Mandatory supply chain due diligence: Canada pledges sweeping reforms to forced labour and child labour laws

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On Dec. 16, 2024, the Government of Canada released its long-awaited 2024 Fall Economic Statement. The Statement reaffirmed the Government's commitment to combatting modern slavery in global supply chains, currently given effect by the existing import ban on goods made with forced or child labour and the mandatory supply chain reporting requirement for certain businesses and government entities. The Statement further announced the Government's intention to introduce four new measures on this front:

- new mandatory supply chain due diligence legislation;
- a new oversight agency to ensure compliance;
- amendments to the existing import ban; and
- increased funding to Global Affairs Canada (GAC) and Canada Border Services Agency (CBSA) to aid enforcement.

Strengthening supply chain due diligence measures

The Statement indicates the Government's intention to introduce legislation to create a new supply chain due diligence regime, requiring government entities and businesses to scrutinize their international supply chains for risks to fundamental labour rights and take action to resolve these risks.

Few details have been provided on the exact form this law will take. However, the Government is likely to draw on similar legislation enacted by the EU, France and Germany. The EU *Directive* on *Corporate Sustainability Due Diligence*, the French *Corporate Duty of Vigilance Act* and the German *Act on Corporate Due Diligence Obligations in Supply Chain* each impose a positive duty on large companies to develop risk management strategies to detect, address and prevent human rights violations and environmental damage from occurring in their supply chains, including:

- **risk mapping**: identifying, analyzing and ranking potential risks based on frequency and severity;

- **assessment and oversight**: putting in place due diligence processes to assess subsidiaries, subcontractors and suppliers' risks and provide oversight and monitoring;
- **periodic review**: assessing the efficacy of due diligence efforts at routine intervals and modifying them as needed; and
- **reporting mechanisms**: establishing procedures for human rights and environmental risks and related grievances to be reported to management.

Bolstering the import ban

As noted above, the *Customs Tariff* prohibits the importation of goods mined, manufactured or produced wholly or in part by forced labour or child labour. Canada introduced the import ban pursuant to its commitments under the Canada-United States-Mexico Agreement (CUSMA). Canada has seized relatively few shipments under the authority of the ban compared to its counterparts in the United States.

In the Statement, the Government signalled its intention to introduce amendments to strengthen the import ban, increasing the onus on importers to demonstrate that their supply chains are free of forced or child labour. It remains to be seen what exactly these amendments will entail.

Increased emphasis on enforcement

The Government has also proposed creating a new oversight agency to ensure ongoing compliance with its supply chain reporting and (forthcoming) due diligence framework. Businesses are likely to rely on supply chain auditing services to cope with the increased obligations and federal scrutiny of their due diligence efforts. The rise of mandatory human rights due diligence laws globally has already given rise to a cottage industry on this front. From a policy standpoint, the increased focus on paying first world consultants to report on forced labour in supply chains for Western businesses arguably detracts resources and attention away from efforts to actively combat forced labour in regions where it is most prevalent.

Furthermore, the Government has committed $25.1 million in funding to GAC and the CBSA over two years, beginning in 2025. These resources will likely bolster investigation and enforcement efforts. Since the prohibition on importing products of forced labour was introduced in 2020, the CBSA detained a paltry number of shipments over suspicions of breaching the prohibition. In 2024, around 50 shipments were detained, and in the previous three years there were almost no detentions. To date, only one shipment into Canada was found to have violated the import ban. These enforcement numbers pale in comparison to our southern neighbours, where US Customs and Border Protection have seized over $1 billion worth of goods over suspected ties to forced labour. Nevertheless, with both the growth in detentions last year and the promised additional funding, we may see this start to trend upwards in Canada.

Next steps

BLG's International Trade and Investment team will continue to monitor legislative developments relating to mandatory human rights due diligence and provide further insights as more details become available. In the interim, businesses should evaluate their existing due diligence frameworks and consider what modifications or investments will be needed to incorporate human rights-related risk assessments. While the specific due diligence requirements of the Canadian legislation have yet to be announced, common due diligence methods include:

- risk mapping;
- training;
- stakeholder engagement;
- continuous monitoring;
- periodic review;
- grievance reporting mechanisms;
- internal policies (e.g., employee codes of conduct; procurement policies; etc.); and
- external policies (e.g., supplier codes of conduct; contractual language incorporating due diligence obligations).

Lastly, businesses should prepare to file their second annual reports under the *Fighting Against Forced Labour and Child Labour in Supply Chains Act*, which will be due May 31, 2025. Our team is well equipped to assist in preparing reports, developing robust human rights due diligence frameworks and investigating issues that have been identified.

By

Rambod Behboodi, Benedict S. Wray

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BLG Offices

Calgary
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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