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Canada Imposes Forced and Child Labour Reporting Obligations

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Regulatory Update: *As per the November 2024 guidance, entities that solely sell or distribute goods in Canada or elsewhere are no longer subject to the legislation (ie. Public Safety Canada has confirmed that there will be no enforcement against such entities for failure to report). As such, only entities which produce goods (in Canada or elsewhere) or import goods into Canada that were produced elsewhere (or entities that control other entities that do either of these activities) would be required to report.*

The House of Commons has adopted Bill S-211, whose short title is *Fighting Against Forced Labour and Child Labour in Supply Chains Act* (the Bill). The Bill, which was adopted on May 3, 2023, will become law as soon as it receives royal assent and will enter into force on January 1, 2024.

The Bill recognizes that forced labour and child labour are forms of modern slavery and reiterates Canada's commitment to fight against modern slavery under the fundamental conventions of the International Labour Organization. Following various other jurisdictions (such as the United Kingdom, Australia and France), Canada's new legislation imposes reporting obligations with respect to labour in supply chains that are comparable to those under the *Extractive Sector Transparency Measures Act*. These new reporting requirements will affect federal departments, ministries and Crown corporations, as well as public companies and private companies of a certain size.

On or before May 31, 2024, and each year thereafter, the Bill will require that the following entities file reports with respect to the risk and mitigation of forced labour or child labour in their supply chains:

- government institutions that produce, purchase or distribute goods; and
- entities (i) listed on a Canadian stock exchange or (ii) that do business in Canada (or have a place of business or assets in Canada) and meet at least two threshold requirements (in one of the past two financial years had \$20 million in assets, generated at least \$40 million in revenue or employed an average of at least 250 employees), if they produce, sell, distribute or import goods into Canada itself, or control an entity that does.

Reports under the Bill must include the steps the government institution or entity has taken during its previous financial year to prevent and reduce the risk that forced labour or child labour is used in any step of the production, purchase or distribution by the government institution or in any step of the production or importation of goods by the entity. In addition, the government institution or entity must report the following information:

- i. its structure, activities and supply chains;
- ii. its policies and due diligence processes in relation to forced labour and child labour;
- iii. the parts of its activities/business and supply chains that carry a risk of forced labour or child labour being used and the steps it has taken to assess and manage that risk;
- iv. any measures taken to remediate any forced labour or child labour;

- v. any measures taken to remediate the loss of income to the most vulnerable families that results from any measure taken to eliminate the use of forced labour or child labour in its activities and supply chains;
- vi. the training provided to employees on forced labour and child labour; and
- vii. how it assesses its effectiveness in ensuring that forced labour and child labour are not being used in its activities/business and supply chains.

All reports will be made public on a registry of the Department of Public Safety and Emergency Preparedness. Entities are required to make their reports publicly available (including on their websites) and federally incorporated companies must provide such reports to their shareholders with annual financial statements. An entity's governing body must approve the report.

The Minister of Public Safety and Emergency Preparedness has extensive investigatory powers under the Bill and may order the entity to take any measures that are considered necessary to ensure compliance. Failure to comply with the Bill, knowingly making false or misleading statements or providing false or misleading information to the Minister or any person designated for the administration or enforcement of the Bill can result in a summary offence conviction liable to a fine of up to \$250,000. In addition, a company's director or officer who directed, authorized or acquiesced in the commission of an offence under the Bill can also be found guilty of that offence.

The Canadian government is empowered to make regulations under the Bill, including to prescribe other entities that would be required to report and to define the circumstances in which an entity is controlled by another entity. No regulations or draft regulations have been issued as of May 5.

With only a year to comply, government institutions and entities subject to the Bill will want to initiate a risk assessment of their supply chains and develop mitigation strategies in order to meet the May 31, 2024, reporting deadline.

In any event, the Bill likely does not constitute the Canadian government's final word on forced labour. In the 2023 budget, the government announced that it would introduce new legislation by 2024 "to eradicate forced labour from Canadian supply chains to strengthen the import ban on goods produced using forced labour" and "to ensure existing legislation fits within the government's overall framework to safeguard [...] supply chains." According to comments made by federal Labour Minister Seamus O'Regan, the new legislation is expected to go beyond reporting requirements and to oblige companies to take actual steps to eradicate forced labour from their supply chains if any is discovered.

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