



NORTH KOREAN WORKERS AND FORCED LABOR

THE ISSUE

How should FLA affiliates respond to the risk of Democratic People's Republic of Korea (DPRK or North Korean) labor in their supply chain?

BACKGROUND

On April 2, 2019, the Leiden Asia Centre, an independent research center affiliated with Leiden University in The Netherlands, released [a report that detailed North Korean forced labor](#) in Chinese apparel factories. The report presents evidence that apparel and textiles valued at hundreds of millions of dollars “traversed the border between North Korea and China, usually raw materials from China to North Korea and finished products (back) to China from North Korea,” over the past few years. The allegations are not new as there have been numerous press reports on this subject, but the report does a thorough job of substantiating the allegations through the use of trade data and other research.

Both allegations—the use of North Korean workers in Chinese factories and the use of potential sub-contracting in North Korea or raw materials from North Korea—are problematic. The first allegation because the use of DPRK workers presents a risk of forced labor; the second because North Korea is subject to [UN sanctions](#) (including sanctions specific to the [export of textiles and apparel goods](#) from the DPRK and a

FLA CODE ELEMENTS



Code of Conduct provision regarding forced labor:

There shall be no use of forced labor, including prison labor, indentured labor, bonded labor or other forms of forced labor.

Forced Labor, 5 – Employers shall not require workers to live in employer-owned or controlled residences as a condition of recruitment, continued employment, or to receive the same terms of employment and working conditions as other workers in the same position. Employers shall not subject workers to any undue influence to persuade workers to live in such residences.

Forced Labor, 6 – The freedom of movement of workers who live in employer-owned or –controlled residences shall not be unreasonably restricted.

Forced Labor, 7.2, 7.3, 7.4 – Employers shall not utilize practices that restrict workers' freedom of movement or ability to terminate his or her employment, [such as] ... requiring deposits, imposing financial penalties, [or] requiring recruitment fees.

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ban on work permits for DPRK citizens), [European Union prohibitions](#) on the import of certain goods from North Korea, and additional [U.S. sanctions that go beyond UN sanctions](#).

The U.S. is enforcing [a ban on the import of goods made with North Korean labor](#), regardless of where the goods are produced. U.S. importers are expected to know if North Koreans are working in their supply chain since any use of North Korean labor in China or elsewhere is presumed by U.S. law to be forced labor. The burden is on the importer to disprove that presumption.

In addition, U.S. law prohibits the import of goods produced with forced or prison labor. Companies should be aware that importing goods made in certain regions in China, including in the northeast provinces, may run the risk of violating this prohibition. You can read more about the regulatory environment around goods made with forced labor in [this document](#).

SANCTIONS SPECIFIC TO NORTH KOREA AND NORTH KOREAN WORKERS

Experts estimate that as many as 50,000 North Koreans are working outside of North Korea in many different industry sectors around the world.¹ In most cases the workers are not working of their own free will and a large percentage of their pay is presumably confiscated by the North Korean government. Media reports have cited sub-contracting by Chinese apparel factories to factories in North Korea, and the use of North Korean workers in Chinese factories.² One article detailed how the Chinese factories sent fabric and raw material to North Korean factories, and then once the garment was completed, the item would be sent to a Chinese port for export, and would be labeled “made

Forced Labor, 7.5 – Employers shall not utilize practices that restrict workers’ freedom of movement ... [such as] setting production targets or piece rates at such a level that workers need to work beyond regular working hours (excluding overtime) as set under the FLA Workplace Code in order to make the legal minimum wage or the prevailing industry wage.

Forced Labor, 7.6 – Employers shall not utilize practices that restrict workers’ freedom of movement or ability to terminate his or her employment [such as] ... denying and hampering access to, and renewal of, identity papers and/or work permits or any other personal legal documents.

Forced Labor, 8 – The imposition of overtime where workers are unable to leave the work premises constitutes forced labor.

Forced Labor, 9 – Workers shall retain possession or control of their passports, identity papers, travel documents, and other personal legal documents.

Forced Labor, 10 – Employers shall provide at employee request secure storage for their documents such as passports, identity papers, travel documents, and other personal legal documents. Such storage shall be freely accessible to workers. Employers shall not withhold any such documents or restrict workers’ access to them for any reason whatsoever, including in order to ensure that workers shall remain in employment in the workplace.

See additional Forced Labor benchmarks in [Addressing Risks of Forced Labor in Supply Chains](#).

1 <https://www.usnews.com/news/world/articles/2015/10/28/un-investigator-north-koreans-doing-forced-labor-abroad>

2 <https://www.reuters.com/article/us-northkorea-labour-china-insight/north-korea-factories-humming-with-made-in-china-clothes-traders-say-idUSKBN1AT00Q>

in China.” The Leiden Centre report authors cite a “process called “China plus one”, whereby an international company outsources their garment manufacturing to a Chinese company, who in turn outsources processes to an even cheaper country, benefitting both the international and the Chinese company. They claim that this form of export processing has become more and more popular over the years, as labour costs in China have increased.”

The U.S. Congress took steps to cut off the stream of remittances back to North Korea through provisions in the “[Countering America’s Adversaries Through Sanctions Act](#),” signed into law on August 2, 2017. The law creates an assumption of forced labor for any instance of work performed by North Koreans, provides for potential sanctions for persons that employ North Korean laborers, and specifically prohibits the importation into the U.S. of goods produced in whole or in part by North Korean nationals employed anywhere in the world. This law complements and further reinforces the existing prohibition on the import of goods made from forced labor found in Section 307 of the Tariff Act,³ but goes a step further in prohibiting the importation of any good made by a North Korean national unless the importer can show that the worker was not forced to work. This is the only instance we know of where the nationality of the worker making the good is the source of the sanction.

³ <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>

On September 11, 2017, the United Nations Security Council [imposed new sanctions](#) on North Korea, including a ban on the export of fabric and apparel, an industry that provides about \$800 million in revenue for the North Korean Government. This new sanction was agreed upon following North Korea’s nuclear test and a string of missile tests. In the U.S. Congress, three Senators also [introduced legislation](#) that would place sanctions on companies that employ North Korean forced labor, including specifically naming a China-based garment factory.⁴

In October 2017, the Associated Press (AP) published [an article](#) citing evidence of North Koreans working in slave-like conditions in the seafood industry in China. At the factory in Northeast China, reporters found North Korean workers had no freedom of movement, and the North Korean government took as much as 70 percent of their wages. The seafood was alleged to be exported to the United States and sold in Walmart and Aldi stores. Immediately following this report, the U.S. Customs and Border Protection stopped at least six shipments of seafood from China based on suspicion of forced labor by North Korean nationals.

While the AP report only followed the shipment of seafood, the article states that there was evidence of North Korean workers “making wood flooring and sewing garments in factories in Hunchun (China).” China’s northeast provinces of Liaoning, Jilin and the Yanbian Korean

⁴ <https://www.upi.com/US-North-Korea-sanctions-bill-targets-Chinese-garment-firm/8281500305377/>

ADDITIONAL READING:

<http://www.fairlabor.org/report/addressing-risks-forced-labor-supply-chains>

U.S. Departments of State, the Treasury and Homeland Security: [North Korea Sanctions & Enforcement Actions Advisory – Risks for Business with Supply Chain Links to North Korea](#) (July 23, 2018).

U.S. Department of Homeland Security: [CAATSA Title III Section 321\(b\) FAQs](#) (March 30, 2018)

Autonomous Prefecture are particularly vulnerable to the potential of sub-contracting to North Korea, or to the use of North Korean labor in China, due to the geographic proximity with North Korea.

There is an undetermined number of North Korean refugees working in China, many of them living and working in the shadows of the economy. China does not recognize these North Koreans as refugees (and they are not provided any protection under UN guidelines for refugees), and China routinely deports them to North Korea. They may be working in factories as undocumented workers, which creates a separate set of vulnerabilities than those faced by workers who are associated with an official contract for work linked to the North Korean government. Because they are undocumented, the risk of finding North Korean refugees in the Chinese supply chain may be highest in subcontract facilities rather than in factories that have direct contracts with foreign buyers.

RECOMMENDATIONS:

Considering the reports of potential forced labor related to North Korean laborers as well as provisions in U.S. law and UN sanctions on North Korea, we strongly urge affiliates to take the following steps to eliminate the possibility of forced labor by North Koreans in their supply chain:

1. North Korean workers could be present in Russia, Eastern Europe, or other areas, but the vast majority of workers are reported to be in China. Exercise additional due diligence if you are sourcing from a factory in the northeast parts of China that are proximate to the Chinese border with North Korea such as Liaoning Province, Jilin Province, and the Yanbian Korean Autonomous Prefecture.
2. Encourage collaboration between sourcing, quality, and social compliance teams, so there is a careful review of the production capacity and capabilities of authorized suppliers and subcontractors.
3. Pay attention to red flags that might indicate workers have been hired or are employed through a contract that is associated with North Korean labor brokers or the Government of North Korea. Indicators of workers hired through a North Korean labor broker could include:
 - a. workers are confined to the workplace and the dormitory;
 - b. workers are restricted from using certain communication technologies;
 - c. workers don't have travel documents; and
 - d. workers don't speak Chinese (if in China).

About the Fair Labor Association

The FLA is a multi-stakeholder organization combining the efforts of businesses, universities, and civil-society organizations to improve conditions for workers around the world. Occasionally, the FLA publishes briefs on current issues in the global supply chain. We intend for these briefs to provide an overview of the various perspectives on a given issue. At all times, the FLA expects its business affiliates to comply with all legal requirements, as well as the provisions of its Workplace Code of Conduct.