



Forced Labour Division

International and Intergovernmental Labour Affairs, Labour Program

Employment and Social Development Canada

Submitted via email to EDSC.AIT.ChainesApprovisionnement-SupplyChains.IILA.ESDC@labour-travail.gc.ca

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RE: Discussion document on legislation to eradicate forced labour from Canadian supply chains

To Whom it May Concern:

On behalf of the Canadian fresh fruit and vegetable industry, we were very appreciative of the invitation to attend the October 13th stakeholder engagement session and welcome the opportunity to provide additional comments to Employment and Social Development Canada (ESDC) and other government departments in relation to the discussion document: *Fall 2023 Stakeholder Engagement Session Supply Chain Legislation and Strengthening the Import Prohibition*.

About CPMA

Based in Ottawa, the Canadian Produce Marketing Association (CPMA) is a not-for-profit organization representing companies active in the marketing of fresh fruit and vegetables in Canada, from the farm gate to the dinner plate, spanning the entire produce industry. The Association's members include major growers, shippers, packers and marketers; importers and exporters; transportation and logistics firms; brokers, distributors and wholesalers; retailers and foodservice distributors; and fresh cut operators and processors. Founded in 1925, CPMA is proud to represent over 830 domestic and international members who are responsible for 90% of fresh fruit and vegetable sales in Canada.

CPMA is actively engaged in Canada Border Service Agency (CBSA) stakeholder committees and working groups, including within CBSA's Border Commercial Consultative Committees (BCCC). We are keen to partner with the government to ensure that the Government's anticipated supply chain legislation and other efforts to eradicate forced labour achieve their core objectives in a way that meets the needs of both the Government of Canada and industry stakeholders – and to support the development of resources to enable industry compliance.

Comments

To begin, CPMA would like to express our appreciation for ESDC's efforts to engage with a broad group of stakeholders early on in its work to develop supply chain legislation related to forced labour. A collaborative approach to find workable solutions for industry and government is the backbone to success for regulatory and policy compliance. Early and ongoing engagement with stakeholders can allow the government to leverage industry expertise, better understand the specific needs and challenges of particular sectors and supply chains, and ensure the development of practical policies and regulations, as

well as resources to facilitate compliance. CPMA strongly encourages ESDC and the other government departments involved in the development of supply chain legislation and in the implementation of S-211 to continue to build upon these early consultative efforts and to prioritize ongoing engagement with stakeholders as this work progresses.

CPMA offers the following initial comments for consideration:

- CPMA and our members across the fresh produce supply chain are committed to working towards the eradication of forced labour. The fresh fruit and vegetable supply chain is one of the most globally integrated in the world, involving a complex network of growers, packers, shippers, wholesalers, retailers, transportation companies and logistics providers. Due to Canada's climate and shorter growing season, approximately \$4 out of every \$5 spent on fresh produce is spent on imported product. In fact, Canadians import fresh produce from more than 150 countries worldwide, and our increasingly diverse population has also spurred an increasingly diverse offering of fruit and vegetable products. This complex system allows Canadians to have access to a variety of safe, nutritious products year-round, but it also can make supply chain visibility a complicated task.
- CPMA is broadly supportive of the inclusion of the six identified steps in due diligence legislation. We also agree with the view expressed by others during the October 13th stakeholder engagement session that in the legislation the government must seek to balance the need for clarity with the necessary flexibility to allow regulated entities to effectively deliver on their obligations in ways that might vary depending on the commodity/region/situation.
- Furthermore, if due diligence legislation requirements are extended to include small and/or medium-sized enterprises, CPMA emphasizes the need for flexibility to allow these businesses to meet their obligations without imposing undue financial and administrative burden. In the Canadian fresh produce sector, there are many SMEs that import inputs/equipment a few times in a year and rely heavily on a customs broker to ensure their compliance with import requirements. For these businesses, extensive due diligence requirements could incur significant administrative costs.
- As noted during the engagement session, forced labour looks different in different circumstances and might be more difficult to identify in certain places and circumstances than in others. For example, state-sponsored forced labour may be relatively straightforward for the government to identify and for industry to avoid, compared to forced labour imposed by cartels or other less publicly visible cases. The wide variety of commodities and the globally integrated nature of the fresh produce supply chain can make identifying and ensuring eradication of forced labour along that supply chain complex. CPMA strongly encourages ESDC, Public Safety, Global Affairs, CBSA, and any other implicated federal departments to support industry due diligence by providing clear and up-to-date guidance to help industry identify bad actors.
 - Similar to issuing travel advisories when certain regions or countries are deemed unsafe for Canadians, CPMA recommends that the Government should dedicate resources to developing and maintaining a publicly available list of regions/commodities that have been found to have a higher risk of forced labour with recommended actions for industry

(ex. whether to avoid entirely, undertake specific due diligence activities, etc.), and sending notices to industry when a new item and/or region of concern is identified.

- In addition, educational materials to raise awareness, offer guidance and promote best practices for regulated entities on all six steps of the due diligence process would provide valuable resources to support and strengthen industry compliance. For example, as noted during the stakeholder engagement session, guidance on how to manage stakeholder engagement and responsible disengagement in a way that does not add risk for workers would be valuable. CPMA emphasizes that guidance and resources provided should align with international best practice, and efforts occurring in other jurisdictions as well as the International Labour Organization.
- CPMA also emphasizes the need for federal government departments to collaborate closely in providing information and resources to regulated entities. We recognize that multiple federal departments, including ESDC, CBSA, Public Safety and Global Affairs are implicated in government efforts to eradicate forced labour from Canadian supply chains. To the greatest extent possible, the Government of Canada should create a “one-stop shop” for industry information, resources, and guidance, including the advisory list/database described above and related notifications, to support industry efforts to increase awareness, implement due diligence processes and strengthen compliance.
- Furthermore, to effectively address the complexity of the task of eradicating forced labour from globally integrated supply chains, close collaboration between jurisdictions is required. CPMA strongly encourages the Government of Canada to work closely with our trading partners, particularly the United States, on efforts to strengthen the import ban, as well as to identify potential bad actors/items or regions of risk and to make that information available to support industry due diligence.
- As noted above, the Canadian fresh fruit and vegetable supply chain is complex and highly integrated across jurisdictions, with many entities operating in multiple countries. CPMA emphasizes that greater clarity is needed on what due diligence requirements will look like, including how far down the supply chain these requirements will extend for regulated entities. Wherever possible, CPMA recommends that the Government of Canada align its requirements with those in other jurisdictions and with global best practice to avoid creating undue burden for entities meeting due diligence requirements in multiple jurisdictions.
 - CPMA must also reiterate that some members have expressed concern that teens/youth working on their own family farms will be captured under the definition of child/forced labour, which would have significant ramifications not only for the fresh produce sector, but for the broader agriculture sector writ large. To avoid unintentionally creating confusion on this point, the Government of Canada should clearly distinguish definitions of child labour, forced labour, and child work in legislative, policy, guidance and enforcement efforts.
- In relation to government efforts to strengthen the import ban, CPMA would like to note the importance of ensuring the necessary resources to maintain the smooth flow of goods at the border. The high perishability of our products means that delays at port of entry can lead to product spoilage, reduction in shelf life, and ultimately food waste. Therefore, the Government of

Canada should ensure that the implicated departments work together to ensure that the required personnel are available to address questions and complete border processes in a timely manner. For example, if CBSA will require communication with ESDC to clear goods through the border, ESDC must maintain a reasonable service standard to support this process.

- CPMA also continues to recommend the development of a Trusted Trader program for fresh produce that would allow those with a history of compliance with import requirements, (which could include due diligence obligations), to expedite product clearance through the border, both improving Canadians' access to fresh produce and allowing CBSA and other government departments to focus enforcement resources on higher risk entities.
- Similarly, while not the subject of this discussion document, as noted several times during the engagement session, many questions remain for industry stakeholders as to how Bill S-211 will be implemented and what the Government's expectations will be for industry reporting. These concerns have also been raised with CBSA through the BCCC. Given the complexity of the task at hand, CPMA shares the concerns raised by others about the short implementation timeline and strongly urges the Government of Canada to consult with industry stakeholders on its plans for an incremental approach to implementation of reporting requirements, and on how requirements under S-211 will be considered/incorporated in new supply chain legislation. Clear guidance as to the government's expectations for industry reporting requirements is needed, as well as significant educational efforts to support compliance. To the greatest extent possible, the government should align reporting models/criteria with those already in use in other jurisdictions, such as the UK and Australia, to avoid unnecessary administrative burden for stakeholders.

We thank you for taking the time to review our comments and would be pleased to answer any questions you may have. CPMA is ready to serve as a resource and to work with ESDC and the other government departments as these important efforts to eradicate forced labour move forward.

Regards,



Ron Lemaire
President
Canadian Produce Marketing Association