The research findings from this study would not have been possible without the contributions of those who completed the Asset Recovery and Restitution Initiative (ARRI) questionnaires, those who attended and participated in the ARRI experts' meeting and research validation exercise held in New York in June 2023, as well as those who provided other significant inputs to this research.

Sincere thanks for inputs are extended to the following persons/organizations who/which contributed to ARRI questionnaires: civil society organization representatives from Malawi, Bangladesh, Indonesia, the USA, and Canada; customs representatives from the USA, Latvia, and Hungary; Financial Intelligence Unit representatives from Malawi, the Netherlands, Poland, Romania, Canada, Hungary, Latvia, Switzerland, and Australia; Ministry of Justice representatives/representatives from similar ministries and institutions from Liechtenstein, Latvia, Hungary, Malawi, and the Netherlands; a representative from the Ottawa Police; a representative from Indonesia's Coordinating Ministry for Political, Legal and Security Affairs; and representatives from the Egmont Group and Wolfsberg Group, along with two Wolfsberg Group members. Special thanks are also extended to government, civil society, financial sector, multilateral organization, and parliamentary representatives who participated in the ARRI experts' meeting held in June 2023.

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ISBN: 978-92-808-6614-8 © United Nations University, 2023.

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Citation: Andy Shen and Loria-Mae Heywood, *Asset Recovery and Restitution: Leveraging Inter-agency and Multi-stakeholder Cooperation to Facilitate Compensation for Victims and Survivors of Forced Labour and Human Trafficking* (New York: United Nations University, 2023).

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List of Abbreviations

AML	Anti-money laundering	NGO	Non-governmental organization
ARRI	Asset Recovery and Restitution Initiative	NOAA	National Oceanic and Atmospheric Administration
CACT	Criminal Assets Confiscation Taskforce	OECD	Organisation for Economic Co-operation and Development
CBP	Customs and Border Protection	OHCHR	Office of the High Commissioner for Human Rights
CBSA	Canada Border Services Agency	OSCE	Organization for Security and Co-operation in Europe
CDD	Customer due diligence	PPP	Public-Private Partnership
CFT	Counter-terrorist financing	RCMP	Royal Canadian Mounted Police
CSO	Civil society organization	SII	Survivor Inclusion Initiative
CTF	Counter-terrorist financing	SIMP	Seafood Import Monitoring Program
EC	European Commission	STPS	The Mexico Ministry of Labor and Social Welfare
ESDC	Employment and Social Development Canada	UNGPs	UN Guiding Principles on Business and Human Rights
EU	European Union	UNODC	United Nations Office on Drugs and Crime
FAST	Finance Against Slavery and Trafficking	UNTOC	UN Convention Against Transnational Organized Crime
FATF	Financial Action Task Force	WCO	World Customs Organization
FIU	Financial Intelligence Unit	WRO	Withhold Release Order
FSRB	FATF-Style Regional Bodies		
IEWG	Information Exchange Working Group		
ILO	International Labour Organization		
MOJ	Ministries of Justice		
MOU	Memoranda of Understanding		

Glossary¹

ARINs – Asset Recovery Interagency Networks facilitate and enable the identification and recovery of assets via cooperative action. CARIN (see description below) is one such network.

Asset – Anything an individual or legal entity owns that has a monetary value. Fixed assets are those items, such as buildings and equipment, that will be used over a period of time; current assets include raw materials, cash, and any money other parties owe to the individual or legal entity.

Asset recovery – The return or repatriation of the illicit proceeds, where those proceeds are located in foreign countries.

AUSTRAC – Financial Intelligence Unit (FIU) Australia.

CARIN – The CAMDEN asset recovery inter-agency network comprises law enforcement and judicial practitioners who are geared towards depriving criminals of illicit profits through their support of the asset recovery process – a process comprising asset tracing, freezing, seizure, management, and forfeiture/confiscation.

Compensation – Money provided for any economically assessable damage, which may include payment for material damages and loss of earnings, including loss of earning potential, lost income, and due wages according to national law and regulations regarding wages, mental harm, lost opportunities, moral damages, and costs required for legal, medical, psychological, or social services.

Confiscation – The permanent deprivation of funds or other assets by order of a competent authority or a court. Confiscation or forfeiture takes place through a judicial or administrative procedure that transfers the ownership of specified funds or other assets to be transferred to the State. Confiscation includes forfeiture, where applicable.

Evidence – The means by which alleged facts are proved or disproved for legal purposes. Testimonial, documentary, and “real” evidence are three forms of evidence commonly used in human trafficking cases. Testimonial evidence is rendered in the form of testimony, which can be obtained from sources such as victims/survivors, defendants, law enforcement officials, experts, and eyewitnesses. Documentary evidence can include financial and business records, contracts, e-mails, text messages, or invoices. “Real” evidence can include witness demeanour, photographs, biological materials, traces, fingerprints, and other proofs obtained at the crime scene.

FATF – The Financial Action Task Force is an inter-governmental body that has the responsibility of setting standards and promoting the effective implementation of legal, regulatory, and operational measures for combating money laundering, terrorist financing, and the financing of proliferation, and other related threats to the integrity of the international financial system.

FSRBs – FATF-Style Regional Bodies are autonomous regional organizations that support FATF in combating money laundering and terrorism financing and proliferation, as well as in fostering effective anti-money laundering/counter-terrorist financing systems.

¹ Definitions in the Glossary have been derived from a number of sources: ACAMS: <https://www.acams.org/en/resources/aml-glossary-of-terms#d-c6de0f58>; FATF: <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>; <https://www.fatf-gafi.org/en/publications/methodsandtrends/documents/trade-basedmoneylaundering.html>; OHCHR: https://www.ohchr.org/sites/default/files/Documents/publications/hr.pub.12.2_en.pdf; the Trafficking Protocol: <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>; The World Bank/UNODC (Brun et al., 2011): https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication_-_Asset_Recovery_Handbook.pdf; <https://openjurist.org/law-dictionary/evidence>; <https://dictionary.cambridge.org/us/dictionary/english/evidence>; https://www.unodc.org/documents/human-trafficking/2017/Case_Digest_Evidential_Issues_in_Trafficking.pdf; Black's & Ballentine's Law Dictionaries: <https://openjurist.org/law-dictionary/evidence>; Cambridge Dictionary: <https://dictionary.cambridge.org/us/dictionary/english/evidence>; UNODC: https://www.unodc.org/documents/human-trafficking/2017/Case_Digest_Evidential_Issues_in_Trafficking.pdf; UNODC: https://www.unodc.org/documents/organized-crime/Law-Enforcement/Criminal_Intelligence_for_Analysts.pdf; the Human Trafficking Legal Center: <https://htlegalcenter.org/wp-content/uploads/Short-Guide-to-Section-307-of-the-Tariff-Act-English.pdf>; the UN Guiding Principles Reporting Framework: <https://www.ungpreporting.org/glossary/value-chain/>; Michael Porter (1985): <https://www.hbs.edu/faculty/Pages/item.aspx?num=193>.

FINTRAC – FIU Canada.

Forced labour – All work or service that is extracted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.

Freeze – In the context of confiscation and provisional measures (e.g. FATF Recommendations 4, 32, and 38), this term means to prohibit the transfer, conversion, disposition, or movement of any property, equipment or other instrumentalities on the basis of, and for the duration of the validity of, an action initiated by a competent authority or a court under a freezing mechanism, or until a forfeiture or confiscation determination is made by a competent authority.

Human trafficking – The recruitment, transportation, transfer, harbouring, or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, the abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude, or the removal of organs.

Information – Knowledge in raw form.

Instrument or instrumentality – The assets used to facilitate crime such as a car or boat used to transport narcotics or cash.

Intelligence – Information that is capable of being understood, with added value, or that has been evaluated in context to its source and reliability.

Modern slavery – An increasingly used umbrella term that includes a range of forms of conduct defined in different ways. All these involve a victim being exploited or deprived of their freedom through coercion, threats, violence, or deception. These often overlap, so a victim of one form of modern slavery can often be a victim of other forms. While different jurisdictions define these forms of conduct in different ways, many jurisdictions refer to the following forms of conduct defined internationally: trafficking in persons or human trafficking within a country or between countries, forced labour, slavery, servitude, debt bondage, worst forms of child labour, and forced marriage.

Mutual legal assistance – The process by which jurisdictions seek and provide assistance in gathering information, intelligence, and evidence for investigations, in implementing provisional measures, and in enforcing foreign orders and judgments.

Predicate crimes – “Specified unlawful activities” whose proceeds, if involved in the subject transaction, can give rise to prosecution for money laundering.

Proceeds – Any property derived from or obtained, directly or indirectly, through the commission of an offence.

Property-based confiscation – A confiscation action that targets a specific thing or asset found to be the proceeds or instrumentalities of crime.

Red flags – Indicators that signal the presence of a situation, activity, or transaction that is potentially suspicious.

Remedy – Both the process of counteracting, or making right, a negative human rights impact as well as the substantive outcomes that can make right the negative impact. These outcomes may take a range of forms such as apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. In the context of business-related human rights abuses, the concept of remedy aims to restore individuals or groups that have been harmed by activities of a business to the situation they would have been in had the impact not occurred. Where this is not possible, it can involve compensation or other forms of remedy that try to make amends for the harm caused.

Restitution – Measures which should restore the victim to their original situation before the human rights violation occurred, except in circumstances that place the victim at risk of being re-trafficked or of further human rights violations. Such measures can include monetary payments to the victim that cover the victim’s losses.

Seize – To prohibit the transfer, conversion, disposition, or movement of property on the basis of an action initiated by a competent authority or a court under a freezing mechanism. However, unlike a freezing action, a seizure is effected by a mechanism that allows the competent authority or court to take control of the specified property. The seized property remains the property of the natural or legal person(s) that hold(s) an interest in the specified property at the time of the seizure, although the competent authority or court will often take over possession, administration, or management of the seized property.

Survivor – A person who has survived (lived on) after suffering harm due to their experience of human trafficking and/or forced labour. Civil society has a preference for this term and so within this document it is used conjointly with the term “victim” (i.e. victim/survivor) which is described below.

Suspicious Transaction Report – A government filing required by reporting entities that includes a financial institution’s account of a questionable transaction. Many jurisdictions require financial institutions to report suspicious transactions to relevant government authorities, such as its FIU, on a Suspicious Transaction Report, also known as a Suspicious Activity Report.

Value-based confiscation – A confiscation action to recover the value of benefits that have been derived from criminal conduct and to impose a monetary penalty of an equivalent value.

Value chain – The various business activities and processes involved in creating a product or performing a service. A company’s value chain encompasses the activities that convert input into output by adding value. It includes entities with which it has a direct or indirect business relationship and which either (a) supply products or services that contribute to the company’s own products or services, or (b) receive products or services from the company.

Victim – Commonly used in legal proceedings, this is a term used to identify a person who has experienced and suffered harm from human trafficking and/or forced labour. In this report, the terms “victim” and “survivor” are jointly used in an effort to capture the intersecting experiences of those who would have experienced human trafficking and/or forced labour. The joint use of these terms is apart from instances where legal or other documents make specific reference to either “victim” or “survivor.”

Withhold Release Order (WRO) – An order issued by US Customs and Border Protection instructing US Customs Officers to prevent imports from entering the US due to “reasonable but not conclusive” evidence that forced labour was used in the overseas production of goods. Goods that are subject to a WRO will be detained at all US ports.

Executive Summary

In recent years, respective jurisdictions have introduced or announced an intention to introduce bans to prevent the importation and use of goods produced by forced labour; import bans in the USA, Canada, and Mexico, and a Proposal for a regulation on prohibiting products made with forced labour on the European Union market are most noted in this regard. Such legislative and policy developments have provided opportunities to re-centre the provision of compensation and other forms of remedy to victims and survivors of forced labour and/or human trafficking in the global discourse on the efficacy of anti-slavery measures such as import bans. The focus of this study on forced labour and human trafficking (through which forced labour could occur) draws from the focus on forced labour in the current import ban regimes and in the proposed regulation to prohibit products made using forced labour on the internal market of the European Union. Canada is the only exception as it recently added child labour to its import ban (after the research for this report had been completed). Including a focus on human trafficking also ensures that almost all jurisdictions are covered, as there are many States that have yet to recognize forced labour as a distinct criminal offence – and a predicate offence for money laundering – whereas human trafficking is a criminal offence in almost all States.

This Paper argues that forced labour import bans (and prohibitions of products made with forced labour), if combined with anti-money laundering measures (identifying, freezing, seizing, and confiscating assets and proceeds derived from forced labour and/or human trafficking) and inter-agency and multi-stakeholder cooperation, could contribute to a reduction of the current gap in the provision of remedy to victims/survivors of forced labour and/or human trafficking. In a global context in which approximately \$150 billion in profits is generated from forced labour per year, the realization of the right of victims to remedy could also result in accountability from corporations that commit or support human rights violations.

During the conduct of this study, questionnaires were distributed to representatives from governments, multilateral organizations, the private sector, and civil society. The number of responses to the respective questionnaires, by agency, can be seen as follows: financial intelligence units (FIUs, nine), Ministries of Justice and similar ministries/institutions (six), law enforcement (one), customs authorities (three), the Wolfsberg Group (one), the members of the Wolfsberg Group (two), the Egmont Group (one), and civil society organizations (CSOs, 24). This was in an effort to understand how, and the extent to which, respective agencies/entities have engaged in individual and particularly collaborative efforts to facilitate or enable financial compensation for victims/survivors of human trafficking and/or forced labour. Issues covered in these questionnaires were diverse and included coverage of the following: investigations into proceeds laundered from human trafficking and/or forced labour, the freezing and seizing of assets and/or proceeds derived from human trafficking and/or forced labour, the provision of information and/or evidence regarding goods produced by forced labour and/or human trafficking, financial education/literacy for victims/survivors, and compensation to victims/survivors (responsibility, delivery, and access).

Based on feedback from stakeholders, some agencies/entities have either received or delivered training pertaining to undertaking investigations into proceeds laundered from human trafficking/forced labour. In contrast, a significantly smaller proportion have received training regarding the identification of cases where asset recovery for victims/survivors should take place, as well as the freezing and seizure of assets linked with human trafficking and/or forced labour. While not necessarily due to such trends in training, the work of a larger proportion of agencies/entities has *triggered* investigations into proceeds laundered from human trafficking and/or forced labour. In contrast, a smaller proportion of agencies/entities have provided support

towards the freezing and/or seizure of assets/proceeds linked with human trafficking and/or forced labour.

Only some representatives from Ministries of Justice (three) and CSOs (nineteen) indicated their experience of supporting legal or administrative proceedings to use seized assets or proceeds to compensate victims/survivors of human trafficking and/or forced labour; compensation was forthcoming in two (66.7 per cent) and nine (47.4 per cent) of these cases, respectively. In the Ministry of Justice cases, compensation was sourced from individuals/companies in both the country where the worker was exploited and the country where the goods produced by forced labour and/or victims/survivors of human trafficking were sold. Notwithstanding the small number of cases emerging from respondents where victims/survivors were compensated, the majority of respondents across FIUs, customs authorities, law enforcement, Ministries of Justice, and CSOs believed in shared responsibility for the provision of compensation: compensation should be provided by *both* the responsible individual(s)/company/ies in the country where the worker was exploited, and the profiting individual(s)/ company/ies in the country where the goods produced by victims of forced labour and/or human trafficking were sold.

Collaboration across agencies/entities in the realm of investigations, asset freezing and seizing, and compensation has likewise followed the patterns above, with most collaboration taking place for the purpose of making investigations into proceeds laundered from human trafficking and/or forced labour. Such collaborations have involved both domestic agencies, as well as agencies based overseas. For example, in the realm of investigations, with a focus on domestic agencies/entities, FIUs had the greatest collaboration with law enforcement authorities and financial institutions. For investigations and collaboration with overseas-based agencies/entities, FIUs had the greatest collaboration with fellow FIUs and financial institutions. Regarding the facilitation of compensation among domestic agencies, Ministries of Justice largely collaborated with FIUs, financial institutions, law enforcement, and customs authorities, although the Public Prosecution Service of the Netherlands also collaborated with their tax, social security, and local authorities towards this end. Ministries of Justice also collaborated with overseas-based law enforcement, financial institutions, and FIUs for the purpose of facilitating compensation for victims/survivors. In contrast, CSOs collaborated with (in order of precedence) law enforcement authorities, Ministries of Justice, FIUs, and other agencies/entities for the purpose of facilitating compensation for victims/survivors.

Ministries of Justice indicated challenges in collaborating with local agencies/entities in the realm of compensation: the difficulty of combining different types of information into databases, possibly due to privacy laws, and the difficulty in establishing coordination and cooperation among agencies/entities. Challenges experienced by CSOs in this regard include the following: difficulties in victims/survivors accessing administrative remedies without the help of an attorney due to extreme bureaucracy, the lack of resources of victims/survivors to hire legal representation to claim their compensation, and the fact that some agencies do not focus on victim assistance. Further, Ministries of Justice and/or collaborating agencies/entities indicated a number of challenges in gaining compensation for victims/survivors. Such challenges related to establishing relationships with companies in countries where workers are exploited, tracing proceeds, the need for a confiscation procedure in some jurisdictions, and the need for courts to receive more training.

While government ministries are instrumental to victim compensation, supported by the establishment of guidelines, standards, and regimes pertaining to asset recovery, CSOs play a crucial role in providing information and evidence to respective agencies on companies that produce goods by forced labour and/or human trafficking. Such information-sharing by CSOs is viewed within a context where the issuing of orders by US Customs and Border Protection to prevent the importation of goods produced by forced labour has sometimes been preceded by the provision of information and evidence by CSOs on goods produced by forced labour. As seen from questionnaire responses, target CSOs have largely (though not exclusively) provided information and evidence, respectively, to local law enforcement agencies and FIUs, as well as overseas-based law enforcement agencies and customs authorities.

There were differing perceptions about who was responsible for ensuring that victims (including families where victims are deceased) and survivors receive compensation once illegal assets are seized: a mixture (in order of preference) of the relevant government agencies in the country of origin, the relevant government agencies in the country where exploitation occurred, CSOs representing the victims/survivors and/or their families, and the relevant government agencies in the market state.

While some efforts made by respective agencies/entities have resulted in the enabling of compensation of victims/survivors of forced labour and/or human

trafficking, the ability of victims/survivors to access this compensation and to be equipped with the capacities to use this compensation are not automatically addressed or guaranteed. The majority (80 per cent) of CSO questionnaire respondents across all represented countries placed a high level of importance on financial education/literacy for victims/survivors. In some cases, CSOs and other organizations provided financial education to victims/survivors of human trafficking who received or were expected to receive compensation. The top challenge faced by all responding agencies/entities in the delivery of compensation to victims/survivors was that victims/survivors could not access compensation if it was paid to an account from a regulated financial institution other than a bank (for example, mobile money service provider) – a possible indication that survivors are more likely to have mobile wallets than bank accounts. This was closely followed by the challenge of victims/survivors not having access to a bank account, and the challenge of finding/tracing survivors.

This research paper makes a number of recommendations pertaining to the topics of anti-money laundering, asset recovery, the provision of compensation to victims/survivors, and the pursuit of inter-agency and multi-stakeholder collaboration to enable and facilitate compensation. These are directed towards States, specific government agencies, multilateral organizations, financial institutions, asset recovery inter-agency networks, and CSOs. It is hoped that these recommendations, along with the insights provided in this report will make apparent the opportunity that import bans present for inter-agency/entity collaboration and cooperation towards facilitating and enabling greater recovery of assets/proceeds from human trafficking and forced labour (and the sale of goods produced through these offences), compensation for victims/survivors, and a significant reduction of the current, persisting remedy gap.

Introduction

In recent years, both trade and anti-money laundering (AML) laws have increasingly been utilized to combat forced labour and human trafficking. The US Trade Facilitation and Trade Enforcement Act of 2015 has been used numerous times by US Customs and Border Protection (CBP) to detain and seize goods suspected of being produced by forced labour. Meanwhile, financial intelligence units (FIUs) such as the US Finance Crimes Enforcement Network and the FIUs of Canada and the Netherlands have increased efforts to combat human trafficking. Internationally, Canada and Mexico have adopted laws that prohibit the importation of goods produced by forced labour, while the European Union (EU) is considering a regulation on prohibiting products made with forced labour on the European Union market. International organizations such as the Financial Action Task Force (FATF), the Egmont Group of Financial Intelligence Units (Egmont Group), and the Organization for Security and Co-operation in Europe (OSCE) have produced reports and guidance on utilizing the AML regime to counter human trafficking. The United Nations University Centre for Policy Research's (UNU-CPR) Finance Against Slavery and Trafficking (FAST) Initiative is providing technical support to FIUs and financial institutions on how to strengthen the identification and reporting of suspicious transactions relating to modern slavery, including forced labour and human trafficking.^{2,3}

While the trade and AML regimes have been used separately to hold perpetrators accountable for their crimes, the current legal framework in States with forced

labour import bans and those that are considering import bans does not allow customs authorities, FIUs, investigators, and prosecutors to leverage their respective authorities and tools in a coordinated and systematic fashion to facilitate the provision of remedy to victims/survivors of forced labour and human trafficking in global value chains. In nearly all of these States, knowingly benefiting financially from forced labour or human trafficking is not a crime and therefore not a predicate offence to money laundering. States such as the US where it is criminalized have yet to include it in their list of predicate offences to money laundering. Thus, companies that knowingly profit from the sale of goods produced by forced labour or through human trafficking in these jurisdictions cannot have their illicit assets or proceeds confiscated and used to compensate victims/survivors of these serious human rights violations.

Human trafficking is one of the world's greatest generators of illicit profits,⁴ while forced labour generates at least \$150 billion in profits every year and likely much more when taking into account the earnings of multinational companies that save on the cost of labour in their value chains. Yet, very low amounts of illicit assets and proceeds are recovered and used to compensate victims/survivors of these crimes, especially workers exploited in Global South value chains. Slavers and traffickers find ways to hide their assets or otherwise avoid compensating victims/survivors for the harms they suffer. Further, corporations that do business with slavers and traffickers financially benefit from these crimes, yet

² Frank Haberstroh and Simon Zaugg, "Detecting Financial Flows of Human Trafficking and Modern Slavery: A Guide to Automated Transaction Monitoring," *UNU-CPR Guideline* (New York: United Nations University, 2023).

³ Frank Haberstroh and Simon Zaugg, "Establishing an Agile Response Process to Crisis and Conflict-related Modern Slavery and Human Trafficking Risks," *UNU-CPR Policy Brief* (New York: United Nations University, 2023).

⁴ "Global Organized Crime Index 2023. A fractured world," The Global Initiative, last accessed on 29 September 2023, <https://www.ocindex.net/>.

few forfeit the illicit proceeds or otherwise contribute to financial remedy. When illicit proceeds are seized and/or confiscated,⁵ they are sometimes not used, or only partially used, to compensate the victims/survivors.

Remedy for forced labour and human trafficking is a fundamental human right and guaranteed in many national laws, but the disparity between illicit profits and compensation is glaring. This has been referred to as the “remedy gap.” The emergence of import bans and corresponding mechanisms to enforce the bans offers an opportunity to consider how the current AML framework in States with import bans, and those that adopt bans in the future, could be adapted to prevent forced labour and/or human trafficking in global value chains and help restore victims/survivors. FAST recognizes that different approaches to address the remedy gap for victims/survivors exploited by the companies subject to import bans have been proposed by other organizations. Some of these approaches are included in the recommendations in this report and FAST considers the AML approach to be complementary and not the only way nor necessarily the best way to ensure victims/survivors are compensated for the harms they suffer. However, given the magnitude of the problem and the barriers that exist for some of the other approaches, it is important to expand the discussion on possible solutions to include the AML regime.

If “knowingly benefiting financially from forced labour or human trafficking” is made a predicate offence to money laundering in States where there are import bans, then customs or other authorities responsible for enforcing the bans could cooperate with FIUs and other competent authorities by sharing relevant information on the identities of corporations or individuals suspected of causing, contributing to, or otherwise being linked through a business partner to the proscribed abuses. With the information on suspected forced labour or human trafficking at their disposal, these authorities could issue a search and report order to all financial institutions in the State to identify all counterparties benefiting from the alleged violations, engage in the freezing of assets where the jurisdiction permits, and solicit support from law enforcement authorities who could then investigate further and potentially seize assets or proceeds. Subsequent judicial or administrative processes could then be used to compensate the victims/survivors.

While a new predicate offence is needed to apply the AML regime to illicit proceeds in market States, much can already be done with current AML tools to strengthen enforcement of forced labour import bans. In jurisdictions where the law currently prohibits the importation of goods produced by forced labour, FIUs and other competent authorities can share relevant information under public–private partnerships (PPPs) with relevant financial institutions, and (the law permitting) with customs authorities and other competent authorities on suspected proceeds from forced labour. Such information can be considered by customs or other authorities responsible for enforcing import bans as part of their initial inquiry into possible forced labour in the value chains of domestic companies.

A. Study Outline

To help address the aforementioned victim/survivor remedy gap, FAST launched the Asset Recovery and Restitution Initiative (ARRI) to enhance cooperation between and among customs authorities, FIUs, law enforcement authorities, Ministries of Justice (and similar ministries/institutions),⁶ financial institutions, civil society organizations (CSOs), and other relevant actors. These agencies, institutions, and organizations all have a crucial role to play in securing compensation for victims/survivors and effective cooperation is key to achieving positive outcomes. Cooperation between relevant actors in the Global South and relevant actors in the Global North is especially important considering that Global North import bans and AML laws are or can be used to address human trafficking and/or forced labour in the Global South. It is hoped that ARRI will ultimately contribute to increased financial remedy for victims/survivors through asset recovery from individuals and companies that profit from forced labour and human trafficking in global value chains. Given that 86 per cent of forced labour occurs in the private economy, securing compensation for victims/survivors in global value chains would significantly reduce the risk of forced labour in the Global South.

ARRI builds on extensive research conducted by organizations such as the Egmont Group, FATF, OSCE, and the United Nations Office on Drugs and Crime (UNODC). It adds a new dimension by examining

⁵ “Survey Report 2021 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings,” OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2022, https://www.osce.org/files/f/documents/6/1/522934_1.pdf.

⁶ Within this text, ‘Ministries of Justice’ is used to refer to such ministries and similar ministries/institutions in respective countries.

the existing and potential use of diverse sources of information, intelligence, and evidence obtained during the process of enforcing forced labour import bans to enforce AML laws and vice versa. It also considers the roles and perspectives of financial institutions, CSOs, and trade unions on the issue of remedy for victims/survivors in global value chains.

This report is structured into seven sections. First, we provide an overview of the relevant international policies and standards. Second, we introduce the current national forced labour import ban regimes⁷ and consider the proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the EU market. Third, we assess the implementation of international policies and standards. Fourth, we discuss the results of our questionnaires that were completed by governments, multilateral organizations, financial institutions, CSOs, and trade unions. Fifth, we highlight promising practices of inter-agency and multi-stakeholder cooperation that can be used to support remedy for victims/survivors in global value chains. Sixth, we conclude with some reflections. Finally, we offer recommendations to governments, asset recovery networks, multilateral organizations, financial institutions, CSOs, and trade unions.

B. Methodology

Countries with forced labour import bans, those that have considered or may consider such bans, and third countries that have interacted with such measures, have been key contributors to this study. This has enabled an exploration of how such measures could potentially be combined with a focus on money laundering – if “knowingly benefiting financially from forced labour

or human trafficking” is criminalized and added as a predicate offence – to facilitate and enable compensation for victims/survivors of forced labour and/or human trafficking in global value chains.

Questionnaires soliciting details on asset recovery and compensation were sent to agencies/entities⁸ that have or could potentially play a role in the recovery of assets or proceeds derived and laundered from forced labour and/or human trafficking. Countries chosen for participation were those with import bans, those that have considered or may consider such bans, as well as those that have been subject to or affected by US-initiated Withhold Release Orders (WROs).⁹ Questionnaires were further sent to CSOs situated in some countries which were subject to WROs and which have workers that have been affected by such Orders. Additionally, CSOs in countries with import bans were invited to contribute information. CSO questionnaires focused on the respective involvement of CSOs in providing information and/or evidence about companies/entities that produce goods by forced labour and/or human trafficking, as well as their respective roles and views regarding compensation. Due to their role in the monitoring and reporting of suspicious transactions, and in implementing government actions related to freezing and seizing assets, questionnaires were also created for, and distributed to, global banks (members of the Wolfsberg Group).¹⁰ These questionnaires focused on the plans, if any, that banks had related to the development of guidance/guidelines and/or capacity-building and training pertaining to asset recovery and compensation. Finally, questionnaires were sent to multilateral organizations which have a mandate that includes the development and oversight of standards pertaining to money laundering. Questions were asked about the guidance (if any) that these entities and any collaborating agencies provided in supporting asset

⁷ At the time of finalizing this report, generally applicable import bans have been established in the US, Canada, and Mexico and are therefore discussed in this report, along with the proposed regulation to prohibit products made using forced labour on the internal market of the EU. The focus on generally applicable bans does not signify that the AML measures contemplated in this report should not be paired with import bans focused on specific regions, although there are significant challenges to compensation for victims of ongoing State-sponsored forced labour.

The focus of this study on forced labour and human trafficking (through which forced labour could occur) draws from the focus on forced labour in the current import ban regimes and in the proposed regulation to prohibit products made using forced labour on the internal market of the European Union. Canada is the only exception as it recently added child labour to its import ban (after the research for this report had been completed). Including a focus on human trafficking also ensures that almost all jurisdictions are covered, as there are many States that have yet to recognize forced labour as a distinct criminal offence – and a predicate offence for money laundering – whereas human trafficking is a criminal offence in almost all States.

⁸ Financial Intelligence Units, customs authorities, Ministries of Justice, Indonesia’s Coordinating Ministry for Political, Legal, and Security Affairs, and Law Enforcement.

⁹ Of the three countries which that have introduced import bans, the US has most actively used these bans.

¹⁰ “The Wolfsberg Group,” last accessed on 29 September 2023, <https://wolfsberg-group.org/>.

recovery and compensation for victims/survivors, as well as queries pertaining to their plans (if any) to develop guidance and/or capacity-building on such issues. Of the questionnaires distributed, responses were garnered from 47 respondents across organizations/agencies/entities. Aside from responses from banks and multilateral organizations, questionnaire responses reflected responses from 13 countries across Africa, the Asia-Pacific region, Europe, and North America.

C. Study Limitations

This study was based on a small number of agencies/entities that have supported or have the potential to support asset recovery in forced labour/human trafficking cases, not least via the provision of information, intelligence, and evidence to support investigations into forced labour/human trafficking, the seizing and freezing of illicit assets/proceeds, the confiscation of these

assets and proceeds, and the provision and delivery of compensation to victims/survivors. Customs authorities were notably considered for enforcing import bans in respective jurisdictions; other competent authorities were not considered in this research. The conclusions derived from this research are largely in response to the revelations provided by the agencies/entities that completed respective questionnaires and do not necessarily reflect the individual and collective practices of respective agencies/entities.

The geographic participation of participants is not evenly distributed. Hence, the contributions of participants are not representative.

Further, all questionnaires were in English, save for questionnaires for CSOs which were in both English and Bahasa. The responses captured, and the conclusions drawn in this study were therefore drawn from only English- and Bahasa-speaking participants.

I. International Policies and Standards

A. Remedy for Victims/Survivors of Forced Labour and Human Trafficking

The right to an effective remedy for human trafficking is codified in the UN Convention Against Transnational Organized Crime¹¹ [UNTOC, Arts. 14(2) and 25(2)] and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children¹² [Palermo Protocol, Arts. 6(2) and 6(6)].

UNTOC, Art. 25(2), states, “each State Party shall establish appropriate procedures to provide access to compensation and restitution for victims of offences covered by this Convention.” UNTOC, Art. 14(2) obliges State parties to give priority consideration to returning confiscated proceeds of crime or property to a requesting State Party for compensation of (or return to) victims.

Art. 6(6) of the Palermo Protocol, states, “each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.”

According to the UNODC,¹³ compensation measures for victims of trafficking may fulfil multiple purposes, including the following: (a) payment or reparation for injury, loss or harm caused by the offender; (b) access to justice; (c) provision of assistance, empowerment, and self-determined recovery of victims; and (d) punishment and deterrence of traffickers. Further, the UNODC notes that there are two main methods of compensation: (a) “offender”-funded compensation, and (b) State-funded compensation schemes. The latter does not depend on the identification of an offender and the adjudication of a criminal case. Such schemes may be funded from multiple sources, including confiscated assets of any and all offenders.

The right to an effective remedy for forced labour is enshrined in the International Covenant on Civil and Political Rights¹⁴ [ICCPR, Art. 2(3)], and the Protocol of 2014 to the Forced Labour Convention, 1930¹⁵ (No. 29) [Protocol of 2014, Arts. 1(1), 4(1)].

Art. 2(3) of the ICCPR states in pertinent part, “Each State Party to the present Covenant undertakes: (a) to ensure that any persons whose rights or freedoms as herein recognized [e.g. freedom from forced labour] are violated shall have an effective remedy ...”

¹¹ *United Nations Convention Against Transnational Organized Crime and the Protocols Thereto*, (Vienna: UNODC, 2004). Accessible at: <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>.

¹² *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (Geneva: OHCHR, 2000). Accessible at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>.

¹³ *National Approaches to Compensation of Victims of Trafficking in Persons* (Vienna: UN Working Group on Trafficking in Persons, 19 October 2010). Accessible at: https://www.unodc.org/documents/treaties/organized_crime/COP5/CTOC_COP_WG4_2010_CRP1/CTOC_COP_WG4_2010_CRP1_E.pdf.

¹⁴ *International Covenant on Civil and Political Rights* (Geneva: United Nations, 1966). Accessible at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

¹⁵ *P029 - Protocol of 2014 to the Forced Labour Convention, 1930* (Geneva: International Labour Organization, 2014). Accessible at: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:P029.

Art. 1(1) of the Protocol of 2014 states in pertinent part, “[E]ach Member shall take effective measures to ... provide to victims ... access to appropriate and effective remedies, such as compensation ...” Art. 4(1) of the Protocol of 2014 elaborates on the victims’ right to compensation by making clear that the State’s obligation applies regardless of whether the victim is present or has legal status in the national territory where they were subject to forced or compulsory labour.

In addition to these treaties, the right to an effective remedy is reflected in the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons (“Basic Principles on the Right to Remedy for Victims of Trafficking”),¹⁶ the Basic Principles and Guidelines on the Right to a Remedy and Reparation for the Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (“Basic Principles on the Right to a Remedy for the Victims of Gross Violations of International Human Rights Law”),¹⁷ the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power,¹⁸ and the Office of the High Commissioner for Human Rights (OHCHR) Recommended Principles and Guidelines on Human Rights and Human Trafficking.¹⁹

The Basic Principles on the Right to a Remedy for the Victims of Gross Violations of International Human Rights Law states in pertinent part:

- “Under international law, the violation of any human right gives rise to a right of reparation for the victim. Particular attention must be paid to gross violations of human rights and fundamental freedoms, which include at least ... slavery and slavery-like practices ...”;
- “[The forms of remedy for victims of gross violations of international human rights law] include restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition”; and
- “Compensation [must be] provided for any economically assessable damage [which] may include mental harm, lost opportunities, moral

damage, and costs required for legal, medical, psychological, or social services.”

The Basic Principles on the Right to Remedy for Victims of Trafficking states in pertinent part:

- “The right to an effective remedy encompasses both the substantive right to remedies and the procedural rights necessary to secure access to them” (para. 5);
- “Bilateral and multilateral State cooperation is an important means enabling States to meet their obligations with regard to the right to an effective remedy for victims of trafficking in persons” (para. 6);
- “States shall provide restitution that, whenever possible, restores the victim to the original situation before the trafficking except in circumstances that place the victim at risk of being re-trafficked or of further human rights violations”²⁰ (para. 8);
- “States shall provide victims of trafficking in persons with compensation for any economically assessable damages as appropriate and proportional to the gravity of the violation and the circumstances of each case. Mere difficulty in quantifying damage shall not be invoked as a reason to deny compensation. Forms of compensation include, as appropriate: payment for material damages and loss of earnings, including loss of earning potential, lost income, and due wages according to national law and regulations regarding wages” (para. 10); and
- “States shall ensure that laws, mechanisms, and procedures are in place to enable victims of trafficking in persons to have access to compensation, including: [freezing and confiscating] the instruments and proceeds of trafficking, including for the purposes of supporting and compensating victims of trafficking in persons” (para. 12).

¹⁶ Report of the Special Rapporteur on Trafficking in Persons, especially women and children, Joy Ngozi Ezeilo, Annex, 6 August 2014.

¹⁷ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Geneva: United Nations, 2005). Accessible at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation#:~:text=A%20victim%20of%20a%20gross,provided%20for%20under%20international%20law>.

¹⁸ Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Geneva: United Nations, 1985). Accessible at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-basic-principles-justice-victims-crime-and-abuse>.

¹⁹ Recommended Principles and Guidelines on Human Rights and Human Trafficking (Geneva: OHCHR, 2002). Accessible at: <https://digitallibrary.un.org/record/478074?ln=en>.

²⁰ The examples provided of restitution in the Basic Principles differ from the definition of restitution used in ARRI which corresponds with the definition used by some States in their anti-trafficking laws, e.g. compensation under theories of unjust enrichment or opportunity loss.

The OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking states in pertinent part:

- “States should consider ... making legislative provision for confiscation of the instruments and proceeds of trafficking and related offences. Where possible, the legislation should specify that the confiscated proceeds of trafficking will be used for the benefit of victims of trafficking. Consideration should be given to the establishment of a compensation fund for victims of [trafficking] and the use of confiscated assets to finance such a fund” (Guideline 4, para. 4).

The right to an effective remedy for business-related human rights abuse, including forced labour, is covered by the UN Guiding Principles on Business and Human Rights (UNGPs)²¹ and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises (“OECD Guidelines”).²² Both the UNGPs and the OECD Guidelines apply to financial institutions as well as businesses in the real economy.

Principle 25 of the UNGPs states, “as part of their duty to protect against business-related human rights abuse, States must take appropriate steps to ensure, through judicial, administrative, legislative, or other appropriate means, that when such abuses occur within their territory and/or jurisdiction those affected have access to effective remedy.”

The OECD Guidelines chapter on human rights is consistent with the UNGPs “protect, respect, and remedy” framework. It states in pertinent part, “States have the duty to protect human rights. Enterprises should, within the framework of internationally recognized human rights, the international human rights obligations of the countries in which they operate as well as relevant domestic laws and regulations: ... Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.”²³

The OECD Guidelines commentary on the human rights chapter notes that the business responsibility to respect human rights and address actual adverse human rights impacts means remediation of the identified impacts with which they are involved. The commentary further notes that businesses should have processes in place to enable remediation and some situations require cooperation with judicial or State-based non-judicial mechanisms.

While the UNGPs and OECD Guidelines reflect the right to remedy for business-related human rights abuse, the State’s duty to ensure access to effective remedy in this context is limited in these instruments to abuses that occur within the territory and/or jurisdiction of the State. The commentary to Principle 2 of the UNGPs notes that this limitation reflects international human rights law which generally does not require – nor prohibit – States to regulate the extraterritorial activities of businesses domiciled in their territory and/or jurisdiction. It also notes that some human rights treaty bodies have recommended that home States (where businesses are domiciled) take steps to prevent abuse abroad by businesses within their jurisdiction.

The UN Working Group on Business and Human Rights addressed the extraterritorial obligations of States in its Guidance on National Action Plans on Business and Human Rights. The Guidance notes, “while the Government’s legal duty is generally restricted to adverse impacts in the country’s territory and/or jurisdiction, States should also take into account extraterritorial implications of business enterprises domiciled in their territory in accordance with the UNGPs.” On remedy for abuses in global value chains, the Guidance notes, “access to remedy can be provided by State-based and non-State-based, as well as judicial and non-judicial mechanisms ... States should ensure that the combination of the measures available allow for effective remedy. In this regard, governments should consider: assessing [in case(s) where this has not yet been done] to what extent victims of domestic and extraterritorial adverse corporate human rights impact have access to remediation mechanisms and address the identified gaps.”²⁴

²¹ *Guiding Principles on Business and Human Rights* (New York and Geneva: United Nations, 2011). Accessible at: https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.

²² *OECD Guidelines for Multinational Enterprises* (OECD Publishing, 2011). Accessible at: <https://www.oecd.org/daf/inv/mne/48004323.pdf>.

²³ *Ibid*, 31.

²⁴ *Guidance on National Action Plans on Business and Human Rights* (Geneva: UN Working Group on Business and Human Rights, 2016), p. 12. Accessible at: https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNWG_NAPGuidance.pdf.

Other initiatives have aimed to fill the gap in the international legal framework that has contributed to the lack of remedy for victims of human rights abuses, including forced labour and human trafficking, in global value chains. These include the draft internationally legally binding instrument developed by the open-ended inter-governmental working group on transnational corporations and other business enterprises,²⁵ and the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social, and Cultural Rights (“Maastricht Principles”).²⁶ The Maastricht Principles were adopted in September 2011 by a group of 40 experts in international law and human rights. The experts came from organizations and universities from all regions of the world, and included members of international human rights treaty bodies, regional human rights bodies, and Special Rapporteurs of the United Nations Human Rights Council. They noted that the Principles are not an attempt to establish new elements of human rights law, but rather clarify extraterritorial obligations of States on the basis of existing international law.

The Maastricht Principles assert that “[a]ll States have obligations to respect, protect and fulfil human rights, including civil, cultural, economic, political and social rights, both within their territories and extraterritorially.”²⁷ The Principles further assert that “[a]ll States must cooperate to ensure that non-State actors do not impair the enjoyment of the economic, social and cultural rights of any persons. This obligation includes measures to prevent human rights abuses by non-State actors, to hold them to account for any such abuses, and to ensure an effective remedy for those affected.”²⁸

On remedy, the Principles clarify that “States must ensure the enjoyment of the right to a prompt, accessible, and effective remedy before an independent authority, including, where necessary, recourse to a judicial authority, for violations of economic, social, and

cultural rights ... To give effect to this obligation, States should: (a) seek cooperation and assistance from other concerned States where necessary to ensure a remedy; (b) ensure remedies are available for groups as well as individuals; (c) ensure the participation of victims in the determination of appropriate remedies; (d) ensure access to remedies, both judicial and non-judicial, at the national and international levels; and (e) accept the right of individual complaints and develop judicial remedies at the international level.”²⁹

B. Asset Recovery, Confiscation, and Compensation

The FATF is the principal international organization that establishes standards on AML and terrorist financing and reviews their implementation. The FATF standards take the form of recommendations, which set out a comprehensive framework of measures for countries to implement to combat these crimes. They also comprise the Interpretive Notes and the applicable definitions in the Glossary. The FATF also produces Guidance, Best Practice Papers, and other advice to support countries in implementing its standards.

While the FATF Recommendations are not legally binding, there are significant consequences for countries that do not implement them effectively. Countries that are put on the grey list³⁰ are subject to increased monitoring while countries on the blacklist are considered high-risk and therefore subject to enhanced due diligence. In the most serious cases, countries are subject to countermeasures aimed at protecting the international financial system. In practice, FATF Member States and other international bodies often impose economic penalties and other sanctions on blacklisted countries.³¹ Grey-listed countries

²⁵ “Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights,” United Nations Human Rights Council, last accessed 29 September 2023, <https://www.ohchr.org/en/hr-bodies/hrc/wg-trans-corp/igwg-on-tnc>.

²⁶ *Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights* (Heidelberg: ETO Consortium, 2013).

²⁷ *Ibid.* (General Principle 3).

²⁸ *Ibid.* (General Principle 27).

²⁹ *Ibid.* (General Principle 37).

³⁰ “Black and grey’ lists,” FATF, last accessed 29 September 2023, <https://www.fatf-gafi.org/en/countries/black-and-grey-lists.html>.

³¹ “Financial Crime Academy,” last accessed 29 September 2023, https://financialcrimeacademy.org/the-implications-of-fatf-greylist-and-blacklist/#mctoc_1fg6v3clt5.

face the loss of correspondent banks³² that decide not to pay extra costs for increased monitoring, especially when the volume of transactions is small, which makes increased monitoring economically unviable. The threat of significant fines³³ for not identifying money laundering is also a major factor in financial institutions' decisions to limit or halt their operations and relationships in high-risk and higher-risk jurisdictions.

The relevant FATF standards³⁴ are Recommendation 4 on confiscation and provisional measures, and Recommendation 38 on mutual legal assistance for the freezing and confiscation of illicit assets and proceeds, and their accompanying interpretative notes. The corresponding best practices identified by FATF for these two recommendations are also important for policymakers and administrators to consider when establishing, implementing, and assessing national and international frameworks for asset recovery, confiscation, and compensation.

FATF Recommendation 4 states in pertinent part, "countries should adopt measures [...], including legislative measures, to enable their competent authorities to freeze or seize and confiscate [...] property laundered, [and] proceeds from, or instrumentalities used in or intended for use in money laundering or predicate offences [...]" (p. 12).

Recommendation 4 further states, "such measures should include the authority to: (a) identify, trace and evaluate property which is subject to confiscation; (b) carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property; (c) take steps that will prevent or void actions that prejudice the country's ability to freeze or seize or recover property that is subject to confiscation; and (d) take any appropriate investigative measures" (p. 12).

Finally, Recommendation 4 notes, "countries should consider adopting measures that allow such proceeds or instrumentalities to be confiscated without requiring a criminal conviction (non-conviction based confiscation), or which require an offender to demonstrate the lawful origin of the property alleged to be liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law" (p. 12).

FATF Recommendation 38 states, "countries should ensure that they have the authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered; proceeds from money laundering, predicate offences and terrorist financing; instrumentalities used in, or intended for use in, the commission of these offences; or property of corresponding value. This authority should include being able to respond to requests made on the basis of non-conviction-based confiscation proceedings and related provisional measures, unless this is inconsistent with fundamental principles of their domestic law. Countries should also have effective mechanisms for managing such property, instrumentalities or property of corresponding value, and arrangements for coordinating seizure and confiscation proceedings, which should include the sharing of confiscated assets" (p. 28).

The FATF Best Practices Paper³⁵ on confiscation (Recommendations 4 and 38) emphasizes that "a robust system of provisional measures and confiscation is an important part of an effective AML and counter-terrorist financing (CTF) regime. Confiscation prevents criminal property from being laundered or reinvested either to facilitate other forms of crime or to conceal illicit proceeds." Importantly, the Paper also notes that confiscation "may also allow the victim of the crime to be partially or fully compensated, even when the proceeds are moved around the world" (p. 1).

³² "When banks leave: the impacts of de-risking on the Caribbean and strategies for ensuring financial access," United States House of Representatives Committee on Financial Services, 14 September 2022, <https://democrats-financialservices.house.gov/uploadedfiles/hmtg-117-ba00-wstate-mottley-20220914.pdf>.

³³ Ibid.

³⁴ *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation* (Paris: FATF, 2023). Accessible at: <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>.

³⁵ *Best Practices on Confiscation Recommendations 4 and 38 and a Framework for Ongoing Work on Asset Recovery* (Paris: FATF, 2010). Accessible at: <https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Bestpracticesonconfiscation-recommendations4and38andframeworkforongoingworkonassetrecovery.html>.

The Paper recognizes that structural barriers can impede asset tracing and financial investigations. To address these challenges, FATF highlights best practices at the domestic level such as (a) implementing mechanisms to coordinate asset tracing and financial investigations while ensuring such efforts are not hindered by fragmented systems (p. 2), (b) establishing specialized units or dedicated personnel with training in specialized financial investigation techniques (p. 2), and (c) considering mechanisms that would facilitate more rapid access to financial information, including where the requesting countries have only limited information (p. 2).

With respect to international coordination, FATF notes that countries are required to consider establishing an asset forfeiture fund into which all or a portion of confiscated assets will be held for law enforcement, health, education or other appropriate purposes (for the public good) (p. 3). Furthermore, asset sharing agreements between countries is a best practice that facilitates the coordination of freezing, seizure, and confiscation proceedings (p. 4). Notably, it is recognized that “such agreements should be consistent with the appropriate compensation of victims” (p. 4).

With regard to Recommendation 4 and reversing the burden of proof, FATF highlights two relevant steps to support implementation: “(a) Raise awareness that asset tracing and financial investigations should be a consideration at the commencement of an investigation of a proceeds-generating crime (p. 9) and (b) undertake

asset tracing and financial investigations, on a systematic basis and at an early stage, in relation to investigations of proceeds-generating crimes” (p. 9).

In order to effectively implement Recommendations 4 and 38, FATF notes that all countries should have a framework for confiscation that “covers the tracing and investigation, international coordination, provisional measures (freezing and seizure), and non-conviction-based confiscation measures” covered in the Paper (p. 10). In closing, FATF acknowledges the need for more best practices or guidance on specific issues related to asset recovery and the Recommendations (p. 10). Section III will discuss the state of global efforts to achieve Immediate Outcome 8 – “proceeds and instrumentalities of crimes are confiscated” – one of the 11 key areas which the FATF and FATF-Style Regional Bodies (FSRBs) assess to determine the level of effectiveness of a country’s efforts to protect the financial system from abuse.³⁶

In 2013, the OSCE amended its Action Plan to Combat Trafficking in Human Beings to include recommendations on asset tracing and financial investigations. The Addendum to the Action Plan recommends that participating States consider legislative provisions and enhancing capacity for tracing, freezing, and confiscating the proceeds of trafficking in human beings. The OSCE further recommends³⁷ that “where possible confiscated assets be used to fund anti-trafficking initiatives and victim support initiatives, including the possibility of obtaining compensation.”

³⁶ *Report on the State of Effectiveness and Compliance with the FATF Standards* (Paris: FATF, 2022). Accessible at: <https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Report-on-the-State-of-Effectiveness-Compliance-with-FATF-Standards.pdf.coredownload.pdf>.

³⁷ *Decision No. 1107 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later* (Vienna, OSCE, 2013). Accessible at: <https://www.osce.org/files/f/documents/f/6/109532.pdf>.

II. National and Regional Forced Labour Import Ban Regimes

Forced labour as a distinct criminal offence has been prohibited under international law since 1930 when the ILO Forced Labour Convention (No. 29) was adopted. That same year, the first forced labour import ban in the world was introduced by the US Government.

While the prohibition against forced labour is now recognized by the international community as a fundamental human and labour right, and nearly every country in the world has banned human trafficking (through which forced labour could occur), there has not been a widespread prohibition against companies profiting from human trafficking or forced labour in their value chains. The trade in goods produced by forced labour is a global phenomenon that is facilitated by weak rule of law and unregulated or under-regulated markets.

The monetary incentive for companies to use forced labour in the production of their goods has not been addressed by international law and until recently no countries besides the US prohibited the importation of such goods into their market.

In 2020, the United States–Mexico–Canada Agreement, which replaced the North America Free Trade Agreement, entered into force. This Agreement contains provisions that require each State Party to adopt and implement forced labour import bans. Subsequently, Canada amended its Customs Tariff to implement the ban, and earlier this year Mexico published an administrative regulation prohibiting imports of goods produced with forced labour.

In September 2022, the European Commission (EC) presented a proposal for a regulation to prohibit products made using forced labour on the internal market of the EU. The proposal is currently being considered by the European Council and Parliament.

A. United States of America

The Tariff Act of 1930 prohibits the importation into the United States of any goods made “wholly or in part” using forced, indentured, or convict labour, in any part of the world. The definition of forced labour under the US law is substantially the same as the definition of the offence in the ILO Forced Labour Convention (No. 29). All three elements of the offence established by the ILO are present in the US Tariff Act: (a) work or service, (b) menace of any penalty, and (c) involuntariness.³⁸

Section 307³⁹ of the US Tariff Act states:

“All goods, wares, articles, and merchandise, mined, produced, or manufactured wholly or in part in any foreign country by convict labour or/and forced labour or/and indentured labour under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision.”

³⁸ 19 U.S. Code § 1307 - *Convict-made goods; importation prohibited* (Ithaca: Cornell Law School Legal Information Institute). Accessible at: <https://www.law.cornell.edu/uscode/text/19/1307>.

³⁹ *Ibid.*

Until 2015, the US Tariff Act had a “consumptive demand” clause that allowed imports of goods produced by forced labour if domestic production of the goods did not meet US consumer demand.⁴⁰ This provision resulted in sporadic enforcement of the law for 85 years.⁴¹ The passage of the US Trade Facilitation and Trade Enforcement Act of 2015 removed the consumptive demand clause and has led to over 37 WROs in the last seven years.⁴²

Section 307 is implemented by the US CBP, and CBP can self-initiate an investigation or act based on external allegations.⁴³ The CBP has the authority to issue a WRO to prevent imports from entering the US if it finds that the information submitted or obtained “reasonably but not conclusively indicates” that forced labour, convict labour, or indentured labour was used in the overseas production or processing of the goods.⁴⁴

“Reasonable suspicion” is a relatively low evidentiary threshold compared to other standards in the US legal system such as “credible evidence” or “probable cause.” The CBP or external parties only need to show that the evidence obtained or provided is sufficient for a reasonable person to conclude that there was forced labour in the production of the goods in question.⁴⁵ The ILO forced labour indicators are the substantive source for CBP’s determination of whether the requisite elements of the crime were present when the alleged violation occurred.⁴⁶ Multiple corroborating sources such as victim testimonies and written contracts are generally needed to prove the presence of the indicators.⁴⁷

In addition to meeting the evidentiary threshold for determining forced labour was used in the production or processing of a good, CBP or external parties also need to show that there is a reasonable belief that the good in question was imported into the US.⁴⁸ The CBP may consider the quantity or value of imports when prioritizing its investigations.

Goods that are subject to a WRO will be detained at all US ports until/unless importers prove the absence of forced labour in their product’s supply chain and show due diligence efforts to determine that the goods were not produced with forced labour. Importers have three months to contest a WRO or export their product to another country. If they fail to successfully contest the WRO or remove the product from the US, CBP will seize and destroy it;⁴⁹ CBP is currently enforcing 51 active WROs.^{50, 51}

If CBP finds conclusive evidence of the use of forced labour in the manufacturing or production of goods entering the US, it will publish a formal “finding” in the US Customs Bulletin and Federal Register. A finding allows CBP to seize the goods at all US ports of entry and commence forfeiture proceedings. Importers may submit evidence to show the good in question was not produced with forced labour, but they are not permitted to export the good. In practice, conclusive evidence means there is probable cause to issue a finding.⁵² The probable cause standard is higher than reasonable suspicion, but it does not require absolute proof of forced labour in the production or manufacturing of a good.

⁴⁰ Congressional Research Service, “Section 307 and imports produced by forced labor,” 26 July 2022, <https://crsreports.congress.gov/product/pdf/IF/IF11360>.

⁴¹ Ibid.

⁴² Ibid.

See also: “Withhold Release Orders and Findings List,” US Customs and Border Protection, last accessed 16 October 2023, <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>.

⁴³ “Forced Labor,” US Customs and Border Protection, last accessed 16 October 2023, <https://www.cbp.gov/trade/forced-labor>.

⁴⁴ “How does CBP enforce 19 U.S.C. 1307?” US Customs and Border Protection, last accessed 16 October 2023, https://www.cbp.gov/sites/default/files/assets/documents/2022-Jan/Slicksheet_Forced%20Labor_How%20does%20CBP%20enforce%20508%20Compliant_0.pdf.

⁴⁵ Anasuya Syam and Meg Roggensack, *Importing Freedom: Using the U.S. Tariff Act to Combat Forced Labor in Supply Chains* (The Human Trafficking Legal Center, 2020), https://htlegalcenter.org/wp-content/uploads/Importing-Freedom-Using-the-U.S.-Tariff-Act-to-Combat-Forced-Labor-in-Supply-Chains_FINAL.pdf.

⁴⁶ Ibid. p. 13.

⁴⁷ *Forced Labor: Allegation submission checklist* (US Customs and Border Protection, n.d.). Accessible at: https://www.cbp.gov/sites/default/files/assets/documents/2023-May/CBP_Forced_Labor_Allegation_Submission_Checklist_0_0.pdf.

⁴⁸ Anasuya Syam and Meg Roggensack, *Importing Freedom*, p. 6.

⁴⁹ *Section 307 and imports produced by forced labor* (Washington, DC: Congressional Research Service, 2022). Accessible at: <https://crsreports.congress.gov/product/pdf/IF/IF11360>.

⁵⁰ This figure is as of 3 October 2023.

⁵¹ “Withhold Release Orders and Findings List,” US Customs and Border Protection, last accessed 16 October 2023, <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>.

⁵² *How does CBP enforce 19 U.S.C. 1307?* (US Customs and Border Protection, 2023). Accessible at: https://www.cbp.gov/sites/default/files/assets/documents/2022-Jan/Slicksheet_Forced%20Labor_How%20does%20CBP%20enforce%20508%20Compliant_0.pdf

WROs and findings may be modified or revoked when evidence submitted to CBP shows the merchandise in question was not produced in whole or in part with forced labour. A modification results in CBP suspending enforcement of a WRO or finding, whereas a revocation is the result of a determination by CBP that the foreign entity concerned did not engage in forced labour. Modifications are issued once CBP is satisfied that the foreign entity concerned has remediated all ILO indicators of forced labour that were the basis of the WRO or finding and no other ILO indicators are present.⁵³ The evidence that CBP requires for modification or revocation includes a credible audit and a corrective action plan.⁵⁴ Information that CBP considers beneficial includes, but is not limited to, evidence refuting the forced labour indicators, i.e. removal of the indicators; evidence that policies, procedures, and controls are in place to ensure that forced labour is remediated (and how they are implemented in practice); evidence of implementation of the corrective action plan and subsequent verification by an unannounced and independent third party auditor who conducted interviews in the native language of the affected workers; and supply chain maps that specify locations and identities of the key parties in the supply chain.⁵⁵ Notably, CBP does not require direct remedy, e.g. compensation, to be provided to the victims/survivors of forced labour. Some stakeholders have asserted that the CBP's approach to remediation is due to its limited mandate and jurisdiction; the Tariff Act and its related regulations do not contain any reference to remediation or compensation, and the Act was originally designed to protect US companies from having to compete with foreign companies using forced labour.⁵⁶

Under 19 U.S.C. 1595a(b),⁵⁷ CBP is also authorized to issue civil penalties against importers for "entering, introducing, or attempting to enter or introduce any merchandise into the commerce of the United States contrary to law."⁵⁸ The penalty for aiding unlawful importation of goods into the US is a fine equal to the value of the prohibited goods that were introduced or attempted to be introduced into the US. The evidentiary threshold for CBP to issue fines is a "preponderance of the evidence," which means more likely than not (or more than 50 per cent chance) that the claim is true. This is a higher standard than both reasonable suspicion and probable cause.

In 2020, CBP issued its first and only fine against the importer Pure Circle USA, Inc. for importing stevia from Inner Mongolia Hengzheng Group Baoanzhao Agricultural and Trade LLC ("Baoanzhao") in violation of the US Tariff Act.⁵⁹ A WRO on stevia processed by Baoanzhao with prison labour was issued in 2016 and is still active.

The US Forced Labor Enforcement Task Force established several CBP timelines and benchmarks in 2021. Currently, CBP has 30 days to conduct its preliminary review of a petition from external parties and decide whether to accept, refer, or reject the case. It then has 90–180 days to determine whether there is reasonable suspicion to issue a WRO. Finally, it has 180–365 days to determine whether there is probable cause to issue a finding.⁶⁰

One of the challenges CBP faces in enforcing the US Tariff Act is tracing the good suspected of being produced with forced labour from US ports to the site where the victim

⁵³ *How are WRO and/or finding modifications and revocations processed?* (US Customs and Border Protection, 2023). Accessible at: https://www.cbp.gov/sites/default/files/assets/documents/2021-Oct/Slicksheet_Forced%20Labor%20How%20are%20WRO%20Finding%20Modifications%20or%20Revocations%20Processed%20508%20Compliant_0.pdf.

⁵⁴ *What is in a petition for a WRO and/or finding modification or revocation?* (US Customs and Border Protection, 2021). Accessible at: https://www.cbp.gov/sites/default/files/assets/documents/2021-Oct/Slicksheet_Forced%20Labor%20What%20is%20in%20a%20petition%20for%20mod%20or%20a%20revocation%20508%20Compliant.pdf.

⁵⁵ Ibid.

⁵⁶ The Remedy Project, *Putting things right: Remediation of forced labour under the Tariff Act 1930* (2023), p. 12, <https://static1.squarespace.com/static/5f846df102b20606387c6274/t/644b403dced135fba5c64c2/1682653306884/TRP+-+CBP+Report+-+Final+-+20230428.pdf>.

⁵⁷ 19 U.S. Code § 1595a - Aiding unlawful importation (Ithaca: Cornell Law School Legal Information Institute). Accessible at: <https://www.law.cornell.edu/uscode/text/19/1595a>.

⁵⁸ "CBP Collects \$575,000 from Pure Circle U.S.A. for Stevia Imports Made with Forced Labor," US Customs and Border Protection, 13 August 2020, <https://www.cbp.gov/newsroom/national-media-release/cbp-collects-575000-pure-circle-usa-stevia-imports-made-forced-labor>.

⁵⁹ Ibid.

⁶⁰ "What are the timelines and investigative benchmarks for forced labor petitions?," US Customs and Border Protection, last accessed 16 October 2023, https://www.cbp.gov/sites/default/files/assets/documents/2021-Sep/Slicksheet_Forced_Labor_timelines_investigative_benchmarks_508Compliant_Pub_2.pdf.

or survivor was exploited.⁶¹ The one exception is certain seafood imports. The US Seafood Import Monitoring Program (SIMP), which applies to roughly 45 per cent of the volume of US seafood imports, is currently the only US Government programme that requires importers to report supply chain data back to the point of origin of the seafood as a condition of entry into the US.⁶² This reporting obligation results in full traceability of the supply chain from the fishing vessel to the point of importation.⁶³ Fishing vessels that supply certain seafood sold in the US must document their catch and provide information such as the species name, the harvest date, the Flag State of the vessel, the name of the vessel, and the unique vessel identifier (registration, documentation, or licence number).⁶⁴

The SIMP data, which is managed by the US National Oceanic and Atmospheric Administration (NOAA), is not available to the public, but it can be shared with other US Government agencies. The CBP has access to some information in the SIMP database and can request more information from NOAA if needed.⁶⁵ It has used SIMP data to determine whether a vessel alleged to have used forced labour has been the source of US imports and whether a vessel subject to a WRO has been the source of a shipment attempting to enter the US.⁶⁶ CBP's access to such critical supply chain data has resulted in six WROs on fishing vessels, five of which are currently active, and one finding on a fishing vessel.⁶⁷

Two other US programmes require companies to provide limited information to the US Government regarding supply chain sourcing: (a) Section 1502 of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection

Act and (b) the 2017 Food Safety Modernization Act. The former requires all companies listed with the US Securities and Exchange Commission to disclose whether their products contain certain minerals sourced from the Democratic Republic of Congo or neighbouring countries. The latter imposes additional traceability requirements for "high-risk foods" in order to prevent and respond to outbreaks of food-related illnesses.⁶⁸ It is unclear whether either of these programmes have been used by CBP to enforce the Tariff Act.

B. Canada

Canada's prohibition of imports produced by forced labour is codified in its Customs Tariff law. The law refers to Tariff item No. 9897.00.00 which was amended⁶⁹ to "exclude goods that are mined, manufactured or produced wholly or in part by forced labour." The law also "excludes goods manufactured or produced wholly or in part by prison labour" from that tariff item.

Canada's recent Fighting Against Forced Labour and Child Labour in Supply Chains Act⁷⁰ further amends the Customs Tariff law to include child labour and a new definition of forced labour. Among other things, the Act defines child labour as including "any labour that interferes with a child's schooling or is mentally, physically, socially, or morally dangerous to them." The worst forms of child labour as defined by the ILO are also prohibited in the amended Customs Tariff law. The Act's definition of forced labour incorporates the definition in the ILO Forced Labour Convention (No. 29), but also includes "labour or service provided or offered to be

⁶¹ "Section 307 and imports produced by forced labor," Congressional Research Service, 26 July 2022, <https://crsreports.congress.gov/product/pdf/IF/IF11360>; *Forced Labor: CBP Should Improve Communication to Strengthen Trade Enforcement* (Washington, DC: United States Government Accountability Office, 2021), p.30. Accessible at: <https://www.gao.gov/assets/gao-21-259.pdf>.

⁶² Marti Flacks, Jacqueline Lewis, and David McKean, *Reeling In Abuse. How Conservation Tools Can Help Combat Forced Labor Imports in the Seafood Industry* (Center for Strategic International Studies and International Corporate Accountability Roundtable, 2021), p.12. Accessible at: https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/220215_Flacks_Reeling_Abuse_0.pdf?VersionId=iXEwwSoroRTOX34jRBPLXgZCKmMC9Hd7

⁶³ Ibid.

⁶⁴ "Seafood Import Monitoring Program Facts and Reports," NOAA Fisheries, last accessed 16 October 2023, <https://www.fisheries.noaa.gov/international/international-affairs/seafood-import-monitoring-program-facts-and-reports#information%2%A0collected>.

⁶⁵ Marti Flacks, Jacqueline Lewis, and David McKean, *Reeling In Abuse*, p.13.

⁶⁶ Ibid. p. 14.

⁶⁷ "Withhold Release Orders and Findings List," US Customs and Border Protection, last accessed 16 October 2023, <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>.

⁶⁸ Marti Flacks, Jacqueline Lewis, and David McKean, *Reeling In Abuse*, p. 11.

⁶⁹ "Goods manufactured or produced by prison or forced labour. Memorandum D9-1-6," Canada Border Services Agency, 8 May 2021, <https://www.cbsa-asfc.gc.ca/publications/dm-md/d9/d9-1-6-eng.html>.

⁷⁰ *An Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff* (Parliament of Canada, 2023). Accessible at: <https://www.parl.ca/DocumentViewer/en/44-1/bill/S-211/royal-assent>.

provided by a person under circumstances that could [...] reasonably be expected to cause the person to believe their safety or the safety of a person known to them would be threatened if they failed to provide or offer to provide the labour or service.”

Canada’s rules on imported goods produced by forced, compulsory, or child labour also affect other entities besides importers. Distributors and retailers that possess, purchase, sell, exchange, or otherwise acquire or dispose of any imported goods produced with forced, compulsory, or child labour may face fines up to C\$500,000 and jail time [Customs Act, Sections 155, 160(1)(b)].⁷¹

As in the US, the ban on goods produced by forced labour (or child labour) is enforced by customs authorities, who are expected to block goods made with these prohibited forms of labour from entering the Canadian market by detaining shipments of the goods as they arrive at the border. The Canada Border Services Agency (CBSA) works closely with Employment and Social Development Canada (ESDC), the Government of Canada’s lead agency for labour-related programmes, to identify goods that have been produced by forced labour.⁷² ESDC monitors and researches evidence relating to suspect supply chains, and sends documented evidence of goods produced by forced labour or child labour to CBSA for their consideration.⁷³ ESDC also accepts complaints and relevant information on forced labour or child labour in supply chains from victims and third parties.⁷⁴ Suspected cases of goods produced by forced labour or child labour imported into Canada may be reported to the CBSA.⁷⁵

The evidentiary threshold for the CBSA to detain goods is “legally sufficient and defensible evidence of production by forced labour (or child labour).” This standard is higher than reasonable suspicion, which is the threshold for the US CBP to issue WROs.⁷⁶

An importer whose shipment is detained has the option to abandon it, export it to another country, or challenge its classification as a product of forced labour (or child labour).⁷⁷ Memorandum D11-6-7 provides information on the CBSA’s procedure for considering requests for review and re-determination of a prior decision to classify a good as produced by forced labour and therefore prohibited from importation into Canada.⁷⁸ If the importer proves that no forced labour was used to produce the goods, they will be released. The Government of Canada has not indicated whether it requires removal of the ILO forced labour indicators in its consideration of challenges to CBSA’s classifications. The Customs Tariff law does not contain any references to remedy for victims/survivors or remediation of forced labour.

Under Canada’s Customs Act and Privacy Act, the CBSA is prohibited from publicly naming the companies whose goods it chooses to block.⁷⁹ Canadian importers, corporate end-buyers, and financial institutions therefore may not be aware of the goods that must be removed from their value chains. It is unclear whether the Government of Canada shares the identity of the companies with financial institutions for AML purposes.

The CBSA’s enforcement approach also differs from the US CBP in that it does not block all goods of a certain type from a specific region, e.g. Turkmenistan cotton,

⁷¹ “Customs Act (R.S.C., 1985, c. 1 (2nd Supp.)),” Justice Laws Website, last accessed 16 October 2023, <https://laws.justice.gc.ca/eng/acts/C-52.6/page-23.html#h-142135>.

⁷² “Import Prohibition on Goods Produced by Forced Labour,” Public Safety Canada, 8 February 2021, <https://www.securitepublique.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20210625/10-en.aspx?wbdisable=true>.

⁷³ Ibid.

⁷⁴ “Goods manufactured or produced by prison or forced labour: Memorandum D9-1-6,” Canada Border Services Agency, 28 May 2021, <https://www.cbsa-asfc.gc.ca/publications/dm-md/d9/d9-1-6-eng.html>.

⁷⁵ Ibid.

⁷⁶ “Canadian policy on forced labour in international supply chains,” Above Ground, 9 August 2022, <https://aboveground.ngo/wp-content/uploads/2022/08/Canadian-policy-on-forced-labour-abroad-Above-Ground-Aug2022.pdf>.

⁷⁷ “Import Prohibition on Goods Produced by Forced Labour,” Public Safety Canada, 8 February 2021, <https://www.securitepublique.gc.ca/cnt/trnsprnc/brfng-mtrls/prlmntry-bndrs/20210625/10-en.aspx?wbdisable=true>.

⁷⁸ “Request under Section 60 of the Customs Act for a Re-determination, a further Re-determination or a Review by the President of the Canada Border Services Agency. Memorandum D11-6-7,” Government of Canada, 16 February 2023, <https://www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-6-7-eng.html>.

⁷⁹ “Canadian policy on forced labour in international supply chains,” Above Ground, 9 August 2022, <https://aboveground.ngo/wp-content/uploads/2022/08/Canadian-policy-on-forced-labour-abroad-Above-Ground-Aug2022.pdf>.

and it classifies goods on a shipment-by-shipment basis as each one arrives at the border.⁸⁰ To date, the CBSA has found one overseas producer to be in violation of the law and detained one of its shipments, but the decision on the producer was later reversed and the detained shipment was released following a successful challenge by the importer.⁸¹

Canada does not appear to have any traceability laws that require full traceability from the source of raw materials to importation of the finished good. However, Fisheries and Oceans Canada is working with the US to meet requirements related to the US Marine Mammal Protection Act and the US SIMP. To meet these requirements, certain sectors of the Canadian seafood industry will need to have additional traceability mechanisms⁸² in place to show that certain fish and fish products destined for the US do not originate in a fishery subject to US import restrictions.

C. Mexico

In February 2023, Mexico published an administrative regulation prohibiting imports of goods produced with forced labour.⁸³ The regulation entered into force in May.

Like the import bans of the US and Canada, Mexico's regulation contains a blanket prohibition on imports produced, in whole or part, through forced or compulsory labour. The regulation's definition of "forced and compulsory labour" is aligned with the definition in the ILO Forced Labour Convention (No. 29) (See regulation).

The Mexico Ministry of Labor and Social Welfare (STPS) is the competent authority for investigating whether goods entering or attempted to be entered into Mexico were produced with forced labour. The Ministry is also responsible for designating goods as having been produced with forced labour and posting the resolutions on the Ministry's website. Only goods subject to a resolution by the Ministry are prohibited from entry into Mexico (See regulation).

The Ministry may self-initiate investigations or act based on external allegations supported by evidence of the crime. Requests for investigations must include, among others, the legal grounds and reasons for action, the facts and evidence, a detailed description of the good allegedly produced with forced labour, the name of the company and/or persons who used forced labour to produce the good, and the region, country, or countries of origin of the good (See regulation). It is not yet clear what the evidentiary threshold will be and what types of evidence are needed for the Ministry to issue a resolution.

The STPS may request more information from the complainant within 20 working days of when the complaint was filed. If the complaint does not meet the STPS's requirements to initiate an investigation, it will notify the complainant and archive the complaint. The complainant may file a new complaint (See regulation).

If STPS determines that the complaint meets its requirements, it will request the competent authorities in the country where the forced labour allegedly occurred to verify whether the good in question was indeed produced with forced labour. The determination of those authorities will be adopted by STPS, and if the allegations are confirmed, the good will be included in the list of resolutions issued by STPS (See regulation).

Any person may request that a resolution be rescinded when it is proven that the use of forced labour in the production of the good subject to the ban has ended, or when the foreign authorities rescind their initial determination of forced labour (See regulation). The Government of Mexico has not indicated whether it requires removal of the ILO forced labour indicators in its consideration of requests to rescind resolutions. The regulation prohibiting imports of goods produced by forced labour does not contain any references to remedy for victims/survivors or remediation of forced labour.

The STPS has 180 working days from the date on which the complaint is filed to issue a resolution determining whether the goods in question were produced with forced

⁸⁰ Ibid.

⁸¹ Steven Chase, "Only shipment Canada has seized on suspicion of forced labour was released after challenge from importer," the Globe and Mail, 27 May 2022, <https://www.theglobeandmail.com/politics/article-only-shipment-canada-has-seized-on-suspicion-of-forced-labour-was/>.

⁸² Minister of Health and Minister of Fisheries, Oceans and the Canadian Coast Guard, *Government Response to the Fifth Report of the Standing Committee on Fisheries and Oceans, Entitled Traceability and Labelling of Fish and Seafood Products* (2022). Accessible at: https://www.ourcommons.ca/content/Committee/441/FOPO/GovResponse/RP11983333/441_FOPO_Rpt05_GR/DepartmentOfFisheriesAndOceans-e.pdf.

⁸³ "Acuerdo que establece las mercancías cuya importación está sujeta a regulación a cargo de la Secretaría del Trabajo y Previsión Social," Secretaría de Gobernación, 17 February 2023, https://www.dof.gob.mx/nota_detalle.php?codigo=5679955&fecha=17/02/2023#gsc.tab=0.

labour. It may extend this deadline by an additional 180 working days if necessary (See regulation).

Mexico does not appear to have any traceability laws that require full traceability from the source of raw materials to importation of the finished good. However, it is in the process of adopting seafood traceability legislation that would require some key data such as the identity of the vessel that caught the product, the species name, the harvest date, the fishing gear, and the location where the fish was caught.⁸⁴

D. European Union

In September 2022, the EC announced a proposal for a regulation to prohibit products made using forced labour, including child labour, on the internal market of the EU.⁸⁵ Unlike the laws of the US and Canada, the EC proposal covers all products made available within the EU market; both products made in the EU for domestic consumption and export and imported goods are covered by the proposed regulation. The provisions of the proposal would apply to products of any type, including their components, regardless of the sector or industry.

The definition of forced labour in the proposal refers to the definition in Article 2 of the ILO Convention on Forced Labour, 1930 (No. 29).⁸⁶ The proposal further refers to Article 1 of the ILO Convention on the Abolition of Forced Labour, 1957 (No. 105) to define “forced labour imposed by state authorities” (See p. 22 of the proposal).

Under the proposal, EU Member States’ authorities would enforce the regulation. Member States would ensure the effective monitoring of their respective national markets and the EC would provide accompanying measures to ensure coordinated implementation at the EU level. Each Member State’s competent authorities would follow a risk-based approach to enforcement by focusing their efforts on “products, companies, and places where the risks of forced labour are most prevalent and where the impact is likely to be largest” (See pp. 15–16 of the proposal).

Information about alleged forced labour may be submitted to the competent authorities by private persons or associations. The authorities’ preliminary assessment of the likelihood that economic operators violated the prohibition of placing, making available, or exporting products made with forced labour would be based on all relevant information, including submissions by third parties, forced labour risk indicators, a public database of forced labour risks, past cases of non-compliance, and information on non-fulfillment of human rights due diligence requirements set by the EU or Member States. The competent authorities would also consider information provided by the economic operators on actions taken to identify, prevent, mitigate, or bring to an end risks of forced labour in their operations and value chains with respect to the products in question (See p. 16 of the proposal).

Within 30 working days of receiving the information submitted by economic operators regarding their due diligence, the competent authorities would conclude their preliminary investigation and decide whether to proceed with a full investigation. If the authorities determine that there is a substantiated concern of a violation of the regulation, they would proceed, notify the economic operators concerned and request any additional information needed, and conclude the investigation within a reasonable (but undefined) amount of time (See p. 25 of the proposal).

If the competent authorities determine that the regulation has been violated, they would order the withdrawal of the products already placed on the market, and prohibit placing the products on the market, or exporting them. The decision would then be communicated to the company in the EU, which would be required to dispose of the products in question. The authorities’ decision would also be communicated to the national customs authorities, which would then prohibit the circulation or exportation of the product in question. Companies that do not follow the decisions of Member States’ authorities would be subject to penalties under national laws (See pp. 26, 31, and 38 of the proposal).

⁸⁴ “Traceability and trade of seafood products between the EU and Mexico,” EU IUU Fishing Coalition, 16 March 2023, <https://www.iuuwatch.eu/2023/03/save-the-date-traceability-and-trade-of-seafood-products-between-the-eu-and-mexico/>.

⁸⁵ “Commission moves to ban products made with forced labour on the EU market,” European Commission, 14 September 2022, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_5415.

⁸⁶ “Proposal for a Regulation of the European Parliament and of the Council on Prohibiting Products Made with Forced Labour on the Union Market,” European Commission, 14 September 2022, https://single-market-economy.ec.europa.eu/system/files/2022-09/COM-2022-453_en.pdf.

Economic operators may request the competent authorities to withdraw their decision when they provide evidence demonstrating compliance with the decision, i.e. withdrawing from the EU market the relevant products already placed or made available on the market and disposing of said products, and that they have eliminated forced labour from their operations or supply chains with respect to the products concerned [See p. 27 of proposal/art. 6(6)]. It is unclear whether evidence of elimination of forced labour will be based on removal of the ILO forced labour indicators.

Like the US, Canada, and Mexico forced labour import bans, the ban⁸⁷ proposed by the EC does not include an explicit requirement for economic operators to provide compensation and other forms of remedy as a condition of withdrawal of the competent authorities' decision to prohibit placement of a good on the EU market. However, the recent proposal by the European Parliament Internal Market and International Trade committees requires economic operators to provide evidence of remediation as a condition of lifting bans on products found to be made with forced labour by investigating authorities.⁸⁸ The proposal further requires competent authorities to consult with victims and other relevant stakeholders, such as victims' representatives, trade unions, and civil society organizations, before determining the remediation needed. Competent authorities are also obligated to support economic operators in developing measures to prevent recurrence of forced labour.

The proposal⁸⁹ envisages enhanced cooperation between Member States' authorities and the EC through the creation of a new platform called the EU Forced Labour Product Network (See p. 35 of the proposal). The EC would also support Member States by establishing a public database of forced labour risks in specific geographic areas or with respect to specific products (See p. 29 of the proposal). Decisions taken by a national authority in one Member State would be recognized in other Member States (See p. 30 of the proposal).

The proposal also envisages effective inter-agency and inter-governmental cooperation in the implementation of the regulation. Where more than one competent authority

is designated by a Member State, the authorities are expected to establish communication and coordination mechanisms to enable effective collaboration (See p. 29 of the proposal). The competent authorities are also expected to coordinate closely with national labour inspectorates and judicial and law enforcement authorities responsible for counter-trafficking in persons (See p. 30 of the proposal). Within the EU, the customs authorities and competent authorities of Member States are expected to cooperate closely and exchange risk information to ensure EU-wide controls are effective in preventing goods produced by forced labour from entering or leaving the EU market (See p. 33 of the proposal).

Further details about the information to be provided to customs authorities, procedural rules, and other implementation matters may be decided through the adoption of delegated and implementing acts.

Like the US, the EU also has traceability measures that could enhance enforcement of a forced labour import ban. The EU illegal, unreported, and unregulated (IUU) regulation applies to all marine wild-caught fish traded by non-EU countries into the EU market and it requires importers to report supply chain data back to the point of origin of the seafood as a condition of entry into the EU.⁹⁰ This reporting obligation results in full traceability of the supply chain from the fishing vessel to the point of importation. Fishing vessels that supply certain seafood sold in the EU must document their catch and provide information such as the species name, the harvest date, the Flag State of the vessel, the name of the vessel, and the unique vessel identifier (registration, documentation, or licence number).

The EU Food Safety Regulation is another traceability measure that could potentially be used to enhance enforcement of an EU forced labour import ban. The regulation requires tracking a product's data inputs and outputs to ensure that imports from outside the EU meet the same food safety standards as food produced within the EU.

⁸⁷ Ibid.

⁸⁸ European Parliament, Report on the proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market (COM (2022) 0453–C9-0307/2022–2022/0269 (COD)).

⁸⁹ "Proposal for a Regulation of the European Parliament and of the Council on Prohibiting Products Made with Forced Labour on the Union Market," *European Commission*.

⁹⁰ "Commission Regulation (EC) No 1010/2009 of 22 October 2009. Laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing," *Official Journal of the European Union* Vol 280, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009R1010>.

The recent EU regulation on certain commodities and products associated with deforestation and forest degradation covers products such as palm oil, cocoa, coffee, beef, and rubber that are considered high risk for forced labour in some countries.⁹¹ The traceability requirements for this law could potentially allow the competent authorities enforcing an EU forced labour

import ban to identify the exact location where the products in question were harvested or produced. All importers of products covered by this Regulation will need to issue a due diligence statement that includes information about where the commodity came from in order to place the product on the EU's internal market.

⁹¹ "Council adopts new rules to cut deforestation worldwide," Council of the EU, 16 May 2023, https://www.consilium.europa.eu/en/press/press-releases/2023/05/16/council-adopts-new-rules-to-cut-deforestation-worldwide/?utm_source=dsms-auto&utm_medium=email&utm_campaign=Council+adopts+new+rules+to+cut+deforestation+worldwide.

III. Implementation of International Policies and Standards

A. Remedy for Victims/Survivors of Forced Labour and Human Trafficking

Numerous studies have concluded that victims of forced labour and human trafficking in global value chains face significant barriers in accessing the remedy they are entitled to under national and international law.⁹²

The former UN Special Rapporteur on Trafficking in Persons, Maria Grazia Giammarinaro, noted in her 2019 report⁹³ to the General Assembly that “the human rights of persons who are victims of trafficking should be at the centre of all efforts to prevent and combat trafficking” (para. 13). In all her interviews and in stakeholder comments, most victims of labour abuse and trafficking said their primary need was recovering unpaid wages, maintaining employment contracts, and improving working conditions (para. 14). However, these workers also made clear that they only sought assistance and made complaints when their physical safety was in danger (para. 14). Their fear of potentially losing their livelihoods was the main challenge in securing remedy for the harm they suffered (para. 14).

Workers’ lack of knowledge about and trust in judicial and non-judicial mechanisms, and their scepticism about the capacity of these mechanisms to bring effective remedies, also factored into the low levels of remedy received for their exploitation (para. 15). Migrant workers in particular

reported additional barriers due to their “immigration status and the corresponding fear of deportation if they make complaints to authorities; the practical challenge of providing for their families in their countries of origin while going through the judicial process; difficulties in following their case when they are repatriated to their home country; and the high cost of bringing cases to court and sustaining litigation against companies that have significantly more economic resources” (paras. 16–17).

The Special Rapporteur also noted challenges due to “the lack of confiscated assets as a result of poor investigative methods by the authorities” (para. 22) and legal standards that limit liability only to the direct employers of the exploited workers and do not hold responsible the corporate buyers that tend to have the power to set or influence working conditions in value chains (para. 25).

B. Remedy for Victims/Survivors of Forced Labour and Human Trafficking in Value Chains Subject to Import Bans

Remedy for victims/survivors of forced labour and human trafficking should be at the centre of all efforts to prevent

⁹² International Labour Organization, *Tripartite meeting of experts on forced labour and trafficking for labour exploitation, report for discussion of the tripartite meeting of experts concerning the possible adoption of an ILO instrument to supplement the forced labour convention, 1930 (No. 29)* (Geneva: International Labour Office, 2013), p. 39, para. 136; International Labour Organization, *Achieving decent work in global supply chains: Report for discussion at the technical meeting on achieving decent work in global supply chains* (Geneva: International Labour Office, 2020) p. 34, para. 122; International Labour Organization, Organisation for Economic Co-operation and Development, International Organization for Migration, and United Nations Children’s Fund, *Ending child labour, forced labour and human trafficking in global supply chains* (2019) pp. 56–58, 69–70; United Nations General Assembly, *Report of the Special Rapporteur on Contemporary Forms of Slavery, including its causes and consequences, Urmila Bhoola* (8 July 2015), p. 17, para. 59.

⁹³ Maria Grazia Giammarinaro, *A/72/189: Report of the Special Rapporteur on trafficking in persons, especially women and children* (United Nations General assembly, 2019). Accessible at: <https://www.ohchr.org/en/special-procedures/sr-trafficking-in-persons/annual-reports>

and combat forced labour and trafficking in global value chains, but the current forced labour import bans in the US, Canada, and Mexico, as well as the proposed regulation to prohibit products made using forced labour on the internal market of the EU do not require remedy to be provided as a condition of lifting respective bans.

The Remedy Project's recent report, "Putting Things Right: Remediation of Forced Labour under the Tariff Act 1930,"⁹⁴ highlights the lack of compensation for victims of forced labour in value chains subject to WROs or findings under the US forced labour import ban. Of the six cases with active WROs/findings that the Remedy Project examined,⁹⁵ compensation was reportedly provided in only one case (p. 18, para. 2.24) and that was disputed by a human rights researcher who was involved in seeking compensation for the victims.

While other forms of remedy such as recruitment fee reimbursement, improved living and working conditions, improved recruitment/employment policies, and improved grievance mechanisms were provided to victims in the six cases (p. 17), the notable lack of compensation raises questions as to the effectiveness of the remedies provided.⁹⁶ The OHCHR has stated that rights holders should be central to the question of effectiveness (pp. 8–9, paras. 19 and 22),⁹⁷ and interviews with victims in other contexts have shown that compensation is critical to recovery and reducing vulnerability to re-exploitation.⁹⁸

C. Asset Recovery, Confiscation, and Compensation

The 2022 "Report on the State of Effectiveness and Compliance with the FATF Standards" found that "most countries are not achieving the expected results for convictions and confiscations. The number of investigations and prosecutions are often small in comparison to risks. Where investigations and prosecutions do occur, confiscations and asset recovery measures often do not occur as part of the action."⁹⁹ The FATF notes, "just 19% of the 120 assessed jurisdictions are demonstrating high or substantial levels of effectiveness in investigating, prosecuting, and convicting money laundering offences and confiscating the proceeds of crimes"¹⁰⁰ and "where prosecutions and convictions do take place, they are often misaligned with the main proceeds generating offences in that country."¹⁰¹

The FATF further notes that "countries are recovering only a very small fraction of all estimated proceeds [of crimes]" and "few countries appear to make it a priority to confiscate assets or ensure that asset seizure and confiscation is a strong deterrent to crime."¹⁰² The FATF report concludes, "it is clear that investigations and prosecutions are an area of focus where the FATF and other regional bodies should seek to do more. Countries must in particular improve global efforts around asset recovery to ensure that criminals are more effectively

⁹⁴ The Remedy Project, *Putting things right: Remediation of forced labour under the Tariff Act 1930* (2023). Accessible at: <https://static1.squarespace.com/static/5f846df102b20606387c6274/t/644b403dced135fba5c64c2/1682653306884/TRP+-+CBP+Report+-+Final+-+20230428.pdf>.

⁹⁵ They examined nine cases, but one case has not resulted in a WRO/Finding, and two cases resulted in revocations due to proof of no forced labour. Hence, these cases are not included here.

⁹⁶ The Remedy Project report notes that effectiveness could not be verified.

⁹⁷ OHCHR, *A/72/162: Report on access to effective remedy for business-related human rights abuses* (OHCHR, 2017). Accessible at: <https://www.ohchr.org/en/documents/thematic-reports/a72162-report-access-effective-remedy-business-related-human-rights>

⁹⁸ Geurts T and Schrama WM, *Civiel Schadeverhaal door Slachtoffers van Strafbare Feiten De rol van de Civiele Procedure: Gebruik, Knelpunten en Oplossingsrichtingen* [Civil Damage Caused by Victims of Criminal Offences The Role of the Civil Procedure: Use, Bottlenecks and Solutions] (The Hague, The Netherlands: Wetenschappelijk Onderzoek – en Documentatiecentrum, 2012) [In Dutch]; La Strada International, *Findings and Results of the European Action for Compensation for Trafficked Persons* (Amsterdam, The Netherlands: La Strada International, 2013); Rijken CRJJ, et al., *Mensenhandel: het slachtofferperspectief: een verkennende studie naar behoeften en belangen van slachtoffers mensenhandel in Nederland* [Trafficking in human beings: the victim's perspective: an exploratory study into the needs and interests of trafficking in human beings in the Netherlands] (Tilburg, The Netherlands: International Victimology Institute Tilburg (INTERVICT), Tilburg University, 2013) [In Dutch] Available at: https://www.tilburguniversity.edu/sites/default/files/download/Mensenhandel-online_2.pdf; Ruitenbeek-Bart FM and Schijns AJG, "De schadeclaim van het slachtoffer van strafbare feiten; bruggebouwer tussen twee rechtsgebieden?" [The victim's claim for damages of criminal offenses; bridge builder between two jurisdictions?]. *Tijdschrift voor Vergoeding Personenschade*, Vol. 17 Issue 2: 38–47 (2014) [In Dutch.]

⁹⁹ *Report on the State of Effectiveness Compliance with FATF Standards* (Paris: FATF, 2022), p. 37. Accessible at: <https://www.fatf-gafi.org/en/publications/Fatfgeneral/Effectiveness-compliance-standards.html>.

¹⁰⁰ *Ibid.* p. 38.

¹⁰¹ *Ibid.* p. 39.

¹⁰² *Ibid.* p. 40.

deprived of their proceeds and instrumentalities of crime.”¹⁰³ In this regard, the FATF will hold further discussions on “ways of improving confiscation measures (Immediate Outcome 8), enhancing asset recovery by strengthening Recommendations 4 and 38 on the domestic and cross-border frameworks, and by strengthening collaboration between the FATF/FSRBs and the Asset Recovery Networks – CARIN [Camden Assets Recovery Inter-Agency Network] and the [Asset Recovery Interagency Networks].”

While the 2022 FATF Report does not explicitly mention forced labour or human trafficking in its commentary on asset recovery, the FATF standards do consider compensation to victims of trafficking albeit not extensively. The limited discussion of compensation may be due to the nature of predicate offences aside from human trafficking; most of the offences are against the State and not against certain individuals. Despite this limited focus, compensation is increasing in priority as national authorities and multilateral organizations utilize the AML framework and associated tools to combat human trafficking.

The FATF has made asset recovery a priority under the current presidency (2022–2024) and there is a clear opportunity for the organization to support the anti-trafficking efforts of its members and other organizations through an increased focus on compensation for victims/survivors.

The “Survey Report 2016 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings” found that in 2016 the use of financial instruments and financial investigation techniques was a comparatively new area of focus in the

anti-trafficking field.¹⁰⁴ These are the key findings on AML and asset recovery from that report:

- Forty-seven of the 57 OSCE participating States reported laws in place on tracing, freezing, and confiscating the proceeds of trafficking in human beings;¹⁰⁵
- Twenty-one States reported provisions for using confiscated funds to compensate victims;¹⁰⁶ and
- Twenty-eight States reported that they had confiscated and/or seized the proceeds of human trafficking or the assets of human traffickers, and the figures quoted by States on seized assets were much higher than those for confiscated assets.¹⁰⁷

The “Survey Report 2021 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings” found that there continues to be much less focus on the use of financial instruments and financial investigation techniques in counter-trafficking when compared to other areas in the anti-trafficking field.¹⁰⁸ These are the key findings on AML and asset recovery from that report:

- At least 47 participating States have trafficking in human beings as a predicate offence for money laundering, with two States stating that they are in the process of introducing trafficking in human beings as a predicate offence and only three stating that they are not;¹⁰⁹
- Fifty-two participating States have laws in place to provide for tracing, freezing, and confiscating the proceeds of trafficking, with only one participating State responding that it does not;¹¹⁰

¹⁰³ Ibid. p. 37.

¹⁰⁴ OSCE, *Survey Report 2016 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings* (OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2016), p. 51. Accessible at: <https://www.osce.org/files/f/documents/9/6/289951.pdf>.

¹⁰⁵ Ibid. p. 48.

¹⁰⁶ Ibid. p. 51.

¹⁰⁷ Ibid.

¹⁰⁸ OSCE, *Survey Report 2021 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings* (OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, 2022), p. 105. Accessible at: https://www.osce.org/files/f/documents/6/1/522934_1.pdf.

¹⁰⁹ Ibid. p. 101.

¹¹⁰ Ibid. p. 103.

- Of the 52 States that reported having laws in place to provide for tracing, freezing, and confiscating the proceeds of trafficking, 44 stated that the laws specified how the confiscated assets were to be used. In all 44 cases, assets were to be returned in full or part to the government's general fund, with 30 participating States also using funds to compensate victims;¹¹¹
- Nineteen States reported cases in the past three years in which the State had confiscated the proceeds of trafficking in human beings and/or the assets of human traffickers. Of these, 13 States reported that confiscated proceeds were transferred to government funds, but in 11 cases some of the confiscated proceeds also went to victim compensation. There was only one case in which the funds went exclusively to compensate victims;¹¹²
- There was an upward trend in the past five years of confiscated proceeds being shared beyond general government funds, with such practice occurring in 61 per cent of cases in 2015/16 compared to 80 per cent of cases in 2021;¹¹³
- There has been an increase in the use of financial instruments in the past five years, with some strong examples of effective action, but such practice has yet to reach its full potential. As an example, 85 per cent of responding States list trafficking in human beings as a predicate offence, but only 18 countries were able to confirm that financial investigation staff received training on how to investigate trafficking offences;¹¹⁴
- Greater use of confiscated assets from trafficking in human beings for compensation could increase incentives for victims to participate in justice processes;¹¹⁵ and
- Greater use of confiscated assets from trafficking in human beings to support the work of investigative units could help address ongoing concerns regarding the investment of sizeable investigative resources in trafficking cases.¹¹⁶

The OSCE noted in updating its recommendations that "survey responses suggest that there has been progress in implementing [the recommendation on targeting the proceeds of trafficking and the assets of traffickers], but efforts remain somewhat fragmentary."¹¹⁷ To encourage mutual learning among participating States, the OSCE encouraged governments to "place increased emphasis on documenting and sharing success stories and key lessons in targeting the proceeds of trafficking in human beings and assets of traffickers to enhance adoption and implementation of such measures."¹¹⁸

Sections IV and V of this report will present the results of the ARRI questionnaires and consider promising practices of inter-agency and multi-stakeholder cooperation, which can be emulated.

While Sections I and III of this report covered the relevant international policies and standards, and their implementation in general, the findings of our study represent a much smaller, targeted sample, and should not be interpreted as a formal assessment of the participating States' implementation of the relevant policies and standards. Nevertheless, it may be useful to consider the responses of government agencies, multilateral organizations, financial institutions, CSOs, and trade unions in the context of the policies and standards on remedy, asset recovery, and compensation for victims/survivors.

¹¹¹ Ibid. p. 104.

¹¹² OSCE, *Survey Report 2021 of Efforts to Implement OSCE Commitments and Recommended Actions to Combat Trafficking in Human Beings*, p. 104.

¹¹³ Ibid.

¹¹⁴ Ibid. p. 105.

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Ibid. p. 106.

¹¹⁸ Ibid. p. 106.

IV. Insights from ARRI Questionnaires

A. Customs Authorities

Customs authorities play an important role in facilitating the social and economic security of respective countries; they facilitate international trade, monitor goods moving across the border, collect taxes and duties on goods, work towards the prevention of prohibited items from flowing across the border, combat illegal activity including the illicit drug trade and money laundering, and ensure compliance with all applicable rules, regulations, and standards, in addition to performing other functions.

Customs authorities have also played an increasingly important role in preventing the import of goods produced by forced labour and/or human trafficking through the enforcement of import bans. Where there is significant potential for Customs officials to add impetus to actions to prevent the importation of goods produced by forced labour is via the use of its investigative and enforcement powers to also prevent the laundering of proceeds from forced labour and/or human trafficking.

However, it bears noting that some of the challenges in combating money laundering have included ensuring systematic and consistent domestic and international cooperation in a context where multiple stakeholders hold trade data, with restrictions in data sharing.¹¹⁹ The need for intelligence and/or evidence (including from financial institutions, authorities, and members of civil society) to support investigations into the laundering of proceeds derived from forced labour and/or human trafficking is no doubt critical. The identification of such cases can, in turn, be used to support judicial processes in support of remedy and compensation for victims/survivors of forced labour and/or human trafficking.

Customs officials are therefore an important link in not only the fight against human trafficking and forced labour, but in supporting the bid to provide remedy and compensation to victims/survivors.

Representatives from customs agencies in the US, Latvia, and Hungary responded to the questionnaire for customs officials. The key insights below capture responses from customs authorities regarding investigations into human trafficking and/or forced labour, the freezing and seizing of assets and proceeds derived from human trafficking and/or forced labour, and the compensation of victims/survivors – a reality that is usually facilitated and/or enabled by the successful confiscation of assets and/or proceeds.

Key Insights: Cooperation and Compensation

Based solely on the responses of the respondents, it is evident that while none of the work of the respective agencies triggered investigations into proceeds laundered from human trafficking and/or forced labour, much potential exists in this regard. This is due to both the investigative and money laundering expertise that customs agencies hold. Hence, in instances where customs officials identify cases of money laundering, attempts can be made to determine whether proceeds from forced labour and/or human trafficking were laundered. Where the lack of investigations is due to the lack of intelligence linking money laundering to human trafficking and/or forced labour, information-sharing arrangements can be considered between financial institutions (e.g. banks), FIUs, law enforcement, and

¹¹⁹ FATF–Egmont Group, *Trade-based Money Laundering: Trends and Developments* (Paris, France: FATF, 2020). Accessible at: <https://www.fatf-gafi.org/en/publications/MethodsandTrends/Trade-based-money-laundering-trends-and-developments.html>.

members of civil society. The contribution of information by the US CBP that led to the freezing of assets linked with human trafficking and forced labour¹²⁰ is evidence of the strength and possibilities of inter-agency cooperation/collaboration (in this instance among customs, law enforcement, CSOs, and an inter-agency group) and the use of intelligence from customs officials to respond to cases of forced labour and/or human trafficking. This collaboration can extend to the provision of support towards the seizing of assets and the provision of compensation to victims/survivors – areas where the respondents indicated a lack of experience on the part of their customs authorities. Considering the information at their disposal, the activities of customs officials can also extend to the provision of information to support the freezing and seizing of assets and proceeds from individuals/companies where goods produced by forced labour and/or victims/survivors of human trafficking were sold.

B. Financial Intelligence Units

An FIU is a central national agency or centre that is responsible for the receipt and analysis of Suspicious Transaction Reports/Suspicious Activity Reports, as well as relevant information pertaining to money laundering, associated predicate offences (such as human trafficking), and terrorist financing. It also has the responsibility of disseminating the results of its analysis to appropriate/competent authorities. There are different models of FIUs, which provide a guide to the functions that they perform and the scope of their operations: administrative, law enforcement, judicial, and hybrid.¹²¹

Given the mandate that FIUs have in investigating suspicions of money laundering and associated predicate offences, these national bodies are a critical link in using Suspicious Transaction Reports/Suspicious Activity Reports to identify suspected cases of human trafficking/forced labour in cases where they are identified as predicate offences to money laundering in respective jurisdictions. This identification, along with

the dissemination of analysis results to authorities can, in turn, trigger the freezing and seizing of illicit assets/proceeds by relevant agencies/entities (such as banks and law enforcement), judicial measures, and eventual compensation to victims/survivors of human trafficking and/or forced labour by relevant authorities. FIUs can provide information to support such asset recovery/compensation processes, including by collecting relevant information from other FIUs. It is therefore important that FIUs are able to identify indicators of human trafficking/forced labour, as well as potential cases where individuals laundered the assets/proceeds derived from this activity.

The ARRI questionnaire for FIUs was geared towards understanding the role of FIUs, if any, in triggering investigations into proceeds laundered from human trafficking and/or forced labour, freezing and seizing assets derived from such activities, and facilitating and/or enabling compensation for victims/survivors. Those who responded to the FIU questionnaire came from the Netherlands, Poland, Romania, Hungary, Latvia, Switzerland, Malawi, Canada, and Australia. Respondents tended to limit their answers to questions and issues that covered their mandate.

Key Insights: Cooperation and Compensation

The role of FIUs in disclosing the results of their analysis of Suspicious Activity Reports and other financial intelligence to law enforcement and other agencies is intrinsically a collaborative role. Hence, any subsequent involvement of FIUs in directly or indirectly supporting investigations, asset freezing and seizing, and compensation can build on this expertise. The FIUs under focus displayed greater collaboration with local and (to a lesser degree) overseas-based financial institutions and law enforcement officials,¹²² particularly concerning investigations into proceeds laundered by human trafficking and/or forced labour, as well as the freezing of proceeds laundered from human trafficking and/or forced labour (though to a lesser degree). Similar

¹²⁰ These assets were frozen from individuals/companies in the country where workers were exploited.

¹²¹ For more information on the functions of respective models, see IMF, *Financial Intelligence Units: An Overview* (Washington D.C: IMF, 2004). A breakdown of FIUs that completed the questionnaire can be seen as follows: Netherlands (hybrid), Poland (administrative), Romania (administrative), Hungary (hybrid), Latvia (administrative), Switzerland (hybrid, other), Malawi (hybrid), Canada (administrative), and Australia (administrative) (Source: Egmont Group Biennial Census).

¹²² There was also collaboration with overseas-based FIUs in the realm of investigations, similar to the level of collaboration with overseas-based law enforcement agencies and financial institutions.

local cooperation trends were noted for the seizing of assets. Save for one FIU, collaboration with other agencies/entities was not focused on the investigation of corporate buyers of goods produced by forced labour and/or human trafficking. With the proposed bid of this research to understand how AML frameworks and inter-agency cooperation could work alongside import bans and ultimately facilitate and enable compensation for victims/survivors, inter-agency collaboration in investigating corporate buyers and freezing and seizing assets, including in the market State (where applicable and the law allows), arguably has the potential to fuel compensation from such buyers following judicial or administrative processes.

Cooperation Trends

The greater cooperation of FIUs with financial institutions and law enforcement officials is not surprising as financial institutions play a key role in providing Suspicious Activity Reports to FIUs, which in turn typically disseminate the results of the analysis of such reports at least to law enforcement officials. What is interesting, however, is the potential scope that exists for FIU cooperation with other agencies/entities in the realm of investigations. This potential is based on the reality that FINTRAC (Canada FIU) and the Swiss FIU have experience in cooperating with the local customs and Ministry of Justice in the realm of investigations. As key agencies/entities that have an AML mandate, cooperation with customs and Ministry of Justice authorities can facilitate and enable the transfer of information that can be used to detect those involved in laundering the proceeds of the sale of goods produced by forced labour/human trafficking. The Swiss FIU also reported collaboration with local public administration. Additional avenues for information-sharing agreements between FIUs and other agencies/entities could therefore be explored. In the realm of investigations, possible guidance/knowledge sharing can be provided by countries like Switzerland, which seems to have more experience in local inter-agency cooperation. However, given the omission of any mention of cooperation with CSOs in support of investigating proceeds laundered from human trafficking and/or forced labour, new avenues of cooperation should be forged with such

groups, particularly given the specialized experience and knowledge that they have of victims/survivors and those who enabled and facilitated their exploitation.

Reach of Influence

Although being engaged in asset freezing, asset seizing, and the support of compensation may not fall within the mandate of a respective FIU, the provision of information by FIUs may be and has been used for these purposes as the revelations of respondents have made apparent. In the case of the Netherlands FIU, "cooperation" has, for example, taken the form of the dissemination of information analysed from reporting entities to law enforcement for their use in investigations. Nevertheless, investigations into laundered proceeds linked with human trafficking and/or forced labour may be triggered unbeknownst to the FIU, in cases where law enforcement agencies do not disclose how they use the information provided by FIUs. Likewise, FIUs may not have knowledge on potential linkages between an FIU's analysis of Suspicious Transaction Reports and other relevant information, and the subsequent freezing and seizure of assets linked with human trafficking and/or forced labour. Based on the responses from the FIUs, it is evident that the mandate of respective FIUs has contributed to a gap between the conscious role that FIUs have played in facilitating/triggering investigations into proceeds laundered from human trafficking and/or forced labour and their perceived lack of experience in supporting legal or administrative proceedings to use seized assets or proceeds to compensate victims/survivors. Given the reality that FIUs may not always know how and for what purposes the information that they provide to law enforcement and other officials is being used, it is possible (though not guaranteed) that in some cases they have indirectly supported compensation for victims/survivors.

In some cases, asset recovery from human trafficking and forced labour may not always be used to compensate victims/survivors. Of the respondent agencies, AUSTRAC (Australia FIU) has had more collaboration with agencies/entities, in the realm of local inter-agency cooperation, towards asset freezing.¹²³ Despite not having freezing/seizing/confiscation powers, AUSTRAC data is used

¹²³ Collaboration with overseas-based FIUs for both investigations and asset freezing for human trafficking and/or forced labour has also been experienced by FIU Switzerland, providing another possible avenue for information-sharing.

for intelligence purposes to inform investigations undertaken by the Criminal Assets Confiscation Taskforce (CACT) for federal cases, and by state and territory police. However, Australia's Proceeds of Crime Act 2002 currently provides that forfeited assets can only be used for the following four purposes: crime prevention measures, law enforcement measures, measures relating to the treatment of drug addiction, and diversionary measures relating to the illegal use of drugs.¹²⁴ Under this Act, forfeited assets therefore cannot be used for compensation. The funds from confiscated assets are deposited into the Confiscated Assets Account, which is managed by the Australian Financial Security Authority on behalf of the Commonwealth. Alignment between asset recovery and confiscation measures derived from forced labour and/or human trafficking, and explicit legal provisions that mandate that recovered assets should be used for the compensation of victims/survivors is therefore essential if significant progress is to be made in realizing the right of victims/survivors to remedy (including compensation), and in lowering the remedy gap.

Training and Capacity-building

Apart from the third party use of information provided by FIUs for the purpose of freezing and seizing assets, and/or facilitating or enabling compensation for victims/survivors, an FIU's specialized knowledge of what is entailed in such processes could possibly result in its provision of more useful information to partner agencies that could facilitate and/or enable such activities. In this regard, note is taken of the fact that the Poland FIU (an administrative FIU) had benefited from training in the freezing and seizing of assets linked with human trafficking and/or forced labour, as well as the identification of cases where asset recovery for survivors should take place. While some FIUs may benefit from formal training in the area of asset freezing, asset seizure, and associated activities, FIUs may also be able to acquire such knowledge during the conduct of their activities. For example, a number of analysts from AUSTRAC (FIU Australia) – an administrative FIU – are seconded to CACT as well as to law enforcement agencies at the state/territory level. These analysts therefore have had exposure to proceeds of crime cases, including freezing and/or seizures in respect of human trafficking and/or forced labour. The representative from

FINTRAC also indicated that employees attend various trainings, including pertaining to human trafficking for sexual exploitation and forced labour – another possible avenue for exposure to knowledge on investigations, asset freezing and seizing, and asset recovery for victims/survivors.

Challenges

Yet, any effort to enable and facilitate efficient and effective local and cross-border cooperation must give attention to challenges that exist in this regard. In the realm of investigations, challenges to local cooperation include the understanding of FIU data by law enforcement (the Netherlands), and restrictions relating to the inter-cantonal and inter-institutional exchange of information (Switzerland). In contrast, challenges to overseas-based collaboration include long waiting times for requests sent via the FIU channel (Switzerland). Regarding the analysis of cases involving non-resident entities/individuals, informational challenges are particularly pervasive and are a consequence of a number of factors: the large number of foreign bank accounts (the Netherlands), long waiting times due to the lack of direct access to police databases (Switzerland), the need for the domestic investigative agency to receive permission to share information with international partners (Canada), and risks of delayed or non-guaranteed responses to requests for information from FIUs (Australia). As revealed by AUSTRAC, informational challenges experienced by law enforcement officials who have made requests to AUSTRAC's foreign counterparts have been circumvented including via the elicitation of evidence from foreign jurisdictions via alternative channels. These channels include outposted officer networks, INTERPOL, and similar multilateral groupings. Another solution to informational challenges, as proffered by the Swiss FIU, is financial intermediaries' provision of complete data on all individuals relevant to their Suspicious Transaction Report/Suspicious Activity Report, with legal adjustments being considered in cases where the provision of this information is prevented by law. In addition to informational challenges to the analysis of cases involving non-resident entities/individuals, there have been challenges pertaining to the identification of perpetrators. Such challenges have been due to name variations in different languages such as Arabic, Hebrew or other non-roman languages (Switzerland),

¹²⁴ *Proceeds of Crime Act 2002 No. 85*, 30 September 2022. Accessible at: <https://www.legislation.gov.au/Details/C2022C00269>.

understanding the modus operandi of foreign traffickers (Switzerland) and the lack of access to core personal details of non-residents (Switzerland).

C. The Egmont Group

The Egmont Group is a global organization and network that facilitates cooperation and the sharing of knowledge and financial information/intelligence between and among member FIUs for the purpose of investigating, preventing, and supporting the fight against money laundering, terrorist financing, and associated predicate offences.

The ARRI questionnaire directed at the Egmont Group was geared towards understanding the nature of its guidance (if any) to FIUs in respect of the identification of proceeds linked with human trafficking and/or modern slavery, and relatedly, the freezing and seizing of assets and the provision of compensation to victims/survivors. It was further geared towards understanding the Group's collaborative efforts/plans with other agencies in support of these ends.

Of the options posed to the Egmont Group regarding its plans to establish guidelines for FIUs concerning the identification, freezing, and seizing of proceeds linked with human trafficking and/or modern slavery, as well as the facilitation of compensation to victims/survivors of human trafficking/modern slavery, the Egmont Group representative indicated that it has plans to establish guidelines for FIUs regarding the identification of proceeds linked with human trafficking and/or modern slavery as an AML measure. The Group likewise plans to facilitate capacity-building/training for FIUs in this regard.

In response to a question posed to the Egmont Group regarding its awareness of the US and Canada bans on the importation of goods produced by forced labour, the Group replied in the affirmative.¹²⁵

Collaboration: Identification, Freezing, and Seizing of Proceeds, and Compensation to Victims/Survivors

The Egmont Group has engaged in collaborations relevant to the identification, freezing, and seizing of

proceeds linked with human trafficking and/or modern slavery, as well as compensation to victims/survivors of human trafficking/modern slavery.

These collaborations included the following initiatives:

- A joint project was formed between the Egmont Group's Technical Assistance and Training Working Group and the FAST Initiative resulting in an in-person operational training session in Riga (during the July 2022 Plenary).
- Collaboration with FAST was in the form of a national/regional roundtable with financial institutions (there was a pilot roundtable in Riga in February 2022.), and online certificate training.
- The Egmont Centre of FIU Excellence and Leadership team has produced an e-learning course related to the online sexual abuse and exploitation of children, aiming to enhance the detection capabilities of FIUs and their level of knowledge.
- In early 2022, the Egmont Group Information Exchange Working Group (IEWG) finalized a project exploring the role of FIUs in the asset recovery process. Although this project has not directly focused on funds related to human trafficking/modern slavery, it provides insight into how FIUs could be effective in their attempts to support asset recovery, primarily through the postponement of transactions.
- In the last five years, the IEWG has produced three reports focusing on the efforts of FIUs to identify cases related to money laundering and human trafficking: the Human Trafficking Bulletin, the White Paper on Human Trafficking, and the Combatting online child sexual abuse and exploitation through financial intelligence report.¹²⁶ All three reports aim to strengthen the capacity of FIUs to tackle financial flows derived from human trafficking.
- The Egmont Group is a part of the FATF Risks, Trends, and Methods Group, and Policy Development Group project teams focusing on improvements of the asset recovery regime and amendments to FATF Recommendation 4/ FATF Recommendation 38.

¹²⁵ Import bans had not yet existed in Mexico when the questionnaire was sent to the Egmont Group for completion.

¹²⁶ *Combatting Online Child Sexual Abuse and Exploitation Through Financial Intelligence* (Egmont Group and Information Exchange Working Group, 2020). Accessible at: https://www.nbc.gov.kh/cafiu/download/The-Egmonts-Group-Report/2020_Public_Bulletin_Combatting_Online_Child_Sexual_Abuse_and_Exploitation_Through_Financial_Intelligence-2020.pdf.

Regarding future work and plans for collaboration, it should be noted that the Egmont Group's working groups have annual business plans. The Egmont Group aims to remain nimble in its work and support the needs of FIUs. It is therefore difficult to predict what kind of projects will be included in the working groups' business plans for 2023–2024.

Key Insights

The plans of the Egmont Group to establish guidelines and facilitate capacity-building and training for FIUs, regarding the identification of proceeds linked with human trafficking and/or modern slavery as an AML measure, aligns with the predominant experience of FIUs in relation to the identification of proceeds. However, as seen from the actions of FIUs responding to the ARRI FIU questionnaire, FIUs have also knowingly or unknowingly supported the freezing and seizure of assets, as they may not always be aware of the outcomes of the use of information that they have provided to respective agencies/entities. The Egmont Group's extension of guidelines and capacity-building to at least include an FIU's facilitation of the freezing, seizure, and confiscation of assets will therefore be welcome.

D. Law Enforcement

Law enforcement is usually used to refer to an "office" or group of people responsible for enforcing the law, maintaining public order, managing public safety, investigating crimes, making arrests, detaining suspects, and performing related functions. Accordingly, based on the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169), the term *law enforcement officials* "includes all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention."¹²⁷

With forced labour and/or human trafficking and the laundering of assets and proceeds from forced labour being a criminal offence, law enforcement agencies are a key link in the process of fighting these crimes and facilitating the recovery of assets and proceeds from these crimes; they receive reports of crime and of suspected perpetrators, as well as engage in investigations, arrests, and the provision of evidence pertaining to these crimes.

The ARRI questionnaire for law enforcement agencies was geared towards understanding the role of law enforcement agencies of respective countries in triggering investigations into proceeds laundered from human trafficking and/or forced labour, the freezing and seizing of assets derived from such activities, and facilitating and/or enabling compensation for victims/survivors.

The Ottawa Police Service (a municipal police force in Ottawa, Canada) responded to the questionnaire for law enforcement agencies.

Key Insights

The responses by the Ottawa Police provide a glimpse into the process and challenges of making investigations, asset freezing, and asset seizures, as well as facilitating compensation in a more decentralized administrative system. All of the practices employed by the Ottawa Police may, however, not always be a reflection of this administrative system, but of policies and practices that the police adopted. The Ottawa Police usually has to funnel its requests through the Royal Canadian Mounted Police (RCMP) for approval, for the purpose of making international investigations/analysing cases relating to non-resident entities and individuals – a process that increases the time needed to make investigations; international investigations are usually conducted by the RCMP. Given the focus of the Ottawa Police on local/Canadian assets, one can infer that investigating local/Canadian assets that have links to overseas markets could face considerable time constraints, which could potentially compromise the ability to efficiently freeze, seize, and confiscate laundered assets that have overseas links. This is compounded by the indicated lengthy time for investigations into proceeds laundered by human trafficking and/or forced labour, resulting in misalignment between criminal proceedings and respective charges. Such possibilities pose the risk of continued criminality and extended harm to victims/survivors of forced labour and/or human trafficking and therefore merits, as suggested by the Ottawa Police, consideration of faster turnaround times for requested information, as well as easier access to information from the international community.

¹²⁷ Code of Conduct for Law Enforcement Officials (Geneva: OHCHR, 1979), <https://www.ohchr.org/en/instruments-mechanisms/instruments/code-conduct-law-enforcement-officials>.

Cooperation and Reach of Influence

The cooperation of the Ottawa Police with financial institutions, the FIU, and the Ministry of Justice in support of the making of investigations and the freezing and seizing of assets,¹²⁸ respectively, reflect the central role played by law enforcement in conjoining the information, intelligence, and evidence that can be used to respond to profits and proceeds derived from human trafficking and/or forced labour. Further, the cooperation of the Ottawa Police with customs officials for the purpose of making investigations into proceeds laundered from human trafficking and/or forced labour further demonstrates the multifaceted and informed input that law enforcement agents could have in supporting the detection of imports produced by forced labour and/or human trafficking, as well as the laundering of profits and proceeds from forced labour and/or human trafficking. As observed from this research, the freezing of assets by the Ottawa Police has involved the freezing of the instrumentalities of crime¹²⁹ and not only (it can be presumed) the direct and indirect proceeds of crime. This demonstrates that the Ottawa Police operates under a property-based system (though not necessarily exclusively) and an accommodating legal environment that allows for the confiscation of assets that are proceeds or instrumentalities of crime. Despite the greater difficulty in such cases in providing a link between assets and the offence, the fact that there has been the freezing of instrumentalities suggests that the Ottawa Police has sufficient evidence to facilitate such linkages. In cases involving money laundering, making a link between assets and offences becomes more difficult, resulting in some jurisdictions adopting enhancements like substitute asset provisions and extended confiscation to overcome such barriers.¹³⁰

As demonstrated in this research, while cooperation can involve direct engagement in an activity such as the seizing of assets, it could likewise involve the provision of information, evidence or other secondary support to facilitate and/or enable this activity. This reality underscores the scope that is available for respective agencies/entities to engage in cooperation, ultimately geared towards the provision of compensation for victims/survivors, although admittedly not all agencies/entities are aware of how the information/evidence

that they provide is ultimately used. Hence, although the Ottawa Police indicated that it had not supported legal or administrative proceedings to use seized assets or proceeds to compensate victims/survivors of human trafficking and/or forced labour, it nevertheless indicated that it had collaborated with the Ministry of Justice to facilitate compensation for victims/survivors. Domestic victims were compensated, with compensation sourced from individuals/companies in the country where the worker was exploited. Compensation was also provincially and nationally funded to assist victims of human trafficking, providing a good practice that can be emulated by other countries with the capacity to supplement the sourcing of compensation for victims.¹³¹ As, however, proffered by the Ottawa Police, different kinds of compensatory support should be considered, such as housing, food, and assistance in rebuilding the victim's life and livelihood. The Ottawa Police's knowledge of the 2021 seizure of assets sourced from individuals/companies where workers were exploited also highlights the potential for asset recovery if provisions were in place to seize assets from individuals/companies in the country where the goods produced by forced labour and/or human trafficking were sold.

Challenges

The challenges faced by the Ottawa Police regarding the asset recovery process provide a glimpse into some of the challenges that can be experienced by agencies/entities that do not operate at a central or federal level – a reality that can influence anticipatory action on the part of those required to work with such agencies/entities. These challenges largely relate to a greater preoccupation and focus on local/Canadian assets. However, as with other agencies/entities, some challenges faced by the Ottawa Police and collaborating agencies/entities are not unique. These challenges include and pertain to information-sharing, bureaucratic hurdles, the difficulty of furthering investigations due to the lack of internal resources, and the time-consuming nature of making Mutual Legal Assistance Treaty requests. As recommended by the Ottawa Police, such challenges could be addressed through the presence of an international law enforcement

¹²⁸ The Ottawa Police collaborated with Interpol for the purpose of seizing proceeds laundered from human trafficking and/or forced labour. Nevertheless, international investigations are usually conducted by the RCMP.

¹²⁹ For example, a residence and a vehicle.

¹³⁰ Brun et al., *Asset Recovery Handbook: A Guide for Practitioners* (Washington, DC: World Bank, 2011), p. 108. Accessible at: https://www.unodc.org/documents/corruption/Publications/StAR/StAR_Publication_-_Asset_Recovery_Handbook.pdf.

¹³¹ The Ottawa Police revealed that their organization can compensate each victim with approximately C\$5,000.

hotline which could facilitate and enable access to resources as well as international organizations, the presence of a dedicated unit to conduct investigations with partner agencies, and easier access to information-sharing from major banking and financial institutions.

E. Ministry of Justice (or similar ministry/institution)

Ministries of Justice (and their variations across jurisdictions) are usually responsible for facilitating the administration of justice, upholding and maintaining the rule of law in a country, and protecting the rights of individuals.

Regarding the process of recovering illicit assets, a number of activities can fall under the Ministry's jurisdiction, depending on the laws and regulations of respective jurisdictions, as well as the State's relationship to applicable conventions and treaties. These activities include the following: the provision of authorization to law enforcement officials to use special investigative techniques (such as electronic surveillance) for the purpose of gathering evidence and tracing assets; the facilitation of the tracing, freezing, seizure, and confiscation of illicit assets/the proceeds (and instrumentalities) of crime, including via mutual legal assistance requests; the initiation of court proceedings (whether relating to criminal or non-conviction-based confiscation, and/or civil actions) against an individual or legal entity; the making of confiscation, compensation, and other orders; and the determination of punishment for perpetrators and accomplices.

The importance of the Ministry of Justice in engaging in local and international cooperation to facilitate the recovery of assets laundered as a consequence of human trafficking and/or forced labour, and in facilitating compensation to victims/survivors therefore cannot be overstated.

The ARRI questionnaire for Ministries of Justice (and similar ministries/institutions across jurisdictions) was geared towards understanding their role in respective countries in triggering investigations into proceeds laundered from human trafficking and/or forced labour, freezing and seizing assets derived from such activities, and facilitating and/or enabling compensation for victims/survivors. Insights from this questionnaire are captured below.

Respondents from Ministries of Justice (and similar ministries/institutions) that responded to the ARRI questionnaire represented the Coordinating Ministry for Political, Legal, and Security Affairs (Indonesia), the Office of the Public Prosecutor (Liechtenstein), the Ministry of Justice (Latvia and Malawi), the Ministry of Interior (Hungary), and the Public Prosecution Service (the Netherlands).

Key Insights: Collaboration and Cooperation

Of all the agencies engaged in the asset recovery process, the Ministry of Justice provides the greatest potential for inter-agency collaboration. This is given the reality that, subject to the laws and regulations of respective countries, the jurisdiction of the Ministry of Justice (and similar ministries/institutions) could extend from the tracing of assets to the facilitation of asset confiscation and the delivery of compensation to victims/survivors. It is therefore essential that the Ministry of Justice is given adequate training to capitalize on its capacity for inter-agency cooperation towards the confiscation of assets, as well as training on how to establish relationships via diplomatic and other channels. This is notwithstanding challenges that may exist in tracing proceeds, getting agencies and individuals to take responsibility for the exploitation of workers, and establishing relationships with companies in countries where workers are/were exploited. Given the reality that confiscated assets (including corporate assets) may not necessarily go to victims/survivors of human trafficking and/or forced labour, targeted actions in this regard, supported by training and capacity-building need to be given priority. It is also crucial that challenges in analysing cases relating to non-resident entities/individuals are adequately addressed. As found by the Public Prosecution Service of the Netherlands, these challenges include overcoming language barriers in an effort to obtain information, and inspiring confidence in victims/survivors, who do not have a residence permit, to make contact with authorities.

Cooperation and Reach of Influence

As noted from respondents, the most prevalent inter-agency or private sector partners with which Ministries of Justice (and similar ministries/institutions) have collaborated in respect of investigations and the freezing and seizure of assets pertaining to money laundering and forced labour and/or human trafficking

have been law enforcement, financial institutions, FIUs, and customs authorities (mainly in the case of overseas-based cooperation). This collaboration is evidence of the potential for engagement with respective agencies and/or entities for the purpose of facilitating compensation for victims/survivors. As demonstrated by the Public Prosecution Service of the Netherlands, collaboration could also be had with tax, social security, and local authorities in supporting asset freezing and seizing, and victim/survivor compensation. The Public Prosecution Service also engaged with agencies such as Europol, Eurojust, CARIN, and Asset Recovery Offices (EU and Switzerland), as well as Liaison Officers, in support of investigations pertaining to proceeds laundered from human trafficking and/or forced labour. This demonstrates the potential input that regional agencies, and local intermediaries can make towards supporting the asset recovery process.

Challenges

Pursuing all avenues for inter-agency cooperation is particularly essential in a context where the confiscation of assets (including corporate assets) is often essential for the provision of compensation to victims/survivors, necessitating intelligence, support, and coordination among agencies based locally and overseas. In this regard, addressing challenges to inter-agency cooperation and coordination should be given priority. In the realm of investigations, challenges to overseas-based cooperation that need to be addressed include differences in confiscation procedures across countries, as well as challenges due to insufficient information and late responses and follow-ups. In respect of the freezing of assets, common challenges in collaborating with local and overseas partners pertain to differences

across institutions in the understanding and perception of money laundering crimes committed via human trafficking offences (Indonesia). Other challenges on the overseas front have been largely operational, stemming from the length of time that it takes to execute mutual legal assistance requests, the human resource capacity to respond to these and other requests, and the difficulty of tracing non-registered assets or those registered under the name of a different individual. In some cases, it may be difficult to obtain the confiscation of assets following their seizure, towards the goal of providing compensation to victims/survivors. However, as the case of the Netherlands has demonstrated, seized assets can be used for the purpose of compensation, without the need for a confiscation procedure, demonstrating an approach that can be adopted by countries to facilitate compensation for victims/survivors. The removal of confiscation procedures as a requirement for victim/survivor compensation is also anticipated to save the State essential financial and human resources given the extensive work that is usually required for asset confiscation.

F. Wolfsberg Group

The Wolfsberg Group is an association comprising 13 global banks: Banco Santander,¹³² Bank of America,¹³³ Barclays,¹³⁴ Citigroup,¹³⁵ Credit Suisse,¹³⁶ Deutsche Bank,¹³⁷ Goldman Sachs,¹³⁸ HSBC,¹³⁹ J.P. Morgan Chase,¹⁴⁰ MUFG Bank,¹⁴¹ Société Générale,¹⁴² Standard Chartered Bank,¹⁴³ and UBS.¹⁴⁴ Formed in 2000, the Group was developed for the purpose of developing frameworks and guidance for the management of financial crime risks, particularly related to Know Your Customer, AML, and CTF.

¹³² "Informe con relevancia prudencial (Pilar III)," Santander, last accessed 16 October 2023, https://www.santander.com/csgs/Satellite?applID=santander.wc.CFWCSancomQP01&c=Page&canal=CSCORP&cid=1278677203334&emp=CFWCSancomQP01&leng=es_ES&pagename=CFWCSancomQP01/Page/CFQP01_PageHome_PT1.

¹³³ "Bank of America," last accessed on 29 September 2023, <https://about.bankofamerica.com/en-us/index.html#fbid=BRQ6b4JRpde>.

¹³⁴ "Barclays," last accessed on 29 September 2023, <https://www.home.barclays/>.

¹³⁵ "Citigroup," last accessed on 29 September 2023, <http://www.citigroup.com/citi/>.

¹³⁶ "Credit Suisse," last accessed on 29 September 2023, <https://www.credit-suisse.com/ch/en.html>.

¹³⁷ "Deutsche Bank," last accessed on 29 September 2023, <https://www.db.com/company/index.htm>.

¹³⁸ "Goldman Sachs," last accessed on 29 September 2023, <http://www.goldmansachs.com/>.

¹³⁹ "HSBC," last accessed on 29 September 2023, <http://www.hsbc.com/>.

¹⁴⁰ "J.P. Morgan," last accessed on 29 September 2023, <https://www.jpmorgan.com/country/GB/en/jpmorgan>.

¹⁴¹ "MUFG," last accessed on 29 September 2023, <http://www.bk.mufg.jp/global/>.

¹⁴² "Societe Generale," last accessed on 29 September 2023, <https://www.societegenerale.com/en/>.

¹⁴³ "Standard Chartered," last accessed on 29 September 2023, <https://www.sc.com/en/>.

¹⁴⁴ "UBS," last accessed on 29 September 2023, <https://www.ubs.com/global/en.html>.

Given its role in standard setting, the Wolfsberg Group is a key stakeholder in the bid to use AML measures and bank intelligence to facilitate and enable compensation for victims/survivors of human trafficking and/or forced labour.

The ARRI questionnaire for the Wolfsberg Group was geared towards understanding the plans, if any, that the Group had related to the development of guidance and/or capacity-building and training on the following: the identification of proceeds linked with human trafficking and/or modern slavery, the freezing and seizing of such proceeds, and the facilitation of compensation to victims/survivors of human trafficking and/or modern slavery. It was likewise geared towards understanding Wolfsberg Group members' level of knowledge and enforcement actions regarding bans by the US and Canada¹⁴⁵ on the importation of goods produced by forced labour. As revealed by the Wolfsberg Group, some members (but not all) are aware of these bans by the US and Canada. Accordingly, some members incorporate enforcement actions taken by US and Canadian customs authorities into their human rights due diligence processes and into their AML measures, where applicable.

Guidance and Capacity-building/Training

Based on the feedback provided in the questionnaire, the Wolfsberg Group does not have plans to establish guidance (as an AML measure) on the identification of proceeds linked with human trafficking and/or modern slavery, the freezing and seizing of such proceeds, or the facilitation of compensation to victims/survivors of human trafficking and/or modern slavery. The Wolfsberg Group likewise has no plans to facilitate capacity-building/training for financial institutions in this regard.

Collaboration: Identification of Proceeds, and Support Towards the Freezing and Seizing of Proceeds, and the Compensation of Victims/Survivors

The Wolfsberg Group has experience in collaborating with Thomson Reuters Foundation Alliance/the European Bankers Alliance regarding providing support towards the identification of proceeds linked with human trafficking and/or modern slavery. However, the Group

does not have current collaborations or immediate plans to collaborate with agencies/entities/organizations in this regard. However, it indicated that AML controls generally include the identification of human trafficking /modern slavery. Further, the Wolfsberg Group has no experience of collaborating with agencies/entities/organizations in providing support towards the freezing or seizing of proceeds linked with human trafficking and/or modern slavery, or the compensation of victims/survivors. It further indicated that any future plans in this regard would be handled by the members of the Group.

G. Wolfsberg Group Members

The Wolfsberg Group members are the 13 banks comprising the Wolfsberg Group.

Banks, as financial institutions, are key repositories of finances and key facilitators of financial transactions between and among clients, banks, and other institutions, whether through their provision of savings and checking accounts, credit histories, mortgages, foreign currency, and other such services. Banks therefore have a lot of financial information and intelligence at their disposal which can be used for many purposes including supporting investigations into financial crimes such as money laundering and associated predicate offences.

Aligned with their duties under respective Bank Secrecy Laws, banks are usually required to submit Suspicious Transaction Reports/Suspicious Activity Reports to their FIU so that analyses of these reports can be done to detect linkages between financial reports/client profiles, and money laundering and terrorism financing. Banks can likewise be called by other institutions such as the Ministry of Justice to support investigations into financial crimes as well as to facilitate the freezing, seizure, and confiscation of illicit proceeds. Banks are therefore key actors in the use of money laundering regimes to facilitate remedy/compensation to victims/survivors of forced labour and/or human trafficking.

The ARRI questionnaire for Wolfsberg Group members was geared towards understanding the plans, if any, that Members had related to the development of guidance/guidelines and/or capacity-building and training on the following: the identification of proceeds linked with human trafficking and/or modern slavery, the freezing and seizing of such proceeds, and the facilitation of

¹⁴⁵ Import bans had not yet existed in Mexico when the questionnaire was sent to the Wolfsberg Group for completion.

compensation to victims/survivors of human trafficking and/or modern slavery. It was likewise geared towards understanding Wolfsberg Group members' level of knowledge and enforcement actions regarding the bans by the US and Canada on the importation of goods produced by forced labour.

Questionnaire Results

Two members of the Wolfsberg Group completed the ARRI questionnaire. Both of the banks had plans to establish AML guidance/guidelines relating to the identification of proceeds linked with human trafficking and/or modern slavery, as well as to facilitate capacity-building training for financial institutions/employees in this regard. One of the two banks also had plans to establish guidance/guidelines pertaining to the freezing of proceeds linked with human trafficking/modern slavery, as well as to facilitate capacity-building training for financial institutions/employees in this regard. Both banks were likewise aware of the forced labour import bans by the US and Canada. However, only one bank incorporated enforcement actions taken by US and Canadian customs authorities into their human rights due diligence processes. Further, both banks incorporated some enforcement actions taken by US and Canadian customs authorities into their AML measures directed at foreign individuals and companies.

Collaboration: Identification of Proceeds

Both banks had past and present experience of collaborating with other agencies and entities for the identification of proceeds linked with human trafficking and/or modern slavery, while also expressing plans for future collaborations in this regard. The most common agencies with which banks had collaborated/had intentions to collaborate were local FIUs, law enforcement agencies, and ministries of justice. In addition to these agencies/entities, banks (had) also collaborated with/had intentions to collaborate with overseas-based FIUs, law enforcement agencies, ministries of justice, PPPs, the private sector, and charities/non-governmental organizations (NGOs).

Collaboration: Freezing of Proceeds

The most common agencies with which banks had collaborated/had intentions to collaborate for the freezing of proceeds linked with human trafficking/modern slavery were local law enforcement agencies and local ministries of justice. This was similar to trends for collaborations for the identification of proceeds, except for less involvement of local FIUs (one bank compared to two). In addition to these agencies/entities, banks had also collaborated with/had intentions to collaborate with overseas-based FIUs, law enforcement agencies, ministries of justice, the private sector, and charities/NGOs. Unlike collaborations for the identification of proceeds, however, there was no reference to PPPs.

Collaboration: Seizing of Proceeds

Only one bank provided a response for collaboration regarding the seizing of proceeds linked with human trafficking and/or modern slavery. This bank had collaborated/had intentions to collaborate with the local law enforcement agency and the local Ministry of Justice.

Collaboration: Compensation

Only one bank provided a response for collaboration pertaining to compensation for victims/survivors of human trafficking/modern slavery. This bank did not have any collaborations or intentions to collaborate in this regard. The bank representative further indicated that while the bank supports charitable organizations, it did not provide support to specific victims/survivors of human trafficking/modern slavery.

Key insights

Although not a representative sample of the members of the Wolfsberg Group, the responses from the two banks that completed the questionnaire revealed some appetite by banks to establish guidance and capacity-building for the identification of proceeds linked with human trafficking/modern slavery. Further, there is some interest, though less, in the provision of guidance on the freezing of proceeds and the provision of capacity-

building/training in this regard. This interest, if sustained and representative of the needs and interests of other members, could potentially stimulate the Wolfsberg Group to establish guidance and capacity-building on these and other related issues.

Only one bank indicated that it had collaborated with overseas-based agencies, indicating the need for possible information-sharing agreements with overseas-based agencies. Nevertheless, the range of collaborations with which one bank had engaged for investigations and asset freezing demonstrates the potential scope for PPPs in the asset recovery process. These agencies/entities are as follows: FIUs (overseas and local), Ministry of Justice (overseas and local), law enforcement (overseas and local), PPPs, the private sector, and charities/NGOs.

Although both banks indicated that they had no experience or intentions regarding collaboration with agencies/entities to support the facilitation of compensation to victims/survivors, it is instrumental to note that agencies/entities may not always be aware of how the information they provide was or will be used. This reality was revealed from the information provided within the FIU questionnaires. Given the fact that the banks more commonly cooperated/collaborated with FIUs, law enforcement agencies and Ministries of Justice, it is possible that the information provided by banks was/is used to support compensation for victims/survivors.

H. Civil Society Organizations

Civil society organizations (CSOs) are non-State actors and voluntary entities or groups of people that are usually organized around specific issues on national and/or international fronts. CSOs can include NGOs, workers' organizations, faith-based organizations, community-based organizations, grassroot organizations, and other such groups. The nature of their engagement is usually varied and includes but is not limited to solidarity, advocacy, the provision of goods and services, the

monitoring and evaluation of policies and actions, holding governments and corporations accountable, and reporting on subjects of interest.

With the increased awareness of forced labour and human trafficking around the globe, CSOs (where their mandate and/or interest permit) play or have the potential to play an important role in investigating, raising awareness, and reporting and receiving reports on such human rights issues. Reporting regarding forced labour and/or human trafficking could be directed to a number of parties, including members of the public, government agencies, companies and financial institutions, other local NGOs, and multilateral organizations. For example, in 2018 the US CBP issued a WRO against Turkmenistan cotton or products produced in whole or in part with Turkmenistan cotton.¹⁴⁶ This was notably preceded by a 2016 petition by Alternative Turkmenistan News, the Cotton Campaign, and the International Labour Rights Forum to exclude cotton goods produced in Turkmenistan from the US market,¹⁴⁷ following State-sponsored forced labour in the production of cotton in Turkmenistan. The CBP can also use reports produced by NGOs as a source of evidence to support their issuing of WROs. For example, the issuing of a WRO by CBP on seafood harvested by a Vanuatu-flagged fishing vessel "Da Wang" in August 2020 was preceded by the December 2019 report, "Seabound: The Journey of Modern Slavery on the High Seas" by Greenpeace South East Asia and the Indonesian Migrant Workers Union.¹⁴⁸

Action on matters pertaining to forced labour and/or human trafficking by CSOs also extends to monitoring, evaluating, and reporting on such issues over a specified or indefinite period, advocating for adherence to/improvements in human rights standards, as well as advocating for/facilitating remediation for victims/survivors. In this regard, note is taken of a Statement¹⁴⁹ made by over 70 CSOs, coalitions, and trade unions in response to the EU Proposal for a regulation on prohibiting products made with forced labour on the Union market.¹⁵⁰ Recommended actions contained within this Statement include (among other concerns)

¹⁴⁶ "Withhold Release Orders and Findings List," US Customs and Border Protection, last accessed 16 October 2023, <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>.

¹⁴⁷ "Petition to exclude all cotton lint, yarn, fabric and other cotton goods produced in Turkmenistan, including Ikea Group's 'Nyponros' and 'Malou' cotton duvet covers and pillowcases/shams, from importation into the United States, because they are manufactured 'wholly or in part' with forced labor," 6 April 2016, https://static1.squarespace.com/static/618550501fe9be0ff3428860/t/61e8727b030e080d4b221c50/1642623611923/petition_us_dhs-cbp_cotton_cottongoods_turkmenistan_for_website.pdf.

¹⁴⁸ *Seabound: The Journey to Modern Slavery on the High Seas* (Greenpeace Southeast Asia, 2019), <https://www.greenpeace.org/southeastasia/publication/3428/seabound-the-journey-to-modern-slavery-on-the-high-seas/>.

¹⁴⁹ "Civil Society Statement on the Proposed Regulation on Prohibiting Products Made With Forced Labour on the Union Market," Corporate Justice, 11 October 2022, <https://corporatejustice.org/wp-content/uploads/2022/10/Proposed-Regulation-Prohibiting-Forced-Labour.pdf>.

¹⁵⁰ COM(2022) 453 – Proposal for a regulation on prohibiting products made with forced labour on the Union market, European Commission, 14 September 2022, https://single-market-economy.ec.europa.eu/document/785da6ff-abe3-43f7-a693-1185c96e930e_en.

the amendment of the Proposal to “focus on ensuring that workers receive remediation, and to make sure that both affected and potentially affected workers’ views and interests are taken into account at all stages of the investigation and decision processes.” The Statement also calls for attention (during all stages of investigation and decision-making processes) to be given to the fact that economic operators who are buyers ought to remediate or support remediation. Therefore, CSOs are instrumental to the fight against human trafficking and forced labour, and the promotion of human rights standards and good labour practices.

For this project, CSOs were asked (via questionnaires) about the following: their respective roles in providing information and/or evidence about companies/entities that produce goods by forced labour and/or human trafficking, their level of involvement in facilitating compensation for victims/survivors of trafficking, and their opinions and insights regarding the delivery of compensation. In all such queries, questionnaire respondents were given the opportunity to reveal the difficulties that they had experienced when engaging in respective activities, and the agencies/entities with which they had engaged and cooperated. Details revealed in CSO questionnaires are captured below.

Twenty-five CSOs across Malawi, Bangladesh, Indonesia, the US, and Canada responded to the ARRI questionnaire for CSOs.

Provision of Information

Respondents indicated that their CSOs notified local agencies/entities concerning companies or entities (based locally and overseas) that produce goods using forced labour and/or human trafficking.

Reporting on Local Companies/Entities Using Forced Labour and/or Human Trafficking

Law enforcement agencies were the most common agencies that were contacted by CSOs concerning locally based companies or entities that produced goods by

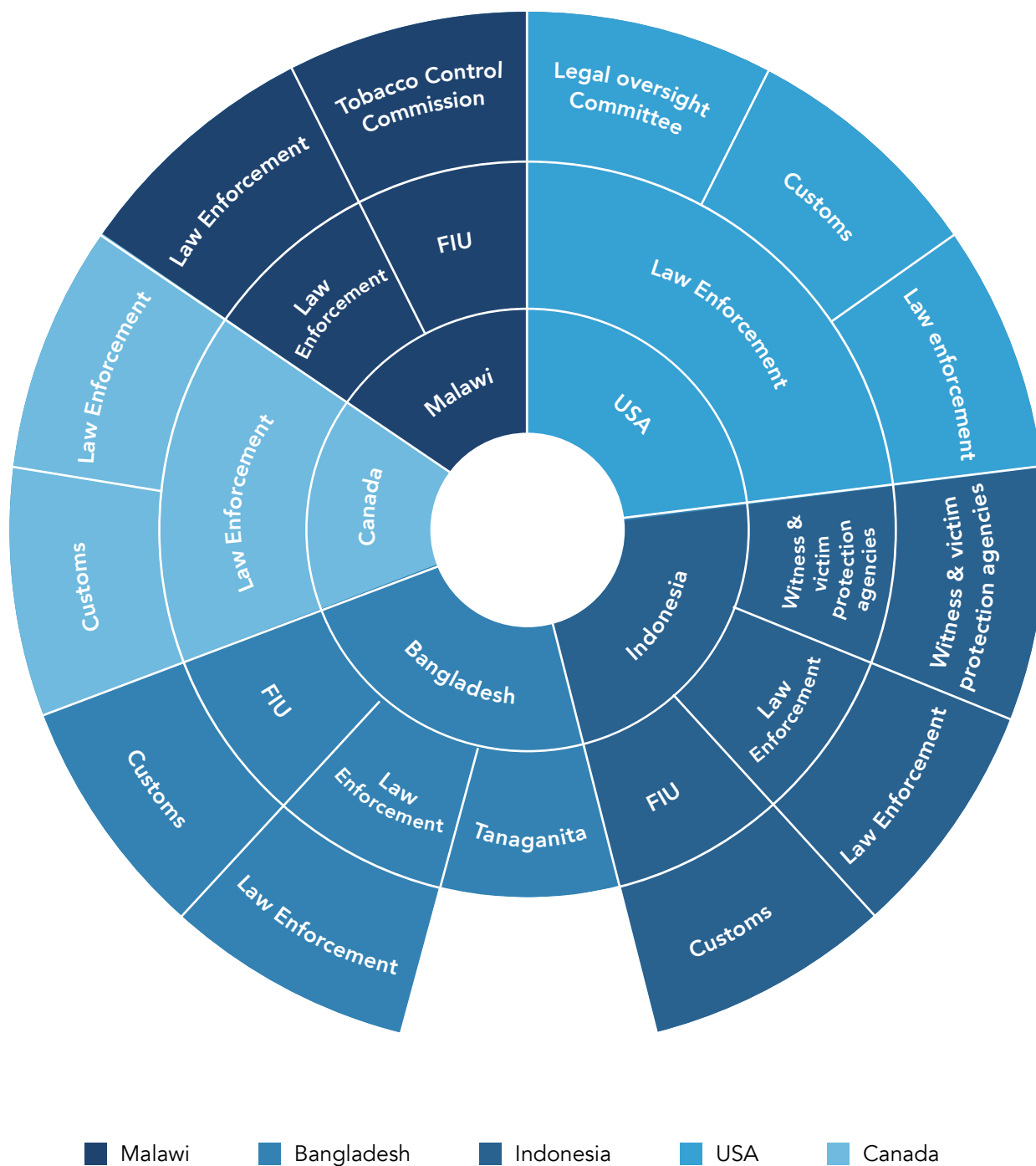
forced labour and/or human trafficking, whether involving local or foreign victims/survivors. As revealed by one CSO in Malawi, the CSO would usually provide information to gazetted law enforcement agencies (such as Immigration, Social Welfare, the Labour Office, and the Police). This would usually take place after CSO employees collect information from community child protection workers, labour monitors, border monitors, community police forums, and key persons in the community. CSOs across the five countries also made reports to agencies such as the FIU, witness and protection agencies, and a ministry responsible for the placement and protection of nationals working overseas. One respondent also indicated that newspaper reports may bring attention to such issues.

Reporting on Overseas-based Companies/Entities Using Forced Labour and/or Human Trafficking

Regarding companies or entities based outside the country where the CSO is situated and which produced goods by forced labour and/or human trafficking (whether involving local or foreign victims/survivors), CSOs across the respondents’ countries most commonly notified law enforcement agencies and customs authorities. Other agencies that CSOs notified were the district Labour Office (Malawi), Tobacco Control Commission (Malawi), Legislative Oversight Committee (USA), International Organization for Migration (Indonesia), Center for Advanced Defense Studies (Indonesia), Embassy of the Republic of Indonesia (Indonesia), and the EU Delegation (Indonesia).

The diagram below provides the distribution of agencies/entities that were notified by the CSOs represented by questionnaire respondents, concerning companies or entities that produce goods using forced labour and/or human trafficking.

Figure 1: Agencies/entities notified by CSOs about companies/entities that produce goods by forced labour and/or human trafficking



Note:

Inner Circle: Countries represented by CSOs

Middle Circle: Agencies reported to, concerning internal companies/entities involved in forced labour and/or human trafficking

Outer circle: Agencies reported to, concerning external companies/entities involved in forced labour and/or human trafficking

Provision of Evidence

Provision of Evidence on Local Companies/Entities Using Forced Labour and/or Human Trafficking

Similar to trends noted for the provision of information, CSOs across the respondents' countries most commonly contacted law enforcement agencies to provide evidence regarding companies or entities based *within* the CSO country that produced goods by forced labour and/or human trafficking. One CSO representative from Malawi, for example, revealed that their CSO provided evidence on local farmers who have been exploiting persons trafficked for labour exploitation from farms in neighbouring countries like Zambia and Mozambique. The FIU was also contacted within a few countries, along with witness and protection agencies (Indonesia), and Tenaganita – a non-profit, human rights organization focused on, *inter alia*, protecting migrants, refugees, women, and children from exploitation, discrimination, and human trafficking (Bangladesh).

Provision of Evidence on Overseas-based Companies/Entities Using Forced Labour and/or Human Trafficking

For companies/entities based *outside* the CSO country that produced goods by forced labour and/or human trafficking, CSOs also most commonly contacted law enforcement agencies followed by customs authorities. Other agencies/entities that the CSOs contacted were the Tobacco Control Commission (Malawi), the Legislative Oversight Committee (USA), and witness and victim protection agencies (Indonesia).

The diagram below provides the distribution of agencies/entities to which CSOs (represented by questionnaire respondents) provided evidence concerning companies or entities that produce goods using forced labour and/or human trafficking.

Figure 2: Agencies/entities to which CSOs provided evidence about companies/entities that produce goods by forced labour and/or human trafficking



Note:

Inner circle: Countries represented by CSOs

Middle circle: Local agencies/entities that were provided with evidence about internal companies/entities involved in forced labour and/or human trafficking

Outer circle: Local agencies/entities that were provided with evidence about external companies/entities involved in forced labour and/or human trafficking

Compensation

Of the 25 CSOs represented in this research, 19 CSOs (76 per cent) across Malawi, the USA, Bangladesh, and Indonesia had supported legal or administrative proceedings to use seized assets or proceeds to compensate victims/survivors of human trafficking and/or forced labour; the remaining six CSOs (from Malawi, Bangladesh, and Canada) indicated that they had not supported legal or administrative proceedings in this regard. Following the proceedings, nine CSOs (from Malawi, the USA, Bangladesh, and Indonesia) attested to the provision of compensation to victims/survivors of human trafficking and/or forced labour, while 10 CSOs (from Malawi, the USA, and Indonesia) indicated that no compensation had been provided to victims/survivors. Such realities reflect a 100 per cent compensation rate for respondents' CSOs in Bangladesh, a 50 per cent compensation rate for both Malawi and Indonesia, and a 36 per cent compensation rate in the USA.

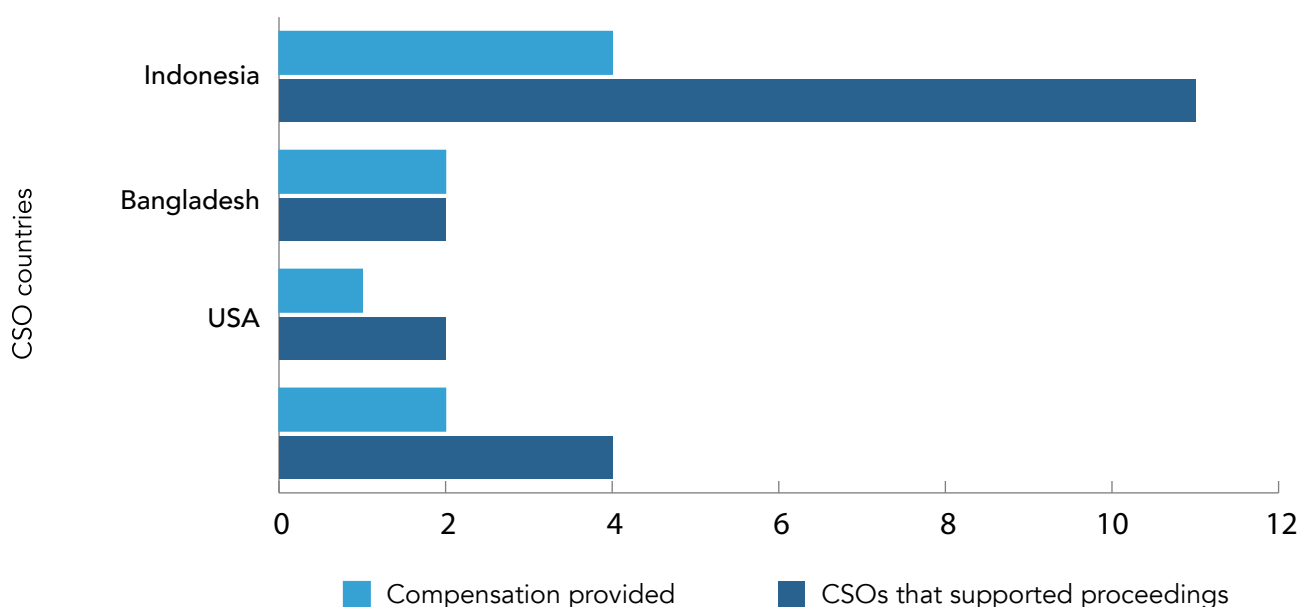
Collaboration and Compensation¹⁵¹

The nine CSOs that attested to the provision of compensation to victims/survivors of human trafficking and/or forced labour following their support of legal

or administrative proceedings to compensate victims/survivors, likewise provided a glimpse into the agencies/entities with which they collaborated to facilitate compensation.

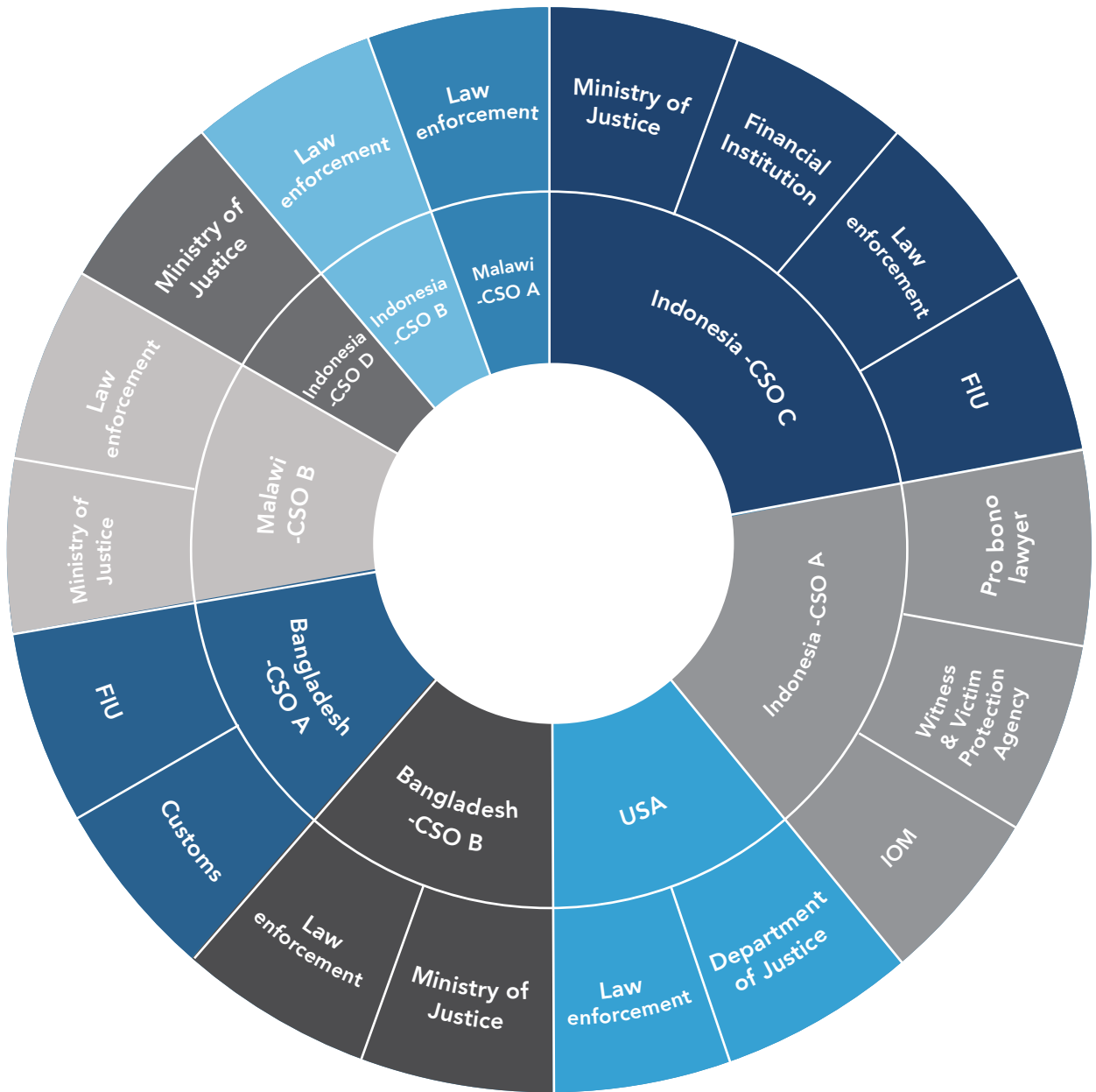
Most of the CSOs (44 per cent) collaborated with two agencies/entities to facilitate compensation, while some CSOs collaborated with one agency/entity (33 per cent), three agencies/entities (11 per cent), and four agencies/entities (11 per cent). Although there was sometimes more than one CSO from one country, there was no trend regarding the types of agencies with which they collaborated. For example, for the two CSOs from Bangladesh that collaborated with agencies/entities to facilitate compensation, one had collaborated with the FIU and the customs authority, while the other CSO had collaborated with the law enforcement authority and the Ministry of Justice. There was also no direct relationship between agencies/entities with which CSOs had previously interacted (e.g. for the purpose of providing evidence and/or information) and agencies with which they later successfully collaborated to facilitate compensation for victims/survivors of forced labour and/or human trafficking. Nevertheless, the most common agencies with which CSOs collaborated across countries were the law enforcement agency, and the Ministry of Justice/Department of Justice.

Figure 3: Compensation provided to victims of human trafficking and/or forced labour



¹⁵¹ In the diagram below, multiple CSOs in the same country are differentiated by the use of 'CSO A', 'CSO B', 'CSO C', and 'CSO D', respectively and where applicable.

Figure 4: Agencies with which country-based CSOs successfully collaborated to facilitate compensation for victims of human trafficking and/or forced labour



- Malawi -CSO A
- Malawi -CSO B
- Bangladesh -CSO A
- Bangladesh -CSO B
- USA
- Indonesia -CSO A
- Indonesia -CSO B
- Indonesia -CSO C
- Indonesia -CSO D

The indicated challenges that CSOs faced in collaborating with respective agencies/entities were varied and are listed below:

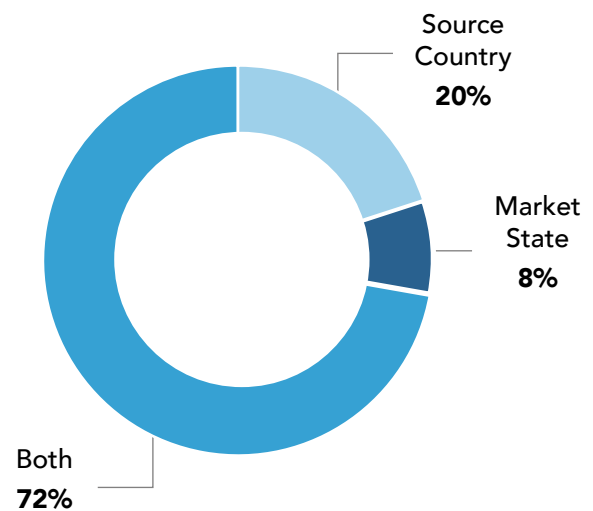
- Extreme bureaucracy: It is difficult for victims/survivors to access administrative remedies without the help of an attorney (USA);
- Legal representation: Most victims/survivors do not have resources to hire attorneys to claim their compensation after abuse and exploitation. For example, traffickers can pay for legal costs while victims/survivors cannot afford legal costs, placing them at a disadvantage in court due to the lack of adequate legal representation (Malawi); [The Malawi CSO indicated that they are working with victims/survivors to identify pro-bono lawyers to represent the victims/survivors.]
- Some agencies do not focus on victim assistance (Indonesia).

Responsibility for Compensation

The majority of CSO respondents were of the opinion that compensation should be provided by both the responsible individual(s)/company/ies in the country where the worker was exploited (i.e. the source countries) and the profiting individual(s)/company/ies in the country where the goods produced by forced labour and/or victims/survivors of human trafficking were sold (i.e. the market State). Nevertheless, there were a few individuals exclusively from Malawi and Indonesia who opined that compensation should be provided by either of these two options.

There was a mixed response from CSO respondents regarding who should be responsible for ensuring that victims/survivors (including families where victims/survivors are deceased) receive compensation once illegal assets were seized. Respondents (across all countries) were most in favour of government agencies in the country of origin taking up this responsibility, closely followed by government agencies in the country where exploitation occurred, and the CSOs representing the victims/survivors and/or their families. Respondents were collectively least in favour of government agencies in the market State facilitating the receipt of compensation by victims/survivors.

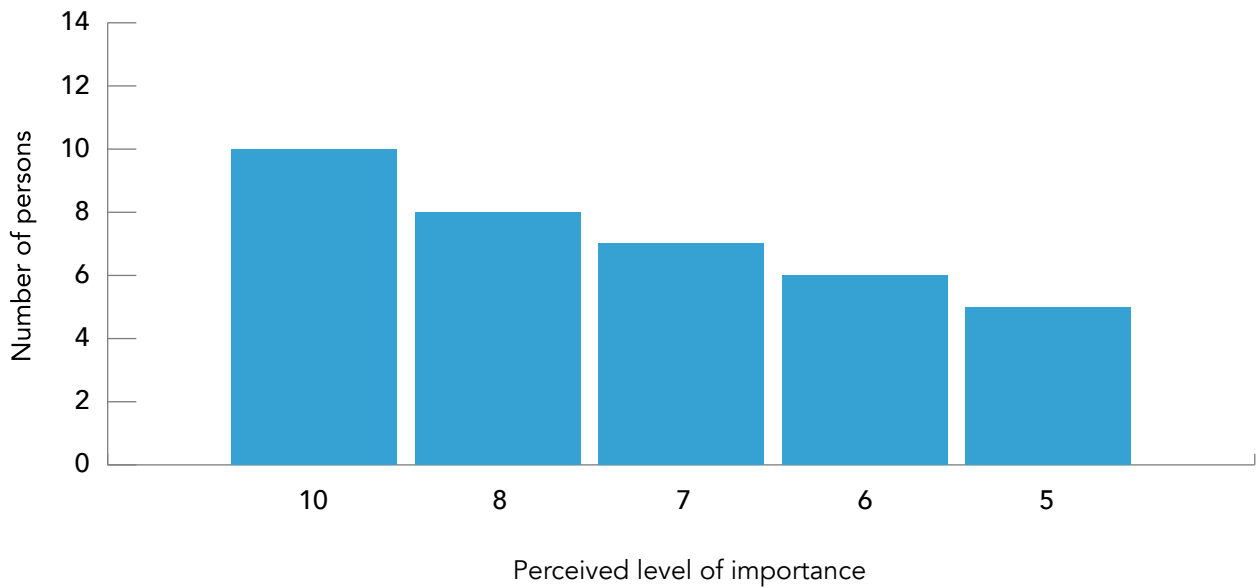
Figure 5: CSO opinions on who should provide compensation for victims of human trafficking/forced labour



Financial Education and Compensation

Questionnaire respondents were given the opportunity to rate the level of importance of financial education/literacy (i.e. the ability to understand and effectively use various financial skills, including personal financial management, budgeting, and investing) for victims/survivors who are given compensation. Using a scale of 1–10, with 1 being “lowest level of importance” and 10 being “highest level of importance,” most respondents (80 per cent) across all represented countries selected either 10 or 8, reflecting the perceived high level of importance of financial education/literacy for victims/survivors. The remaining respondents (20 per cent), made selections from options 5–7, indicating a perceived moderate level of importance of financial education/literacy for victims/survivors.

Figure 7: Perceptions of the importance of financial education/literacy for victims/survivors who are given compensation



Based on the feedback provided by respondents, financial education has been provided, on some occasions (47 per cent of all responses), by CSOs and by other organizations, with there being only two respective cases where CSOs (Malawi and Indonesia) and other organizations (Indonesia) have provided financial education on all occasions. There was also a sizable percentage of respondents across all countries (41 per cent of all responses) who believed that financial education had never been provided, either by the CSO or by other organizations.

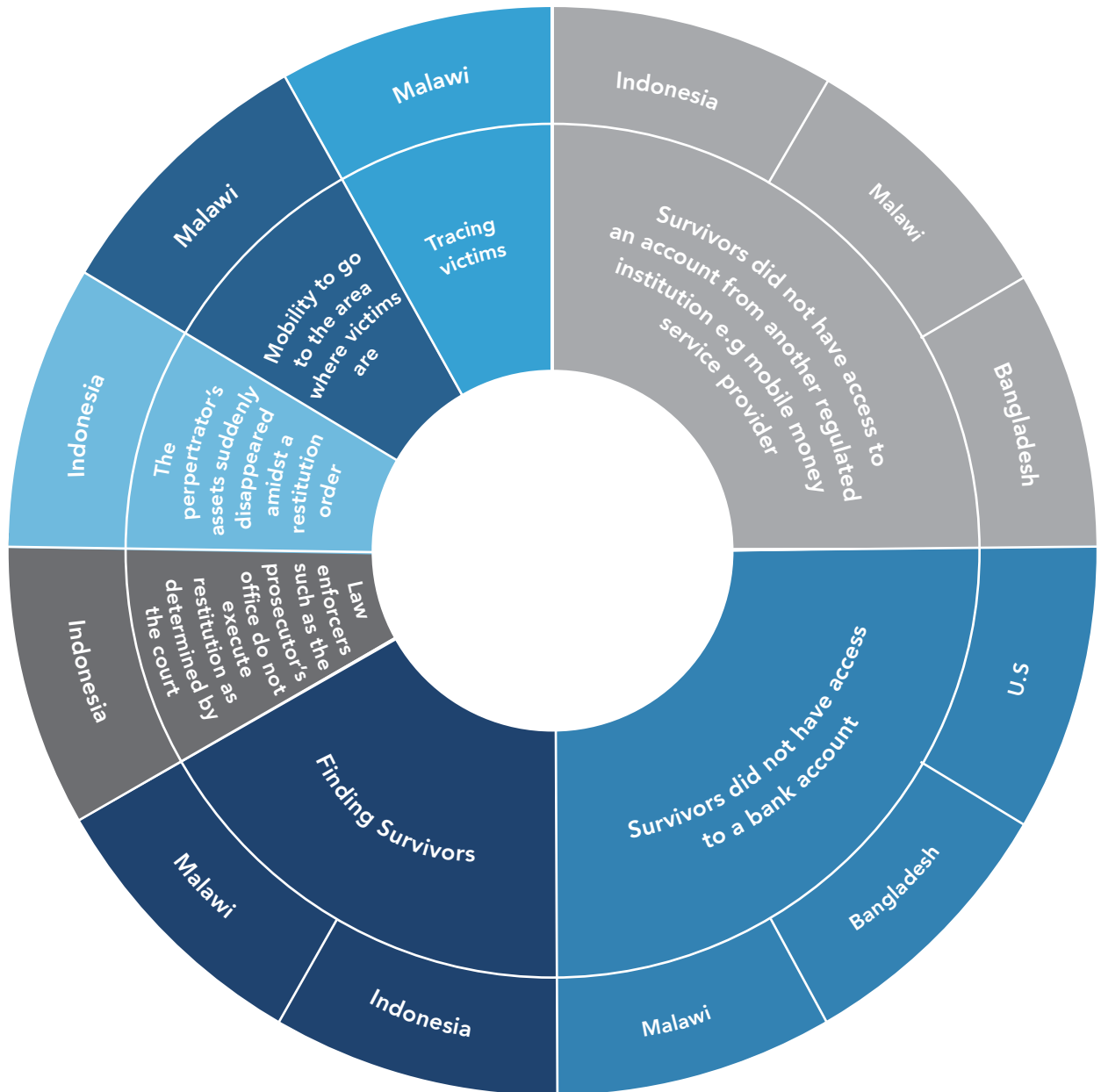
Delivery of Compensation

The delivery of compensation to victims/survivors by CSOs and/or collaborating agencies/entities was made difficult by a number of factors. The most prominent challenge was the issue of victims/survivors not having

access to an account from a regulated financial institution (other than a bank), and victims/survivors not having a bank account, followed by the challenge of finding victims/survivors. These and other challenges are captured in the diagram below, by country. As further revealed by one CSO in Indonesia, compensation is sometimes smaller than the demand from victims/survivors, which raises the issue of the adequacy of the remedy received in this and other cases.

Some CSOs across each of the respondent countries notably indicated that difficulties experienced by their CSO or collaborating agencies/entities were not applicable to them. As elucidated by one CSO representative from Malawi, no challenges exist in delivery because the Department of Labour delivers compensation directly to the victims/survivors; in the case of minors, compensation is usually delivered to relatives or parents of the minor.

Figure 8: Challenges experienced by CSOs and/or collaborating agencies/entities in delivering compensation to victims/survivors



Key Insights: Cooperation and Compensation

The questionnaire respondents from CSOs came from countries that are linked to import bans in respect of forced labour/human trafficking, in a variety of ways: countries with import bans, and source countries for forced labour – both taking place at home and overseas. These countries therefore have different stakes and potential responsibilities in enabling and/or facilitating remedy for victims/survivors. Some Malawian companies have been subject to US WROs (some of which have been modified) on tobacco products.¹⁵² Indonesia¹⁵³ and Bangladesh, however, have been more commonly known for being source countries for (migrant) workers¹⁵⁴ exploited on distant water fishing vessels, and in the Malaysian palm oil and rubber glove industries, respectively.¹⁵⁵ The Indonesian CSOs that responded to our questionnaire assist Indonesian migrant workers exploited in various fisheries sectors around the world. The Bangladeshi CSOs assist Bangladeshi migrant workers exploited in palm oil and personal protective equipment industries in Malaysia.

Malaysia has, in turn, been subject to US-initiated WROs on palm oil and palm oil products, and personal protective equipment. The US and Canada have existing import bans.

Engagement with FIUs in the Provision of Information and Evidence on Forced Labour and/or Human Trafficking

All CSO respondents (across Indonesia, Bangladesh, Malawi, Canada, and the USA) engaged in the provision of information and evidence on companies or entities that allegedly produce goods by forced labour and/or human trafficking, whether within the country or overseas. However, while reporting to law enforcement agencies, in each regard, was common across all countries, reporting to the country's FIU – a key institute engaged in AML

activities – was not common. Of the five countries, only CSO representatives from Indonesia, Malawi, and Bangladesh indicated that they had engaged with their respective FIUs; some CSO respondents across these three countries indicated that they have the experience of providing both information and evidence to FIUs about *internal* companies/entities involved in forced labour and/or human trafficking. None of the CSOs had, however, provided information or evidence to their local FIUs concerning *external* companies/entities involved in forced labour and/or human trafficking.

Law enforcement authorities should investigate human trafficking and money laundering issues in tandem given the fact that trafficking is a crime motivated by illicit economic gain. The provision of information and evidence to law enforcement personnel by CSOs has the potential to feed into compensation to victims/survivors as a consequence, in whole or part, of money laundering considerations and regimes. While the responses of each CSO that completed the questionnaire are not representative of the landscape of CSOs within and across each country, nor do they necessarily reflect the views of CSOs in other countries impacted in some way by import bans, feeding information and/or evidence to FIUs could be considered significant. This is particularly due to the fact that FIUs have the mandate to receive and analyse Suspicious Activity Reports/Suspicious Transaction Reports regarding money laundering, terrorist financing, and associated predicate offences. With the presence of money laundering information at the disposal of FIUs, the provision of information and/or evidence by CSOs to FIUs, including through a Money Laundering Reporting Officer – a designated individual at a financial institution – could help to facilitate the detection of (suspected) cases of individuals/companies engaged in the laundering of funds derived from human trafficking and/or forced labour.

The provision of information and evidence by the select CSOs in Indonesia, Bangladesh, and Malawi to their respective FIUs can further be considered advantageous

¹⁵² "CBP modifies Withhold Release Order on certain tobacco imports from Premium Tobacco Malawi Limited," US Customs and Border Protection, 24 May 2021, <https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-withhold-release-order-certain-tobacco-imports-premium#:~:text=WASHINGTON%20%E2%80%94%20U.S.%20Customs%20and%20Border,all%20U.S.%20ports%20of%20entry>.

¹⁵³ *Assessing forced labor risks in the palm oil sector in Indonesia and Malaysia* (Fair Labor Association, 2018). Accessible at: https://www.theconsumergoodsforum.com/wp-content/uploads/2018/11/201811-CGF-FLA-Palm-Oil-Report-Malaysia-and-Indonesia_web.pdf.

¹⁵⁴ *The cost of hope: Stories of migrant workers in palm oil plantations in Malaysia* (Geneva: International Organization for Migration (IOM), 2023). Accessible at: <https://roasiapacific.iom.int/sites/g/files/tmzbdl671/files/documents/The%20Cost%20of%20Hope%20Feb%202019.pdf>

¹⁵⁵ "U.S. blocks palm oil imports from Malaysia's Sime Darby over forced labour allegations," Reuters, 31 December 2020, <https://www.reuters.com/business/energy/us-blocks-palm-oil-imports-malysias-sime-darby-over-forced-labour-allegations-2020-12-31/>.

owing to the fact that the FIUs in Indonesia and Bangladesh are administrative FIUs¹⁵⁶ – a model which permits FIUs to receive and process financial sector information before submitting disclosures to judicial or law enforcement agencies for prosecution.¹⁵⁷ Hence, unlike the law enforcement model of FIUs, which permits the implementation of AML measures and the support of money laundering investigations, the administrative model in Indonesia and Bangladesh would still require FIUs to actively liaise with law enforcement officials for the purpose of sharing information and/or evidence. The provision of information/evidence by CSOs in Bangladesh and Indonesia to FIUs could therefore help facilitate more informed analysis of Suspicious Transaction Reports and other relevant information, which can then be shared with law enforcement authorities; CSO engagement with law enforcement officials without likewise engaging with FIUs, including through a Money Laundering Reporting Officer, may result in missed or overlooked trends in data. With Malawi having a hybrid FIU (administrative and law enforcement model), risks to more comprehensive information/evidence-sharing between the FIU and law enforcement authorities are reduced. Comprehensive financial information/evidence-sharing from CSOs to FIUs (directly or indirectly) to law enforcement could provide an avenue through which money laundering and human trafficking/forced labour investigations can be triggered and through which intelligence is provided to support existing investigations.

Supporting Compensation for Victims/Survivors

Based on the questionnaire responses, it is evident that the majority of CSOs (76 per cent/19 of the represented CSOs across Indonesia, Bangladesh, Malawi, and the USA) have supported legal or administrative proceedings to use seized assets or proceeds to compensate victims/survivors of human trafficking and/or forced labour. This serves as a strong demonstration of the important role that CSOs have in supporting remedy for victims/survivors of forced labour and/or human trafficking.

Such leverage could be further strengthened if a clause is introduced in the current import ban regimes in the USA, Canada, and Mexico, and the Proposal¹⁵⁸ in the EU, requiring companies with forced labour to provide remedy to victims/survivors – a reality that could result in trade unions and other NGOs playing a more active role in supporting the receipt of compensation (and other forms of remedy) for victims/survivors.

The provision of compensation following CSO support in legal or administrative proceedings and collaboration with respective agencies/entities further provides a picture of the potential that exists for CSO engagement with respective agencies/entities in the facilitation of compensation. CSOs collectively engaged with the following: FIUs, customs, law enforcement, financial institutions, the Ministry of Justice/Department of Justice, the Money Laundering and Asset Recovery Section, the International Organization for Migration, and the Witness and Victim Protection Agency. Cooperation arrangements do not, however, have to be limited to these groups.

The preferences indicated by CSO respondents regarding who should provide compensation to victims/survivors further provide clues regarding the parties with whom CSOs could connect in support of compensation for victims/survivors. CSO advocacy for compensation can therefore target both responsible individuals/companies in the country where the worker was exploited, and profiting individuals/companies in the country where the goods produced by forced labour and/or human trafficking were sold. These hybrid options were chosen by the majority of CSOs from predominantly source countries (Bangladesh, Malawi, and Indonesia), and chosen by all respondent CSOs from market States (Canada and the USA). Further, regarding who should ensure that victims/survivors receive compensation, CSO advocacy efforts could likewise target the country of origin/place where exploitation occurred, and the market State, in addition to CSOs supporting the receipt of compensation.

¹⁵⁶ The USA also uses an administrative FIU model.

¹⁵⁷ "Financial Intelligence Units," Egmont Group of Financial Intelligence Units, last accessed on 22 March 2023, <https://egmontgroup.org/about/financial-intelligence-units/>.

¹⁵⁸ Proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the union market

Financial Health: Education/Literacy and Financial Access

Access to financial services and products is essential for victims/survivors to practically receive compensation payments, while access to financial education could better ensure the effective use of such resources.

CSOs play an important role in providing or supporting the provision of financial education to victims/survivors of human trafficking and/or forced labour who have received or who are expected to receive compensation. Some CSOs and other organizations (such as financial institutions) have already played this role – one which has likewise been backed by a high level of perceived importance (by CSOs) of financial education/literacy for survivors who are given compensation. Financial education and literacy are no doubt crucial for victims/survivors in an effort to safeguard individuals against theft of funds, as well as precarious situations and circumstances that may heighten their vulnerability to re-exploitation. Knowledge covered under financial education/literacy areas can include savings, investments, data privacy, budgeting, and finance optimization.

Financial education could also extend to financial capability, here referring to “both the *internal capabilities*, such as knowledge, skills and attitudes, and *external conditions*, such as inclusive financial institutions and beneficial financial products and services”.¹⁵⁹ This would build the capabilities of victims/survivors to make informed decisions on the financial products and services that best suit their needs, such as in-person, or digital banking. In this regard, note can be taken of the Survivor Inclusion Initiative (SII)¹⁶⁰ – a financial access project launched by FAST in 2019 in the UK, the US, and Canada to remove access barriers to financial services for survivors of modern slavery. FAST has convened and supported financial institutions (including supervisors and regulators) and survivor support organizations to facilitate access to basic banking services (such as checking and savings accounts) for survivors.¹⁶¹ As of May 2023, there was a record of more than 2900 accounts opened under

the auspices of the SII. The SII notably facilitates the financial inclusion¹⁶² of survivors through a combined focus on simplified customer due diligence (CDD), and adherence to AML and counter-terrorist financing (CFT) safeguards. Such simplified measures are essential in a context where many survivors have experienced barriers to banking such as due to the lack of official identity documentation and the lack of a permanent address. SII consultations have indicated that small business bank accounts, peer-to-peer transaction platforms, and business loans would significantly advance the financial inclusion and security of survivors.¹⁶³

As revealed earlier, the top two challenges faced by CSO respondents across Malawi, Bangladesh, Indonesia, and the US were that survivors did not have access to (a) an account from a regulated financial institution (other than a bank) such as a money service provider, and (b) a bank account. Such realities raise the possibility that victims/survivors may be more likely to have mobile wallets than bank accounts due to ease of accessibility or other issues. These realities also highlight the need to have an integrated approach involving banks, financial institutions, financial regulators, digital service providers, policy makers, monitoring and evaluation experts, and other actors to facilitate and enable greater access to financial products and services, and to complement exposure to financial education and literacy.

Financial capability interventions should be survivor-informed, trauma-informed, and culturally tailored;¹⁶⁴ they should likewise complement and not replace the need for systemic changes regarding the distribution of power and resources (ranging from finances to education and skills training), and the need to respond to intersecting vulnerabilities, whether on the basis of sex, gender, race, religion, ethnicity, or other defining criteria. Such changes in the external environments in which survivors reside could help survivors to move beyond financial stability to one in which they can thrive, as they have access to the social, economic, civil, and political rights to which they are entitled.

¹⁵⁹ David Rothwell, Mohammad Khan, and Katrina Cherney, “Building financial knowledge is not enough: Financial self- efficacy as a mediator in the financial capability of low- income families,” *Journal of Community Practice* Vol 24 Issue 4 (2016): 368–388.

¹⁶⁰ “Survivor Inclusion Initiative,” last accessed 29 September 2023, <https://www.fastinitiative.org/implementation/survivor-inclusion/>.

¹⁶¹ Finance Against Slavery and Trafficking, *Insight Briefing: Lessons from the Survivor Inclusion Initiative (SII) – the UK, US, and Canada* (New York: United Nations University Centre for Policy Research, 2022).

¹⁶² As outlined in FAST’s Blueprint, financial inclusion is a key strategy for reducing vulnerability to modern slavery.

¹⁶³ Leona Vaughn and Janina Pescinski, *Insight Briefing: Business banking and start-up support for survivors of modern slavery and human trafficking* (United Nations University, 2022).

¹⁶⁴ David Okech, Claire Bolton, and Elyssa Schroeder, “Financial education in human trafficking interventions: Implications for research, programming and policy,” *The Routledge Handbook of Financial Literacy*, eds. Gianni Nicolini and Brenda J. Cude (London & New York: Routledge, 2022).

V. Inter-agency and Multi-stakeholder Cooperation: Promising Practices

A. Customs

- a. The US CBP collaborated with locally based law enforcement authorities, CSOs, and an inter-agency group for the freezing of proceeds laundered from human trafficking and/or forced labour. The US CBP was, however, not specifically involved in the freezing of assets but contributed information over time that led to this result.

B. Financial Intelligence Units

- a. Led and hosted by the Australian Federal Police, Australia's multi-agency Criminal Asset Confiscation Taskforce (CACT) provides an example of cooperation between FIUs, law enforcement, intelligence, and customs agencies. Such cooperation serves the purpose of leveraging the respective capabilities and powers of each participant with a foundational goal of supporting whole-of-government outcomes. The CACT utilizes resources from the Australian Criminal Intelligence Commission, the Australian Taxation Office, AUSTRAC, and the Australian Border Force to target criminals' accumulated wealth. Through the coordinated and integrated approach used by CACT, profits derived from serious and organized criminal activities are identified and removed.
- b. Under Canada's Proceeds of Crime (Money Laundering) and Terrorist Financing Act, FINTRAC has the authority to establish memoranda of understanding (MOUs) with other FIUs around the world for the purpose of sharing money laundering/terrorism financing-related financial

intelligence. FINTRAC has signed MOUs with 109 FIUs. These MOUs enable fellow FIUs to submit queries to FINTRAC regarding the laundering of the proceeds of human trafficking and/or forced labour, in addition to other criminal activities. Queries from FIUs may be submitted on behalf of any relevant authority in their country, including customs authorities and law enforcement. FINTRAC disclosures can be provided to fellow FIUs in response to queries or proactively. The receiving FIU can also share FINTRAC disclosures with relevant authorities in these jurisdictions when granted permission by FINTRAC; FINTRAC retains the right to decline forward dissemination.¹⁶⁵

- c. Of the questionnaire respondents, FIU Switzerland and FINTRAC reported more inter-agency reach pertaining to cooperation with local agencies for the purpose of facilitating investigations into proceeds laundered from human trafficking and/or forced labour. FIU Switzerland had the experience of engaging with law enforcement, financial institutions, customs, the Ministry of Justice, and public administration. In comparison, FIU Canada had the experience of engaging with law enforcement, financial institutions, customs, and the Ministry of Justice.
- d. Of the questionnaire respondents, Australia's FIU reported more inter-agency reach pertaining to cooperation with local agencies for the purpose of facilitating the freezing of proceeds laundered from human trafficking and/or forced labour. The Australia FIU had the experience of engaging with financial institutions, law enforcement, customs, and the Department of Home Affairs (Immigration).

¹⁶⁵ The use of MOUs is notably complementary to the exchange of information among FIUs via the Egmont Group, and through FIU access to information via "on behalf of" requests.

C. Ministries of Justice (and similar ministries/institutions)

- a. The Public Prosecution Service of the Netherlands has collaborated with Asset Recovery Offices (within the EU and Switzerland), Europol, Eurojust, CARIN, and Liaison Officers for the purpose of making investigations into proceeds laundered from human trafficking and/or forced labour. It has likewise collaborated with tax, social security, and local authorities for the purpose of freezing and seizing proceeds laundered from human trafficking and/or forced labour, as well as for the purpose of facilitating compensation for victims/survivors of human trafficking and/or forced labour. The Public Prosecution Service has further collaborated with law enforcement, financial institutions, FIUs, and customs authorities for the purpose of supporting the aforementioned functions, as well as investigations into proceeds laundered from human trafficking and/or forced labour.

D. Civil Society Organizations

- a. One CSO in Malawi has been a part of a chain of reporting on local companies/entities using forced labour and/or human trafficking: Employees of the CSO would usually collect supporting information from community child protection workers, labour monitors, border monitors, community police forums, and key persons in the community. The CSO would then provide this information to gazetted law enforcement agencies (such as Immigration, Social Welfare, the Labour Office, and the Police).

E. Public–Private Partnerships

- a. The Fintel Alliance – a PPP led by AUSTRAC – comprises government, law enforcement, private sector, and academic organizations. Through the intelligence garnered from this partnership, the Fintel Alliance was able to create a Financial Crime Guide¹⁶⁶ to enable businesses engaged in financial services/financial service providers to understand and identify indicators associated with forced sexual servitude and child sexual exploitation in order to conduct enhanced CDD, stop associated financial transactions, and report suspicious matters to AUSTRAC.¹⁶⁷
- b. Project Protect is a PPP (comprising law enforcement agencies, financial institutions [including banks and credit unions], regulators, and survivors) that targets proceeds laundered from human trafficking with the goal of addressing trafficking for sexual exploitation. Due to its actions, there has been an increase in suspicious transaction reporting in Canada regarding links between money laundering and trafficking in the sex trade. While responding to their reporting obligations under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act, financial institutions (such as banks) have made reference to Project Protect and/or human trafficking in their reports to FINTRAC.

¹⁶⁶ "Detecting and Stopping Forced Sexual Servitude in Australia, Financial Crime Guide February 2022," (Fintel Alliance, 2022), https://www.austrac.gov.au/sites/default/files/2022-02/AUSTRAC_FCG_DetectingAndStoppingForcedSexualServitude_web.pdf.

¹⁶⁷ It should be noted that the Netherlands has a PPP called the Fintell Alliance. Comprising four Dutch banks and the Dutch FIU, this alliance is geared towards knowledge-sharing and prevention, detection, and interventions regarding money laundering and terrorism financing.

Conclusion

There remains a significant “remedy gap” between the profits derived from human trafficking and/or forced labour, and the compensation provided to victims/survivors. This is despite remedy for victims/survivors of forced labour and/or human trafficking being provided for in international treaties and soft law, and knowledge that compensation has the potential to reduce vulnerability to (re)trafficking/(re)victimization.¹⁶⁸

Most respondents in this study (78 per cent), across FIUs, customs authorities, law enforcement, Ministries of Justice, and CSOs, believed in shared responsibility for the provision of compensation. It was felt that compensation should be provided by *both* the responsible individual(s)/company/ies in the country where the worker was exploited, and the profiting individual(s)/company/ies in the country where the goods produced by forced labour and/or victims/survivors of human trafficking were sold. However, this is juxtaposed against the reality that only a small number of agencies have collaborated with other agencies/entities in investigating corporate buyers of goods produced by forced labour and/or human trafficking. This reality makes apparent the need for States to consider criminalizing “knowingly benefiting financially from forced labour or human trafficking” and including this in their list of predicate offences to money laundering. This would enable agencies and entities (supported by relevant regulations and guidelines) to give balanced attention to both corporate buyers and perpetrators in the country of exploitation during investigative, asset recovery, and compensation processes. Should the use of import bans and AML regimes during the asset recovery process take into consideration such shared responsibility, there could be increased revenue available for compensation.

Yet, as this research has shown, a distinction exists between securing compensation and the delivery of compensation to aggrieved parties. It is not sufficient to secure compensation from the aforementioned sources (including via asset confiscation), but one also needs to ensure that both domestic and foreign victims/survivors receive compensation. This is also relevant in a context where the top challenge faced by all responding agencies/entities in the delivery of compensation to survivors was that survivors did not have access to an account from a regulated institution other than a bank (for example, mobile money service providers). This was closely followed by the challenge of survivors not having access to a bank account, and that of finding/tracing survivors respectively. Such challenges could provide an opportune moment for collaboration, not least among law enforcement agencies, Ministries of Justice, CSOs, financial institutions (including, but not limited to banks, credit unions, and digital financial institutions), and relevant multilateral organizations (e.g. United Nations agencies and the International Committee of the Red Cross). In respect of the receipt of compensation by varied victims/survivors, the Public Prosecution Service of the Netherlands notably supported legal and administrative proceedings to use seized assets or proceeds to compensate victims/survivors of human trafficking and/or forced labour. Compensation was subsequently sourced from both individuals/companies in the country where the worker was exploited, and individuals/companies in the country where the goods produced by forced labour and/or human trafficking were sold. Further, three categories of aggrieved persons were compensated: domestic victims/survivors, foreign nationals/migrants based in the country of origin at the time of compensation, and

¹⁶⁸ *Access To Compensation For Victims Of Human Trafficking* (FLEX, 2016). Accessible at: <https://www.antislaverycommissioner.co.uk/media/1066/dwp-compensation-f.pdf>; Fiona David and Jacqueline Joudo Larsen, *Migrants and Their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour* (Geneva: International Organization for Migration, 2019). Accessible at: https://publications.iom.int/system/files/pdf/migrants_and_their_vulnerability.pdf.

foreign nationals/migrants based in the destination country at the time of compensation. If implemented widely, with due consideration being given to the just compensation of victims/survivors, the compensation of all three categories of victims/survivors could result in a significant increase in the compensation forthcoming to migrant workers and workers facing exploitation in third states, as well as a reduction in the remedy gap in the Global South. Such developments could likewise contribute to a greater focus on victim/survivor compensation in anti-modern slavery and environmental, social, and governance policies, forced labour import bans, as well as in human rights due diligence legislation. Moving beyond the responsibility for the provision of compensation, CSO responses reflected mixed views on who should be responsible for ensuring that victims/survivors receive compensation, reflecting the multiple avenues that can be explored within respective countries regarding the administration of compensation; 36 per cent of CSOs believed in the responsibility of government agencies in the country of origin, followed by government agencies in the country of exploitation (28 per cent), CSOs representing victims/survivors and/or their families (24 per cent), and government agencies in the market State (12 per cent).

Amid the challenges pertaining to procedures to facilitate compensation, and the ability of victims/survivors to receive compensation, this research also found that another common challenge to be overcome related to insufficient domestic and international cooperation among agencies/entities to support asset recovery and the compensation of victims/survivors. As an example of what is possible, note should be taken of the Public Prosecution Service of the Netherlands, which was involved in the most inter-agency collaboration in support of making investigations into proceeds laundered from human trafficking and/or forced labour, and the freezing and seizing of such proceeds. The Public Prosecution Service of the Netherlands and CSOs across countries displayed a similar level of collaboration regarding the facilitation of compensation for victims/survivors of human trafficking and/or forced labour. In recognition of the importance of cooperation with customs to facilitate the working of import bans alongside the AML framework in support of asset recovery, it is important to recognize that the Public Prosecution Service of the Netherlands engaged in cooperation with customs at investigation, asset seizing, and compensation stages. As has been found in this research, cooperation could take different forms and can encompass the sharing of information, the sharing of intelligence, and/or the sharing of evidence.

However, while it is important to learn from good practices across countries regarding the asset recovery process, receiving training and capacity-building to support this process could prove useful. As this research has shown, agencies/entities experienced more training in the making of investigations into proceeds laundered from human trafficking/forced labour when compared to training regarding the freezing and seizure of assets. Further, the two global banks that participated in this research, along with the Egmont Group, indicated plans to establish guidance/guidelines and facilitate capacity-building/training in respect of the identification of proceeds linked with human trafficking and/or modern slavery for their AML measures. Such composite patterns across agencies/entities indicate that much scope exists for training and capacity-building in less explored areas. As highlighted in this research, although not all agencies/entities have directly engaged in all elements of the asset recovery process, training/capacity-building related to the different components of the asset recovery process could prove useful in supporting this process.

With the emergence of forced labour import bans around the world, there is great potential for the relevant authorities to maximize the value of information and evidence obtained through the enforcement of import bans, and through AML frameworks to support investigations into the laundering of proceeds, enable and facilitate the recovery of assets, and support the subsequent compensation of victims/survivors of human trafficking and/or forced labour. Hence, the presence of data/information-sharing regulations, human and financial resources, and training/capacity-building to support the sharing of information and intelligence across agencies/entities for the purpose of recovering assets laundered from human trafficking and/or forced labour should be given priority. It is also essential that States pursue confiscation measures simultaneously with investigations into human trafficking and forced labour, and likewise ensure that confiscated assets can be and are used to fully compensate both domestic and foreign victims/survivors. The establishment of sustainable PPPs to ensure that victims/survivors have a means through which they can receive compensation should be another area of priority alongside establishing “knowingly benefiting financially from forced labour or human trafficking” as a predicate offence to money laundering. This is particularly in consideration of the aforementioned challenges faced by agencies/entities in the delivery of compensation to survivors.

As we consider target 8.7 of the Sustainable Development Goals,¹⁶⁹ pursuing the right to effective remedy, i.e. compensation, for victims/survivors of human trafficking and/or forced labour could help to reduce the risk of victims/survivors to re-exploitation and re-victimization, while also providing greater scope for such individuals to increase their financial resilience and

stability. The use of AML measures/regimes, inter-agency and multi-stakeholder cooperation/collaboration and supporting laws and regulations to hold perpetrators and beneficiaries accountable, and enable and provide compensation to victims/survivors, are steps that can be considered towards achieving this end.

¹⁶⁹ Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking, and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.

Recommendations

A. General Recommendations to States

Primary Recommendations: What Should be Done Immediately

- States with existing forced labour import bans, and those that adopt such bans in the future, should:
 - Incorporate import bans into National Action Plans on Forced Labour/Human Trafficking and/or National Action Plans on Business and Human Rights with a particular focus on ensuring victims'/survivors' right to remedy through enforcement of the bans;
 - Explicitly **require** entities subject to detention or seizure orders to cease forced labour practices;
 - Explicitly require entities subject to detention or seizure orders to provide compensation and other forms of remedy, in consultation with victims/survivors and/or their representatives where possible, **as a condition** of lifting such orders;
 - Not allow compensation from entities subject to detention or seizure orders to preclude asset recovery from importers and other companies in market States that profit from forced labour/human trafficking in their value chains (where applicable); and
 - Automatically refer cases to criminal law enforcement authorities following a detention order so that those authorities can initiate a criminal investigation against companies in market States that financially benefit from forced labour in their value chains (where applicable).
- States with existing forced labour import bans, and those that adopt such bans in the future, should also include provisions in their laws that explicitly link enforcement of the bans with asset recovery and compensation procedures (where applicable). Such provisions could include:
 - Mechanisms to facilitate cooperation between the competent authorities;
 - Data sharing between customs, FIUs, law enforcement authorities, and ministries of justice for the purpose of investigating potential violations of AML laws (where applicable) and identifying, freezing, seizing, and confiscating illicit assets and proceeds to compensate victims/survivors;
 - Data sharing between customs, FIUs, law enforcement authorities, and ministries of justice for the purpose of investigating potential violations of forced labour import bans; and
 - A reversal of the burden of proof with a rebuttable presumption that individuals or companies that import goods that are banned are involved in money laundering (where applicable) unless they prove the legal origins of the proceeds generated from the sale of the prohibited goods. If importers cannot rebut the presumption, the proceeds from the sale of the prohibited goods should be confiscated and used to compensate victims/survivors.
- All States should establish clear guidance on the provision and exchange of information, including detailing the steps and potential actors involved in the process to compensate victims/survivors. This would enable a more efficient and effective,

multi-stakeholder and inter-agency approach to compensation for victims/survivors of forced labour, human trafficking, and other forms of modern slavery.

- All States should consider criminalizing “knowingly benefiting financially from forced labour or human trafficking” and including this in their list of predicate offences to money laundering. This would enable asset recovery from companies in market States that profit from the sale of goods produced by forced labour or human trafficking and compensation to victims/survivors from the confiscated assets.
- All States should adopt laws that require importers to adhere to traceability requirements that trace the finished good from the raw material stage to the point of importation. States with forced labour import bans should further utilize such laws to enhance the enforcement of the bans and asset recovery for compensation purposes (where applicable).
- All States should amend their relevant laws to allow FIUs to exchange information with any other government agency so long as the purpose is to enforce AML/CFT laws.
- All States should amend their relevant laws to allow FIUs to accept information from CSOs, and other entities besides financial institutions, on suspected cases of forced labour, human trafficking, and other forms of modern slavery.
- All States should ensure that mechanisms are established to protect CSOs and other entities from reprisals when information and/or evidence is shared with government agencies. For example, this can include mechanisms to ensure the confidentiality of all information and/or evidence received, to the extent possible, and measures to protect the individuals who provide this information and/or evidence.
- All States should source compensation from both individuals/companies in the country where the worker was exploited, and individuals/companies in the country where the goods produced by forced labour and/or victims/survivors of human trafficking were sold to the end-buyer (where applicable).
- All States should ensure that compensation via asset recovery is provided to all victims/survivors irrespective of nationality, immigration status, whether they are domestic- or overseas-based (where applicable), and regardless of whether they cooperate with prosecutors against the alleged perpetrator(s).
- All States should always allow for confiscated assets and proceeds to be used for compensation to victims/survivors of forced labour and/or human trafficking, and where generalized compensation funds are used, ensure there are always sufficient funds to compensate all victims/survivors and give priority to them before all other parties.
- All States should facilitate and enable access of victims/survivors to bank accounts, or accounts from regulated financial institutions other than banks as a part of the restitution process in forced labour and human trafficking cases, to ensure that victims/survivors actually receive the money to which they are entitled. This includes providing official guidance to financial institutions on adapting CDD requirements for victims/survivors and incorporating targeted actions to increase victim/survivor financial inclusion within national financial inclusion strategies.
- All States should fully implement the relevant FATF Recommendations. This includes adopting measures that allow proceeds or instrumentalities of crime, including forced labour and/or human trafficking, to be confiscated without requiring a criminal conviction (non-conviction-based confiscation), or which require an offender to demonstrate the lawful origin of the property alleged to be liable to confiscation. Safeguards against bias should accompany these measures.
- Partnerships should be established between governments, CSOs, and financial institutions for the purpose of educating victims/survivors about financial access and services, finding/tracing victims/survivors, and addressing other issues of mutual concern.
- Where the capacity exists, States should provide compensation to victims/survivors of forced labour and/or human trafficking in cases where compensation is not forthcoming, in whole or part, from individuals/companies in the country where the worker was exploited, and from where goods produced by forced labour/human trafficking were sold (where applicable).
- All States should consider expanding their list of predicate offences to money laundering to include all crimes, including all forms of modern slavery.

Such a reform should also lower the State's burden of proof in money laundering cases from knowledge of the unlawful origins of the money to recklessness or negligence.

Secondary Recommendations: What Can be Done Subsequently

- States with forced labour import bans should consider establishing an import ban–asset recovery network/working group of relevant authorities to facilitate compensation to victims/survivors of forced labour and/or human trafficking. Such a network/working group should establish links with anti-crime PPPs to facilitate the timely exchange of information.
- All States should improve the provision of feedback to relevant agencies to indicate when their information is utilized in a case, and its usefulness.
- All States should enhance the recording of modern slavery case data, which would allow for easier access to statistical data on such matters.
- All States should periodically produce an inter-agency/entity practice sharing brief highlighting how collaboration between agencies/entities facilitated the identification of proceeds linked with forced labour and/or human trafficking, the freezing and seizing of such proceeds, the confiscation of proceeds, and/or the facilitation of compensation to victims/survivors.
- All States should allow recklessness or negligence in money laundering cases to be proven through “irresistible inference,” or evidence that shows the money cannot be linked to a legal source or is grossly out of proportion.
- All States should provide more funding to CSOs to educate actual and prospective recipients of compensation on financial literacy to strengthen their access to and use of financial services.
- Government agencies should proactively seek cooperation with CSOs that have the capacity to support legal or administrative proceedings to use seized assets to compensate victims/survivors.

- All States should ensure legal aid is provided to all persons, regardless of nationality and immigration status, who are seeking compensation as victims/survivors of forced labour and/or human trafficking.
- All States should allocate sufficient resources to FIUs for training on human trafficking and forced labour indicators.

B. Specific Recommendations to Government Agencies

Customs

Primary Recommendations: What Should be Done Immediately

- Customs and other competent authorities should ensure that training/capacity-building is provided in the following areas: the identification of cases where asset recovery for survivors should take place; the making of investigations into proceeds laundered from human trafficking and/or forced labour; the freezing of assets linked with human trafficking and/or forced labour; and the seizure of assets linked with human trafficking and/or forced labour.
- Where the lack of investigations into proceeds laundered from human trafficking and/or forced labour is due to the lack of intelligence linking money laundering to human trafficking and/or forced labour, information-sharing arrangements can be considered among customs officials, financial institutions (e.g. banks), FIUs, law enforcement, and members of civil society. This information-sharing should also extend to the provision of support towards the freezing and seizing of assets and the provision of compensation to victims/survivors.
- Customs and other competent authorities should join PPPs and establish bilateral agreements, as appropriate, to complement other measures to facilitate knowledge sharing on, and investigations into money laundering associated with human trafficking and/or forced labour. A focus on human trafficking and/or forced labour can be incorporated into cases where anti-crime-based PPPs and bilateral arrangements already exist.¹⁷⁰

¹⁷⁰ For example, the Europol Financial Intelligence Public Private Partnership and the Fintel Alliance (Australia). Partners involved in the Fintel Alliance include banks, remittance service providers, gambling operators, and local and overseas-based law enforcement and security agencies.

Financial Intelligence Units

Primary Recommendations: What Should be Done Immediately

- Establish a modern slavery working group consisting of a few analysts from each participating FIU. The working group could establish an agreement to share information on forced labour, human trafficking, and other forms of modern slavery, develop trainings on modern slavery issues, and conduct other modern slavery-specific activities of mutual interest.
- Allocate sufficient resources for personnel to undertake trainings on human trafficking and forced labour indicators.
- Undertake training and capacity-building, and seek all necessary resources in the following areas: the identification of cases where asset recovery for survivors should take place, the making of investigations into proceeds laundered from human trafficking and/or forced labour, and the freezing and seizure of assets derived from such activities. Such training should take place regardless of whether such activities are within the mandate of respective FIUs, because FIUs, regardless of their mandate, may be able to provide information and support to other agencies leading to the fulfilment of activities.
- Explore ways to be a part of inter-agency bodies on countering human trafficking and/or forced labour as well as multi-stakeholder groups such as PPPs so that their specialist knowledge in money laundering and associated predicate offences can be combined with knowledge and intelligence from other individuals and agencies/entities to facilitate a more comprehensive picture relating to the laundering of funds from human trafficking and/or forced labour.

Secondary Recommendations: What Can be Done Subsequently

- Establish PPPs and/or other formalized information-sharing agreements with local banks, local law enforcement agencies, Ministries of Justice, and asset recovery inter-agency networks for the purpose of sharing information that could be used

to support the asset recovery process for assets/proceeds laundered from forced labour and/or human trafficking.

- Explore additional avenues for information-sharing agreements with other agencies/entities such as customs. Information-sharing in support of investigations and asset freezing may also be extended to cooperation with overseas-based agencies besides FIUs when exchanges between FIUs via the Egmont Group do not produce the desired results.
- Include payment service providers in PPPs and provide guidelines and training to help them identify potential proceeds derived from human trafficking and/or forced labour.

Law Enforcement

Primary Recommendations: What Should be Done Immediately

- Undertake training and capacity-building, and seek all necessary resources in the following areas: the identification of cases where asset recovery for victims/survivors should take place, the making of investigations into proceeds laundered from human trafficking/forced labour, the freezing of assets linked with human trafficking and/or forced labour, the seizure of assets linked with human trafficking and/or forced labour, and the return of the assets to victims/survivors.
- For the possibility of maximum compensation to victims/survivors of forced labour and/or human trafficking, respective jurisdictions should incorporate asset recovery provisions allowing for investigations into, and the freezing, seizure, and confiscation of both the proceeds and instrumentalities of crime. In respect of the instrumentalities of crime,¹⁷¹ measures should be made to preserve the security and value of assets, and conversely to prevent the depreciation of assets pending and subsequent to seizure and/or confiscation (if this is a requirement). The expertise of asset managers could be employed for such purposes.¹⁷²
- Mutual Legal Assistance Treaty agreements should be made between domestic and overseas-

¹⁷¹ For example, a residence and a vehicle.

¹⁷² Assets such as vehicles could be sold to prevent depreciation.

based law enforcement agencies to enable the timely sharing of relevant information on money laundering, forced labour and/or human trafficking, and asset recovery.

Secondary Recommendations: What Can be Done Subsequently

- Where unutilized or underutilized, provincial and federal asset forfeiture units should be used by local agencies investigating forced labour and/or human trafficking.

Ministries of Justice

Primary Recommendations: What Should be Done Immediately

- Undertake training and capacity-building, and seek all necessary resources in the following areas: the identification of cases where asset recovery for victims/survivors should take place, the making of investigations into proceeds laundered from human trafficking and/or forced labour, the freezing of assets linked with human trafficking and/or forced labour, the seizure of assets linked with human trafficking and/or forced labour, and the return of the assets to victims/survivors.
- Given their consistent inter-agency/entity cooperation from the investigative stage to the facilitation of compensation for victims/survivors of human trafficking and/or forced labour, the Public Prosecution Service in the Netherlands should be used as an example and potential model to facilitate compensation to victims/survivors of forced labour and/or human trafficking. The exposure to this agency/entity in training in the key areas listed above is a further asset.
- Building on any engagement with asset recovery inter-agency networks, Ministries of Justice (and other agencies/entities) should explore collaboration with additional agencies for the purpose of supporting the asset recovery process. Using the Public Prosecution Service of the Netherlands as an example, these agencies/entities could include tax, social security, and local authorities, as well as relevant regional bodies.
- When investigating money laundering cases, including those where forced labour and/or human

trafficking are predicate offences, asset recovery and confiscation procedures should automatically be considered during planning for criminal investigations given the anticipated illicit proceeds that are involved. However, special care must be taken to ensure information obtained during civil investigations is properly handled/used in accordance with applicable laws in order to avoid unintended consequences from occurring in parallel criminal cases, e.g. quashing criminal convictions or staying criminal proceedings.

Asset Recovery Inter-Agency Networks

- Develop specific guidance and other materials to support members in increasing asset recovery and compensation to victims/survivors in forced labour/human trafficking cases.

C. Civil Society Organizations

Primary Recommendations: What Should be Done Immediately

- Approach PPPs that involve agencies/entities such as Ministries of Justice, law enforcement, banks, and regulated institutions other than banks when the support of such agencies/entities/institutions is needed to facilitate access of victims/survivors to bank accounts (or accounts at other regulated financial institutions) so that they can receive compensation.
- As reiterated above, financial capability interventions should be survivor-informed, trauma-informed, and culturally tailored; they should likewise complement and not replace the need for systemic changes regarding the distribution of power and resources (ranging from finances to education and skills training), and the need to respond to intersecting vulnerabilities, whether on the basis of age, sex, gender, race, religion, sexuality, ethnicity, or other defining criteria.

Secondary Recommendations: What Can be Done Subsequently

- Where the law permits, consider providing information to FIUs regarding companies/entities involved in forced labour and/or human trafficking. This information, if relevant to the mandate of

FIUs, should be provided concurrently with the provision of information to other agencies such as law enforcement units and customs authorities.

D. Financial Sector

Wolfsberg Group, its Members, and Other Financial Institutions

Primary Recommendations: What Should be Done Immediately

- All financial institutions should, on a risk-based approach, include questions regarding modern slavery and perform dedicated open-source research as part of their standardized onboarding and client review processes.
- All financial institutions should incorporate forced labour import bans into their CDD and human rights due diligence processes. This necessarily involves monitoring and responding to the issuance of new detention or seizure orders on goods produced by forced labour as they relate to the relationship they have with existing customers and their potential relationship with new customers.
- All financial institutions should develop modern slavery-specific indicators for use in identifying modern slavery cases for Suspicious Transaction Reports/Suspicious Activity Reports. The recent FAST publication, “Detecting Financial Flows of Human Trafficking and Modern Slavery: A Guide to Automated Transaction Monitoring,” can be a useful guide.¹⁷³

Secondary Recommendations: What Can be Done Subsequently

- The Wolfsberg Group should consider conducting a needs assessment of its members in respect of guidelines and training/capacity-building on the identification of proceeds linked with human trafficking and/or forced labour, the effective collaboration with authorities for the freezing and seizing of such proceeds, the confiscation of

proceeds, and the facilitation of compensation to victims/survivors of human trafficking and/or forced labour. If there is a needs gap in these areas, the Wolfsberg Group should consider developing applicable guidelines and/or training.

E. Multilateral Organizations

FATF and FATF-Style Regional Bodies

Primary Recommendations: What Should be Done Immediately

- Develop specific guidance and other materials to support members in increasing asset recovery and compensation to victims/survivors in forced labour/human trafficking cases.
- As suggested by the World Bank, consider using language/communication around CDD that is more constructive and direct regarding CDD simplifications and exemptions that allow victims/survivors easier access to financial services/products. The use of such flexibilities should be encouraged in low-risk situations.

Egmont Group and the World Customs Organization

Primary Recommendations: What Should be Done Immediately

- The Egmont Group should strongly consider providing/facilitating the provision of guidelines and training to FIUs regarding how they can most effectively and efficiently support efforts to freeze and seize proceeds linked with forced labour, human trafficking, and other forms of modern slavery. The training and guidelines could build on the work of the Egmont Group IEWG in exploring the role of FIUs in the asset recovery process, and they should consider the emerging trend of forced labour import bans and how FIUs can use the information and evidence obtained by customs and other competent authorities to support asset recovery and compensation (where applicable).

¹⁷³ Frank Haberstroh and Simon Zaugg, *Detecting Financial Flows of Human Trafficking and Modern Slavery*.

- The World Customs Organization (WCO)–Egmont Group should likewise update their handbook to include guidance on the use of money laundering intelligence by customs, to investigate, detain, and seize goods produced by forced labour.

Secondary Recommendations: What Can be Done Subsequently

- The WCO¹⁷⁴ and the Egmont Group should update their handbook on FIU–customs cooperation to include the use of AML measures to identify, freeze, seize, and confiscate illicit assets and proceeds derived from/linked with forced labour, human trafficking, and other forms of modern slavery (where applicable). This should include how FIUs can cooperate with customs and other agencies/entities to support such activities (where applicable), as well as facilitate remedy and compensation for victims/survivors.

International Labour Organization

Primary Recommendations: What Should be Done Immediately

- Consider strengthening the collection of data from all Member States or at least the States Parties to the ILO Protocol to the Forced Labour Convention on compensation and other remedy provided to victims/survivors, and the measures/mechanisms used, to inform Member State plans on forced labour and access to remedy.

¹⁷⁴ The WCO is an international and intergovernmental organization that “develops international standards, fosters cooperation and builds capacity to facilitate legitimate trade, to secure a fair revenue collection and to protect society, providing leadership, guidance and support to Customs administrations.” [See : <https://www.wcoomd.org/en/about-us/what-is-the-wco/vision-mission-values.aspx#:~:text=The%20World%20Customs%20Organization%20develops.and%20support%20to%20Customs%20administrations.>]

Appendix A: Questionnaire Sample: Financial Intelligence Unit¹⁷⁵

Finance Against Slavery and Trafficking (FAST)

Asset Recovery and Restitution Initiative Questionnaire – Financial Intelligence Unit

Consent Document for Participation in the Asset Recovery and Restitution Initiative

The Asset Recovery and Restitution Initiative (ARRI) is a research project that is being conducted under the auspices of the Finance Against Slavery and Trafficking (FAST) initiative.

ARRI has two core objectives:

- a. to increase cooperation between customs authorities, FIUs, law enforcement authorities, financial institutions, and civil society organizations on the issue of financial remedy for forced labour and human trafficking in global value chains; and
- b. to enable and increase financial remedy to victims and survivors through asset recovery from importers and other companies that profit from forced labour and human trafficking in global value chains.

FAST is using the questionnaire below as one of the means to gather information for ARRI.

By taking part in this research you, as a research participant/respondent, confirm that you are 18 years of age or above. By taking part in this research you are also giving FAST the consent to do the following:

- Read/access any information that you provide on the questionnaire form;
- Publish or share (orally and/or in writing, and in whole and/or in part) the information that you have

provided in the questionnaire with members of the public; and

- Use the information that you have provided to do any analysis, make deductions and draw conclusions on asset recovery and restitution for victims/survivors of human trafficking and/or forced labour, as well as on related or relevant topics.

As a means of facilitating the possible desire of respective research participants/respondents to remain anonymous or to refrain from providing answers to some questions, all questions have been formatted so that they are all optional. By completing any question or section within the questionnaire, you as a research participant/respondent are therefore doing this with the understanding that the information that you have provided could be made public, or revealed to the public by any means.

By proceeding to complete the questionnaire, whether in whole or in part, you are also doing this with the consciousness that your participation in this research is voluntary and that you can withdraw your participation at any time.

Should you have any questions or concerns regarding the conduct of this study, kindly contact the following persons:

- Andy Shen, FAST: andy.shen@unu.edu
- Loria-Mae Heywood, FAST: heywood@unu.edu

¹⁷⁵ The questionnaires for customs authorities, law enforcement authorities, and Ministries of Justice were similar.

Questionnaire

1. Name of respondent:

2. What country do you represent?

3. Is forced labour a predicate offence to money laundering in your jurisdiction?

[*Predicate crimes = “‘Specified unlawful activities’ whose proceeds, if involved in the subject transaction, can give rise to prosecution for money laundering”¹⁷⁶]

- a. Yes
- b. No
- c. I’m not sure

*Additional comments:

4. Can assets generated from goods produced by forced labour be seized in your jurisdiction?

- a. Yes
- b. No
- c. I’m not sure

*Additional comments:

5. Can seized assets generated from goods produced by forced labour be returned to victims of forced labour?

- a. Yes
- b. No
- c. I’m not sure

*Additional comments:

¹⁷⁶ “AML Glossary of Terms,” ACAMS, last accessed 16 October 2023, <https://www.acams.org/en/resources/aml-glossary-of-terms#d-c6de0f58>.

Training

6. My Financial Intelligence Unit has benefited from training and/or capacity-building in supporting the following areas [Choose all that apply]:
- the Identification of cases where asset recovery for survivors should take place
 - the Making of Investigations into proceeds laundered from human trafficking/forced labour
 - the Freezing of assets linked with human trafficking and/or forced labour
 - the Seizure of assets linked with human trafficking and/or forced labour
 - None of the above

*Additional comments:

Investigations

7. To date, has the work of your Financial Intelligence Unit triggered investigations into proceeds laundered from human trafficking and/or forced labour?
- Yes
 - No

*Additional comments:

8. How many persons/companies (both local and overseas) with possible links to human trafficking/or forced labour have you investigated/analysed over 2021? [If not applicable, skip to question 16]
9. How many of these analytical proceedings/investigations are ongoing?
10. How many of these analytical proceedings/investigations of persons/individuals have involved the *freezing of assets* linked with human trafficking and/or forced labour?
11. How many of these investigations of persons/individuals have resulted in the *seizing of assets* linked with human trafficking and/or forced labour?

- 12.** For investigations into proceeds laundered from human trafficking and/or forced labour, by agencies/entities based overseas, with which of the following agencies/entities did your Financial Intelligence Unit collaborate? [Choose all that apply]
- a. Customs authority
 - b. Law enforcement
 - c. Financial institutions
 - d. Civil Society Organizations
 - e. Ministry of Justice
 - f. Other:

*Additional comments:

- 13.** What challenges did you face in collaborating with respective agencies/entities above (question 12), and how could such challenges be addressed?

- 14.** For investigations into proceeds laundered from human trafficking and/or forced labour by agencies/entities based locally, with which of the following agencies/entities did your Financial Intelligence Unit collaborate? [Choose all that apply]
- a. Customs authority
 - b. Law enforcement
 - c. Financial institutions
 - d. Civil Society Organizations
 - e. Ministry of Justice
 - f. Other:

*Additional comments:

- 15.** What challenges did you face in collaborating with respective agencies/entities above (question 14), and how could such challenges be addressed?

- 16.** What difficulties did your Financial Intelligence Unit and/or collaborating agencies/entities encounter in making investigations into proceeds from human trafficking and/or forced labour from which agencies/entities in the country where exploitation took place stood to benefit financially?

- 17.** What do you recommend could be done to address those difficulties?
- 18.** Have you experienced particular challenges when analysing a case relating to non-resident entities/individuals?
- 19.** What do you recommend could be done to address those difficulties?
- 20.** Have you collaborated with other agencies/entities in investigating corporate buyers of goods produced by forced labour and/or human trafficking?
- a. Yes
 - b. No

*Additional comments:

- 21.** What areas exist for improvement in investigations into proceeds laundered from human trafficking and/or forced labour?
- 22.** What do you recommend could be done to address these areas in need of improvement?

Freezing of Assets

- 23.** Has your Financial Intelligence Unit ever provided information leading to the freezing of assets linked with human trafficking and/or forced labour?
- a. Yes
 - b. No

*Additional comments:

- 24.** How many assets were frozen over 2021?

25. The assets that were frozen were sourced from:

- a. Individuals/companies in the country where workers were exploited
- b. Individuals/companies in the country where the goods produced by forced labour and/or victims of human trafficking were sold
- c. Both
- d. Neither

*Additional comments:

26. With which *overseas-based* agency/entity did your Financial Intelligence Unit collaborate in the freezing of proceeds laundered from human trafficking and/or forced labour? [Choose all that apply]

- a. Customs authority
- b. Law enforcement
- c. Financial institutions
- d. Civil society organization
- e. Ministry of Justice
- f. There has been no collaboration to date
- g. Other:

*Additional comments:

27. What challenge(s) did you face in collaborating with respective agencies/entities above (question 26) and how could such challenges be addressed?

28. With which *locally based* agency/entity did your Financial Intelligence Unit collaborate in the freezing of proceeds laundered from human trafficking and/or forced labour? [Choose all that apply]

- a. Customs authority
- b. Law enforcement
- c. Financial institutions
- d. Civil society organization
- e. Ministry of Justice
- f. There has been no collaboration to date
- g. Other:

*Additional comments:

- 29.** What challenge(s) did you face in collaborating with respective agencies/entities above (question 28) and how could such challenges be addressed?
- 30.** What difficulties did your Financial Intelligence Unit and/or collaborating agencies/entities encounter in the freezing of assets from individuals/companies located in the country in which workers were exploited?
- 31.** What do you recommend could be done to address those difficulties?
- 32.** What difficulties did your Financial Intelligence Unit and/or collaborating agencies/entities encounter in the freezing of assets from individuals/companies located in the country in which goods produced by forced labour and/or victims of human trafficking were sold?
- 33.** What do you recommend could be done to address those difficulties?
- 34.** What areas exist for improvement in the freezing of assets from proceeds laundered from human trafficking and/or forced labour?
- 35.** What do you recommend could be done to address these areas in need of improvement?

Seizing of Assets

- 36.** Has your Financial Intelligence Unit ever provided information leading to the seizure of assets linked with human trafficking and/or forced labour?
- a. Yes
 - b. No

*Additional comments:

- 37.** How many assets were seized over 2021?

38. The assets that were seized were sourced from:

- a. Individuals/companies in the country where workers were exploited
- b. Individuals/companies in the country where the goods produced by forced labour and/or victims of human trafficking were sold
- c. Both
- d. Neither

*Additional comments:

39. With which *overseas-based* agencies/entities did your Financial Intelligence Unit collaborate to seize proceeds laundered from human trafficking and/or forced labour? [Choose all that apply]

- a. Customs authority
- b. Law enforcement
- c. Financial institutions
- d. Civil society organization
- e. Ministry of Justice
- f. There has been no collaboration to date
- g. Other:

*Additional comments:

40. With which *locally based* agencies/entities did your Financial Intelligence Unit collaborate to seize proceeds laundered from human trafficking and/or forced labour? [Choose all that apply]

- a. Customs authority
- b. Law enforcement
- c. Financial institutions
- d. Civil society organization
- e. Ministry of Justice
- f. There has been no collaboration to date
- g. Other:

*Additional comments:

- 41.** What challenge(s) did you face in collaborating with respective agencies/entities above (question 40) and how could such challenges be addressed?
- 42.** What difficulties did your Financial Intelligence Unit and/or collaborating agencies/entities encounter in the seizing of assets from individuals/companies located in the country in which workers were exploited?
- 43.** What do you recommend could be done to address those difficulties?
- 44.** What difficulties did your Financial Intelligence Unit and/or collaborating agencies/entities encounter in the seizing of assets from individuals/companies located in the country in which goods produced by forced labour and/or victims of human trafficking were sold?
- 45.** What do you recommend could be done to address those difficulties?
- 46.** What areas exist for improvement in the seizing of assets from proceeds laundered from human trafficking and/or forced labour?
- 47.** What do you recommend could be done to address these areas in need of improvement?

Compensation

- 48.** Has your Financial Intelligence Unit ever supported legal or administrative proceedings to use seized assets or proceeds to compensate victims of human trafficking and/or forced labour?
- a. Yes
 - b. No

*Additional comments:

49. What was the result of such proceedings?

- a. Compensation was provided
- b. Compensation was not provided

*Additional comments:

50. How much compensation was provided over 2021?

51. Compensation was sourced from

- a. Individuals/companies in the country where the worker was exploited
- b. Individuals/companies in the country where the goods produced by forced labour and/or victims of human trafficking were sold
- c. Both
- d. Neither

*Additional comments:

52. Those who were compensated were [Choose multiple answers, were applicable.]

- a. Domestic victims
- b. Foreign nationals/migrants based in the country of origin at the time of compensation
- c. Foreign nationals/migrants based in the destination country at the time of compensation

*Additional comments:

53. With which *overseas-based* agencies/entities did your Financial Intelligence Unit collaborate to facilitate compensation for victims of human trafficking and/or forced labour? [Choose all that apply]

- a. Customs authority
- b. Law enforcement
- c. Financial institutions
- d. Civil society organization
- e. Ministry of Justice
- f. There has been no collaboration to date
- g. Other:

*Additional comments:

- 54.** With which *locally based* agencies/entities did your Financial Intelligence Unit collaborate to facilitate compensation for victims of human trafficking and/or forced labour? [Choose all that apply]
- a. Customs authority
 - b. Law enforcement
 - c. Financial institutions
 - d. Civil society organization
 - e. Ministry of Justice
 - f. There has been no collaboration to date
 - g. Other:

*Additional comments:

- 55.** What challenge(s) did you face in collaborating with respective agencies/entities above (question 54) and how could such challenges be addressed?
- 56.** What difficulties did you encounter in gaining compensation from individuals/companies in the country in which the worker(s) was/were exploited?
- 57.** What do you recommend could be done to address those difficulties?
- 58.** What difficulties did you encounter in gaining compensation from individuals/companies in the country in which the goods produced by forced labour and/or victims of human trafficking were sold?
- 59.** What do you recommend could be done to address those difficulties?
- 60.** What areas exist for improvement in seeking compensation for victims of human trafficking and/or forced labour?
- 61.** What do you recommend could be done to address these areas in need of improvement?

- 62.** Who, in your opinion, should provide compensation for victims of human trafficking and forced labour?
- a. The Responsible individual(s)/company/ies in the country where the worker was exploited
 - b. The Profiting individual(s)/company/ies in the country where the goods produced by forced labour and/or victims of human trafficking were sold
 - c. Both
 - d. Neither

*Additional comments:

- 63.** What difficulties did your Financial Intelligence Unit and/or collaborating agencies/entities experience, if any, in facilitating the delivery of compensation to survivors? [Choose all that apply]
- a. Finding survivors
 - b. Survivors did not have access to a bank account
 - c. Survivors did not have access to an account from another regulated institution, e.g. mobile money service provider
 - d. Not applicable
 - e. Other

*Additional comments:

Appendix B: Questionnaire Sample: Civil Society Organizations (English)¹⁷⁷

Finance Against Slavery and Trafficking (FAST)

Asset Recovery and Restitution Initiative Questionnaire – Civil Society Organizations (CSOs)

Consent Document for the Participation of CSOs in the Asset Recovery and Restitution Initiative

The Asset Recovery and Restitution Initiative (ARRI) is a research project that is being conducted under the auspices of the Finance Against Slavery and Trafficking (FAST) initiative.

ARRI has two core objectives:

- a. to increase cooperation between customs authorities, FIUs, law enforcement authorities, financial institutions, and civil society organizations on the issue of financial remedy for forced labour and human trafficking in global value chains; and
- b. to enable and increase financial remedy to victims and survivors through asset recovery from importers and other companies that profit from forced labour and human trafficking in global value chains.

FAST is using the questionnaire below as one of the means to gather information for ARRI.

By taking part in this research you, as a research participant/respondent, confirm that you are 18 years of age or above. By taking part in this research you are also giving FAST the consent to do the following:

Read/access any information that you provide on the questionnaire form :

- Publish or share (orally and/or in writing, and in whole and/or in part) the information that you have provided in the questionnaire with members of the public; and

- Use the information that you have provided to do any analysis, make deductions, and draw conclusions on asset recovery and restitution for victims/survivors of human trafficking and/or forced labour, as well as on related or relevant topics.

As a means of facilitating the possible desire of respective research participants/respondents to remain anonymous or to refrain from providing answers to some questions, all questions have been formatted so that they are all **optional**. Further, all of the responses that you have provided in this questionnaire will be anonymized. Any information provided in this questionnaire that is publicly shared will therefore not identify the name of the person or the specific name of the CSO that provided responses. Please notify FAST if your organization does not require anonymity and wishes to be identified in our study.

By proceeding to complete the questionnaire, whether in whole or in part, you are also doing this with the consciousness that your participation in this research is voluntary and that you can withdraw your participation at any time.

Should you have any questions or concerns regarding the conduct of this study, kindly contact the following persons:

- Andy Shen, FAST: andy.shen@unu.edu
- Loria-Mae Heywood, FAST: heywood@unu.edu

¹⁷⁷ The CSO questionnaire was also translated to Bahasa for respondents in Indonesia who did not speak English, and/or those who preferred to complete the questionnaire in Bahasa.

Questionnaire

1. Name of respondent:

2. In which country is the civil society organization with which you are affiliated currently based?

3. Is forced labour a predicate offence to money laundering in your jurisdiction?

[*Predicate crimes = “Specified unlawful activities’ whose proceeds, if involved in the subject transaction, can give rise to prosecution for money laundering”¹⁷⁸]

- a. Yes
- b. No
- c. I’m not sure

*Additional comments:

4. Can assets generated from goods produced by forced labour be seized in your jurisdiction?

- a. Yes
- b. No
- c. I’m not sure

*Additional comments:

5. Can seized assets generated from goods produced by forced labour be returned to victims of forced labour?

- a. Yes
- b. No
- c. I’m not sure

*Additional comments:

¹⁷⁸ “AML Glossary of Terms,” ACAMS, last accessed 16 October 2023, <https://www.acams.org/en/resources/aml-glossary-of-terms#d-c6de0f58>

Provision of Information

(i.e. notifying an agency/entity about companies or entities that produce goods and services using forced labour and/or human trafficking)

6. My CSO has informed the following agency/entity about companies or entities **based within my country of residence** that produce goods and services by forced labour and/or human trafficking (whether involving local or foreign victims):

[Choose multiple answers, where applicable.]

- a. Financial Intelligence Unit
- b. Law enforcement agency
- c. None of the above
- d. Other:

*Additional comments:

7. My CSO has informed the following agency/entity about companies or entities **based outside my country of residence** that produce goods and services by forced labour and/or human trafficking (whether involving local or foreign victims):

[Choose multiple answers, where applicable.]

- a. Customs authority
- b. Law enforcement agency
- c. None of the above
- d. Other:

*Additional comments:

Provision of Evidence

8. My CSO has provided evidence to the following agency/entity about companies or entities **based within my country of residence** that produce goods and services by forced labour and/or human trafficking (whether involving local or foreign victims):

[Choose multiple answers, where applicable.]

- a. Financial Intelligence Unit
- b. Law enforcement agency
- c. None of the above
- d. Other:

*Additional comments:

9. My CSO has provided evidence to the following agency/entity about companies or entities **based outside my country of residence** that produce goods and services by forced labour and/or human trafficking (whether involving local or foreign victims).

[Choose multiple answers, where applicable.]

- a. Customs authority
- b. Law enforcement agency
- c. None of the above
- d. Other:

*Additional comments:

Compensation

10. Has your CSO ever supported legal or administrative proceedings to use seized assets or proceeds to compensate victims of human trafficking and/or forced labour?

- a. Yes
- b. No

*Additional comments:

11. What was the result of such proceedings?

- a. Compensation was provided
- b. Compensation was not provided

*Additional comments:

12. With which agencies/entities did your CSO collaborate to facilitate compensation for victims of human trafficking and/or forced labour? [Choose all that apply]

- a. Financial Intelligence Unit
- b. Customs authority
- c. Law enforcement
- d. Financial institutions
- e. Ministry of Justice
- f. There has been no collaboration to date
- g. Other:

*Additional comments:

13. What challenge(s) did you face in collaborating with respective agencies/entities and how could such challenges be addressed? (*if applicable)

- 14.** Who, in your opinion, should provide compensation for victims of human trafficking and/or forced labour?
- a. the Responsible individual(s)/company/ies in the country where the worker was exploited
 - b. the Profiting individual(s) /company/ies in the country where the goods produced by forced labour and/or victims of human trafficking were sold
 - c. Both
 - d. Neither

*Additional comments:

- 15.** Who, in your opinion, should be responsible for ensuring victims (including families where victims are deceased) and survivors receive compensation from the perpetrators and/or corporate buyers once the illegal assets are seized? [Select all that apply]
- a. the Relevant government agencies in the country of origin
 - b. the Relevant government agencies in the country where exploitation occurred
 - c. the Relevant government agencies in the market state
 - d. CSOs representing the victims/survivors and/or their families

*Additional comments:

16. On a scale of 1 to 10 (1 = lowest level of importance; 10 = highest level of importance), how important do you think financial education/literacy (i.e. the ability to understand and effectively use various financial skills, including personal financial management, budgeting, and investing) is for survivors who are given compensation?

- 17.** Has your CSO (or other organization) ever provided financial education to victims/survivors of human trafficking and/or forced labour who have received or who are expected to receive compensation? (Choose all that apply)
- a. Yes, my CSO has provided financial education on some occasions.
 - b. Yes, other organizations have provided financial education on some occasions.
 - c. Yes, my CSO has provided financial education on all occasions.
 - d. Yes, other organizations have provided financial education on all occasions.
 - e. No, financial education has never been provided by my CSO.
 - f. To the best of my knowledge, financial education has never been provided by other organizations.

*Additional comments:

- 18.** What difficulties did your CSO and/or collaborating agencies/entities experience, if any, in facilitating the delivery of compensation to survivors? [Choose all that apply]
- a. Finding survivors
 - b. Survivors did not have access to a bank account
 - c. Survivors did not have access to an account from another regulated institution, e.g. mobile money service provider
 - d. Not applicable
 - e. Other:

*Additional comments:

Appendix C: Questionnaire Sample: The Wolfsberg Group

Finance Against Slavery and Trafficking (FAST)

Asset Recovery and Restitution Initiative Questionnaire – Wolfsberg Group

Consent Document for Participation in the Asset Recovery and Restitution Initiative

The Asset Recovery and Restitution Initiative (ARRI) is a research project conducted under the auspices of the Finance Against Slavery and Trafficking (FAST) Initiative.

ARRI has two core objectives:

- a. to increase cooperation between customs authorities, FIUs, law enforcement authorities, financial institutions, and civil society organizations on the issue of financial remedy for forced labour and human trafficking in global value chains; and
- b. to enable and increase financial remedy to victims and survivors through asset recovery from importers and other companies that profit from forced labour and human trafficking in global value chains.

FAST is using the questionnaire below as one of the means to gather information for ARRI.

By taking part in this research you, as a research participant/respondent, confirm that you are 18 years of age or above. By taking part in this research you are also giving FAST the consent to do the following:

- Read/access any information that you provide on the questionnaire form;
- Publish or share (orally and/or in writing, and in whole and/or in part) the information that you have provided in the questionnaire with members of the public; and

- Use the information that you have provided to do any analysis, make deductions, and draw conclusions on asset recovery and restitution for victims/survivors of human trafficking and/or forced labour, as well as on related or relevant topics.

As a means of facilitating the possible desire of respective research participants/respondents to remain anonymous or to refrain from providing answers to some questions, all questions have been formatted so that they are all optional. By completing any question or section within the questionnaire, you as a research participant/respondent are therefore doing this with the understanding that the information that you have provided could be made public, or revealed to the public by any means.

By proceeding to complete the questionnaire, whether in whole or in part, you are also doing this with the consciousness that your participation in this research is voluntary and that you can withdraw your participation at any time.

Should you have any questions or concerns regarding the conduct of this study, kindly contact the following persons:

- Andy Shen, FAST: andy.shen@unu.edu
- Loria-Mae Heywood, FAST: heywood@unu.edu

Questionnaire

Introductory

1. Name of respondent:
-

Current Prospects

2. For its AML measures, the Wolfsberg Group has plans to establish guidelines for financial institutions regarding [Choose all that apply]:
 - a. the Identification of proceeds linked with human trafficking and/or modern slavery
 - b. the Freezing of proceeds linked with human trafficking/modern slavery
 - c. the Seizing of proceeds linked with human trafficking and/or modern slavery
 - d. the Facilitation of compensation to victims of human trafficking/modern slavery
 - e. The Wolfsberg Group does not have plans to establish guidelines on any of the above
-

Goods Produced by Forced Labour

3. What is the level of awareness of members of the Wolfsberg Group on the US and Canada's bans on the importation of goods produced by forced labour?
 - a. All are aware
 - b. Some are aware
 - c. None are aware
4. To what extent do the members of the Wolfsberg Group incorporate enforcement actions taken by US and Canadian customs authorities into their rights due diligence processes?
 - a. All incorporate enforcement actions
 - b. Some incorporate enforcement actions
 - c. None incorporate enforcement actions
5. To what extent do the members of the Wolfsberg Group incorporate enforcement actions taken by US and Canadian customs authorities into their AML measures directed at foreign individuals and companies?
 - a. All incorporate enforcement actions
 - b. Some incorporate enforcement actions
 - c. None incorporate enforcement actions

6. To what extent do the members of the Wolfsberg Group incorporate enforcement actions taken by US and Canadian customs authorities into their AML measures directed at importers and other domestic companies that purchase goods produced overseas?
 - a. All incorporate enforcement actions
 - b. Some incorporate enforcement actions
 - c. None incorporate enforcement actions
-

Capacity-building/Training Prospects

7. For its AML measures, the Wolfsberg Group has plans to facilitate capacity-building/training for financial institutions regarding the following: [Choose multiple answers, where necessary.]
 - a. the Identification of proceeds linked with human trafficking and/or modern slavery
 - b. the Freezing of proceeds linked with human trafficking/modern slavery
 - c. the Seizing of proceeds linked with human trafficking and/or modern slavery
 - d. the Facilitation of compensation to victims of human trafficking/modern slavery
 - e. The Wolfsberg Group does not have plans to facilitate capacity-building on any of the above
-

Past, Present, and Future Collaborations: Identification of Proceeds

8. With which agencies has the Wolfsberg Group collaborated (in the past) regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
 - a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group did not have collaborations in this regard
 - e. Other

9. With which agencies does the Wolfsberg Group currently collaborate regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
 - a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group does not have collaborations in this regard
 - e. Other

10. With which agencies does the Wolfsberg Group plan to collaborate in the future regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group does not intend to collaborate in this regard
 - e. Other

Past, Present, and Future Collaborations: Freezing of Proceeds

11. With which agencies has the Wolfsberg Group collaborated (in the past) regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group did not have collaborations in this regard
 - e. Other
12. With which agencies does the Wolfsberg Group currently collaborate regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group does not have collaborations in this regard
 - e. Other
13. With which agencies does the Wolfsberg Group plan to collaborate regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. The FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group does not intend to collaborate in this regard
 - e. Other

Past, Present, and Future Collaborations: Seizing of Proceeds

- 14.** With which agencies has the Wolfsberg Group collaborated (in the past) regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary]
- a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group did not have collaborations in this regard
 - e. Other
- 15.** With which agencies does the Wolfsberg Group currently collaborate regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group does not have collaborations in this regard
 - e. Other
- 16.** With which agencies does the Wolfsberg Group plan to collaborate in the future regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group does not intend to collaborate in this regard
 - e. Other

Past, Present, and Future Collaborations: Compensation

- 17.** With which agencies has the Wolfsberg Group collaborated (in the past) regarding support for compensation to victims of human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. The FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group did not have collaborations in this regard
 - e. Other

- 18.** With which agencies does the Wolfsberg Group currently collaborate regarding support for the facilitation of compensation to victims of human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group does not have collaborations in this regard
 - e. Other
- 19.** With which agencies does the Wolfsberg Group plan to collaborate in the future regarding support towards the facilitation of compensation to victims of human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Egmont Group
 - b. FATF
 - c. The World Customs Organization (WCO)
 - d. The Wolfsberg Group does not intend to collaborate in this regard
 - e. Other

Appendix D: Questionnaire Sample: Wolfsberg Group Members

Finance Against Slavery and Trafficking (FAST)

Asset Recovery and Restitution Initiative Questionnaire – Wolfsberg Group Members

Consent Document for Participation in the Asset Recovery and Restitution Initiative

The Asset Recovery and Restitution Initiative (ARRI) is a research project that is being conducted under the auspices of the Finance Against Slavery and Trafficking (FAST) Initiative.

ARRI has two core objectives:

- a. to increase cooperation between customs authorities, FIUs, law enforcement authorities, financial institutions, and civil society organizations on the issue of financial remedy for forced labour and human trafficking in global value chains; and
- b. to enable and increase financial remedy to victims and survivors through asset recovery from importers and other companies that profit from forced labour and human trafficking in global value chains.

FAST is using the questionnaire below as one of the means to gather information for ARRI.

By taking part in this research you, as a research participant/respondent, confirm that you are 18 years of age or above. By taking part in this research you are also giving FAST the consent to do the following:

- Read/access any information that you provide on the questionnaire form;
- Publish or share (orally and/or in writing, and in whole and/or in part) the information that you have provided in the questionnaire with members of the public; and

- Use the information that you have provided to do any analysis, make deductions, and draw conclusions on asset recovery and restitution for victims/survivors of human trafficking and/or forced labour, as well as on related or relevant topics.

As a means of facilitating the possible desire of respective research participants/respondents to remain anonymous or to refrain from providing answers to some questions, all questions have been formatted so that they are all optional. By completing any question or section within the questionnaire, you as a research participant/respondent are therefore doing this with the understanding that the information that you have provided could be made public, or revealed to the public by any means.

By proceeding to complete the questionnaire, whether in whole or in part, you are also doing this with the consciousness that your participation in this research is voluntary and that you can withdraw your participation at any time.

Should you have any questions or concerns regarding the conduct of this study, kindly contact the following persons:

- Andy Shen, FAST: andy.shen@unu.edu
- Loria-Mae Heywood, FAST: heywood@unu.edu

Questionnaire

1. Name of respondent:

Current Prospects

2. For its AML measures, our bank has plans to establish guidance/guidelines regarding [Choose all that apply]:
 - a. the Identification of proceeds linked with human trafficking and/or modern slavery
 - b. the Freezing of proceeds linked with human trafficking/ modern slavery
 - c. the Seizing of proceeds linked with human trafficking and/or modern slavery
 - d. the Facilitation of compensation to victims of human trafficking/modern slavery
 - e. Our bank does not have plans to establish guidelines on any of the above

Goods Produced by Forced Labour

3. What is the level of awareness of your bank on the U.S. and Canada's bans on the importation of goods produced by forced labour?
 - a. We are aware
 - b. We are not aware
4. To what extent does your bank incorporate enforcement actions taken by US and Canadian customs authorities into your human rights due diligence processes?
 - a. We incorporate all enforcement actions
 - b. We incorporate some enforcement actions
 - c. We do not incorporate enforcement actions
5. To what extent does your bank incorporate enforcement actions taken by US and Canadian customs authorities into your AML measures directed at foreign individuals and companies?
 - a. We incorporate all enforcement actions
 - b. We incorporate some enforcement actions
 - c. We do not incorporate enforcement actions
6. To what extent do you incorporate enforcement actions taken by US and Canadian customs authorities into your AML measures directed at importers and other domestic companies that purchase goods produced overseas?
 - a. We incorporate all enforcement actions
 - b. We incorporate some enforcement actions
 - c. We do not incorporate enforcement actions

Capacity-building/Training Prospects

7. For its AML measures, our bank has plans to facilitate capacity-building/training for financial institutions/employees regarding the following: [Choose multiple answers, where necessary.]
- The Identification of proceeds linked with human trafficking and/or modern slavery
 - The Freezing of proceeds linked with human trafficking/modern slavery
 - The Seizing of proceeds linked with human trafficking and/or modern slavery
 - the Facilitation of compensation to victims of human trafficking/modern slavery
 - Our bank does not have plans to facilitate capacity-building on any of the above

Past, Present, and Future Cooperation or Collaboration: Identification of Proceeds

["Cooperation" refers to voluntary partnerships with authorities and compliance with legal requirements, and "Collaboration" refers to partnerships beyond what is required by law].

8. With which agencies/entities have you cooperated or collaborated (in the past) regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- Local Financial Intelligence Unit
 - Overseas-based Financial Intelligence Unit
 - Local law enforcement agency
 - Overseas-based law enforcement agency
 - Local Ministry of Justice (or similar ministry/institution)
 - Overseas-based Ministry of Justice (or similar ministry/institution)
 - Our bank did not cooperate or have collaborations in this regard
 - Other
9. With which agencies/entities does your bank currently cooperate or collaborate regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery?[Choose multiple answers, where necessary.]
- Local Financial Intelligence Unit
 - Overseas-based Financial Intelligence Unit
 - Local law enforcement agency
 - Overseas-based law enforcement agency
 - Local Ministry of Justice (or similar ministry/institution)
 - Overseas-based Ministry of Justice
 - Our bank does not cooperate or have collaborations in this regard.
 - Other

- 10.** With which agencies/entities does your bank plan to collaborate in the future regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice (or similar ministry/institution)
 - g. Our bank does not intend to collaborate in this regard.
 - h. Other

Past, Present, and Future Cooperation or Collaboration: Freezing of Proceeds

["Cooperation" refers to voluntary partnerships with authorities and compliance with legal requirements, and "Collaboration" refers to partnerships beyond what is required by law].

- 11.** With which agencies/entities has your bank cooperated or collaborated (in the past) regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice (or similar ministry/institution)
 - g. Our bank did not cooperate or have collaborations in this regard.
 - h. Other
- 12.** With which agencies/entities does your bank currently cooperate or collaborate regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice
 - g. Our bank does not cooperate or have collaborations in this regard.
 - h. Other

- 13.** With which agencies/entities does your bank plan to collaborate regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice (or similar ministry/institution)
 - g. Our bank does not intend to collaborate in this regard
 - h. Other

Past, Present, and Future Cooperation or Collaboration: Seizing of Proceeds

["Cooperation" refers to voluntary partnerships with authorities and compliance with legal requirements, and "Collaboration" refers to partnerships beyond what is required by law].

- 14.** With which agencies/entities has your bank cooperated or collaborated (in the past) regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice (or similar ministry/institution)
 - g. Our bank did not cooperate or have collaborations in this regard
 - h. Other
- 15.** With which agencies/entities does your bank currently cooperate or collaborate regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agencies
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice
 - g. Our bank does not cooperate or have collaborations in this regard
 - h. Other

- 16.** With which agencies/entities does your bank plan to collaborate in the future regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice (or similar ministry/institution)
 - g. Our bank does not intend to collaborate in this regard
 - h. Other

Past, Present, and Future Cooperation and Collaboration: Compensation

["Cooperation" refers to voluntary partnerships with authorities and compliance with legal requirements, and "Collaboration" refers to partnerships beyond what is required by law].

- 17.** With which agencies/entities has your bank cooperated or collaborated (in the past) regarding support for compensation to victims of human trafficking/modern slavery [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice (or similar ministry/institution)
 - g. Our bank did not cooperate or have collaborations in this regard
 - h. Other
- 18.** With which agencies/entities does your bank currently cooperate or collaborate regarding support for the facilitation of compensation to victims of human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice
 - g. Our bank does not cooperate or have collaborations in this regard
 - h. Other

- 19.** With which agencies/entities does your bank plan to collaborate in the future regarding support towards the facilitation of compensation to victims of human trafficking/modern slavery?[Choose multiple answers, where necessary.]
- a. Local Financial Intelligence Unit
 - b. Overseas-based Financial Intelligence Unit
 - c. Local law enforcement agency
 - d. Overseas-based law enforcement agency
 - e. Local Ministry of Justice (or similar ministry/institution)
 - f. Overseas-based Ministry of Justice (or similar ministry/institution)
 - g. Our bank does not intend to collaborate in this regard
 - h. Other

Appendix E: Questionnaire Sample: The Egmont Group

Finance Against Slavery and Trafficking (FAST)

Asset Recovery and Restitution Initiative Questionnaire – The Egmont Group

Consent Document for Participation in the Asset Recovery and Restitution Initiative

The Asset Recovery and Restitution Initiative (ARRI) is a research project that is being conducted under the auspices of the Finance Against Slavery and Trafficking (FAST) Initiative.

ARRI has two core objectives:

- a. to increase cooperation between customs authorities, FIUs, law enforcement authorities, financial institutions, and civil society organizations on the issue of financial remedy for forced labour and human trafficking in global value chains; and
- b. to enable and increase financial remedy to victims and survivors through asset recovery from importers and other companies that profit from forced labour and human trafficking in global value chains.

FAST is using the questionnaire below as one of the means to gather information for ARRI.

By taking part in this research you, as a research participant/respondent, confirm that you are 18 years of age or above. By taking part in this research you are also giving FAST the consent to do the following:

- Read/access any information that you provide on the questionnaire form;
- Publish or share (orally and/or in writing, and in whole and/or in part) the information that you have

provided in the questionnaire with members of the public; and

- Use the information that you have provided to do any analysis, make deductions, and draw conclusions on asset recovery and restitution for victims/survivors of human trafficking and/or forced labour, as well as on related or relevant topics.

As a means of facilitating the possible desire of respective research participants/respondents to remain anonymous or to refrain from providing answers to some questions, all questions have been formatted so that they are all optional. By completing any question or section within the questionnaire, you as a research participant/respondent are therefore doing this with the understanding that the information that you have provided could be made public, or revealed to the public by any means.

By proceeding to complete the questionnaire, whether in whole or in part, you are also doing this with the consciousness that your participation in this research is voluntary and that you can withdraw your participation at any time.

Should you have any questions or concerns regarding the conduct of this study, kindly contact the following persons:

- Andy Shen, FAST: andy.shen@unu.edu
- Loria-Mae Heywood, FAST: heywood@unu.edu

Questionnaire

Introductory

1. Name of respondent:

Current Prospects

2. For its AML measures, the Egmont Group of Financial Intelligence Units has plans to establish guidelines for financial intelligence units regarding [Choose all that apply]:
- the Identification of proceeds linked with human trafficking and/or modern slavery
 - the Freezing of proceeds linked with human trafficking/modern slavery
 - the Seizing of proceeds linked with human trafficking and/or modern slavery
 - the Facilitation of compensation to victims of human trafficking/modern slavery
 - The Egmont Group does not have plans to establish guidelines on any of the above

*Additional comments:

3. The Egmont Group is aware of U.S. and Canada's bans on the importation of goods produced by forced labour.
- True
 - False

*Additional comments:

Capacity-building/Training Prospects

4. For its AML measures, the Egmont Group has plans to facilitate capacity-building/training for financial intelligence units regarding the following: [Choose multiple answers, where necessary.]
- the Identification of proceeds linked with human trafficking and/or modern slavery
 - the Freezing of proceeds linked with human trafficking and/or modern slavery
 - the Seizing of proceeds linked with human trafficking and/or modern slavery
 - the Facilitation of compensation to victims of human trafficking/modern slavery
 - The Egmont Group does not have plans to facilitate capacity-building on any of the above

*Additional comments:

Past, Present, and Future Collaborations: Identification of Proceeds

- 5.** With which agencies has the Egmont Group collaborated (in the past) regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- The Financial Action Task Force (FATF)
 - The Wolfsberg Group
 - The World Customs Organization (WCO)
 - The Egmont Group did not have collaborations in this regard
 - Other

*Additional comments:

- 6.** With which agencies does the Egmont Group currently collaborate regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- The Financial Action Task Force (FATF)
 - The Wolfsberg Group
 - The World Customs Organization (WCO)
 - The Egmont Group does not have collaborations in this regard.
 - Other

*Additional comments:

- 7.** With which agencies does the Egmont Group plan to collaborate in the future regarding the provision of support towards the identification of proceeds linked with human trafficking and/or modern slavery? [Choose all that apply]
- The Financial Action Task Force (FATF)
 - The Wolfsberg Group
 - The World Customs Organization (WCO)
 - The Egmont Group does not intend to collaborate in this regard
 - Other

*Additional comments:

Past, Present, and Future Collaborations: Freezing of Proceeds

- 8.** With which agencies has the Egmont Group collaborated (in the past) regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group did not have collaborations in this regard
 - e. Other

*Additional comments:

- 9.** With which agencies does the Egmont Group currently collaborate regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group does not have collaborations in this regard
 - e. Other

*Additional comments:

- 10.** With which agencies does the Egmont Group plan to collaborate regarding support towards the freezing of proceeds linked with human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group does not intend to collaborate in this regard
 - e. Other

*Additional comments:

Past, Present, and Future Collaborations: Seizing of Proceeds

- 11.** With which agencies has the Egmont Group collaborated (in the past) regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group did not have collaborations in this regard
 - e. Other

*Additional comments:

- 12.** With which agencies does the Egmont Group currently collaborate regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group does not have collaborations in this regard
 - e. Other

*Additional comments:

- 13.** With which agencies does the Egmont Group plan to collaborate in the future regarding the provision of support towards the seizing of proceeds linked with human trafficking and/or modern slavery? [Choose multiple answers, where necessary.]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group does not intend to collaborate in this regard
 - e. Other

*Additional comments:

Past, Present, and Future Collaborations: Compensation

- 14.** With which agencies has the Egmont Group collaborated (in the past) regarding support for compensation to victims of human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group did not have collaborations in this regard
 - e. Other

*Additional comments:

- 15.** With which agencies does the Egmont Group currently collaborate regarding support for the facilitation of compensation to victims of human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group does not have collaborations in this regard
 - e. Other

*Additional comments:

- 16.** With which agencies does the Egmont Group plan to collaborate in the future regarding support for towards the facilitation of compensation to victims of human trafficking/modern slavery? [Choose multiple answers, where necessary.]
- a. The Financial Action Task Force (FATF)
 - b. The Wolfsberg Group
 - c. The World Customs Organization (WCO)
 - d. The Egmont Group does not intend to collaborate in this regard
 - e. Other

*Additional comments:

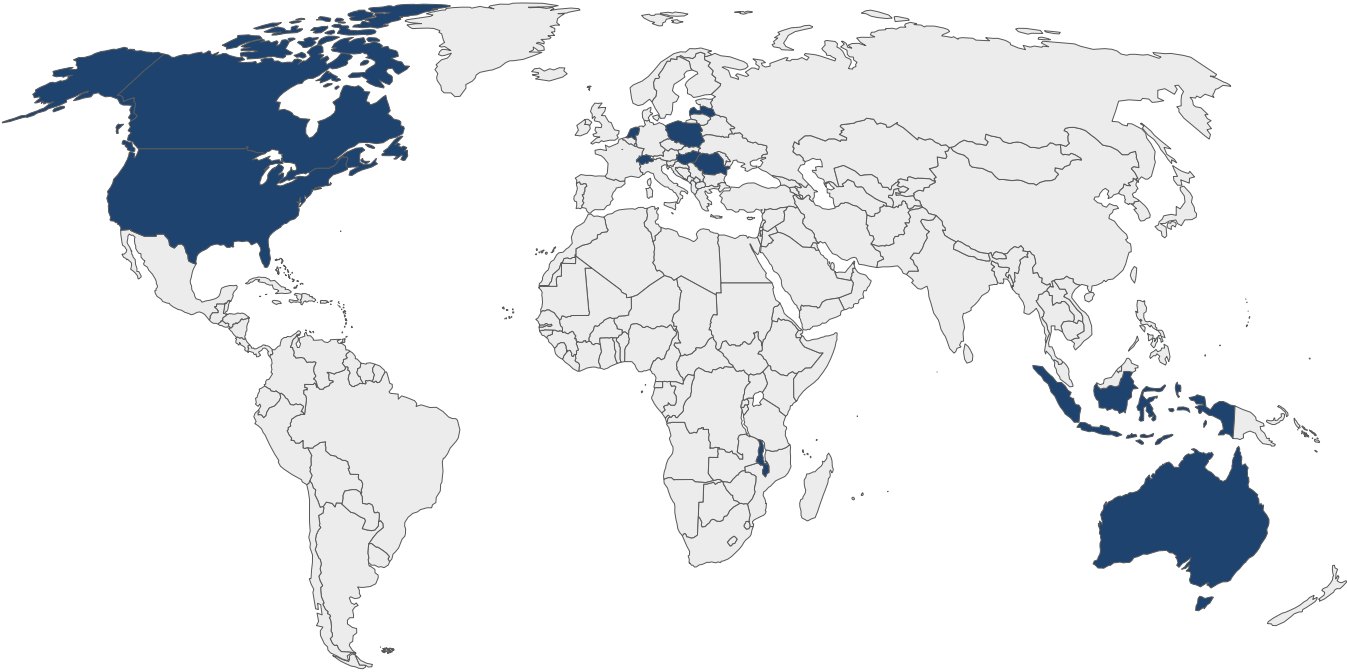
Appendix F: Breakdown of Respondents by Country and Type of Organization

Agency/Entity	Countries (Number of Representatives)	Total Number of Respondents
Financial Intelligence Unit	Malawi, Netherlands, Poland, Romania, Canada, Hungary, Latvia, Switzerland, Australia	9
Law enforcement	Canada	1
Ministry of Justice (and similar ministries/institutions)	Indonesia, Liechtenstein, Latvia, Hungary, Malawi, Netherlands	6
Customs	USA, Latvia, Hungary	3
Civil society organization	Malawi (5), Bangladesh (2), USA (2), Canada (1), Indonesia (14)	24
Egmont Group	-	1
Wolfsberg Group	-	1
Wolfsberg Group members	-	2

Total: 47

Appendix G: Geographic Distribution of Respondents

Figure 9: Geographic distribution of questionnaire respondents



Appendix H: Questionnaire Results: Financial Intelligence Units

A. Investigations into Proceeds Laundered from Human Trafficking and/or Forced Labour by Agencies/Entities

Five of the questionnaire respondents (from the Netherlands, Poland, Romania, Canada, and Switzerland) indicated that the work of their FIU triggered investigations into proceeds laundered from human trafficking and/or forced labour.

The details of the persons/companies (both local and overseas) that had possible links to trafficking and/or forced labour and which the FIU investigated/analysed over 2021 can be seen in the table below. FIUs were unable to provide information on how many analytical proceedings resulted in the freezing and seizing of assets linked with human trafficking and/or forced labour.

Country	Number of Cases Analysed	Number of Suspicious Case Files [Contain Multiple (Often 5+) Persons/Companies]	Passed to the Law Enforcement Agency	Number of Ongoing Analytical Proceedings /Investigations (2021)
Netherlands	-	78	-	7
Poland	3	-	-	-
Switzerland	*215 (193 persons, 22 companies)	20	9	?

**This number only refers to incoming Suspicious Transaction Reports/ Suspicious Activity Reports, and only includes those cases, which were submitted to the Money Laundering Reporting Office Switzerland with the indicators "human trafficking" and "forced prostitution." (This number does not reflect cases which were only later identified as being linked to trafficking in human beings.) Furthermore, the number does not include persons and entities analysed in relation to domestic requests for assistance or incoming requests of partner FIUs.*

B. The Freezing of Assets

In 2021, 20 client dossiers were reported to the Money Laundering Reporting Office Switzerland, with the use of the indicators "human trafficking" or "forced prostitution". Nine of these dossiers were forwarded to a law enforcement agency, leading to a five-day freeze of the reported assets. However, in eight of the cases, the reported client relationship was with a payment service provider, and only in one case were actual assets frozen. Regarding involvement in the freezing of assets abroad, this FIU indicated time restrictions for the collection of data, and the lack of access to complete data (on a national and international level/FIU-exchange of intelligence) to be able to answer questions relating to the freezing of assets abroad. The Swiss FIU nevertheless indicated that assets were frozen from individuals/companies in the country where workers were exploited.

Appendix I: Ministries of Justice

A. Investigations into Proceeds Laundered from Human Trafficking and/or Forced Labour by Agencies/Entities

Malawi's Ministry of Justice further provided details of the investigations/analyses that it had done over 2021 pertaining to the persons/companies (both local and overseas) that had possible links to human trafficking and/or forced labour. These results are captured in the table below.

Table 3 – Ministry of Justice Investigations/Analysis of Persons and/or Goods with Possible Links to Trafficking and/or Forced Labour (2021)

Country	No. of Cases Investigated/Analysed	No. of Ongoing Analytical Proceedings/Investigations (2021)	No. of Analytical Proceedings/Investigations of Persons/ Individuals Involving the Freezing of Assets	No. of Analytical Proceedings/Investigations of Persons/ Individuals Involving the Seizing of Assets
Malawi	14 cases and individuals	9	6	None as yet

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