

# BACKGROUND NOTES

23-24 February 2022

OECD 8<sup>th</sup> Forum  
on Due Diligence  
in the Garment  
and  
Footwear Sector

**RETHINKING  
THE BUSINESS MODEL  
FOR RESPONSIBLE  
SUPPLY CHAINS**



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## Making purchasing practices part of responsible business practice in garment and footwear sector supply chains - an exploration through different angles

The 2022 Forum will explore how shifts in expectations on companies' management and disclosure of their purchasing practices is driving implementation forward, looking at three key development areas:

- Collaboration among manufacturers on purchasing practices
- Enabling living wages through purchasing practices
- Reporting on purchasing practices

The forum will provide the space to explore the potential to accelerate these shifts in expectations with a view to scaling up accountability and practice on purchasing practices. This note provides a background to the discussions taking place across these sessions. For an introduction to the issue of purchasing practices, please jump to the [final reference section](#) and further reading material.

### Background

The link between buying companies' purchasing practices and labour and environmental impacts at their suppliers' production sites has been demonstrated in numerous studies and reports<sup>1</sup>. When brands monitor and take action against harmful purchasing practices, the positive impact on working hours, wages and other due diligence risks has been shown through a number of projects<sup>2</sup>. However, evidence also confirms that purchasing practices are still a weak feature of companies' due diligence in this sector. Actions across the key due diligence steps (adopting appropriate policies, control measures, tracking and reporting) remain limited. In the 2021 KnowTheChain benchmark report, purchasing practices were among the lowest-scoring themes in the benchmark, with an average score of 34/100<sup>3</sup>

<sup>1</sup> See OECD Garment and Footwear Forum 2019 – Background note on Monitoring Purchasing Practices session <https://mneguidelines.oecd.org/OECD-Garment-Forum-2019-session-note-Monitoring-Purchasing-Practices.pdf>

<sup>2</sup> Fair Labor Association (2022), "Reaching Living Wage for Garment Workers," [https://www.fairlabor.org/sites/default/files/documents/reports/reaching\\_living\\_wage\\_final\\_083121.pdf](https://www.fairlabor.org/sites/default/files/documents/reports/reaching_living_wage_final_083121.pdf); Better buying Institute (2021). Better Buying Index Report 2021: Purchasing Practices Performance in Apparel, Footwear, and Household Textile Supply Chains, Duncanson, Kelly, Dickson, Marsha A., & Bhatt, Dipti <https://betterbuying.org/wp-content/uploads/2021/11/Better-Buying-2021-Purchasing-Practices-Index-resized.pdf>

<sup>3</sup> Know the Chain (2021), "2021 Apparel and Footwear Benchmark Report", <https://knowthechain.org/wp-content/uploads/2021-KTC-AF-Benchmark-Report.pdf>

The OECD Garment Guidance states that companies should address their purchasing practices as part of their due diligence. In previous fora, the OECD has convened discussions on key aspects of purchasing practices<sup>4</sup>, including understanding and identifying common risks linked to poor purchasing practices, and considering appropriate monitoring frameworks. This year at the Forum we take stock of the still low uptake of responsible purchasing practices within company due diligence, and explore key gaps and opportunities for scaling up effective due diligence on purchasing practices.

## How is the current context paving the way towards increased industry-wide uptake?

### Progress towards collaboration and harmonisation of expectations

Recently, different industry actors have focused on the need to collaborate and harmonise efforts to foster greater uptake and consensus on responsible purchasing practices at the international level. One key development is the manufacturer-led collaboration “Sustainable Terms of Trade Initiative (STTI)”<sup>5</sup>, which seeks to align and streamline manufacturers’ positions and expectations on purchasing practices. To date, terms are often set by the buyer, including order lead times and payment schedules. Neither costs of production nor RBC costs and risk responsibility tend to be equally balanced across the supply chain.

Consensus among manufacturers on this topic can help move the industry towards greater accountability and a joint ownership of due diligence responsibilities between buyers and suppliers. This works through increasing the leverage of manufacturers towards buyers, compounded by a unified approach and agreement not to accept orders below certain minimum standards. While still a new initiative, the potential for harmonisation is demonstrated through the inclusion of the STTI minimum terms within the “Common Framework for Responsible Purchasing Practices”<sup>6</sup> (CFRPP), an initiative created by a working group of multi-stakeholder initiatives (MSIs) to harmonise their expectations of member companies on purchasing practices.

### Collaborative approaches on measurement, data and monitoring tools

A number of organisations have led the way in establishing tools to obtain data to assess and monitor how brands’ practices impact their social and environmental performance, for example via supplier surveys or self-assessments within brands. Suppliers have been increasingly providing feedback and participating in surveys, thus providing valuable insights on understanding the impact of specific purchasing practices and efficient ways to improve them. A suite of different tools are being used in the sector to support due diligence on purchasing practices, from labour minute and product costing

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<sup>4</sup> OECD Garment and Footwear Forum 2019 – Background note on Monitoring Purchasing Practices session <https://mneguidelines.oecd.org/OECD-Garment-Forum-2019-session-note-Monitoring-Purchasing-Practices.pdf>; OECD Garment and Footwear Forum 2020 – Background note on Scaling Responsible Purchasing Practices through Effective Supply Chain Partnerships session <https://cdn-assets.inwink.com/55ff20f3-b755-4cb2-9284-f627e086b8a6/49a9b72a-bd85-4083-b9e9-cd3926cb39d0>

<sup>5</sup> Asiatex (2021), “Global textile and garment manufacturers initiative publishes white paper on commercial compliance”, STAR network, <http://www.asiatex.org/ennews/423.html>

<sup>6</sup> Common Framework for Responsible Purchasing Practices (CFRPP) (2021), “Creating a common framework for responsible purchasing practices” <https://etiskhandel.no/wp-content/uploads/2021/11/CFRPP-public-doc.-Issue-2.-29.10.21.pdf>



calculator tools<sup>7</sup> allowing brands and factories to ring-fence the labour cost, to tools to track progress<sup>8</sup>, raise awareness and build capacity about the issue<sup>9</sup>. This supports understanding and implementation of corrective measures at the buyer level, but also ensures that measures are appropriate and fit-for-purpose at the supplier level. Businesses that have proactively engaged with collaborative initiatives particularly have shown improvement in their practices<sup>10</sup> using data to pinpoint poor practices and learn from their suppliers' suggestions for improvement.

## Contract clauses

One key element of mutual concern on purchasing practices is the state of contracts in the sector<sup>11</sup>, and the extent to which these reflect the imbalances of the leverage held by buyers and suppliers, in terms of providing fair terms, expectations around due diligence practice, and the mechanisms for equitable resolution of disputes, as well as expectations around due diligence practice. The American Bar Association published a series of "model contract clauses"<sup>12</sup> that companies can incorporate into supplier contracts to improve human rights performance. Incorporation of human rights clauses in contractual agreements can help companies implement corporate policies in their supply chains by setting up front expectations. Model clauses can simplify this process by providing pre-approved template language related to buying practices to be respected by the buyer and the supplier. They could help ensure accountability as clauses related to relational dispute resolution mechanisms can be introduced<sup>13</sup>. Model clauses would also be an important tool in the implementation of a minimum standard of expectations, as foreseen in the STTI project.

## Benchmarks and reporting on purchasing practices indicators.

While an ever-higher number of companies state and report that they do take action to make their purchasing practices responsible, an extremely low percentage<sup>14</sup> provide specific data points to allow for measurement such as comparable year on year data or suppliers' assessment of purchasing practices. Yet, closing the data gap is fundamental to better understand the extent of contribution of purchasing practices to adverse impacts and to flag areas for improvement. Entities compiling information on the level of coverage and transparency of due diligence implementation have alerted stakeholders on the particular low and even declining scoring against purchasing practices indicators in due diligence reporting. The latest KnowTheChain benchmark report<sup>15</sup> in the apparel and footwear

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<sup>7</sup> Fair Wear Foundation, "Fair Wear Labour Minute and Product Costing Calculator: Guidance / Reference document" <https://api.fairwear.org/wp-content/uploads/2020/06/Guidance-for-Use-of-the-Fair-Wear-Labour-and-Minute-and-Product-Costing-Calculator-Final.pdf>

<sup>8</sup> Fair Labor Association (2022), "Reaching Living Wage for Garment Workers," [https://www.fairlabor.org/sites/default/files/documents/reports/reaching\\_living\\_wage\\_final\\_083121.pdf](https://www.fairlabor.org/sites/default/files/documents/reports/reaching_living_wage_final_083121.pdf)

<sup>9</sup> Fair Trade International (2022), The Fairtrade textile Programme, <https://www.fairtrade.net/about/the-fairtrade-textile-programme>

<sup>10</sup> Duncanson, Kelly, Dickson, Marsha A., & Bhatt, Dipti (2020). Better Buying Index Report 2020: Purchasing Practices Performance in Apparel, Footwear, and Household Textile Supply Chains, <https://betterbuying.org/wp-content/uploads/2020/10/2020-Better-Buying-Index-Report.pdf>

<sup>11</sup> OECD Garment and Footwear Forum note 2018, <https://mneguidelines.oecd.org/Session-Notes-2018-Garment-Forum.pdf>, p9, accessed 22 February 2022.

<sup>12</sup> American Bar Association, Contract Causes Project, [https://www.americanbar.org/groups/human\\_rights/business-human-rights-initiative/contractual-clauses-project/](https://www.americanbar.org/groups/human_rights/business-human-rights-initiative/contractual-clauses-project/)

<sup>13</sup> [https://www.americanbar.org/content/dam/aba/administrative/human\\_rights/contractual-clauses-project/mccs-full-report.pdf](https://www.americanbar.org/content/dam/aba/administrative/human_rights/contractual-clauses-project/mccs-full-report.pdf)

<sup>14</sup> KnowTheChain (2021), "2021 Apparel and Footwear Benchmark Report", <https://knowthechain.org/wp-content/uploads/2021-KTC-AF-Benchmark-Report.pdf>

<sup>15</sup> idem

sector shows companies scored particularly low on this issue<sup>16</sup>, with a widespread lack of data points in companies' reporting. Fashion Revolution's Fashion Transparency Index reports similarly with a decline in the number of major brands disclosing annual supplier feedback about their purchasing practices. This represents a major barrier to comparable data collection and development of measurable indicators to understand the link between measures taken and reduction of risks in the supply chain. Thus, there is an urgent need to develop harmonised industry-wide specific and sound data points, including reports and data generated by suppliers about the practices of their customers. Recognising the need for sectoral action on this, initiatives such as The Industry We Want are working to establish metrics on purchasing practices to establish a baseline to track year on year.<sup>36</sup>

### Access to remedy and dispute resolution tools

For now, the industry lacks widespread proven structures for discussion and remediation, and dispute resolution between all parties on an equal basis. Binding and enforceable private agreements with national trade unions in producing countries and with global union federations can contribute towards this level playing field. While not widely addressed yet<sup>17</sup>, the Accord on Building and Fire Safety in Bangladesh (now the International Accord for Health and Safety in the Textile and Garment Industry)<sup>18</sup> has shown the potential of such agreements. Under the agreement, brands were held responsible for conditions in their suppliers' factories<sup>19</sup>.

ACT on Living Wages has established a monitoring and accountability framework on the ACT Global Purchasing Practices commitments, as an example of how legally enforceable agreements can be particularly useful for ensuring adverse impacts related to purchasing practices are prevented and mitigated. Additionally, to ensure accountability and facilitate access to remedy under these agreements, several organisations have been working on "Model Arbitration Clauses" as dispute resolution mechanism under enforceable brands agreements<sup>20</sup>, to be used if disputes are not settled in good-faith.

### Development of policy and legal frameworks for RPP and inclusion in Mandatory Due Diligence

Some governments have already taken action on including the monitoring of purchasing practices within the scope of their mandatory due diligence legislation in high-risk sectors, the UK binding Groceries Code Adjudicator<sup>21</sup>, or the EU Directive on Unfair Trading Practices in the Agri-food Sector<sup>22</sup>.

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<sup>16</sup> Within this theme, companies scored even lower—on average 31/100—on the Purchasing Practices indicator, which covers responsible raw material sourcing, avoiding practices that lead to poor working conditions (such as changing orders at the last minute), incentivizing suppliers to implement strong labor standards, and data points on such practices, such as the length of payment terms.

<sup>17</sup> The only one to directly address the issue is the most recent of the agreements, signed in 2017 with ASOS, in which the parties agree to jointly develop a methodology to periodically assess the impact of purchasing practices at the workplace level.

<sup>18</sup> Under the Accord brands and retailers were obliged to "negotiate commercial terms with their suppliers which ensure that it is financially feasible for the factories to maintain safe workplaces and comply with upgrade and remediation requirements (2018 Transition Key Accord)". Accord on Fire and Building Safety In Bangladesh, <https://bangladeshaccord.org/>

<sup>19</sup> International Labour Rights Forum (2019), "Future Of Fashion: Worker-Led Strategies For Corporate Accountability In The Global Apparel Industry" [https://laborrights.org/sites/default/files/publications/ILRF\\_Future%20of%20Fashion%20v5\\_compressed.pdf](https://laborrights.org/sites/default/files/publications/ILRF_Future%20of%20Fashion%20v5_compressed.pdf)

<sup>20</sup> Clean Clothes Campaign, Global Labor Justice, International Labour Rights Forum and Workers Rights Consortium (2021), Model Arbitration Clauses For The Resolution Of Disputes Under Enforceable Brand Agreements, <https://laborrights.org/sites/default/files/publications/%20Model%20Arbitration%20Clauses%20for%20the%20Resolution%20of%20Disputes%20Under%20Enforceable%20Brand%20Agreements.pdf>

<sup>21</sup> Groceries Code Adjudicator (2020), UK Government <https://www.gov.uk/government/organisations/groceries-code-adjudicator>

<sup>22</sup> Directive (EU), 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32019L0633>

Others have developed voluntary frameworks, such as the French voluntary Responsible Supplier Relations Label<sup>41</sup>. Some organisations have called for expanding the Unfair Trading Practices Directive to the garment and footwear industry<sup>23</sup>. In the context of the forthcoming EU directive on due diligence, an important number of stakeholders<sup>24</sup> have called for purchasing practices to be included across the due diligence process, including reporting obligations<sup>25</sup>. Examples of complementary measures in place in existing laws, such as guidance<sup>26</sup> or public reporting platforms<sup>27</sup>, provide a glimpse into what could be achieved by integrating expectations on purchasing practices in due diligence law.

## What are remaining challenges/gaps?

While the industry is collaborating and moving towards harmonisation of expectations and data collection, it is far from reaching meaningful implementation. One concern companies may have is that, given the widespread poor purchasing practices across the industry, they may temporarily put themselves at a competitive disadvantage by meaningfully addressing aspects of their purchasing practices (for example price increases) and publishing related data. Currently, business models fundamentally do not support fair price negotiations and increased costs are borne further upstream in the supply chain.

During the 2022 Forum, participants will explore three different areas which could influence greater uptake: First, how manufacturers collaborating and harmonising expectations on purchasing practices could substantially change the negotiations between buyers and suppliers, with manufacturers identifying minimum standards and increasing their leverage through collaboration.

Second, the extent to which implementation of purchasing practices impact wage growth at the factory level and how progress is being measured and monitored.

Third, how different benchmarks and reporting frameworks could harmonise expectations around reporting on purchasing practices in order to push uptake and transparency on this issue, driving better practices.

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## Reference information from the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector

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<sup>23</sup> Industriall, Traidcraft Exchange and Fair Trade Advocacy (2021), “Leveraging the Unfair Trading Practices Directive to benefit the Garment Sector” [https://news.industriall-europe.eu/content/documents/upload/2021/9/637684400585561764\\_210106%20Draft%20Leveraging%20UTP%20transposition\\_20210927.pdf](https://news.industriall-europe.eu/content/documents/upload/2021/9/637684400585561764_210106%20Draft%20Leveraging%20UTP%20transposition_20210927.pdf)

<sup>24</sup> [https://corporatejustice.org/wp-content/uploads/2021/07/210715\\_EU\\_CSOs\\_Purchasing\\_Practices\\_Letter\\_FINAL.pdf](https://corporatejustice.org/wp-content/uploads/2021/07/210715_EU_CSOs_Purchasing_Practices_Letter_FINAL.pdf)

<sup>25</sup> Clean Clothes Campaign, European Coalition for Corporate Justice (ECCJ), Fair Trade Advocacy Office, Fashion Revolution, Human Rights Watch (HRW), Anti-slavery, Business and human Rights Resource Center, industriall and Traidcraft Exchange (2021), Letter to Commissioner Reynders and Breton, “Complementary action needed to address unfair purchasing practices and achieve goals of the upcoming Sustainable Corporate Governance directive”. [https://fairtrade-advocacy.org/wp-content/uploads/2021/05/Summary\\_13-April-2021\\_Improving-business-purchasing-practices-PDF.pdf](https://fairtrade-advocacy.org/wp-content/uploads/2021/05/Summary_13-April-2021_Improving-business-purchasing-practices-PDF.pdf)

<sup>26</sup> Department for Business, Energy and Industrial Strategy (2019), “Duty To Report On Payment Practices And Performance: Guidance to reporting on payment practices and performance” [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/831507/payment-practices-performance-reporting-requirements.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/831507/payment-practices-performance-reporting-requirements.pdf); Guidance Groceries Supply Code of Practice (2009) <https://www.gov.uk/government/publications/groceries-supply-code-of-practice/groceries-supply-code-of-practice>

<sup>27</sup> National Platform to Public reporting of business payment practices and performance, <https://check-payment-practices.service.gov.uk/search>

## What are purchasing practices?

The term purchasing practices refers to the full range of activities associated with a company's process of buying goods. In the apparel sector this may include: planning and forecasting, design and development, cost and cost negotiation, sourcing and order placement, payment and terms, and management of the purchasing process.

## Why are purchasing practices relevant to RBC in the Garment and Footwear sector?

The characteristics of modern global supply chains – such as stages of the production process spread across diverse countries, high number of intermediaries, and short lead times - can reduce visibility and control over an enterprise's supply chain. It creates challenges for enterprises to meet their responsibilities, notably regarding implementation and monitoring of purchasing practices. Harmful impacts caused by irresponsible purchasing practices of retailers, brands and their buying intermediaries include excessive and forced overtime and low wages amongst others.

This is most notably the case when orders are changed, cancelled, placed late, or when lead times are set shorter than feasible particularly during peak times or holidays. Late or delayed payment for products may also contribute to suppliers delaying payment of wages to their workers. An enterprise's price negotiations may contribute to cost-cutting and therefore labour, human rights or environmental violations. As a result, the enterprise should strengthen its management systems to prevent contributing to harm through its purchasing practices. Specifically, the enterprise is encouraged to assess whether its purchasing practices are contributing to harm, implement control measures and track red-flags for risk of harm.

## What are the expectations of companies according to the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector?

The OECD Garment Guidance incorporates the expectation that companies address their purchasing practices as part of their due diligence. Specifically, companies should:

- Engage with their suppliers to understand if and how their purchasing practices contribute to harm.
- Track relevant indicators of practices, such as the percentage of orders placed late, percentage of orders changed after order is placed; # of days between the last change and shipment.
- Develop pricing models that account for the cost of wages, benefits and investments in decent work.
- Implement control measures to reduce the likelihood of contributing to poor labour outcomes such as: setting final order placement dates with the supplier; communicating the deadlines to everyone in the purchasing teams; improving forecasting alignment, amongst others.
- Develop procedures for purchasing teams to follow in instances in which practices could contribute to harm. For example, in instances in which orders are changed after order placement or orders are placed late.



## For more information

- OECD Garment and Footwear Forum 2019 – Background note on Monitoring Purchasing Practices session <https://mneguidelines.oecd.org/OECD-Garment-Forum-2019-session-note-Monitoring-Purchasing-Practices.pdf>
- OECD Garment and Footwear Forum 2020 – Background note on Scaling Responsible Purchasing Practices through Effective Supply Chain Partnerships session <https://cdn-assets.inwink.com/55ff20f3-b755-4cb2-9284-f627e086b8a6/49a9b72a-bd85-4083-b9e9-cd3926cb39d0>
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- Common Framework for Responsible Purchasing Practices (CFRPP) (2021), “Creating a common framework for responsible purchasing practices” <https://etiskhandel.no/wp-content/uploads/2021/11/CFRPP-public-doc.-Issue-2.-29.10.21.pdf>
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- Better buying Institute (2021). Better Buying Index Report 2021:Purchasing Practices Performance in Apparel, Footwear, and Household Textile Supply Chains, by Duncanson, Kelly, Dickson, Marsha A., & Bhatt, Dipti <https://betterbuying.org/wp-content/uploads/2021/11/Better-Buying-2021-Purchasing-Practices-Index-resized.pdf>
- Better Buying Institute (2021), “Special Report: Purchasing Practices and Sustainability: What improvements are suppliers seeing”, <https://betterbuying.org/wp-content/uploads/2021/06/Special-Report-on-Sustainability-June-2021.pdf>
- Better Buying Institute (2021), Deep Dive Report “Better” Design, Development, and Calendar Management”, <https://betterbuying.org/wp-content/uploads/2021/06/Special-Report-on-Sustainability-June-2021.pdf>
- Clean Clothes Campaign, European Coalition for Corporate Justice (ECCJ), Fair Trade Advocacy Office, Fashion Revolution, Human Rights Watch (HRW), Anti-slavery, Business and human Rights Ressource Center, industriall and Traidcraft Exchange ( 2021), Letter to Commissioner Reynders and Breton, “Complementary action needed to address unfair purchasing practices and achieve goals of the upcoming Sustainable Corporate Governance directive”. [https://fairtrade-advocacy.org/wp-content/uploads/2021/05/Summary\\_13-April-2021\\_Improvig-business-purchasing-practices-PDF.pdf](https://fairtrade-advocacy.org/wp-content/uploads/2021/05/Summary_13-April-2021_Improvig-business-purchasing-practices-PDF.pdf)



## Addressing climate risk through due diligence for RBC - Practical actions for business

Thursday, 24 February 2022, 10:00 - 11:30 CET

[Watch session on replay](#)

### Objectives of the session

This session will provide an opportunity to reflect on collective and practical opportunities to achieve climate change mitigation targets and deliver on adaptation strategies in the garment sector. In light of important progress made at the international level, panellists will speak to how evolving sector-level approaches can be implemented by business, the challenges being faced, and how companies can integrate climate change considerations as part of supply chain due diligence.

It will also introduce a forthcoming OECD tool, developed in partnership with UNFCCC and UNEP, to support companies in conducting value chain due diligence on their climate risks. This session comes in the wake of the UN Climate Change Conference (COP26) and as a follow-up to last year's session on decarbonising the garment and footwear sector – which sought to understand the broader policy landscape shaping action on climate for business.

### Background

In recent years, garment and footwear sector actors have established a number of sector-wide initiatives seeking to drive climate action to bring the sector in line with the 2015 Paris Agreement. These key initiatives and milestones have been captured by the Fashion Industry Charter for Climate Action<sup>28</sup> and Race to Zero<sup>29</sup> in the 2021 Global Climate Action Pathways' Decarbonising Fashion Milestones Document<sup>30</sup>, which mapped out joint industry commitments on climate and signposted resources and information for companies in the sector. It allows the sector to understand the roles and contributions of different organisations and where they can go for support on specific topics. It further

<sup>28</sup> A UN Climate Change and fashion industry action plan to achieve net-zero emissions by 2050, launched at COP24 in Katowice, Poland, in December 2018, and renewed at COP26 in Glasgow, UK, in November 2021: <https://unfccc.int/climate-action/sectoral-engagement/global-climate-action-in-fashion/about-the-fashion-industry-charter-for-climate-action>

<sup>29</sup> Race To Zero is a global campaign to rally leadership and support from businesses, cities, regions, investors for a healthy, resilient, zero carbon recovery that prevents future threats, creates decent jobs, and unlocks inclusive, sustainable growth: <https://unfccc.int/climate-action/race-to-zero-campaign>

<sup>30</sup> June 2021, <https://unfccc.int/sites/default/files/resource/Milestones.pdf>

offers an avenue for those working on climate in the industry to identify where there may be gaps in knowledge and action. Included initiatives in the consultation and development process have all been working to set industry targets on climate, and to provide analysis, tools and solutions to address major GHG emissions in the value chain.

However, despite growing ambitions and pledges to reach net zero by business, COP26 highlighted that many state and non-state actors are failing to set sufficiently ambitious near-term targets or establish and implement concrete implementation plans. A recent report highlighted that if no additional action is taken over the next decade beyond what is already in place, the fashion industry's GHG emissions will likely increase from currently 1.2 billion tonnes to around 2.7 billion tonnes a year by 2030<sup>31</sup>.

## What happened at COP26?

The Fashion Industry Charter for Climate Action, first launched in 2018, lays out a pathway for all companies within the supply chain to align with the goals of the Paris Agreement, from raw material production through to retail and distribution. At COP26, the Charter updated its commitments, calling for companies to set science-based targets or to halve their emissions by 2030 (increased from an earlier 30% reduction target).

The renewed agreement also requires signatory brands to specify within 12 months how they will achieve the new commitments, and instructs them to work with their suppliers and create incentive mechanisms for reducing emissions. The Charter and Textile Exchange also launched a request for policy support for more sustainable raw materials<sup>32</sup>, including through the use of preferential tariffs.

Wider outcomes from COP26 relevant to the textile industry were also the increased focus on sustainable agriculture and land use<sup>33</sup> and deforestation<sup>34</sup> – which are highly relevant to textile value chains and the key role of finance<sup>35</sup> for all value chains in making a shift to a low carbon future. Efforts to ensure greater near-term action on climate and deliver practical changes across supply chains are critical. The Due diligence process can support all companies in working-toward and demonstrating stepstaken in mitigating climate-related risks, and progress against climate targets.

## Delivering near-term practical action on climate across garment supply chains

There are multiple organisations working on scaling practical solutions for the textile value chain – in areas such as raw materials, wet processing, and renewable energy sourcing, for example:

- Textile Exchange is working on shifting the industry to low climate impact materials, through the creation of certification standards, monitoring of industry progress and supporting brands in understanding their raw materials impacts and risks.
- Fashion for Good is working on supporting and scaling innovation projects, including innovative new materials that have lower environmental and climate impacts.

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<sup>31</sup> McKinsey & Company and Global Fashion Agenda 2020, <https://www.mckinsey.com/~media/mckinsey/industries/retail/our%20insights/fashion%20on%20climate/fashion-on-climate-full-report.pdf>

<sup>32</sup> Textile Exchange (2021), Fashion Industry Trade Policy Request - Cop26, <https://textileexchange.org/trade-policy-request-cop26/>

<sup>33</sup> UN Climate Change Conference UK 2021 (2021), "Nations and businesses commit to create sustainable agriculture and land use" <https://ukcop26.org/nations-and-businesses-commit-to-create-sustainable-agriculture-and-land-use/>

<sup>34</sup> BBC News (2021), Georgina Rannard & Francesca Gillett, "COP26: World leaders promise to end deforestation by 2030" <https://www.bbc.co.uk/news/science-environment-59088498>

<sup>35</sup> Glasgow Financial Alliance for Net Zero, <https://www.gfanzero.com/>

- Sustainable Apparel Coalition is working to monitor supply chain and brand performance on climate, reduce audit fatigue, as well as providing data on climate life cycle impacts.
- Apparel Impact Institute is working to reduce impacts in the textile processing phases, including energy efficiency – in partnership with key partners such as IDH.
- The Fashion Industry Charter for Climate Action has developed online training materials on climate impact reduction for producers, as well as working on renewable energy policy through country-specific working groups.

## Technical Handbook for companies to identify & address climate change risks

The OECD Garment Guidance<sup>36</sup> recognises climate change as a particular and prevalent due diligence challenge for the industry, associated with severe adverse impacts across the supply chain, use phase and end of life of garments and footwear, and provides guidance on how companies can apply due diligence to identify, address and account for these impacts.

In 2022 the OECD is creating a Technical Handbook to provide targeted practical actions to support business in implementing due diligence in the context of climate change risks and adverse impacts in the garment and footwear sector<sup>37</sup> as part of an ongoing collaboration with the United Nations Environment Programme (UNEP), the United Nations Framework Convention on Climate Change (UNFCCC) Secretariat on the private sector's role related to responsible climate action.

The Technical Handbook will:

- Illustrate how due diligence can be implemented in the context of climate change risks and adverse impacts, drawing from the relevant OECD guidance and other source material.
- Provide sector-specific considerations and good practice examples.
- Highlight existing initiatives that provide support or guidance to businesses to conduct due diligence on their climate change risk in line with OECD recommendations.
- Explore key linkages between climate change and other areas of responsible business conduct related risks and responsibility (e.g. human rights, labour rights, consumer interests, biodiversity, circular economy) in the context of implementing supply chain due diligence.
- Identify gaps in the sector-wide collective or prevailing responses to climate change within the context of the OECD Garment Guidance and international RBC expectations.

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<sup>36</sup> OECD (2018), OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, OECD Publishing, Paris, <https://mneguidelines.oecd.org/oecd-due-diligence-guidance-garment-footwear.pdf>

<sup>37</sup> OECD Technical Handbook brochure about the project (2021): <https://mneguidelines.oecd.org/practical-actions-for-companies-to-identify-and-address-climate-change-risks-in-garment-and-footwear-supply-chains.pdf>

## Discussion questions

- What were the implications of COP26 for the garment sector? What was helpful in terms of delivering practical decarbonisation in the supply chain, and what is still needed at global or production country level to make rapid decarbonisation a reality?
- The OECD Guidance recognises the importance of collaboration across the supply chain to address upstream and endemic risks in the supply chain. How are downstream companies working with upstream suppliers to reduce climate risks and deliver on climate goals? What kinds of challenges need to be overcome?
- How has using a due diligence approach helped to address climate risks as an organisation and optimise climate outcomes?
- What, if anything, should be done to address use phase and end of life impacts? Do we have clarity on the relative scale of these impacts and risks?
- What role does a due diligence approach have in supporting identification of climate adaptation needs?

## For more information

- [Forum website](#)
- [Preliminary Forum Agenda](#).
- [Technical Handbook: Practical actions for companies to identify and address climate risks in garment and footwear supply chains](#)





## Considering the role of sectoral initiatives in mandatory due diligence

Thursday, 24 February 2022, 12:00 - 13:15 CET

[Watch session here on replay](#)

### Objectives of the session

This session will provide an opportunity to explore the potential role for sectoral initiatives in the context of mandatory due diligence frameworks in the garment & footwear sector. Panelists will draw from their experience with and within sectoral initiatives as a means to facilitate, promote and assess RBC due diligence in the garment & footwear sector. They will also reflect on lessons learned from the minerals sector as well as specific challenges and opportunities for sectoral initiatives in the garment & footwear sector. Where relevant, panelists will share their experience with the OECD's Alignment Assessment methodology as a tool to promote a common understanding of due diligence.

### Background

Governments are increasingly implementing a smart-mix of policy options to establish an enabling environment for Responsible Business Conduct (RBC). With mandatory due diligence legislation on the rise, many companies will be legally required to carry out supply chain due diligence or to report on actions they have taken to identify and address adverse human rights and environmental impacts. Sectoral initiatives can play an important role in pooling information, increasing leverage over shared suppliers, scaling up effective due diligence practices and reducing the burden for companies of complying with mandatory due diligence requirements. However, companies retain ultimate responsibility for the adequacy of their due diligence under international due diligence standards.

Some initiatives are also increasingly playing a role in evaluating and benchmarking the due diligence activities of buyers, a development rooted in rising green washing allegations and the need for orientation of consumers. Initiatives offering brand performance checks<sup>38</sup>, due diligence certification<sup>39</sup>, benchmarking<sup>40</sup>, or due diligence review processes<sup>41</sup> have played a key role in assessing company practices, often long before governments started to consider due diligence legislation. However, critical

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<sup>38</sup> Fair Wear Foundation

<sup>39</sup> Green Button

<sup>40</sup> KnowtheChain

<sup>41</sup> German Partnership for Sustainable Textiles

voices raise concerns about the limited scope to certain segments of supply chains and ambition to tackle root causes, lack of public transparency, capacity of assessors or auditors and engagement with affected groups. Just as the scope, ambition, and transparency of initiatives may vary, so will their possible compatibility with mandatory due diligence legislation. However, there is also a growing expectation of a more active role of governments to lessen the administrative and financial burden for companies – particularly SMEs - to comply with mandatory due diligence legislation. Recognising the role of credible sectoral initiatives and how they can support individual company due diligence responsibilities is therefore one option on the table.

## What is an OECD Alignment Assessment?

Since the valuable role that initiatives can play, both as multiplier and standardiser, is undeniable, it is of particular interest that such initiatives demonstrate their credibility, and align with OECD due diligence guidance. In 2016 the OECD launched a programme to assess the alignment of industry and multi-stakeholder initiatives with OECD due diligence guidance in the minerals and garment & footwear sectors. Initiatives with aligned and complementary expectations for practitioners allow for mutual recognition of approaches, contribute to lower compliance and monitoring costs as well as a level playing field for responsible business conduct.

Both the programmes' standards and their implementation are assessed through desktop review, interviews and shadow assessments (silent participation in audits or assessments by an alignment assessor) against detailed "core criteria" of due diligence. Programmes are evaluated as being fully, partially or not aligned. Based on its review, the OECD develops a findings report, which is shared with the initiative and an informal advisory group prior to publication. Since 2019, four alignment assessments in the garment & footwear sector have been conducted, namely the Sustainable Apparel Coalition, German Partnership for Sustainable Textiles, Dutch Agreement on Sustainable Garment and Textile, and Fair Wear Foundation (publication of results forthcoming). The OECD seeks to conduct an additional pilot assessment of the Green Button, the German government-backed sustainable textile label in 2022-2023, as well as conduct further assessments.

## Discussion questions

- What role(s) should sectoral initiatives play in the context of mandatory due diligence?
- In which steps of due diligence can sectoral initiatives support businesses to undertake due diligence for responsible global value chains and where are their limitations?
- What are the main concerns when it comes to the role of sectoral initiatives in mandatory due diligence? How should policy makers address these concerns?
- To what extent do sectoral initiatives need to reform to be fit for purpose?

## For more information

- Find out more about the [OECD Alignment Assessment process and methodology](#) of multi-stakeholder or industry initiatives with OECD due diligence guidance
- Find out more about the OECD Alignment Assessments in the [garment & footwear](#) and [minerals](#) sectors.



## Exploring the impact of emerging government policy on forced labour risks

Thursday, 24 February 2022, 13:45 - 15:00 CET

[Watch session here on replay](#)

### Objectives of the session

Governments are using a range of tools to tackle forced labour risks in global operations and supply chains. They range from corporate disclosure requirements, import bans on products and due diligence legislation, to facilitating collaboration to providing issue- and sector-based guidance to businesses based on the OECD Guidelines for Multinational Enterprises and accompanying due diligence guidances. The session will explore experiences with implementing these policies, from the perspective of government agencies responsible for enforcement, business, and civil society. It will map and explain existing policy tools and approaches to address forced labour risks in global supply chains and aims to better understand their impacts on incentivising effective prevention and remediation by companies across the supply chain.

### Background

In 2019, the ILO, IOM, UNICEF, and the OECD estimated that 25 million adults and children are in situation of forced labour, of which 16 million are in forced labour within the private sector and in global supply chains.<sup>42</sup> A high number of sectors are at high-risk for forced labour, including the garment sector at different stages in the supply chain such as cotton picking, manufacturing, shipping and warehousing.

While there is a lack of comprehensive data, the COVID-19 pandemic is also expected to have exacerbated forced labour risks in global supply chains<sup>43</sup> by amplifying the root causes of forced labour – including poverty, limited access to decent work opportunities for those of legal working age, social marginalisation, discrimination, the lack of universal quality education, the prevalence of the informal economy, and weak social dialogue.

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<sup>42</sup> Ending child labour, forced labour and human trafficking in global supply chains, ILO, OECD, IOM, UNICEF - Geneva, 2019.

<sup>43</sup> OECD (2021), Building more resilient and sustainable global value chains through responsible business conduct

## Growing expectations for governments to address forced labour in global supply chains

Recent years have seen growing calls to embed Responsible Business Conduct (RBC) in global operations and supply chains as a tool to address and mitigate all forms of forced labour. In June 2021, the G7 leaders committed<sup>44</sup> to ensure that global supply chains are free from the use of forced labour. They tasked G7 trade ministers with identifying areas for strengthened cooperation and collective efforts towards eradicating the use of all forms of forced labour in global supply chains.

Governments have a wide range of mandatory and voluntary policy tools at their disposal. A number of governments have already actively adopted measures to incentivise more responsible business practices. Risk-specific guidance has also recently been published by the European Commission<sup>45</sup> and the U.S. Customs and Border Protection<sup>46</sup> to help companies better identify, prevent and mitigate forced labour risks in their supply chains.

## Regulatory options for government to address forced labour risks in global supply chains

Recent years have witnessed a significant increase in policy tools that address forced labour risks in global supply chains. Broadly, these policy tools can be categorised as follows:

- 1) Public disclosure of information on what companies are doing to identify and address forced labour in their operations and supply chains;
- 2) Conduct requirements which can include measures prohibiting the importation of merchandise produced by forced labour within domestic markets;
- 3) Mandatory due diligence

The responsibility and mechanisms for enforcing legal compliance varies substantially across these different policy tools. Formal monitoring and evaluation efforts are generally limited and not all laws include active enforcement by the competent authority. While this note focuses on recent examples of disclosure requirements, import bans and mandatory due diligence legislation, these are just some of many policy tools available to governments<sup>47</sup>.

### Disclosure legislation

Disclosure legislation requires companies to disclose forced labour risks they identify and whether they are taking or have taken any action to address those risks. To comply with this type of legislation, companies are expected to comply with certain standards when disclosing information, but are not held to account for their due diligence activities. The idea is to allow the market, including investors, consumers and civil society, to better assess companies and their value chain through increased transparency. Under disclosure regulations, the duty to issue a statement is often enforceable by a relevant authority that can seek a court injunction if a firm is deemed to be non-compliant with

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<sup>44</sup> Cargis Bay G7 Summit Communiqué, Our Share Agenda for Global Action to Build Back Better (available [here](#)).

<sup>45</sup> Guidance on Due Diligence for EU Businesses to Address the risk of forced labour in their operations and supply chains, European Commission (available [here](#)).

<sup>46</sup> Responsible Business Practices on Forced Labor Risk in the Global Supply Chain, U.S. Customs and Border Protection (available [here](#)).

<sup>47</sup> Other tools include trade and investment policies and agreements, incentives tied to export credits, lending through national and multinational development finance institutions, public procurement requirements, as well as supporting measures such as streamlining standards for multi-stakeholder and industry-led initiatives, capacity building strategies, and official development assistance and collaboration and support between trade partner governments.

disclosure. However, the authority does not evaluate the actions described in disclosures or provide a channel for victims of forced labour to seek remedy for the harm.

Examples of legislation focused on disclosure include the UK Modern Slavery Act<sup>48</sup>, the EU Non-Financial Reporting Directive<sup>49</sup>, the California Transparency in Supply Chains Act,<sup>50</sup> and the Australian Modern Slavery Act.<sup>51</sup> The UK Modern Slavery Act for example requires, among other provisions, all commercial organisations with an annual turnover of £36 million or more to prepare a slavery and human trafficking statement for each financial year. The statement, which must be signed-off by the company's upper management and published on its website, and should outline the steps that the company has taken, if any, to ensure that slavery and trafficking is not taking place in any part of its own business or its supply chains.

### Forced labour import/product bans

Forced labour import bans are actions, provided for by legislation and enforced by government authorities (i.e. custom and borders agencies), that stop goods produced abroad at the port of entry on grounds of forced labour allegations. Import or product bans tend to be more selective in scope than due diligence or disclosure legislations and target a particular set of products, exporters, vessels or manufacturers, in regions which are more likely to be associated with forced labour.

Flexible import ban instruments allow both specific and general bans to be introduced at the discretion of the enforcing authority. They aim at driving businesses to change their corporate conduct by reducing the market share of the exporter allegedly using forced labour practices, and by reorienting importers toward regions or suppliers with higher labour standards.<sup>52</sup>

Several jurisdictions are considering or have recently introduced such import bans. For example, in the US, section 307 of the Tariff Act (19 U.S.C. § 1307) has banned the importation of goods linked to forced labour since 1930. Specifically, it prohibits the importation of all goods and merchandise mined, produced, or manufactured wholly or in part by forced labour, convict labour, or/and indentured labour under penal sanctions in any foreign country. The agency tasked with implementing the law is the US Customs and Border Protection (CBP).<sup>53</sup> It is in charge of issuing Withhold Release Orders when it finds significant evidence that a specific product – from a specific region or company – is manufactured through forced labour practices.

Under import bans, imported goods can be excluded and seized by customs and border agencies if importers fail to provide sufficient proof, including, for some laws, through due diligence, that it was not manufactured by forced labour practices. The onus is thus on the company in question to prove that this was not the case, or to take action to remedy the situation on the ground before being allowed to import the relevant products.

Depending on the nature of their misconduct, violators may be subject to criminal and civil penalties. Forced labour import bans can be associated with provisions of remedy. The customs authority can set

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<sup>48</sup> UK Modern Slavery Act, 2015 (available [here](#))

<sup>49</sup> Directive 2014/95/EU – also called the Non-Financial Reporting Directive (NFRD) (available [here](#)). On 21 April 2021, the European Commission adopted a [proposal for a Corporate Sustainability Reporting Directive \(CSRD\)](#), which would amend the existing reporting requirements of the NFRD and include more detailed due diligence requirements.

<sup>50</sup> The California Transparency in Supply Chains Act (available [here](#))

<sup>51</sup> Australian Modern Slavery Act, 2018 (available [here](#))

<sup>52</sup> Effectiveness of forced labour import bans, Irene Pietropaoli, Owain Johnstone, Alex Balch, Modern Slavery PEC Policy Brief 2021-3, July 2021.

<sup>53</sup> The law included an exception called the “consumptive demand loophole” which allowed goods made with forced labour into the U.S. if domestic production of the good was not sufficient to meet domestic demand. This loophole was closed by Congress in 2016.



a ‘grace period’ during which the exporter must provide remedy to workers and demonstrate that corrective measures have been introduced to prevent future instances of forced labour. Such grace periods can help to mitigate the risk of potential side effects that import bans can have on the sustainability of jobs and livelihoods of workers.

### Due Diligence and standards of conduct requirements

Due diligence legislation is on the rise and require companies to adhere to specific standards of conduct. These regulations can be either wide in scope or focused on specific issues (i.e. forced or child labour, deforestation), sectors and commodities (i.e. minerals, timber) and segments of the supply chain (e.g. direct suppliers or entities further upstream).

Examples of mandatory due diligence legislation include the French Duty of Vigilance law, which requires large French companies and other companies with a substantial presence in France to publish and implement a “vigilance plan” and account for how they address human rights impacts in their global operations. The Dutch Child Labor Due Diligence Law,<sup>54</sup> due to come into force in mid-2022, requires Dutch-registered companies and companies selling products or services to the Dutch market to determine whether child labour occurs in their supply chains and, if so, to set out a plan of action and statement on their due diligence.

Under due diligence laws, enforcement tends to be by a competent court or administrative authority. The Netherlands is the first country to mandate the appointment of a specific regulator to oversee the Dutch Child Labour Due Diligence Law and its enforcement, and to allow victims and stakeholders to file complaints with this regulator. The law creates criminal sanctions which may be imposed on directors of companies who fail to conduct human rights due diligence. While administrative and criminal sanctions are in place, the law does not result in a specific corporate civil or criminal liability provision if there is violation.

Under the French law, no public institution has been appointed to monitor the quality of the vigilance plan but any person with standing may ask the court to order the company to comply with its obligations. If the company does not set up the vigilance plan according to the law and if a prior formal notice remains unheeded, a judge can issue an injunction and companies may be subject to civil liability. The law expressly establishes liability on the basis of the general tort of negligence and offers a remediation mechanism.

While conducting and effectively implementing due diligence is expressly mandated by due diligence laws, due diligence processes are also encouraged or incentivised in disclosure regulation where companies are asked to report on due diligence and import bans where due diligence can help demonstrate or rebut a presumption that a product has been made with forced labour.<sup>55</sup>

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<sup>54</sup> The Netherlands, Child Labour Due Diligence Law  
[https://www.eerstekamer.nl/behandeling/20170207/gewijzigd\\_voorstel\\_van\\_wet](https://www.eerstekamer.nl/behandeling/20170207/gewijzigd_voorstel_van_wet)

<sup>55</sup> For example, the UK Modern Slavery Act encourages companies to include in their statement information about their “*due diligence processes in relation to slavery and human trafficking*”. Requirement of conduct goes further in the US Tariff Act as businesses can demonstrate that they are meeting the requirements of the legislation by providing proof of the due diligence that they have conducted. Due diligence is thus implied, as it is a factor that can aggravate or mitigate the violation.

Table 1. Comparative approaches of policy tools to address forced labour risks

	Disclosure Regulation	Import ban	Due Diligence
Conduct requirements	No requirement to change corporate conduct	The onus is on the business to prove that goods are not made from forced labour (e.g. by carrying out due diligence)	Businesses adhere to standards of conduct to identify and address RBC impacts
Scope(s)	Generally a whole-of-supply chain approach	Importer/vessel/product/region specific	Can be sector or issue specific and limited to tier 1 or whole-of-supply chain approach
Enforcement	Injunctive relief by designated authority	Criminal liability and goods exclusion or seizure by custom authority	Alternatively administrative or criminal sanctions or civil liability
Access to remedy	No provision to remedy harm	'Grace periods' can provide for remedial and corrective actions by importer	Laws can establish liability on the basis of the general tort of negligence and offer a remediation mechanism
Reporting requirements	Mandatory disclosure	Generally no reporting requirement	Reporting may be included as part of due diligence obligations or separate disclosure rules

Note: the above table is not specific to any law but provides a general overview of common features generally identified among these three types of regulatory options.

To maximise the effectiveness of regulatory tools addressing forced labour, supporting measures are necessary to address potential barriers to implementation such as capacity and resource constraints, in particular for SMEs and in developing countries, as well as potential unintended consequences such as de-risking or de facto embargos. Accompanying measures can include, for example:

- 1) Guidance, training and practical support from governments;
- 2) Consolidating existing trade and customs data on the origin of raw materials, intermediate products and services, and making such information accessible to the market;
- 3) Access to financial support, including in producing countries such as preferable rates for loans or tax credits;
- 4) Collaboration and support between trade partner governments and development assistance;
- 5) Promotion of RBC standards through public procurement requirements as well as trade and investment agreements

Aligning these policy tools and approaches with government-backed RBC principles and standards can further support a level playing field for companies across jurisdictions and avoid overlapping or conflicting requirements.

## Discussion questions

- What is the current landscape of policy tools and approaches available to address forced labour risks in global supply chains?
- What are the key learnings and persisting challenges – for policymakers and business - associated with different policy approaches to tackle forced labour in global supply chains?
- Are these policy options effective in providing remediation for victims of forced labour?
- How should legislation be designed to avoid check-the-box approaches and encourage meaningful risk-based due diligence that incorporates engagement with stakeholders?

## For more information

- European Commission, Guidance on Due Diligence for EU Businesses to Address the risk of forced labour in their operations and supply chain (available [here](#)).
- U.S. Customs and Border Protection, Responsible Business Practices on Forced Labor Risk in the Global Supply Chain, (available [here](#)).
- ILO, OECD, IOM, UNICEF, Ending child labour, forced labour and human trafficking in global supply chains, Geneva, 2019 (available [here](#))
- Anti-Slavery International and European Center for Constitutional and Human Rights, Position paper on import controls to address forced labour in supply chains; (available [here](#)).

Table 2. Examples of RBC Legislation in OECD Member Countries and the EU

FL / MS = Forced labour or Modern Slavery      CL = Child labour

Country	Legislation	Year	Enacted	Issue focus	Reporting expectation	Publication of reporting <sup>i</sup>	Due diligence expectation
United Kingdom	Modern Slavery Act	2015		FL/MS			
Netherlands	Child Labour Due Diligence Law	2019		CL			
	Corporate Due Diligence Legislation	Under discussion					
France	Duty of Vigilance Law	2017					
Switzerland	Human Rights Due Diligence Legislation <sup>ii</sup>	2021		FL/MS ; CL			
European union	Non-financial Reporting Directive <sup>iii</sup>	2014					
	Proposal for updated Non-financial Reporting Regulation	Under discussion					
	Sustainable Finance Disclosure Regulation	2018					
	Conflict Minerals Regulation <sup>vi</sup>	2017		Sector focus			
	Proposal on directors duties under Sustainable Corporate Governance initiative	Under discussion					
	Proposals on mandatory due diligence and directors duties under Sustainable Corporate Governance initiative	Under discussion					
United States	California Transparency in Supply Chains Act	2010		FL/MS			
	US Trade Facilitation & Enforcement Act of 2015 <sup>vii</sup>	2016		FL/MS CL			
	Draft Corporate Human Rights Disclosure Legislation	Under discussion					
	Uyghur Forced Labor Prevention Act	2021		FL/MS			
Australia	Modern Slavery Act	2018		FL/MS			
	Modern Slavery Act New South Wales	2018		FL/MS			
Canada	Bill C-423 Modern Slavery Act	2018		FL/MS CL			
Austria	“Social Responsibility Act” <sup>viii</sup>	2018		FL/MS CL			
Germany	Supply Chain Act	2021					
Norway	Transparency Act	2021					

Notes: (i) Companies covered by the law are mandated to make their report publicly available; (ii) Counter proposal to Responsible Business Initiative; (iii) 2014/95/EU; (iv) 2018/0179(COD) - 24/05/2018 (v) Requires financial market participants to publish written policies on the integration of sustainability risks in investment decision making process; claiming products or services pursue sustainable investment objectives, obliging them to disclose information on the contribution of the investment decisions to the sustainable investment objectives. (vi) This regulation does not affect the garment sector but can represent a precedent as it is a successful conversion of voluntary self-certification into mandatory requirements stemming from the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-affected and high-risk areas. (vii) Update of the tariff act of 1930 (viii) Draft bill on social responsibility in the garment sector



## Learnings from the Garment pilot: Integrating RBC in the Public Procurement of Textiles

Thursday, 24 February 2022, 15:30 – 17:00 CET

[Watch session on replay](#)

### Objectives of the session

In 2021, the OECD ran a pilot on due diligence in the public procurement of garment and textiles<sup>56</sup> to support public buyers in integrating OECD risk-based due diligence into their purchases of uniforms and other garments. As well as launching a report from this pilot, this session will provide the opportunity to hear from pilot participants on their experiences, and how the pilot has helped them address key challenges. The discussion is framed by the question of how to balance objectives associated with Responsible Business Conduct (RBC) and present public procurement principles such as value for money, competition and ample access for companies of any size. The panel will reflect on areas where public buyers require targeted support from policy makers, as well as types of tools and frameworks adapted to public buyers' needs building on existing OECD guidance.

### Pilot on Integrating OECD Due Diligence into Public Procurement in the Garment Sector

This report presents a summary of the discussions held and insights drawn from a dedicated group of public buyers, who, in 2021, worked with the OECD Secretariat as part of a pilot to consider the application of the OECD due diligence framework, and specifically the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, to the public procurement of uniforms and other public purchases in garment, footwear and textile categories. The pilot report seeks to add to the growing body of research on the nexus between public procurement and RBC in practice. It builds on the 2020 OECD report "Integrating Responsible Business Conduct in Public Procurement" by providing real world experience of the challenges and solutions to integrating RBC considerations in public procurement in practice.

The report is organised according to the key stages of the public procurement cycle: preparing for a

<sup>56</sup> OECD (2022), Pilot on Integrating OECD Due Diligence into Public Procurement in the Garment Sector, Paris, <https://www.oecd.org/gov/public-procurement/procurement-and-rbc/pilot-on-integrating-oecd-due-diligence-into-public-procurement-in-the-garment-sector.pdf>



tender, awarding a tender, and contract management. This remained true to the organisation of the pilot itself, which followed this cycle structure. The report reflects how the pilot explored the integration of the key steps of the OECD due diligence framework at each stage of the public procurement cycle, inter alia: embed policy and management systems; identify actual and potential harms in own operations and the global supply chain; cease, prevent and mitigate harms; track progress; communicate publicly; and, provide for or co-operate in remediation when appropriate.

A key achievement of the report is that it provides a first mapping of how OECD risk-based due diligence can be integrated in public procurement operations, in this instance as applied to the public procurement of uniforms. Further, the report includes the voices of many of the participating public buyers. To this end, it provides “impact stories” on the experience of public buyers adapting guidance and tools, initially designed for the private sector to identify and address human rights and environmental risks in supply chains, to meet public buyers’ needs and unique circumstances.

## Taking practical insights from the pilot level to inform policy making pilot for policy making

What do the insights from the pilot mean for policy makers and public procurement policies? Taking these insights into account, how can public procurement policy makers support public buyers in integrating RBC in public procurement? Integrating RBC and risk-based due diligence in public procurement means adding new requirements to tender processes. This requires a balanced approach – to increase the requirements, but at the same time not overly limit the pool of responsive bids. In turn, balancing expectations is a frequent concern of public buyers. Public buyers are open to adopting more responsible buying processes, but at the same time they have to respect the basic principles of public procurement – achieving value for money, respecting competition, ensuring access to procurement opportunities for potential competitors of all sizes – among others.

### Discussion questions

- What do the insights from the pilot mean for policy makers and public procurement policies?
- How can RBC and risk-based due diligence be integrated into public procurement, while balancing against basic principles of public procurement, such as competition?
- How can public buyers achieve a more responsible public procurement, while maintaining access to procurement opportunities for all types of companies?

### References

- OECD (2022), Pilot on Integrating OECD Due Diligence into Public Procurement in the Garment Sector, Paris, <https://www.oecd.org/gov/public-procurement/procurement-and-rbc/pilot-on-integrating-oecd-due-diligence-into-public-procurement-in-the-garment-sector.pdf>
- OECD (2020), Integrating Responsible Business Conduct in Public Procurement, OECD Publishing, Paris, <https://dx.doi.org/10.1787/02682b01-en>
- OECD (2018), OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, OECD Publishing, Paris, <https://mneguidelines.oecd.org/oecd-due-diligence-guidance-garment-footwear.pdf>
- OECD (2015), OECD Recommendation of the Council on Public Procurement, <http://www.oecd.org/gov/ethics/OECD-Recommendation-on-Public-Procurement.pdf>.

