

Key Lessons From The First Reporting Year Under Canada's Mandatory Supply Chain Reporting Regime



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On January 1, 2024, the [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#) (the “**Act**”) came into force in Canada, under which certain government institutions and a wide array of private sector entities are required to submit an annual report detailing their efforts to prevent and reduce risks of forced labour or child labour in their respective business activities and supply chains in their most recently completed financial year.¹

On October 23, 2024, the Minister of Public Safety (the “**Minister**”) prepared and submitted a [report to Parliament](#) (the “**Parliamentary Report**”) that set out its quantitative and qualitative analysis of the annual reports submitted by May 31, 2024, being the first reporting deadline since the implementation of the Act (the “**2024 Deadline**”). Furthermore, on November 15, 2024, Public Safety Canada² published certain updates made to its online guidance regarding the interpretation and implementation of the Act (the “**Guidance**”).

This article summarizes the most recent updates made to the Guidance and the findings from the Parliamentary Report, and

further sets out certain matters for reporting private sector entities to consider when preparing and submitting their annual reports by the next reporting deadline of May 31, 2025 (the **"2025 Deadline"**).

Updates to Guidance on Forced Labour Reporting

Public Safety Canada noted that the most recent updates made to the Guidance are intended to clarify the reporting obligations under the Act and improve the submission process for subsequent annual reports. These updates are summarized below:

1. **Meaning of "Having Assets in Canada"**: The Act notes that private sector entities that have assets in Canada may be required to prepare and submit an annual report. The Guidance previously noted that "assets" constitute tangible and intangible property. However, the Guidance now notes that having assets in Canada refers solely to any tangible property in Canada owned by a person or business and should not include intangibles such as intellectual property, securities and goodwill. Accordingly, for example, private sector entities that own shares in a Canadian company (i.e., have a Canadian "subsidiary") and no other property in Canada (e.g., land, equipment, real property, etc.) will not be required to submit an annual report in 2025.
2. **Clarifications Regarding "Selling or Distributing Goods"**: The Act stipulates that private sector entities may be required to prepare and submit an annual report if they engage in certain business activities, one of which is the production, sale or distribution of goods in Canada or elsewhere. Notwithstanding that the wording of the Act has not changed, the Guidance now notes that only private sector entities that are directly involved in the production of goods in Canada or elsewhere will

be required to report under the Act. Specifically, private sector entities solely involved in distributing and selling are not expected to report under the Act. Therefore, transportation companies, for example, that are only involved in the sale and distribution of goods, and do not engage in any other of the applicable business activities specified under the Act, will not be required to submit an annual report in 2025.

3. **Meaning of “Importing Goods Into Canada”:** The Guidance previously stated that entities would be considered to be importing goods if they were considered an importer for the purposes of the *Customs Act*. However, the Guidance was most recently updated to note that an entity would be considered to be importing goods if it was directly involved in the importation of goods and specifically caused the goods to be brought into Canada by accounting for or paying the duties on the goods being imported. The Guidance also now confirms that customs brokers, express couriers, trade consultants and other third parties authorized to transact business on behalf of the importer, or to account for goods in lieu of the importer, will generally not be considered importers for purposes of the Act. The Guidance now clarifies that purchasing goods produced outside Canada from a third party, where that third party is considered to be the importer, does not count as importing goods for purposes of the Act. As a result, any such businesses now excluded explicitly from the ambit of “importing goods” under the Guidance will not be required to submit an annual report in 2025.
4. **Meaning of “Control”:** The Act provides that an entity may be directly engaged in producing goods in Canada or elsewhere, or importing goods produced outside of Canada, or it may control, directly or indirectly, another entity that engages in these activities. The Guidance previously stipulated that control should be understood to include joint control. The Guidance now

also specifies that accounting standards (e.g., International Financial Reporting Standards, Generally Accepted Accounting Principles, etc.) may be used for the basis of determining control. An entity may also consider the [guidance published by the Office of the Superintendent of Financial Institutions](#) when determining whether it controls another entity. Furthermore, the Guidance provides that in the case of franchises, a franchisor's reporting obligations under the Act depend on whether it controls, in a corporate sense, any entities that produce goods in Canada or elsewhere, or that import goods into Canada.

5. **What Is Considered a "Good":** The Guidance previously stated that "goods" as referred to in the Act should be construed in the ordinary sense of the word and refer to goods that are the subject of trade and commerce. The Guidance now stipulates that "goods" include only physical tangible property that is the subject of trade and commerce, understood in the ordinary sense of the word. It does not include real property, software services, electricity and insurance plans. Any such businesses that are engaged solely in such activities will not be required to submit an annual report in 2025.
6. **Submitting a Report Prepared to Satisfy Other Reporting Obligations:** Public Safety Canada previously stated that the requirement to report under the Act was a standalone obligation, and the submission of reports prepared pursuant to other supply chain legislation in international jurisdictions (e.g., the United Kingdom's *Modern Slavery Act 2015*, Australia's *Modern Slavery Act 2018*, etc.) could not be relied upon to satisfy the requirements of the Act. Public Safety Canada has since clarified that reports prepared pursuant to international supply chain legislation may be submitted to satisfy the reporting requirements under the Act, so long as all reporting requirements of the Act are included and the report covers the appropriate

reporting period dictated by the Act. Public Safety Canada further notes that it is the reporting entity's responsibility to ensure that the report submitted to the Minister meets all the requirements of the Act.

7. **Purpose of the Online Questionnaire:** The updated Guidance now states that the online questionnaire may be used as a resource by reporting private sector entities when developing their annual reports as, for example, it contains examples of measures that can be implemented by private sector entities. However, while neither the Act nor the Guidance set down any substantive requirements on reporting private sector entities to implement any specific measures, the Guidance stipulates that reporting private sector entities may include more detailed information and supplementary content (e.g., charts, graphs, etc.) that go beyond the basic reporting requirements, at their discretion. The Guidance also notes that certain aspects of the online questionnaire may limit an entity's ability to elaborate on complex information or provide nuance in their responses and, as such, providing further clarification and detail on its practices in the annual report is encouraged.

2024 Annual Report to Parliament: Key Takeaways

As at the 2024 Deadline, Public Safety Canada received a total of 5,795 annual reports, 97.5% of which were received from private sector entities and 2.5% of which were received from government institutions. Public Safety Canada noted that it continues to receive a number of late-filed annual reports past the 2024 Deadline. While Public Safety Canada permitted annual report filings past the 2024 Deadline in order to encourage transparency (albeit while internally identifying which annual reports were late-filed), only the annual reports filed by the 2024 Deadline were considered in the Parliamentary Report.

The key takeaways from the Parliamentary Report are as follows:

1. **Breakdown of Private Sector Entities:** Of the 5,650 annual reports submitted by private sector entities, 81.95% were received from entities headquartered or principally located in Canada. The top three industries from which annual reports were received were manufacturing (38.3%), wholesale trade (22.3%) and retail trade (21.8%).
2. **Breakdown of Government Institutions:** 36.2% of the 145 annual reports submitted by government institutions were submitted on behalf of federal Crown corporations or subsidiaries.
3. **Summary of Supply Chain Mapping Activities:** 39.4% of private sector entities had started the process of identifying risks but noted that there were still gaps in their assessments, and 38.2% had identified the parts of their activities and supply chains that carry a risk of forced labour or child labour being used. The private sector entities that identified such risks noted that they were related to the raw materials or commodities used in the entity's supply chains, its direct suppliers, the types of products sourced by the entity and the sectors or industries they operate in (specifically related to the procurement of electronics, property management services, food industry services and textiles) and the location of their activities, operations or factories. Some private sector entities noted that there were unknown levels of risk in their supply chains due to a lack of visibility into the practices of indirect suppliers and subcontractors, and other private sector entities acknowledged that risks of forced labour and child labour are higher when temporary or migrant workers are employed. A total of 44.8% of government institutions indicated that they had not started the process of identifying risks that forced

labour or child labour is used in their activities or supply chains, but those that did identified risks related to the types of products sourced, the raw materials used in the government institution's supply chains, the institution's direct suppliers (and their respective suppliers and subcontractors) and the sector or industry it operates in.

4. Summary of Efforts to Assess and Manage Risks of Forced Labour and Child Labour:

1. The most common strategy implemented by private sector entities was regular screening (e.g., through software programs), auditing and monitoring. Other strategies included: requiring suppliers, vendors and/or partners to fill out self-assessment questionnaires; implementing a mandatory code of conduct for suppliers, vendors and/or partners; having specific hiring practices intended to reduce forced labour and child labour risks, including screening for age and other vulnerabilities; having processes in place to allow for issues to be raised anonymously and without repercussion (e.g., through hotlines); implementing remedial action plans if cases of forced labour or child labour were identified; and utilizing working groups, committees, stakeholder engagements and engagements with unions as vehicles to address forced labour and child labour issues. Conversely, the most common strategy implemented by government institutions to mitigate risks of forced labour and child labour was implementing a mandatory supplier code of conduct. Many other government institutions opted to increase awareness of risks of forced labour and child labour through discussions at senior management meetings and implementing Public Services and Procurement Canada anti-forced labour and/or child labour contractual clauses.

2. 71.3% of private sector entities reported having policies and due diligence processes related to forced labour and/or child labour in place, with most such private sector entities being in the manufacturing sector (followed by wholesale trade and retail trade). A total of 44.4% of private sector entities indicated that they provide training to their employees on forced labour and/or child labour, most of whom operated in the manufacturing sector. While a substantial portion of government institutions reported having policies and due diligence processes in place related to forced labour and/or child labour, most government institutions (82.1%) indicated that they did not currently provide training on forced labour and/or child labour (although those government institutions that did training did so on a mandatory basis for employees in respect of contracting or purchasing decisions).
3. 43.5% of private sector entities confirmed they had implemented such policies and procedures, and were monitoring key performance indicators such as: the number of cases of forced labour and/or child labour reported and solved; the number of contracts with anti-forced labour and anti-child labour clauses; the number of employees taking relevant training; the age and number of hours worked per employee; and the number of suppliers, vendors and/or partners that have signed a code of conduct. Most government institutions (86.2%) did not have policies and procedures in place to assess their effectiveness in ensuring that forced labour and child labour are not being used in their activities and supply chains.

5. Summary of Remediation and Rectification Measures: Most government institutions (75.9%) and most private sector entities (87.5%) indicated that they were not required

to remediate instances of forced labour or child labour. Likewise, most government institutions (77.2%) and most private sector entities (91%) indicated that they were not required to remediate the loss of income to the most vulnerable families resulting from any measure taken to eliminate the use of forced labour or child labour. The private sector entities that were required to take rectification measures indicated that they implemented workforce reintegration, psychosocial support, prevention mechanisms, grievance mechanisms, formal apologies and other measures (such as reimbursing workers for recruitment fees taken by employment agencies, encouraging suppliers to continue monitoring and developing a supplier code of conduct signed by suppliers). Some private sector entities provided examples of issues that created risks and the need for remedial action, including poor working conditions, suspected use of prison labour, government-issued identification being taken from workers by their employers, high recruitment fees and workers not being fully informed of their rights before entering the country.

6. **Penalties for Non-Compliance:** Public Safety Canada noted that its priority in the first year of the Act's implementation was to increase awareness and transparency about the risks of forced labour and child labour, and encourage meaningful action among reporting private sector entities. As such, no corrective orders were made and no charges were laid against any non-compliant persons or private sector entities.³ Public Safety Canada did not discuss what its priorities would be in the second year of the Act's implementation and, more specifically, whether it would once again refrain from imposing penalties on non-compliant persons or private sector entities. Accordingly, it should not be assumed that penalties for any of the offences specified

under the Act would not be imposed on non-compliant persons or reporting private sector entities in future years.

- 7. Non-Publication of Non-Compliant Annual Reports:** Annual reports that did not contain information that was relevant to the Act or the reporting requirements therein, or did not include the proper attestation from the entity's board of directors, were not published in Public Safety Canada's [online catalogue](#). We can therefore surmise that annual reports submitted by organizations that are now explicitly excluded from the updated Guidance were not published in the online catalogue. Furthermore, notwithstanding that no penalties were imposed for non-compliant annual reports submitted in 2024, it was not confirmed whether the deficiencies flagged by Public Safety Canada were being communicated to the applicable reporting private sector entities whose annual reports were not published.

Takeaways for the 2025 Reporting Cycle

In light of the key takeaways from the Parliamentary Report and the updates made to the Guidance, there are certain proactive steps that private sector entities who are required to report can take to ensure compliance with the Act in 2025 and beyond:

- 1. Re-Evaluating Reporting Obligations:** The updates made to the Guidance clarifying which private sector entities are required to report may mean that an entity's analysis of its reporting obligations may change. Our experience in assisting clients with their first annual reports indicated that the analysis as to whether or not an entity was required to report under the Act was lengthy and, at times, complex. Therefore, we recommend that any analysis of an organization's reporting obligations under the Act commence well in advance of

the 2025 Deadline.

2. **Starting Early:** As indicated above, the Minister remains broadly empowered to impose penalties for non-compliance with the Act, regardless of the fact that no penalties have yet been imposed on non-compliant reporting private sector entities. Accordingly, we recommend that private sector entities not only begin evaluating their reporting obligations well in advance of the 2025 Deadline but also gather the requisite information for and draft their annual reports to provide directors of private sector entities with ample time to review and consider, and to avoid late filings. It is also helpful to note that annual reports may be submitted from January 1, 2025. In order to make the reporting process more efficient, reporting private sector entities may use the online questionnaire as a guideline for developing their annual reports.
3. **Developing a More Substantial Report:** The Act and the Guidance do not yet mandate any specific action by private sector entities, other than the obligation to report. Notwithstanding this, given Public Safety Canada's focus on transparency and meaningful action, reporting private sector entities may wish to consider refining their supply chain mapping activities and risk management efforts to thoughtfully incorporate the measures highlighted in the Parliamentary Report. Efforts to implement such measures may be highlighted in the 2025 annual reports. It had been [previously noted in Parliament](#) that the Act represents an initial measure in Canada's overall efforts to eradicate forced labour and child labour, which was recently affirmed in the [2024 Federal Budget](#). Therefore, it is not inconceivable that future supply chain legislation in Canada may require specific performance and implementation of measures including, but not limited to, those discussed in the Parliamentary Report.

Conclusion

The [ESG & Sustainability Group](#) at Aird & Berlis will continue to monitor the development and implementation of the Act, Guidance, supply chain legislation, monitoring and reporting regimes in general that may impact your business. Please contact the authors of this article at any time if you have questions regarding your compliance with the Act, the preparation and submission of your annual reports or your overall supply chain management.

Footnotes

1 For guidance on whether your organization is required to comply with the Act and, if so, to access a summary of your reporting obligations thereunder, please see our article, [First Reports Under Canada's Mandatory Supply Chain Reporting Regime Due by May 31, 2024](#) , previously published on February 21, 2024.

2 Public Safety Canada is a department of the Government of Canada led by the Minister. It was established in 2003 to ensure co-ordination across all federal departments and agencies responsible for national security and the safety of Canadians, with a focus on areas such as public safety, emergency management, national security and emergency preparedness. Public Safety Canada is responsible for the administration of the Act and has published the Guidance in order to clarify the manner in which it interprets the Act and the reporting process outlined therein.

3 Section 18 of the Act stipulates that the Minister may require reporting private sector entities to take any measures deemed necessary to ensure compliance with the Act. Section 19 of the Act provides that any person or Reporting Entity (including the directors, officers, agents, employees or mandatories of the reporting private sector entities who directed, authorized, assented to, acquiesced in or participated in the commission of an offence) who fails to

comply with the Act is guilty of an offence punishable on summary conviction and liable to a fine of not more than \$250,000. There are a number of offences that may be committed under the Act, including filing a deficient and/or late annual report, knowingly making any false or misleading statement, or obstructing or hindering a designated person who is exercising powers or performing duties or functions under the Act.

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

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