

**TMH**  <sup>®</sup>

**ENVIRONNEMENTAL, SOCIAL  
AND GOVERNANCE  
WHAT DOES IT MEAN FOR COMPLIANCE?**

Presented by Lesa Brownell



# What is ESG?



## ENVIRONMENTAL

- Climate change adaptation, response, innovation
- GHG emissions, trading, offsets
- Biodiversity
- Water management
- Environmental compliance and climate change litigation
- Waste management and circular economy
- Energy and clean technology
- Sustainable finance and impact investing

## SOCIAL

- Equity, diversity and inclusion (EDI)
- Employment and labour relations
- Human rights protection
- Indigenous rights and relations
- Community engagement
- Corporate reputation management
- Supply chain management
- Product responsibility and stewardship

## GOVERNANCE

- Board governance, diversity, best practices and transparency
- Stakeholder engagement
- Shareholder activism, preparation and response
- Investor relations and public disclosure compliance
- Compliance and internal controls
- Proxy advisory firm vesting guidelines
- Securities disclosure
- Cybersecurity and data protection

Source: [Defining and Driving ESG Within Your Organization | Bennett Jones](#)

'G' or Governance relates to internal practices and policies that lead to effective decision making and legal compliance. ESG **facilitates top-line growth in the long run, attracts talent, reduces costs, and forge a sense of trust amongst consumers.**

# Corporate Social Responsibility (CSR)



- Voluntary self-regulation
- Socially responsible investing using non-financial metrics to evaluate potential investments
  - Quantifiable metrics for performance



# Why Do Companies focus on ESG?



- › Environmental catastrophes caused by corporate negligence
- › Greenhouse gas emissions and global warming
- › Corporate fraud and corruption scandals
- › Privacy and cybersecurity issues
- › Globalization and prevalence of forced labour
- › Social inequalities

As a result of the Russia / Ukraine crisis there was an increase on social and political pressures from activist investors, environmentally and/or socially conscious employees, consumers, and other corporate stakeholders to promote Environmental, Social, and Governance (“ESG”) goals.

*ES&G isn't just a responsibility; It's a Mindset*

# Ukrainian Railways Warn People



Together with the Railways Trade Unions and the Ukrainian Railways, it developed key messages warning passengers about the risks of *human trafficking and forced labor*.



# ESG Risk in the Supply Chain



Businesses with complex supply chains face the highest risk of ESG non-compliance

- Workforce health and safety
- Forced Labor
- Corruption and Bribery
- Terrorism finance and anti-money laundering
- Counterfeiting



# New Legal Requirements



Under the Uyghur Forced Labor Prevention Act, which became **effective June 21, 2022**, it is presumed that goods produced in this region are in violation of the law.

Trade Facilitation and Enforcement Act (TFEA) of 2015  
– 19 USC 4301 Section 910

- Whether wholly made or partially made
- Must prove under issue of a WRO the supplier is not using Forced Labor







# Global Enforcement Efforts



2012

California Transparency  
in Supply Chains Act



2015

UK Modern  
Slavery Act



2017

French Duty  
of Care Law



2020

Dutch Child  
Labor Due  
Diligence Law



2022-2023

EU Legislation on  
Mandatory Human  
Rights Due Diligence

2015  
US Trade Facilitation &  
Trade Enforcement Act



2018  
EU Non-  
Financial  
Reporting Law



2019  
Australia  
Modern  
Slavery Act



2021  
German Human  
Rights Due  
Diligence Law



# Be Careful of Greenwashing



Many companies claim to do meaningful actions.

It is important that every claim, with regards to sustainable actions and results, can be backed up with verifiable data and facts.

We, as a company, must be sure our claims are just when we communicate or report on it.





*Example of preparing a slavery and human trafficking statement:*

1. Conduct a risk assessment of your company's supply chain
2. Policies relating to slavery and human trafficking
3. Slavery and human trafficking due diligences process
4. At-risk parts of the businesses in regard to human trafficking and slavery in the supply chain and the steps to manage the risk
5. Effectiveness to making sure that slavery and human trafficking is not taking place in their business and supply chains
6. Training staff about slavery and human trafficking

# ESG leads to:



Sourced by: Bennett Jones

# Example: Reduction in Cost



Companies who switch to more sustainable methods of production tend to be more efficient and reduce their costs.

Nestlé announced that it will invest up to USD 2.1 billion by 2025 to shift from virgin plastic packaging to food-grade recycled plastics and the development of other sustainable packaging solutions.

This not only helps to cut carbon footprint but also save from non-compliance costs among different geographies where it operates and have stricter laws related to the use of plastic packaging.

*Sourced from  
Nestleusa.com>media>Pressreleases*

# Example: Effective Management



All businesses are affected by some or other forms of regulations depending upon the markets they operate.

The business with strong ESG measures, especially on Governance. They face less pressure from climate change from activists, employee unions etc. The consumers also prefer such brands too.

[Starbucks](#) introduced “Starbucks China Parent Care Program” in 2017 which provided health coverage to over 10,000 parents of Starbucks’ employees in China. **It was seen as a strategic move as Starbucks planned to expand in China amid the growing trade dispute between USA & China.**

*Sources from  
stories.starbucks.com*

# Sustainable Development Goals





There are three key elements which impact on how businesses view compliance:

- The customer's perspective
- The competitor's perspective
- The regulator's perspective

Customers are demanding more from the companies they buy from, competitors are looking to gain an advantage by highlighting their superior positive social contributions and regulators are coming down hard on breaches.



# Involving Compliance Professionals



- Companies to be accountability for their own activities and those of business partners
  - Anti Bribery
  - Money Laundering
- Forced labor import prohibitions
  - Supply Chain
- Reporting requirements for industries
  - RPPRA – Canada
  - Clean Air Act – US/State
- Reporting obligations and traceability requirements for all types of goods
  - EPA standards

## ESG needs compliance

- **Control and audit activities as part of Governance**
- **Reporting / disclosure on Environmental and Social issues**
- **Finding efficiency and alignment – integrating company's goals with processes already underway**

# Things to Consider



- Company Code of Conduct and Supplier Code of Conduct
  - What does your policy address?
  - How is it measured to ensure performance?
- Anti-Bribery audits & Money Laundering
  - Providing complete, trustworthy and tamperproof audit trail of key information (i.e. price, date, location)
- Screening of Banks for paying vendors (i.e. Russian Sanctions) and UBO screening (i.e. OFAC Sanctions)
- Use of contracts to mitigate supply chain risks
  - Integrate ESG due diligence principals
  - Translate into contractual obligations
  - Set expectations for transparency, monitoring and reporting

# Things to Consider – Supply Chain



## GENERAL AND COMPLIANCE INFORMATION

- **Product Range (incl brands):** [Click or tap here to enter text.](#)
- **Is there a minimum purchase value per PO?** [Click or tap here to enter text.](#)
- **Do you yourself manufacture the products you sell?** [Click or tap here to enter text.](#)
- **Do you export? If yes, to which countries?** [Click or tap here to enter text.](#)
- **What's your target market?** [Click or tap here to enter text.](#)
- **Do you source products, including raw materials, from conflict areas such as Crimea, Cuba, Iran, Democratic People's Republic of Korea, Syria, Russia, Belarus and/or the self declared people's republics of Luhansk and Donetsk? If so, please specify which products from which country/countries. (\*)**  
[Click or tap here to enter text.](#)
- **Can you sell to our other affiliates?** [Click or tap here to enter text.](#)
- **Does your company have an access control policy and underlying procedure?**  
[Click or tap here to enter text.](#)
- **Are there any specific testing requirements your company adheres to (eg. ANS)?** [Click or tap here to enter text.](#)
- **Does your company have any type of certification to manage security (AEC, CTPAT, etc.)?** [Click or tap here to enter text.](#)

## QUALITY INFORMATION

- **Do you have a separate Quality Department? If so, please provide contact details:** [Click or tap here to enter text.](#)
- **Are there gages, testing, and measuring equipment (MTE) necessary to assure product?**  YES  NO
- **Is the Quality System at your facility ISO 9000 registered?**  YES  NO
  - If Yes, please attach a copy of certificate of the Quality System
  - If No:  
A/ **Do you have a Documented Quality System (DQS)?**  YES  NO

# Things to Consider – Supply Chain



- › Conduct and regularly refresh risk assessments
- › Develop Policies and Procedures, and ensure staff receives adequate training
- › Key consideration is being aware of your suppliers' practices and activities
- › Conduct due diligence on new (and existing?) suppliers, covering the following:
- › Establish supply chain integrity through contractual clauses, policies, training
- › Monitor and audit to mitigate risk

- › Ask about their due diligence practices – refer to common and widely adopted ESG standards (e.g., OECD Guidelines)
- › Ensure suppliers have clear policies concerning high impact risk areas
- › Determine whether suppliers have in the past been investigated in high risk areas
- › Ensure that your suppliers are themselves evaluating where they source their key goods from and that they are constantly evaluating their own supply chains

# Initial Scoping



- Map your companies operations and supply chain structure
  - i.e. what are the stages of production, are their tiers of suppliers
- Identify areas of risk related to:

## Region

Certain regions are more prone to material ESG risk

## Geography

Regulatory framework and Socioeconomic context in a particular country

## Product

Risks related to the inputs or production processes for specific products (i.e. chemical restrictions, Forced Labor,

## Business - specific

Risks related to a specific business entity



OECD has published a Due Diligence Guidance for Responsible Business Conduct

<https://www.oecd.org/investment/du-diligence-guidance-for-responsible-business-conduct.htm>

Provides practical support to enterprises on the implementation of the OECD Guidelines for Multinational Enterprises by providing plain-language explanations of its due diligence recommendations and associated provisions.

## Topics Covered

- Human Rights
- Employment and Industrial Relations
- Environment
- Combating Bribery, Bribe Solicitation and Extortion
- Consumer Interests
- Disclosure



Gen Z is moving center stage as they stop buying certain brands because of ethical or sustainability concerns.

# Industry Highlights



- There is still over \$40B in cargo on container ships waiting offshore
  - 125 container ships waiting off North American ports on Friday morning
    - That's down 16% from 150 waiting ships in January
  - As of Friday only 36% of waiting ships were off West Coast ports
  - 64% off the East and Gulf Coast ports
- South Korea truckers go on strike at ports due to the surge of fuel prices
- Owners of trailers carrying containers to Chennai India Port, Kattupalli Port and Kamarajar Port went on strike
- President Biden signed the Ocean Shipping Reform Act 2022 into law
- Uyghur Forced Labor Prevention Act goes into law; Customs issues operational guidance
- Russia and Belarus have been withdrawn from the “most favored nation” status resulting in higher tariffs on the import of goods



**Thank You**

