Fall 2023 Stakeholder Engagement Session
Supply Chain Legislation and Strengthening the Import Prohibition

Response:
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Introduction.

This response to the consultation document answers the questions that were posed in the consultation document. The focus on improving the conditions of workers throughout the consultation document is commendable. The goal of mandatory human rights due diligence laws and restrictions on the import and marketing of goods made with forced labour is to protect workers form labour standards violations, especially from forced labour.

For GFLC's position on mandatory human rights due diligence (MHRDD) legislation and the role and composition of a competent authority:

- Temisan Fanou, Jonelle Humphrey and Judy Fudge, *Canada's Legislative Proposals to Eliminate Forced Labour in Supply Chains*, June 27, 2022. www.gflc.ca (Submitted to ESDC)
- Marshall, Shelley, Ingrid Landau, Hila Shamir, Tamar Barkay, Judy Fudge, and Auret van Heerden. 2023. "Mandatory Human Rights Due Diligence: Risks and Opportunities for Workers and Unions". Australia: RMIT Univ Business & Human Rights Centre; TraffLab ERC; Labour, Equality and Human Rights (LEAH) research group, Monash Business School. https://media.business-humanrights.org/media/documents/TraffLabReport_March23.pdf

1. DUE DILIGENCE OBLIGATIONS

1. Should government due diligence legislation (hereinafter referred to has mandatory human rights due diligence - mhrrd) include an obligation for entities to undertake all six of the steps identified in Figure 1? How prescriptive should government legislation be in this regard?

All six steps should be covered, and the government needs to be prescriptive in mhrrd legislation. Each of the six steps should be briefly set out, with detail in regulations and guidance for specific types of entity and sector.
The due diligence obligations are aligned to international standards (UN Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises (OECD Guidelines)). However,
the German Supply Chain Due Diligence Act and the European Commission's proposal for an EU Directive on Corporate Sustainability Due Diligence also require the establishment of a grievance procedure, which should be included as a distinct due diligence obligation.

The seventh step would require the entity to establish a grievance procedure for workers, workers representatives, and other organisations representative of workers who consider that they have grounds for concerns regarding potential or actual adverse labour rights impacts of the undertaking's own activities, the activities of their subsidiaries, their supply chains and business relationships may submit concerns and have these addressed.

Step 1: Responsible business conduct should be embedded into policies and management systems.
Due diligence measures should address business and purchasing practices to ensure that engagement with suppliers and contractors does not contribute to labour rights harms and incentivizes and enables suppliers and contractors to respect labour rights.

Step 2 Identifying and assessing impacts in operations, supply chains and business relationships.
This step should include actual or potential impacts.
Consultation with stakeholders at this stage is critical.

Step 3 cease, prevent or mitigate adverse impacts.
This step should also include making necessary investments, such as into management, contracting or production processes and infrastructures, and relationships including incentives to suppliers and contractors to respect labour rights.

Step 4 track implementation and results
This step should be part of the reporting obligation. Documents should be helped, and reference to this information should be made in report.

Step 5 communicate how impacts are addressed
This communication should be documented and retained, and a gist included in the report.

Step 6 provide for/or and cooperate in remediation when appropriate.
Instead of simply remediation, the wording should state 'effective' remediation. Remediation should include providing remedies (compensation) to right holders (including workers).

2 What are some of the challenges that regulated entities may face in meeting their due diligence obligations?
It is critical to ensure that regulated entities know their supply chains beyond first and second tier contractors. The typical practice for regulated entities is simply to covered their first-tier suppliers and then delegate all obligations to them.

3. In your view, what are the key considerations involved with undertaking due diligence in the upstream and downstream portions of the supply chain/value chain?
In the labour law literature global supply chains is not simply used for upstream and global value chains to include up and downstream. The obligations should apply to upstream and downstream activities. Both are covered under the UNGPS (see GP 13, Commentary and https://www.ohchr.org/sites/default/files/documents/issues/business/2022-09-13/mandating-downstream-hrdd.pdf).

4. Do you think that regulated entities should be required to engage with stakeholders when undertaking their due diligence exercise? If so, how often and via what mechanisms?
Missing from the list of stakeholders are workers.
It is critical that any mhrrd legislation engage regularly and in an accessible manner with workers, workers' organisations, and other organisations representative of workers, and other

stakeholders regarding each of the due diligence requirements set forth in the legislation. This consultation is critical for collecting information, setting priorities, establishing accountability, and cultivating legitimacy.

5. What kind of tools or support measures would be helpful for regulated entities and/or affected parties in implementing/supporting the effectiveness of due diligence legislation? Are you aware of resources/best practices that currently exist that can be promoted or shared with others to support entities in complying with due diligence obligations?

OECD Guidelines for multinational enterpriseshttps://www.oecd.org/corporate/mne/
For specific sectors: Agricultural supply chains; Extractive sector stakeholder engagement Financial sector due diligence; Mineral supply chains; and Textile and garment supply chains

6. Given that principles of due diligence outline that disengaging from a business relationship may potentially lead to negative adverse impacts, should legislation prescribe a hierarchy of steps that should be attempted before disengagement? Alternatively, is this better suited for guidance material?

The legislation should set up the hierarchy of steps for addressing adverse impact, but the detail should be left to the guidance or to regulations. Risk mitigation efforts should be the first step and that regulated entities may be required to spend some money in order to do this. Disengagement should be the last step except in narrow circumstances (e.g., state-based forced labour, aggravating circumstances such as violence).

7. In your view, how much flexibility should there be in legislation to enable entities to prioritize action based on the severity of the risks or adverse impacts they have identified? Should details (i.e., the "how") be regulated?

Consultation with stakeholders and existing research will assist.

8. **How do you think risks and areas for intervention should be prioritized**?

Here stakeholder engagement is central to determining risks and areas.

9. What role, if any, should the Government play in supporting regulated entities to ensure that proper remediation is taking place when adverse impacts have been identified?

The competent authority should assess after consulting with stakeholders. A complaint mechanism should be considered to prod the competent authority to conduct a preliminary investigation, which would be covered by due process principle.

10. Should entities captured by due diligence legislation be required to publicly report on an annual basis? If so:

a. What information should be contained in those reports?

A mapping of supply chain, not ending simply at tier-one suppliers, a description of the due diligence steps, a description of the mechanisms and procedures for identifying and consulting

stakeholders and any consultations with stakeholders, grievance procedures and grievances, remediation efforts.

It is imperative that the reports contain similar information, presented in a comparable manner, and that they are updated regularly.

b. Should entities be encouraged to publish social auditing or certification reports (or attest to such processes having been undertaken) as part of their reporting obligation under due diligence legislation?

Social auditing and certification are not sufficient for meeting due diligence requirements. A 2021 analysis of more than 40,000 social audit reports across multiple countries by Sarosh Kuruvilla, a professor at Cornell University, found that almost a third of audits were falsified, with data about working hours and pay either partly or entirely falsified. (Sarosh Kuruvilla. 2021. *Private Regulation of Labor in Global Supply Chains: Problems, Progress and Prospects*. Ithaca: Cornell University Press, 2021).

However, if companies rely on social auditing and certification to fulfill their due diligence obligations , they should be required to disclose the reports as part of their reporting obligation.

It is important that is any regulated entities that rely on third parties to undertake any of the due diligence obligations that the duty to prevent is non-delegable and remains with the undertaking who relied on the third party.

c. Should the Government be responsible for hosting a platform to publish all reports? Or should the obligation be put on each entity to publish its annual report online?

The competent authority should host a platform to publish the reports.

11. In your view, what kind of flexibilities could be provided for entities that may be required to file/post annual reports under multiple due diligence and/or transparency regimes in different countries?

If the Canadian regulation is as good as or better than the EU directive then meeting the Canadian standard would mean that entities regulated in Canada would meet the requirements in other legislation.

2. REGULATED ENTITIES

12. In your view, should there be minimum thresholds set out in the legislation regarding employee count and/or annual revenue? If so, do you have recommendations on what they should be?

Follow S. 211: (i) it has at least $20 million in assets, (ii) it has generated at least $40 million in revenue, and (iii) it employs an average of at least 250 employees.
These firms should file reports following a template that requires specific kinds of information.
The coverage of the two acts should cover the same entities.

13. If it is deemed appropriate that legislation extend beyond large enterprises to capture small and/or medium-size enterprises, should there be flexibilities provided to them in meeting their obligations? If so, what could those be? Or in what other circumstances, sectors or products might exemptions be important to consider?

Due diligence shall be proportionate to the size of the undertaking, the nature and context of its activities, as well as to the nature of its involvement with an adverse impact and the severity and likelihood of the actual or potential harm. Expand the coverage of the legislation in different stages. Start with large business, which will be covered by laws in other jurisdictions, and then expand out.

3. STRENGTHENING THE IMPORT PROHIBITION

The consultation document's concern about the potential risks to workers of forced labour bans is significant. The challenge is how to design an import or marketing ban on goods made with forced labour that reinforces MHRDD and protects workers.

At present, only the United States (U.S.), Mexico, and Canada have forced labour import bans in place, although Australia has proposed to introduce ban on the import of goods made with forced labour through an amendment to its Customs Act. The European Union has also proposed a regulation that would ban the import, sale, and export of products within the EU of goods made with forced labour. The U.S. ban, which is implemented primarily through section 307 of the Tariff Act (1930), is enforced by Customs and Border Protection (CBP). CBP is authorized to prevent goods from entering the U.S. based on a reasonable suspicion of forced labour (Withhold Release Order (WRO)), while allowing importers to provide evidence to overcome the suspicion. Until 2016, when the "consumptive" demand clause was repealed, import bans were rarely used. Since then, there has been a big increase in CBP enforcement activity; in the 2021 fiscal year, CBP detained "1,469 shipments of goods suspected of being made using forced labour, the total value of equalling $500 million" (Syam and Roggensack, 2023).

It is important to recognize that MHRDD laws and import bans modeled on the US ban target different actors. MHRDD laws apply to resident multinational corporations, whereas import bans are directed at "foreign" suppliers or domestic importers and impose different duties (resident multinational firms must implement a due diligence process, whereas the foreign supplier/domestic importer must meet a substantive standard). These differences are important because it is possible for a brand or buyer to minimise the potential problem that import bans could pose to its supply chain by diversifying and increasing its suppliers, which would have the effect of undermining MHRDD since such laws are more effective when the supply chain is less complex, and the number of suppliers is limited. It is also possible for a supplier to circumvent an import ban in one country by importing goods produced with forced labour to another country where there is no ban (Ryngaert 2020; Pietropaoli et al. 2021). protection for workers depends on the design of the import ban.

To reduce these risks, import bans should be carefully designed and governments should conduct impact-based assessments (including consultations with affected stakeholders) prior to their imposition (Anti-Slavery International 2021). They should also be accompanied by efforts that push companies to make changes that benefit workers (Budney 2021), and restrictions should only be sustained "as long as more cooperative measures are not feasible" (Nissen 2022, 378).

US Mechanisms
1. Tariff Act, s. 307
i) Enforcement of Section 307 can be self-initiated by Customs and Border Prevention (CBP), or outside parties can petition CBP for an investigation

ii) Customs and Border Prevention evaluation
If the Commissioner of CBP finds at any time that information available reasonably but not conclusively indicates that merchandise that violates Section 307's prohibition on forced labor is being, or is likely to be, imported into the United States, then he/she may issue a withhold release order (WRO). The low evidentiary thresh-hold makes this remedy quite accessible. Organizations filing petitions need only show that the evidence at hand is sufficient for a reasonable person to conclude that there is forced labor in the production of the goods in question. Petitioners need not present comprehensive evidence that proves the use of forced labor. This is a standard lower than 'credible evidence' or 'probable cause'.

iii) If CBP finds that the information available "reasonably but not conclusively" indicates that the merchandise has been produced with forced labor, they issue a WRO to detain the goods at port pending further investigation.

Once issued, a WRO is published on CBP's website. During its investigations, CBP may share information with Immigration and Customs Enforcement (ICE). ICE can also initiate investigations and pursue criminal charges against corporations and corporate officials importing goods produced with forced labor under 18 U.S.C. § 1589 and 18 U.S.C. § 1761. While the evidence threshold is higher for criminal charges, they can result in a sentence of 20 years in prison, which could be a powerful incentive for companies to take steps to ensure due diligence to combat forced labor in their supply chain.

iv) Importers of goods detained have ninety days after the WRO is issued to petition CBP for the release of the goods. An importer has two options: re-export the goods to a third country or provide "satisfactory evidence" to CBP that the goods in question were not produced with forced labor.

While the goods are detained, CBP may continue the investigation. If CBP finds sufficient evidence to meet the higher threshold of probable cause that the imported goods are made with forced labor, then it can issue a finding and is mandated to publish it in the Federal Register.

CBP is not obliged to consult the workers who are alleged to have been subject to forced labour before issuing a ban; it can act on anonymous tips or stale evidence in the public domain so long as the evidence could lead to a reasonable suspicion that goods coming into the U.S. were made

using forced labour. Once the low evidentiary standard of reasonable suspicion is established, the burden then shifts to the importer to show either that forced labour was not used to produce the goods or, if it was, that the conditions giving rise to forced labour have been remediated. Nor does the U.S. law offer any guidance as to what CBP requires to modify an import ban.

Moreover, there is nothing in the law that requires that provisions be made to protect workers or remediate impacts they might experience because of the WRO. The design of the U.S. import ban on goods made with forced labour and the CBP's enforcement practices reflect the purpose of the ban, which is to protect the U.S. internal market, and the CBP's mandate, which is to fortify U.S. borders.

2. Uyghur Forced Labour Protection Act

The UFLPA was enacted on December 23, 2021, with a June 21, 2022 effective date for a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in Xinjiang or by an entity on the UFLPA Entity List are prohibited from U.S. It makes two changes to s.307: it covers an entire region, Xinjang, and imposes a rebuttable presumption on imports coming from that region.

CBP leads the implementation of the rebuttable presumption under the UFLPA. Forced Labor Enforcement Task Force, or the FLETF, is a DHS-led Task Force of interagency partners that are dedicated to monitoring the enforcement of the prohibition on importing goods made wholly or in part with forced labor into the United States. The FLETF strategy includes the UFLPA Entity List, Importer Guidance, and other information.

Companies that import goods from China's Xinjiang region to provide "clear and convincing evidence" that no component was produced with slave labor.

Since the UFLPA went into effect through May 29, 2023, CBP has stopped more than 4,000 shipments of goods valued at over $1.3 billion for enforcement action review. The most recent publicly available statistics on UFLPA enforcement can be found at CBP.gov.

Most CBP enforcement actions have targeted a small number of companies, goods, and global regions. CBP typically targets individual producers: 34 of the 39 WROs issued since 2016 target specific business entities, many of which account for an extremely small share of imports. For example, five WROs target individual commercial fishing vessels, while a sixth targets a company that operates only thirty-three ships and trades mostly with Japan. But there are more than 60,000 commercial fishing vessels globally, and a study of roughly 16,000 vessels found that up to 26% were considered high-risk for employing forced labor. Some WROs, such as those against palm oil produced by Sime Darby and FGV in Malaysia, target large companies; however, the vast majority of WROs are issued against smaller businesses without significant market share. (see Higgins 2023, 952-955)

CBP enforcement has narrowly focused on a small set of goods and regions. Nearly two-thirds of all active WROs—and 17 of the 39 WROs issued since 2016—target Chinese entities. Of the 39

WROs issued since 2016, 12 target companies operating in a single province, the Xinjiang Uyghur Autonomous Region of China (Xinjiang).

Increasingly, CBP is recognizing that industry and regionally based WROS are an effective strategy. Since mid-2018, the agency has issued five WROs targeting an entire industry or industries in a given region rather than specific, named businesses. It has ordered the withholding of all artisanal rough cut diamonds from the Marange Diamond Fields of Zimbabwe (one of the largest diamond-producing regions in the world), all products containing cotton from Turkmenistan, all products containing tobacco from Malawi, all gold from artisanal small mines in the DRC, and all products containing cotton or tomatoes from Xinjiang.

An alternative approach proposed by Higgins (2023) would require an ex ante showing of compliance with section 307 in order to import goods into the United States. Importers would be required to make an affirmative showing that their goods are untainted at the outset, rather than after the issuance of a WRO. Such a rule could be narrowly applied to a subset of high-risk goods—like those on the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor*, or a subset thereof—and could dramatically limit the amount of tainted, poorly-traced products that enter the country. It would also induce companies to better understand their own supply chains and take a more proactive approach to forced labor. Under this regime, certain high-risk goods would be presumptively ineligible for entry until importers could satisfactorily convince CBP that their products were untainted.

2. EU commission proposal on Draft EU Regulation to introduce product bans for CSDDD violations in form of forced labour https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52022PC0453

The Proposed Regulation adopts a 'non-discriminatory' approach, covering all products (including components) for which forced labour has been used in whole or in part, at any stage of the product's extraction, harvest, production, or manufacture. The prohibition will apply regardless of whether the goods are produced in the EU for domestic consumption or export, as well as to imported goods. It does not purport to target specific countries, companies, or industries.

To enforce the new rules, the proposal gives National Competent Authorities (NCA**)** at Member State level powers to investigate and punish, using applicable Member State law, companies that violate the prohibition. The burden of proof to establish that forced labour has been used at any stage of the supply chain prior to the placement of the products on the market will lie with these NCAs.

Investigations carried out by NCAs will be split into two stages. At the preliminary phase, NCAs must follow a risk-based approach and determine whether there is a '*substantiated concern*' of a violation of the prohibition. This assessment should be based on all relevant information available to them, including information requested from other relevant authorities and a database of forced labour risk areas or products maintained by the Commission (which will be built from

reports from e.g. the International Labour Organization, civil society, and business organisations).

NCAs should request from the economic operators information on actions they have taken to identify, prevent, mitigate, or bring to an end risks of forced labour in their operations and value chains, with respect to the products concerned. NCAs must not initiate an investigation where they consider, on the basis of their initial assessment (including the information submitted by the economic operators) that there is no substantiated concern of a violation. In their assessment, NCAs should focus on economic operators involved in the steps of the value chain as close as possible to where the risk of forced labour is likely to occur and take into account the size and economic resources of the economic operators, the quantity of products concerned, as well as the scale of suspected forced labour.

If, within 30 working days following receipt of the information from the economic operators, the NCAs find that there is a '*substantiated concern*' of forced labour, they may progress to the full investigatory phase. During this phase, the economic operators concerned must submit to the NCAs any information that is '*relevant and necessary*' for the investigations, including information identifying the relevant products, the manufacturer or producer and the suppliers. As part of these investigations, NCAs will be empowered to request information from companies and carry out checks and inspections, including in countries outside the EU.

NCAs must then relay their findings to the customs authorities of the Member State, which are empowered to block the circulation of the relevant goods. If the NCAs determine that forced labour was used to make the products in question, the relevant goods must be withdrawn from the EU market by the relevant companies, and subsequently disposed of.

In the event of non-compliance, relevant companies will face '*effective, proportionate and dissuasive*' penalties under national law. Member State cooperation lies at the heart of the proposal, with NCA investigations to be assisted by a new EU Forced Labour Product Network to facilitate data sharing across the Union. Furthermore, conclusions reached on products by an NCA in one Member State will be recognised and enforced by the NCAs of the other Member States.

14. What are your perspectives on the various options/approaches described above?
The US s. 307 mechanism has not effectively protected workers.

15. In the scenario where the development of a list of goods at-risk is pursued, do you have advice on how the government might determine which goods should be considered at-risk and/or high risk?
Depends on whether the list is composed to establish a about a rebuttable presumption (like the US Uyghurs Forced Labour Protection Ac)t or based on submission with an evidentiary threshold to be met or whether the list refers to both scenarios.
There needs to be a transparent list, with notice to the importer, and an opportunity to be heard. If there is probable cause (a weak threshold) , then the competent authority should have an investigation.

16. How specific should the list be in identifying goods and/or geographic locations (keeping in mind other obligations the government may have in respect of privacy, confidential business information, etc.)?
If there is a rebuttable presumption that a good is made with forced labour, it should only apply to exceptional cases (typically involving state-sponsored forced labour) and it should be imposed for a region. It is important to distinguish between state-imposed forced labour and forced labour in the private sector.

17. Who would you suggest be involved in providing information to inform development and maintenance of the list?
There should be a competent authority that it involved in maintaining a list. Competent authorities should be competent in assessing forced labour and remediation efforts (including remedies for workers who were forced to labour). This is a shortcoming of the US, where the CBP enforces the ban on forced labour. The CBP has no labour training; it is a border-protection service. The new process of having stakeholder tables that meet regulatory with CBP is a good first step to remedying this shortcoming.

18. There are other regimes where costs of removal/disposition of prohibited goods are borne by the importer and/or shared. What are your views on whether the importer should be expected to pay for the costs of removal, abandonment or forfeiture including storage, disposal, and transport after goods are found to be non-compliant with import requirements?
If an importer is governed by Canadian MHRDD legislation and they import goods they should bear the costs.

19 What information should importers be required to provide to demonstrate due diligence measures and/or to rebut the presumption that their goods are made with forced labour?
There should be remediation of forced labour indicators and remedies for workers who suffered forced labour. Regulated entities should have to show the due diligence remediates in both senses (the risk of forced labour and the harm to the workers).

Due diligence per se should not be treated as a safe harbour.

20. What are your perspectives on provision of such information in advance of goods arriving to help determine eligibility for market entry and reduce challenges associated with determinations made at the border?

Advance information is a good mechanism and could be combined with advance rulings. However, it is important that the advance ruling /information not be based solely on due diligence plans or social audits. The onus should be on the importer to demonstrate that mechanisms are in place at all workplaces to raise grievances regarding forced labour and freedom of association and that there is no retaliation for workers who do so.

The company should provide due diligence steps taken; audits; certification; interviews with workers; worker-driven social responsibility initiatives; industry awareness of risks in supply chains.

20. What information sources or tools do you/your industry/sector rely upon when conducting supply chain due diligence, or when requesting due diligence from suppliers?
My group consults academic research, multi-stakeholder initiatives (such as Workers Rights Consortium; Ethical Trading Initiative); International Labour Organization; International Trade Union Confederation. We also consult with labour stakeholders in the Global North and Global South (Global Labour Justice- International Labor Rights Foundation; International Solidarity Network; Asia Floor Wage Alliance; International Lawyers Assisting Workers Network (ILAW Network).

21. Do players within your sector attempt to verify the claims made by suppliers through other sources of information? If so, how are these other sources identified/selected?
For specific cases (for example the Dindigul agreement), we have consulted with representative of the supplier's workers.

22. How would you recommend addressing concerns about potential unintended harms on vulnerable communities from an import prohibition, such as the risk of driving vulnerable populations into even more hazardous work?
It is imperative to build a concern for protecting workers r into the complaint and investigation stages. It is also important to require remediation to include the remediation of forced labour indicators and remediation for the workers who suffered from forced labour.

Anonymous complaints and stale evidence is a real problem. There are clear examples of where WROs have harmed workers. I have outlined one case below.

The Dindigul Agreement between Eastman Exports Ltd., Tamil Nadu Textile and Common Workers Union, and three major garment brands came into force in June 2022. The Agreement came about following the Justice for Jeyasre campaign, which sought accountability for Jeyasre Kathiravel, a Dalit woman garment worker at Eastman's Dindigul facility and member of the TTCU, who was murdered by her factory supervisor in January 2021 following months of sexual harassment. The Worker Rights Consortium (WRC) was invited to do an investigation of the Natchi Apparel factory (owned by Eastman Exports), which found "numerous practices and forms of conduct that existed at the Natchi factory in the months and years prior to the WRC's investigation that violated Indian law, international labour standards, and/or vendor codes of conduct, regarding gender-based violence and harassment, other forms of abusive treatment, and interference with freedom of association" (WRC 2022, 5). The investigation report was provided to stakeholders in draft but was not published immediately to allow for ongoing negotiation between the TTCU, regional and global ally organisations Asia Floor Wage Alliance (AFWA) and Global Labor Justice-International Labor Rights Forum (GLJ-ILRF) towards a binding agreement to address the problems in the factory.

In April 2022, Eastman, TTCU, AFWA, GLJ-ILRF and H&M Group announced the Dindigul Agreement to Eliminate Gender-Based Violence and Harassment consisting of four separate legal agreements. This agreement has made great strides in ending gender-based violence and harassment and in protecting workers' freedom of association.

On 29 July 2022, less than two months after the Dindigul Agreement was implemented, the CBP issued a WRO against a shipment of goods from Natchi Apparel allegedly made with forced labour. Although the WRC investigative report found a pattern of serious labour rights violations and abuses at Natchi Apparel, including conduct that constitute the ILO's indicators of forced labour, the WRO was issued 11 months after that report was completed. Moreover, the WRO was issued even though the labour stakeholders had begun to negotiate a full remediation plan, which ultimately took the form of the Dindigul Agreement. In response to the WRO, which threatened to undermine the Agreement by preventing goods made by Natchi Apparel from being imported into the U.S. and potentially turning the brands against the supplier, the GLJ-ILRF requested CBP to modify the WRO, claiming that the policies and practices that had resulted in indicators of forced labour had been remediated. To support its request, the GLJ-ILRF provided a trove of evidence gathered by the AFWA and TTCU, including photographs, receipts, letters, meeting minutes, organizational logs, and attendance and entry logs generated by parties to the Dindigul Agreement during the Agreement's negotiation and implementation.

Based on this evidence, CBP modified the WRO on 7 September 2022, removing Natchi Apparel from its list of manufacturers banned from importing goods into the U.S. for evidence showing forced labour indicators. According to CBP, the modification represented "a swift and successful collaboration between civil society and worker rights organizations, Natchi Apparel (P) Ltd. and its parent company Eastman Exports, and CBPs" (US CBP 2022). The United States government also recognised the concrete gains for workers delivered by the Dindigul Agreement; Secretary of Homeland Security Alejandro N. Mayorkas stated: "This modification not only reflects the critical role of CBP, but it is also a testament to the important advancements made by trade unions, worker rights organizations, and workers themselves who are bravely organizing to improve their working conditions" (Ibid.).

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