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# Labour Exploitation in Global Supply Chains: What We Heard Report

**Toronto, Vancouver, Ottawa**

**May to July 2019**





## **Global Supply Chain Consultations: What we heard report**

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### **PDF**

Cat. No. : Em8-72/2022E-PDF

ISBN: 978-0-660-36409-4

### **ESDC**

Cat. No. : LT-350-03-22





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## 1. Preamble

The issue of labour exploitation in global supply chains has gained increased international and domestic attention in recent years, especially with the emergence of the COVID-19 pandemic. The pandemic has exacerbated social inequalities and the potential of labour exploitation for the most vulnerable populations. On an international level, this issue has been central to discussions in international fora and several international guidelines and frameworks have been developed over the years. In addition, many countries have introduced or announced measures to address labour exploitation in supply chains, such as forced labour import prohibitions and differing forms of supply chain legislation.

Domestically, the Government of Canada has had in place, or introduced since the 2019 consultations, a range of initiatives relevant to tackling labour exploitation in global supply chains. These include, for example:

- the introduction of a prohibition, under the [Customs Tariff](#), on the importation of goods produced in whole or in part by forced labour that came into force on July 1, 2020
- Canada's participation as a partner in "[Alliance 8.7](#)", a global partnership aimed at eradicating forced labour, modern slavery, human trafficking, and child labour
- the introduction of the [Extractive Sector Transparency Measures Act, 2014](#) and the [Export and Import Rough Diamonds Act, 2002](#) to implement reporting and transparency obligations in the Canadian extractive sector and the export, import and transit across Canada of rough diamonds
- the introduction of the National Strategy to Combat Human Trafficking 2019-2024 to strengthen Canada's response to human trafficking for the purposes of sexual exploitation or forced labour, protect individuals from all forms of human trafficking and the harms associated with the crime, and enhance Canada's international engagement to tackle this issue globally
- the launch of a risk assessment of human trafficking, forced labour and child labour in the Government's procurement supply chains (February 2021), as well as an updated Code of Conduct for Procurement to outline expectations for suppliers regarding human and labour rights (August 2021), and new contract clauses addressing forced labour and human trafficking in federal procurement supply chains (November 2021)
- negotiations of comprehensive and enforceable labour provisions in free trade agreements including providing technical assistance to partner countries
- the promotion of responsible business conduct and access to remedy through Canada's National Contact Point for Responsible Business Conduct for the Organization for Economic Co-operation and Development, and the Canadian Ombudsperson for Responsible Enterprise, and
- ongoing work to develop a new Responsible Business Conduct (RBC) Strategy for Canadian companies

The Minister of Labour has a mandate letter commitment to lead the introduction of legislation to eradicate forced labour from the supply chains of Canadian businesses and ensure that Canadian businesses operating abroad do not contribute to human rights abuses. This work will be supported



by the Minister of Public Safety, the Minister of Public Services and Procurement and the Minister of International Trade, Export Promotion, Small Business and Economic Development.

This report provides a summary of the 2019 Government of Canada consultations on possible measures to address labour exploitation, including child and forced labour, in supply chains. These consultations were held in-person in spring 2019, and through an online survey, before the onset of the COVID-19 pandemic. The results of these consultations will inform the policy development in response to the Minister's mandate letter commitment.

## 2. Background

In February 2019, the Government of Canada [responded](#) to the report of the Standing Committee on Foreign Affairs and International Development titled [“A Call to Action: Ending the Use of All Forms of Child Labour in Supply Chains”](#). In the response, we committed to begin consulting Canadians on possible supply chain legislation.

Supply chain legislation would require businesses to report and/or take measures to prevent some or all human and/or labour rights violations at any stage in the business’ production of goods and services. Supply chain laws can regulate a business’ domestic activities and any activities that take place abroad, and can include subsidiary businesses or suppliers.

Between May and July 2019, the Government of Canada held in-person roundtable discussions with more than 55 stakeholders including:

- civil society organizations
- employer organizations
- industry organizations
- businesses
- law firms, and
- academics

The discussions focused on:

- whether the Government of Canada should pursue legislation to address labour exploitation in supply chains, and
- what it should look like

We also reached out to National Indigenous Organizations to seek their views on this issue.

We shared a [discussion paper](#) that explained the issue in advance, along with the following questions:

- What currently hinders businesses and others from knowing whether supply chains are free of labour exploitation?
- How can Canada best address issues of labour exploitation in global supply chains? What should be the Government of Canada’s role?
- If the Government of Canada considers supply chain legislation, what should be the focus and scope?

The term “labour exploitation” was used for the purposes of this consultation in order to encompass the range of issues that could be addressed through future legislation, including, but not limited to child labour. This is because, in practice, it can be difficult to identify child labour and it is a challenge to separate it from other labour or human rights abuses and violations, including forced labour and trafficking in persons.

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We also posted an online survey on the Government of Canada's [Consulting with Canadians](#) website. We received over 120 responses to the survey from:

- civil society organizations
- employer organizations
- industry organizations
- businesses
- international organizations
- labour organizations
- National Indigenous Organizations
- law firms
- academics, and
- members of the public

This is a high-level summary of the feedback we received from stakeholders and the public, both in-person and online. We have grouped comments into three themes that summarize the questions discussed during the roundtables. The Government of Canada has also discussed lessons-learned and best practices with other countries, and considered the views and expertise of international organizations.



### 3. Summary of views from the roundtable discussions

All stakeholders sent a clear message during the in-person discussions:

- labour exploitation through global supply chains is not acceptable, and
- the Government of Canada should take further action to address it

Online, 93% of survey respondents agreed that current actions and initiatives in Canada do not go far enough to prevent and address labour exploitation in supply chains. We did, however, hear differing views about the scope and form that the legislation should take.

For example, civil society organizations and labour organizations strongly supported introducing broad due diligence legislation that would:

- cover all human rights, including labour rights
- require businesses to disclose information on their practices to address human rights abuses and labour exploitation, and
- require them to address these issues

On the other hand, industry organizations and businesses suggested that Canada:

- continue to study and learn from other countries to ensure that legislation will address the root cause of labour exploitation, and
- understand how to effectively carry out supply chain measures

Overall, participants agreed that the goal of any legislation should be to:

- increase business knowledge of labour exploitation risks in Canadian supply chains, and
- drive a business race to the top to improve workplace standards and practices

Participants noted that there are short-term costs to these efforts. However, they believed that these lead to long-term benefits for business sustainability and for workers' conditions. More and more, consumers want companies to behave ethically and with transparency.

Representatives of civil society, labour organizations, investor organizations, academia, and international organizations expressed strong support for mandatory human rights due diligence legislation in Canada. In the online survey, 91% of respondents from these groups agreed that businesses should be required to conduct due diligence.

Employer and industry organizations and businesses did not oppose supply chain legislation. In general, they favoured a phased-in approach that:

- would not be overly demanding on businesses, and
- includes clear criteria, guidance and support from Government

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In the online survey, 71% of businesses and industry representatives agreed that businesses should be required to conduct due diligence.

Participants generally agreed that future supply chain legislation should be one piece of a broader approach to address labour exploitation in supply chains. They also agreed that it should include the following elements:

- an approach that builds on the strengths, and is aligned with, other effective international legislation
- a focus on private and public sectors, including Government of Canada procurement contracts
- an emphasis on partnership and collaboration among all relevant stakeholders, and
- an approach that responds to and meets the specific needs of all genders

### **Question 1 - What currently hinders businesses and others from knowing whether supply chains are free of labour exploitation?**

Some supply chains are long and complex, involving thousands of worksites. Businesses noted that it can be difficult to verify whether labour exploitation is occurring beyond their immediate suppliers, or at best the businesses that feed these suppliers. In sectors at high risk of labour exploitation, sub-contracting can be common. This means that companies usually are not able to engage all suppliers, nor do they have influence to change practices.

We heard that some labour exploitation practices are industry-wide. This means that an individual businesses action may not work and could make it harder for them to compete with other businesses. We also heard that the most helpful approach is to strive for improvements, rather than trying to ensure that a supply chain is 100 percent free of labour exploitation.

Many participants, both in person and online, noted that companies could benefit from assistance in:

- understanding their supply chains, and
- fulfilling due diligence in a meaningful way

Civil society, labour organizations and investor groups noted that, for businesses, motivation to take on due diligence and reporting can be lacking.

Finally, the shortage of information about labour exploitation and companies' efforts to address it makes it difficult to:

- have an informed discussion, and
- develop meaningful policy options

Investor organizations expressed the need for reliable and comparable information. This would allow them to analyze the economic, social and governance risks of companies in which they invest.

We heard of the importance of improving data collection and data sharing to find labour exploitation risks. We also heard of the importance of engaging stakeholders and of ensuring victims are protected.

## **Question 2 - How can Canada best address issues of labour exploitation in global supply chains? What should be the Government of Canada's role?**

Under the international framework of the United Nations Guiding Principles on Business and Human Rights (UNGPs), States should “encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts”. However, representatives from civil society, labour organizations and investor groups believe that:

- voluntary models do not go far enough, and
- Canada should require businesses to communicate how they address their human rights impacts

They strongly explained the moral and business case for raising the standard for responsible supply chains in the Canadian economy.

Representatives of businesses, industry and employer organizations did not disagree with supply chain legislation. However, some stakeholders noted that more research would be needed to determine whether it is effective. Some noted that they already report under the legislation of other countries. They highlighted the need to streamline these reporting procedures and compliance processes. This would help to coordinate across countries that have supply chain legislation in order to reduce burden on businesses.

Stakeholders recommended the following good practices related to supply chains. The Government of Canada could include these in legislation, or as part of broader non-legislative measures for responsible business conduct:

- a clear framework that describes what is being requested of companies
- guidance for businesses in carrying out their duties
- a central repository with public lists of companies subject to the law
- support for small and medium sized businesses or businesses with fewer resources to carry out their duties, and
- standardized data

Some participants, in-person and online, also noted that it would be important to have incentives or rewards, such as tax credits for reporting. Companies highlighted the need to:

- conduct risk assessments to prioritize reporting in their supply chains
- report on actions taken to mitigate those risks, and
- address any abuses found

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For example, if companies find labour exploitation, then it is clear that their systems to find risks are working. It would then be important for the government to support the company in its efforts to resolve these issues.

Participants discussed a few other options to legislation, as well as the potential effects of a “do nothing” approach. Various participants noted that if there were no penalties or incentives for companies, it:

- could leave labour exploitation issues to the courts in a way that would be costly for companies
- would leave no room for policy makers, and
- would still likely require the government to educate industry and provide toolkits as a means to combat labour exploitation through supply chains. An investor representative indicated that a “do nothing” approach would leave investors in the dark

### **Question 3 - If the Government of Canada considers supply chain legislation, what should be the focus and scope?**

The report “A Call to Action: Ending the Use of All Forms of Child Labour in Supply Chains,” was tabled on October 15, 2018. Since then, some stakeholders have continued to request that Canada introduce legislation that would require impacted businesses to carry out mandatory human rights due diligence. This type of legislation would make it mandatory for businesses to take reasonable steps to prevent and address human rights violations at any stage in the production of their goods.

Civil society, labour organizations, investor organizations, and many international advocates now claim that the transparency model of reporting, or reporting on specific issues, such as forced labour (as opposed to a broad human rights approach), is not enough. They point to a low level of compliance, and companies not being held responsible for failures to comply with reporting requirements.

Many stakeholders in favour of mandatory human rights due diligence legislation pointed to the following models as examples<sup>1</sup>:

- the French model, and
- the Swiss “Responsible Business Initiative” model<sup>2</sup>, launched by a broad coalition of civil society organizations

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<sup>1</sup> In addition to France and Switzerland, several governments have enacted or announced supply chain legislation, including the United Kingdom, Australia, the Netherlands, Germany, Norway, and the European Union.

<sup>2</sup> The Swiss Responsible Business Initiative (RBI) proposed by civil society organizations aimed to introduce mandatory due diligence obligations that were comprehensive in scope, covering human rights and environmental standards. The RBI was rejected in November 2020, as, while it gained 50.7 percent of the popular vote, the majority of Switzerland’s cantons rejected the initiative (the RBI needed a majority of both the popular vote and cantonal vote to pass). A counter-proposal will come into force instead.

They noted that Canada could draw from:

- the [UNGPs](#)
- the Organization for Economic Cooperation and Development (OECD) [Due Diligence Guidance](#), and
- the International Labour Organization's (ILO) [Tripartite Declaration on Multinational Enterprises](#)

Some in favour of due diligence also noted that it would only be effective if it is supervised and enforced through potential penalties.

The importance of addressing all human rights violations was also discussed. Representatives from both civil society and business mentioned other factors connected to or, in some cases, causing forced labour or child labour. These included working wages, maternity benefits, and recruitment fees. They explained that due diligence efforts and practices trickle down the supply chain and enable companies and partners to gather more information and data.

One Canadian industry representative noted its members would be more comfortable with transparency reporting measures, similar to the UK and Australian Modern Slavery Acts. Industry and employer groups and businesses generally asked that the government consider the following issues:

- building capacity for businesses to improve their supply chains and use existing tools
- avoiding adding burden on companies
- recognition that if requirements are applied to companies of all sizes, competitiveness of some industry segments could be affected
- allowing time for industry to understand their responsibilities under any new legislation or regulations through a gradual phased-in approach:
  - including time to be able to identify, mitigate and address sectors with the highest risks, and
  - avoiding duplicating reporting procedures. For example, if a business reports in the United Kingdom, that could suffice in Canada as well

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## 4. Conclusion

Overall, representatives of civil society, labour organizations, industry and employer representatives, businesses, representatives of international organizations and academics agreed more needs to be done to address labour exploitation in global supply chains. Most stakeholders noted the value of due diligence and addressing risks throughout supply chains. A few businesses expressed more comfort with reporting on steps taken to prevent the risk of human rights violations. However, they did not oppose a due diligence model that would require businesses to take action to address any violation suspected or found within their supply chains.

Discussions and survey responses included advice and questions about how supply chain legislation could best apply within Canada. There was a clear message that legislation should not be overly demanding on businesses. At the same time, many businesses are looking to the Government to guide and support them in addressing supply chain concerns. There was also general consensus that Canada should consider mandatory due diligence legislation. Stakeholders also generally agreed that legislation should be modelled on the OECD Due Diligence Guidelines and should be based on the experience of European countries. This could include a broad scope with a human rights perspective.

Some industries noted a preference for a more focused scope (for example on forced labour). However, there may be support for a broader human rights approach if a gradual approach that prioritizes high-risk sectors is considered. This would also require ongoing support from Government, to enable businesses to fulfill their new obligations. While one multinational corporation questioned the overall value of supply chain legislation, other industry and business representatives did not express strong opposition to supply chain legislation.

Finally, there are many challenges to understanding supply chains. Many businesses lack the tools or ability to monitor and influence their suppliers. Moving forward, participants noted that it will be important to:

- consider ways to improve the knowledge base around labour exploitation in supply chains, and
- increase knowledge about the forms labour exploitation can take

## 5. Roundtables

Roundtable discussions took place in Toronto (May 23), Vancouver (June 11), and in Ottawa (June 18). The roundtable in Ottawa was hosted by The Honourable Patty Hajdu, then Minister of Employment, Workforce Development and Labour. The Honourable John McKay, who is a Co-Chair of the [All-Party Parliamentary Group to End Modern Slavery and Human Trafficking](#), also participated.

Representatives from the following organizations participated in the labour exploitation in global supply chains consultations roundtable discussions:

- AEquo/Bâtirente
- Air Canada
- Amazon
- Amnesty International Canada
- Aritzia
- Above Ground
- Assembly of First Nations
- Assent Compliance
- Baker McKenzie LLP
- Bank of Montreal Global Asset Management
- Borden Ladner Gervais LLP
- Canadian Apparel Federation
- Canadian Association of Importers and Exporters
- Canada Building Trades Union
- Canadian Center to End Human Trafficking
- Canadian Chamber of Commerce
- Canadian Commercial Corporation
- Canadian Labour Congress
- Canadian Network for Corporate Accountability
- Canadian Tire Corporation
- Coca-Cola Company
- Consumer Goods Forum
- COSTCO
- Council of Canadian Innovators
- Disney
- Engineers Without Borders Canada / Mining Shared Value
- Fair Trade Canada
- Federally Regulated Employers – Transportation and Communications (FETCO)
- Giant Tiger
- Government of Canada
- Hudson Bay Company
- IMPACT
- Loblaws

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- Mining Association of Canada
  - Mountain Equipment Coop
  - Norton Rose Fulbright Canada, LLP
  - Oxfam Canada
  - Prospectors and Developers Association of Canada (PDAC)
  - Retail Council of Canada
  - Royal Bank of Canada – RBC Global Asset Management
  - Saint Mary's University
  - Shareholder Association for Research and Education
  - Supply Chain Management Association (SCMA)
  - The B Team
  - Ulula
  - UNICEF
  - United States Department of Labor
  - United Steel Workers
  - UPS Canada
  - Walmart
  - Women's Business Enterprise Canada
  - Women of the Métis Nation
  - World Vision Canada
  - York University's Schulich School of Business – Centre of Excellence in Responsible Business



## 6. Online Survey

We posted an anonymous online survey in Spring 2019 on the [Consulting with Canadians](#) website. The purpose of the survey was to help the Government of Canada identify how best to work with companies and other partners in addressing labour exploitation through global supply chains.

We received survey responses from:

- academics
- experts
- business representatives
- industry association representatives
- National Indigenous Organizations
- international organizations
- non-governmental organizations
- civil society organizations
- representative of a provincial or territorial government
- representatives of a municipal government
- shareholders
- investor organizations
- trade unions
- members of the public

### Survey questions included:

1. Do current actions and initiatives in Canada go far enough to prevent and address labour exploitation through global supply chains?
2. If additional measures were taken in Canada to address labour exploitation in supply chains, should they address:
  - Child Labour and Forced Labour (as defined by the ILO)
  - Trafficking in Persons (as defined in Canada's Criminal Code)
  - Other human rights abuses or violations
  - Which other human rights abuses or violations?
  - Working conditions
  - Which working conditions?
  - Environmental impact of business operations
  - the ways in which women and girls are differently affected by labour exploitation – including a gender-responsive approach
  - All of the above
  - Other
  - What else should be addressed by additional measures?

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3. Should the Government of Canada pursue further measures to raise the business community's awareness of labour exploitation in supply chains, and provide guidance on ways to identify and address risks?
    - Please elaborate
  4. A "transparency reporting" requirement could require business entities operating in Canada and potentially Canadian owned (or registered) business entities operating abroad to report annually on their actions **to assess** the risk of labour exploitation in their operations and supply chains.
    - Should "transparency reporting" be required from businesses and if so, should the government provide guidance to them in this respect? What are the advantages or disadvantages of this option?
  5. A "due diligence" requirement could mandate businesses operating in Canada and Canadian owned (or registered) businesses operating abroad to report annually on their actions **to address** labour exploitation in their operations and supply chains.
    - Should "due diligence" be required from businesses and, if so, should the government provide guidance to them in this respect? What are the advantages or disadvantages of this option?
  6. Which criteria could be used to determine the threshold for company size with respect to the possible legislative requirements for businesses?
    - Annual Revenue
    - Number of employees
    - Other. Please elaborate
  7. Should transparency reporting or due diligence requirements apply to both goods and services?
    - Please elaborate
  8. Should transparency reporting or due diligence requirements apply to the entire corporate structure of a business, including its entire supply chain?
    - Please elaborate
  9. How could the Government of Canada ensure that businesses are compliant with transparency or due diligence requirements?
    - Please elaborate
  10. What would be the most effective way to publicly report on efforts to address labour exploitation?
    - Please elaborate
  11. What could "good practices" look like for businesses to address potential labour exploitation in their supply chains?
    - Please elaborate
  12. What information should be included in awareness material and guidance for businesses?
    - Please elaborate

13. What are some of the critical influencing factors, or challenges, of which the Government of Canada should be aware?
  - Please elaborate
14. Are there any other legislative or non-legislative options that should be considered?