

**2024
Edition**

Executive Summary

An Apparel Supplier's Guide 2.0

**Key Sustainability Legislation
in the EU, US, and UK**

EU Strategy for Sustainable and Circular Textiles
EU Corporate Sustainability Due Diligence Directive
EU Corporate Sustainability Reporting Directive
New York Fashion Act
EU Forced Labour Regulation & Guidance
US Uyghur Forced Labor Prevention Act
EU Ecodesign for Sustainable Products Regulation
EU Packaging & Packaging Waste Directive & Provisional Regulation
EU Microplastics Regulation
UK Plastic Packaging Tax
EU Product Environmental Footprint Guide
EU Textiles Regulation
EU Taxonomy
The German Due Diligence in the Supply Chain Act
Lessons for Fashion: How the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices

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A background image of a textile factory with many spools of thread on a machine.

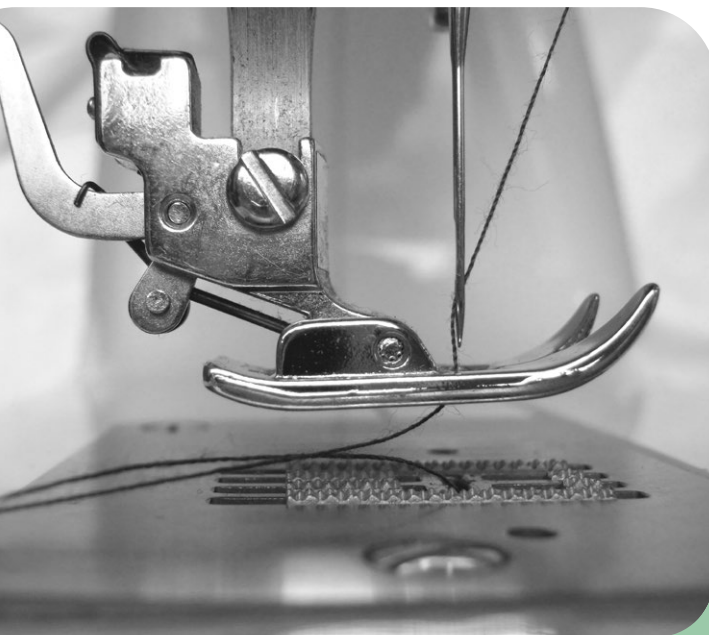
Executive Summary for Senior Leaders of Companies Supplying Apparel & Beyond

Sustainability-related legislation is here.

Just a year ago, when we published the first version of this report, we anticipated that a wave of legislation in the Global North was coming. Within a year, several legislations have been adopted or gained momentum in the EU, UK & United States. This has created a heightened need for suppliers in the apparel value chain in the Global South and other manufacturing regions to understand the impact of the upcoming and adopted legislation on their operations. Whether you are new to this report or well-versed with last year's report, we encourage suppliers to engage with the factsheets to establish whether your company is directly within scope or whether the brands and retailers for which you produce are in scope. In either scenario, your company will likely face strong knock-on effects. However, it is important to emphasize that even if your company is only indirectly in scope, you are still likely to be impacted and may even be legally liable through new and strengthened contracts from brands.

This report is commissioned by Crystal International Group Limited, Diamond Fabrics Limited (Sapphire Group), Lenzing Aktiengesellschaft, Pactics Group, Poeticgem Group, Shahi Exports, Simple Approach, Sourcery, with support from Transformers Foundation and GIZ FABRIC Asia.

An overview of updates made to this report



This report includes updated fact sheets for the 12 legislative initiatives covered in the 2023 report and three new factsheets covering legislative initiatives not previously included: the EU Strategy for Sustainable and Circular Textiles (ESSCT), the German Due Diligence in the Supply Chain Act. Some of the updated factsheets underwent major revisions over the last year and have changed quite a bit, whilst others faced more minor changes and a section on looking at “Lessons for fashion: how is the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices”.

Although factsheet 0, the EU Strategy for Sustainable and Circular Textiles, is not a piece of legislation in and of itself, it was included in this report because it is the backbone and driving force behind much of the emerging legislation in the EU. Thus, it is an important overarching document for suppliers to understand and connect legislations and directives.

We decided to include the EU Directive on Unfair Trading Practices in the Agriculture and Food Supply Chain to give suppliers insight into how the agricultural sector, characterized by similarly asymmetrical commercial relationships, is working to improve issues of imbalanced bargaining power between buyers and suppliers.

Please note that this guide is in no way the only guide on all legislation. There may be other legislation or reports that would be relevant for suppliers. Last year, the entities commissioning this report mapped 60 legislative initiatives with potential implications for suppliers and selected 12 legislations to cover. We did a similar exercise this year, reviewing 35 pieces of legislation and voting on three factsheets to add to this version of the report.

Updates to the 2024 Edition

● New factsheets

● Major updates to factsheets

● Minor updates to factsheets

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Lessons for fashion: How the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices

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EU Packaging and Packaging Waste Directive and Provisional Regulation

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EU Ecodesign for Sustainable Products Regulation

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UK Plastic Packaging Tax

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EU Product Environmental Footprint Guide

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EU Textiles Regulation

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EU Taxonomy

Key impacts & recommendations for suppliers

The legislative initiatives covered in the factsheets will likely have far-reaching operational and legal impacts on us apparel suppliers. The suppliers commissioning this report reflected on the potential implications of these legislations based on the factsheets and made some recommendations for fellow and peer suppliers. However, we encourage senior managers to direct their teams to engage with the details of each factsheet. We would also stress that compliance cannot be left to sustainability departments alone and will require joint efforts across departments.

● Trend 1: Responsible purchasing practices & shared responsibility

Key Implications

The EU Corporate Sustainability Due Diligence Directive (CSDDD) introduced requirements for companies to review their purchasing practices, particularly when contracting with small and medium-sized enterprises (SMEs). This aims to ensure that Human Rights & Environmental Due Diligence (HREDD) responsibilities are shared equally between brands and suppliers, thereby preventing brands from outsourcing their HREDD obligations and associated costs to suppliers.

In this way, CSDDD recognizes the ability of contracts to underpin more balanced trading relationships and mandates a shift from a compliance-centered approach— in which compliance efforts and costs are easily shifted from buyers to suppliers— to a risk-based approach where brands' purchasing practices become part of the risk equation.

Reflections & Recommendations

We welcome this renewed focus on purchasing practices in CSDDD and urge all suppliers to be aware that the burden and the risks associated with the legislation cannot and should not be simply passed on to you.

- This shift may allow suppliers to **advocate for more ethical commercial practices**, demand fairer contracts, and push back on brands' unfair expectations to fulfill the CSDDD requirements, which are meant to be a shared responsibility.
- There is power in the **collective voice of suppliers demanding disclosure from brands on their purchasing practices** and inclusion of purchasing practices frameworks within legislations. Here, we encourage **learning from other sectors**—the EU Directive on unfair trading practices in the agri-food supply chain is a good example of what could be done for our industry. We expect to see industry bodies and supplier groups advocating for contracts and codes of conduct to reflect the regulation's expectation of fairness and shared responsibility. Some examples of ongoing initiatives include the Responsible Contracting Project, the Sustainable Terms of Trade Initiative, and The Common Framework for Responsible Purchasing Practices.



● Trend 2: Multiple interpretations and duplication of work for suppliers

Key Implications

We expect this increased burden of work on suppliers due to two factors:

1. Brands may interpret and operationalize new legal requirements differently, leading to suppliers having to comply with multiple, conflicting standards. To protect themselves from legal investigations and penalties, brands have started rolling out more stringent goals, codes of conduct, and contract clauses alongside unannounced audits, on top of ongoing industry assessments, which adds to existing audit fatigue and the cost of business. In addition to this, suppliers are also facing the brunt of multiple standards and programs, such as traceability software and grievance redressal tools.
2. In some cases involving Directives, EU Member States may likely interpret EU requirements differently, leading to suppliers implementing multiple due diligence processes to identify, prevent, remediate, and report on social and environmental impacts.

Reflections & Recommendations

- **Discuss the implications and implementation plans with your customers.** It is important to engage with brands and retailers before they finalize their implementation methodologies, as there is a serious risk of multiple interpretations.
- **Actively begin evaluating your operations and collaborate with brands to assess your value chain for alignment** with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. Aligning with the OECD Due Diligence Guidelines and the UN Guiding Principles may minimize this risk to some extent.
- To address some of the remedy requirements in the regulations, **suppliers can expect brands to request that they adopt third-party grievance mechanisms**, as they may perceive suppliers' existing grievance mechanisms as inadequate. This may also have the unintended consequence of eroding your ability to address problems directly.

- Suppliers have also renewed their calls for greater commonality in audit requirements and modalities, given the need to comply with a common set of regulations. We anticipate **greater efforts on the part of industry bodies representing both buyers and suppliers to identify what this commonality might look like in a bid to address mounting audit costs.**
- Suppliers must continue as a collective to **advocate for harmonization across interpretations by EU Member States.** It gives us hope that, in March 2024, the European Council and the European Parliament reached a political agreement that if the CSDDD is adopted, the German Supply Chain Act will need to be harmonized with the CSDDD.

Trend 3: Increasing reporting requirements and data requests


Key Implications

With the adoption of CSDD, EU Forced Labor Act, and ESPR, suppliers will face increasing data requests, including:

1. Visibility into upstream supply chain partners' practices and full supply chain traceability. In that sense, suppliers shoulder a dual role: a lot of this legislation forces them to look in two directions, downstream towards their clients and upstream towards their (fabric, yarn, and accessory) suppliers.
2. Brands may alter their raw material purchasing behavior and become more involved in textile processing steps to improve their performance or meet sustainability-related performance and information requirements when such criteria are imposed (e.g., through ESPR)

Reflections & Recommendations

Suppliers must build capabilities to cope with these increasing demands and align with the expectations set out in these legislations. You are recommended to:

-  **Map your supply chain and ensure you have documentation for orders** as per UFLPA and EU Forced Labor Act to be prepared for brand requests and potential detentions by Customs Authorities.



- ▶ **Allocate sufficient resources to understand and proactively comply with the Global North's legislative landscape.** Shift internal "compliance" mindsets towards "due diligence" and engage, adapt, and educate legal, HR, sourcing, and other operational functions to share responsibility with sustainability or ESG teams.
- ▶ **Develop stronger data gathering and management capacity,** including improving systems to measure and capture life cycle assessment (LCA) relevant data (e.g., energy and water consumption per produced item, the input of chemicals, etc.). **Digitize where possible** to avoid a massive administrative burden.

● Trend 4: Potential legal implications for suppliers

Key Implications

Through UFLPA, EU Forced Labor Act, and German Supply Chain Due Dilligence Act there may be direct legal implications for suppliers. Further, where suppliers are not legally liable, their customers/brands might seek to create this liability through contractual documents.

Reflections & Recommendations

- ▶ **Suppliers will need competent legal advisors to support them in case of any legal implications.** The German Act, for example, allows NGOs and trade unions to sue on behalf of affected individuals, which could include actions taken against suppliers if they contribute to their client's non-compliance.
- ▶ **As mentioned above, despite all the best efforts on due diligence, there could be an increased risk of detentions by Customs Authorities.** Being prepared to offer all documents as per the UFLPA and EU Forced Labor Act, along with due diligence practices in such cases, would be essential to avoid becoming blacklisted by such authorities. Suppliers should also be prepared to push back on fines and penalties being offloaded by brands onto suppliers in case of detentions as, ultimately, the onus lies on the importer, i.e., the brand.

Call to Action for Legislators

We strongly believe that legislation is required to create a level playing field and force companies across the value chain to make changes. Suppliers also want a just transition (decent work, living wages, and decarbonized economic activity) **but** based on shared responsibility. As legislations gain momentum, we call for enforcement and further development of legislation to be informed by the following:

- 1 Move away from a top-down approach:** Though well-intentioned, much of the legislation we looked at relies on a top-down approach to sustainability, which creates significant hidden work for suppliers who, in most cases, already disproportionately bear the burden of sustainability/due diligence relative to their margins.
- 2 Involve the production experts:** We see value in implementable and equitable legislation but are concerned with the lack of suppliers' voice within legislative development. Involving suppliers could lead to legislation that is better informed, more equitable, and more impactful, with buy-in from the start.
- 3 Problem-shifting:** We fear that much of the legislation covered in these fact sheets will serve to shift legal responsibility from brands to their suppliers rather than spark meaningful collective action and shared responsibility.

How to engage?

Resources permitting, we hope that the factsheets will be updated and expanded as the legislative landscape evolves. If you would like to support this work, are interested in connecting with other suppliers also working on these issues, or have an interest in advocacy, please get in touch with us.

Lastly, this document should not be construed as legal advice or a legal opinion in any way. This document is not intended to create— and receipt of it does not constitute; a lawyer-client relationship. The contents are intended for general informational purposes only, and you are urged to consult your legal counsel concerning any particular situation and any specific legal question you may have.

In addition, many of the legislations covered in this document remain at the early stages of the relevant legislative procedure. The information provided herein has been developed based on the latest draft of the proposed legislation at the time of writing. It is intended that the guidance and recommendations provided in this document will be updated as the legislation develops.

Acknowledgements

Author:

The Remedy Project is a social enterprise that works to improve access to justice and remedy for migrant workers in global supply chains. They work constructively with governments, civil society, law enforcement, and the private sector to translate the UN Guiding Principles on Business and Human Rights into practice. For more information please see www.remedyproject.co.

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FABRIC Asia



Discover Other Factsheets from An Apparel Supplier's Guide 2.0

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