

Prevention is better than cure

Mitigate human rights risk to protect your bottom line (Part 2)

March 2021



In Part 1 of our article series, we demonstrated how underestimating human rights risk can have widespread impact on a company including legal expenses, harm to credibility and relationships, damage to brand reputation, loss of potential revenue, or worst, loss of the social license to operate.

It can be daunting and challenging to understand and respond to human rights, social impacts, its related risks and opportunities specific to varying businesses. However, to do nothing would be more disastrous because the damages cause by poor human rights risk management have a perpetual effect that will take companies

tremendous effort and resources to repair. Therefore, the recognition, assessment and management of these threats are a vital part of a company's sustainable business strategy.

Here, we detail the key considerations companies with broad cross-border footprint in imports and exports operating in Malaysia should incorporate in their human rights journey and outline KPMG's strategic approach to analyzing human rights risks.

Too little, too late

On 12 January 2021, the UK and Canada became the latest jurisdictions to impose new policies on imports as measures to combat forced labor and human rights violations.¹ The announcements come in the context of rising global concerns over reports of forced labor in Xinjiang, an autonomous territory in northwest China.

Out of the U.S., heightened scrutiny from the U.S. Customs and Border Protection (“CBP”) has led to a significant increase in enforcement actions most notably the issuance of Withhold Release Orders (“WRO”), effectively preventing the imported goods from entering the United States if suspected to be produced by forced labor. CBP has specifically targeted imports from countries susceptible to forced labor, including China and Malaysia.

Cotton ban

In July 2020, the U.S. Government issued an advisory to caution businesses about the reputational, financial, and legal risks of forced labor in Xinjiang, which came under the spotlight for repression targeting the Uyghur people and other ethnic and religious minority groups. On 2 December 2020, CBP announced the issuance of a WRO on cotton and cotton products originating from the Xinjiang Production and Construction Corps.²

The action is a blow for the U.S. clothing industry, given that the U.S. imported USD9 billion of cotton products from China in the previous year.³ CBP is also requesting American importers to provide documentary evidence that they have full visibility of every stage of their cotton supply chain.

The world’s largest medical glove maker

In July 2020, the CBP slapped an import ban on two subsidiaries of a leading glove manufacturer over forced labor concerns. The agency’s investigation uncovered debt bondage relating to “recruitment fees” often imposed on migrant workers by employment agents or human traffickers that often take years to repay, with the migrant workers forced to work for the company until large recruitment fee debts are paid off.⁴

The ban came at a time when the demand for gloves spiked amid the Covid-19 outbreak. The North American market remains the manufacturer’s largest export market, accounting for 22% of its sales volume for the financial year ended 31 August 2020.⁵

In response, it was reported that the manufacturer would pay an estimated remediation sum of USD40 million to its 10,000 migrant workers to cover fees they paid to recruitment agencies in their respective home countries.⁶

1. [“UK and Canada Announce New Measures to Combat Forced Labor and Human Rights Violations”](#), Retail & Consumer Products Law Observer, 27 January 2021
2. [“CBP Issues Region-Wide Withhold Release Order on Products Made by Slave Labor in Xinjiang”](#). CBP National Media Release, 13 January 2021
3. [“U.S. Bans Xinjiang Cotton Products, Tomatoes Over Forced Labor”](#). Bloomberg, 14 January 2021
4. [“Amid virus crisis, U.S. bans imports of Malaysia’s Top Glove over labour issues”](#). Reuters, 16 July 2020
5. [“Top Glove expects to resolve US import ban issue by year end”](#), theedgemarkets.com, 17 September 2020
6. [“Top Glove to pay RM166m to migrant workers, US media says”](#), theedgemarkets.com, 6 October 2020

Key considerations to enhance human rights risk management

The integral components of an effective human rights risk management framework are ethical behaviors and values supported and perpetuated by the leaders at the top.

Corporate Malaysia leaders and board members should also consider the following steps to enhance and prioritize the management of human rights risk:

1



Set the tone at the top by appointing a board member or board committee with responsibility for human rights;

5



Integrate human rights risks into risk management across different business functions;

2



Ensure boards and leaders are committed to respecting human rights and to challenging traditional assumptions about corporate responsibility;

6



Monitor the effectiveness of systems to manage and respond to human rights risk and establish appropriate grievance and remediation processes;

3



Set up a cross-functional working group that includes the sales, procurement, operations, legal, ethics, safety and HR functions to implement a human rights policy;

7



Ensure a clear line of reporting to the board and leaders on human rights risks and impacts so serious cases are escalated rapidly.

4



Build human rights actions into annual business-unit plans and ensure that accountability sits with business unit leaders;

Additionally, **expansion into new global markets** is an activity where the business should seek for red flags. For example, attaining a company or operation in a new region is also acquiring any potential human rights issues and legislative requirements related to that company or new geography. Gaining a comprehensive view of risks across your global supply chains should be a top priority.

Purpose over profit

Under today's socioeconomic pressures, human rights are a primary enabler of growth for businesses and mitigating human rights risk is vital in protecting the bottom line.

This calls for a shift in thinking and acting more consciously, where **organizations should deviate from traditional risk-to-business concerns and focus towards non-financial risk-to-people concerns**. The price of oblivion is hefty under the increased scrutiny of regulators, investors and customers.

Organizations should implement concrete human rights policies, along with proper implementation and monitoring processes, to be better prepared in avoiding trade sanctions and promptly deal with any arising claims of human rights contravention.

The COVID-19 pandemic unexpectedly became a global test for business leaders to prove their respect for human rights and commitment to put purpose over profit. In this new reality, there is little tolerance for anything less.



Read also:

Forced labor: An escalating risk impacting the bottom line (Part 1)

To explore the implications of human rights risk in your company, reach out to KPMG's professionals:



Kasturi Nathan

Head of Board Leadership Center and
Head of Governance & Sustainability
KPMG in Malaysia

E : kasturi@kpmg.com.my



Phang Oy Cheng

Executive Director – Governance & Sustainability
KPMG in Malaysia

E : oychengphang@kpmg.com.my

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.



www.kpmg.com.my/sustainability

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2021 KPMG Management & Risk Consulting Sdn. Bhd., a company incorporated under Malaysian law and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.