

## Report on Supply Chain Compliance Volume 2, Number 20. October 24, 2019

### Enforcement of modern slavery regulations reaches critical mass

---

By Sascha Matuszak

When the United States Customs and Border Protection (CBP) announced withhold release orders on Oct. 1, the mainstream media gave it considerable coverage. The orders implicated Costco Wholesale Corporation and Ansell, both with supply chains in Asia allegedly tainted by forced labor.

Pajamas made for infants and sold by Costco<sup>[1]</sup> were allegedly manufactured by ethnic minorities in China forced to work in an internment camp, while rubber gloves sold by Ansell were allegedly manufactured by a Malaysian company “staffing its factories with migrants from Bangladesh, Nepal and other countries who went into crushing debt from paying exorbitant recruitment fees. Imports of bone charcoal from Brazil that firms like Plymouth Technology and ResinTech Inc. used to remove contaminants in U.S. water systems, diamonds from Zimbabwe and gold from eastern Democratic Republic of Congo, were stopped as well.”

According to Sarah Carpenter, manager of business and human rights at Assent Compliance and member of the Slavery and Trafficking Risk Template Development Committee,<sup>[2]</sup> the writing has been on the wall for an enforcement action of this nature. Earlier this year, CBP readied the business community for engagement on forced labor at a trade symposium, including a specific panel on the issue, and ensured the enforcement of the forced labor provision within the Trade Facilitation and Trade Enforcement Act of 2015.<sup>[3]</sup>

In April 2019, CBP also signed a Memorandum of Understanding with Liberty Shared,<sup>[4]</sup> establishing a data-sharing relationship with the mission to prevent human trafficking in supply chains.

“Government aside, there has also been a push from civil society on a forced labor import ban,” Carpenter said. “Activists launched an initiative, the Freedom Fund,<sup>[5]</sup> meant to fund on-the-ground investigations of forced labor in supply chains and pass that information on to CBP.”

### Critical mass and an updated tool

Preventing forced labor in supply chains has been a challenge that companies, governments, and civil society have contended with for more than two decades. In that time, enough data has been collected to begin creating regulations and enforcement strategies that actually work. Now, with regulations, such as the Australian Modern Slavery Act 2018<sup>[6]</sup> (arguably a step further down the enforcement road than the U.K. Modern Slavery Act of 2015<sup>[7]</sup>), governments are making a difference. The CBP, the only agency in the world that has the legal authority to stop imports from entities suspected of using forced labor in their supply chains, can now access the data it needs to confidently issue orders. Investors, consumers and civil society are more aware of the issue; people are more educated on forced labor and are willing to use their purchasing and investing power to influence company behavior.

What this means is that companies are required — by law and by their stakeholders — to practice the best due diligence possible to ensure they do not see their names in headlines alongside the words “forced labor.”

---

We previously reported on an effective tool to manage forced labor, focusing on the [Slavery and Trafficking Risk Template \(STRT\)](#).<sup>[8]</sup> An updated version of the STRT, STRT 2.0, was developed using feedback from STRT users and is set to be released later this month.

“[The Committee brought] the STRT 2.0 in alignment with the latest good practice for managing risk of modern slavery, the latest research and the latest updates to the legal, regulatory and standards landscape,” Carpenter said. “A few changes were made to improve clarity, as well. The Committee also opted to remove a few questions from the STRT given duplication with existing corporate work-streams.”

The updates include:

- An update to Question 9 in the “supply chain management” section of the “Declaration tab,” to focus on policy existence rather than compliance, which is in alignment with good practice for managing risk of modern slavery.
- An expanded “supply chain management” section of the “Declaration tab” that includes two additional questions to align with good practice for managing risk of modern slavery. Question 17 was removed to avoid duplication.
- The removal of Questions 20, 21, 22 and 23 from the “compliance plan requirements (US federal acquisition regulation final rule on combating trafficking in persons)” section of the “Declaration tab,” given duplication with existing corporate work-streams.
- The addition of Aruba, Denmark, Germany, Italy and Slovakia to the “Countries tab,” to align with the 2019 Trafficking in Persons Report, and an updated reference as appropriate.
- An updated definition of recruitment fees in the “Glossary tab” to align with the new International Labour Organization definition.
- An updated definition of operations in the “Glossary tab” to increase clarity.
- A reference to the Australian Modern Slavery Act in the “Introduction tab” to cover all supply chain-related modern slavery laws and regulations that are in force today. An associated definition of “Australia Modern Slavery Act” was also added to the “Glossary tab.”
- The addition of “potential workers” to Question 7E in the “policy” section of the “Declaration tab,” to align with the latest amendment to section 52.222-50 of the Federal Acquisition Regulation.

## Takeaways

- The problem of forced labor is squarely in the consciousness of governments, civil society, consumers and investors. Regulations and enforcement actions are growing stricter, more frequent, more targeted and more effective.
- Companies have an even greater responsibility to ensure their supply chains are mapped and transparent. Having the Slavery and Trafficking Risk Template — or a similar questionnaire — is an important addition to any supply chain compliance toolbox.

<sup>1</sup> Associated Press, “Company making Costco baby pajamas flagged for forced labor,” *NBC News*, October 8, 2019, <https://nbcnews.to/31xYJEk>.

<sup>2</sup> “The Slavery & Trafficking Risk Template,” Social Responsibility Alliance, 2019, <http://bit.ly/2P2FkIP>.

- 3** Trade Facilitation and Trade Enforcement Act of 2015, Pub. L. No. 114-125, H.R. 644, 114th Cong. (2016).
- 4** Duncan Jepson, “Liberty Shared Applies Information and Data to Support U.S. Customs and Border Protection Trade Enforcement to Combat Forced Labour,” Liberty Shared, April 20, 2019, <http://bit.ly/2BmMPLI>.
- 5** Humanity United, “U.S. Tariff Act Investigations and Petitions Legal Fund: Request for Proposals,” June 2019, <http://bit.ly/2Mrz9wl>.
- 6** Modern Slavery Act, 2018, no. 153 (Austl.).
- 7** Modern Slavery Act, 2015, c. 30 (U.K.).
- 8** Sascha Matuszak, “New tools for collecting data on modern slavery within global supply chains” *Report on Supply Chain Compliance* 2, no. 5 (March 21, 2019), <http://bit.ly/2MqPiBY>.

This publication is only available to subscribers. To view all documents, please log in or purchase access.

[Purchase Login](#)