

## **Summary of Forced Labour & Canadian Reporting Requirements Presentation**

On February 14, 2024, JETRO Toronto organized a webinar on Canada's new forced labour and child labour reporting requirements titled: "Are you ready for Forced and Child Labour Reporting in Canada?" presented by George Reid of Bennett Jones LLP.

The *Fighting Against Forced Labour and Child Labour in Supply Chains Act* (the "Supply Chains Act") imposes new reporting requirements on a class of companies in Canada and abroad. A company subject to the Supply Chains Act must file an annual report that addresses several mandatory topics, including the steps the company has taken to prevent and reduce the risk that forced labour or child labour is present in its supply chains. The report is due by the end of May every year and must be made available to the public, including by publishing it on the company's website. The first reports must be filed by May 31, 2024.

The presentation answered the following questions:

- 1) What is the purpose of the new reporting requirement?
- 2) Who needs to report?
- 3) What needs to be reported?
- 4) How does the reporting process work?

### ***The Purpose of Canada's Supply Chains Act***

The Supply Chains Act implements Canada's international commitment to contribute to the fight against forced labour and child labour by imposing reporting obligations on certain companies and government institutions involved in the production, distribution, importation and sale of goods in Canada.

In general terms, forced labour means work or services offered or provided involuntarily under the menace of any penalty that could cause a person to believe that their safety would be threatened if they failed to provide or offer to provide the work or service. Child labour refers to work or services performed by individuals under 18 that endangers their mental, physical, social, or moral well-being, or disrupts their education.

In addition to the new reporting requirements in the Supply Chains Act, Canada has prohibited the importation of goods made in whole or in part from forced and/or child labour. The Canada Border Services Agency has a range of civil and criminal penalties to respond to prohibited importations and broad powers to investigate whether an importer has or is importing prohibited goods into Canada.

### ***Who Must Report?***

A private business may have reporting obligations under the Supply Chains Act based on a two-part test: (1) the business is an "entity" and, (2) it engages in specified activities.

**Entity Test:** To be considered an "entity", the business:

- (1) Must be a corporation, trust, partnership, or other unincorporated organization,

- (2) must be listed on a Canadian stock exchange, **or**
- (3) have a business presence in Canada, operate in Canada, or have assets in Canada, **and** meet at least two of three specific criteria in at least one of the last two financial years:
  - (a) \$20 million or more in assets
  - (b) \$40 million or more in revenue
  - (c) An average of 250 or more employees.

**Activity Test:** An entity must file an annual report under the Supply Chains Act if it is engaged in any one of the following activities:

- (1) producing, selling or distributing goods in Canada or elsewhere;
- (2) importing into Canada goods produced outside Canada; or
- (3) controlling an entity engaged in any activity described in paragraph (1) or (2).

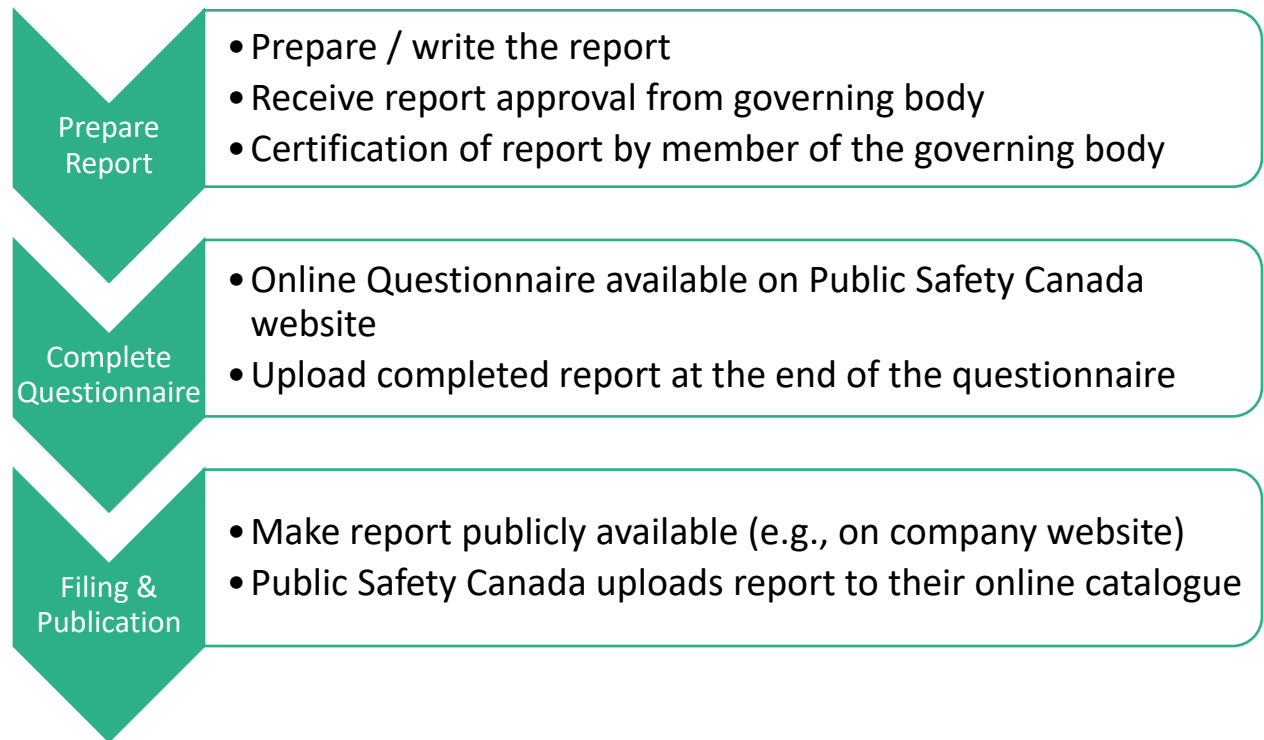
### ***What Must Be Reported?***

The reports address the following topics:

- a. The steps the entity has taken during its previous financial year to prevent and reduce the risk that forced labour or child labour is present in its supply chains;
- b. The entity's structure, activities and supply chains;
- c. The entity's policies and its due diligence processes in relation to forced labour and child labour;
- d. The parts of the entity's business and supply chains that carry a risk of forced labour or child labour being used and the steps it has taken to assess and manage that risk;
- e. Any measures taken to remediate any forced labour or child labour;
- f. Any measures taken to remediate the loss of income to the most vulnerable families that results from any measure taken to eliminate the use of forced labour or child labour in its activities and supply chains;
- g. The training provided to employees on forced labour and child labour; and
- h. How the entity assesses its effectiveness in ensuring that forced labour and child labour are not being used in its business and supply chains.

### ***How Does the Reporting Process Work?***

The Supply Chains Act reporting process involves the following steps:



### ***Helpful Resources***

*Fighting Against Forced Labour and Child Labour in Supply Chains Act* ("Supply Chain Act"), SC 2023, c 9, online: <https://laws.justice.gc.ca/eng/acts/F-10.6/FullText.html>.

Public Safety Canada, "Forced Labour in Canadian Supply Chains" (20 December 2023), online: *Government of Canada* <https://www.publicsafety.gc.ca/cnt/cntrng-crm/frcd-lbr-cndn-spply-chns/index-en.aspx>.

International Labour Organization, "What are forced labour, modern slavery and human trafficking", online: <https://www.ilo.org/global/topics/forced-labour/definition/lang--en/index.htm>.

International Labour Organization, "What is child labour", online: <https://www.ilo.org/ipecc/facts/lang--en/index.htm>.

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