



FORCED LABOUR RISKS, REMEDY AND CHANGING REGULATION



It has never been more important for investors to act on forced labour. From the Withhold Release Orders issued by the US Custom and Border Agency to the EU's Corporate Sustainability Due Diligence Directive, the penalties facing businesses and their investors for not acting on forced labour risks are becoming increasingly severe.

This report sets out the stark facts of the progress business has made: Whilst there are green shoots of best practice, investors have much more to do to unleash the potential of business to achieve UN Sustainable Development Goal 8.7 and end modern slavery. Increasingly our clients are asking the investment industry to step up and drive positive change. This report will help us do it.

James Corah, Head of Sustainability, CCLA Investment Management

Executive summary

The risk of forced labour in global supply chains remains one of the most significant human rights issues for companies – and their investors – worldwide. At least 25 million people are currently estimated to be victims of forced labour, coerced to work under threats of violence, detention and intimidation, in supply chains supporting many of the world's favourite brands. After years of glacial progress in attempting to address this blight through voluntary corporate initiatives, the enactment of human rights due diligence legislation in both the EU and other jurisdictions means there are now enforcement mechanisms to address and provide redress for labour exploitation across supply chains.

As this briefing sets out, the changing global regulatory environment brings new obligations – and opportunities – for investors to play a critical role in interrogating human rights due diligence efforts and companies' attempts to remediate forced labour. These actions contribute not only to the sustainable development of companies and the protection of workers, but to the integrity and stability of global markets.

This briefing outlines key findings from KnowTheChain (KTC) data on 184 companies assessed in the 2020 and 2021 benchmarks in respect of the prevalence of forced labour in global supply chains across three high-risk sectors: ICT, food and beverage, and apparel and footwear. Despite some evidence of progress over time, the risk of forced labour across these sectors persists and where forced labour is uncovered, identifiable remediation efforts remain limited. Collectively encompassing 61% of the commodities at risk of forced labour, the KTC benchmarks are also an important proxy for how the world's largest companies are addressing forced labour risks, which remain considerable. Findings include:

- Only **half** of all companies assessed (**50%**) disclose carrying out a human rights risk assessment on their supply chains.
- Two thirds** of companies assessed (**66%**) do not disclose any forced labour risks identified in their supply chains.
- Only **17%** of companies disclose remediation of forced labour cases in their supply chains.
- Of 43 companies linked to allegations of forced labour in supply chains, almost **three quarters (72%)** failed to provide evidence that impacted workers were remediated.
- 13%** of 184 companies disclosed the repayment of recruitment fees to supply chain workers.

This briefing also provides an initial summary of regulatory efforts to address human rights and forced labour risks and what they may mean for investors, and sets out engagement questions investors can use to guide initial discussions on human rights due diligence with investee companies as they begin to take up these obligations.

Where companies fail to meet requirements, investors are compromised in fulfilling their own obligations pursuant to their firm ESG policies and international standards like the OECD guidelines for institutional investors, which set out their responsibility to undertake due diligence to identify, mitigate, and prevent adverse human rights abuses like forced labour. As such, it is incumbent upon all investors to assess and mitigate human rights and forced labour risk in their investment processes.

50%



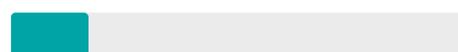
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17%



of companies disclose remediation of forced labour cases in their supply chains

13%



of companies disclose repayment of recruitment fees to supply chain workers

31/43



companies with allegations of forced labour in their supply chains failed to provide evidence that impacted workers were remediated.

Context

Over the last half decade, KnowTheChain has benchmarked the efforts of the largest companies in the highest-risk sectors – ICT, food and beverage, and apparel and footwear – to prevent forced labour in their supply chains, against a methodology based on the UNGPs.

The International Labour Organization (ILO) conservatively estimates some 25 million people are currently victims of forced labour, with the COVID-19 pandemic having significantly exacerbated worker vulnerabilities and suffering. Against those numbers, KTC findings are disappointing. Companies consistently fail to identify, prevent and disclose forced labour risks or provide remedy for workers in their supply chains. There remains instead a heavy reliance on top-down, rather than worker-centric approaches which encompass engagement, responsible purchasing practices and victim-centred grievance mechanisms.

This serves as a concerning litmus test: if companies cannot identify and eliminate one of the most egregious forms of human rights abuse in their supply chains, there is little chance for the broader human rights and business agenda without significant intervention. Similarly, as long as financial valuation practices reward business models that drive down labour costs, companies and suppliers are incentivised to flout human rights standards.

Investors should see forced labour as a market failure where the true social costs of labour exploitation and illegal labour management are not reflected in the cost of capital. The advent of due diligence legislation is set to change the rules of the game in this regard, by attaching financial penalties to negative human rights risk and impacts.



Forced labour risks and remediation

Failure to identify forced labour risks

Robust identification methods for forced labour through proper human rights due diligence are a critical first component in addressing this vulnerability in global supply chains. Investors can and should play a key role in assessing these efforts – which KTC data shows fall short of what is currently required.

Difficulties in detecting and evidencing cases of forced labour are well known. However, several indicators have been developed by the ILO and others to identify the level of forced labour risks present in supply chains. These include evidence of debt bondage and withholding of wages, restriction of movement and abuses of vulnerability.

Analysis of KTC data reveals other common forced labour risks and factors:

- **Exploitative recruitment practices:** Migrant workers may be recruited and hired by labour agencies and **charged extortionate fees** in exchange for a job, as well as related costs such as accommodation and travel. Worker-paid fees can leave workers in situations of debt bondage as fees may be the equivalent of **several months' salary**. These costs can be staggeringly high – suppliers to one electronics company reportedly reimbursed US\$33 million to workers for recruitment fees – but information disclosed is piecemeal and companies do not appear to have a standardised means of reporting fee amounts discovered.
- **Limits on the right to organise:** Companies frequently choose to source from countries with regulatory deficits and restrictions on freedom of association and collective bargaining and/or where such rights are suppressed in practice. This reduces operating costs and increases profit margins. However, it also increases the risk of forced labour, as the right to freedom of association and collective bargaining enables workers to challenge exploitative working conditions. Where workers can access their right to organise and bargain collectively, strong improvements in wages and working conditions have been evidenced.¹
- **Complex and multi-tiered supply chains:** Factors which increase the risk of forced labour are prevalent across the tiers of global supply chains. For example, in food supply chains, forced labour risks can be found at raw material level, such as on **coffee farms** or **fishing vessels**. In electronics supply chains, forced labour may be found at **both first and second tier**, and risks have been found in apparel supply chains at **spinning mills** and in **raw material sourcing**. As such, corporate due diligence that focuses on first-tier suppliers alone will not effectively identify forced labour risks and instances. However, KTC has identified significant gaps in companies' visibility beyond the first tier of their supply chains: half of benchmarked companies do not disclose the countries where suppliers below the first tier are located, and 44% do not disclose the sourcing countries of raw materials.²

1 IndustriALL Global Union (6 October 2020), "[#UnionWin as garment workers are reinstated](#)." IndustriALL Global Union (26 March 2020), "[South African textile union wins full pay guarantee during coronavirus lockdown](#)." Solidarity Center (6 April 2020), "[Unions lead creation of a feminist world of work](#)."

2 Based on 129 companies benchmarked by KnowTheChain in 2020/2021. See KnowTheChain (2022), "Closing the Gap: Evidence for effective human rights due diligence from five years measuring company efforts to address forced labour," p. 12.

Conducting a human rights risk assessment is a basic prerequisite for effective due diligence and enables companies to identify high-risk factors like these, as well as locations, groups, commodities and materials that increase the likelihood of forced labour in their supply chains. However, KTC data shows significant gaps in companies' risk identification and disclosure:

- Only **half** of the 184 companies assessed (**50%**) disclose carrying out a human rights risk assessment on their supply chains.
- Two thirds** of 184 companies assessed (**66%**) do not disclose any forced labour risks identified in their supply chains.

These findings are troubling. Beyond the benefit to workers of identifying forced labour in supply chains, transparent human rights risk assessment can also provide investors with confidence the company is proactively identifying potential forced labour and has a process for prioritising where to focus its due diligence efforts. In addition, disclosing results of human rights risk assessments reveals whether processes are effective at rooting out instances of hidden forced labour in supply chains.

The lack of transparency around supply chain risks means investors must look beyond traditional ESG data providers – which tend to have a narrow focus on company-reported data and enterprise value risk – to understand a company's external impact on workers and communities. The [Boohoo.com scandal](#) provides a cautionary tale of the pitfalls of not taking this approach and the inaccuracies of data providers' methodologies on 'S' issues, such as worker rights.

History is likely to repeat itself – many poorly-performing luxury fashion brands in the KTC benchmark, including Prada, LVMH, Capri, Tapestry and Hermes, maintain [low ESG risk ratings](#) and are still included in [ESG-linked funds](#). Reasons for this include very poor supply chain transparency, with none of the brands disclosing first-tier supplier lists or information on second-tier suppliers. Despite high exposure to forced labour risks from sourcing countries, there is also limited disclosure of their raw materials sourcing and contexts.

With increasing global regulation, this is likely to manifest as financial, legal and reputational cost to both business and shareholders.



Failure to provide remedy for forced labour

Providing remedy to supply chain workers whose human rights have been violated is another vital part of a company's responsibilities under the UNGPs and OECD Guidelines, and an increasing focus of human rights due diligence regulation. KnowTheChain assesses companies on remedy, sometimes referred to as the "forgotten pillar" of the UNGPs, and which in the context of forced labour means the process of both ending forced labour where it has been identified and correcting the harms experienced by victims.

Disclosure of such processes, as well as the remedy outcomes where forced labour has been identified, is an essential way for companies to demonstrate they are finding and acting upon forced labour instances in their supply chains. But here, too, KTC benchmark data demonstrates companies in high-risk sectors fall concerningly short. Findings include:

- Only **17%** of companies disclose remediation of forced labour cases in their supply chains.
- Of 43 companies with allegations of forced labour in their supply chains, almost **three quarters (72%)** failed to provide evidence that impacted workers were remediated.
- 13%** of 184 companies disclosed the repayment of recruitment fees to supply chain workers.

Investors can and should play a key role in encouraging companies to adopt best practice where absence of remedy or unwillingness to disclose remediation initiatives suggest ending forced labour in supply chains remains a low priority for many companies. At a minimum, best practice for investors involves engaging with companies on the provision of remedy which is appropriate to the situation and in the interests of those who are victims of exploitation.³ Beyond the moral imperative to do so, significant gaps in the remediation of forced labour leave companies and their investors increasingly exposed to the risks and costs of litigation and reputational damage.

The evolving regulatory landscape also suggests companies will have diminishing opportunities to choose whether to remediate these abuses. The French Duty of Vigilance Law and the EU's Corporate Sustainability Due Diligence Directive provide for a civil liability regime which would allow victims to sue for damages, highlighting the increasing emphasis on remediation worldwide.

³ CCLA's "[Find it, Fix it, Prevent it](#)" Initiative is backed by 56 investors with over £7 trillion in AuM.



The rise and consequences of human rights regulation

In the face of increasingly complex global supply chains and the limitations of voluntary corporate initiatives on human rights, as demonstrated by the KTC benchmarks, it is no surprise governments around the world are beginning to embed voluntary principles into hard law that seeks to target – among other human rights abuses – forced labour. Current efforts to legislate company due diligence, increase supply chain transparency and ensure even investors are subject in some instances to human rights regulation, suggests the ushering in of an important new phase of the corporate accountability movement – and the role of investors within it.

These are briefly detailed below.

Corporate regulation

The European Union's Corporate Sustainability Due Diligence Directive provides for a combination of penalties as well as civil liability for a failure to comply with Articles 7 (Prevention) and 8 (End and Minimise). This means that, under the current draft, companies will be obligated to prevent and cease adverse impacts, or face fines, sanctions and/or legal challenges. This comprehensive regulation – through the “Brussels effect” – is likely to set a global precedent for other jurisdictions contemplating similar wide-ranging approaches to human rights protection through legislation.

Supply chain transparency acts, like those of Norway and Germany, also impose extensive new due diligence obligations on large companies selling products and services in their respective jurisdictions. These are not just confined to first-tier suppliers; they also cover indirect vendors and subcontractors within the value chain.

The enhanced due diligence requirements of the Uyghur Forced Labour Prevention Act (UFLPA) in the United States, which came into effect in June 2022, obliges companies to have full visibility of their supply chains to identify whether there is a link to the Xinjiang Uyghur Autonomous Region (XUAR), including through labour transfers or the use of components in final manufacturing taking place outside the region or outside China. If there is a link, companies are expected to disengage altogether from XUAR. Failure to provide adequate certification or supply chain details may result in fines of up to \$250,000 (£205,000).

To this end, the US Customs and Border Patrol has implemented ‘withhold and release orders’ (WROs) for all cotton and tomatoes produced in Xinjiang, the source of about 20% of the world’s cotton and 70% of tomatoes. At least one shipment of clothing has been seized under this WRO and many clothing brands have indicated they have ceased sourcing from XUAR.

Other countries, including Canada and EU states, are likely to follow suit lest they become a dumping ground for tainted goods re-exported from other jurisdictions. With these measures on the rise, companies must take steps to understand where risks exist across their supply chains and “know and show” their risks through comprehensive public disclosure.

Investor regulation

The strengthening of human rights regulation for companies also has direct implications for investors in terms of their own risk profile and reporting requirements.

In the context of forced labour, the idiosyncratic and systemic risks created by exploitative labour practices can threaten the ability of investors to act as fiduciaries. It is imperative they are informed about the manifestation of risks, encourage disclosure of supply chain data and conduct appropriate due diligence on investee companies.

New proposed due diligence and enacted disclosure regulations also provide a legal framework for investor accountability. The EU Due Diligence Directive itself mandates that some substantial financial actors must conduct human rights due diligence prior to investment.

Under the proposed [Sustainable Finance Disclosure Regulation](#), financial market participants in the EU are required to report on a set of “Principal Adverse Impact Indicators”, aggregated at entity level across their investments in a given period. These indicators will include:

- The share of investments in investee companies that have been involved in violations of the UNGC principles or OECD Guidelines for Multinational Enterprises;
- The share of investments in investee companies without policies to monitor compliance, or grievance/complaints handling mechanisms to address the same.

While smaller firms will have to participate on a “comply or explain” basis, those who do not interrogate the adverse sustainability risks caused by their investment decisions will be at a significant disadvantage, particularly as the demand for ESG, sustainability and impact-driven funds increases. Funds which integrate and aim for sustainability outcomes ([Article 8 and 9](#)) reached EUR 4.05 trillion at the end of December 2021, representing [64% of EU fund inflows in Q4](#).



Conclusion

KnowTheChain data overwhelmingly demonstrates companies across the highest-risk sectors have, to date, failed to substantively address forced labour in supply chains, which increasingly presents material risks for investors. Investors with sustainable mandates have long been pushing for better corporate practice, including the more than 160 investor signatories to the [KnowTheChain pledge](#). However, purely voluntary efforts by investors to address human rights abuses have not resulted in system-wide change.

Regulatory efforts, including the EU's Corporate Due Diligence Directive, supply chain transparency legislation in Norway and Germany and the Uyghur Forced Labour Prevention Act in the United States, seek to level the playing field and provide penalties for companies failing to meet their obligations. As such, the role investors play in promoting better human rights compliance will only grow in importance.



Recommendations for investors

Investors can use their leverage to push for change in business practices, to incentivise good practice and to readjust financial valuations to reward better behaviour. Active public investors can engage with companies on this issue as part of their ongoing stewardship. Investors should:

- Adopt a human rights policy which covers employees and non-employee workers and upholds ILO labour standards and the elimination of forced labour within supply chains and investments.
- Integrate respect for fundamental labour rights as an engagement priority to hold investee companies accountable to their responsibilities under international norms and frameworks and commit to escalation in the absence of progress (see [Appendix](#) for standard engagement questions).
- Adopt a stewardship policy and voting guidelines which specifically mention respect for labour rights, as defined by ILO conventions.
- Supplement offerings from traditional ESG data providers with additional data sets, NGO and CSO research and reports.
- Participate in collaborative engagements on the topic of forced labour like those of the ICCR and CCLA's "Find it, Fix it, Prevent it".

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KnowTheChain is a resource for businesses and investors who need to understand and address forced labour abuses within their supply chains. It benchmarks current corporate practices, develops insights, and provides practical resources that inform investor decisions and enable companies to comply with growing legal obligations while operating more transparently and responsibly.



Business & Human Rights Resource Centre is an international NGO that tracks the human rights impacts (positive and negative) of over 10,000 companies in over 180 countries making information available on its digital action platform in 10 languages. We seek responses from companies when concerns are raised by civil society and have made over 7,500 approaches to companies asking them to respond to specific human rights allegations.

Appendix

Engagement questions:

As part of individual or collaborative engagement dialogues, investors may wish to use the questions below to probe how investee companies address forced labour risks and press for better practices.

Getting started:

- Q. Does the company have a supplier code of conduct that requires suppliers throughout its supply chains to respect the ILO core labour standards?
- Q. Has the company established clear responsibilities and accountability for the implementation of its supply chain policies that address forced labour, both within the company and at the board level?
- Q. Can the company provide details on how it conducts human rights supply chain risk or impact assessments that include forced labour risks including through engaging with relevant stakeholders?

Next steps:

- Q. Does the company disclose the outcomes of its human rights risk assessment, including forced labour risks identified in different tiers of its supply chains?
- Q. Does the company have a process to provide remedy to workers in its supply chains in cases of forced labour? If so, provide more details.
- Q. Has the company demonstrated the effectiveness of its risk/impact assessments in identifying forced labour/providing remedy'?

