



ARTICLE

Eliminating Modern Slavery from Apparel & Retail Supply Chains

Modern slavery is a significant risk in the apparel industry. Many companies with textile and apparel products have a multi-tiered supply chain and outsource their manufacturing to countries with lower labor standards. This practice can expose companies to modern slavery in their supply chains, which can have significant regulatory, reputational, financial, operational and legal ramifications.

Emerging Legislation

Over the past decade, governments around the world have implemented regulations to eliminate forced labor from supply chains. In addition to existing regulations such as the California Transparency in Supply Chains Act and UK Modern Slavery Act, new proposed legislation includes New York's Fashion Sustainability and Social Accountability Act that was introduced in January and the Uyghur Forced Labor Prevention Act signed by President Biden in December 2021. There is increasing momentum toward a requirement for companies to intimately know their supply chains by conducting extensive due diligence and complying with numerous reporting requirements. Under the proposed New York law, disclosures must be easily accessible from companies' websites. If passed

and signed into law, the Act would apply to apparel companies with more than \$100 million in annual worldwide revenues that do business in New York. Companies that fail to comply with the law may be fined up to 2% of annual revenues.¹

Ongoing Border Seizures

Concurrently, the U.S. Customs and Border Patrol ("CBP") has taken a proactive stance in identifying and quarantining products suspected of originating in areas of modern slavery by issuing Withhold Release Orders ("WRO"). CBP can detain shipments on suspicion alone, leaving the burden of proof on the importer of record to prove that their products do not support modern slavery at any level of the supply chain.² Goods can be held for extended periods, which can result in significant financial and operational impact.

¹ <https://www.nysenate.gov/legislation/bills/2021/S7428>

² <https://www.cbp.gov/trade/programs-administration/forced-labor/xinjiang-uyghur-autonomous-region-wro-frequently-asked-questions>

Impact of Reputational Risks

Perhaps more alarming than the regulatory and enforcement risk, the discovery of forced labor in a company's supply chain can have severe reputational ramifications. There is no doubt that companies try to avoid modern slavery in their supply chain, but in a multi-tier global supply chain, visibility may be limited beyond the first tier of the supply chain. There has been an emergence of Non-Governmental Organizations ("NGOs"), investors or other stakeholders publicizing a company's use of modern slavery, even if it occurred in downstream suppliers without its knowledge.³ It is difficult for companies to recover from the resulting reputational impact.

Many apparel retailers have policies in place to prevent human trafficking within their supply chain –however, they all need to conduct diligent efforts to evaluate their end-to-end supply chain to ensure no modern slavery exists. Apparel retailers need to take swift and diligent action and ask themselves the following questions:

Questions for the Board and Senior Management

- How ethical is my supply chain?
- How do we proactively manage and monitor reputational risk?
- How do we navigate and respond to multi-jurisdictional regulatory change?
- What are the challenges to my supply chain visibility, particularly activities of third parties including buying agents and subcontractors? How can these be mitigated?
- How do my policies and procedures for supplier onboarding and risk management compare to other apparel companies?
- How do we embed compliance throughout the supply chain?
- How rigorous are my in-country controls and audits?
- Are we ready to manage a significant reputational challenge?

- Do I have an effective crisis communication plan in place to respond to modern slavery allegations?
- If forced labor issues are identified, how will I investigate the non-compliant activity and remediate working conditions for workers?

Questions on Organizational Data and Required Disclosures

- What documentation will be sufficient to meet regulatory requirements for supplier mapping – from the origination source for raw materials to the factories that create the garments?
- How do we ensure our reporting is robust and accurate?
- What data sources should I use to comply with reporting requirements?
- Am I effectively aggregating data across disparate systems from my organization to support my disclosures and reporting for continued monitoring?
- What are the deficiencies and inconsistencies in my sustainability report that could create risk under the new disclosure requirements?
- Can I use blockchain and AI to monitor KPIs that are critical to assessing the existence of modern slavery in my supply chain?

A sustainable and ethical supply chain can reduce costs, avoid business interruption and develop a competitive advantage over the long term.



³ [%20which%20highlighted">https://www.globalwitness.org/en/campaigns/forests/true-price-palm-oil/#global-buyers\)%20which%20highlighted](https://www.globalwitness.org/en/campaigns/forests/true-price-palm-oil/#global-buyers)

— HOW FTI CAN HELP

FTI Consulting is a trusted advisor for global apparel companies. We provide service offerings in the areas of governance, compliance, risk assessment, due diligence, monitoring, investigations, remediation, litigation support and communications and crisis management. Our multidisciplinary team comprises experts in global supply chain optimization, compliance, export controls, data analytics, technology and human trafficking, and can assist with each of the areas outlined above.



CASE STUDY

Global Investigation

One of the world’s leading retailers sought assistance to investigate allegations of wrongdoing and non-compliance with its ethical sourcing policies and compliance program. The retailer sought a global partner with “boots on the ground” experience to gather intelligence to identify and assess potential wrongdoing in Mexico, Brazil, India, Pakistan, Bangladesh, China, Malaysia and Cambodia. FTI Consulting conducted comprehensive public records searches, discrete inquiries with in-country human sources, and extensive employee and third-party interviews. Based on FTI Consulting’s findings, the retailer was able to accurately assess the ethical sourcing allegations and identify other instances of wrongdoing in its global operations.



CASE STUDY

Resolving CBP Forced Labor Allegations

FTI Consulting advised a U.S. importer of apparel goods responding to allegations by the CBP of forced labor violations that resulted in the detainment of multiple shipments at various ports. FTI Consulting helped the client formulate a strategy to handle detention orders, communicate with CBP officers, conduct due diligence and document samples to get the shipment released by the CBP.

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