

**INSIDE THIS PUBLICATION:**

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iPoint: Human trafficking in corporate value chains: A management guide for effective compliance

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Some practical solutions to the problem of modern slavery

Cement, compliance & crimes against humanity in Syria

Anti-corruption and human rights make Olympic debut

Slavery risks on compliance agenda



# Preventing worldwide Human rights abuses

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# OECD guidance revamps business conduct in garment industry

**Neil Hodge** offers a look at guidance from the Organisation for Economic Cooperation and Development meant to help businesses in the garment industry identify and mitigate risk in their supply chains.

**T**he Organisation for Economic Cooperation and Development (OECD) released guidance designed to help companies identify and prevent potential “negative impacts” related to human rights, labour, the environment, and corruption in garment and footwear supply chains worldwide.

Called *Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector*, it recommends that enterprises take a collaborative and risk-based approach to identify ways to address impacts of their operations and sourcing decisions and monitor progress over time, while encouraging ongoing engagement with business partners in developing economies. The guidance also calls on buyers to embed social, human rights, and environmental considerations into their purchasing practices.

Without doubt, the clothing industry is particularly prone to the multitude of high-profile risks that organisations and compliance officers are keen to avoid. This is especially the case as so much of the source material and labour that fuels the sector comes from developing countries that have had historically poor reputations for implementing and enforcing regulations designed to stamp out the worst abuses linked to it—namely child- and bonded-labour sweatshops. Consequently, the OECD—whose aim is to fuel growth in tandem with economic reform and improved governance—has decided to lend a helping hand.

The 186-page guidance document was developed using feedback and collaboration between the OECD and emerging economies, trade unions, non-governmental organisations, and other experts. It is structured in two parts. The core of Section I is a set of guidance on how enterprises in the garment and

footwear sector may conduct due diligence in alignment with the OECD *Guidelines for Multinational Enterprises*, a set of voluntary principles and standards that were most recently updated in 2011 that governments around the world consider to be in line with expectations of responsible business conduct consistent with applicable laws. Section II provides information on how enterprises may apply the due diligence recommendations under Section I to sector risks in the garment and footwear sector.

Section 1 provides multinational organisations with an approach that they can consider using to help them embed responsible business conduct in their operations, as well as help identify actual and potential harm in the enterprise’s own operations and those of its suppliers. This includes, for instance, not only having a policy that spells out the organisation’s commitments regarding its own activities, but also sets out what conduct it expects from its business partners—including suppliers, licensees, and intermediaries—across the full length of its supply chain and stipulates what activities (if any) can be sub-contracted. It also recommends that organisations have a complaints mechanism in place so that concerns can be reported and incidences investigated and remediated.

Section 1 also has some useful advice about how organisations can detect potential—and actual—harm that its activities may cause or contribute to. Key characteristics of the garment and footwear supply chain—low skilled labour intensive, dispersed production, short lead times—make it higher-risk for certain labour and human rights impacts. Many of these risks exist at every level of the supply chain. Similarly, the materials themselves used in products

and processes to develop products increase the risk of certain environmental harms at various stages of the garment and footwear supply chain: Wet processing is higher-risk for use of hazardous chemicals than cut-make-trim, for instance.

To avoid potential prosecution, litigation, and reputation backlash, the OECD guidance stresses the importance of organisations' ensuring that they take appropriate due diligence. Under its *Guidelines for Multinational Enterprises*, the OECD lists several key expectations of what responsible business conduct should look like, and how organisations should detect these same practices in their supply chains and attempt to remedy them. The OECD guidelines say that enterprises should "carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent, or mitigate actual and potential adverse impacts" while "the nature and extent of due diligence depend on the circumstances of a particular situation," adding that companies should "avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur."

Furthermore, the OECD's Guidelines say that enterprises should "seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship."

The OECD's latest guidance splits risks into three categories: human rights and labour risk (which includes child/forced labour, discrimination, health and safety, and the right to join a union and use collective bargaining); environmental risks (which includes water and air pollution, water consumption, and the use of hazardous chemicals); and integrity risk, which is namely bribery and corruption. The guidance says that "severity of harm is judged on scale, scope and irremediable character," whereby "scale" refers to the gravity of the adverse impact,

"scope" concerns the number of individuals that are or will be affected, and "irremediable character" means any limits on the ability to restore those affected to a situation at least the same as, or equivalent to, their situation before the adverse impact.

One of the most notable risks that has gained prominence on organisations' risks registers is that of auditing and monitoring the supply chain, particularly with regard to new suppliers whose way of working may not be entirely compatible with the approach that the organisation sourcing the goods/labour is trying to set. The OECD admits that constant checking can lead to "assessment fatigue" and box-tick compliance, so it recommends that audits are conducted when there are "gaps in information" and "changes in context," such as taking on a new supplier. The OECD also recommends that organisations conduct ongoing monitoring rather than one-off assessments, as this can be used "to trigger where and when further assessment is needed," particularly for existing suppliers.

Section II of the guidance, meanwhile, is comprised of modules on specific sector risks and how to mitigate them, such as child and forced labour, wages, sexual harassment and workplace gender-based violence, and environmental risks (including the use of hazardous chemicals and greenhouse gas emissions).

With regard to child labour, the OECD guidance outlines the particular risks that organisations should be aware of and the local conditions that may lead to a heightened possibility that children could be used to perform some work. Typical reasons include poor education facilities in the host country; lack of regulation and enforcement; low wages and widespread use of casual/migrant labour; and use of credit schemes with recruiters that basically result in bonded labour for children.

Consequently, to minimise their exposure to risk, the OECD advises that organisations should carry out assessments on their suppliers, and establish controls to prevent child labour being used directly or indirectly. However, there are also other steps that organisations can take that they may

be unaware of. These can include, for example, reviewing their purchasing policies and price negotiations (the cheaper the product, the more likely child labour is involved in the process), leveraging their influence on suppliers to cut out child labour, and working with other companies and NGOs to share information and best practices about how to tackle the problem.

While the Organisation for Economic Cooperation and Development is at pains to say its Guidelines “are not a substitute for, nor should they be considered to override, domestic law and regulation,” the latest guidance is a useful document for compliance officers to refer to when checking how robust their own organisations’ supply chain monitoring controls and procedures are. ■

## DUE DILIGENCE

Below is a look at supporting measures for responsible supply chains from the Organisation for Economic Cooperation and Development guidance.

### Embed responsible business conduct in enterprise policy and management systems

- » Adopt a policy that articulates the enterprise’s commitments to responsible business conduct in its own operations and in its supply chain.
- » Strengthen management systems in order to conduct due diligence on risks of harm in the enterprise’s own operations and in its supply chain.

### Identify potential and actual harm in the enterprise’s own operations and in its supply chain

- » Scope the risks of harm in the enterprise’s own operations and in its supply chain.
- » Conduct a self-assessment of the enterprise’s own operations.
- » Assess suppliers associated with higher-risks at the site-level.
- » Assess the enterprise’s relationship to impacts.

### Cease, prevent or mitigate harm in the enterprise’s own operations and in its supply chain

- » Cease, prevent or mitigate harm in the enterprise’s own operations.
- » Seek to prevent or mitigate harm in the enterprise’s supply chain.

### Track

- » Verify, monitor and validate progress on due diligence and its effectiveness in own operations (the effectiveness of due diligence is measured by the extent to which actual and potential harm is prevented and mitigated in the enterprise’s own operations and in its supply chain).
- » Verify, monitor and validate progress on due diligence and its effectiveness in the enterprise’s supply chain.

### Communicate

- » Communicate publicly on the enterprise’s due diligence processes, including how the enterprise has addressed potential and actual harm.
- » Communicate with affected stakeholders.

### Provide for or cooperate in remediation when appropriate

- » Establish a process to enable remediation in the enterprise’s own operations.
- » Commit to hearing complaints against the enterprise that are raised through legitimate processes.

Source: OECD





**BNP Paribas faces  
accusations over  
involvement  
with Rwandan genocide**





Lingering accusations that BNP Paribas processed transactions that helped finance the 1994 Rwandan genocide continue to dog one of France's largest banks. **Neil Hodge** has more on what the bank is doing to battle back.

**B**anks have been used to having mud slung at them over the past decade for rigging markets, ripping off customers, committing fraud, and generally flouting the law. But there is one activity that they really do not want to be associated with—complicity in war crimes.

But at June's end three French non-governmental firms (NGOs) filed a legal action against BNP Paribas, alleging that France's largest bank was complicit in genocide, war crimes, and crimes against humanity during Rwanda's 1994 genocide.

The suit alleges that in June 1994 Banque Nationale de Paris (BNP)—as the bank was known before its merger with Paribas in 2000 to become BNP Paribas—"participated in financing the purchase of 80 tonnes of arms," including AK-47 rifles, ammunition, hand-grenades, and mortars, that "served to perpetrate the genocide" despite the fact "that the bank could not have doubted the genocidal intentions of the authorities of the country for which it authorised the transfer" of funds.

The legal action has been brought by Sherpa, an anti-corruption group that defends victims of economic crimes; Ibuka France, an association that defends survivors of the genocide; and the Collective of Civil Parties for Rwanda (CPCR), a group based in France that pursues claims against genocide suspects.

The groups point out that a United Nations arms embargo had been in effect from May and that a Belgian bank—Bank Brussels Lambert (BBL, which was merged into ING Group in 1998)—had already refused to process the transaction, knowing that it would violate the embargo.

Jacques Simal, a BBL employee who was posted to Rwanda's Banque Commerciale du Rwanda (BCR) up until April 1994, has testified that the banking sector knew full well the crimes that were taking place in Rwanda at that time, which justified BBL freezing BCR's accounts. And according to testimony provided by Ezakar BIGILINKA, BCR's foreign department director, "the only institution which agreed to collaborate was BNP, who agreed

to transfer the assets [from BCR to Rwanda's central bank, the National Bank of Rwanda]."

In their complaint against BNP, the NGOs claim the bank authorised two transfers of funds of U.S.\$592,784 and U.S.\$734,099 respectively (totaling more than U.S.\$1.3m) on 14 and 16 June 1994. These were made from an account that the National Bank of Rwanda held with BNP to an account at the private Swiss bank UBP held under the name of Willem Tertius Ehlers, a South African national and former secretary to South African leader P.W. Botha. Ehlers happened to own an arms brokerage firm called Delta Aero at the time.

The suit claims Ehlers and Rwandan Hutu colonel Théoneste Bagosora concluded an arms sale in the Seychelles on the day after the second transfer of funds. It says the weapons were officially purchased by Zaire, as the Democratic Republic of Congo was then known, but with two Rwandans in the delegation that travelled to the Seychelles, one of which was Bagosora. The groups cite testimony that Bagosora gave before the International Criminal Tribunal for Rwanda, which describes how he and his associates transferred the weapons from the Seychelles to Goma, a Zairean city that borders Rwanda, and then into Rwanda.

Bagosora, now 70, is serving a 35-year sentence for crimes against humanity in connection with the genocide.

More than 800,000 ethnic Tutsis and moderate Hutus were slaughtered during a three-month killing spree between April and July 1994 by Hutu extremists after a plane carrying the Rwandan president, Juvenal Habyarimana, was shot down.

Multinationals have faced legal complaints in France for human rights abuses and crimes against humanity. Sherpa was recently in the headlines when it filed a lawsuit against the Swiss-French cement giant LafargeHolcim over allegations that the company may have financed third parties connected to the Islamic State in Syria in exchange for protecting its newly-built operations. It is, however, the first time that a bank has been the subject of a

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“It is important that banks and other companies are held to account for what they do directly, as well as what they do indirectly. There is evidence to show that BNP Paribas facilitated transfers to fund arms sales during one of the worst cases of genocide ever seen. It must be held to account.”

Marie-Laure Guislan, Head of Litigation, Sherpaes

similar complaint.

In an e-mailed statement, BNP Paribas told Compliance Week: “We became aware of the complaint through the media. At the moment, we do not have enough information regarding the complaint to be able to comment on it.”

On 3 July—within a week of the complaint being filed—the bank announced that a new head of compliance would be joining it in October and that it was establishing a new “company engagement department,” responsible, among other things, for setting strategy on human rights. They may well have their work cut out if recent allegations are proven to be true.

This is not the first time BNP Paribas has been accused of violating embargoes. In 2014, it pled guilty to evading U.S. trade embargoes in order to help clients in Sudan, Cuba, and Iran. The bank agreed to pay a U.S.\$9bn penalty (for processing over U.S.\$30bn of illicit transactions). Over an eight-year period, BNP Paribas helped its clients evade sanctions by covering up their names on transactions and replacing them with secret codes. At the time, then-U.S. Attorney General Eric Holder stated that the bank “continued for years despite repeated indications and warnings that the bank’s conduct violated United States embargoes.”

Indeed, the conduct was so blatant that even the bank’s compliance department was complicit. According to court filings citing an internal bank memo, BNP’s senior compliance personnel agreed to continue doing business with Sudan despite the

well-documented human rights violations in Darfur and 1997 U.S.-imposed trade embargo by stating that “the relationship with this body of counterparties is a historical one and the commercial stakes are significant. For these reasons, compliance does not want to stand in the way.”

“BNP Paribas went to elaborate lengths to conceal prohibited transactions, cover its tracks, and deceive U.S. authorities,” said Holder.

Marie-Laure Guislan, head of litigation at Sherpa, says that the case is unlikely to move ahead quickly. “These cases can take months and years to complete,” she says, though she adds that there is no statute of limitations on such crimes, “so there is no deadline for us to make our case by.”

In the meantime, while the groups wait for a judge to investigate the case and decide whether criminal charges can be brought, Guislan says the groups will continue to urge the “new government in France to be really vigilant,” as well as raise public awareness “that banks can be involved in a very serious violation of human rights.” “Already we have received calls from investors who want to know more about the case we are trying to make against BNP Paribas, and more people are asking questions about how banks and multinational companies can conduct their business in this way and knowingly violate the law,” she says.

Sherpa also hopes to draw attention to a new French law that was passed in February 2017 obliging French organizations with over 5,000 staff—including banks—to prove their “duty of care” in

reducing the risk of human rights violations. The legislation—which cannot be used retrospectively to prosecute historic crimes—will come into effect next year, and human rights groups across Europe are saying that they aim to push for similar European Union-level legislation. Additionally, Sherpa and other non-governmental firms also want France’s new government to open archives with the hope of revealing complicity between French

officials—not only bankers—and those who have committed genocide.

“It is important that banks and other companies are held to account for what they do directly, as well as what they do indirectly,” says Guislain. “There is evidence to show that BNP Paribas facilitated transfers to fund arms sales during one of the worst cases of genocide ever seen. It must be held to account,” she says. ■

## DUTCH COURT SENTENCES DIRECTOR FOR AIDING WAR CRIMES

Below Neil Hodge explores the recent sentence against Guus Kouwenhoven.

Companies and their executives have occasionally been linked with complicity in acts of terrorism or war crimes. With the recent wave of terrorist attacks in the United Kingdom and Europe, for example, internet and social media companies have been criticised for failing to block extremists and militants from using communicating in online chatrooms and hosting websites.

But prosecuting companies and their directors for their direct involvement in crimes against humanity is almost unheard of—until recently.

On 21 April 2017, the Dutch Appeal Court found 74-year old company director Guus Kouwenhoven guilty of war crimes for selling weapons to Liberia’s then President Charles Taylor, who was convicted in 2012 to 50 years in prison by the Special Court for Sierra Leone for war crimes and crimes against humanity.

In supplying and transporting the weapons, Kouwenhoven was found not only to have breached international sanctions, but also to have acted as an accessory to war crimes including, rape, pillage, inhumane treatment, and

murder committed in Liberia and Guinea between August 2000 and December 2002.

In a written summary of their ruling, the Dutch Court concluded that the weapons smuggled in by Kouwenhoven “were used by Taylor in an armed conflict with rebels, in which over a period of many years countless civilians were victimised.” In exchange for weapons, Kouwenhoven—as director of operations of both the Oriental Timber Corporation and the Royal Timber Company—gained trading concessions from Taylor.

Kouwenhoven was sentenced to 19 years in jail. He had originally been sentenced to eight years in prison in 2006, but was later acquitted due to lack of evidence. The current sentence is a result of a retrial.

In its ruling, the Court stated that they hoped that this case would serve as an example to others that in doing business with governments like Taylor’s “they can thereby become involved in serious war crimes.”

—Neil Hodge



## United Kingdom grapples with modern slavery in its own backyard

There is far more modern slavery in the United Kingdom than one might think, but regulatory efforts have led to a sharp rise in referrals, awareness, and detection of forced labour.

**Neil Hodge** explores.



In the wake of the U.K.'s Modern Slavery Act, there is no doubt that large companies are taking their obligations to monitor their supply chains for incidences of child, forced, or bonded labour seriously. But there is evidence to suggest that their focus—typically on suppliers and contractors working in developing countries with histories of lax controls, oversight and enforcement—may result in overlooking exploitation that is happening right under their noses in the United Kingdom.

Unfortunately, there is plenty of evidence of slavery in the United Kingdom. Most recently, on 16 June a Nottingham landlord received an eight-year prison sentence after pleading guilty to human trafficking, two counts of forced labour, and fraud.

Some cases have resulted in stiff penalties. In May 2016, four Latvians were jailed for a combined total of more than 23 years for offences relating to the exploitation of migrant workers, while in November five members of a Plymouth family (all from the Czech Republic) were jailed for a total of 20 years following the first prosecution for human trafficking offences in Devon and Cornwall.

In January 2016, the Gangmasters and Labour Abuse Authority (GLA), which investigates forced labour offences, became the first UK law enforcement agency to use new powers under the Modern Slavery Act to secure a Slavery and Trafficking Prevention Order (STPO) for labour exploitation. Judges can use such orders when they feel that there is a significant risk that defendants might re-offend.

The case involved two Lithuanian nationals who admitted transporting two male twins from Lithuania to Norfolk and subjecting them to forced labour in food factories in Suffolk. The twins were paid a combined total of £20 for four months work. They were starved and forced to sleep on the floor in accommodation described as “barbaric”. As well as receiving STPOs, the traffickers were each given three-and-a-half-year prison sentences.

Recent research has identified that awareness of U.K.-based slavery is growing. The number of potential victims of labour exploitation referred as part of the framework set up to identify victims of modern

slavery in the U.K. increased by 33 percent between 2015 and 2016, according to analysis of National Crime Agency data by forensic risk specialist Kroll.

The data, which is taken from the National Referral Mechanism (NRM)—the framework in which potential victims of human trafficking or modern slavery are referred by authorised agencies such as police forces, the UK Border Force or Social Services—reveals that there were 1,575 referrals for labour exploitation in 2016. Seventy percent of these were adults, and 30 percent minors.

According to Kroll, the increased numbers cast a spotlight on an issue that is of increasing concern to businesses, particularly in sectors such as retail and manufacturing.

Kroll's analysis shows that Vietnam was the country of origin for the highest number of potential labour exploitation victims referred in the U.K. in 2016, with 307 individuals. Albania followed in second place with 194 potential victims, while Poland came third with 140. However, Kevin Braine, head of Kroll's compliance practice (EMEA), says that these numbers “may just be scratching the surface of what the true figures could be.”

“These numbers demonstrate two things,” says Braine. “Firstly, with an estimated 13,000 victims of modern slavery, the U.K. is still far from immune to this type of appalling human rights abuse. Secondly, the sharp increase in the number of referrals shows that awareness and detection of modern slavery has improved since the introduction of the Modern Slavery Act.”

Experts believe that the approach that companies use to detect possible incidences of forced labour in their overseas supply chains could easily be used to monitor and audit U.K. based companies too.

Aidan McQuade, director at human rights organisation Anti-Slavery International, says that there is no difference in the methods that companies should use to determine whether there are incidences of forced labour in their supply chains in the U.K. or in places like India, China and other emerging markets. He adds that the tell-tale signs of forced labour are also often the same.

“Check to see if the company is undercutting its’ nearest rivals, and by what margin. If the cost looks too low, you should assume that forced or child labour is being used somewhere in the process. Other warning signals may be if the supplier refuses to agree to onsite audits, refuses to provide details of its suppliers or subcontractors, or does not allow unionised labour,” says McQuade.

Moreen Romans, senior director, global supply solutions, risk and supplier diversity at credit rating agency Dun & Bradstreet, recommends a five-step process to help detect modern slavery in U.K. operations. These are:

- » Identify who the risky suppliers are in your supply chain;
- » React to that information with additional monitoring and investigation to identify problems;
- » Track and report findings and relevant information;
- » Adjust your approach by replacing suppliers connected to forced labour; and
- » Monitor continuously to assure data, information and analysis is current, including regular audits.

Anna Fletcher, director at law firm Gowling WLG, says that a compliance checklist for minimising the risk of modern slavery, should start with a “top down” commitment to tackling modern slavery, as well as the establishment and communication of a code of conduct for staff and suppliers alike. She says that companies need to engage with the entire workforce to raise awareness about modern slavery and how they can identify “tell-tale” signs, and know how to report them and take action.

Fletcher also advises that companies should review the recruitment practices that they and their suppliers use to ensure they are fit for purpose, as well as ensure that there is a transparent process for confirming the way in which these suppliers operate (usually better guaranteed through the strength of the relationship with a tier one vendor). “Overarching this,” she says, “should be a clear set of performance indicators with which to assess suppliers—and their

suppliers—activities, with the issue of slavery and exploitation being a key element.”

Matt Cormack, partner at law firm Ward Hadaway, advises companies to analyse the industry. “The most common instances of people being trafficked into forced labour occur in industries such as agriculture, construction, hospitality and manufacturing. Consider the overall risk profile of your industry, then tailor your response and due diligence accordingly to the high and medium risk areas identified,” he says.

Paul Johnson, executive partner at the same firm, also advises companies to provide training to ensure that employees know how to spot signs of modern slavery, and understand the requirements of the Modern Slavery Act. He also says that companies should consider requiring the personnel of high and medium risk suppliers to undertake training alongside their own teams.

Perhaps most importantly, says Cormack, companies should make sure that their contracts include strong contractual rights, including rights to visit a supplier’s facilities on an independent and unannounced basis. But he adds: “Ensure that you restrict sub-contracting of work to known and identifiable sub-contractors, and that audit and visit rights extend to these entities.”

Some companies have already fallen foul of incidences of slavery in their U.K. supply chains, but have learned from the experience and have put in place tighter controls as a result.

In January 2016, the boss of a bed-making firm that supplied major retailers including John Lewis and Next was found guilty of human trafficking. Mohammed Rafiq employed large numbers of Hungarian men as a “slave workforce” at the now defunct Kozee Sleep in Ravensthorpe, Dewsbury, West Yorkshire. He paid them as little as £10 per day. The company’s clients had conducted ethical audits, but they had failed to spot what was going on.

Consequently, John Lewis Partnership (JLP), which owns high-street retailer John Lewis and supermarket chain Waitrose, has substantially changed the way it works with U.K.-based suppliers to identify and protect vulnerable workers, according to the compa-

ny's latest human rights and modern slavery report.

Firstly, the high-street retailer has become a member of the "Fast Forward" programme, which aims to measure and improve labour standards, increase supplier transparency and protect vulnerable workers in the United Kingdom. As part of this programme, John Lewis hosted a number of workshops for suppliers covering modern slavery, right to work, contracts and health and safety. Some 107 suppliers took part in these workshops.

The company has also launched a Model Factory Programme, which has tested a new detailed auditing methodology used by the Fast Forward initiative (10 factories took part in 2016). It has also conducted confidential online worker surveys at each participating factory with the support of worker representative councils and union representatives. "It is hoped that feedback from these surveys will support managers to facilitate more meaningful discussions with their workers to address issues that will improve their experience of being at work," says the report.

The Fast Forward audits have shown that there is room for improvement on recruitment processes and personnel checks so that they are robust and fit for purpose. In addition, the audits have found that many suppliers have limited due diligence measures in place to assess labour providers used to supply their workers.

In 2017 John Lewis Partnership will work with Model Factory Programme participants to review results of worker surveys and audits. It will support them to develop action plans and complete training programmes to address issues identified. The company also hopes to extend the Fast Forward audit methodology for all suppliers' factories in the U.K.

Meanwhile, the report also found that during 2016/17 Waitrose's auditing process identified eight instances where management processes "had not been followed as they should have," which could have increased the risk of modern slavery. It says that risk assessments were carried out on Waitrose suppliers on 13 sites in the United Kingdom, Spain and Italy, responsible for growing mushrooms, leeks, cabbages, salad crops, tree fruit and tomatoes. ■

## U.K. RESPONSE TO SLAVERY CRITICISED

Below Neil Hodge explores the recent sentence against Guus Kouwenhoven.

Despite being a leader in trying to tackle slavery, the U.K. government, it seems, is still falling short in its attempts to address the problem properly. At the end of April a cross-party group of MPs, the Work and Pensions Committee, published its report on victims of modern slavery.

The report said that while there is an estimated 10,000 and 13,000 slaves in the United Kingdom, the current mechanism for identifying and supporting them out of slavery means that victims, once identified, have no automatic formal immigration status or rights and are often faced with a total lack of understanding or even recognition of their situation. MPs said the system's failures were "inexcusable."

The committee also found that front line support is weak and uncoordinated and instances where a person is re-trafficked are not even recorded, which "helps to explain the country's appalling conviction record". It heard testimony of one victim, Client M, who "escaped from his traffickers but it took four years before someone recognised that he was a potential victim of modern slavery .. the adviser in the Jobcentre [who knew his story] did not pick up on that .. he lost four years before someone finally offered him the help and pointed him where he should go further."

—Neil Hodge

# Human trafficking in corporate value chains: A management guide for effective compliance

Authored by **Tolga Yaprak**, Senior Consultant, iPoint Inc.

The purpose of this White Paper is to examine the primary drivers of anti-human trafficking measures within corporations and then provide recommendations to help managers in their efforts. Our research has indicated that three primary drivers exist, namely customers (whether business-to-business or business-to-consumer), investors, and law enforcement. A by-product of the co-existence of these drivers is the creation of an overlapping, interdependent system of incentives for corporations to tackle human trafficking, forced labor, and modern slavery in the global value chains. The system of incentives is primarily formed by competitive advantage opportunities and risk mitigation. In addition to incentives, we've found that conducting due diligence is the most common denominator for all relevant legislation and market requirements and our recommendations are therefore built around the globally accepted cross-industry due diligence framework designed by the Organisation for Development and Co-operation ("OECD").

## INTRODUCTION

Human trafficking, in all of its sordid manifestations, is primarily driven by market forces. Therefore, the global marketplace is the natural setting in which human trafficking takes place, making the global value chains ("GVCs") of corporations one of the prime facilitating environments. Not surprisingly, most of the relevant actors have recognized this fact and have implemented measures for redress. Legislation has been enacted globally, via international bodies like the United Nations, sovereign nation states like the US and UK, and even state governments such as California within the United States. Moreover, consumers are

demanding more transparency for each dollar they spend, and investors are doing the same. To avoid being outdone, law enforcement agencies have also increased their focus on human trafficking, especially in relation to North Korean forced labor

Forced labor is ... all work or service which is exacted from any person under the threat of penalty and for which the person has not offered himself or herself voluntarily.

ILO Forced Labour Convention,  
C29, 28 June 1930

Fortunately, consumers, law enforcement agencies, legislative requirements, and investor activists are all looking in the same direction and at the same solution to combat human trafficking: supply chain transparency and due diligence. The common objective of transparency and due diligence from the wide array of actors has virtually placed a cost-effective solution on a silver platter for companies to implement.

40.3  million  
victims of Modern Slavery in 2016 †



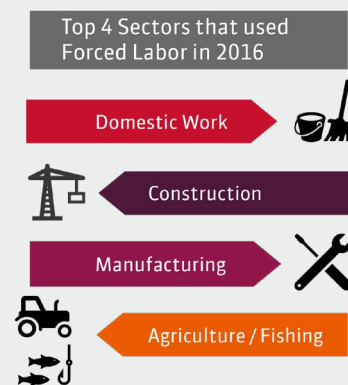
Aside from some genuine leaders, the lion's share of the business community has perplexingly ignored the clear and present opportunities to address human trafficking in their global value chains by failing to implement due diligence measures. In lieu of the transparency that the market is demanding, these companies waded in the complacency of issuing 'statements' and 'policies'. Market and legal requirements notwithstanding, there are by-products of supply chain transparency that can be beneficial to corporate operations and procurement. Nonetheless, the market will inevitably decide which companies have satisfactorily conducted due diligence for supply chain transparency. Therefore, it would behoove corporations to recognize the issue and implement due diligence – before their customers, investors, or law enforcement do it for them.

Moreover, there is a counter-argument circulating around career-compliance professionals which implies that corporations will not act on environmental, social, and/or governance (“ESG”) initiatives because of the Trump Administration's general position on regulations. Yet, evidence indicates that whether or not the Trump Administration reduces regulatory requirements, the corporate world will continue to progress in its ESG initiatives. Case-in-point is the overwhelming reaction to the Administration's announcement that the U.S. would pull out of the Paris Climate Agreement – to which more than 1,400 cities, states, and businesses have declared their commitment (Gustin 2017). It is the natural progress of the global marketplace that determines its requirements. That is what makes corporations all the more vulnerable to reputational risk, the power of the consumer. Additionally, not only corporations that manufacture consumer goods or provide

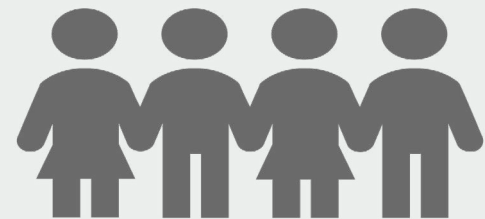
services directly to consumers are affected. As the case of North Korean forced labor in the seafood sector (and other industries) demonstrates (Sullivan, Kim & Mendoza 2017), suppliers that may transact their business on a solely B2B basis are also on the hook.

## THE CARROT AND THE STICK

Dual-incentives in the form of carrot and stick have made themselves present in the market, with the 'stick' being mostly correlated with legal action and loss of brand equity and sales, while the 'carrot' is represented by increased sales and brand equity, and even a positive effect on stock price (Cousins et al. 2017). Moreover, the carrot and the stick are not mutually exclusive and represent a symbiotic relationship



administration reduces regulatory requirements, the corporate world will continue to progress in its ESG initiatives. Case-in-point is the overwhelming reaction to the Administration's announcement that the U.S. would pull out of the Paris Climate Agreement – to which more than 1,400 cities, states, and businesses have declared their commitment (Gustin 2017). It is the natural progress of the global marketplace that determines its requirements. That is what makes corporations all the more vulnerable to reputational risk, the power of the consumer. Additionally, not only corporations that manufacture consumer goods or provide



**10 million victims of Modern Slavery were children**

where one greatly affects the other. Thus, even if corporations act solely for the purpose of risk mitigation, they can still reap the benefits of transparency.

## CUSTOMERS

For some managers, the inability to truly grasp the gravity of the situation can be attributed to a lack of their understanding of the development of current market conditions. Furthermore, the marketplace is very different to what it was 30, 20, and even 10 years ago. What's more, is that even companies that do not sell their products directly to consumers are also affected by their customers who are trying to meet their own market demands by requiring transparency from their suppliers. "The Future of Consumer Demand," a report published by British multinational banking and financial services holding company HSBC, identified three macro trends affecting global consumer behavior: a growing consumer class,

technology and power of data, and transparency of business (Trajectory 2016). Moreover, the report has found that, “[W]ith greater choice and access to information, the digital revolution ... making it easier for consumer to make choices based on their values and ... put business ethics in the spotlight.” (Trajectory 2016) As consumer awareness and intelligence increase, it is becoming ever more critical for corporations to mitigate the risk of human trafficking in their GVCs through due diligence and transparency.

Further, the dual-nature of the carrot and stick existing with the same stakeholder is starkly evident with a firm’s customers. In effect, customers can punish companies that do not meet their transparency demands by boycotting their products or brands, and customers also reward those that meet their demands via sales and testimonials. And as the HSBC report shows, demographic trends indicate that the market will only continue to demand growing transparency. Therefore, not meeting these demands is a short-term problem that may have muted consequences but is also a long-term problem that will determine whether a company can survive in the future.



28.7 million victims of  
Modern Slavery were female

## INVESTORS

Investor activism is not a new concept – Socially Responsible Investors (SRIs) have been instrumental for over a decade. Similar to the growth of consumer awareness, SRIs are also growing in awareness and trending towards a higher demand for transparency. More and more SRIs are challenging corporations to come up with more than the widespread corporate boilerplate template policy statement. According to Patrick McVeigh (2017), President and Chief Investment Officer at Reynders, McVeigh Capital Management, the risk in investing without proper screening goes back to the circumstance that the investors “may not know if they are indeed investing in companies that are good corporate citizens or simply those with

the best sustainability stories to tell.” McVeigh (2017) goes on to name ‘greenwashing’ as one of the primary threats to investment discipline, stating that “... companies are getting more familiar with not only how to report, but what to report” which in turn can “fail [...] to address issues that may be more material to a company and its business.” McVeigh is not the only capital manager who is concerned. London-based investment manager Hermes (Sanderson 2018) says, “Should companies fail to increase the transparency of their operations or continue breaking ground in the move towards an ethical supply chain, they will encounter increasing investor pressure, and may suffer considerable reputational harm.” McVeigh and Sanderson are only a sample of the overall SRI community, a growing community that hold the keys to corporate access to capital.

In addition to the dual-nature of the carrot and stick seen with customers, investors embody the ultimate ‘double-or-nothing’ for corporations—they either provide or block access to much needed capital that is the lifeblood of corporate financial plans.

## LAW ENFORCEMENT

Although laws, regulations, and international conventions that specifically address human trafficking, modern slavery, and forced labor have existed for decades, they haven’t seen tangible enforcement yet. There are many explanations for a lack of prior enforcement, and chiefly among those the ‘consumptive demand’ loophole in the Tariff Act of 1930. The loophole allowed the import of goods manufactured with forced labor, “if the goods were not produced in such quantities in the United States as to meet the consumptive demands of the United States (U.S. Customs and Border Protection 2016). The Trade Facilitation and Trade Enforcement Act of 2015 repealed the ‘consumptive demand’ loophole, effectively removing all restrictions from government agencies previously unable to enforce anti-human trafficking legislation. Law enforcement agencies are now able to exclude and seize goods and open criminal investigations. Furthermore, The Countering America’s Adversaries Through Sanctions Act of 2017 can block and prohibit all transactions as well as seize and require forfeiture for any company found to have “any

significant merchandise mined, produced, or manufactured wholly or in part by North Korean nationals ..." (U.S. Customs and Border Protection, Public Affairs, 2017) These two laws albeit only represent a small snapshot of legislation that involves US federal law enforcement agencies, but there are many other laws that address the same issues. The UK Modern Slavery Act of 2015 requires all companies operating in the United Kingdom that surpass a specific revenue threshold to make annual disclosures; the California Transparency in Supply Chains Act of 2010 requires companies doing business in the state of California (also surpassing a revenue threshold) to make a public disclosure; and the US Federal Acquisition Regulation of 2015 which specifically deals with anti-human trafficking for government suppliers and contractors. Even though each law and regulation have their own specific set of requirements, there is one common denominator: corporations must conduct due diligence as proof of their transparency efforts. If corporations conduct due diligence, then they will be able to prove their transparency efforts are not green-washing and will be better positioned to respond to any human trafficking inquiry.

## THE SOLUTION: FACING THE FACTS

The initial obstacle on the path to solving any problem is being able to come to terms with the fact that a problem exists in the first place, and anti-human trafficking is certainly no exception. Corporate managers have shown a general lack of understanding regarding modern slavery in corporate global value chains, and only after passing that barrier can corporations begin to develop and execute due diligence. According to a recent study published by The Economist Intelligence Unit (2017), "[B]usiness executives feel confident that their supply chains are responsible and compliant", even though only 22% of the same companies surveyed are addressing child labor. The most poignant example of the discrepancy between corporate confidence in their compliance status and a lack of due diligence is illustrated in multiple Associated Press ("AP") investigations revealed in 2017. AP reports found that although all the companies that had responded to their inquiries claimed that suppliers were forbidden from using forced labor (commonly defined as a form of modern-day slavery), shipping

records showed that "more than 100 cargo containers of seafood were sent to the U.S. and Canada ... from factories where North Koreans were working in China ..." (Sullivan, Kim, & Mendoza 2017). Not only were products sold in the U.S. that had utilized forced labor, but they had utilized North Korean forced labor. U.S. Customs and Border Protection (CPB) said that, "if warranted, [CBP] would pursue all enforcement actions and prohibit goods from importation as appropriate." (Mendoza 2017) The startling statistic of how many companies believe their value chains are responsible coupled with the example of North Korean forced labor is a stark message to all corporate managers: those choosing to be 'reactive' as opposed to 'proactive' are placing their whole corporations at risk—a risk that be mitigated at that.

Coming to terms with the reality of forced labor, human trafficking, and modern slavery in global value chains is a critical first step, but nothing more. What companies do after that is the difference between acknowledging risk, and truly mitigating risk.

## RECOMMENDATION

Due diligence: the most common denominator  
Taking the next step, from understanding the risk to developing a plan to approach that risk can be viewed as 'operationalizing' the policies of your company. This transitionary step can seem especially daunting for managers when viewed from the singular lens of one corporation. Therefore, success at this stage can be found in adopting methodologies that have cross-industry and global applicability, such as the 'OECD five-step guidance' utilized for conflict minerals compliance (Organization for Economic Co-operation and Development 2016). When applying the framework to compliance with human-trafficking legislation, the essence of each step remains virtually unchanged. Therefore, the opportunity to achieve economies of scale is especially prevalent when using the OECD guidance because it enables and empowers corporations to address multiple acts of legislation at the same time, thereby reducing the overall need for resources in those efforts. Below is a brief overview of each step in its relation to anti-human trafficking compliance:

### 1. Establish strong company management systems

This means identifying the parties within your company best suited to be held accountable for the program and for its development and execution. Restricting the efforts to one department can cause bottlenecks, so creating a cross-departmental team to function as even a transitional body will work best.

### 2. Identify and assess risk in the supply chain

Once you've created a team that will be responsible for implementing a program, the next step is to find and evaluate the areas of your global value chain that contain risk. This task requires a fundamental understanding of each relevant act of legislation, as well as an in-depth understanding of how your corporate procurement functions and the relationships you maintain with the stakeholders in your global value chain (GVC). Moreover, this step is one that requires the collection of data from the supply chain. Free, open-access tools such as the electronic Labor Rights Template eLRT ([www.elrt.org](http://www.elrt.org)) provide companies with a way to easily collect data from the entire global value chain, as well as consolidate and roll up that data to use in reporting.

### 3. Design and implement a strategy to respond to identified risks

Pending the outcome of your initial evaluation, you will need to develop a strategy for how to address those risks. Additionally, you may need to develop different tactical approaches to different risks in your global value chain by analyzing the different variables at play, although this is also an area that will change over time. More importantly, the strategy to respond to risks needs to have the input of all internal stakeholders. For example, it is very common for companies to take the initial stance of immediately removing non-compliant suppliers. But for that to take place there needs to be a mechanism that both procurement as well as the supplier are aware of. Therefore, immediate removal may not be a feasible option until the infrastructure for such an approach is in place.

### 4. Carry out independent third-party audits of supply chain due diligence at identified points in the supply chain

Auditing is a critical step in proving the reliability of your efforts. It does not mean every supplier and every production site need to go through an audit. Rath-

er, corporate managers are the ones who are best positioned to understand their global value chain and determine where meaningful audits can take place.

### 5. Report on supply chain due diligence

While the first three steps focus on developing a plan and then executing that plan, and the fourth step focuses on verifying the results of that execution, the fifth and last step is the most visible to consumers. Disclosing the findings of your anti-human trafficking efforts is of paramount importance. Consumers notwithstanding, the disclosure of findings is prescribed as requirement in several of the relevant acts of legislation, albeit in some cases specifically for the benefit of consumers. In guidelines published by the U.K. Home Office, "Failure to comply" with the UK Modern Slavery Act is addressed. In that discussion, the Office of the Home Secretary states that "[W]e expect organisations to build on their statements year on year and ... to improve over time." It also states that "[I]t will be for consumers, investors, and Non-Governmental Organisations to ... apply pressure where they believe a business has not taken sufficient steps." (Office of the Home Secretary United Kingdom 2017)

## CONCLUSION

Modern slavery, forced labor, and human trafficking are sad realities of our time, but realities nonetheless. And for 40 million humans in 2016, slavery wasn't just a reality, it was the reality in which they were forced to live. The clarion calls of consumers, investors, and governments around the world have made it explicitly clear that they want to see action, and they have prescribed the global marketplace as the primary battleground. For better or for worse, companies must act.

*Note: All statistics used in the visual representations of this article were compiled from the International Labour Organization ("ILO"). (International Labour Organization 2017)*

### WORKS CITED:

Cousins, P., Dutordoir, M., Lawson, B., & Quariguasi Frota Neto, J. (2017, June 29). The Shareholder Wealth Effects of Modern Slavery Reporting Requirements. Retrieved February 8, 2018, from [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2995175](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2995175)  
Economist Intelligence Unit. (2017). *No more excuses Responsible supply chains in a globalised world*.



Gustin, G. (2017, June 6). *Over 1,400 U.S. Cities, States and Businesses Vow to Meet Paris Climate Commitments*. Retrieved February 8, 2018, from inside climate news: <https://insideclimatenews.org/news/05062017/paris-climate-agreement-trump-bloomberg-cities-states-businesses>

International Labour Organization (2017). *Global estimates of modern slavery: forced labour and forced marriage*. Geneva. Retrieved February 8, 2018, from [http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_575479.pdf](http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf)

McVeigh, P. (2017, August 17). What Questions Should Investors Be Asking to Understand If a Company is Really Socially Sound? *Finance & Investment Sustainable Brands Issue in Focus*.

Mendoza, M. (2017, October 6). US Customs vows to block imports made by North Korea workers. Associated Press. Retrieved February 8, 2018, from <https://www.apnews.com/88871df213784e71b2d2ec-34581bef33/US-Customs-vows-to-block-imports-made-by-North-Korea-workers>

Office of the Home Secretary United Kingdom (2017). *Transparency in Supply Chains etc. A practical guide*. Retrieved February 8, 2018, from [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/471996/Transparency\\_in\\_Supply\\_Chains\\_etc\\_\\_A\\_practical\\_guide\\_\\_final\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/471996/Transparency_in_Supply_Chains_etc__A_practical_guide__final_.pdf)

Organisation for Economic Co-operation and Development. (2016). *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*. Retrieved February 8, 2018, from OECD.org: [http://mneguidelines.oecd.org/Brochure\\_OECD-Responsible-Mineral-Supply-Chains.pdf](http://mneguidelines.oecd.org/Brochure_OECD-Responsible-Mineral-Supply-Chains.pdf)

Sanderson, H. (2018, January 16). *Hermes warns on child labour risk for cobalt buyers*. Retrieved January 17, 2018, from Financial Times: <https://www.ft.com/content/b7caeae2-3888-3f2a-900e-c9bc8402599b>

Sullivan, T., Kim, H.-J., & Mendoza, M. (2017, October

5). North Koreans process salmon, snow crab eaten in US, Europe. Associated Press. Retrieved February 8, 2018, from <https://www.apnews.com/33449548b6f-54422b998064137049e63/North-Koreans-process-salmon,-snow-crab-eaten-in-US,-Europe>

Trajectory. (2016, September 9). *The Future of Consumer Demand*. Retrieved February 8, 2018, from <https://trajectorypartnership.com/reports-and-presentations/hsbc-the-future-of-consumer-demand/>

U.S. Customs and Border Protection. (2016, February 24). *Trade Facilitation and Trade Enforcement Act of 2015 Repeal of the Consumptive Demand Clause*. Retrieved February 8, 2018, from Fact Sheet - Repeal of the Consumptive Demand Clause: <https://www.cbp.gov/sites/default/files/assets/documents/2016-Oct/Fact%20Sheet%20-%20Repeal%20of%20the%20Consumptive%20Demand%20Clause.pdf>

U.S. Customs and Border Protection, Public Affairs. (2017, November 7). CBP Combats Modern-Day Slavery with the Passage of the Countering America's Adversaries through Sanctions Act. *CBP Combats Modern-Day Slavery with the Passage of the Countering America's Adversaries through Sanctions Act*. Retrieved February 8, 2018, from <https://www.cbp.gov/newsroom/national-media-release/cbp-combats-modern-day-slavery-passage-countering-america-s>

<sup>1</sup>Human trafficking is an umbrella term used to describe many forms of modern slavery, including forced labor

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## Australia is mulling over enacting its own Modern Slavery Act

The 'Land Down Under' is formalizing efforts to attack supply chain slavery issues and human trafficking. **Jaclyn Jaeger** has more on developments in Australia, as the country considers its own Modern Slavery Act.

Companies doing business in Australia may soon have to disclose what they're doing to tackle modern slavery in their operations and supply chain.

Earlier this year, the Australian government launched an inquiry into whether Australia should introduce a modern slavery law, comparable to the U.K. Modern Slavery Act of 2015, to tackle the global problem of modern slavery, including human trafficking, forced labor, and child labor. Hundreds of multinational companies and trade groups have sent submissions in response to the parliamentary inquiry expressing their support, as government efforts continue to progress, although no actual recommendations have been made yet.

Modern slavery was the significant agenda item at a June 22, 2017, public hearing of Australia's Foreign Affairs and Aid Subcommittee of the Parliament's Joint Standing Committee on Foreign Affairs, Defense and Trade. During that hearing, the Attorney General's office discussed what current efforts are underway to combat modern slavery in Australia, as well as what improvements must still be made.

Human trafficking, forced labor, slavery, and servitude are all criminalized under Australia's Criminal Code Act 1995 and include violations occurring outside Australia, provided the offender is Australian. The law establishes corporate criminal liability for violating any of these slavery offenses, but a company may be able to rely on a narrow defense if it can show that it exercised due diligence to prevent the conduct.

"Many of the measures implemented by the U.K. Modern Slavery Act are consistent with the Australian framework," said Adrian Breen, Assistant Secretary of the Transnational Crime Branch at the Attorney General's office. The Australian government's continuing efforts to combat these crimes are further set out in the "National Action Plan to Combat Human Trafficking and Slavery."

Since 2004, the Australian Federal Police (AFP) has received more than 750 referrals for human trafficking and slavery-related matters, "and we've

worked continuously to improve that response since that time," Breen said. Yet, prosecutions of trafficking and modern slavery offenses in Australia remain low, resulting in just 20 convictions since 2004.

This gap in enforcement is particularly concerning at a time when an estimated 48.5 million people face some form of modern slavery in 167 countries worldwide, according to the 2016 Global Slavery Index. (There are more slaves in the world today than there are citizens of Canada.) Many people are victims of exploitation in private-sector industries—including construction, garment and textile, agriculture, forestry, fishing, manufacturing, and mining. The index estimates that 4,300 people are enslaved in Australia alone.

In a submission letter to parliament, the Salvation Army's Freedom Partnership detailed a broad range of modern slavery offenses occurring in Australia, including "slave houses" where workers are held against their will; forced to work excessive hours; unpaid for long periods of time and threatened with deportation if they complain; or held in slave-like conditions and assaulted when they tried to escape.

Exploitation in the supply chain. Modern slavery especially flourishes in global supply chains. To this end, "Addressing exploitation in supply chains is a specific area of focus in Australia's National Action Plan," Breen said during the recent parliamentary hearing.

In November 2014, Australia's Minister for Justice convened a multi-stakeholder Supply Chains Working Group, consisting of government, business, academia, and civil-society members working together to examine ways to address serious forms of labor exploitation in the supply chains of goods and services.

The working group finalized its work program in December 2015 and reported to the government in early 2016. The government responded to the working group's report and recommendations at the most recent national roundtable on human trafficking and slavery in November 2016.

“As part of that response, the government announced that it would work with business and civil society to ... examine options for an awards program for businesses that take action to address supply chain exploitation; explore the feasibility of a non-regulatory, voluntary code of conduct for high-risk industries; and further consider the feasibility of a model for large businesses in Australia to publicly report on their actions to address supply-chain exploitation,” Breen said.

As part of this response, the Australian government is reviewing the U.K.’s modern slavery reporting requirement, as well as other international best practices, Breen added.

Many large multinational companies are already engaging with their supply chains to ensure ethical business behavior. For example, global food and drink company Nestlé requires all its employees and suppliers to comply with all applicable labor laws through its mandatory Corporate Business Principles, Nestlé Supplier Code, and Responsible Sourcing Guideline.

“We recognize that supply-chain transformation cannot be achieved overnight so, where appropriate, we support suppliers who are not able to meet our Responsible Sourcing Guideline immediately but are committed to eliminating non-compliance over time. Progress against these action plans is monitored and regularly reported, principally in the annual Nestlé in Society Report.”

It is also our experience that banning or boycotting suppliers found to have forced labor or child labor in their supply chains does not effectively deal with the root cause of forced labor, and may in some situations exacerbate the plight of rights holders,” Nestlé said. “Rather, it beneficial to our business, our suppliers’ business, and rights’ holders to work to eliminate these practices.”

### Disclosure obligations

Introduction of a Modern Slavery Act in Australia would require companies to produce annual reports on steps they are taking to rid slavery in their supply chains. Australia’s Labor party recently issued a

policy release, outlining what a modern slavery act should look like. In that policy release, the Labor party proposed that it would “enforce supply chain reporting requirements for all major businesses to ensure no Australian company is either directly, or indirectly, engaged in modern slavery.”

Australian companies would be required to report annually to the government on steps they have taken to ensure that modern slavery is not occurring in their business or supply chain through a slavery and human trafficking statement.

Each statement would be required to include specific information, including:

- » Information about the company’s supply chain;
- » Where risk has been identified in that supply chain;
- » What steps are being taken to ensure slavery is not part of the supply chain;
- » Training provided to staff on these matters; and
- » Whether slavery has been found in the supply chain and what action has been taken.

The list of those organizations in Australia that are required to report under any Australian Modern Slavery Act would be publicly available, and a central repository of statements would be established by the government.

The Labor party further called for the establishment of an Australian Independent Anti-Slavery Commissioner. “The clandestine nature of modern slavery makes it very difficult for authorities to detect, investigate, and prosecute incidents when they occur,” Labor stated.

Having an Independent Anti-Slavery Commissioner would help remedy gaps that exist in enforcement and in the support services provided for victims “by monitoring and scrutinizing the government’s work to tackle modern slavery,” Labor stated.

Among its roles and responsibilities, the Labor party said, the Commissioner would work with victims of slavery to receive inquiries and complaints; assist companies in building best practices in pro-

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“Many of the measures implemented by the U.K. Modern Slavery Act are consistent with the Australian framework ... Addressing exploitation in supply chains is a specific area of focus in Australia’s National Action Plan.”

Adrian Breen, Assistant Secretary, Transnational Crime Branch, Attorney General

tecting their supply chains; work with civil society to help prevent and detect slavery in Australia; and lead Labor’s global efforts to fight slavery, including working with other countries and international organizations.

Industry response. Several large multinational companies in Australia have expressed their support for a modern slavery act, reflected in their submissions to the Joint Foreign Affairs Parliamentary Committee Inquiry. However, avoiding duplication in reporting requirements across jurisdictions is a common compliance concern.

Mining company BHP Billiton, for example, commented that “the introduction of a framework for corporate reporting under a Modern Slavery Act in Australia could further enhance transparency in company activities. Increased transparency can be a powerful driver towards improving practice in many fields, particularly where this transparency drives improved performance over time.”

“In this context, BHP would be supportive of a framework that encourages annual public reporting and steps taken during the financial year to ensure that modern slavery is not taking place in Australian listed businesses’ operations and supply chains,” BHP said.

It added that it is “essential,” however, that any new corporate reporting requirements “be closely aligned with the requirements in the U.K. Modern Slavery Act to ensure consistency and avoid the inefficiency of different approaches for companies with global operations across multiple jurisdictions.”

Global sportswear company Adidas Group raised

similar concerns in its submission letter. “Whilst Adidas Group is a strong advocate for disclosure, from a business perspective we are concerned that parallel legislative requirements in different parts of the world, including Australia, could create duplication in effort or multiple, varied approaches. This should be avoided.”

“We would recommend that the committee examine how future legislation would complement the U.K. Modern Slavery Act, and, in particular, bring clarity to the specific areas of disclosure required by companies and whether this is best served through Public Statements published on company Websites, or through other mechanisms—for example a global register that would act as a common platform for all businesses,” Adidas stated.

Mining company Rio Tinto also commented that, “it is important that companies reporting in different jurisdictions are presented with consistent requirements to drive more effective reporting.” A lack of consistency could create “undue costs” on companies, Rio Tinto added.

As Australia moves forward with the adoption of a Modern Slavery Act, it will be important for organizations that don’t already have internal policies and procedures governing slavery or human trafficking offenses to start to address these issues. Proactive efforts such as conducting a risk-based assessment of the extended supply chain and developing modern slavery training and awareness program and procedures will put the company in a much better position to respond to any new modern slavery legislation that may be adopted in Australia or elsewhere. ■





# Some practical solutions to the problem of modern slavery

**Paul Hodgson** looks at case studies highlighted in a new report by the Interfaith Center on Corporate Responsibility that provide some solutions to addressing the problem of modern slavery.

**M**odern slavery is with us, but it is often so far removed from the products of labour held under these conditions that consumers are unaware of its scale. A series of cases studies in shareholder activist Interfaith Center on Corporate Responsibility's (ICCR) report, Best Practice Guidance on Ethical Recruitment of Migrant Workers, provide some solutions to addressing the problem. But some statistics that open the report are indicative of the scale of the problem. The report says that there is a conservatively estimated 21 million people trapped in conditions of forced labour. (Editor's note: This is a conservative estimate, compared to those by other anti-slavery groups, which estimate that as many as 40+ million people are modern slaves.) The reason is clear: This abuse generates over \$150bn in profits for exploiters. More than three-quarters of these modern slaves work in private sector industries such as agriculture, apparel, construction, electronics, and manufacturing.

But where do these profits come from? Unfortunately, they arise from a wide range of services, including work placement, orientation, transportation to the country, daily transportation to the worksite, housing, and other services. Further exploitation takes a number of forms: "including debt bondage, collateral, illegal deductions from wages, and confiscated or restricted access to travel documents like passports, permits and visas that limit workers' freedom of movement."

Fortunately, for companies with both deep and shallow supply chains, the ICCR and Social Accountability International (SAI) have put together a set of case studies of companies that have begun to develop solutions to this massive problem. There are eight company case studies, covering a range of industries from food and beverage to apparel, electronics, and agriculture, located in the Asia Pacific region (India, Thailand, Malaysia, Taiwan), Africa, and the United

States. The companies are: Coca-Cola, an unnamed agricultural products company, HP, Patagonia, CP Foods, leading seafood company Thai Union, Princess Tuna, and Penguin Apparel. Below are summaries of three of the case studies.

## Case Study 1: Thai Union

Thai Union, which was engaged by the ICCR in 2015, employs workers from Myanmar, Laos, and Cambodia in its seafood processing and distribution business. At a recent UNPRI (United Nations Principles for Responsible Investment) conference, the company admitted that its problems lay in an established hiring process where workers did not have contracts and were paid a piece rate. After investigation, the company made the following improvements to the company's recruitment policies: a focus on safe and legal migration, a total ban on recruitment fees, and changing the existing system to formalised recruitment that includes contracts and pay slips. Now the company pays agencies directly for all recruitment costs including:

- » Pre-departure training in the countries of origin,
- » Food and accommodation costs for the duration of the training, and
- » Transportation fees from the recruitment agent in the sending country to the company's facilities in Thailand.

Thai Union has also joined the Seafood Task Force, which promotes a sustainable supply chain in the industry and which requires task force members to undergo external verifications and audits to promote standard labour practices. The company has also worked with NGOs in the country to "establish worker welfare committees; develop materials; conduct a series of workshops for migrant workers

to educate them on their rights and entitlements under Thai labor law; and conduct social dialogue exercises by engaging with workers in their own languages.”

### Case Study 2: Patagonia

Patagonia has apparel manufacturing sites in Taiwan with workers coming from across South-Pacific Asia. Long known for its sustainability commitment, Patagonia incorporated a review of working conditions into its vetting of new suppliers in 1990. And 20 years later, the company was auditing almost 100 percent of its factories.

With the first tier of its supply chain under control, in 2011, it began auditing the second tier, material suppliers—an audit that produced alarming results. Patagonia partnered with fair labour NGO Verité to help develop a Migrant Worker Employment Standard that looks at conditions before, during, and after employment. Crucially, once the standard was developed, “Patagonia also made it clear to its suppliers that it would work with them to implement improvements, not just leave them alone to change the way things have been done for decades on their

own.” A “no fees” policy, originally developed by the ICCR, was implemented in stages to ease the burden on labour suppliers, and the company worked with suppliers to—and this would seem to be a key consideration—lower costs and discuss how these costs can be shared. The company is customising its approach for each supplier and incentivising those making the most progress. It has also engaged labour brokers to help suppliers find ethical brokers and end relationships with those unwilling to change practices. As with many other clothing manufacturers, Patagonia “typically utilizes only a small fraction of any given supplier’s capacity.” Thus the company is partnering with other buyers and stakeholders to help make changes at the supplier level across all organizations.

### Case Study 3: HP

HP has a supply chain that covers six continents and 45 countries. The case study covers its electronic manufacturing facilities in Malaysia, with migrant workers coming from the Philippines, Indonesia, and Vietnam, among others. HP’s high standards are demonstrated by the fact that it was the first IT company to publish a supplier list in response to

## ICCR’S NO FEES PRINCIPLES

Below is an excerpt from the Introduction to the Standards.

1. **No Fees:** Ensure that workers do not pay any fees (in whole or in part) for recruitment, job placement or other parts of the employment process.

If fees were charged to gain employment, the workers must be reimbursed for such fees.

2. **Written Contract:** All workers must be given a written contract in their own languages at the

point of recruitment, that outlines their rights and responsibilities.

3. **No Retention of Documents or Deposits:** Do not keep or withhold any documents (e.g. original identification papers or passports), monetary deposits or other collateral as a condition of workers’ employment.

Source: ICCR

ICCR's engagement and recently ranked first in a KnowTheChain study on eradicating forced labour from companies' supply chains. Like Patagonia, HP partnered with Verité to develop a migrant worker standard after it discovered that workers in Malaysia were being charged excessive recruitment fees. It also implemented the ICCR's no fees policy, then went further by insisting on direct employment of foreign migrant workers, as it felt that hiring workers through agencies or brokers was both too risky and non-transparent.

As the report says, and the statement does not only apply to HP: "HP recognizes that creating a standard and actually implementing its requirements are two different things." In order to implement these standards over time, HP developed with Verité a guidance document to help transition to direct employment, the no fees model, and how to "identify, screen, and select ethical recruitment agents." Alongside this, HP also developed a supplier self-assessment questionnaire and a focused assessment that is now a part of HP's onsite audit. "HP auditors help suppliers understand where their implementation of the standard is weak and provide some coaching onsite on how to make system changes."

The ICCR recommends companies map the supply chain; identify and prioritise risks; build support of top management; develop policies, including 3-pillar implementation; build buyer-supplier relationships; support suppliers; make communication transparent; and collaborate with shareholders.

While not explicitly recommended, one of the findings in the case studies was that workshops, where suppliers can share their experiences, share the difficulties they have encountered, and suggest and brainstorm potential solutions, seemed to be of particular use. Perhaps a more permanent solution to the problems of modern slavery are to be found in the self-education of the recruitment agencies and employment brokers who used to be part of the problem. ■

## BEST PRACTICES

**POLICY DEVELOPMENT:** Adopt a forward-facing policy and a guidance document that addresses the recruitment of migrant workers, including the prohibition of worker-paid fees, passport/personal paper confiscation and a written contract with the terms of employment in the language of the worker. Map the entire supply chain including products, services and labor to identify the risks and, with the support of top management, start implementing the policy across these entities.

**WORK WITH SUPPLIERS:** Establish an understanding with suppliers vis-à-vis recruitment through direct communication, contracts and other tools. Conduct trainings on ethical recruitment, assist suppliers with reimbursement of fees and verify that only authorized brokers are used.

**AUDITING TOOLS:** Ensure that the recruitment system is included in the scope of a 3rd party audit and that recruitment agencies are included in the scope of the audit.

**COMPLIANCE WITH LOCAL LAW:** Migrant workers are covered under local labor law for wages, overtime, leave, holidays, health insurance and social security benefits. No illegal deductions from wages are withheld without a worker's explicit consent. Workers have freedom of association and collective bargaining rights. Company investigates any allegations of worker abuse.

**LEADERSHIP:** Company participates in industry initiatives like the Leadership Group for Responsible Recruitment, EICC, AIAG,

Source: ICCR





# Cement, compliance & crimes against humanity in Syria

Multinational cement organization Lafarge's alleged collusion with the Islamic State in Iraq and Syria (ISIS) to keep a Syrian plant operational would have made it complicit in crimes against humanity. **Neil Hodge** has more.

Swiss-French cement company LafargeHolcim has admitted to “unacceptable” measures that may have led to company money being used to fund terrorist groups in Syria—including ISIS—while also putting employees’ lives at risk in order to keep its newly built plant open.

Lafarge’s Syrian unit had paid third parties to work out arrangements with armed groups, including “sanctioned parties,” to maintain operations at the cement factory in 2013 and 2014. It says, however, that it is unable to establish which groups ultimately received the funds, adding that local managers at the Syrian plant “acted in a manner they believed was in the best interests of the company and its employees” but without the direct knowledge of the group board.

Lafarge’s cement plant started production in May 2010, nearly three years after building work began and at a cost of U.S.\$680m. But by September 2014 the political and security situation had become so untenable that the organization was then forced to lay off all its’ local staff and abandon the site. The group has not attempted to operate on site since 2014.

Allegations surrounding Lafarge’s activities in Syria have dogged the company for the past year, and it is currently the subject of two lawsuits—one by the French Finance Ministry, and the other jointly pursued by two human rights organisations (including 11 people who were former employees in Syria). These legal actions mark the first time that non-profit organisations have filed suit against a multinational corporation for financing terrorist activity, complicity in war crimes, and crimes against humanity.

Under pressure, and in response to a series of damaging press stories, LafargeHolcim set up an internal independent investigation under the supervision of the board’s finance and audit committee. On 2 March the company issued a statement following the review.

The investigation found that “the deterioration of the political situation in Syria posed very difficult challenges for the security and operations of the plant and its employees.” These included threats to the safety of employees, as well as disruption of supplies needed to operate the plant and product distribution.

According to LafargeHolcim, different armed fac-

tions controlled or sought to control the areas around the plant. As a result, “it appears from the investigation that the local company provided funds to third parties to work out arrangements with a number of these armed groups, including sanctioned parties, in order to maintain operations and ensure safe passage of employees and supplies to and from the plant.”

However, the investigation “could not establish with certainty the ultimate recipients of funds beyond those third parties engaged” and found that “in hindsight, the measures required to continue operations at the plant were unacceptable.”

Further, the investigation revealed “significant errors in judgment that are inconsistent with the applicable code of conduct,” but added: “those responsible for the Syria operations appear to have acted in a manner they believed was in the best interests of the company and its employees.”

Following the review, the company has taken steps to improve its procedures and controls around “high-risk third parties and joint venture partners.”

It has approved the creation of an ethics, integrity, and risk committee, which will be supervised by a member of the executive board, and it has said that—with the help of outside counsel—it will adopt a more rigorous risk assessment process focusing (in particular) on high-risk third parties and joint venture partners. It will also introduce a restricted-party screening programme, a new sanctions and export control programme, as well as further (unspecified) risk management efforts following a benchmarking exercise that the company has carried out.

The firm also wants to send out a strong message that compliance is a boardroom issue and that it is reinforced by a strong tone at the top. “The board has instructed executive management to vigorously implement these actions, which are designed to further strengthen and resource a state-of-the-art compliance organisation and processes reflecting best practices.”

The board “makes it clear that there can be no compromise with compliance nor with adherence to the standards reflected in the company’s code of conduct no matter the operational challenges.”

However, the company’s admission of its failings

## LAWSUIT DETAILS

Below are details from Sherpa regarding the lawsuit that alleges Lafarge's complicity in human rights abuses.

On 15 November 2016 human rights groups Sherpa and the European Center for Constitutional and Human Rights (ECCHR), as well as 11 complainants who are former Syrian employees, filed suit against Lafarge and its subsidiary Lafarge Cement Syria (LCS) for their actions in Syria.

The complaint argues that by having business relations with ISIS in Syria, Lafarge may have taken part in the financing of the terrorist group, and is therefore complicit in war crimes and crimes against humanity.

In a recent statement, Miriam Saage-Maass, vice legal director at ECCHR said: "The Lafarge case highlights once again how multinationals doing business in conflict zones can directly fuel armed conflicts and contribute to grave human rights violations committed therein. Companies like Lafarge must be held accountable."

LCS owns a cement factory in the north of Syria, between Raqqa and Manbij. According to the human rights groups' complaint, in 2012—when the conflict escalated in the north of the country around Raqqa and Aleppo—LCS repatriated its expatriate staff, but kept on Syrian employees working in the Jalabiya plant.

During 2013, conflicts intensified and ISIS seized the north of Syria, controlling many of the checkpoints on the roads surrounding the Lafarge plant.

According to the information Sherpa and ECCHR collected, LCS would have entered into arrangements with ISIS in order to maintain production by paying for passes issued by the jihadist organisation and buying raw materials necessary for cement production, such as oil and pozzolana, in areas under ISIS's control.

An employee who was working at the plant at the time says that he has seen documents that prove that Lafarge collaborated with ISIS. "ISIS delivered a specific document that enabled cement trucks from Lafarge to cross their checkpoints. At the beginning in May 2014, it was a simple note from ISIS, written by hand, where they had put the stamps of the financial department of ISIS," he says.

Sherpa and ECCHR are also filing suit against the cement manufacturer and its subsidiary for reckless endangerment. They allege that the company did not set up appropriate safety measures around the vicinity of the plant; that they kept employees going to work in spite of the growing number of checkpoints controlled by ISIS; and that staff were not evacuated when the plant was attacked.

An employee present at the plant on the day of ISIS's attack said in a statement: "Why did Lafarge not evacuate us? Even inhabitants from the nearby village fled the day before the attack. It seems like Lafarge used us as a human shield to protect the plant. They've put us too much in danger."

Source: Sherpa



has done little to appease Sherpa, the Paris-based human rights group that filed a criminal complaint against the company on 15 November, accusing it of financing terrorism in Syria and of having “business relations” with militant group ISIS—and thereby being complicit in war crimes and crimes against humanity.

In a statement also released on 2 March, Sherpa attacked the company’s assertion that the Syrian subsidiary acted independently and without the knowledge or consent of the board when making payments to high-risk contractors.

“The internal investigation of Lafarge shouldn’t imply that only the Syrian subsidiary is responsible [for] arrangements with armed groups,” said Sherpa in its statement. “The French parent company holds 98.7 percent of the subsidiary and was most of the time the source of all decisions it made,” it added.

Sherpa says that such “partial recognition of the facts demonstrates yet again the need for a legislation requiring multinationals to respect human rights in the course of their activities abroad.”

As luck would have it, on 21 Feb. the French Parliament adopted such law, known as the “multinationals’ duty of care law,” which is aimed at preventing human rights violations committed by large corporations in developing countries where access to justice for the victims is unlikely and where companies are equally unlikely to be properly held to account. The legislation was proposed in early 2015 as a response to the Rana Plaza disaster in 2013, when a clothing factory in Bangladesh collapsed killing over 1,000 people.

The bill needs to be approved by the country’s Constitutional Council before becoming law. Lawyers have suggested that the legislation will be passed, but that there are likely to be some amendments to ensure that it is more “business friendly.” In fact, the bill has already been softened to gain parliamentary approval: The idea of criminal prosecutions for company directors has been ditched, and the threshold used to determine which companies would be liable under the legislation was raised so that only the world’s biggest businesses would be impacted by it.

Under the legislation as it currently stands, large groups (whose staff exceeds in the aggregate either

5,000 employees in France or 10,000 employees worldwide—which, in effect, means the world’s biggest 150-200 companies) would be required to set up and actually implement and report annually on procedures aimed at identifying and preventing serious damages or infringements to human rights, fundamental freedoms, health and safety, or the environment that may result from their activities or from the activities of their suppliers. Judges can issue fines of up to €10m if companies fail to establish vigilance plans, and up to €30m if this absence results in otherwise preventable damages.

While many countries have adopted voluntary codes of conduct regarding supervision of their suppliers, France is the first to adopt binding legislation that covers all human rights abuses and which creates obligations for parent and sub-contracting companies across the whole supply chain. Belgium and Spain are debating whether to also have similar legislation in place. In May 2014, the European Commission pressed the need for more responsible management of global supply chains and commercial practices in developing countries in a policy paper (known in EU parlance as a “communication”). But the measures that it proposes remain non-binding for EU firms.

Despite taking the lead, France’s bill still has its limitations. The burden of proof still falls on the victims, who often lack the means to seek justice, further accentuating the imbalance of power between large companies and victims of abuse. Added to that, if a parent company is deemed to have implemented an adequate vigilance plan and damages occur, the company will not be liable. Under the planned legislation, a company is not required to guarantee protection from damage—only that it has done everything in its power to avoid damages.

Sandra Cossart, head of the globalization and human rights programme at Sherpa, says that the law “does not create a new regime of responsibility for companies because there is no obligation for results, just for diligence.” So, she says, French companies will not be held responsible for the failings of their sub-contractors, as long as they have a due diligence plan in place. ■



# Anti-corruption and human rights make Olympic debut

Starting with the 2024 Summer Games in Paris, Olympic host cities must agree to abide by certain human rights principles meant to clean up the world of global sports, writes **Jaclyn Jaeger**.



It's been years in the making, but for the first time in Olympic Games history, anti-corruption and human rights principles will be incorporated into a host city contract, paving the way for similar contractual language to be inserted into future sporting event contracts.

Chief ethics and compliance officers at multinational companies across all industries will want to stay abreast of this landmark development, given that the new contractual obligations placed on host cities and host countries will inevitably trickle down to not only corporate sponsors of the Olympic Games, but also organizations that enter into construction contracts with the host city and the many vendors and suppliers that provide goods and services for these events.

Helping to lead the crusade is Sylvia Schenk, a former Olympian herself and now a consultant at Herbert Smith FreeHills in Germany, who advises companies on compliance, sports law, sustainability, and human rights. "What's quite important from my point of view, and why I'm highly motivated to work on this, is because with sports you really can reach a huge audience all over the world," she says.

If international sporting organizations show that they don't welcome bribery and corruption and human-rights abuses, and they take their responsibility seriously to assess the risks in potential host countries, "they send that message all over the world on how important these issues are," Schenk says.

Literally and figuratively, "it can really be a game changer," Schenk adds. "That's why it's important beyond just sports and beyond the Olympics."

Schenk says when she first began working on corruption in sports more than a decade ago, the perception of many people at the time was that there either was no corruption in sports, or if there was, nothing could be done about it.

The eruption of the corruption scandal involving the Fédération Internationale de Football Association (FIFA), the international governing body of professional soccer, changed all that. FIFA played a "very important" role, Schenk says, in putting corruption in sports on the international agenda.

For many leading multinational companies, the

FIFA scandal was also a harsh wake-up call to the detrimental effect that corruption in sports can have on a company's reputation. Several major corporate sponsors of the FIFA 2010 World Cup—Adidas, Coca-Cola, Kia, McDonald's, and Visa, just to name a few—suddenly found their brands under a microscope, and some even found themselves reassessing their sponsorship decisions.

Collaborative efforts to address bribery, corruption, and human rights in sports did not begin in earnest, however, until August 2014. That is when Schenk—in her capacity as chair of the Working Group on Sport for Transparency International Germany—and Daniela Wurbs, general secretary of Football Supporters Europe (FSE), invited several global advocacy groups to Berlin "to discuss whether it would make sense to join forces and advocate the international sport organizations together," Schenk explains.

Their collaborative efforts eventually morphed into the Sport and Rights Alliance (SRA), whose stated mission is to "ensure that mega-sporting events respect human rights, the environment and anti-corruption requirements at all stages of the process." Today, partners of the SRA include Transparency International Germany, ITUC, FSE, Amnesty International, Human Rights Watch, World Players Association, and Swiss child-relief agency Terre des Hommes, and more.

Up until that first meeting in 2014, a few non-governmental organizations had launched efforts of their own, but nothing cohesive was in place. The International Trade Union Corporation (ITUC), for example, has been working on migrant worker rights since FIFA awarded the World Cup 2022 to Qatar, a country with substantial corruption and human rights abuses laid bare by numerous reports and articles in the media, especially regarding construction projects related to the World Cup.

Prior to any awarding decision, sports organizations—including the IOC, FIFA, and UEFA—have the greatest amount of leverage to put a host city's feet to the fire by contractually obligating them to commit to certain measures. "That is why requirements for anti-corruption and human rights should be part of the bidding process and then be integrated in the host

contract to oblige the host city...to assess its risks and mitigate them,” Schenk says.

Without the anti-corruption and human-rights abuse language in the host city contract, the less leverage the sporting organization has, and the more difficult it becomes, to enforce such abuses leading up to the Games. “To have it as an integral part, you need to have it in the bidding criteria, and then in the host contract,” Schenk says.

As part of their collective efforts, the SRA sent a letter to International Olympic Committee (IOC) President Thomas Bach advocating that a human rights and anti-corruption clause be included in the IOC’s Olympic Agenda 2020. “Too often, major sports events have seen people forcibly evicted from their homes to make way for infrastructure, workers exploited, campaigners locked up, the environment damaged beyond repair and notoriously opaque bidding processes,” the letter stated.

“The recommendations in the IOC’s Agenda 2020 are a chance to change that and ensure human rights, the environment, and anti-corruption measures are central to all stages of the Olympic Games—from bidding, through to the development and delivery phase to final reporting,” the letter continued.

Their efforts were repeatedly rejected, however, until January, when the IOC agreed to revise the Host City Contract to include an anti-corruption clause and human rights principles. In agreeing to this measure, the IOC for the first time included an explicit reference to the United Nations Guiding Principles on Business and Human Rights (UNGP), which outlines anti-corruption standards and the human rights responsibilities of companies. The Guiding Principles discuss how companies should assess human rights risks, take effective steps to avoid human rights issues, and remedy abuses that occur despite those efforts.

“This is an important step by the IOC for the future,” ITUC General Secretary Sharan Burrow said in a statement. “Implementing the UN Guiding Principles across all major global sporting events will help break the cycle of human rights abuses, and this example from the IOC should be applied to all such events, starting now.”

In the past, the IOC, FIFA, and other sports organizations did not feel responsible for what was happening in the host country or host city, Schenk says. “By adding specific clauses to the host contract, they demonstrate that they accept their responsibility.”

Let the games begin. The first host city to be subject to the anti-corruption and human rights clause likely will be Paris, which is expected to host the 2024 Olympics. “We are already in touch with Transparency France, and they are in touch with the City of Paris,” Schenk says.

Because the IOC publicly awarded the 2028 Olympic Games to Los Angeles prior to awarding the 2024 Olympic Games to Paris, however, Los Angeles became the first host city to agree to the revised contract terms.

Specifically, the relevant language in the contract states that the host city, the Host National Olympic Committee, and the Organizing Committee of the Olympic Games shall, in their activities related to the organization of the Games:

- » protect and respect human rights and ensure any violation of human rights is remedied in a manner consistent with international agreements, laws and regulations applicable in the Host Country and in a manner consistent with all internationally recognized human rights standards and principles, including the United Nations Guiding Principles on Business and Human Rights, applicable in the Host Country; and
- » refrain from any act involving fraud or corruption, in a manner consistent with any international agreements, laws and regulations applicable in the Host Country and all internationally recognized anti-corruption standards applicable in the Host Country, including by establishing and maintaining effective reporting and compliance.

While these efforts are a big leap forward, the real test comes with actual implementation and monitoring by both the host city and, consequently, all companies and contractors involved. “It’s an achievement,” Schenk says, “but it’s still just the beginning.” ■



# Slavery risks on compliance agenda

**Neil Hodge** looks at how to battle slavery in the supply chain.

**T**hird-party risks and supply chain management have featured high up on most organisations' risk registers for some time, though mainly over worries that these suppliers may fail to deliver the required goods or services on time. Concerns over incidences of slavery and bonded/forced labour have never really been raised—until recently.

There have been some high-profile cases of companies employing forced labour in their supply chains. In November 2015, following an audit, food giant Nestlé admitted to cases of forced labour in its fishing operation in Thailand for the supply of its Purina brand Fancy Feast cat food. The company has also acknowledged purchasing coffee from two Brazilian plantations where authorities freed workers from conditions analogous to slavery in 2015, while rival coffee maker Jacobs Douwe Egberts admitted that it is pos-

sible that coffee from plantations in Brazil with poor labour conditions ended up in its products.

This March human rights campaign group Amnesty International released a report called *The ugly side of the beautiful game: Exploitation on a Qatar 2022 World Cup site* which alleged that migrant workers working on construction projects ahead of the tournament lived in squalid accommodation, had their wages withheld for months, and had their passports confiscated by their employers.

The report criticised FIFA, soccer's world governing body, for its lack of action and "shocking indifference." Dutch trade union FNV is currently trying to take legal action against FIFA in Switzerland for its failure to protect the rights of migrants from developing countries engaged in construction projects for the tournament.

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“Though estimates between organisations like the International Labour Organisation (ILO) and Amnesty International may vary, there is one thing that everyone agrees on—the numbers are definitely going up year on year.”

Phil Marshall, director at The Mekong Group, a not-for-profit organisation aimed at raising awareness about slavery risks in the supply chain, told attendees at Compliance Week's European conference in Brussels, Belgium, earlier this month that “slavery in the supply chain is a major problem,” and that there are currently between 21 and 46 million victims of slavery worldwide, with one new victim being created every 4-8 seconds.

“Though estimates between organisations like the International Labour Organisation (ILO) and Amnesty International may vary, there is one thing that everyone agrees on—the numbers are definitely going up year on year,” said Marshall.

Ruth Pojman, senior adviser, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings at the Organisation for Security and Co-operation in Europe (OSCE), also had some similarly dire figures to hand.

For example, according to The Ethical Trading Initiative (ETI), an alliance of companies, trade unions and NGOs that promotes respect for workers' rights around the globe, 71 percent of global companies believe that there is a likelihood of modern slavery occurring in their supply chains—a possibility that becomes even greater when one considers that the International Trade Union Confederation (ITUC) believes that there is a “hidden workforce” of 116 million people in the supply chains of the world's top 50 companies alone.

Pojman told attendees that trafficking in human beings and forced labour can happen in any country—not just in developing countries—and in any industry supply chain. “Forced labour is not limited to

Phil Marshall, Director, The Mekong Group

construction and the apparel industry,” she said. Furthermore, there is no “one-size-fits-all” solution that enables companies to combat the problem, meaning that organisations need to conduct a thorough risk assessment of their supply chains and determine which areas and operations may be more prone to slave/forced labour risks.

However, Pojman added that “generally, businesses are more than willing to comply with anti-slavery legislation and report on what they are doing to monitor such risks in their supply chains—so long as the legislation is well-designed and that all organisations are subject to the same rules in the same way.”

Many countries have taken concerted action to address labour violations. While the U.K.'s Modern Slavery Act 2015 may be one of the most recent, high-profile examples, Austria has introduced public procurement legislation this year to stamp out forced labour in the construction sector, applying the principle of “best supplier” over “cheapest supplier” in contracts valued at above €1m (\$U.S.1.06m). Denmark, Norway, Sweden, and Germany have all taken positive steps to monitor procurement and improve transparency in supply chains.

Outside of the European Union, Brazil has kept a “dirty list” of companies involved in slave labour since 2003, for example, and the United States has attempted to clamp down on slavery through the California Transparency in Supply Chains Act (2010), the Trade Facilitation and Trade Enforcement Act (2015), the Federal Acquisition Regulation: Ending Trafficking in Persons (2015), and Executive Order—Strengthening Protection Against Trafficking in Persons in Federal Contracts (2012).

Other countries are trying to push through legislation. France, for example, aims to introduce sanctions and civil liability under a “duty of care” law for those companies that fail to ensure adequate corporate due diligence over their operations, based on the “protect, respect and remedy” formula that underpins the UN Guiding Principles on Business and Human Rights (UNGPs). Under the planned legislation, victims could in theory be eligible to obtain reparations, and courts could levy companies with a fine of up to €10m (U.S.\$10.65M) on the grounds of a failure to enforce a supply chain due diligence plan effectively—hence the need for robust compliance functions.

Neill Wilkins, programme manager for Migrant Workers and Work With Dignity at the Institute for Human Rights and Business (IHRB), said that the problem with trying to detect modern slavery in the supply chain is that “it is often dressed up like normal work, rather than people wearing ankle chains.”

“How many of us could spot someone who was actually deemed to be a slave or was working in bonded labour? Probably none of us could. Forced labourers look like us, and work in places where we work—they just don’t have the ability to move from where they are, return home, speak up, or unionise. The first step at combating modern slavery is to see how these people are recruited, and this leads companies to a trail that they can audit,” he said.

Simon Henzell-Thomas, group social responsibility manager and head of stakeholder engagement at IKEA, agrees that unethical recruitment practices are at the heart of modern slavery.

“Any situation where an employee has to pay the employer for the right to work is clearly wrong, and this is the first red-flag that compliance officers should look for,” said Henzell-Thomas.

“Such fees can be hidden among a list of legitimate expenses—such as visa/document fees, medical checks, travel fares and so on—but compliance should look at agency records where recruiters have made large, ‘one-off’ charges for ‘placement fees,’ or for substantial regular payments that will amount to nearly all that the worker is likely to earn during the contract. This will alert you that best practice is not being fol-

lowed,” he said.

“There is no business case for slavery,” said Henzell-Thomas. “It only results in negative impacts for everyone,” he added.

IKEA launched its own supplier code of conduct in 2000. Called “The IKEA Way on Purchasing Home Furnishings Products”—but more colloquially known as “IWAY”—the code specifies the minimum requirements relating to the environment, social impact, and working conditions, including no child labour, no forced or bonded labour, and freedom of association (meaning the right to organise and protest).

More recently, in May this year, IKEA joined forces with Coca-Cola, HP Inc., Hewlett Packard Enterprise, and Unilever to launch the Leadership Group for Responsible Recruitment, which is focused on promoting ethical recruitment and combating the exploitation of migrant workers in global supply chains across industries. The five founding companies have committed to the “Employer Pays Principle,” which states that no worker should pay for a job: Instead, the costs of recruitment should be borne by the employer. The group is set to develop a practical tool to help companies report under the U.K. Modern Slavery Act, California Transparency in Supply Chains Act, and the U.S. Federal Acquisition Regulation (FAR).

Compliance professionals attending the conference agreed that monitoring supply chains for incidences of forced labour has become more important following a raft of recent legislation—in particular, the U.K.’s Modern Slavery Act—as well as more vocal public opinion about how goods are sourced and how workers in developing countries are treated and paid.

“Ever since we knew this legislation was going to come into force we have spent more time reviewing our supply chains and requiring more assurance from suppliers about how they operate and who they deal with,” said one compliance officer.

But it is not an easy task, said one expert. “A lot of transactions and documentation regarding recruitment practices in places like Asia and Africa are done on paper and there are few electronic records. This makes it very difficult to carry out meaningful checks,” he said. ■



## LEADERSHIP GROUP FOR RESPONSIBLE RECRUITMENT

The Leadership Group for Responsible Recruitment's aims are to:

1. Raise awareness about the positive benefits of ethical recruitment as well as the consequences of unethical recruitment practices such as debt bondage and forced labour, particularly for low-skilled migrant workers.
2. Leverage CEO and senior executive leadership of companies to call for commitment to the "Employer Pays Principle" by industry peers across all sectors.
3. Advocate for improved protection for migrant workers by supporting government efforts toward better regulation of the recruitment industry, in line with the UN Guiding Principles' "state duty to protect".
4. Embed responsible corporate practice by providing a roadmap of concrete actions to move beyond commitment to the "Employer Pays Principle" to implementation of policy and practice by companies and suppliers.
5. Maximise scale and impact by collaborating with and reinforcing other complementary business initiatives such as The Consumer Goods Forum on Fighting Forced Labour and the Electronics Industry Citizenship Coalition Working Group on Protecting Vulnerable Workers.
6. Drive positive change in the recruitment industry by encouraging direct hire where possible, and by supporting the development and implementation of systems to identify ethical recruitment

agencies, such as the International Recruitment Integrity System (IRIS).

The group's goals for the next 1-5 years are:

1. A practical roadmap for companies to implement the "Employer Pays Principle" with suppliers/sub-contractors.
2. Strong commitments by leading companies in all target industries to adopt the "Employer Pays Principle" and to require suppliers to prioritise direct hire or ethical recruitment agencies certified by credible assurance schemes wherever possible.
3. Inclusion of the "Employer Pays Principle" in target industry association codes of conduct, based on the Electronics Industry Citizenship Coalition Code of Conduct.
4. A year-on-year increase in the number of recruitment agencies and associations working to a business model based on the "Employer Pays Principle".
5. Inclusion of the "Employer Pays Principle" in selected multilateral frameworks and dialogue processes relating to recruitment of migrant workers.
6. Concrete progress towards improved legislation and enforcement on the prohibition of worker fees for the recruitment industry in key home and host country governments, underpinned by greater transparency requirements.
7. Firm commitments by key investors to include the "Employer Pays Principle" in due diligence screening of companies.

Source: [Institute for Human Rights and Abuses](#)



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- ➔ Analysis to determine where you stand compared to your competitors, peers, and industry
- ➔ Integrating anti-human trafficking compliance with existing compliance programs to achieve economies of scale
- ➔ Reporting to Customers and Regulatory Authorities

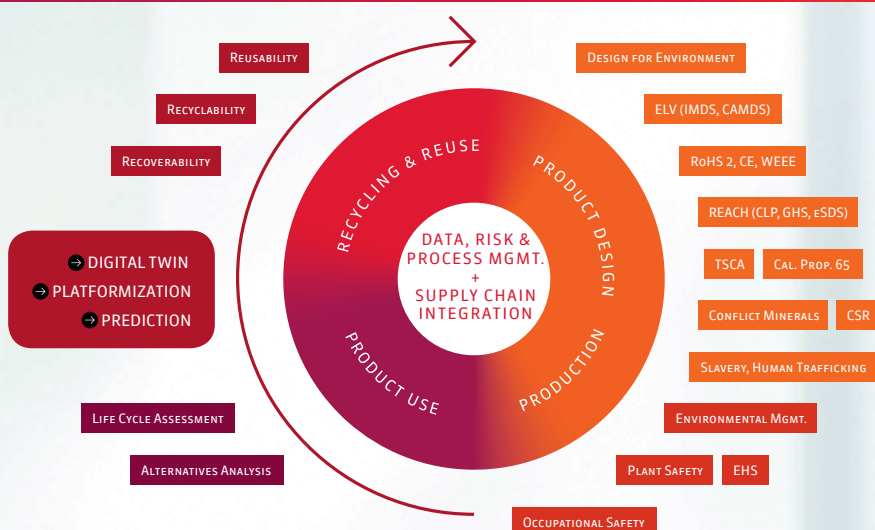
## Supply Chain Due Diligence

- ➔ Data collection
- ➔ Risk assessment
- ➔ Risk verification
- ➔ Training – to Suppliers and your own Employees
- ➔ Composition of all required due diligence documentation

## Your Benefits with iPoint

- ➔ Subject Matter Experts versed in the legal requirements and their operational application
- ➔ Protection, enhancement, and consolidation of your brand reputation as a sustainable, responsible company
- ➔ Improvement of investor confidence due to higher transparency and accountability
- ➔ Development of more responsible, stable, and innovative supply chains
- ➔ Better strategic understanding of the risks and impacts of your company's human rights-related activities
- ➔ Greater access to business opportunities with ethically-operating partners
- ➔ Enhanced risk management as well as improvement of risk identification to meet your company's long-term social, environmental, and financial performance goals

## iPoint: Software & Service Solutions for Sustainable Products & Processes



## Contact us today!

Learn more about iPoint's one-stop solution for compliance and sustainability requirements in the entire product life cycle:

- ➔ [ipointinc.com](http://ipointinc.com)
- ➔ [info@ipointinc.com](mailto:info@ipointinc.com)