

# Export Compliance Handbook

TEXTILE SECTOR INDIA



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We hope that this handbook will prove to be a serviceable text to our readers. Also, we solicit and appreciate your views, suggestions, and feedbacks.



## Table of Contents

Chapter	Title	Description	Page No.
1.	Introduction	<p>This section lays down foundational framework for the Export Compliance Handbook.</p> <ul style="list-style-type: none"> <li>-explains amendment in the definition of MSMEs in Micro, Small and Medium Enterprises Development Act, 2006 and its impact.</li> <li>-provides for importance of compliance and best international standards especially while exporting goods in order to become a sourcing destination for the global markets.</li> </ul>	6
2.	The Scope of Export Compliance	<p>This section deals with regulatory structure and best practices for MSMEs in textile and apparel industry:</p> <ul style="list-style-type: none"> <li>-International Conventions and Treaties</li> <li>-National legislations: India</li> <li>-Legislations and Aspirational Standards: Importing Countries</li> <li>-Other Regulations to Consider: Higg Index, Sanction Lists</li> <li>-Intellectual Property Rights and MSME Innovation</li> </ul>	12
3.	How, What and Where?	<p>The first segment of this chapter explains the 6 steps to establish an effective compliance management system.</p> <p>In the second segment, we cover day-to-day business transactions, which put employees in a dilemma in context of corruption and integrity. It also provides practical guidance on what the employee/company should do in such a situation and how to prevent it from occurring in future.</p> <p>The third segment is related to where the sector is headed globally, what challenges can be expected in future and how to be prepared for it.</p>	32
4.	Compendium of Useful Links and Further Reading	<p>This chapter carries useful reference links that can be accessed by the companies in pursuance of a strong compliance mechanism.</p> <p>The section also includes an export documentation checklist for reference.</p>	48

# 01.

## INTRODUCTION



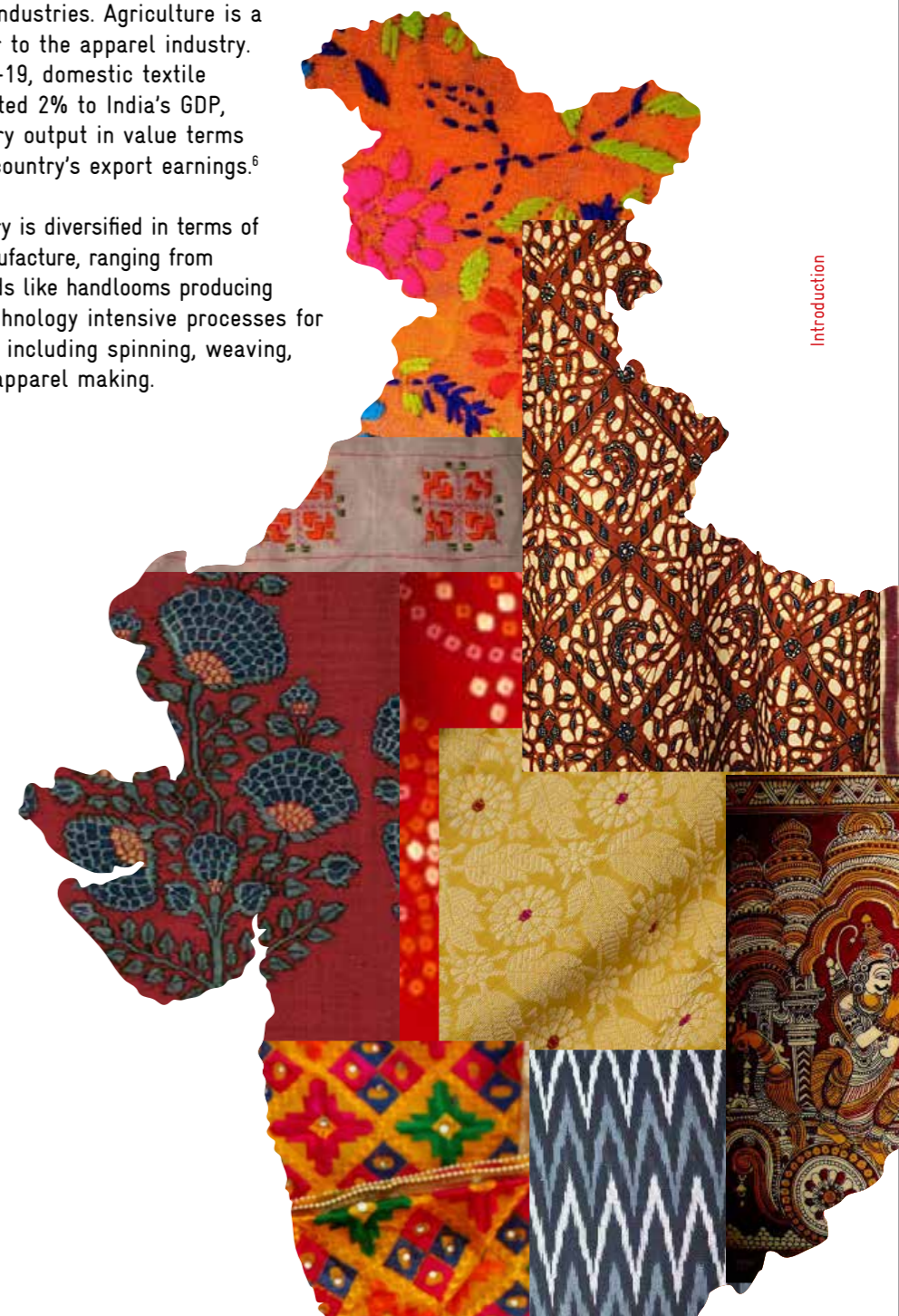


## Textile Sector; The Landscape in India

India's textile heritage is rich and diverse. Spanning across centuries, the Indian textile industry traces its roots to the **Indus Valley Civilization**. Not only did people know how to make fabric but there is evidence indicating that a considerable amount was exported to foreign lands.

Currently, India has one of the largest textile industries in the world. It ranks second in manufacture and export, after China. The textile and apparel industry in India is the second largest employer in the country providing direct employment to **45 million people and 60 million people** in allied industries. Agriculture is a major contributor to the apparel industry. In the year 2018-19, domestic textile industry contributed 2% to India's GDP, 7% to the industry output in value terms and 12% to the country's export earnings.<sup>6</sup>

The textile industry is diversified in terms of processes of manufacture, ranging from traditional methods like handlooms producing handicrafts to technology intensive processes for mass production, including spinning, weaving, processing, and apparel making.



The idea for the handbook was conceptualised during the Integrity Journey organised by **Alliance for Integrity**<sup>1</sup> for the textile sector in the **state of Maharashtra**. During preparation for the journey<sup>2</sup>, the Alliance interacted with various Small and Medium sized Enterprises (SMEs).

A common challenge highlighted by above-mentioned SMEs was the complex situation regarding export related compliances, both at national and international level. Furthermore, they expressed their need for universal best practices enabling them to comply with various legal frameworks when exporting to different countries. This handbook/reference guide will give an indicative overview of existing national and international legal framework. For practical implementation of necessary compliance measures, emphasis is on best practices to be followed universally, to ensure integrity and compliance. Due to the many national and international regulations applicable, this handbook cannot cover all regulations comprehensively. Nonetheless, we believe that this handbook will furnish you with an overview on basic regulations and best practice applicable to many of the relevant compliance areas in the field of export in the textile sector. For further detailed information, you will find a list of useful links at the end of this handbook.

The textile sector in Asia has already witnessed instances of damages, being borne out of non-compliance. The fire at the Rana Plaza factory complex in Dhaka (Bangladesh) in April 2013, which killed more than 1,130 people and left more than 2,500 injured is a stark reminder of the importance of compliances and the

necessity to implement them not as a mere checklist, but for creating a better social, economic and environmental impact of businesses.<sup>3</sup> Surprisingly, the company had been audited recently, had fire safety related compliances, despite not meeting the standards. The transparency gap in supply chain compliance disclosure still exists and needs to be reviewed more diligently.<sup>4</sup> Some of the international courts are now exploring the connection between responsibility of the sourcing company with their supply chain, which in turn will affect the choice of suppliers for global markets.<sup>5</sup>

This handbook comprises four chapters, the first one introducing the objective and scope of the handbook. The second chapter deals with the legal and regulatory framework related to export compliances, which includes major national as well as international laws and specific examples of some laws from important jurisdictions. The third chapter focuses more on the practical side of export. It contains a guide on how to implement an effective compliance management system for exports. Furthermore, it deals with practical situations and the common transactions arising in export where the probability of corruption is high and suggests possible ways to handle them. The third chapter closes with an outlook on the possible future of the textile exports and where compliances associated with textile are headed. The fourth chapter comprises a compendium of useful links for the textile companies to contact further sources and for possible updates.

<sup>4</sup> Westerman, Ashley, *4 Years After Rana Plaza Tragedy, What's Changed For Bangladeshi Garment Workers?*, National Public Radio, (April 30, 2017, 7:00 AM ET) ,*4 Years After Rana Plaza Tragedy, What's Changed For Bangladeshi Garment Workers? : Parallels* : NPR  
Doorey, David J., *Rana Plaza, Loblaw, and the Disconnect Between Legal Formality and Corporate Social Responsibility* (September 13, 2018). Available at SSRN: <https://ssrn.com/abstract=3265826> or <http://dx.doi.org/10.2139/ssrn.3265826> RanaPlazaPaper (labourlawresearch.net)

<sup>5</sup> Doorey, David J., *Rana Plaza, Loblaw, and the Disconnect Between Legal Formality and Corporate Social Responsibility* (September 13, 2018). Available at SSRN: <https://ssrn.com/abstract=3265826> or <http://dx.doi.org/10.2139/ssrn.3265826> RanaPlazaPaper (labourlawresearch.net)

<sup>6</sup> *India-Knitting the Future*, Invest India, National Investment Promotion and Facilitation Agency, <https://www.investindia.gov.in/sector/textiles-apparel>

<sup>1</sup> Alliance for Integrity started a pilot initiative, "Integrity Journey" to promote collective action for SMEs in the textile sector in Maharashtra. The concept had to be adapted owing to the pandemic. We carried out surveys to understand what are the issues where the companies would need more support especially in the pandemic and the result was overwhelmingly in favour of export and export compliances, as exports suffered badly during the lockdown and there were huge supply chain disruption. During the Journey we realised that a handbook on export compliance would be an effective tool for other SMEs at large. Hence, based on the interactions, modules and learnings from the Journey, we have drafted and designed this Handbook.

<sup>2</sup> Hereinafter referred to as AfIn

<sup>3</sup> More for show than safety: Certificates in the textile industry, European Center for Constitutional and Human Rights, ECCHR: Rana Plaza: Certificates in the textile industry ECCHR: Rana Plaza: Certificates in the textile industry



as amended in June 2020, which specified the criteria for the classification of micro, small and medium enterprises, and changed the definition in Section 7 as follows:

- » a micro enterprise, where the investment in Plant and Machinery or Equipment does not exceed one crore rupees and turnover does not exceed five crore rupees.
- » a small enterprise, where the investment in Plant and Machinery or Equipment does not exceed ten crore rupees and turnover does not exceed fifty crore rupees.
- » a medium enterprise, where the investment in Plant and Machinery or Equipment does not exceed fifty crore rupees and turnover does not exceed two hundred and fifty crore rupees.<sup>8</sup>

The amendment will lead to more enterprises availing 5 per cent rebate under interest equalisation scheme, and is thus expected to increase exports of textile and ready made garments.

### SMEs and Compliance

Compliance is usually viewed as a hindrance to business, especially for the SMEs which have both financial and human resource constraints. Therefore, compliance is often considered as time consuming. Companies tend to be compliant with the letter of law, may even have certain checklists in place, but barely follow the spirit of law.

A good example of adhering to the letter of law is the following situation: In India, the law requires manufacturing units to establish separate restrooms for their women employees. In such a case, a company may avoid being compliant with the letter of law by avoiding to employ any

women at all or the company may choose to comply with the spirit of law to make the workplace comfortable for its women employees. The Alliance for Integrity encourages companies to be compliant not only with letter of law but with the spirit of law, thus creating a cleaner and safer business ecosystem for all.

Apart from this holistic approach, why should SMEs follow regulations and be compliant with the spirit of laws? The major incentive for compliant behaviour is usually the financial and reputational gain for a company. Any SME aspiring to become part of a global supply chain, needs to have a clean record to pass through the due diligence of the buyer/sourcing companies. Companies with a thorough compliance management system are likely to gain more business opportunities than the companies without one. In fact, there have been cases where Indian companies have been blacklisted,<sup>9</sup> meaning that they not only lose out on business, but once the reputation is tarnished, it will take a long time to get back into the market. With a progressive compliance management, the process of becoming an exporter becomes smoother, and with a good reputation, the company is likely to receive more business opportunities. Apart from the financial and reputational gain, avoiding legal and financial risk of sanctions associated with non-compliance, which may even lead to closure of business, should always be an incentive for any sustainable company.

<sup>9</sup> Ganguly, Shramana, *Indian Textile Industry may again figure on US Blacklist*, *Economic Times*, August 24, 2010, *Indian textile industry may again figure on US blacklist - The Economic Times* ([indiatimes.com](http://indiatimes.com))

<sup>10</sup> The Higg Index, Sustainable Apparel Coalition, <https://apparelcoalition.org/the-higg-index/>

Taking into consideration that India is on its way towards becoming an economic power in the world, export is likely to give the biggest boost. India wants to position itself as a responsible sourcing destination for global markets, which would require the export community of all sectors to follow compliance and best international standards not only in words but also in spirit.



As worldwide demands for exhaustible ecological resources and services increase, mindful consumption is promoted by various actors. Consumers now engage actively in understanding the manufacturing processes to avoid being deceived by the so-called greenwashing. Greenwashing is a deceptive and well-crafted marketing cover under which brands hide unsustainable and unethical business practices. It is also this increased consumer awareness that requires the textile and apparel industry to align their product manufacturing procedures with more sustainability.

There have been some efforts in providing primary tools for standardising apparel manufacturing processes around sustainable production and consumption: The Higg Index developed by The Sustainable Apparel Coalition, the leading alliance for sustainable production in the apparel, footwear, and textile industry, is gaining popularity. This Index enables and encourages brands, retailers and manufacturers to become transparent by communicating clear, trustworthy and meaningful information publicly. Transparency can allow companies to form stronger value chain partnerships. It helps designers and developers to establish sustainable, environment friendly designs and empowers consumers to make informed purchasing decisions.<sup>10</sup>

The Corona Pandemic has shown that the industry is not prepared for such unforeseen crisis, worldwide. Indian exports were one of the most affected areas of the Indian economy. Hence the companies have to be at their toes and be better prepared for such crisis situations and take this into account in their planning, policies and implementation.



Several reasons serve as key growth drivers for India, such as abundance of raw material, presence of entire value chains, competitive manufacturing costs, availability of skilled manpower, a large and growing domestic market, rising per capita income, higher disposable incomes and preferences for brands, organised retail landscape & e-commerce and increased focus on technical textiles due to growth of end-user industries such as automotive, healthcare, infrastructure and oil and petroleum.<sup>7</sup>

### Latest Development: Textile as MSME due to Change of Policy

The textile industry in India is largely categorized under the 'Micro, Small and Medium Enterprises Development Act, 2006'

<sup>7</sup> Ibid

<sup>8</sup> Ministry of Micro, Small and Medium Enterprises, Notification, New Delhi, June, 2020, [F. No. 2/1(5)/2019-P&G/Policy(Pt.-IV)], [https://msme.gov.in/sites/default/files/MSME\\_gazette\\_of\\_india.pdf](https://msme.gov.in/sites/default/files/MSME_gazette_of_india.pdf) (This notification has come into effect from 01.07.2020.)

A large, traditional wooden textile loom is the central focus of the image. The loom is constructed from dark wood and is set up in a workshop. Several spools of thread in various colors, including white, blue, and green, are hanging from the top beams of the loom. A long, narrow strip of light-colored fabric is draped over the top beam on the left side. The background shows a wall made of grey concrete blocks and a window with bright light coming through. The overall scene is a detailed view of a textile manufacturing process.

# 02.

## THE SCOPE OF EXPORT COMPLIANCE



This chapter outlines the legal framework applicable to export compliances in the textile sector. The relevant compliance regulations derive from international conventions, treaties and national legislations.

If exporting from India, it is essential to consider not only the national Indian regulations, but to adhere to regulatory requirements applicable at different stages of the supply chain as well. Therefore, this chapter will also give a broad outline of important jurisdictions and their relevant

legal framework exporters may need to consider when exporting to these countries. Due to the limited scope of this handbook, it is not possible to list all relevant legislations applicable.

Since international conventions and treaties usually apply to most countries worldwide, they will be portrayed first, followed by compulsory national Indian regulations and then leading to assorted regulations of other important foreign countries of export.

## International Environmental Protection and Labour Laws

01  
>>>

International Agreements and Conventions

02  
>>>

National Legislations: India

03  
>>>

Legislations and Aspirational Standards: Importing Countries

The following section covers compliance regulations deriving from international environmental protection and labour laws:

### 01. International Agreements and Conventions

There are various agreements and international conventions serving as legal frameworks. In this sub-section, we focus on listing important conventions which were signed by the Government of India and which were specifically relevant for the textile sector. These conventions focus on protection of employees involved in the process of garment-making as well as on protection of the environment, since the textile manufacturing process involves chemicals and other possible harmful substances affecting both employees and the environment.

#### Stockholm Convention on Persistent Organic Pollutants (POPs)

The Stockholm Convention<sup>11</sup> is a global treaty to protect human health and the environment from POPs (Persistent Organic Pollutants), which are chemical substances that persist in the environment, bio-accumulate in living organisms and by this adversely affect human health and the environment.

Initially, the convention listed twelve distinct chemicals in three categories as causing adverse effects on humans and the ecosystem. These included the most harmful 8 pesticides (aldrin, chlordane, DDT, dieldrin, endrin, heptachlor, mirex and toxaphene); two industrial chemicals (poly chlorinated biphenyls and hexachlorobenzene) and two unintended byproducts (poly chlorinated dibenzo-p-dioxins and dibenzo furans, commonly referred to as dioxins and furans). Further 16 chemicals were added to the list later.<sup>12</sup>

The Convention seeks to continue minimisation and, where feasible, eliminate the releases of unintentionally produced POPs, such as dioxins and furans. Stockpiles and wastes containing POPs must be managed and disposed in a safe, efficient and environmentally sound manner, following international rules, standards and guidelines.

Recently, the Ministry of Environment, Forest and Climate Change (MoEFCC), Government of India, released the *Regulation of Persistent Organic Pollutants Rules* on March 5, 2018<sup>13</sup> under the provisions of Environment (Protection) Act, 1986, considering its commitment towards providing a safe environment and addressing human health risks.

The regulation inter alia prohibits the manufacture, trade, use, import and export of seven chemicals namely

- » Chlordecone,
- » Hexabromobiphenyl,
- » Hexabromodiphenyl ether and Heptabromodiphenylether (Commercial octa-BDE),
- » Tetrabromodiphenyl ether and Pentabromodiphenyl ether (Commercial penta-BDE),
- » Pentachlorobenzene,
- » Hexabromocyclododecane, and
- » Hexachlorobutadiene,

which are all listed as POPs under the Stockholm Convention.<sup>14</sup>

It also indicates the determination of the Government to act on POPs by the following control measures and action plans for unintentionally produced chemicals, development of inventories of the chemicals' stockpiles and review as well as update of its National Implementation Plan (NIP).<sup>15</sup>

<sup>11</sup> Refer <https://www.unido.org/our-focus-safeguarding-environment-implementation-multilateral-environmental-agreements/stockholm-convention>

<sup>12</sup> The 16 New POPs – An introduction to the chemicals added to the Stockholm Convention as Persistent Organic Pollutants by the Conference of the Parties | InforMEA

<sup>13</sup> [openpdffile.php\(cpcb.nic.in\)/RPOPRules,2018.pdf](https://openpdffile.php(cpcb.nic.in)/RPOPRules,2018.pdf) (pcbassam.org)

<sup>14</sup> Cabinet ratifies ban on seven chemicals that are hazardous to health & environment listed under Stockholm Convention, 07 OCT 2020, Press Information Bureau, Ministry of Environment, Forest and Climate Change, <https://pib.gov.in/PressReleaselframePage.aspx?PRID=1662362>

<sup>15</sup> Ibid





<sup>16</sup> Minamata Convention on Mercury, Kumamoto, 10 October 2013, CHAPTER XXVII ENVIRONMENT, United Nations Treaty Collection, <https://treaties.un.org/doc/Treaties/2013/10/20131010%2011-16%20AM/CTC-X XVII-17.pdf>

<sup>17</sup> The textile dyeing industry consumes large quantities of water and produces large volumes of wastewater from different steps in the dyeing and finishing processes. Wastewater from printing and dyeing units is often rich in colour, containing residues of reactive dyes and chemicals, such as complex components, many aerosols, high chroma, high COD and BOD concentration. Toxic effects of dyestuffs and other organic compounds, as well as acidic and alkaline contaminants, from industrial establishments on the general public are widely accepted. Therefore, in terms of its environmental impact, the textile industry is estimated to use more water than any other industry, globally and almost all wastewater discharged is highly polluted.

<sup>18</sup> For details, refer <https://cpcb.nic.in/>

<sup>19</sup> Navin, Kr., Pravin, Assistant Professor, Department of Civil Engineering, Vivekananda Institute of Technology, Jaipur, India & Kumar, Santosh, Research Scholar, Department of Civil Engineering, MNIT, Jaipur, India, Textile Wastewater Treatment: A Critical Review, Volume 6, Issue 11, International Journal of Engineering Research & Technology (IJERT), 2018, pp 05 <https://www.ijert.org/research/textile-wastewater-treatment-a-critical-review-IJERTCONV6IS11015.pdf>

<sup>20</sup> Refer <https://ozone.unep.org/sites/default/files/Consolidated-Montreal-Protocol-November-2016.pdf>

## Minamata Convention on Mercury

The Minamata Convention on Mercury is designed to protect human health and the environment from man-made emissions and releases of mercury and mercury compounds.<sup>16</sup> The textile industry's reputation has always suffered due to disposal of untreated toxic wastewater into rivers or even the sea. These wastewaters mostly contain lead, mercury, arsenic and other harmful substances, eventually reaching far away areas where consumed by many people for drinking or other daily purposes.<sup>17</sup>

In India, there are strict requirements for the emission of wastewater. Limits of the wastewater discharge comprise many parameters due to variation in the raw materials used, e.g. different types of dyes, technology and equipment. These standards are established by the national environmental protection department of **Central Pollution Control Board (CPCB)**<sup>18</sup> under the *Water (Prevention and Control of Pollution) Act, 1974*. Furthermore, the respective wastewater treatment plants are regulated according to certain specified standards. Aim of these wastewater treatment facilities in the textile industry is to implement technologies giving **minimum or zero water pollution**. These wastewater treatment plants are the most accepted approaches towards reaching environmental safety. Yet, no treatment methodology is appropriate or universally adaptable for all kinds of textile effluents.

Hence, the treatment of textile wastewater is done by a combination of several methods, which contain physical, chemical, and biological methods depending on the type and quantum of pollution load.<sup>19</sup>

## Montreal Protocol

The *Montreal Protocol* on Substances that Deplete the Ozone<sup>20</sup> Layer, also known simply as the *Montreal Protocol*, is designed to protect the ozone layer by phasing out production of numerous substances that are responsible for ozone depletion. Due to the worldwide cooperation, this treaty



<sup>21</sup> Refer <https://parivesh.nic.in/writereaddata/ENV/ozone/1.pdf>

<sup>22</sup> Agenda 21, UNCED, 1992, Sustainable Development Goals Knowledge Platform, <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>

<sup>23</sup> Ibid

<sup>24</sup> Ibid

<sup>25</sup> Ibid

<sup>26</sup> Science and Sentiment, India Sustainability Report, 2020, White Paper by Voice of Fashion, Ministry of Textiles, Government of India, pp 12, <https://thevoiceoffashion.com/assets/pdfs/5e4e383da081eTVOF%20ISR%202020%20FINAL.pdf>

<sup>27</sup> Science and Sentiment, India Sustainability Report, 2020, White Paper by Voice of Fashion, Ministry of Textiles, Government of India, pp 26, <https://thevoiceoffashion.com/assets/pdfs/5e4e383da081eTVOF%20ISR%202020%20FINAL.pdf>

has successfully led to the phase-out of production and consumption of major Ozone Depleting Substances (ODS), viz. CFCs, HCFCs, Carbon tetrachloride (CTC) and Halons. In India, the *Ozone Depleting Substances (Regulation and Control) Rules, 2000* is the legal framework to be referred to, which ratifies the *Montreal Protocol*.<sup>21</sup>

## Agenda 21

Agenda 21<sup>22</sup> is a non-binding action plan of the United Nations with regards to **sustainable development** deriving from the Earth Summit (UN Conference on Environment and Development) held in Rio de Janeiro, Brazil, in 1992. It is an action agenda for the UN, other multilateral organizations, and individual governments around the world to be executed at local, national and global level.<sup>23</sup>

With reference to the textile industry, Section II of the *Agenda 21*, dealing with Conservation and Management of Resources for Development, must be looked into carefully. Section 2.19. of the *Agenda 21* states that environment and trade policies should be mutually supportive. An open, multilateral trading system makes a more efficient allocation and use of resources possible and thereby contributes to an increase in production and income while

lessening demands on the environment.<sup>24</sup> Thus, it provides additional resources for economic growth and development and improved environmental protection. A sound environment, on the other hand, provides ecological and other resources needed to sustain growth and underpin a continuing expansion of trade. An open, multilateral trading system, supported by adoption of sound environmental policies, thus has a positive impact on the environment and contributes to sustainable development.<sup>25</sup>

The **shift in the attitudes** of potential buyers to opt for clothes deriving from a more environmentally friendly process of manufacture is already visible. A white paper produced by the fashion media platform "The Voice of Fashion" (TVoF), mentions that 61% of environment conscious, elite target groups were **aware of their environmental footprint** and were taking active steps towards it.<sup>26</sup> In the same report, it reads the majority of the respondents across all age groups in various cities showed interest in knowing if child labour had been involved in the making of fashion garments and accessories.<sup>27</sup>

With rising awareness of consumers and changing consumer behavioural patterns, compliance with environmental laws becomes even more necessary for the textile industry.

## International Labour Organisation Conventions

<sup>28</sup> Refer <https://www.ilo.org/moscow/areas-of-work/international-labour-standards/lang--en/index.htm>

<sup>29</sup> Refer <https://www.ilo.org/moscow/areas-of-work/gender-equality/lang--en/index.htm>

<sup>30</sup> Refer <https://www.ilo.org/moscow/areas-of-work/gender-equality/lang--en/index.htm>

<sup>31</sup> Ibid

<sup>32</sup> Ibid

Apart from international environmental conventions and treaties, the International Labour Organisation (ILO) sets standards for the working conditions worldwide.<sup>28</sup> These International Labour Conventions cover a wide area of social and labour issues including, amongst others, basic human rights, minimum wages, industrial relations, employment policy, social dialogue and social security.<sup>29</sup>

International labour standards are legal instruments drawn up by the ILO's constituents (governments, employers and employees), setting out basic principles and rights at work.<sup>30</sup> They either act through Conventions (or Protocols), which are legally binding

international treaties that may be ratified by member states, or Recommendations, which serve as non-binding guidelines.<sup>31</sup>

The ILO Governing Body has released eight fundamental Conventions, covering subjects that are considered to be fundamental principles and rights at work: Freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.<sup>32</sup>



The eight fundamental Conventions are:

ILO	Corresponding Indian Legislation
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	Not ratified by India
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	Not ratified by India
Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol)	The Bonded Labour System (Abolition) Act, 1976[1] <sup>33</sup>
Abolition of Forced Labour Convention, 1957 (No. 105)	Article 23 of The Constitution of India <sup>34</sup> & The Bonded Labour System (Abolition) Act, 1976[2] <sup>35</sup>
Minimum Age Convention, 1973 (No. 138)	The Child Labour (Protection and Regulation) Act, 1986[3] <sup>36</sup>
Worst Forms of Child Labour Convention, 1999 (No. 182)	The Child Labour (Protection and Regulation) Act, 1986
Equal Remuneration Convention, 1951 (No. 100)	Equal Remuneration Act, 1976[4]
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Article 15, 16 & 39 of the Constitution of India, Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1955, <sup>37</sup> Industrial Employment Standing Orders Act, 1946, <sup>38</sup> the Industrial Disputes Act, 1947, <sup>39</sup> the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 <sup>40</sup>

<sup>33</sup> [197619.pdf \(indiacode.nic.in\)](https://www.indiacode.nic.in/197619.pdf)

<sup>34</sup> Refer [https://legislative.gov.in/sites/default/files/COI\\_1.pdf](https://legislative.gov.in/sites/default/files/COI_1.pdf)

<sup>35</sup> Refer [https://labour.gov.in/sites/default/files/TheBondedLabourSystem\(Abolition\)Act1976.pdf](https://labour.gov.in/sites/default/files/TheBondedLabourSystem(Abolition)Act1976.pdf)

<sup>36</sup> Refer [https://clc.gov.in/clc/acts-rules/child-labour-prohibition-and-regulation-act-1986#:~:text=An%20Act%20to%20prohibit%20the,children%20in%20certain%20other%20employments.&text=PRELIMINARY-,1,and%20Regulation\)%20Act%2C%201986.](https://clc.gov.in/clc/acts-rules/child-labour-prohibition-and-regulation-act-1986#:~:text=An%20Act%20to%20prohibit%20the,children%20in%20certain%20other%20employments.&text=PRELIMINARY-,1,and%20Regulation)%20Act%2C%201986.)

<sup>37</sup> Refer <https://legislative.gov.in/actsofparliamentfromtheyear/persons-disabilities-equal-opportunities-protection-rights-and-full>

<sup>38</sup> Refer <https://legislative.gov.in/sites/default/files/A1946-20.pdf>

<sup>39</sup> Refer [https://labour.gov.in/sites/default/files/THEINDUSTRIALDISPUTES\\_ACT1947\\_0.pdf](https://labour.gov.in/sites/default/files/THEINDUSTRIALDISPUTES_ACT1947_0.pdf)

<sup>40</sup> Refer <https://legislative.gov.in/sites/default/files/A2013-14.pdf>

## 02. National Legislations: India

India, as one of the founding members of the ILO, follows recommendations of the organisation with sincerity. 47 ILO conventions and 1 protocol have been ratified by India so far. Out of 47 conventions and 1 protocol ratified by India, of which 39 are in force, 5 conventions and 0 protocols were denounced, and 4 instruments abrogated.<sup>41</sup> Corresponding to these conventions and protocols, the Government of India has drafted domestic regulations to comply with them. Additionally, there are other labour laws applicable for the regulation and protection of labour, both from the Centre and the States.

The ILO promotes decent work in the textile, clothing, leather and footwear sector by promoting social dialogue on main challenges and opportunities in the sector as well as building consensus among tripartite constituents on measures to address them; increasing and disseminating knowledge on recent trends and developments; supporting the implementation of international labour standards and workplace compliance; building capacity of sectoral constituents on different issues (OSH, skills, minimum wages, etc) and strengthening partnerships and policy coherence among different stakeholders at global, regional and country levels.<sup>42</sup>

Indian national legislative framework for the textile sector is partly based on above-mentioned international treaties and conventions. Various regulations exist, which cover the occupational health and safety of labour and need to be complied with. India presently has a draft code compiling 13 regulations for the improvement of occupational health and safety issues.<sup>44</sup>

### a) Labour Laws and Occupational Health and Safety Regulations

With a view to reform the archaic labour laws and to facilitate ease of doing business in India, the Government of India decided to consolidate 29 central labour laws into four labour codes, namely,

- » The Code on Wages, 2019 (the "Code on Wages");
- » The Code on Social Security, 2020 (the "SS Code");
- » The Occupational Safety, Health and Working Conditions Code, 2020 (the "OSH Code"); and
- » The Industrial Relations Code, 2020 (the "IR Code").

The Government of India is currently in the process of formulating rules under these Codes for their implementation. Once the Rules have been drafted and finalized, the above Codes along with the rules shall come into force on such date as appointed by the Government by notification in the Official Gazette.

### The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill, 2016

The comprehensive draft Bill introduces severe punitive measures for trafficking of all kinds, from using victims as bonded labour or as child labourers forced to begging. The draft bill spells out a range of other offences, expanding the very definition of trafficking. The list of offences includes trafficking for the purpose of bearing a child, under the pretext marriage, using as a human shield or child soldiers.

The various regulations on health and safety are as follows. Some of these will be displayed in more detail below.

Constitutional Framework		
OSH Laws Relating to Substance, Machinery & Environment		The Factories Act, 1948
The Indian Boilers Act, 1923 (amended 2007)		The Shops and Commercial Establishments Acts
The Public Liability Insurance Act, 1991 (amended 1992)		
The Inflammable Substances Act, 1952	The Dangerous Machines (Regulation) Act, 1983	The Environment (Protection) Act, 1986 (amended 1991)
	The Motor Vehicles Act, 1988 (amended 2013)	The Insecticides Act, 1968 (amended 2000)
The Water (Preventions Control of Pollution) Act, 1974 (amended 1988) & The Water (Prevention & Control of Pollution) Cess Act, 1977 (amended 2003)	The Air (Prevention & Control of Pollution) Act, 1981 (amended 1987)	Compensation to employees in the event of accidents or those affected by Occupational Disease 
The Electricity Act, 2003 (amended 2007)		Benefits to Workers and their Families to secure sickness, disablement and medical benefits - The Employees' State Insurance Act, 1948
The National Green Tribunal Act, 2010 12		
The Energy Conservation Act, 2001 (amended 2010)		

<sup>41</sup> India & ILO | Ministry of Labour & Employment

<sup>42</sup> Refer <https://www.ilo.org/global/industries-and-sectors/textiles-clothing-leather-footwear/lang--en/index.htm>

<sup>43</sup> A2013-14.pdf (legislative.gov.in)

<sup>44</sup> <https://prsindia.org/billtrack/overview-of-labour-law-reforms#:~:text=In%202019%2C%20the%20Ministry%20of,Safety%2C%20Health%20and%20Working%20Conditions.>



## b) Environmental Legislations

### The Environment (Protection) Act, 1986

In wake of the **Bhopal gas Tragedy or Bhopal Disaster**, the Government of India enacted the *Environment Protection Act of 1986*.<sup>45</sup> The purpose of this Act is to implement decisions of the United Nations Conference on the Human Environment. They relate to protection and improvement of the human environment and prevention of hazards to human beings, other living creatures, plants and property. The Act is an “umbrella” legislation designed to provide a framework for the Central Government coordinating activities of various central and state authorities established under previous laws, such as the Water Act and the Air Act.

*The Environment (Protection) Act, 1986* authorises the central government to protect and improve environmental quality, control and reduce pollution from all sources, and prohibit or restrict the setting and/or operation of any industrial facility on environmental grounds. Furthermore, it empowers the Central Government to establish authorities charged with mandate to prevent environmental pollution of all forms and to tackle specific environmental problems peculiar to different parts of the country.

*The Environment (Protection) Rules*<sup>46</sup> lays down procedures for **setting standards of emission or discharge of environmental pollutants**. The objective of *Hazardous Waste (Management and Handling) Rules, 1989* is to control the **generation, collection, treatment, import, storage, and handling of hazardous waste**. The Manufacture, Storage, and Import of Hazardous Rules define the terms used in this context and set up an authority to inspect, once a year, the industrial activity connected with hazardous chemicals and isolated storage facilities.<sup>47</sup>

Recently, the national legislations tend to extend producers' responsibilities, e.g. the latest amendments to the Waste Management Rules make companies responsible for proper packaging of wastes.<sup>48</sup>



### The Water (Prevention & Control of Pollution) Act, 1974

The Government passed this act in 1974 to prevent pollution of water by industrial, agricultural and household wastewater possibly contaminating natural water resources. Wastewaters with high levels of pollutants entering wetlands, rivers, lakes, wells and the sea may pose serious health hazards.<sup>49</sup>

The main objective of the *Water Act* is to provide for prevention, control and abatement of water pollution and maintenance or restoration of the wholesomeness of water. It is designed to assess pollution levels and punish polluters. Among other things, the Act provides for establishing Central and State Boards to prevent water pollution. These Boards monitor water pollution and are authorised to take and analyse water samples, to impose penalties, to publish the names of offenders such as companies or even Government departments etc.

Prevention and control of water pollution is achieved through a permit or 'consent administration' procedure. Discharge of certain, limited effluents is permitted by obtaining consent of the State Water Board, subject to any condition they specify.<sup>50</sup>

### Water Pollution Cess Act, 1977

According to this Act, anyone consuming water must pay a certain amount of cess depending on:

- » Use of water for industrial cooling, spraying in mine pits or boilers feed;
- » For domestic purposes;
- » In processing, whereby water gets polluted and pollutants are easily biodegradable;
- » In processing, whereby water gets polluted and the pollutants are not easily biodegradable and are toxic;

Industries establishing a suitable facility for the treatment of industrial effluents can get a rebate of 70 per cent on the cess payable.<sup>51</sup>

## c) Consumer Protection

### The Consumer Protection Act, 2019

*The Consumer Protection Act, 2019* establishes the Central Consumer Protection Authority (CCPA) whose primary objective is to promote, protect and enforce rights of consumers, enabling them to make an informed decision at the pre-purchase stage. The Act deals with unfair/restrictive trade practice by a trader/service provider or with allegations of defective goods and deficiency

of services provided to a Consumer. The CCPA is authorised to conduct investigations into violations of consumer rights and institute complaints/prosecutions. Also, it can order recalls of unsafe goods and services and order discontinuance of unfair trade practices and misleading advertisements. Furthermore, the CCPA can impose penalties on manufacturers/endorsers/publishers for misleading advertisements.<sup>52</sup>

### Consumer Rights

Six consumer rights are defined in the Act, including:

- » the right to be protected against marketing of goods, products or services which are hazardous to life and property;
- » the right to be informed about quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, to protect the consumer against unfair trade practices;
- » the right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices;
- » the right to be heard and to be assured that consumers interests will receive due consideration at appropriate fora;
- » the right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and
- » the right to consumer awareness.<sup>53</sup>

<sup>45</sup> Refer [https://www.indiacode.nic.in/bitstream/123456789/16614/1/epa\\_1986.pdf](https://www.indiacode.nic.in/bitstream/123456789/16614/1/epa_1986.pdf)

<sup>46</sup> Refer <https://parivesh.nic.in/writereaddata/ENV/THE%20ENVIRONMENT.pdf>

<sup>47</sup> Refer <https://npcb.nagaland.gov.in/wp-content/uploads/2016/03/HAZARDOUS-CHEMICALS-RULES.pdf>

<sup>48</sup> Notification, MINISTRY OF ENVIRONMENT, FOREST AND CLIMATE CHANGE, New Delhi, 22nd March, 2018 <https://cpob.nic.in/e-waste/>

<sup>49</sup> CPCB | Central Pollution Control Board

<sup>50</sup> THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974 ACT NO. 6 OF 1974, <http://www.mppcb.mp.gov.in/proc/WaterAct-1974.pdf>

<sup>51</sup> THE WATER (PREVENTION AND CONTROL OF POLLUTION) CESS ACT, 1971, No. 36 of 1977, [7th December, 1977], MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS, [http://nbaindia.org/uploaded/Biodiversityindia/Legal/20.%20Water%20\(Prevention%20and%20Control%20of%20Pollution\)%20Cess%20Act,%201977.pdf](http://nbaindia.org/uploaded/Biodiversityindia/Legal/20.%20Water%20(Prevention%20and%20Control%20of%20Pollution)%20Cess%20Act,%201977.pdf)

<sup>52</sup> The Consumer Protection Rules and Regulations Under The Consumer Protection Act, 2019, Department of Consumer Affairs, Ministry of Consumer Affairs, Food and Public Distribution, Government of India, <https://consumeraffairs.nic.in/acts-and-rules/consumer-protection>

<sup>53</sup> THE CONSUMER PROTECTION ACT, 2019, NO. 35 OF 2019, 9th August, 2019, <https://consumeraffairs.nic.in/sites/default/files/CP%20Act%202019.pdf>



## E-Commerce

In addition to the aforementioned, the Act governs consumer protection regarding new forms of trade related to e-commerce. Entities are required to provide information to consumers, relating to return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, grievance redressal mechanism, payment methods, security of payment methods, charge-back options and the countries of origin. Any consumer complaint must be addressed within 48 hours and redressed within one month from the date of receipt. Companies need to appoint a complaints' officer for consumer redressal.

## Product Liability

A manufacturer or product service provider or product seller will be held responsible for injury or damage caused by defective products or deficiency in services. Product liability actions may be brought for the following reasons: Manufacturing and design

defects deviation from manufacturing specifications; not conforming to express warranty; failing to contain adequate instructions for correct use; service provided-faulty; imperfect or deficient; punishment for manufacture or sale of adulterated/spurious goods.

## The Consumer Protection (E-commerce) Rules, 2020

The *Consumer Protection (E-commerce) Rules, 2020* are mandatory and are not advisories as expected by the name.<sup>54</sup> Sellers cannot refuse to take back goods or withdraw services or refuse refunds, if such goods or services are defective, deficient, delivered late, or if they do not meet description on the platform. The rules also prohibit e-commerce companies from manipulating price of the goods or services to gain unreasonable profit through unjustified prices.

## d) Anti-bribery and Anti-corruption laws in India



<sup>54</sup> Consumer Protection (E-Commerce) Rules, 2020 | Department of Consumer Affairs | Ministry of Consumer Affairs Food and Public Distribution | Government of India

<sup>55</sup> Refer <https://www.indiacode.nic.in/bitstream/123456789/9317/1/corruptiona1988-49.pdf>

<sup>56</sup> Kant, Amitabh, Why new Prevention of Corruption Bill is a game-changing move, Aug 02, 2018, <https://economictimes.indiatimes.com/news/economy/policy/view-why-new-prevention-of-corruption-bill-is-a-game-changing-move/articleshow/65234522.cms>

<sup>57</sup> Refer <https://legislative.gov.in/sites/default/files/A2018-17.pdf>

<sup>58</sup> Implementation of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 with effect from 21st September 2020, Press Information Bureau, 18 SEP 2020, Ministry of Finance, <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1656254#:~:text=The%20Customs%20Administration%20of%20Rules%20of%20Origin%20under,other%20stakeholders%20to%20familiarize%20themselves%20with%20new%20provisions.>

<sup>59</sup> Implementation of the Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 with effect from 21st September 2020, Press Information Bureau, 18 SEP 2020, Ministry of Finance, <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1656254#:~:text=The%20Customs%20Administration%20of%20Rules%20of%20Origin%20under,other%20stakeholders%20to%20familiarize%20themselves%20with%20new%20provisions>

## The Prevention of Corruption Act, (POCA) 2018

### Definition of Undue Advantage

The Act defines the offence of accepting bribes, under Section 7, as "obtains or accepts or attempts to obtain from any person an undue advantage, intending that in consequence a public duty would be performed improperly or dishonestly, either by himself or by another public servant is guilty of offence and shall be imprisoned for a term of 3 to 7 years."<sup>55</sup>

### Enhancement of Punishment

Since passing of the Act, punishment is increased from a minimum imprisonment term of 6 (six) months to 3 (three) years, and from a maximum of 5 (five) years to 7 (seven) years, with or without fine.<sup>56</sup>

The POCA Amendment has made bribery a specific offence and also introduces a concept of corporate criminal liability for bribery. Furthermore, amendment takes existing compliance mechanisms into account. These are considered a valid defence for the commercial organization if it is able to prove that it had 'adequate procedures' in place regarding compliance.

### Facilitation Payments

A facilitation payment is a financial payment, made with intention of expediting an administrative process. It is a payment made to a public or government official that acts as an incentive for the official to complete some action or process expeditiously, to the benefit of the party making the payment. Facilitation payments are also considered as bribes under the Prevention of Corruption Act in India.

### The Fugitive Economic Offenders Act, 2018

This Act is applicable to persons against



whom an arrest warrant has been issued for committing an offence listed in the Act and the value of the offence is at least Rs. 100 crore. Some of the offences listed in the act are counterfeiting Government stamps or currency, cheque dishonour, money laundering and transactions defrauding creditors.

The Act seeks to confiscate property of economic offenders who have left the country to avoid criminal prosecution,<sup>57</sup> or refuse to return to the country to face prosecution.

### The Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020

The *Customs (Administration of Rules of Origin under Trade Agreements) Rules, 2020 (CAROTAR, 2020)*, notified on 21 August 2020, came into force on 21 September 2020.

An importer is now required to conduct due diligence analysis before importing goods to ensure that these meet the prescribed originating criteria. A list of minimum information which the importer is required to possess is also provided in the rules along with general guidance. The importer will now have to enter certain origin related information into the Bill of Entry, as available in the Certificate of Origin.<sup>58</sup> The new Rules will support the importer to correctly ascertain the country of origin, properly claim the concessional duty and assist Customs authorities in smooth clearance of legitimate imports under Free Trade Agreements (FTAs). Hence, the Central Board of Indirect Taxes and Customs has been actively engaging with stakeholders through webinars and other means to guide them on compliance with the new Rules and to clarify any doubts that they may have. The new Rules aim at strengthening Customs when examining any attempted misuse of the duty concessions under FTAs.<sup>59</sup>

## 03 Legislations and Aspirational Standards: Importing Countries

Being an ever-growing, dynamic industry, compliances in the textile and apparel sector have become manifold and complex. Each country, with its specific circumstances, has evolved its own regulations. The various regulations provide opportunity to look at so-called best practices worldwide and adopt and implement them wherever this is beneficial.

### a) European Union

#### European Union's Regulation: REACH

REACH stands for Registration, Evaluation, Authorisation and Restriction of Chemicals. REACH is a regulation of the European Union, adopted to improve protection of human health and the environment from risks that can be posed by chemicals, while enhancing competitiveness of the EU chemicals industry. It promotes alternative methods for hazard assessment of substances in order to reduce the number of tests on animals. REACH places the burden of proof on companies. To comply with the regulation, companies must identify and manage the risks linked to the substances they manufacture and market in the EU. They demonstrate to the European Chemicals Agency ECHA<sup>60</sup> (managing technical and administrative aspects of the implementation of REACH) how the substance can be safely used, and they must communicate the risk management measures to the users.

REACH establishes procedures for collecting and assessing information on the properties and hazards of substances. Companies need to register their substances and to do this they need to work together with other companies who are registering the same substance. ECHA receives and evaluates individual registrations for their compliance, and the EU Member States evaluate selected substances to clarify initial concerns for human health or

for the environment. Authorities and ECHA's scientific committees assess whether the risks of substances can be managed. Authorities may ban hazardous substances if their risks are unmanageable. They can also decide to restrict a use or make it subject to a prior authorisation.<sup>61</sup>

#### European Union's Carbon Border Adjustment Mechanism (CBAM)

The European Commission adopted its Communication on the European Green Deal in December 2019. One of the key policies and measures that would be needed to achieve the Green Deal is the proposal for a carbon border adjustment mechanism (CBAM).

This new mechanism would place a carbon price on imports of certain goods from outside the EU, in order to push EU partners to raise their climate ambition and reduce the risk of 'carbon leakage'. This term describes a phenomenon where companies transfer production abroad to countries that have less stringent emission rules in place. Carbon leakage would counteract Europe's efforts to become climate-neutral by 2050, relocating emissions to third countries rather than reducing global emissions.<sup>62</sup>

India has expressed its concerns for the green deal and has sought more details as the impact on Indian exporters is still being ascertained.<sup>63</sup>

### b) United States of America

#### United States of America: Toxic Substances Control Act of 1976

*The Toxic Substances Control Act (TSCA or TOSCA)* is a United States law, passed by the United States Congress in 1976 and administered by the United States Environmental Protection Agency (EPA), that regulates introduction of new or already existing chemicals.

TSCA prohibits manufacture or importation of chemicals not on the TSCA Inventory or subject to one of many exemptions. Chemicals listed on the TSCA inventory are referred to as

'existing chemicals', while chemicals not listed are referred to as 'new chemicals'.<sup>64</sup> The inventory also contains 'flags' for those existing chemical substances that are subject to manufacturing or use restrictions. Determining if a chemical is on the Inventory is a critical step before beginning to manufacture (which includes importing) a chemical substance. Section 5 of TSCA requires anyone who plans to manufacture a new chemical substance for a non-exempt commercial purpose to provide EPA with a Premanufacture Notice (PMN) at least 90 days before initiating the activity.<sup>65</sup>

#### United States of America: Resource Conservation and Recovery Act, 1976

*The Resource Conservation and Recovery Act (RCRA)* is the public law that creates the framework for the proper management of hazardous and non-hazardous solid waste. The Act sets national goals for protecting human health and the natural environment from potential hazards of waste disposal, energy conservation and natural resources, reducing the amount of waste generated through source reduction and recycling, and ensuring management of waste in an environmentally sound manner.<sup>66</sup>

#### The United States of America: Comprehensive Environmental Response, Compensation, and Liability Act of 1980

The United States Federal Superfund law is officially known as the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)*. The Federal Superfund Program administered by the U.S. Environmental Protection Agency (EPA) is designed to investigate and clean-up sites contaminated with hazardous substances.

#### Superfund Sites

The Environment Protection Agency (EPA) cleans up orphan sites when potentially responsible parties cannot be identified or located, or when they fail to act or brownfield lands. Through various enforcement tools, EPA obtains private party clean-up through orders, consent decrees, and other small party settlements. EPA also recovers costs from financially viable individuals and companies once a response action has been completed.<sup>67</sup>

The law also created a liability structure for owners and operators of contaminated sites. Clean-up costs are borne by site owners or operators if the EPA has declared them liable for the pollution. If owners or operators cannot pay the costs, the federal government itself will finance the clean-up through the Superfund Trust Fund, which is financed by federal taxes.<sup>68</sup>

<sup>60</sup> Refer <https://echa.europa.eu/>

<sup>61</sup> *Understanding REACH, ECHA European Chemicals Agency*, <https://echa.europa.eu/regulations/reach/understanding-reach#:~:text=REACH%20is%20a%20regulation%20of%20the%20European%20Union%2C,enhancing%20the%20competitiveness%20of%20the%20EU%20chemicals%20industry>

<sup>62</sup> *Carbon Border Adjustment Mechanism, European Parliament Committees European Parliament*, <https://www.europarl.europa.eu/committees/en/carbon-border-adjustment-mechanism/product-details/20201009COT04181>

<sup>63</sup> *Sen, Amity, New Delhi, India expresses concern over EU's Green Deal, possible carbon taxes, The Hindu BusinessLine, November 18, 2020*

<sup>64</sup> *TSCA Chemical Substance Inventory, United States Environmental Protection Agency*, <https://www.epa.gov/tsca-inventory/about-tsca-chemical-substance-inventory>

<sup>65</sup> *TSCA Chemical Substance Inventory, United States Environmental Protection Agency*, <https://www.epa.gov/tsca-inventory/about-tsca-chemical-substance-inventory>

<sup>66</sup> Refer <https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-overview>

<sup>67</sup> *Summary of the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund), United States Environmental Protection Agency*, <https://www.epa.gov/laws-regulations/summary-comprehensive-environmental-response-compensation-and-liability-act> Act#cite\_note-ag-1

<sup>68</sup> *Comprehensive Environmental Response, Compensation and Liability Act, Ballotpedia*, [https://ballotpedia.org/Comprehensive\\_Environmental\\_Response,\\_Compensation\\_and\\_Liability\\_Act#cite\\_note-ag-1](https://ballotpedia.org/Comprehensive_Environmental_Response,_Compensation_and_Liability_Act#cite_note-ag-1)



## The United States of America: The Consumer Product Safety Improvement Act (CPSIA)

The *Consumer Product Safety Improvement Act* governs so-called “children’s products”, which are defined as any consumer product designed or intended primarily for children 12 years of age or younger.

CPSIA includes provisions addressing, among other things, lead, phthalates, toy safety, durable infant or toddler products, third-party testing and certification, tracking labels, imports, ATVs, civil and criminal penalties and a publicly searchable database of reports of harm.<sup>69</sup>

## The United States of America: Textile Fiber Products Identification Act

The *Textile Fiber Products Identification Act*, also known as the “*Textile Labeling Rule*”, requires brands to attach a label to covered textile products containing the generic names and percentages by weight of each fiber in the product, the name under which the manufacturer or other responsible party does business or RN number, and the name of the country in which product was processed or manufactured.<sup>70</sup>

## The United States of America: Customs Trade Partnership Against Terrorism

*Customs Trade Partnership Against Terrorism (CTPAT)* is but one layer in U.S. Customs and Border Protection’s (CBP) multi-layered cargo enforcement strategy. Through this program, CBP works with trade community to strengthen international supply chains and improve United States border security.<sup>71</sup> CTPAT is a voluntary public-private sector partnership program which recognizes that CBP can provide the highest level of cargo security only through close cooperation with principle stakeholders of the international supply chain such as importers, carriers, consolidators, licensed customs brokers, and manufacturers. The Security and Accountability for *Every Port Act of 2006* provided a statutory framework for the CTPAT program and imposed strict programme oversight requirements.

## How CTPAT works

When an entity joins CTPAT, an agreement is made to work with CBP to protect the supply chain, identify security gaps, and implement specific security measures and best practices. Applicants must address a broad range of security topics and present security profiles that list action plans to align security throughout the supply chain.

CTPAT members are considered to be of low risk and are therefore less likely to be examined at any U.S. port of entry.

## How Do I Become a Partner?

Participation in CTPAT is voluntary and there are no costs associated with joining the programme. Moreover, a company does not need an intermediary in order to apply to the programme and work with CBP; the application process is easy, and it is done online. The first step for the company is to review the CTPAT Minimum Security Criteria for their business entity to determine eligibility for the programme. The second step is to submit a basic application via the CTPAT Portal system and to agree to voluntarily participate. The third step is to complete a supply chain security profile. The security profile explains how the company is meeting CTPAT’s minimum security criteria. In order to do this, the company should have already conducted a risk assessment. Upon satisfactory completion of the application and supply chain security profile, the applicant company is assigned a CTPAT Supply Chain Security Specialist to review the submitted materials and to provide program guidance on an on-going basis. The CTPAT programme will then have up to 90 days to certify the company into the programme or to reject the application. If certified, the company will be validated within a year of certification.<sup>72</sup>



## The United States of America: Trafficking Victims Protection Reauthorization Act (TVPRA)

The Bureau of International Labor Affairs (ILAB) maintains a list of goods and their source countries which it has reason to believe are produced by child labour or forced labour in violation of international standards, as required under the *Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005* and subsequent reauthorizations. The List of Goods Produced by Child Labour or Forced Labour comprises 155 goods from 77 countries, as of September 30, 2020.<sup>73</sup>

ILAB maintains this list primarily to raise public awareness about forced labour and child labour around the world and to promote efforts to combat them. It is not intended to be punitive, but rather to serve as a catalyst for more strategic and focused coordination and collaboration among those working to address these problems.

## Other Regulations to Consider

### HIGG Index<sup>74</sup>

Developed by the Sustainable Apparel Coalition (a non-profit organisation founded by a group of fashion companies, the United States government Environmental Protection Agency, and other non-profit entities) the Higg Index is a suite of tools that enables brands, retailers, and facilities of all sizes, at every stage in their sustainability journey, to accurately measure and score a company or product’s sustainability performance. The Higg Index delivers a holistic overview that empowers businesses to make meaningful improvements which protect the well-being of factory workers, local communities, and the environment.

## Sanction Lists

There are some sanction countries, which have to be kept under consideration as exports to these countries are not permitted or are highly regulated.

**Economic sanctions** are commercial and financial penalties applied by one or more countries against a targeted self-governing state, group, or individual. Governments and multinational bodies impose economic sanctions to try to alter the strategic decisions of state and nonstate actors that threaten their interests or violate international norms of behaviour.<sup>75</sup>

Examples :

On August 2, 2017, President Donald Trump signed into law the *Countering America’s Adversaries Through Sanctions Act*,<sup>76</sup> that grouped together sanctions against Russia, Iran and North Korea.

In 1999, the United Nations imposed sanctions against all Al-Qaida- and Taliban-associated individuals through UN Security Council Resolution 1267.<sup>77</sup> The cornerstone of the sanction is a consolidated list of persons maintained by the Security Council. All nations are obliged to freeze bank accounts and other financial instruments controlled by or used for the benefit of anyone on the list. In March 2010, Brazil introduced sanctions against the US. These sanctions were placed because the US government was paying cotton farmers for their products against World Trade Organization rules. These sanctions cover cotton, as well as cars, chewing gum, fruit, and vegetable products.<sup>78</sup> The WTO is currently supervising talks between the states to remove the sanctions.

Note : Before executing any international trade in respect of the products to and from India to certain countries, always check the current regulations that apply to such international trade to confirm if there are any sanctions or embargoes against such countries or whether such trade amounts violate any bilateral treaties or agreements. Expert view is always advisable.

<sup>69</sup> The Consumer Product Safety Improvement Act (CPSIA) | CPSC.gov

<sup>70</sup> Refer <https://www.fto.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/textile-products-identification-act-text>

<sup>71</sup> Minimum Security Criteria – U.S. Importers, November 2019, Customs Trade Partnership Against Terrorism <https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/CTPAT%20U.S.%20Importers%20MSC%202019.pdf>

<sup>72</sup> CTPAT: Customs Trade Partnership Against Terrorism, U.S. Customs and Border Protection, <https://www.cbp.gov/border-security/ports-entry/cargo-security/ctpat>

<sup>73</sup> Refer <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>

<sup>74</sup> Sustainable Apparel Coalition, The Higg Index, <https://apparelcoalition.org/the-higg-index/#:-:text=The%20Higg%20Index%20Developed%20by%20the%20Sustainable%20Apparel,and%20score%20a%20company%20or%20product%E2%80%99s%20sustainability%20performance.>

<sup>75</sup> Masters, Jonathan, What Are Economic Sanctions? 12th August 2019, Council on Foreign Relations, <https://www.cfr.org/background/what-are-economic-sanctions>

<sup>76</sup> Countering America’s Adversaries Through Sanctions Act | U.S. Department of the Treasury

<sup>77</sup> Refer [https://www.coe.int/t/dg1/legalcooperation/economiccrime/MoneyLaundering/Projects/MOLI%20UA-2/moliua2\\_Klaudio\\_Guidelines\\_UNSC\\_Resolutions\\_against\\_terrorism\\_eng.pdf](https://www.coe.int/t/dg1/legalcooperation/economiccrime/MoneyLaundering/Projects/MOLI%20UA-2/moliua2_Klaudio_Guidelines_UNSC_Resolutions_against_terrorism_eng.pdf)

<sup>78</sup> <https://fas.org/ago/crs/row/RL32571.pdf>



### Intellectual Property Rights Protection for MSME Innovation

Intellectual property (IP) is a category of property that includes intangible creations of the human intellect.<sup>79</sup> IP rights protect interests of innovators and creators by giving them rights over their creations.

#### Why Intellectual Property Rights matter

To secure intellectual property, depending on individual circumstances, patents, trademarks or copyrights can be applied for. By exercising intellectual property rights, counterfeit products can be banned. Also, for creation of a brand value in the market and establishing wholesome ownership of what is created by the business, awareness of intellectual property rights becomes pertinent.

#### Why register?

01
To have exclusive right

02
Design registration gives a broader protection than copyright

03
A better license positions

### What are the different types of Intellectual Property?

**Patents:** Also referred to as patents for invention, patents are the most widespread means of protecting technical inventions. The patent system is designed to contribute to the promotion of innovation and the transfer and dissemination of technology, to the mutual advantage of inventors, users of inventions and the general public. Simply put, once a patent is granted by a state or by a regional office acting for several states, the owner of a patent has the right to prevent anyone else from commercially exploiting the invention for a limited period, generally 20 years.<sup>80</sup>

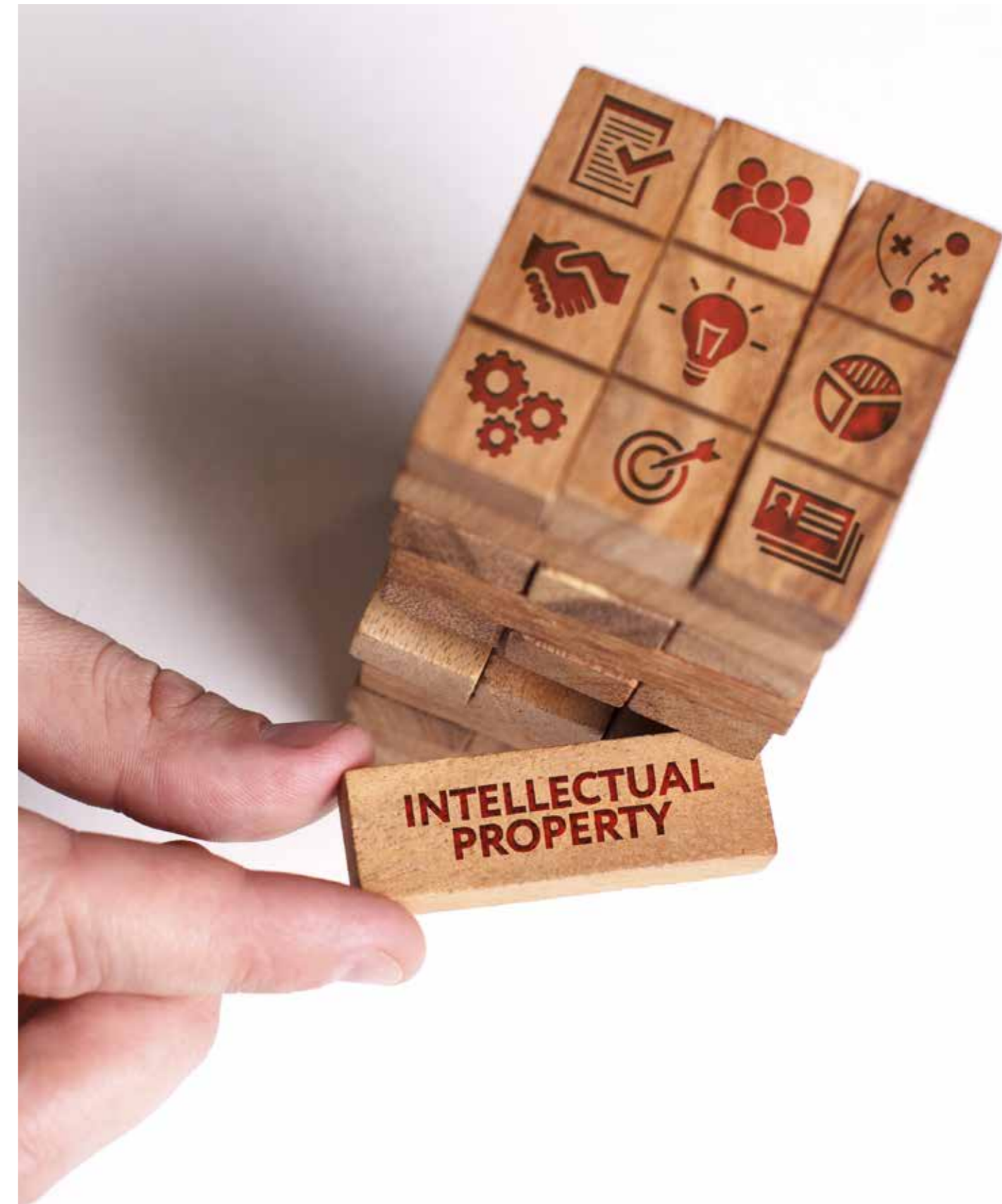
- » Legal Right issued by the government
- » Contract between the inventor and the government
- » 20 years life
- » Country Specific
- » Negative right – Right to stop someone from manufacturing, selling, using or importing.

**Trademark:** A trademark is a sign, or a combination of signs, that distinguishes the goods or services of one company from those of another. Such signs may use words, letters, numerals, pictures, shapes and colours, or any combination thereof.<sup>81</sup>

A trademark can be registered for 10 years and can be extended.

**Design:** An industrial design refers to the right granted in many countries, pursuant to a registration system, to protect the original, ornamental, and non-functional features of a product resulting from design activity.<sup>82</sup>

- » Conferred to an original and first inventor
- » Any functionality associated with the registered design is excluded from protection.
- » A right to forbid others from producing, selling and importing the same products with the same look.
- » Validity – 10 year initially, and 5 years extension under copyright act, 15 years in total.



<sup>79</sup> What is Intellectual Property? (wipo.int)

<sup>80</sup> Understanding Industrial Property, 2016, World Intellectual Property Organization, pp 08, [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_895\\_2016.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_895_2016.pdf)

<sup>81</sup> Understanding Industrial Property, 2016, World Intellectual Property Organization, pp 17 [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_895\\_2016.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_895_2016.pdf)

<sup>82</sup> Understanding Industrial Property, 2016, World Intellectual Property Organization, pp 13 [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_895\\_2016.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_895_2016.pdf)





Knowing the law and regulations is an important step to minimise liability and establish a legally safe export process. As with any business activity, to ensure compliance, it is best to define certain procedures so that every day business can be carried out efficiently in accordance with defined quality standards. Actions that deviate from this standardised process are thus minimised, and at every point in the process it is clear exactly which information and work have led to a certain decision or outcome.

This chapter will emphasise the practical side of compliance: The first section explains the steps to **establish a compliance management system** focussed on exports. In the second section, daily business transactions are displayed, which put employees in a **dilemma** in context of corruption and integrity and how the employee/company should react/prevent such situations. The third section outlines **where the sector is headed** globally, what challenges can be expected in the near future and how to prepare for it.

## How to establish a compliance management system for export

An efficient compliance management system is based on three strategic elements, namely prevention, detection and reaction. All steps

implemented according to the below graph serve one of these three strategic elements.



Source: news\_events/8.1/bac\_fin.pdf (d306pr3pise04h.cloudfront.net)

There are 6 steps<sup>83</sup> to establish an effective compliance management system:

**1) Commitment** – It is very important that the senior management of the company is committed to a **zero corruption policy**, establishing a clear **tone from the top** that employees should not get involved in any corrupt practices such as paying or receiving bribes and that the senior management supports the employees with implementing this policy. Some of the acts through which commitment is communicated are as follows:

- » Zero tolerance policy
- » Code of Conduct policy – for employees, for third party vendors/suppliers/consultants/middlemen
- » Budget allocation for creating awareness & training the staff

**2) Assess - Risk assessment** plays a vital role when creating and implementing an effective compliance program. It helps companies identify their individual risks, determine priorities and develop policies and procedures to address these risks. It is important to understand that **risks are not negative**. All relevant stakeholders, such as the responsible team/third party/liasing person, involved in export should jointly identify which transactions pose risk, e.g. procurement of goods, customs clearance, license (renewal), obtaining special permits, documentation etc. Once potential risk areas have been identified, the **frequency** of such transactions and potential impact on liability/finances and the reputation of the company have to be evaluated. Based on this analysis, **transactions with a higher risk potential need to be prioritised** and **risk mitigation measures** must be **implemented according to the resources and needs** of the company. For smaller companies, these measures may differ greatly from bigger or even multinational companies, which need to implement thorough compliance management systems (possibly subject to audits etc.). Any business is unique and so may the measures implemented vary.



<sup>83</sup> Various International organisations recommend steps varying from 6 to 10 steps. Any of these cycles can be used. The basic content remains similar.

The following examples include risks you may encounter when assessing risks in your company.

As regards export business, a great source for corrupt activities may be imposed by

officials being part of the actual export, e.g. when **necessary documents are outstanding**. Therefore, it is mandatory to establish a full proof **documentation process**. Risk mitigation in this case may include preparing a **checklist** of all the documents required for export both at shipment level and at the destination country, and have these lists **updated by** either an inhouse lawyer or a contractual legal expert as the laws are prone to being updated. In addition, **compile data** for all permits, certifications and licences required by your company for export from India to any importing country. **Classify** these documents according to their state of processing: already procured or in process, date of expiry and renewal, ensuring that all relevant documents remain up-to date.

A further area of possible risks when exporting are **middlemen or clearing house agents**.

Possible mitigation measures when concluding commission agreements:

- » It must be ensured that commissions are paid for legally permissible activities only and not for illicit payments;
- » Commissions and compensations paid to a consultant, intermediary or any other person engaged by or on behalf of the SMEs must be proportionate and reasonable in relation to the activities carried out;
- » Monitoring their actions closely (e.g. request reports monthly) may be one way to prevent illicit payments;

Risks may also arise from **transactions with any third party**. A joint venture with a corrupt entity may soon end, and your company may find itself liable for not having taken a closer look at the other business, or so-called third-party due diligence.

When it comes to transactions with third parties, risk mitigation can only be achieved through a proper **third-party screening or due diligence**. This screening may be based on forms or questionnaires the third party must fill in. These documents may need to be customised depending on the service being performed and how it may expose the company to potential violations.

Relevant company personnel should be trained to identify **"red flags"** when dealing with third

parties, such as requests for payments in advance of rendering of services, or payment to a different third party.

The due diligence exercise should consider including **third party verification**, obtaining representations, warranties and certifications that all services will be performed in compliance with laws, regulations and company policies, and ensuring that services are clearly described and payments are reasonable for the type of service performed. For higher risk third parties, due diligence could be expanded to include public information databases, media in local language, public record searches at Government buildings and/or discreet inquiries made by experienced former

law enforcement agents. In India, limited financial information may be available in public databases for third parties that are proprietary concerns or partnerships.

Contracts with third parties may also **include audit rights** and termination rights for non-compliance to help ensure companies can check compliance with its standards and the law and take meaningful action in the event they are not comfortable with a third party's actions.

Possible measures for mitigating risks may be the following:

## Measures for Risk Mitigation

Business Partner	Level of Responsibility
Subsidiary	» Follows the <b>same anti-corruption programme, tailored to its specific risk profile</b>
Affiliate	» Communicate its <b>commitment to zero tolerance of corruption.</b> » <b>Due diligence before and during the investment period.</b> » <b>If an affiliate resists anti-corruption efforts, consider withdrawing from the relationship.</b>
Joint Venture	» Apply its own or similar <b>anti-corruption standards to joint venture.</b> » <b>If an agreement cannot be reached, consider not joining.</b>
Agent or Intermediary	» <b>Establish a detailed policy for such relationships and manage the relationship</b>
Contractor or Supplier	» <b>Establish policies and procedures similar to the ones for managing agent and intermediary relationships</b>

If a risk is already confronted by successful measures, possible areas of risk may be mitigated, sometimes towards zero risk levels. Any risk assessment needs **revision regularly** as areas of risk may change due to the actual circumstances and possibly changing fields of business.

**3) Define** – Define the necessary goals for your company to mitigate risks identified under step 2. It is very important to make this process **participative** as employees carrying out those transactions know the customs and challenges, and an effective policy and procedure can be developed only when all of this is taken into account.

The goals and policies can be incorporated into a **Code of Conduct** clearly defining the tone from top and providing **clear limits** for all employees' behaviour. Possible topics for a code of conduct may include the goals ("zero tolerance for corrupt actions") but may also go beyond purely legal standards which need to be obeyed by all employees. The code may provide for ethical standards, too, and it may also define the so-called "**grey areas**", e.g. gift policies: A no-gift-policy is certainly desirable but does not consider any cultural norms and customs. Especially in export business, the cultural habits of the importing party must also be considered. A **gift policy** setting out concrete definitions and clear limits may then be more advisable and easier to follow for employees ("Christmas gifts to vendors/suppliers as well as from vendors/suppliers and to officials of government agencies may not exceed Rs. 2500" etc.).

<sup>84</sup> A book published by OECD viz. *Integrity in Customs will perhaps throw some light in relation to transparency in International trade and Anti-corruption initiatives.* Here is the link : <https://www.oecd.org/corruption/ethics/G20-integrity-in-customs-taking-stock-of-good-practices.pdf>

**4) Implement** – Once the company has defined the policy and procedures, it is time to ensure that there is **a person made responsible** for overseeing compliances and who can be approached in case any risk arises. In small companies, this may simply be the senior management, whereas in larger businesses, this may be a compliance officer executing some of the senior management's duties.

**Procedures** must be put in place to ensure that the company's operations are lawful and if not, employees must know a way to communicate this to senior management or the compliance officer respectively. Companies must understand that putting policies and procedures into place is not enough if the program is not implemented effectively. It is important to establish an **Internal Control System** to ensure that procedure is followed in all business transactions. Internal controls also need to monitor approval levels for certain types of third-party retention and remuneration, as well as consistency between contract terms and payments.

Another important factor when implementing a compliance management system is to **train all employees** and to **create awareness** among them. Trainings adapted to the specific business surrounding of a particular employee are the most valuable measures as they will enable him or her to react to certain situations of dilemma, for example, a foreign public official asking for bribery to release goods, being asked for speed-up money for renewal of licences etc. If the employee is aware that such situations may arise and is encouraged by management to counteract, the employee will most likely feel safe enough to react in accordance with the law. It is important to ensure that the right message percolates down to employees and that they understand that it is not the letter of law they need to adhere to but also the spirit of the law.

The most efficient compliance management system cannot prevent employees wilfully breaking the rules. Maintaining **sufficient documentation** is therefore a key component of the compliance program, as failure to do so will likely be viewed as a control failure and subject the company to liability under anti-corruption laws regardless of whether the unsupported transaction was part of a bribe scheme or not.<sup>84</sup>

### Collective action

"Collective action is a collaborative and sustained process of cooperation between stakeholders. It increases the impact and credibility of individual action, brings vulnerable individual players into an alliance of like-minded organizations and levels the playing field between competitors. Collective action can complement or temporarily substitute for and strengthen weak local laws and anti-corruption practices."  
– World Bank

5) **Measure** – The implementation of the policy and procedures need **continuous review** and update based on changing legal and economic requirements. Not every measure may be suitable for all companies. Reviewing and evaluating if measures are really efficient for a company is one of the key principles when it comes to setting up an efficient compliance system. Inefficient measures slow down procedures, are not followed by employees and will not foster the original objective. Adapting the system may therefore be necessary on a regular basis.

6) **Communicate** – It is very important to **communicate** status of implementation of the measures **with employees**. This increases sense of ownership towards the policies and measures. The management can also decide to anonymously share situations that may have arisen and how this was handled. The communication of such work should not stop internally but may be shared with other companies and organisations working on transparency matters. This promotes not only company's good practices and improves the reputation but also provides a platform to learn from others and their best practices. Such a platform can grow into collective action, where companies in a region/from the same sector facing similar issues may find practical solutions engaging other stakeholders. Addressing problems through collective action may result in a broader socio-economic advantage, creating a level-playing field for all companies.<sup>85</sup>

### Areas of Good Practices

Amongst practitioners, certain practices are considered good or best practice. Practical experience proves certain measures to be more efficient than others. Many of the below mentioned measures are easy to establish and cost-efficient at the same time:

#### Workplace and Workforce Management

- » Establish a functional **enterprise improvement team** which should be cross functional and cross hierarchical. The team may discuss areas of concern in monthly meetings for swift solutions both in process and production line. The management may train members of this team on key principles and practices of workplace cooperation and support them in developing an action plan with concrete initiatives, targets and indicators. This team can provide in-factory support and capacity development for various units by experts to ensure sustainability. The team should be placed in close contact with senior management to ensure empowerment of the committee for concrete results. It is important to not limit communication within lines of production but to promote communication among them.
- » In order to ensure workplace motivation, it is important to address a working attitude of compliance. **Proper onboarding and orientation** of each and every



employee are vital, irrespective of the designation, regarding some of the basic compliances such as child labour and sexual harassment. All should be aware of the common mission and vision of the company. It is mandatory to tell employees about the "Do's and Don't s" but what is even more important is to **tell the employees why it is "a do or a don't."** Once they understand the reason, they are more likely to comply.

- » Occupational health and safety also plays a key role in workplace motivation and cooperation, apart from being a mandatory compliance area. A common problem in the garment industries is that workers do not **wear the recommended Personal Protective Equipment (PPEs)** because it restricts working smoothly and is also inconvenient. It is important to explain to workers the reason behind the need to wear PPEs and the harms associated

with not wearing them. This gives better acceptability to its use. Similarly, **fire risks**, which are high in textile & garment factories may be reduced if there is a responsible person on each floor with proper training instead of only one person responsible for the whole factory. This will improve reaction time and minimise risk and thus reduce the damage. Apart from that, regular checks of fire safety equipment and drills are important.

- » For workforce management, it is often witnessed that the supervisors struggle to motivate workers in a humane way while dealing with pressure on production quotas. This is mostly due to a lack of formal training in management skills. **The supervisors' capacity and attitudes** are key to success of factories' improvement and to sustain positive changes Therefore, **supervisors must be trained effectively.**

<sup>85</sup> It is suggested to use TheIntegrityApp, a digital application allowing Small and Medium-sized Enterprises (SMEs) to self-assess their level of compliance based on the international standards. Furthermore, the application supports the company with inbuilt tools and resources to strengthen their capacities. For more details, visit The Integrity App

### Quality management

A few basic but effective measures that can be taken for this are:

- » Initiate **training sessions for process/ department heads and awareness sessions for staff**. It is important for the heads of departments to understand the process of production of the entire company, not limited to their department or unit, so that there is cross learning and cooperation for quality improvement and facing the challenges. Awareness about the standards to be maintained and the repercussions are important for the staff. It is important to brief both the heads and the staff about different standards applicable in different countries or brands where the product of the company is to be exported.
- » **Decentralise the process model** and ask departments to identify their internal customers and expectations from their supplier departments and to develop an action plan to meet the expectations. Put processes in place to record and monitor the internal customer satisfaction rate, and use internal customer satisfaction rate as a KPI (key performance index).
- » In order to **control/minimise defects** in the product, establish a process to **highlight at each level of production**, if there are any defects in the product. This will lead to reduction of waste both of material and personnel time, e.g., if a pocket is defective, it should not go ahead and make the entire shirt defective.
- » The establishment can work towards a cleaner and **greener shop design** approach and this may start with the **floor plan**. Different departments can be placed on the floor in a way that light, energy and wastage are minimized. An efficient shop floor design should be in line with material and people.<sup>86</sup>



### What should You do?

In this section daily transactions related to exports will be displayed, where situations of bribery, grey areas or other corrupt practices may occur and how the employees/company should react or prevent such demands in the future. This section can be used as a base for training or role-playing exercises by companies and for capacity building of employees.

1) Tamble is owner of a textile unit in Maharashtra. His unit is one of the major suppliers for a well known brand from Europe. During the Ganesh Chaturthi festival, some people approach him for "chanda" for Ganesh Chaturthi and say that it was for the one organized by the Municipal Ward. Tamble offers them a small amount of Rs. 501 as a goodwill gesture, but this is not acceptable to the chanda seekers and they say that they want at least Rs. 1 Lakh. When Tamble says that he will not pay such an exorbitant sum, they threaten him with dire consequences including, for example, unnecessary inspections, delay in permits and licenses and other such impediments for his business.



What should Tamble Do?

React to Demands	Prevent Demands
Understand the Local requirements	Have a company policy on "zero political contributions" or "a defined amount of contribution"
Reject Unjustified Demands, refer to Zero-Corruption-Policy of his company	Raise awareness among employees
Inform Company Leadership	Enable employees to react
Escalate with other companies	Collective Action

<sup>86</sup> In India, the Green Building Code is a medley of codes and standards contained in the State by-laws, the National Building Code, the Energy Conservation Building Code (ECBC) and in the norms set by the ratings programmes, such as Leadership in Energy and Environmental Design-India (LEED-India), the standards and guidelines put down for the Residential Sector by the Indian Green Building Council (IGBC), TERI-GRIHA and other such certifications. It is imperative that we adopt policies requiring all existing buildings as well as new construction policies to meet green building criteria.





2) Shrikant is employed by an ABC Textile Corporation and oversees licenses and permits required for export of the textile. The license for treatment of effluents was due. When Shrikant went to the concerned office, the office clerk told him that there were documents missing in the application docket. Shrikant needs the license soon as company has applied to be the vendor for a global textile giant and the license was part of the documentation. Shrikant asks the officer if there was a way to expedite the process and ignore the paperwork. The clerk asks him for Rs. 2 Lacs to grant license without the required documents. What should Shrikant do?

React to Demands	Prevent Demands
Understand the Local requirements and the document which was missing	Pay attention to the documentation and licenses. If you know what documents your company needs to provide, most likely you will not be approached for outstanding documents.
Find out if the documents can be arranged	Hire a legal service or shared legal service, to ensure that updated information on applicational and renewal of all the licenses and permits required is available all the time
Inform Company Leadership	Create awareness among employees interacting directly with third parties and enable them to react
Escalate with other companies	Collective Action

3) XYZ corporation is involved in trade of garments and exports to Europe. The company enters into contracts with agents to smoothen the export process. One of these agents is blacklisted in one of the European markets for being found guilty of malpractices but can work in other countries. However, this agent is one of the most affordable for the company. Should XYZ Corporation keep working with the agent?

React to Demands	Prevent Demands
Understand the local requirements	Have a 'code of conduct' to be signed by the third parties.
Terminate contract with the liaising agent as it brings a big reputational risk for the XYZ Corporation.	Conduct due diligence on third parties regularly.
Inform company leadership	Create awareness among employees interacting directly with third parties and enable them to react
Escalate with other companies	Collective Action

4) ABC Pvt. Ltd. Company manufactures garments for kids. They have several manufacturing units. They employ women labourers in these units. During Inspection by the Labour Commissioner, it was highlighted that the law requires them to have separate toilets for women labourers on the premises. The Inspector tells company management that the remark can be stuck off if the company is willing to sponsor a paid holiday for the Labour Inspector and his colleagues in Goa. What should ABC Pvt. Ltd. Do in such a situation?

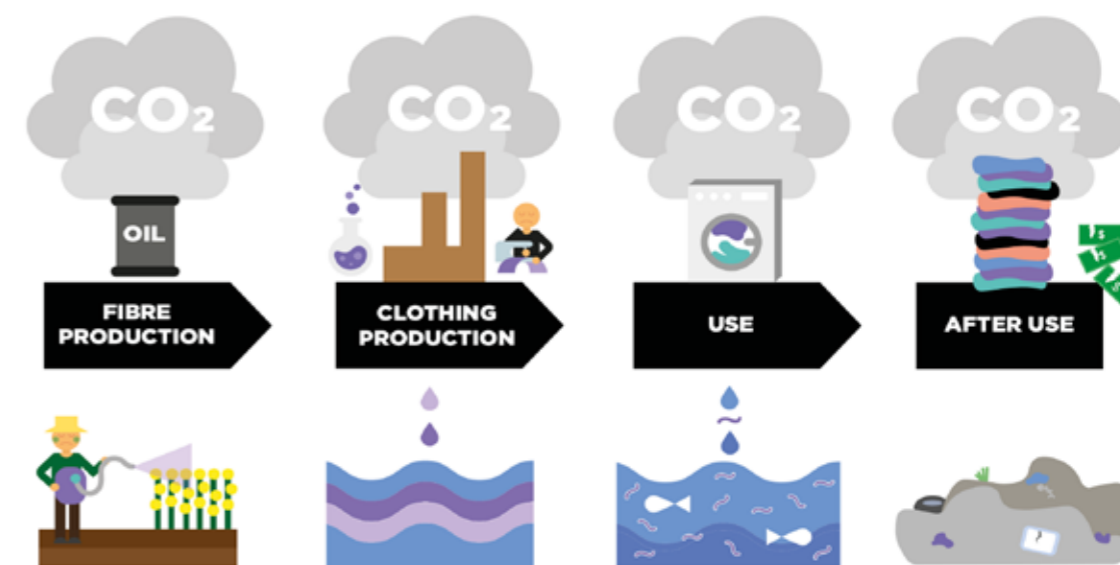
React to Demands	Prevent Demands
Understand the local requirements	Hire a legal service or shared legal service to understand all the compliances applicable to the units, based on nature of work and number of employees, and keep getting updates.
Ask the Inspector about repercussion, and legal alternatives such as warning period, fine etc. Commit to build the washrooms. It is good to take the punishment once rather than fall in the trap of long-term payments of bribe and invite more legal actions.	Conduct regular compliance reviews for all units and offices.
Inform company leadership	Create awareness among employees interacting directly with third parties and enable them to react.
Escalate with other companies	Collective Action

5) You are the local manager of your company in a foreign country. You have been waiting for weeks for delivery of technical equipment that you urgently need to complete an important project. As the equipment finally arrives by ship, your employee is told by a customs officer that necessary papers are "partially incomplete". This will prevent release of the equipment until the problem has been solved. The customs official indicates that a solution could take several weeks. However, the official adds that problem could be managed quickly by paying a cash "express fee" of 25000 Rupees. This would ensure that customs clearance is done in one day. If you do not receive the equipment within next couple of days, your company is liable for contractual penalties due to delayed completion of the project.

React to Demands	Prevent Demands
Understand and prepare for documentation and requirements of the port of export, to avoid being asked for bribe/facilitation payments through misrepresentation	Zero tolerance to corruption

Today's clothing system puts pressure on resources, pollutes the environment, and creates negative societal impacts

React to Demands	Prevent Demands
<p>Reject unjustified demands stating:</p> <ul style="list-style-type: none"> <li>» "Compliance with official requirements"</li> <li>» "Violation of company policy"</li> <li>» Ask for name and position</li> <li>» Accompanied by 2nd person</li> <li>» Document demand</li> </ul> <p>Inform company leadership</p> <p>Escalate with other companies</p>	<p>Identify and assess risks that demands of facilitation payments will be made</p> <p>Anticipate such situations</p> <p>Raise awareness among employees interacting directly with third parties and enable them to react</p> <p>Collective Action</p>



<https://www.ellenmacarthurfoundation.org/publications/a-new-textiles-economy-redesigning-fashions-future>

## What to aspire for?

So far, this handbook focussed on laws, regulations and procedures to act compliant in the field of textile export. Beyond these regulations, however, in the age of social media and consumer awareness, further standards of integrity become more and more relevant, e.g. there is a big shift in economy towards the so-called circular economy, and even more so in the textile sector.

In the early 2000s we witnessed a growth of fast fashion, i.e. the clothes being worn a smaller number of times, which was supported by means of online shopping platforms offering huge financial discounts. Statistically, the textile and apparel industry are bound to benefit from this trend. However, real cost of such consumption habits must be taken into consideration. This section of the handbook aims to provide an insight on the changing consumption mindset which in turn may lead to policy changes.

To a large extent, the textile industry works in a linear manner. Large amounts of non-renewable resources are extracted to produce clothes, often used for only a short period, after which the materials are largely lost to landfill or incineration. There is a growing trend to move from a linear to a circular

economy which can be assessed from both, consumer demands and the changing national and international policies, as witnessed from the introduction of CIBM.



<sup>87</sup> A New Textile Economy: Redesigning Fashion's Future, Ellen McArthur Foundation & Circular Fibres Initiative A-New-Textiles-Economy-Full-Report.pdf ([ellenmacarthurfoundation.org](https://ellenmacarthurfoundation.org))

<sup>88</sup> A New Textile Economy: Redesigning Fashion's Future, Ellen McArthur Foundation & Circular Fibres Initiative A-New-Textiles-Economy-Full-Report.pdf ([ellenmacarthurfoundation.org](https://ellenmacarthurfoundation.org))

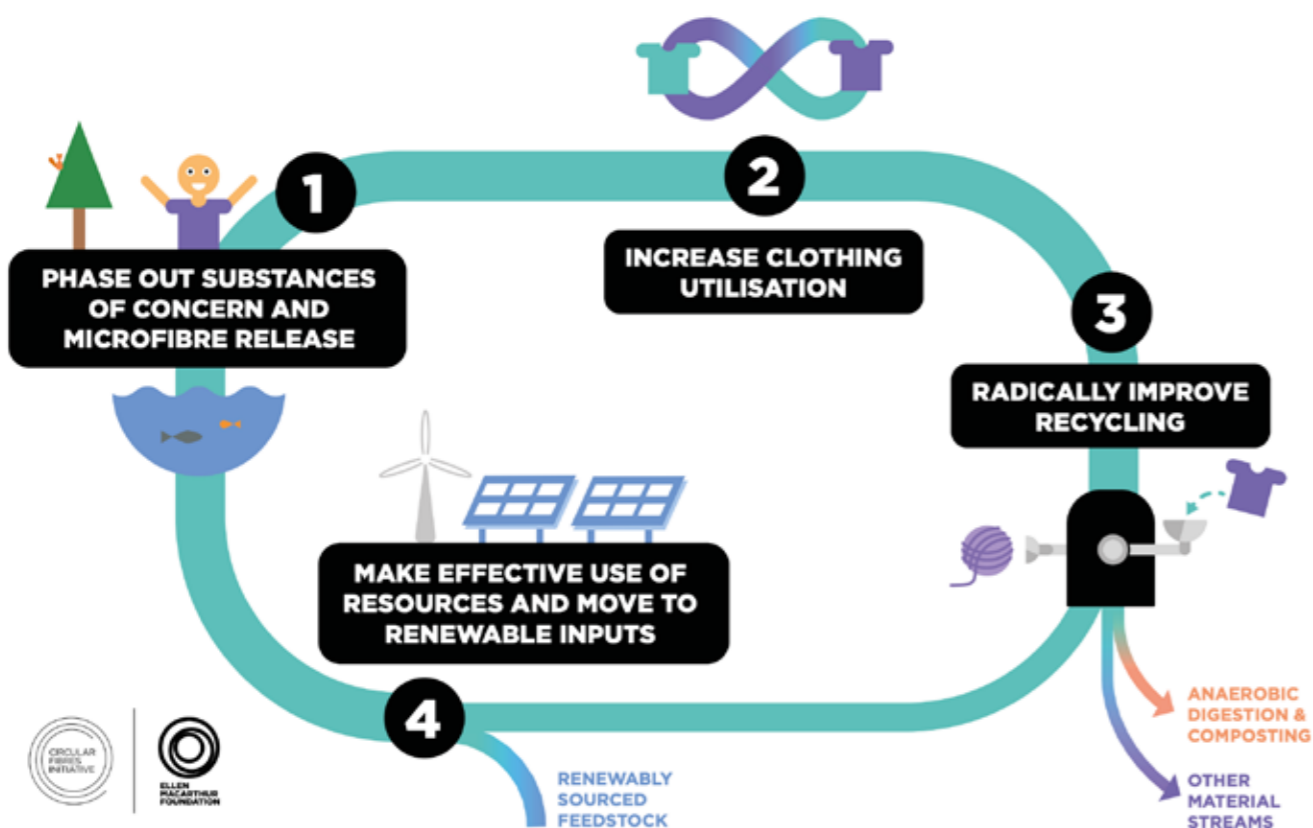
The linear system leaves economic opportunities untapped, puts pressure on resources, pollutes and degrades the natural environment and its ecosystems, and creates significant negative societal impacts at local, regional, and global scales.<sup>87</sup>

More than USD 500 billion of value is lost every year due to clothing underutilisation and the lack of recycling. Furthermore, this take-make-dispose model has numerous negative environmental and societal impacts. For instance, total greenhouse gas emissions from textiles production, at 1.2 billion tonnes annually, are more than those of all international flights and maritime shipping combined. Hazardous substances affect health of both textile workers and wearers of clothes, and those escape into the environment. When washed, some garments release plastic microfibres, of which around half a million tonnes every year contribute to ocean pollution – 16 times more than plastic microbeads from cosmetics.<sup>88</sup>

In a new textiles economy, clothes, textiles, and fibres are kept at their highest value during use and re-enter the economy

afterwards, never ending up as waste. This vision is distinct from the former linear system and complements ongoing efforts to make textiles system more sustainable by minimising its negative impacts. With specific emphasis on innovation towards a different system, a new textiles economy presents an opportunity to deliver substantially better economic, societal, and environmental outcomes. Transforming the industry to usher in a new textiles economy requires system-level change with an unprecedented degree of commitment, collaboration and innovation. Existing activities focused on sustainability or partial aspects of the circular economy should be complemented by a concerted, global approach that matches the scale of the opportunity. Such an approach would rally key industry players and other stakeholders behind the objective of a new textiles economy, set ambitious joint commitments, kick-start cross-value chain demonstrator projects, and orchestrate and reinforce complementary initiatives. Maximising the potential for success would require establishing a coordinating vehicle that guarantees alignment and the pace of delivery necessary.

## Steps towards a circular textile production



Source – A New Textile Econom: Redesigning Fashion's Future, Ellen McArthur Foundation & Circular Fibres Initiative, p. 23, fig 5

<sup>89</sup> United Nations Environment Programme, *Sustainability and Circularity in the Textile Value Chain – Global Stocktaking*, p. 45, [sustainability\\_and\\_circularity\\_in\\_the\\_textile\\_value\\_chain\\_-\\_22\\_october\\_2020.pdf](https://oneplanetnetwork.org/oneplanetnetwork/wp-content/uploads/2020/10/sustainability_and_circularity_in_the_textile_value_chain_-_22_october_2020.pdf) (oneplanetnetwork.org)

<sup>90</sup> Draft-National-Resource.pdf (moef.gov.in)

<sup>91</sup> Please see *Fashion giants collaborate on Bangladesh textile reuse scheme* (edie.net)

<sup>92</sup> A MANIFESTO TO DELIVER A CIRCULAR ECONOMY IN TEXTILES – EURATEX

UNEP provides guidance towards the actions needed to move current linear textile system with its high social risks to one that is sustainable and circular, providing safe and secure livelihoods to all. The actions needed are informed by the value chain environmental and socio-economic hotspots.<sup>89</sup> The draft *National Resource Efficiency Policy 2019*<sup>90</sup> proposed by the environment ministry outlines a three-year resource management action plan across seven sectors including the textile sector. The policy proposes a series of measures for better waste management and reduced landfill use, better management of construction waste, electronic waste and waste from other growing sectors.

A group of 30 fashion brands, manufacturers and waste management firms have launched a new collaborative scheme to capture and reuse textile waste in Bangladesh. Convened through the Global Fashion Agenda, companies

such as H&M, Marks & Spencer, Target Australia and C&A have all agreed to improve resource efficiency and waste management in Bangladesh by focusing on textile waste.<sup>91</sup> European Apparel and Textile Confederation (Euratex) has prepared a manifesto to engage in the system and tools to support a scaled circular system.<sup>92</sup>

While bigger companies have already started to make this shift, it is time for the SMEs to view this change as an opportunity and strategise towards circularity. Changing towards a circular economy would not only ensure that the major international goals are met but will also provide SMEs with the opportunity to become part of the supply chain of bigger companies and the government. This shift from linear to circular is imminent, both socially, economically, and environmentally and it is always advisable to be prepared for it.





# 04.

## COMPEDIUM OF USEFUL LINKS AND FURTHER READING

## Government of India Laws and Regulations

1. Central Board of Indirect Taxes and Customs, Customs Manual 2018. Details of Import/Export Promotion Schemes, Restrictions, Cargo, Classification/Assessment Procedures can be found here. [customs-manual2018.pdf \(cbic.gov.in\)](#)
2. Central Board of Indirect Taxes and Customs, Grievance Redressal Mechanism. For dealing with complaints against corrupt practices by officers, CBIC has a separate vigilance organization headed by the Directorate General of Vigilance. Any complaints of corruption against the officer can be logged with the D.G. Vigilance at New Delhi or the Zonal units of the Directorate of Vigilance. [Vigilance Info \(cbic.gov.in\)](#)
3. Cotton Textile Promotion Council, Circulars. The Council connects international buyers with appropriate suppliers and facilitates interaction that enables them to source their specific needs. It also provides information on India's competitive advantages, its export environment and updated position in the global market place. [Welcome to Texprocil - The Cotton Textiles Export Promotion Council \(TEXPROCIL\)](#)
4. Indian Trade Portal, Brief Presentation on How to Export. [DG & CEO Presentation \(indiantradeportal.in\)](#)
5. Indian Trade Portal, How to Export. [How to Export \(indiantradeportal.in\)](#)
6. Ministry of Labour & Employment, Laws and Circulars. The main responsibility of the Ministry is to protect and safeguard the interests of workers in general. Laws and circulars regarding workers can be found here. [Industrial Relations | Ministry of Labour & Employment](#)
7. Ministry of Textiles, Export Schemes. The webpage contains details of export promotion schemes. [Exports | Ministry of Textiles | Gol \(texmin.nic.in\)](#) [Exports | Ministry of Textiles | Gol \(texmin.nic.in\)](#)
8. Ministry of Textiles, Laws. [Acts | Ministry of Textiles | Gol \(texmin.nic.in\)](#)
9. Ministry of Textiles, Schemes, Details of the schemes floated by the government of India for the Textile sector. [Schemes | Ministry of Textiles | Gol \(texmin.nic.in\)](#)
10. Ministry of Textiles, Textiles Committee, Export Promotion and Quality Assurance. Details of the standards and trainings being promoted by the Committee which is entrusted to ensure the quality. [EXPORT PROMOTION & QUALITY ASSURANCE | Textiles Committee](#)

## Government of Maharashtra Laws and Regulations

1. Department of Labour, Inspection Procedure of Labour Department. The website provides for details of the procedures of inspection, checklists and other relevant details. [Department of Labour | Department of Labour, Government of Maharashtra, India](#)
2. Department of Labour, Maharashtra Labour Laws. The website provides for list of applicable regulations. [Acts & Rules | Government of Maharashtra, Department of Labour](#)
3. Labour Department, Maharashtra Government, Online License Management System. Maharashtra Government's labour department provides for online registration for license, renewal etc. [Labour Management System \(mahaonline.gov.in\)](#)

4. Simpliance, Labour Laws specially for Maharashtra. The website provides for a law library with applicable laws in the state of Maharashtra. [Maharashtra Forms Under Labour Laws | Latest Forms Under Labour Law Act in Maharashtra \(simpliance.in\)](#)

5. State Textile Policy. It details the objectives, roadmap, challenges and solutions for the textile in the state of Maharashtra. <https://www.maharashtra.gov.in/Site/Upload/Government%20Resolutions/Marathi/201802171625204302.pdf>

## Risk and Compliance Management

1. Federation of Indian Chambers of Commerce & Industry. The manual shares the best practices in internal compliance policies and procedures to safeguard organisations from exporting unauthorized items and consequently damaging the reputation of their firms and of the country, in addition to facing export penalties. [http://ficci.in/spdocument/22974/Final\\_Export-Control-Compliance-Manual.pdf](http://ficci.in/spdocument/22974/Final_Export-Control-Compliance-Manual.pdf)
2. Institute of Chartered Accountants of India, Technical Guide on Internal Audit of Textile Industry. This Technical Guide provides an insight into internal audit process in textile industry and is very useful for internal auditors and also to make preparations for audits. [Microsoft Word - Technical Guide on Internal textile industry-23-2-13\\_BKB\\_ \(icai.org\)](#)
3. International Labour Organization. It gives insights into the working of garment industry in India, the challenges faced and the recommendations that might be useful. [India\\_Garment\\_Sector\\_Cover\\_v2 \(ilo.org\)](#)
4. Manupatra, The article provides details on monitoring the effluents and the legal framework and judicial rulings on managing the effluents in the textile sector. [LEAD-journal.org - Regulation of Effluents in the Textile Sector in India \(manupatra.in\)](#)
5. OECD, Guideline for Greening SMEs. The Toolkit focuses predominantly on environmental policy instruments to promote green behaviour of SMEs. It covers three categories of instruments: regulatory simplification and incentives, information-based tools as well as financial and economic incentives. [Microsoft Word - CRC formatted SME GREENING TOOLKIT\\_v2 Dec 2015\\_EnglishV3.docx \(oecd.org\)](#)
6. OECD, Toolkit for compliance. The toolkit provides for skills to enhance compliance promotion, compliance monitoring and enforcement. [Compliance and enforcement - OECD](#)
7. Partnership for Sustainable Textiles, Risk Assessment Tool. The Partnership for Sustainable Textiles has introduced a new IT tool: The Textile Risk Expert System (T-REXS). It helps to analyse and prioritise social, environmental and corruption risks in supply chains. [T-REXS: das neue Tool zur Risikoanalyse - Bündnis für nachhaltige Textilien \(textilbuendnis.com\)](#)

8. Textile Association India. The document provides insight into the risk management framework for a Textile Company. [Risk-Assessment.pdf \(textileassociationindia.org\)](#)

## Textile Organisations/Associations and Standards

1. Better Cotton Initiative. Better Cotton Standard System: The system is designed to ensure the exchange of good practices, and to encourage the scaling up of collective action to establish Better Cotton as a sustainable mainstream commodity. [About BCI - Better Cotton Initiative](#)

2. Business Social Compliance Initiative (BSCI). BSCI functions as a means of promoting workplace conditions in accordance with human rights, ILO conventions and national labour law. [Business Social Compliance Initiative \(BSCI\) | Social Accountability Accreditation Services \(saasaccreditation.org\)](#)
3. BLUESIGN Solutions and Services. They provide paid services to trace each textile's path along the manufacturing process, making improvements at every stage from factory floor to finished product. [bluesign® - solutions and services for a sustainable textile industry](#)
4. EU Ecolabel promotes the circular economy by encouraging producers to generate less waste and CO2 during the manufacturing process. [EU Ecolabel - Environment - European Commission \(europa.eu\)](#)
5. Global Organic Textile Standard (GOTS). It is a quality assurance system is based on on-site inspection and certification of the entire textile supply chain. [Certification - GOTS \(global-standard.org\)](#)
6. Global Recycled Standard (GRS). The GRS is an international, voluntary, full product standard that sets out requirements for third-party certification of recycled content, chain of custody, social and environmental practices, and chemical restrictions. [Global Recycled Standard \(GRS\) \(gcl-intl.com\)](#)
7. Responsible Down Standard. The Responsible Down Standard (RDS) aims to ensure that down and feathers come from animals that have not been subjected to any unnecessary harm. [Responsible Down \(RDS\) | Textile Exchange](#)
8. OEKO-TEX helps to produce safer products and more sustainable and socially responsible companies. [OEKO-TEX® - for more sustainability in the textile and leather industry \(oeko-tex.com\)](#)
9. Worldwide Responsible Accredited Production (WRAP). WRAP is an independent, objective, non-profit team of global social compliance experts dedicated to promoting safe, lawful, humane, and ethical manufacturing around the world through certification and education. [What is WRAP? | WRAP \(wrapcompliance.org\)](#)

