

LEVELLING THE PLAYING FIELD

THE WORLD FEDERATION OF THE SPORTING GOODS INDUSTRY AND MIGRANT WORKERS



2016



INTRODUCTION

The World Federation of the Sporting Goods Industry (WFSGI) is the global authoritative body for the sporting goods industry. Our members include sporting goods brands, manufacturers, suppliers, retailers, national/regional federations, industry and trade associations and other sporting goods industry related businesses.

The WFSGI plays an important role as a resource for its members and as a platform for sharing best practice. We work to understand emerging and ongoing issues of relevance, assist our members to stay current with those developments, and advocate for appropriate laws and practices.

EXECUTIVE SUMMARY

Within the sporting goods industry supply chain, the use of migrant labour is commonplace. Labour migration can provide valuable opportunities for people who are unable to find adequate work in their own countries, and address shortages in countries with an insufficient labour supply. But when the rights of migrant workers are not protected, the human costs can outweigh the benefits.

States have a duty to protect the human rights of all people living within their borders, regardless of their legal status. Companies have a responsibility to comply with national laws and standards and to respect and uphold the rights of all workers in their supply chain. Despite this, many migrant workers experience ill-treatment by immigration or law enforcement authorities, exploitative working conditions, an absence of basic workplace rights and protections, limited access to social security, systemic discrimination and prejudice.

In recent years, pressure has been building on companies – including in our industry – to detect and eliminate these and other labour abuses. Brands and manufacturers are expected to have in place due diligence approaches that assess the high-risk locations, processes or activities that may adversely affect workers’ human rights. This requires looking more deeply in their supply chains and applying influence to mitigate or remediate issues where they occur. Failure to address these issues, or to uphold the rights of all workers in company supply chains, can result in reputational damage and loss of business.

Tackling this complex, transnational issue presents challenges for our members, however, from the lack of an industry-wide standard to assess suppliers’ labour practices to the pressure to fill positions quickly due to labour shortages. In addition, many companies do not have direct relationships or influencing capacity beyond their immediate suppliers, and there are also significant discrepancies in capability across the manufacturing supply chain.

Nevertheless, the WFSGI encourages its members to take a responsible approach to this issue, to work collaboratively and to adopt standards such as the Dhaka Principles which promote respect for the rights of migrant workers. In line with international law, the WFSGI Code of Conduct includes a provision to ensure that employers do not use forced labour, including indentured or bonded labour. We are committed to supporting our members to adopt best practice and directing them to other relevant sources of expertise and guidance.

The purpose of this paper is to provide WFSGI members and others with an outline of the context and challenges around the issue of migrant workers, give an overview of the regulation and voluntary initiatives currently in place, and explain how we can support them.

CONTEXT, REGULATION AND VOLUNTARY INITIATIVES

According to the United Nations, there are now an estimated 244 million international migrants contributing to workforces around the world¹. There is increasing concern about the risks of forced labour and modern day slavery that these workers may face, accompanied by a growing body of regulation that companies need to comply with on this topic.

A migrant worker is someone who moves away from their usual place of residence – either between countries (also known as foreign contract workers) or from one administrative unit to another within the same country – to pursue work. Both types of migration can affect workers' legal status. This paper focuses primarily on workers who move between countries, save for a summary (right) of internal migration challenges in China.

While migrating can be a positive experience, many migrant workers encounter exploitation and discrimination and can find themselves victims of modern day slavery. International law requires that states uphold the human rights of all migrant workers within their borders, but migrant workers are often not afforded the legal protections to which they are entitled.

Most migrant workers are engaged through private recruitment agencies, which provide services such as conducting interviews, testing skills and qualifications, coordinating employment contracts and organising travel documents. This dependence can create opportunities for exploitation. Workers may be given inaccurate information, or not provided with employment contracts. Some are forced to pay exorbitant recruitment fees, effectively placing them in bonded labour as they cannot end their contracts without incurring financial penalties.

Once employed, issues migrant workers may face include a lack of workplace rights and protections, irregular or unpaid wages, withholding of passports or work papers and limited access to public services. These problems may be intensified in the case of undocumented workers, who fear that accessing government services will lead to detention or deportation.

INTERNAL MIGRATION WITHIN CHINA

Although not the main focus of this paper, this example provides a summary of some of the key challenges presented by in-country migration.

In recent decades, China has experienced a massive population shift, with many people moving from rural areas to the cities for work. In 2014, there was an estimated 274 million internal migrant workers² in China's cities – more than one third of the working population – a scale that is unparalleled elsewhere.

The Chinese government operates a household registration system that classifies people as rural or urban at birth. This determines the social services they receive, and means that rural citizens who migrate to the city have limited access to education, health care, employment and social security.

Under Chinese law, employers must provide all employees with social insurance. However, coverage of migrant workers remains low, and evidence suggests that many employers do not meet their obligation³. Enforcement has been lax, and only through workers taking industrial action has the situation begun to change.

China has now introduced limited reforms to the household registration system – mainly by allowing individual regions to relax restrictions for certain rural migrant workers within the same province. This has improved conditions for some – in general those who have already made a demonstrable contribution to the local economy.

¹ United Nations, Department of Economic and Social Affairs, Population Division (2015). *Trends in International Migrant Stock: The 2015 revision.*

² China Labour Bulletin: Migrant Workers and Their Children, <http://www.clb.org.hk/content/migrant-workers-and-their-children>

³ China Labour Bulletin: Migrant Workers and Their Children, <http://www.clb.org.hk/content/migrant-workers-and-their-children>

EVOLVING REGULATION

Under international law, states are obliged to protect and respect the rights of all workers regardless of their nationality, race, gender, or legal or migration status. Some regulations

require companies to disclose the actions they are taking to address labour abuses, including in their supply chains. The table below outlines some of the principal laws and frameworks currently in operation.

Framework	Aim	Additional Information
The Convention on Migrant Workers (2003)	To protect the rights of migrant workers and their families.	Identifies the core rights that apply to all migrant workers, regardless of their migration status.
UN Guiding Principles on Business and Human Rights (2011)	To provide a global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity.	Applies to all states and businesses, regardless of their size, sector, location, ownership and structure. While states have a duty to protect human rights, businesses have a corporate responsibility to respect human rights.
UK Modern Slavery Act (2015)	To combat slavery and human trafficking.	Requires companies with a minimum turnover of £36 million operating in the UK to produce an annual statement on their actions to address slavery and human trafficking in their supply chains.
California Transparency in Supply Chains Act (2010)	To eliminate slavery and trafficking from supply chains.	Requires manufacturers and retailers with global annual revenues of more than US \$100 million that do business in California to disclose what they are doing to detect and eliminate labour abuses from their supply chains.
The Foreign Corrupt Practices Act (1977)	To combat the use of bribery to exert influence.	An American federal law that makes it illegal for companies to gain business advantage through bribery or the payment of rewards, including those paid by its subsidiaries or agents.

VOLUNTARY INITIATIVES

There are also voluntary initiatives aimed at protecting the rights of migrant workers that are gaining support. These include:

THE DHAKA PRINCIPLES FOR MIGRATION WITH DIGNITY (2012)

A set of human rights based principles aimed at enhancing respect for the rights of migrant workers. They are intended to be used by all industry sectors in any country. Based on the UN Guiding Principles on Business and Human Rights and international labour and human rights standards, they establish key principles that employers and migrant recruiters should respect at each stage of the process to ensure migration with dignity.

COVENANT OF ETHICAL CONDUCT AND GOOD PRACTICES

A set of business standards to protect female migrant workers. Developed in partnership with UN Women, the covenant commits recruitment agencies to provide information for female migrant workers, to set up social security and insurance programmes that benefit them, and to establish resource and welfare centres in labour-receiving countries. Signed by recruitment agencies in nine Asian countries in 2005.

MULTI-STAKEHOLDER INITIATIVES

There are several initiatives that seek to improve workplace conditions by bringing together various stakeholders including both companies and civil society organisations. Examples include the Fair Labor Association in North America and the Ethical Trading Initiative in the UK.

DRIVERS AND CHALLENGES

The increase in legislation and voluntary initiatives outlined above reflects growing and concern about the exploitation and abuse faced by a significant number of migrant workers. It is a challenge that our industry cannot afford to ignore.

Globalisation has opened up economies and lengthened supply chains. While many companies concentrate their auditing efforts on first tier suppliers where they have direct influence, forced labour and migrant worker exploitation may be occurring further down the supply chain.

Supply chain transparency for companies with extended global supply chains is increasingly important, with legislation such as the **California Transparency in Supply Chains Act** (2010) and the **UK Modern Slavery Act** (2015) coming into effect. These laws require companies to disclose the steps they are taking to address modern slavery and forced labour in their supply chains.

Alongside increased action on the part of governments, demand from consumers for goods to be produced ethically is also growing⁴ as NGOs and the media make people more aware of the exploitation of migrant workers and other ethical issues pertaining to the production of consumer goods.

It is no longer acceptable for a company to claim ignorance of forced labour in their supply chain – government, investors and consumers want to know that companies are actively taking steps to ensure all workers in their supply chain are treated fairly.

Companies that fail to engage with this issue increasingly face financial, legal and reputational risks with the potential to adversely impact shareholder value. Addressing these risks can guard against the negative publicity, business interruptions, potential lawsuits, public protests, and reputational damage that could arise from human rights violations.

CHALLENGES TO MEMBERS

Despite these drivers, the industry faces a number of challenges in tackling migrant worker exploitation. Firstly, labour shortages and the pressure to fill positions quickly to meet production deadlines shifts control to the recruitment agencies. Bringing these agencies to account is a challenge because the issue crosses national borders, and exploitation can arise from the relationship between recruiters at origin and destination – resulting in additional costs that are passed onto workers. For example, if the agent in a migrant worker's country of origin increases its fees, the agent in the destination country may pass these costs on by reducing the worker's salary⁵.

Another challenge is the lack of an industry-wide standard or certification system that brands can use to assess their suppliers' labour practices. While bigger companies with larger volumes may be able to influence recruitment and workplace conditions, smaller companies may have neither the capacity to exert influence nor the leverage to do so.

Lack of awareness is also an issue. Suppliers may not understand the range of legislation they are expected to comply with, and office-based managers may even be unaware of the actual working conditions or quality of accommodation in their own factories.



⁴ See, for example: <http://www.ethicalconsumer.org/researchhub/ukethicalmarket.aspx>

⁵ Migrant Policy Institute policy brief – *What we know about regulating the recruitment of migrant workers*

THIRD-PARTY GUIDANCE ON AVOIDING MIGRANT WORKER EXPLOITATION

Verité is a US-based NGO whose mission is to ensure that people around the world work under safe, fair, and legal conditions. It offers tools, guidance and approaches to support the responsible recruitment and employment of migrant workers in global supply chains.

Declan Croucher, Verité's Director of Advisory Services, offers the following guidance to help companies tackle the challenging issue of migrant worker exploitation, which we hope will be of value to members just beginning to look at this issue as well as those that are more advanced.

CONDUCT A RISK ASSESSMENT

Decide where to focus your efforts by determining where there is the greatest likelihood of migrant worker exploitation. Migrant workers are vulnerable from the start of the recruitment process, and the presence of labour brokers often indicates that debt bondage may be occurring.

MAP THE SUPPLY CHAIN

Look beyond your first tier suppliers to ensure that businesses further down the supply chain are upholding their commitments. Mapping an extended supply chain can be complex and time consuming. Start by inviting tier one suppliers to join in the mapping process, then cascade the invite to tier two suppliers, continuing down the entire supply chain.

DO A DEEP DIVE

Carrying out migrant worker assessments at a few facilities will help to unearth what is happening more widely. Check audit reports and interview workers to determine what fees have been paid and by whom. Standard costs such as work permits, medical fees and clearance fees can be easily identified and calculated. If the supplier or subsidiary is not paying all or most of that amount, it is likely that the costs have been passed on to the workers.

TAKE CORRECTIVE ACTION

Once you discover which practices are occurring, you can address them by ensuring that the right policies and management systems are in place. While many companies already have policies and codes of conduct with prohibitions against forced labour and recruitment fees, it is important to review them and identify and address any gaps.

Where there are clear violations of existing policies, establish a corrective action plan to tackle the abuses. If the situation is less obvious (or existing policies less clear-cut), adopting specific protections for migrant workers is a good approach.

ADDRESS RECRUITMENT AGENCY PRACTICES

Fair, safe and legal working conditions begin with responsible recruitment. For companies looking to reduce the risk of migrant worker exploitation issues in their extended supply chain, this is a key issue to address.

Set out your requirements to your current recruitment agency, explaining that you will continue doing business with them if they are willing and able to work ethically. Some recruitment agents adapt their business practices for those companies that hold them to a higher standard.

How far should brands aim to take this process? It is clear that the deeper you dive, the more difficult it becomes to enforce standards. Croucher says, "There's enough going on at tier one and two to keep most brands and their suppliers busy. Start with tier one suppliers and get that cleared up, then move on to tier two. Let's not try to boil the ocean."

WHAT WE THINK

The WFSGI believes that the industry has a moral imperative to address the risks faced by migrant workers in its supply chains and to ensure that the goods produced to enable participation in sport are not the products of exploitation. Moreover, the industry's ability to protect its reputation relies on taking a responsible and proactive approach to this issue.

The WFSGI Code of Conduct guides members in the standards and practices expected in the workplaces they operate or contract from. In line with international law, the Code includes a provision that employers should not use forced labour, including indentured or bonded labour.

THE VALUE OF COLLABORATION

The WFSGI suggests that its members look to adopt standards such as the Dhaka Principles, the first of which is that no fees are charged to migrant workers. This is a systemic problem that will take time to change and will require a collaborative approach. In the shorter term we encourage brands and manufacturers to work together with a view to ending the practice of retaining passports and imposing mandatory savings accounts for migrant workers.

PROACTIVE ENGAGEMENT

Brands have an important role in safeguarding the welfare of migrant workers in their supply chains, which begins with establishing a due diligence approach so they can appreciate where their biggest risks lie and can apply influence to mitigate issues where they occur. As noted earlier, such assurance processes are also increasingly required by law.

Brands should include in their supplier codes of conduct a provision to protect workers' rights and ensure fair working practices, and supplier contracts should include minimum labour standards.

Proactive engagement with suppliers is vital, and may include conducting specific training on this issue as well as comprehensive audits. Speaking directly to workers – during audits, or through worker/management surveys – gives valuable insight into how well standards are being met.

For those brands that conduct regular audits of their suppliers, the majority concentrate their efforts on first tier suppliers. A possible next step for these brands would be to consider looking deeper to ensure there is no exploitation or forced labour in their extended global supply chain.

For smaller members or those that require more support in conducting audits, the WFSGI's 'Responsible Sport Initiative' may offer a solution. Aimed at establishing a common approach to a range of CR issues for bicycle companies, the initiative provides audit services for SMEs including an audit tool that encourages audit sharing and reduces costs. This tool is also available to companies who are not members of the WFSGI.

ETHICAL RECRUITMENT PRACTICES

Manufacturers must be aware of existing laws and regulations and ensure their managers are working to comply with them.

Most significantly, they should review their recruitment practices to ensure they are hiring workers ethically and meeting their duty of care towards them. Manufacturers that use recruitment agencies to hire workers on their behalf should satisfy themselves that these agencies are acting ethically in their dealings with workers – and be prepared to stop using agencies whose practices facilitate or contribute to forced labour. The ILO has a Fair Recruitment Initiative that provides guidance to employers in this area.

Brands increasingly want to work with business partners that demonstrate that they take these issues seriously. Certification by a social compliance programme can be a way for manufacturers to improve their performance while also sending a strong signal to customers about their commitment to ethical business.

UNDERSTANDING THE BENEFITS

Working together to tackle the exploitation of migrant workers and establish common standards and codes of conduct that all brands and manufacturers adhere to benefits the sporting goods industry by yielding opportunities for efficiencies and cost reductions. Companies that engage with this issue will foster better relationships with stakeholders and mitigate reputational risk.

While big brands may wield a lot of influence with their suppliers, smaller brands could benefit from collaborating to increase their leverage and effect change. Another approach for smaller brands is to focus on training their suppliers and disseminating best practice.

SUPPORTING OUR MEMBERS

Among our membership we represent companies at every stage in the supply chain, with diverse challenges, differing levels of resources and varying degrees of expertise. For specialist topics such as recruitment practices, workplace health and safety requirements, and workers' rights of association, we believe we can best serve our members through operating as a 'directory' to help them obtain appropriate expertise and guidance from relevant specialist organisations, rather than duplicating existing services.

More broadly, the WFSGI also provides a range of valuable information and advisory services to assist its members with their reporting and other CR challenges. These include:

- Ad-hoc support to members through the CR Helpdesk;
- Alerting members on important legal developments and regulatory changes;
- Guidance and direction on CR developments and best practices.

A further benefit of WFSGI membership is the support available from other members. The network offers the scope for smaller forums of member companies to support each other on reporting and other common challenges, and for larger organisations to mentor comparable smaller companies.



ONGOING DEVELOPMENTS & NEXT STEPS

Legislation, inter-governmental and corporate initiatives in this area continue to emerge. The proposed **Business Supply Chain Transparency on Trafficking and Slavery Act** would require all US corporations with global annual revenues of more than \$100 million USD to disclose their actions to remove labour abuses from their supply chains.

Due to be launched in 2017, the **Corporate Human Rights Benchmark** (CHRB) will be the first ever ranking of the human rights performance of the world's largest publicly listed companies. The pilot benchmark will rank the top 100 companies in the apparel, agricultural and extractive industries and includes topics such as passport retention and recruitment fees – areas where leading apparel companies are already making progress.

For example, from June 2015 **Patagonia's** tier two suppliers and migrant workforce brokers could no longer charge recruitment fees to new workers, and by the end of 2015 they were required to reimburse all fees (above the legal limit) paid by migrant workers hired before that date. Patagonia has published Migrant Worker Employment Standards and Implementation Guidance.

SUMMARY AND CONCLUSION

The WFSGI provides a platform for sharing best practices and actively engages members in realising a CR vision grounded in shared values and principles. As an association, WFSGI is both a voice for the industry and a trusted advisor on CR and strategy issues for its members. We believe that members that take up and act on the advice and resources WFSGI offers will be the best positioned to respond and thrive in the face of emerging trends and evolving regulation over the coming years.

We appreciate the challenges of complexity, diversity and evolving context in which our members operate. However, we believe that companies must take seriously their responsibility to ensure that all workers who manufacture their products are treated fairly and in accordance with international human rights and labour laws. As well as discharging a key responsibility and providing assurance to the consumer, taking these steps will – in our judgement – reduce cost and risk and create new opportunities.

As the voice of the industry, we will continue to monitor trends, build our understanding of emerging best practice, and support our members to make progress in this important area.

FURTHER INFORMATION

On the WFSGI website, members can access a briefing paper and also a webinar on the UK Modern Slavery Act. Another topic paper and webinar in this series covers the UN Guiding Principles on Business and Human Rights. Other sources are:

The Convention on Migrant Workers

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx>

UK Modern Slavery Act

<http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

California Transparency in Supply Chains Act

<https://oag.ca.gov/sites/all/files/agweb/pdfs/sb657/resource-guide.pdf>

The Foreign Corrupt Practices Act

<https://www.gpo.gov/fdsys/pkg/STATUTE-91/pdf/STATUTE-91-Pg1494.pdf>

Fair Labor Association

<http://www.fairlabor.org/>

Dhaka Principles for Migration with Dignity

<http://www.dhaka-principles.org>

ILO Fair Recruitment Initiative

<http://www.ilo.org/global/topics/fair-recruitment/lang--en/index.htm>

Covenant of Ethical Conduct and Good Practices

http://www.unwomen-eseasia.org/docs/Covenant_ethical_conduct.pdf

Verité: Supply chain accountability

<http://www.verite.org/research/supply-chain-accountability>

Corporate Human Rights Benchmark

<http://business-humanrights.org/en/corporate-human-rights-benchmark>

Patagonia Migrant Worker Employment Standards and Implementation Guidance

http://www.patagonia.com/pdf/en_US/Migrant_Worker_Employment_Standards.pdf



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