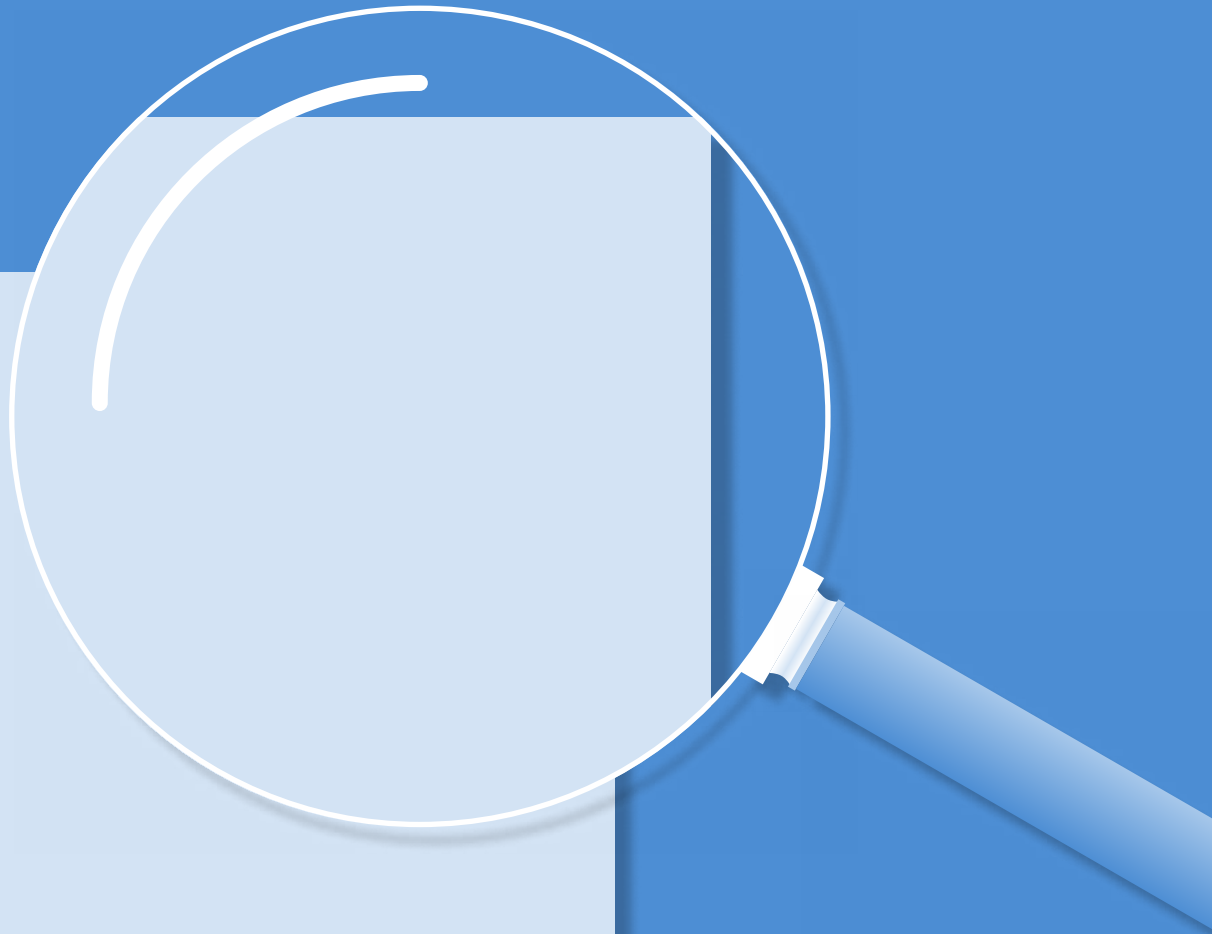


Traceability's Role in Due Diligence and Forced Labor Regulations



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Intro

Due diligence regulations are increasing in Western countries to ensure fair labor and human rights are respected in global trade and supply chains. Sometimes these different types of regulations are confused or interchanged, therefore, in this whitepaper, we will compare Forced Labor (FL) Prevention and Due Diligence (DD) regulations to provide some clarity.

This document is written with compliance and public affairs managers and traceability program stakeholders of footwear, fashion, and textile companies in mind. You can expect an overview of the most relevant FL and DD regulations, and guidance on where the role of traceability lies in both types of regulations.

Due Diligence

DD is defined by ISO 26 000 and the OECD Guidelines as a *“comprehensive, proactive process to identify the actual and potential. negative social, environmental, and economic impacts of an organization's decisions and activities over the entire life cycle of a project.”*

There are several ways to perform successful DD depending on the industry and organization, and generally the process DD for textile and apparel supply chains can be simplified into this framework:

- **MONITOR:** Continuous monitoring of the supply network
- **MANAGE:** Risk management, based on the monitoring
- **MITIGATE:** Risk mitigation and action plans
- **TERMINATE:** Termination of business relationships in case of violations (in some cases required)
- **REPORT:** Annual reporting

A Framework for Due Diligence Processes in Textile Supply Chains



Due Diligence requires execution on an ongoing basis and transcends the entire business operations, which contrasts with Forced Labor Prevention regulations that

focus on the production chain of specific goods or shipments. The most relevant Due Diligence regulations with their scope and status are presented in this table:

Table 1: Due Diligence Regulations

REGULATION	STATUS	OBJECTIVES	TRACEABILITY & REQUIREMENTS
EU CS3D – CORPORATE SUSTAINABILITY DUE DILIGENCE DIRECTIVE	Proposal Anticipated adoption in 2024	Companies selling any goods on the European market must identify, minimize, prevent, monitor, and communicate their efforts on human rights, labor rights, and environmental and climate.	The whole supply chain is in scope to be investigated if a risk has been identified, not just direct suppliers.
DUTCH CHILD LABOR DUE DILIGENCE ACT	Adopted in 2019, supposed to come into force 2022	Companies selling or supplying goods or services to Dutch consumers.	This act obliges companies to examine whether their goods have been produced with child labor and if so, mitigate and prevent it.
FRENCH DUTY OF CARE LAW	In force since 2017	French companies and its own operations, subcontractors, suppliers with commercial relationships, as well as companies the company controls.	Enactment of the responsibility of parent companies towards their subsidiaries environmental and ethical impacts.
LKSG – GERMAN SUPPLY CHAIN DUE DILIGENCE ACT (SCDDA)	In force since 2023	German based companies must comply with certain human rights and environmental due diligence obligations. It is oriented towards the UN Guiding Principles on Business and Human Rights.	Brands need to map and assess all their direct suppliers as well as their indirect suppliers where they have knowledge of risk.
NORWEGIAN TRANSPARENCY ACT	In force since 2022	Applies to large and mid-sized brands located or selling goods in Norway.	This Act aims at increasing transparency and encouraging companies to respect human rights throughout all their value chain. It requires companies to perform due diligence assessments and to document how they work to prevent risks.
CALIFORNIA GARMENT WORKER PROTECTION ACT	In force since 2022	Brands and Retailers with garment factories in California.	Companies must ensure that garment workers in California are paid hourly and not by piece rate.
NY FASHION SUSTAINABILITY AND SOCIAL ACCOUNTABILITY ACT	Proposal Expected update 2024	Fashion retailers in the State of New York will be accountable to environmental and social standards.	Supply chain mapping, disclosure of info on the impact and of the measures to reduce this impact. <ul style="list-style-type: none"> • 100% of T1 mapped within 12 months • 75% T2 mapped within 2 years • 50% of T3&T4 mapped within 3 years
US FABRIC ACT	Proposal Expected update 2024.	To Protect Garment workers in the US. Applies to garment contractors and manufacturers that operate in the USA.	Ending "Piece rates" and institute liability measures for brands and their manufacturing partners for their labor practices. Establish new record-keeping and transparency measures.

Forced Labor

The definition of Forced Labor according to the ILO Forced Labor Convention, 1930 (No. 29) is:

“All work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.”

Forced Labor Prevention regulations often involve border controls that can halt the importation or sale of garment or footwear shipments if clear and convincing evidence of forced labor-free production is not provided. This evidence typically takes the form of comprehensive documentation linking buyers and sellers at each stage of the imported goods' value chain.

(For a detailed list of required documents, look here).

While many Forced Labor regulations incorporate Due Diligence practices, not all Due Diligence requirements directly address Forced Labor. This means that compliance with Forced Labor regulations may not necessitate comprehensive documentation of processes, codes of conduct, or action plans for importing or selling goods.

These aspects may be integrated into your internal business practices to attain a higher level of data maturity. We recommend bringing in a traceability platform at this stage for comprehension of your supply chain.

Table 2: Forced Labour Regulations

REGULATION	STATUS	OBJECTIVES	TRACEABILITY & REQUIREMENTS
EU BAN ON FORCED LABOR	Proposal Anticipated adoption in 2024	Applicable to any goods and their components. If tate imposed FL traceability to Tier N (fiber) is required and the burden of proof lies on the company.	Prohibition of products made with FL entering or being exported from the European market. Member states will be responsible for enforcement. prevent risks.
AUSTRALIA MODERN SLAVERY ACT	In force since 2022	Throughout the Supply Chains of products for entities based or operated in Australia.	Companies disclose potential risks of FL in their operations and the actions taken to address them.
CANADA FIGHTING AGAINST FORCED LABOUR AND CHILD LABOUR IN SUPPLY CHAINS	Adopted In force 2024	Companies producing, importing, selling, or distributing goods in Canada as well as controlling an entity like above. At any step of the production of goods in Canada or elsewhere.	Companies must disclose their efforts to prevent and reduce the risk of FL in their supply chains.
UK MODERN SLAVERY ACT	In force since 2015	Companies and their partnerships on the UK market, ensuring that FL is not taking place at any place in the supply chain or businesses.	Companies must submit statements, with steps and practices and provide transparency in their supply chains.
US FORCED LABOR PREVENTION ACT	In force since 2022	A rebuttable presumption is triggered, that imported goods made fully or partially with Forced Labor are not allowed to enter into the US.	The importer must provide a traceability dossier with evidence and documentation that FL was not used at any point in the supply chain of the imported good, from Brand to Tier N (fiber level).

The Role of Traceability in Due Diligence and Mitigating Risks Forced Labor

When examining the scope and the requirements of Due Diligence and Forced Labor regulations, several commonalities emerge. Proficient traceability throughout the supplier network, not just direct suppliers, is often an expectation for compliance. This is particularly heightened when it concerns a high-risk good, region or supply chain. Disclosure and reporting are additional requirements.

Traceability is the foundation that brings granular insights into the supplier network to discover, connect, and analyze the supply chain data. This enables brands to know, prove, and improve their value chain compliance and impact, as well as to disclose, follow up and report on the progress.

Recommended Actions

As brands face increasing scrutiny and regulations, we recommend implementing robust due diligence processes with traceability at the core. The goal is to progressively delve deeper into your supplier network, enriching it with more detailed data and insights.

By continuously striving for greater granularity in your supplier network, you will gain more data points to make informed decisions on how to better protect supply chain workers and human rights.

This initiative requires dedicated project planning, the right team, and the right tools to enable granular data collection and processing at scale.

We understand that this may seem like a daunting task, but it is an essential investment in the future of your brand. By taking these steps, you can demonstrate your commitment to ethical and responsible supply chains.

TrusTrace for Forced Labor Prevention

Traceability is pivotal part of gathering the right data for due diligence analysis and responsible sourcing risks from your supply chain. Schedule a call with a TrusTrace digital traceability expert to learn how we are helping some of the largest brands get to know, prove and improve their forced labor prevention programs with traceability, and make progress on your journey today. [Schedule a demo.](#)