

CRDC Project QUT 1903:

Strategies for improving labour conditions within the Australian cotton value chain, 2019-2022

# SOLUTION APPROACHES TO ADDRESS DOWNSTREAM LABOUR ABUSES IN THE AUSTRALIAN COTTON VALUE CHAIN

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## Executive Summary

Labour conditions for workers in textile and garment value chains remains an area of continuous concern. While Australian cotton enjoys a reputation as a clean, green crop grown under decent working conditions, once the cotton enters global value chains, all visibility is lost, and sustainable value is diminished. Actors throughout the chain, from brands and retailers to manufacturers, to non-governmental organisations, are working tirelessly to address working conditions in a boundaryless system with fragmented governance. Can fibre producers also play a role?

The Australian cotton industry has invested in this research to understand labour issues along its value chain and to recommend strategies for the industry to explore. This is the second milestone report for the project. The first report, 'Critical labour conditions in the cotton value chain', mapped the labour risk in 19 textile and garment producing countries, the non-government organisations (NGOs) working to address these risks, and provided detailed analysis of country-specific issues. The report was produced during the early months of the COVID-19 pandemic.

In this report, we propose seven solution approaches for the industry's consideration. The solution approaches were developed and refined through interviews conducted with key industry stakeholders such as merchants, manufacturers, brands and retailers, and NGOs during 2020-21. The solution approaches are illustrated with 22+ case studies which highlight industry best practice, current practice, approaches in different industries, emerging regulatory trends and so forth. The solution approaches revolve around downstream due diligence; certification; transparency initiatives; traceability tools; reshoring and right shoring; strategic partnerships; and worker driven social responsibility.

The seven solution approaches are discussed in the context of the strategic enforcement model (SEM) approach, which focuses on prioritisation due to limited resources; interventions that change behaviours that result in violations and finding mechanisms that lead to sustainable and ongoing compliance. Holistically, the solution approaches form a strategic pathway for the Australian cotton industry to follow. We propose that Australian cotton could be sold on the basis of 'brand values' such as ethical production through a newly created ethical brand. This approach can translate to a growth in demand for Australian cotton, while aiming to change behaviours that result in violations, and ensuring ongoing compliance.

Next steps for the project will be to seek further industry input for the final phase of the research project, which will build upon the above findings to further develop a strategic enforcement model.

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## Abbreviations List

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<b>ACSA</b>	Australian Cotton Shippers Association
<b>AusNCP</b>	Australian National Contact Point
<b>BCI</b>	Better Cotton Initiative
<b>BSR</b>	Business for Social Responsibility
<b>CA</b>	Cotton Australia
<b>CCI</b>	Cotton Council International
<b>CRDC</b>	Cotton Research and Development Corporation
<b>EFC</b>	English Fine Cotton
<b>ESG</b>	Environment, Social and Governance
<b>EU</b>	European Union
<b>FLA</b>	Fair Labor Association
<b>GOTS</b>	Global Organic Textile Standard
<b>ICA</b>	International Cotton Association
<b>ILO</b>	International Labour Organization
<b>ITMF</b>	International Textile Manufacturers' Federation
<b>MSI</b>	Multi-stakeholder Initiatives
<b>NAFTA</b>	North America Free Trade Agreement
<b>NGO</b>	Non-governmental organisations
<b>OAR</b>	Open Apparel Registry
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OEIGWG</b>	Other Business Enterprises with Respect to Human Rights
<b>PPS</b>	Phnom Penh Sugar
<b>SA8000</b>	Social Accountability International
<b>SCGI</b>	Sustainable Corporate Governance Initiative
<b>SEM</b>	Strategic Enforcement Model
<b>SLCP</b>	Social Labour Convergence Plan
<b>UN</b>	United Nations
<b>UNGPs</b>	United Nations Guiding Principle of Business and Human Rights
<b>WSR</b>	Worker-Driven Social Responsibility

# INTRODUCTION

This report marks the milestone for Phase 2 of the project 'Strategies for improving labour conditions within the Australian cotton value chain'. The overall project aim is to inform the Australia cotton industry on strategies to improve labour conditions in the cotton value chain, with success measured through industry adoption of a pathway towards ensuring decent work.

## Our key research questions are:



1. What are the critical labour conditions, risks and leverage points in key Asian and African countries of relevance to the Australian cotton value chain?



2. For the most relevant cases, what are the characteristics of the selected cases across working conditions, networks, regulatory frameworks, social context, and which actors are best positioned to influence change along the value chain?



3. What are the concrete strategies through which the Australian cotton industry can facilitate a strategic enforcement approach to labour standards in the global cotton value chain?

This milestone report addresses the Phase 2 research question:



“ *What are the characteristics of the selected case studies across working conditions, networks, regulatory frameworks, social context, and which actors are best positioned to influence change?* ”

In this report we investigate new market opportunities for Australian cotton that could incentivise changed practices through creation of a premium ethical product. These are the niche/emerging markets for buyers (usually brands and retailers) who wish to have a traceable, ethical supply chain from farm through to retail, and wish to work with Australian cotton to achieve this. Alongside, we investigate the mainstream cotton market through the lens of 'downstream due diligence', meaning, what actions could merchants selling into the open market feasibly take to ensure Australian cotton is not sold into supply chains with high labour risk?

To address the Phase 2 research question, this report examines seven solution approaches that could be adopted by the Australian cotton industry. The solution approaches were identified through stakeholder interviews and desktop research on trends emerging in the regulatory and social responsibility spaces and include:

*Solution Approaches*

-  1. Downstream due diligence
-  5. Reshoring and right-shoring
-  2. Australian cotton certification
-  6. Deeper supplier relationships
-  3. Transparency and supply chain visibility
-  7. Collaboration with worker-driven initiatives.
-  4. Traceability

This report examines the relevance of each of the solution approaches to the Australian cotton industry, its potential impacts on business risk and labour conditions, and barriers to implementation. In doing so, it draws on existing research and case studies to illustrate the growing expectations of businesses to play a more active role in ensuring decent working conditions throughout their supply chains. This analysis underpins the proposed actions for the Australian cotton industry, which will be workshopped with stakeholders in the next phase of the project. The diagram below (Figure 2.1.1) illustrates the structure of the report.

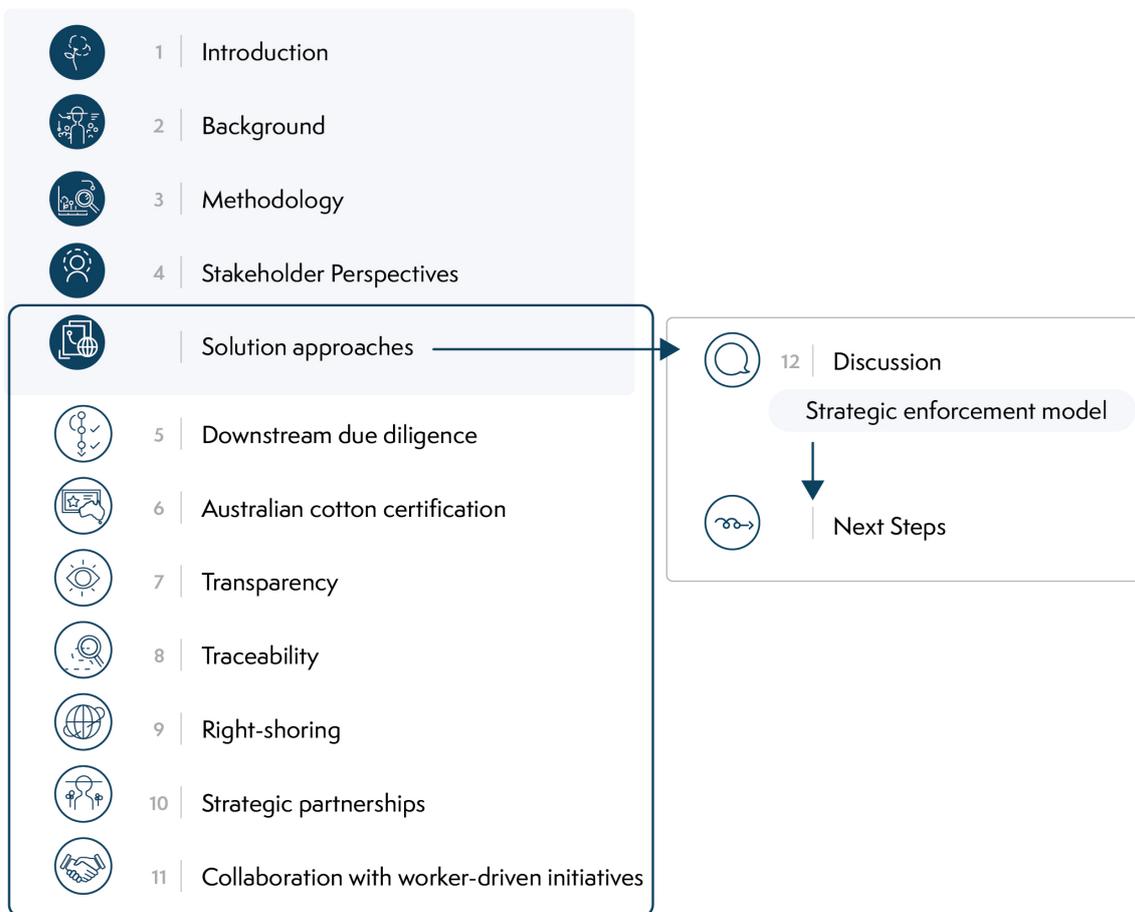


Figure 2.1.1- Report structure

# BACKGROUND

## 2.1 Australian cotton and global value chains

Australian cotton represents the first step in a global value chain (GVC) extending from raw fibre, yarn manufacturing, textile manufacturing and finishing, through to design, manufacturing and retailing of woven or knitted cotton products. Figure 2.1.1 illustrates the actors along the cotton value chain.

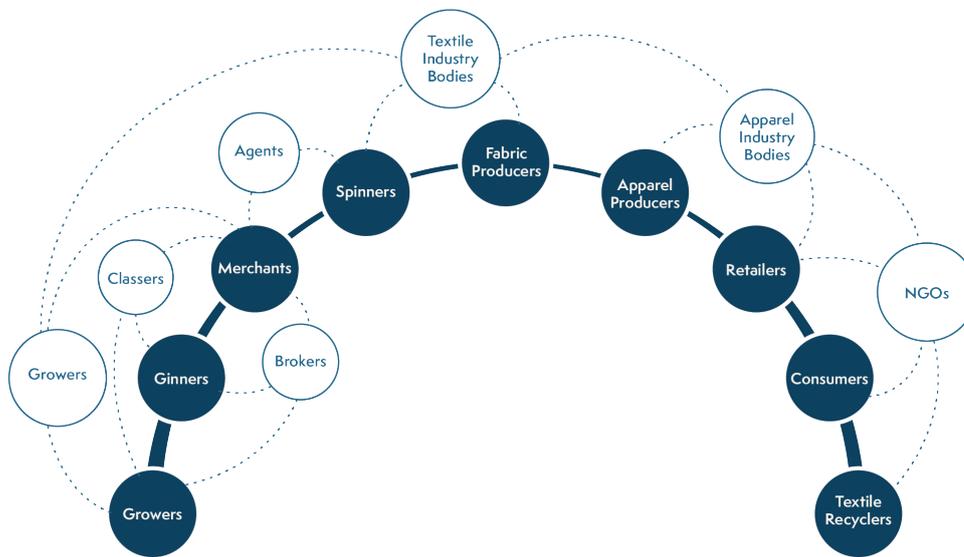


Figure 2.1.2 - The cotton value chain

Brands and retailers' supply chains are comprised of tiers, as follows, representing the stages of production:<sup>1</sup>



**Tier 0:**  
Brands and retailers



**Tier 1:**  
Garment/textile product assembly or cut make trim (CMT)



**Tier 2:**  
Fabrics and other inputs



**Tier 3:**  
Yarn spinners and pre-processing



**Tier 4:**  
Raw materials, or farm level in the case of cotton or wool.

Figure 2.1.3 illustrates the supply chain tiers from upstream (raw fibre producers) to downstream (brands and retailers). Australian cotton is Tier 4, raw fibre producers. This report is concerned with labour issues in Tiers 1-3.

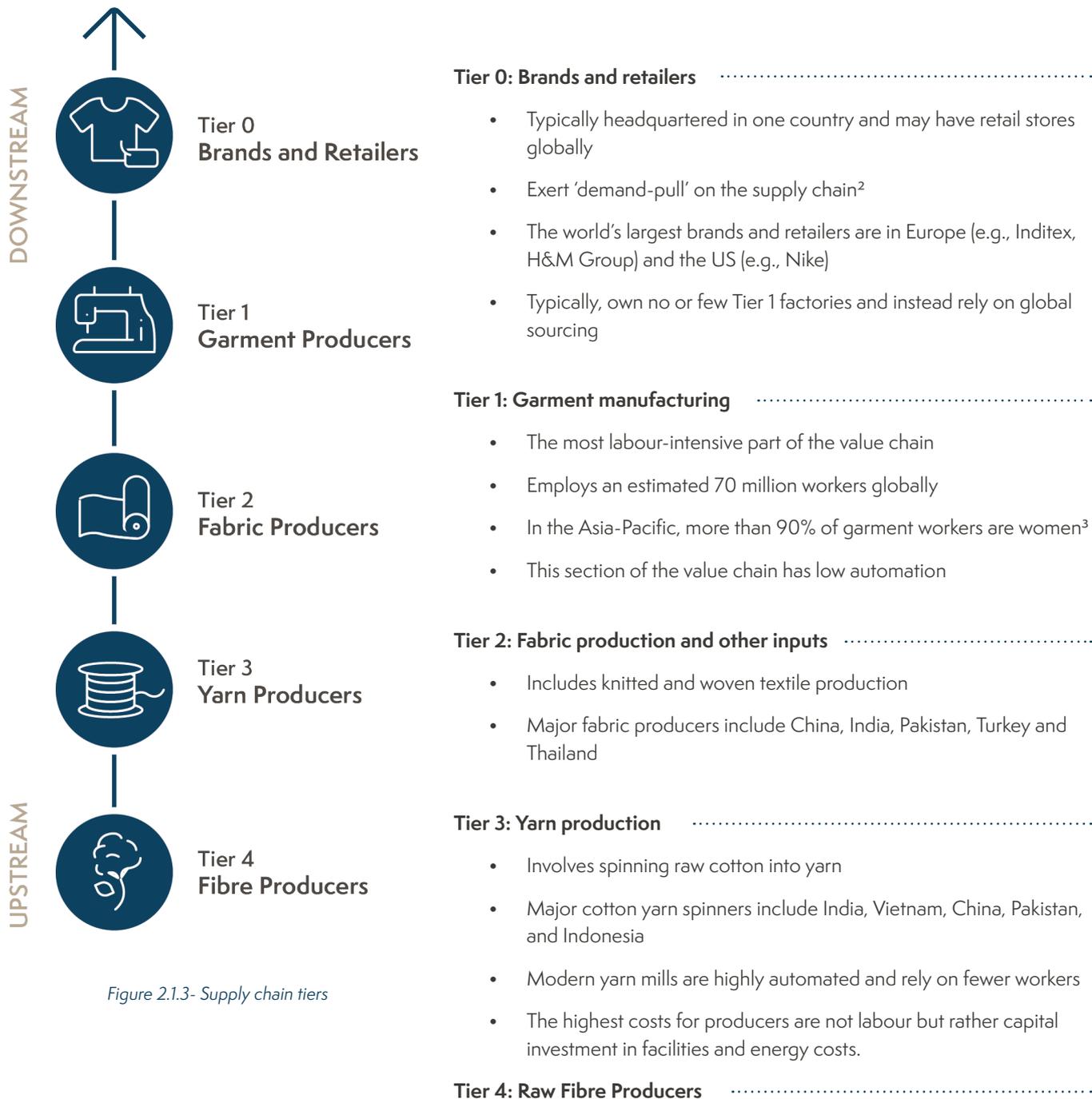


Figure 2.1.3- Supply chain tiers



## 2.2 First milestone report

For our first project milestone we produced a high-level report reviewing key labour issues in the textile and apparel industry in countries of relevance for the Australian cotton industry. The first milestone report delivered key findings in three parts:

### Labour risk heat maps

**Labour risk heat maps** were constructed using 23 indicators from existing datasets and were aggregated into five thematic indices. The data was grouped into risk that may increase the probability of labour abuses (see Figure 2.2.1 upper right).



Figure 2.2.1- Risk Heat Maps

### Country profiles

**Country profiles** were developed through desktop research. The profiles provide a high-level view of critical labour issues reported in countries and were organised in the below categories. Table 2.2.1 (middle right) illustrates the categories of labour issues.

 <b>Wages and Payment System</b>	 <b>Abuse and Harassment</b>	 <b>Freedom of Association &amp; Collective Bargaining</b>	 <b>Discrimination</b>	 <b>Forced Labour</b>
Minimum Wage	Physical, verbal & sexual abuse	Weak unionisation	Gender	Forced labour
Living Wage		Barriers to unionisation	Religion or ethnicity	Indicators of risk
Piece rate payments		Independence of unions	Migrant workers	
Worker Entitlements		Right to strike		
Wage theft & Issues with wage payments		Collective Bargaining Agreements		

Table 2.2.1- Country profile categories of labour issues

### Summary of labour initiatives

A **summary of labour initiatives** and their activities were identified and mapped across the supply chain tiers. They monitor labour issues, consider the regions they operate in and their enforcement mechanisms (legally-binding, policy pledge). Table 2.2.2 (lower right) indicates the indicators that were utilised to map the initiatives that operate across the value chain

Supply Chain Tier Addressed				
Tier 1 (garment)	Tier 2 (fabric)	Tier 3 (yarn)		
<b>Regions Addressed</b>				
East Asia	SE Asia	South Asia	West Asia	East Africa
<b>Labour Issues Addressed</b>				
Working Conditions	Health & Safety	Women/Gender	Living Wage	
Modern Slavery	Training	Community & Social Welfare		
<b>Supply Chain Tier Addressed</b>				
Legally binding*	3rd party audit/certification	Membership/Pledge/Commitment	Public Claim	

Table 2.2.2-Initiatives that operate in the value chain

*It should be noted that the first milestone report was completed in March 2020, just as the coronavirus pandemic began impacting global supply chains. To supplement this report, we completed an updated report that captured the COVID-19 impacts on supply chain working conditions. Nevertheless, the findings from the first milestone report were discussed in interview with industry experts where we gained feedback on relevance, data gaps, and how to use the information to improve working conditions in Australian cotton supply chains.*

## 2.3 Market environment

Recent global trends and events demonstrate the need for the Australian cotton industry to consider new pathways. First, the regulatory environment surrounding labour conditions is rapidly developing with an increased emphasis on both government regulation and industry self-regulation for supply chain due diligence. This is clear in the growing trend for the adoption of disclosure regulations like Australia's *Modern Slavery Act 2018*. This regulation requires businesses to report on their due diligence efforts in relation to labour exploitation including forced labour, child labour, and poor working conditions. The United Kingdom also has a Modern Slavery Act, and similar disclosure regulations have been adopted, or are in the process of being adopted, in the United States of America, France, Canada, Switzerland, the Netherlands, Hong Kong, and Brazil. Alongside the introduction of these regulations is a rapidly developing civil society infrastructure to investigate and punish or reward companies in relation to the prevention of labour exploitation in supply chains. Shareholders are also demonstrating an increasing willingness to act on Environmental, Social and Governance (ESG) issues, specifically in relation to modern slavery, by engaging in shareholder resolutions or divestment campaigns. While this is primarily a concern for the retail end of the market, and for brands and retailers such as H&M, Nike, and Target, the exposure of a labour scandal has the potential to draw in other actors within the supply chain. For example, news reporting on the Chinese government's treatment of the Uyghur population in the Xinjiang province has put the Chinese cotton industry under the spotlight for coercive labour conditions.<sup>4</sup>

The COVID-19 pandemic presents a second factor demonstrating the need for the Australian cotton industry to explore new options. The pandemic has forced a reconsideration and reconfiguration of global commerce, with supply chains affected by lockdowns, travel bans, and an at-risk workforce. This event has highlighted the need to enhance self-reliance and prioritise local and national endeavours to reduce Australia's vulnerability to upheavals in global supply chains. A partial reshoring of production may be more viable and supported in this new environment. For example, the Queensland government has recently invested in local manufacturing in response to the disruption to supply chains caused by COVID, providing \$50 million for a 'Made in Queensland' fund to bring manufacturing jobs to the state.<sup>5</sup>

A third factor putting pressure on the Australian cotton industry to adapt is the current instability in Australia's trade relationship with China. As political battles are waged through trade, the formerly relatively stable trade arrangements suddenly appear threatened. A recent Australian Cotton Shippers Association (ACSA) newsletter reported that in December 2020 and January 2021 had China at only 4.3% of total exports, a significant drop from the 60-70% of product typically exported to China.<sup>6</sup> The trade situation with China is further compounded by the news in February that India would impose a 10% duty on cotton imports. These February 2021 changes highlight the need to scrutinise the cotton industry's current trade vulnerabilities, especially in relation to China, and to reconfigure arrangements to mitigate that vulnerability.





## 2.4 Definitions of risk

- ‘Risk’ refers to the possibility of harm or the chance of loss. A risk is a factor or element that presents a hazard. In this project, we identify two main forms of risk: human rights risk and business risk.
- **Human rights risk, or labour risk**, refers to the risk of harm to people. This is consistent with the Organisation for Economic Co-operation and Development (OECD) due diligence for supply chain guidelines, which frames ‘risk’ as being the risk of harm to individuals, other organisations, and communities in relation to human rights, labour rights, and the environment.<sup>7</sup> This does not include ‘risks to the business itself.’<sup>7</sup>
- **Business risk** refers to the threat of loss or harm to a business entity. Such risk can relate to a range of factors, such as supply chain management, market demand, and the regulatory environment.
- **Regulatory risk** refers to the threat of regulatory intervention, which can disrupt existing business practices.<sup>8 9</sup> Increasingly, regulatory changes are imposing greater requirements on businesses to act responsibly, both socially and environmentally. Failure to do so can result in penalties or ‘naming and shaming’.
- This relates to **reputational risk**, which refers to factors that threaten the reputation of companies, brands, and entire industries. This encompasses ‘the range of possible gains and losses in reputational capital.’<sup>10 (p88)</sup>
- **Reputational risk** is linked to **human rights and labour risk**. It is the failure to effectively address the risks to people in supply chains and can negatively impact the reputations of those actors involved. Conversely, positive reputational benefits that may be accrued through taking positive action that is aligned with consumers’ and investors’ social values.
- Therefore, beyond the **moral case** to address human rights risk, the potential for reputational risk means that there is also a **business case**. Failure to engage in responsible business practices can threaten a company’s social licence to operate and generate reputational risk, which can result in financial loss. For example, consumers or investors may act to punish companies through boycotts and divestment, as a result of an episodic naming and shaming, due to a specific scandal or perceived failure to address labour risks. Consumers and investors may also make more long-term changes to consumption behaviours, or pursue socially responsible investing, as a result of thematic campaigns that can target entire industries as ‘unethical’.

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# REPORT METHODOLOGY

The purpose of this report is to examine the opportunities for the Australian cotton industry to exert influence in addressing the labour issues downstream in textile and garment manufacturing. A qualitative approach was taken to build on the findings of Report 1. To do so, the research team sought insights from key stakeholders in iterative phases of data collection. Through analysis of stakeholder perspectives, the team established a series of 'solution approaches', each illustrated by case studies. These solution approaches suggest potential actions that the Australian cotton industry could take.

## 3.1 Definition of Australian cotton industry

For the purposes of this study, the Australian cotton industry encompasses cotton growers, grower representative bodies, ginners, classers, and cotton merchants marketing Australian cotton. Key stakeholders are growers, whose collective interests are represented by the Cotton Research and Development Corporation (CRDC) via investment of research and development funds, and Cotton Australia (CA) through advocacy and education; and merchants, who market cotton to spinners. Figure 3.1.1 identifies the Australian cotton industry's ecosystem of businesses and organisations.

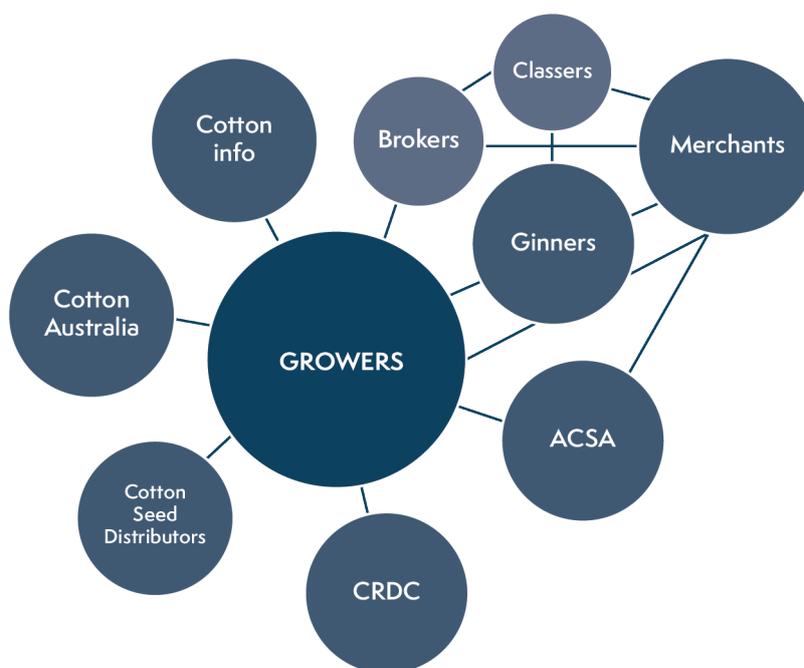


Figure 3.1.1 - Australian cotton industry ecosystem

### 3.2 Theoretical lens: Strategic Enforcement Model

In seeking to understand how industry actors could influence practices downstream, this study adapts the Strategic Enforcement Model (SEM). SEM represents a proactive approach, with limited resources, to protect working conditions. As described by David Weil it “seeks to use the limited enforcement resources available to a regulatory agency to protect workers as prescribed by laws by changing employer behaviour in a sustainable way.”<sup>1</sup>

The three key elements of this approach include:

1. Prioritization and triage as a baseline element of decision-making due to the limited availability of resources
2. Focusing on interventions that change the behaviours that result in violations, rather than enforcing a specific set of regulations
3. Finding mechanisms that lead to sustainable and ongoing compliance.<sup>2</sup>

In applying this approach from a regulatory agency context to the Australian cotton industry, it is important to consider several key differences. These are summarised in Table 3.2.1.

	Regulatory Agency	Australian Cotton Industry
<b>Type</b>	Public body	Commercial organisations
<b>Mission</b>	(Labour) Law enforcement	Advancing interests of Australian cotton producers
<b>Sector Breakdown</b>	A number of public institutions	Multiple large and smaller cotton producers, industry peak bodies
<b>Income</b>	Taxpayer funded	Market-based income
<b>Enforcement Resources</b>	Dedicated but limited	Limited to non-existent
<b>Focus</b>	Concern with domestic working conditions	Concern with overseas labour conditions (in this project)
<b>Enforcement Capacity</b>	Coercive	Encouraging

Table 3.2.1- Application of SEM by a regulatory agency compared with the Australian cotton industry

As Table 3.2.1 demonstrates, there are important differences between strategic enforcement as applied by a regulatory agency versus strategic enforcement as applied by an industry. Chapter 4 of this report examines these differences in greater detail through analysis of stakeholder perspectives. Chapter 12, discussion, extends the analysis in light of the identified solution approaches in Chapters 5-11.

## 3.3 Methods

### Research design

To address the overall project's second research question, the study design followed six stages of data collection and analysis; these were iterative and continually refined through stakeholder engagement (see Figure 3.3.1).



#### 1. Data collection

Phase 1 interviews were conducted with Australian cotton industry stakeholders to gain perspectives on the first milestone report findings and implications.



#### 2. Initial analysis

Using qualitative data analysis software NVivo, transcripts were coded by risk, barriers, opportunities, and emerging themes including COVID-19 impacts. Using the SEM approach, an array of initial 'solution approaches' were proposed that suggested actions for the industry to take.



#### 3. Data collection

Phase 2 interviews were conducted with a broader array of stakeholders, more deeply examining the key themes established in Step 2's initial analysis.



#### 4. Analysis

A series of solution approaches were established and refined through team workshops, including identification of potential case studies to illustrate the solution approaches.



#### 5. Data collection

Case studies were assembled from publicly available data (grey literature, news reports, industry conference sessions), drawing on insights from participant interviews.



#### 6. Analysis

Phase 1 and Phase 2 interviews were reanalysed and coded to solution approaches. This allowed the team to test the actions suggested by case studies against participant perspectives and draw out more nuanced insights.



Figure 3.3.1- Stages of data collection and analysis

## Data gathered: interviews, desktop research

### Participant interviews

Interviews with stakeholders were undertaken in Phase 1 for the purpose of identifying the most interesting and relevant pathways to investigate further in Phase 2 of the project. For both phases, stakeholders were identified through snowball sampling which included 'horizontal/wide networking,' with the research team approaching new and existing industry participants directly, as well as a 'vertical/deep' approach whereby future potential interviewees were identified in stakeholder interviews.<sup>3</sup> The relevance of stakeholder's perspectives was determined based on their connection to the cotton value chain.

The table below lists participants who formally participated in the study, including cotton industry bodies, merchants, retailers, non-government organisations (NGOs) and manufacturers.

Phase One			Phase Two		
No.	ID	Classification	No.	ID	Classification
1	P1-CO-01	Cotton Industry Body	10	P2-RE-01	US Retailer
2	P1-CO-02	Cotton Industry Body	11	P2-RE-02	Australian Retailer
3	P1-CO-03	Cotton Industry Body	12	P2-RE-03	Multi-national Retailer
4	P1-CO-04	Cotton Industry Body	13	P2-RE-04	Multi-national Retailer
5	P1-CO-05	Cotton Industry Body	14	P2-NG-02	US-based NGO
6	P1-NG-01	EU-based NGO	15	P2-NG-03	US-based NGO
7	P1-ME-01	Cotton Merchant	16	P2-NG-04	US-based NGO
8	P1-ME-02	Cotton Merchant	17	P2-MA-01	Apparel manufacturer, China
9	P1-ME-03	Cotton Merchant	18	P2-MA-02	Vertically integrated manufacturer (spinning, fabric, apparel), India
8	P1-ME-04	Cotton Merchant			

Table 3.3.1 - Formal interview participants

The participants were interviewed for approximately 45-60 minutes. Interviews were audio-recorded and conducted via teleconferencing.



#### Phase 1 questions included:

- What are your views on the report findings and what did we miss in terms of risk?
- What do you see as the key labour risks to focus on/risk priority areas?



#### Phase 2 questions were further refined to include more detailed discussions and included questions such as:

- What possible areas would be most impactful to investigate (e.g. best practice, work of a particular initiative)
- What do you see as the possible risks and/or benefits for the Australian cotton industry in engaging in this issue?

In both phases, prior to the interview, participants were provided with a slide deck so they may familiarise themselves with the discussion points of the interview. The slide deck included a web link to the first report. Given the sensitivity of the research topic, to protect commercial interests and ensure privacy upheld, participants and their organisations were de-identified, assigned code names and identified only by their position within the value chain, as listed in Table 3.3.1. Participants were given the opportunity to review interview transcripts and identify if any information should not be quoted but considered as 'deep background' only. The project received University Human Research Ethics Committee approval (approval no. 2000000416).

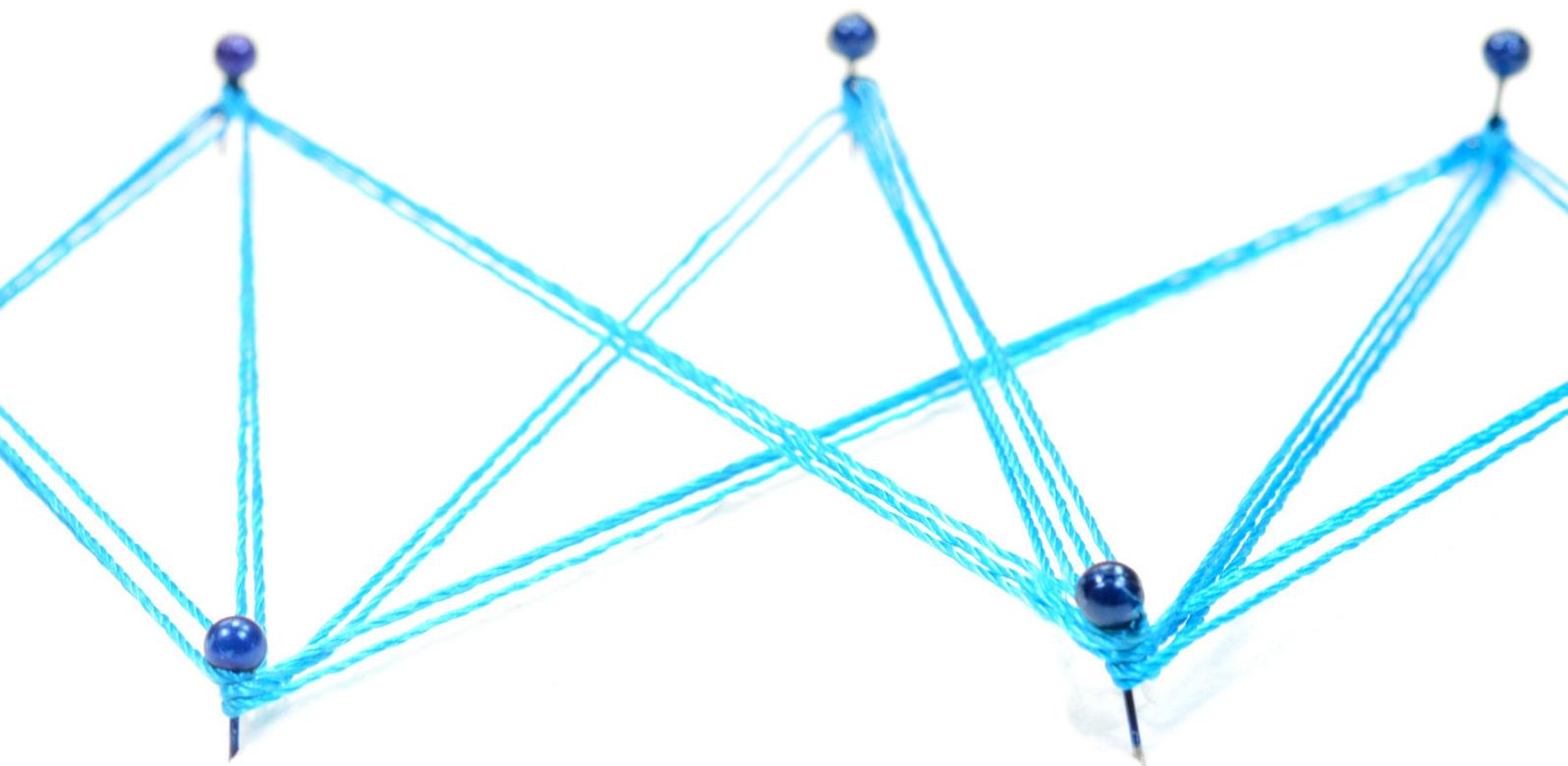
## Industry engagement

A further group of stakeholders did not wish to be formal participants in the study, but generously gave their time to discuss the issues with the team and offered insights that informed the study iterations as 'deep background'. This group included individuals from brands and retailers, Australian and EU-based merchants, representatives of banks, EU-based industry bodies, manufacturers, and EU-based NGOs. Alongside, the research team participated in industry-focused conferences International Textile Manufacturers' Federation (ITMF) and International Cotton Association (ICA) Bremen conference which included valuable insights from stakeholders throughout the global cotton value chain as well as provided opportunities for networking.

## Desktop research

Pathways and suggestions from interview participants were further explored through desktop research. This included conducting searches of relevant industry reports and academic literature on the themes that emerged from the interviews. Information on social/labour initiatives was also drawn from the websites of companies and NGOs.

The combination of stakeholder interview data and desktop research informed the solution approaches and case studies that are presented in this report.



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# PERSPECTIVES ON THE AUSTRALIAN COTTON INDUSTRY'S ABILITY TO INFLUENCE CHANGE

## 4.1 Australian cotton industry perspectives

Australian cotton industry stakeholders, including representatives of industry bodies and individual merchants, perceived the industry to have limited ability to influence change downstream in the conventional commodity market. As one put it, "we have really very little influence over what happens to our cotton once it lands in a spinning mill, we have none basically. We can't tell that spinning mill what to do with our cotton then, it's completely up to them." From the growers' perspective, they have little ability to influence where their cotton goes, as cotton is marketed by merchants based on quality parameters requested by spinners<sup>1</sup>. Therefore, the way for growers to exert greater influence, should they wish to, would be to work with the merchants on this issue. However, industry participants who represent growers broadly agreed that addressing potential labour issues further down the value chain is unlikely to be a top priority for growers given how remote it is from their on-farm activities. Industry representatives suggested investigating labour issues downstream represents an opportunity to enhance the Australian cotton brand and its values, and to get ahead of the compliance curve: "there's huge potential in this to get on the front foot... and to really use this as an opportunity to improve our social licence, by making a very big statement to the world that we, as an industry are not prepared to sell our cotton into places that are not doing the right thing by people." They suggested that this would position Australian cotton actors well for future modern slavery legislative developments and that there is value in getting ahead of the regulations on this issue: "The fact we're doing this work and our growers have invested in this work is a very positive story in itself... But for me to make it authentic, we've actually got to be serious about doing something."

While the significant labour risks downstream were acknowledged, there was a consensus that reputational risk was largely borne by buyers (i.e., the brands and retailers who source from regions with labour abuse risks) rather than sellers (i.e., merchants selling Australian cotton into regions with labour risks).

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<sup>1</sup> Noting here that yarn contracts are 1-3 months out, but growers can have contracts with merchants a couple of years in advance. Meaning that the merchants' role is important in carrying the financial risk on behalf of growers.



## Barriers

Australian cotton industry representatives highlighted that creating additional barriers to purchasing Australian cotton, such as attempting to impose labour rights due diligence criteria downstream, could significantly impact business outcomes. Additionally, there are currently no mechanisms for intervention or remediation downstream in the value chain, even if they did become aware of the exploitation of workers producing garments with Australian cotton.

Further, whilst Australian cotton industry representatives suggested that some merchants may not feel compelled to act on labour issues, based on the perceived anonymity of the cotton's provenance as it moves through the value chain, this standpoint is likely to change with the advancement and more widespread adoption of **traceability technology** (see Chapter 8).

Merchants indicated that they have limited power to influence practices downstream in value chains. Given merchants sell either to in-country agents or direct to spinning mills, they are several steps removed from the sites of greatest risk of labour abuses (i.e., apparel production, see Report 1). Current downstream due diligence processes focus on financial risk and assessing a customer's ability to fulfil a contract<sup>2</sup>.

Whilst global players such as Cargill, Louis Dreyfus Company, Olam and Glencore have greater reach than other merchants, retailers were identified as being best positioned to exert influence throughout the value chain, with a merchant stating "I think there are 12 groups globally that create 92% of the demand for garments in the world. So that's a huge amount of power that sits with the retailer." A merchant identified the role that both retailers and merchants could play as "bookends" on either end of the value chain, ensuring that the right thing is being done at the tiers of production between them. Currently, however, there is very little connection between the merchant and retailer (no contract, no data sharing) though one merchant reported receiving increasing requests to confirm bale numbers to trace cotton origins. Two merchants saw **strategic partnerships and collaboration** between value chain actors as an important leverage point (see Chapter 10). Additionally, there is an opportunity to raise awareness of value chain labour issues and identify "where risk may exist in the future", which would support the case for sustainable and responsibly produced Australian cotton.

A merchant noted that labour issues in the cotton value chain are prevalent as the intensity of labour in the production process increases, with the likelihood of increased risk in apparel manufacturing particularly. Several merchants suggested the need for clearer use of the term 'modern slavery'. While acknowledging the seriousness of the reports of forced labour in Xinjiang, China, merchants noted these concerns are not directly relevant to the Australian cotton value chain, stating that

"we're not involved with Xinjiang... I don't think that's applicable nor is it anything that we would be able to do anything about." All merchants interviewed referred to the fact that while they do not have oversight of where the cotton goes post-spinning mill, Australian cotton is typically sold to long-standing operators with whom relationships have existed for a long time.

## Opportunities and pathways

Most importantly, merchants agreed that while Australian cotton faced little reputational risk from potential exposure to downstream labour issues, there was an opportunity to enhance the reputation of Australian cotton as a 'clean and green' crop through **value chain traceability** in partnership with brands and retailers at the premium end of the market. As one merchant described traceability approaches, "it's kind of like taking the high road, but if you can achieve these standards, then the [labour concern] falls away because of the actors within the supply chain that want to use it."

With COVID-19, several participants noted that organisations such as the ICA are having conversations with multiple bodies (International Cotton Advisory Association (ICAC), International Textile Manufacturers' Federation (ITMF), Better Cotton Initiative (BCI)) to understand the vulnerability of the value chain and how to re-build a better, more robust value chain. They suggested that these are promising conversations and suggest an avenue for further consideration of labour conditions. Two cotton industry body representatives suggested examining Yarn Ethically Sustainably Sourced (YESS). Alongside, several merchants considered whether there is an opportunity for BCI to play a greater role, given Australian cotton's current benchmarking to BCI. Hence, examining other cotton identity programs and how / if these learnings could be applied to expanding **Australian cotton certification** was seen as a valuable avenue to explore (see Chapter 6).

Industry representatives also saw opportunities for collaboration on the issue of value chain labour rights. Whilst there is currently no legal requirement in Australia, the Australian cotton industry has an opportunity "to link into the end of the supply chain that does have the clear responsibility for this due diligence and investigate how we at the other end... can support them in what they're doing." They noted that both Australian and international brands "that actually care about what's going on in their value chains, as far as workers' rights and health and safety and wages and all of that, would love an opportunity to partner with us on something like this." This indicates an interest in and acknowledgement of the importance of **collaboration with worker-driven initiatives** in addressing value chain labour issues (see Chapter 11).

<sup>2</sup> International Cotton Association (ICA) is a body responsible for arbitration based on quality or other technical disputes between cotton traders and spinners and maintains a List of Unfulfilled Awards colloquially known as the 'blacklist'.



## 4.2 Value chain perspectives

This stakeholder group includes manufacturers, brands and retailers, and non-government organisations (NGOs) active in addressing labour conditions. Brands and retailers suggested that they are not necessarily best positioned to influence labour conditions along value chains. However, they are more active in this space because they experience greater reputational and regulatory risk than other actors along the value chain. Further, brands and retailers have expressed concern that they are often assumed to have the most leverage in the chain however this is not always the case, as their degree of influence is contingent on many factors, e.g., on the scale of their orders compared with other orders a manufacturer may have. Brands and retailers also noted the lack of incentives for non-consumer-facing actors within the value chain to address labour rights abuses, as they are not subject to the same degree of reputational risk. Consumer pressure/activist pressure usually does not go beyond consumer-facing parts in the value chain.

### Barriers

Brands and retailers cite the lack of **value chain visibility** as a significant barrier to acting on labour rights in value chains, with one retailer noting that “you can’t act on the issues if you don’t know where they are or what they are.” A vertically integrated manufacturer agreed that many brands had limited visibility, offering an estimate that, in their experience, 70-80% of brands are connected to Tier 1, however 50% or less are connected to Tier 2, and only 5 or 10% of brands are attempting to reach to the level of yarn producers.

Conversely, there was also recognition from NGO stakeholders that many brands only engage on an issue when they are publicly called upon to do so (as in the case of Xinjiang). An NGO participant referred to brand and retail engagement on labour issues as “attitudinal”, suggesting that reluctant brands and retailers often fall back on the “convenient excuse” that they have a Code of Conduct in place, so an upstream labour issue is not their responsibility. A vertically integrated manufacturer also implied lack of visibility was a convenient excuse, saying, “many brands don’t know where the fabric is coming from, or they don’t intend to know. One can always know, in the end, I believe.”

Nevertheless, the complex nature of global value chains hinders the ability of brands and retailers to trace their value chains. Brands and retailers noted that in the absence of vertical integration or the use of **traceability technology**, it is “virtually impossible” to follow a value chain from end to end. It is difficult for a retailer to trace because they mostly rely on trust with their factories and vendors to source correctly. This was echoed by an apparel manufacturer producing for global sportswear brands out of China. They commented that the brands and retailers rely on their company to check the environmental and social compliance of upstream suppliers of fabrics, yarn and other inputs. The manufacturer’s team conducts these checks, and brands/retailers may ask for this information from them, though not always.

Purchasing practices of brands and retailers was identified by several stakeholders as a barrier to addressing labour rights in the chain. One retailer notes the rigidity of purchase orders and

the difficulty in suspending orders with non-compliant factories. Some purchase orders are made years in advance, where relationships have been built over several years. They noted that cancelling orders or changing suppliers can have a huge ripple effect and buyers retain a responsibility to be conscious of the negative impacts they might trigger from ending a business relationship. One NGO commented that, “[a]uditing by brands/retailers has found that 50-80% of the issues that they are trying to remediate are caused by their purchasing practices.” During the COVID-19 pandemic, the issue of purchasing practices has only become more pertinent.

Additionally, brands and retailers highlighted the cost and labour-intensive nature of achieving value chain transparency, as the collection of transparency data and/or adoption of traceability technology can require significant investment. A retailer who has been active in seeking **value chain visibility** to tier 4, raw materials, described how their attempt to keep banned cotton out of their value chain is a multi-pronged approach. They look closely at the regulatory and reputational risk associated with labour concerns with the aim to limit the risk where possible. This includes requiring signed certification from vendors/factories that they are complying with retailer policies, as well as carefully assessing the risks associated with particular regions. For example, as Bangladesh is known to import Uzbek cotton, this retailer will not source fabrics from there and garment producers have to source from outside the country unless they can provide verification of the cotton. Similarly, Turkey is known to import Turkmenistan cotton so the retailer will not source fabric from there either. At the time of interviewing, they anticipated this situation would soon be the case with cotton, yarn or fabric associated with Xinjiang.

## Opportunities and pathways

Given these concerns around labour practices in some cotton-growing regions, two retailers saw advantages in sourcing Australian cotton<sup>3</sup>, with one adding that if the Australian cotton industry could offer greater certainty in where the cotton goes post-farm gate that would be even better: "I would think that any retailer or any purchaser would be much more comfortable if it was Australian grown cotton, Australian ginned, spinned, milled cotton, in terms of mitigating that labour rights risks... having it all in that one centre." They noted, "If you 'tick tick' there [i.e., best practice on farm], you really then lose the 'tick tick' as soon as it gets exported, if you don't know where it's going to." This point suggests a horizon opportunity of **reshoring** some manufacturing processes in Australia to further ensure social and environmental standards are maintained throughout the value chain (see Chapter 9).

A retailer who is focused on ensuring raw material regulatory compliance also suggests that further **certification** around Australian cotton could bring assurances to major brands and retailers. Although NGOs saw value in traceability, one commented it is always dependent on the goal of the tracing. For example, from the Australian cotton industry's perspective, tracing is most useful for proving provenance, for instance, the percentage of Australian cotton in an item. However, given the likelihood that Australian cotton will be blended with other cottons at the mill, "where does this knowledge get you?" They suggested from a brand perspective it may be more useful to test whether the blend contains banned cotton (Uzbek, Xinjiang).

Several NGOs active in this space offered the view that Australian merchants could take a "database approach" to gain more visibility of their downstream value chain. For

example, merchants can develop their own approach to ratings based on existing standards, and work with NGOs such as Fair Factories Clearinghouse for tailored mapping, use Social Labour Convergence Project (SLCP) data or connect in with the Open Apparel Registry to map gins and then spinning mills (see Chapter 7). Three of the four NGOs interviewed highlighted that the days of individual specific standards are over and there is a shift towards harmonising standards throughout the value chain. This suggestion also aligned with one merchant's comment that there are opportunities for the merchant community to similarly have a "unified approach" in developing "data sharing capability" which would be an important precursor to any value chain **traceability** in a whole-of-country approach as the US cotton industry is taking.

If **collaboration with worker-driven initiatives** is sought, NGO representatives counselled that intervention mechanisms and monitoring mechanisms must account for the specific issues and risks with the country. They noted that if the Australian cotton industry wished to take a country focus, the risk is higher in countries with poor government regulation/inspection of facilities, and it would be wise to connect with Better Work for an in-country focus. One retailer representative recommended a proactive approach to participating in existing programs such as the BSR HER project which are focused on "worker empowerment and upskilling works in different areas".

In summing up the opportunity for Australian cotton to act, one retailer offered the view that, "ultimately they [Australian cotton industry] need to work with organisations in the chain that meet certain standards. And that are fundamentally committed to those standards."

<sup>3</sup> One US-based retailer associated this with the Cotton LEADS program (a US-Australian cotton partnership) more broadly while an Australian retailer connected this to Australian cotton.



### 4.3 A strategic enforcement perspective

In the complex global value chain described above, no single actor or organisation feels they can enforce compliance with decent work and human rights outside of their organisation. The ability and degree of perceived responsibility to address labour concerns happening elsewhere varies by organisation type and their position within the value chain. Yet, as participants identified above, the Australian cotton industry does have some scope of potential action, even if modest. The strategic enforcement model (SEM), while designed to be applied by a single regulatory agency, is a flexible approach to enforcing businesses' compliance with labour laws. In framing a strategic enforcement model from the perspective of the Australian cotton industry (comprising growers, merchants, and industry bodies), the following key points must be considered:

- Unlike other examples of SEM applied by regulatory agencies, enforcement of labour standards downstream is currently outside of the industry's purview and therefore immediate concern
- While the interests of Australian cotton producers can be defined in more than one way – commercial motivations are an important (if not the primary) driving force. It is therefore not unreasonable to suggest that industry buy-in to protect overseas workers needs to advance the (commercial) interests of Australian cotton producers
- While a regulatory agency has a budget for enforcement based on public funding, it is unlikely that a sizeable financial commitment will be made by the cotton industry
- It could be challenging to reach consensus on any kind of commitment, financial or otherwise, considering the numerous Australian cotton producers, merchants, and peak bodies
- It is not realistic to expect the cotton industry to cease exports to a destination if labour standards abuses are reported (unless exports are halted by authorities)
- Given it is not possible for the Australian cotton industry to coerce other actors in the value chain, the motivating factor must come in the form of encouragement.

In summary, this means that it is most likely to get buy-in from some, but not all, actors in the Australian cotton industry to address working conditions in cotton export destinations. A commercial imperative is the most likely motivator for participants, while an upfront financial commitment from industry actors is unlikely. Finally, the leverage that Australian cotton exporters exert is based on a 'carrot' rather than a 'stick' approach. Evidently, it is necessary to create a business case for Australian exporters and others in the value chain.

From the interviews with brands and retailers, they would welcome a proactive approach from a raw materials producer. One NGO representative proposed that the cotton industry could set a bold horizon goal such as 'no Australian cotton will enter supply chains with labour abuses'. Currently, this may seem a goal far out of reach and very difficult to implement. Nonetheless, the act of setting such a goal could have a knock-on effect in establishing strategic alliances throughout the supply chain that in addition to protecting workers in the chain, could benefit the Australian cotton industry in the long term.

## Exploring solution approaches

Considering the factors described above, the following chapters of the report explore seven solution approaches for the industry to consider:



Downstream due diligence



Australian cotton certification



Transparency and supply chain visibility



Traceability



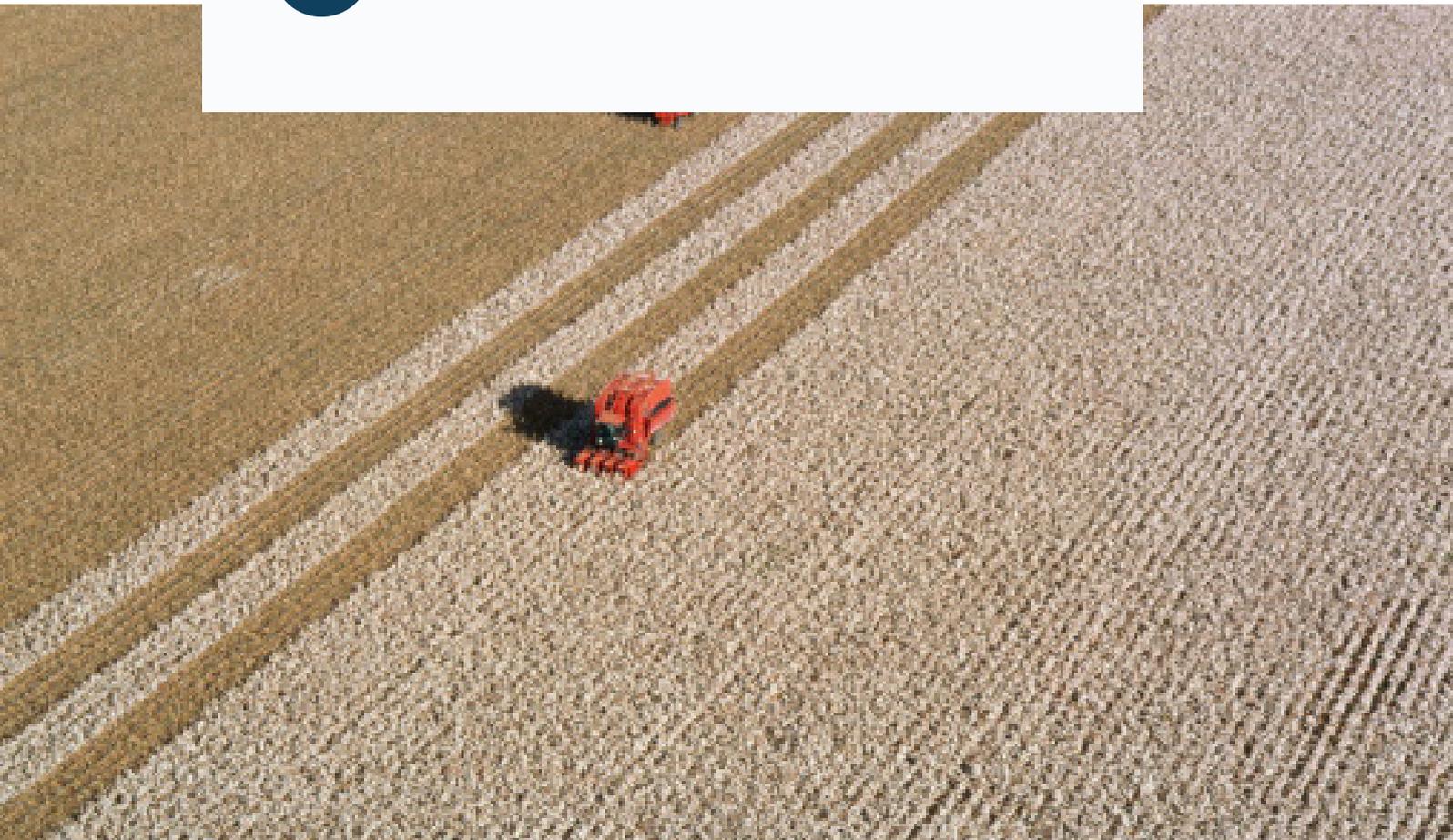
Reshoring and right-shoring



Strategic partnerships and collaboration between supply chain actors



Collaboration with worker-driven initiatives



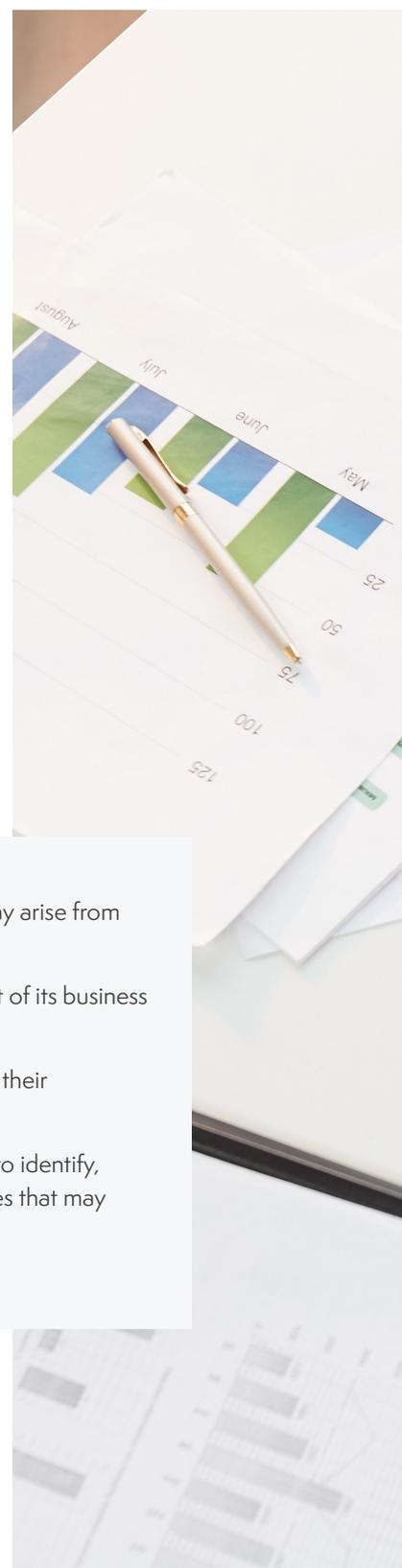
# DOWNSTREAM DUE DILIGENCE

## 5.1 Evolving regulatory context

Pressure is growing within the United Nations (UN) and European Union (EU) to introduce legislation which creates more stringent, mandatory due diligence obligations. Existing due diligence obligations at the international level have largely been voluntary in nature (OECD Guidelines for Corporations and United Nations Guiding Principles on Business and Human Rights) and have not driven sufficient change in industry practice. Incidents such as Rana Plaza in 2013 and the forced labour scandal in Xinjiang have resulted in increased attention on textile supply chains. Due diligence regulation is evolving rapidly within the EU and given the connected nature of global supply chains has ramifications beyond Europe. This section will provide a brief overview of some of key recent regulation development regarding mandatory due diligence including: the UN Human Rights Draft Treaty on Due Diligence, the evolving EU reforms and explain the French Regulation which requires “a vigilance plan” to address environmental, health and safety and human rights.<sup>1</sup>

In 2014, the UN Human Rights Council adopted a resolution to establish “an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises”.<sup>2(p2)</sup> In 2019, the Other Business Enterprises with Respect to Human Rights (OEIGWG) transnational working group released a revised draft of the business and human rights treaty which sought to create mandatory due diligence obligations for business enforced by the adoption of legislation at the domestic level. Article 5.2 of the revised draft requires State Parties to adopt measures necessary to ensure that all persons conducting business activities including those of a transnational character undertake human rights due diligence as follows:

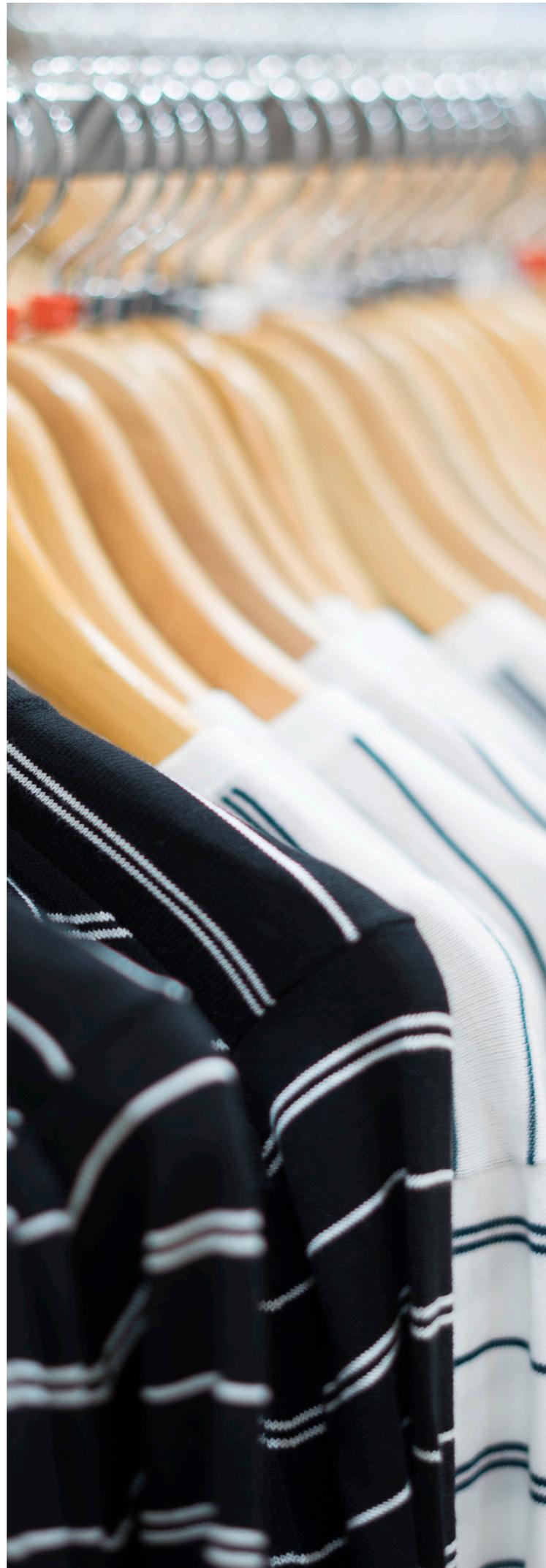
1. Identify and assess any actual or potential human rights violations or abuses that may arise from their own business activities, or from their contractual relationships
2. Take appropriate actions to prevent human rights violations or abuses in the context of its business activities, including those under their contractual relationships
3. Monitor the human rights impacts of their business activities, including those under their contractual relationships
4. Communicate to stakeholders and account for the policies and measures adopted to identify, assess, prevent and monitor any actual or potential human rights violations or abuses that may arise from their activities, or from those under their contractual relationships.



Adoption of a treaty encompassing these sorts of obligations within the UN system requires the building of consensus among all UN parties which takes significant time. It is likely that due diligence reform will occur faster outside of the UN system, which will then influence the shape and obligations of the final treaty put forward by the OEIGWG. If, and when, Australia ratifies this treaty, significant reform will need to be made to the Australian Modern Slavery Act 2018 to enforce mandatory due diligence upon all Australian businesses. Such reform would significantly expand the scope of the Act by regulating the conduct of all Australian entities and would create new obligations to ensure due diligence across the supply chain.

Regulation on due diligence is evolving rapidly in the EU. The EU has committed to be climate-neutral by 2050 and aims to deliver on the UN Sustainable Goals. The Communication on the European Green Deal adopted in December 2019 and the EU Recovery Package – NextGeneration EU 2021 – 2027 both affirm the Sustainable Corporate Governance Initiative (SCGI) which aims to improve the EU Regulatory framework on company law and corporate governance to ensure that companies manage sustainability-related matters including human rights, climate change and environmental factors in their operations and value chains. The SCGI is listed as a deliverable on the EU Action Plan on a Circular Economy, the EU Biodiversity Strategy, and the Farm to Fork Strategy. Some of the key modalities such as the definition of due diligence, enforcement options and how the SCGI will interact with existing voluntary initiatives and beyond the borders of Europe is yet to be determined. The final draft of the SCGI is due in Q2 2021 (April-June) and key information from this revised draft will be summarised in the final report of this project.

The French government is the forerunner in developing more stringent due diligence obligations at the State level. The French Corporate Duty of Vigilance Law passed in 2017 requires all French companies that have more than 5,000 employees domestically, or employ 10,000 or more worldwide to implement an effective 'vigilance plan' to address environmental, health and safety and human rights both in their own operations and at their suppliers and sub-contractors.<sup>1</sup> This regulation creates more onerous obligations than the Australian Modern Slavery Act, the UK Moderns Slavery Act and California's Transparency in Supply Chains Act, all which only require prescribed entities to report on any efforts that they have taken to identify human rights risks.<sup>3(p27)</sup>



## 5.2 What is downstream due diligence?

The OECD defines due diligence as “the process through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts”.<sup>4(p14)</sup> The OECD guidance document has been created for all enterprises operating in the garment and footwear supply chain including but not limited to “raw material and fibre producers, material manufacturers and processors, components manufacturers, footwear and garment manufacturers, brands, retailers and their intermediaries”.<sup>4(p11)</sup> The scope of this guidance document is broad and provides a framework that cotton producers can use to carry out due diligence practices along their supply chains.

The UN Guiding Principles on Business and Human Rights (UNGPs)<sup>5</sup> requires that all business enterprises respect human rights (Principle 11) which includes labour and employment rights along supply chains. Business enterprises are required to carry

out human rights due diligence processes which assess actual and potential human rights impacts, act upon these findings, track responses and communicate how impacts are addressed (Article 17).<sup>5(p17)</sup> Such human rights due diligence processes should consider the human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships (Article 17a).<sup>5(p17)</sup> This means that it is within the scope of cotton producers to consider the human rights impacts with those entities directly linked to its operations such as spinners, mills and garment manufacturers. Obligations to carry out human rights due diligence need to be ongoing, recognising that human rights risks may change over time as the business enterprise’s operations and operating context evolve (Article 17c).<sup>5(p18)</sup>

**There are two types of due diligence obligations: upstream due diligence obligations and downstream due diligence. Drawing on existing definitions of due diligence<sup>6</sup>, this report defines these types of obligations as:**



### Upstream due diligence

Upstream due diligence practices refer to obligations placed upon buyers of products to identify, prevent, mitigate and account for the social and environmental risks associated with the production of the product they purchase



### Downstream due diligence

Downstream due diligence refers to a duty of care upon sellers to identify, prevent, mitigate, and account for social and environmental risks arising from the use of their product within supply chains.

The existence of downstream due diligence obligations is consistent with both the OECD Guidance Supply Chains in Footwear and Garment Sector standards<sup>4</sup> and the UNGPs<sup>5</sup>. Practice of downstream due diligence can be seen via extended producer responsibility frameworks (product stewardship schemes) and enterprises voluntarily implementing corporate social responsibility initiatives. In the context of the apparel industry, downstream due diligence refers to the responsibility of upstream actors (e.g., raw material producers) to conduct human rights due diligence on their downstream value chain (e.g., buyers of the raw commodities).

Most policy and scholarship currently focuses on enhancing upstream due diligence. The Australian Modern Slavery Act does not currently require Australian companies who sell into supply chains to carry out downstream due diligence but does create upstream due diligence obligations for certain companies operating within Australia. Motivation to voluntarily enhance downstream due diligence practices may arise as a result of: a desire to decrease business reputational risks, a desire to get ahead of the regulatory curve and increasing pressure from investors seeking to align their values and investment decisions.<sup>7</sup>

## Product stewardship and technology companies tech companies' accountability for post-consumer waste

There is growing pressure for technology companies to implement product stewardship initiatives to prevent e-waste flowing to the Global South. The implementation of product stewardship initiatives demonstrate how sellers of products might take steps to address negative impacts associated with their product's life cycle. Product stewardship schemes and policies therefore provides a framework to consider when examining downstream due diligence design and implementation. In 2008, Greenpeace published a report exposing the harmful impact of e-waste dumped in Agbogbloshie, Ghana. Toxic e-waste was being offloaded in Ghana to save costs on expensive dumping at engineered landfill sites in developed countries (though the hazardous materials are illegal to dump in some countries).<sup>8</sup>

The Agbogbloshie informal dump site is home to an ecosystem of micro entrepreneurs and recyclers who work to extract precious metals from the scraps or repair old equipment.<sup>9</sup> While the dumpsite has had a positive impact on the community through an informal entrepreneurial economy, the process is significantly hazardous on workers' health. The extraction process often involves the burning of plastics to recover the precious metals and is sometimes carried out by children as young as five.<sup>10</sup> Consequently, workers and the local community are exposed to toxins that cause respiratory issues, chronic nausea, headaches, and likely cancer.<sup>10 11</sup>

The Greenpeace report placed increased pressure on electronics companies to account for their products' end of life down the chain. Stowell<sup>9</sup> suggests the solution is not stopping the flow of e-waste but rather formalising processes for product stewardship which involves recognition, investment, and regulation. If companies were to acknowledge where their products are going after the consumer, they can address key methods for protecting workers, developing skill sets, growing infrastructure, and overall enhancing the recycling trade in Ghana. Greenpeace<sup>10</sup> has called on companies to phase out the use of hazardous chemicals and materials in their products, invest in appropriate methods for treating toxic material disposal in Ghana, and promote free take back schemes so that companies can be better equipped to control the flow of e-waste and ensure appropriate, safe disposal.

By taking responsibility for their products end-of-life, electronic companies are practising downstream due diligence and can reduce risk to workers at the end of the product chain, create sustainable value via the recycling of materials, and positively increase their reputation as a responsible business.

Figure 5.1.1 A heap of metal and old electronics.



Reputation is an intangible asset that directly affects the market value of an enterprise. As Warren Buffet stated: “It takes twenty years to build a reputation and five minutes to destroy it”.<sup>12</sup> The primary reputational risk for Australian cotton arises from selling a product into supply chains where there is foreseeable risk of modern slavery occurring along the supply chain. Wachenfeld et al.<sup>13</sup> found that sellers conducting downstream due diligence on buyers is more likely to occur when sellers’ reputational risks are high. In consumer-facing industries such as finance and pharmaceuticals, there has been increasing pressure for companies to perform downstream due diligence on their buyers (see case studies 5.B and 5.C). The live export debate within Australia also provides an example of where the Australian community expected downstream due diligence to ensure animal welfare by Australian livestock producers.

### Case Study 5.B

## ANZ financing land dispossession in Cambodia

Finance institutions have considerable leverage to prevent the flow of capital to enterprises engaged in modern slavery. New regulation, divestment campaigns and litigation means that the financial sector has business, ethical and legal reasons to comply with due diligence standards in their lending and securities practices. The Fast Initiative (Finance against Slavery and Trafficking) provides a framework for the whole financial sector and professional services to accelerate action to end modern slavery and human trafficking. Increasingly, financial institutions are being asked to address the risk of modern slavery connected to them by lending or insuring risky enterprises<sup>7</sup> as the ANZ case study demonstrates.

ANZ Royal, which is a subsidiary of the ANZ, loaned a significant amount of money (likely tens of millions of dollars) to finance the Phnom Penh Sugar Company’s (PPS) sugar plantation and refinery.<sup>14</sup> At the time of the loan approval, PPS were in conflict with the hundreds of families as the project expansion had displaced families from their homes via illegal seizure of property and aggressive evictions. Controversially, the project is part of Cambodian Senator and tycoon Ly Yong Phat’s list of assets. A close associate of the authoritarian Prime Minister Hun Sen, Ly Yong Phat led a destructive effort to seize public and community land, clearing protected forests and destroying farmland that nourished at least 21 villages.<sup>15</sup>

It has been estimated that 1,500 families were dispossessed of their homes and land, and forcibly relocated onto infertile land with little to no infrastructure. The establishment of the PPS

sugar plantation destroyed livelihoods, caused food shortages, decimated the environment, and ushered in low paid and hazardous work for plantation workers, some of which were children. The reports of pervasive child labour on the plantation were made known in early 2013<sup>16</sup>, which the company ‘remedied’ by sending an internal memo to contractors, warning them to not hire children.<sup>17</sup>

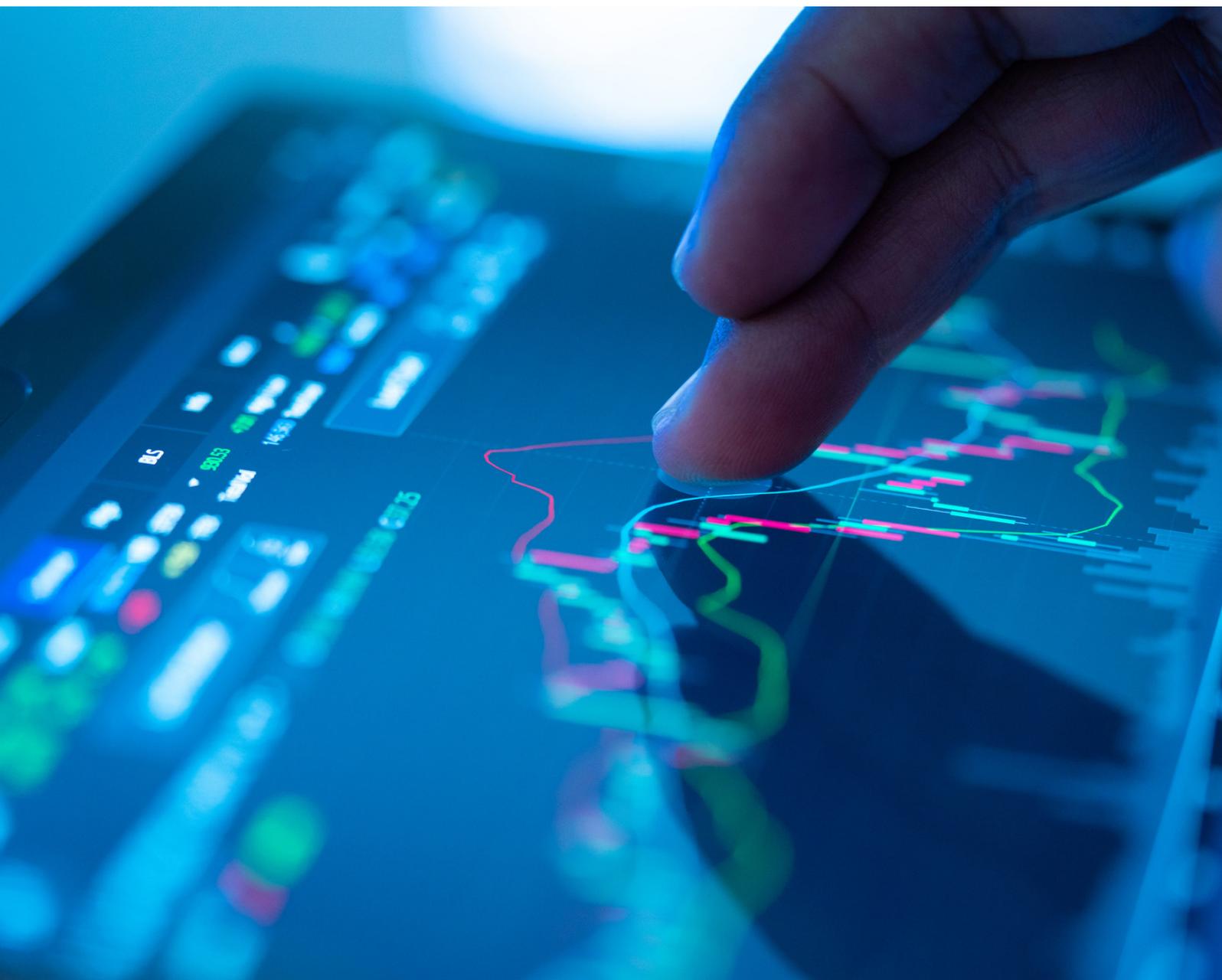
The OECD Guidelines on Responsible Business Conduct provide that ‘the purpose of due diligence is first and foremost to avoid causing or contributing to adverse impacts on people, the environment and society, and to seek to prevent adverse impacts directly linked to operations, products or services through business relationships.’<sup>18</sup> In this case, ANZ Royal failed to exercise appropriate due diligence in providing finance to the PPS project.

To remedy the issue, human rights groups applied pressure on ANZ to develop a due diligence and community grievances process. However, these efforts were undermined when PPS prematurely repaid the loan and ANZ cut ties with the project. Nevertheless, the non-profit group, Inclusive Development International lodged a formal complaint to the Australian National Contact Point (AusNCP)<sup>1</sup> alleging ANZ breached the OECD guidelines and pressured the bank to remedy the grievances they enabled by repaying the profits earned from the loan to the victims of the sugar plantation. In 2020, a landmark agreement was made when the AusNCP Independent Examiner facilitated a meeting where ANZ agreed to pay out the gross profit to the affected communities of the PPS plantation.<sup>15</sup>

<sup>1</sup> The Australian National Contact Point is the arm of the Department of the Treasury that is responsible for promoting the OECD Guidelines for Multinational Enterprises.

The adoption of Environmental and Social Governance (ESG) frameworks has provided investors with increased knowledge about the social and environmental credentials of their investment stocks. While the definition of what constitutes an ESG varies, ESG investments are being increasingly viewed as both more aligned with investor values and less risky, making them economically rationale investments. Any sort of reputational risk associated with being involved in supply chains which involve modern slavery have the potential to impact how an enterprise scores on ESG assessments, which then may impact investors' willingness to continue to support the enterprise.

Organisations may also be motivated to voluntarily improve due diligence practices in the supply chain as a way to prepare for future regulation in the field (getting ahead of the regulatory curve). The European Parliament, called upon the European Commission to provide a legislative proposal to establish "an overarching, mandatory due diligence framework including a duty of care to be fully phased-in within a transitional period and taking into account the proportionality principle" which resulted in the EU Commission, Supply Chain Study, 2020<sup>6(p15)</sup>. The terms of reference for the EU study referred to both upstream and downstream social and environmental impacts along the supply chain, suggesting a regulatory intention to create downstream due diligence standards in the future.



## Misuse of an epilepsy drug for lethal injection

Lundbeck, a Danish pharmaceutical company, held the sole US license for the drug pentobarbital, a drug manufactured to alleviate insomnia and epilepsy. In January 2011, news emerged that Lundbeck's pentobarbital drug (licensed under the name Nembutal) was being administered by US prisons to carry out capital punishment via a lethal injection. The use of the drug to cause death clearly contradicted the pharmaceutical company's intended therapeutic use for managing epilepsy and improving people's lives.<sup>19</sup>

The ethical dilemma demonstrated a downstream supply chain issue, whereby Lundbeck's US distributors were selling Nembutal to secondary distributors who would then supply the drug to illegitimate customers seeking to misuse the drug to execute prisoners.<sup>19</sup>

Lundbeck first responded to the news by denouncing the use of its drug for capital punishment and initially claimed that it had no control over the selling practices of their distributors nor how the drugs were being used by customers. In response, Reprieve (death penalty opponent group) and Amnesty International led a campaign calling upon Lundbeck to add ethical clauses to their

US Distributors.<sup>20</sup> After mounting pressure, in July 2011, Lundbeck announced Nembutal would be exclusively supplied via a drop shipping distribution model where they would be able to monitor all Nembutal orders. The new distribution system would allow orders by legitimate medical customers and deny shipments to prisons in US states that practice capital punishment. Customers were also required to sign a form stating the product would not be made available for misuse and would not be redistributed without authorisation by Lundbeck.<sup>21</sup>

As a result of the newly implemented distribution system and binding agreement on usage, US prisons were forced to abandon their reliance on Nembutal for executions. Consequently Lundbeck, in collaboration with third parties, were able to effectively remove their product from a downstream supply chain that abused human rights. By doing so, they protected themselves from reputational and financial damage (investor divestment, lawsuits) and were recognised as an ethical leader in the pharmaceutical sector whose example has been followed by multiple pharmaceutical companies since.<sup>19</sup>

It is recognised that it is difficult for individual actors to improve downstream due diligence. For example, smaller sellers will face barriers in attempting to change practices within global supply chains as their ability to wield leverage depends upon their proportionate economic, political, and cultural power within the market. A seller's ability to influence a customer's practices may be limited by:

1. the nature of the relationship (trust/duration/current or prospective)
2. market competition (exit costs/ease of re-entry)
3. reputational value of seller
4. seller's resources to exercise leverage.<sup>18</sup>

Despite these limitations, a number of interview participants identified that enhancing due diligence practices could be a lever for change. Australian cotton was perceived to be "a brand in itself and preserving this brand from association with malpractice is important". One retail participant stated the due diligence frameworks could be used to create "shared standards for farmers... regarding what they expect from customers and their customer's customers". The participant said that such approaches might be possible "via a paper trail or tracing technology" and described this process as the reverse of the "cascading due diligence" currently practiced.

Other respondents felt that the best way to leverage change was to work within existing relationships to improve standards as "shifting supply chains is... not done in terms of months, it's done in terms of years". Sellers must maintain an appropriate power balance in their business relationships or risk inadvertently increasing the external costs of sale (cost of compliance) beyond the buyer's capabilities or comfort (i.e., easier to buy from another actor than appeal to demands of the current seller). One participant felt that retaining a relationship with a high-risk buyer is preferred over rejecting their business entirely, since a relationship at least allows a dialogue to exist. Complete rejection of a high-risk buyer may only lead to them sourcing a 'conditions-free' new seller and the ability to influence change is lost.

### 5.3 How to incorporate human rights due diligence practices?

Australian cotton could take a number of steps to get ahead of any regulatory curve, noting that the incorporation of any new due diligence obligations would involve a phased and proportionate approach. Taylor<sup>22</sup> provides a framework that enterprises can use to systematically incorporate human rights due diligence:

- A policy is adopted at the highest level of the organization which includes a commitment to respect human rights
- The policy is communicated within the company and publicly
- Procedures are established for conducting due diligence, including identifying, preventing, and mitigating risks and accounting for company responses to those risks
- Human rights may be integrated into existing systems (relating to, for example, environmental impact, workplace health and safety, anti-corruption) or new procedures established
- Responsibility is assigned within the company for implementation of the policy and to make sure the necessary expertise, resources and authority within the company are available to those mandated to follow-up on risks identified through the due diligence process
- Decisions and actions are undertaken in response to the identification process to act to prevent infringements of rights, cease activities that are infringing rights and mitigate and remedy the impacts of infringements which have already occurred. Those decisions and actions are integrated to company procedures and are tracked over time
- Protections are put in place for whistle-blowers and that company grievance or complaints mechanisms and procedures are known by and easily accessible to stakeholders, especially those most at risk from company operations
- Reporting, social dialogue and stakeholder dialogue processes are informed by due diligence findings and actions.<sup>22</sup>

The EU Commission Study on Supply Chains identified the following regulatory interventions to improve due diligence: new voluntary guidelines, new reporting requirements and the introduction of mandatory due diligence obligations. The study collated the responses of 334 business and 297 general participants and almost all interviewees were supportive of introducing a general obligation at the EU level, although they differed on aspects of liability and methods of enforcement. Business respondents were largely unsupportive of the introduction of mandatory due diligence obligations but noted that any new due diligence obligations must consider: the specificities of the sector, size of the company and operating context. Respondents also felt that any new legal mechanism should be based on a standard of care (a standard of expected conduct) rather than a procedural requirement which would require a “tick-box” compliance approach.<sup>23(p19)</sup> Business felt that a company should be able to defend itself against legal liability or litigation when it could show that it had undertaken due diligence required in the circumstances (the due diligence defence) on the basis that such steps were context-specific as opposed to a generic box-ticking exercise.

Sales contracts are a common method whereby sellers can dictate product terms of use, restrict sales to certain buyers, and bind buyers to the seller’s code of conduct. A European Commission report found that the most common form of

downstream due diligence was conducted through contractual clauses and codes of conduct, followed by audits.<sup>6</sup> One concrete measure to reform due diligence suggested by respondents in this study was the introduction of a due diligence clause between merchants and spinners. Such a clause could be framed based upon the findings of the EU supply chain study discussed earlier and would require adherence to a standard of expected conduct which considers the specificities of the sector, size of the company and operating context. General clauses to work towards ensuring human rights obligations along the supply chain could also be considered. There was consensus amongst the interview participants (particularly merchants) that spinners would not be motivated to sign a contract which included a clause specifically requiring them to uphold labour law and acceptable working conditions.

Respondents in this study were quite cautious about how such contract provisions would work and identified issues of non-compliance as a potential factor requiring further consideration. There was a general belief that there was no real incentive for a spinner to provide details regarding labour to buyers and no participants in this study indicated that they have previously asked their buyer such questions. Merchants reported that the highest risk they face is credit risk with the main concern being whether a buyer can fulfil the contract and pay for the cotton.

## 5.4 How is downstream due diligence relevant to the Australian cotton industry?

There are currently no legally binding obligations upon merchants selling Australian cotton to undertake due diligence on their buyers regarding the potential of labour abuses in their enterprise, or in the enterprises to which they then sell. As established by participants in this study, given the opacity of the cotton value chain, such a requirement would be difficult to enforce. Nonetheless, the movement internationally on downstream due diligence suggests a growing trend towards a view of responsibility as extending not only backwards (i.e., from where one sources) but forwards (i.e., where one's goods end up).

***“...if I put a clause in there that says, ‘you’ve got to do this by so and so’ or whatever, that possibly gives your buyer a way out of that contract, because he’d go, ‘oh no, I can’t do that’. Now, is that because the markets drop 10 cents, and you can buy it from someone else cheaper? Yes.”*** ..... - Merchant

There are a range of actions that Australian cotton actors could take on downstream due diligence, ranging from a spectrum of advocacy for and socialisation of the concept, through to contractual clauses.



By individual merchants - opening dialogue with buyers, contractual clauses, codes of conduct, audits



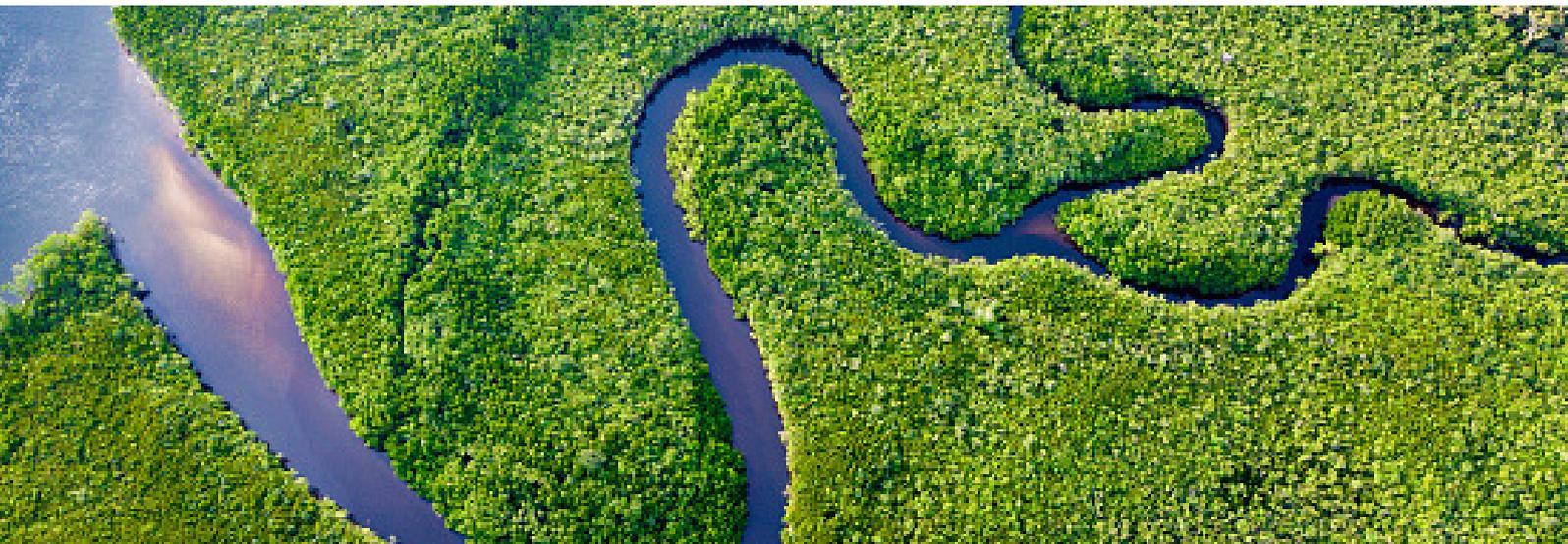
As an industry group – Australian Cotton Shippers Association (ACSA) framing a position statement/declaration



Australian cotton acting in advocacy role with international arbitration bodies (e.g., opening dialogue with International Cotton Association (ICA) which currently mediates payment disputes between merchant and spinner) and in so doing, socialise the concept of downstream due diligence

These actions would have a potential positive, albeit very indirect, impact on labour conditions on the ground. However, advocating for downstream due diligence signals to other value chain actors the intent of Australian cotton to work for changed practices within their sphere of influence.

***“It’s certainly something that now that we have Australian retailers using the Australian cotton swing tags on their garments, then it’s important for us to pay attention to that what they do, where they choose to source their garment from [and] how they choose to manage their supply chain traceability”***..... - Merchant



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# AUSTRALIAN COTTON CERTIFICATION

## 6.1 What is social/supply chain certification?

The past decade has seen significant growth in voluntary certification and labelling based on social and environmental standards.<sup>1</sup> This has included the proliferation of new schemes, the rapid expansion of existing schemes, and the harmonisation of others. Certification processes can involve the use of third-party auditors, traceability technology, paper-based traceability schemes, and other forms of data collection. Social certification initiatives have been widely adopted across many industries, particularly within manufacturing and agriculture.<sup>1</sup> Phase one of this project identified nine key actors that undertake auditing and certification of labour standards in garment supply chains. These included the Bangladesh Accord on Fire and Building Safety, Better Cotton Initiative (BCI) at farm level only, Better Work, Fair Labor Association (FLA), Fairtrade, the Consumer Goods Forum (CGF), Social Accountability International (SA8000), Textile Exchange, and Worldwide Responsible Accredited Production (WRAP).

The scope of certification undertaken by these actors is varied, with some initiatives focussing on a particular part of the supply chain and others seeking to certify an entire supply chain from end-to-end. In textile and garment supply chains, social certification is primarily undertaken at tier 1 of the supply chain (garment factories). This is not considered to be revolutionary, as certification has become the norm in the corporate social responsibility space. However, end-to-end supply chain certification has become increasingly relevant with the emergence of modern slavery legislation across jurisdictions, as well as consumer expectations of sustainability being passed along the supply chain to upstream actors.<sup>2</sup>



## 6.2 How will social certification along the supply chain impact business risk and labour conditions?

Social certification promotes improved labour conditions along supply chains through increasing transparency and accountability around production processes. With the growing emphasis on sustainability considerations in the business sphere, certification based on recognised standards has become a symbol of “quality and ethical practices in global business.”<sup>1(p147)</sup> Therefore, certification and the use of associated labelling can be used to communicate sustainability efforts and the premium quality of the product, which can produce reputational benefits.<sup>2</sup>

However, there are also limitations to the effectiveness of certification initiatives. It is evident that not all certifications are based on standards of the same quality and rigour. Consequently, whilst certification programs have the potential to promote and verify positive social and environmental practices, they have also been criticised for representing “little more than a new packaging model.”<sup>1(p148)</sup> Additionally, corporate-controlled auditing and certification has been criticised for lacking transparency and

providing ‘false reassurances around worker safety’.<sup>3(p6)</sup> This is highlighted in Clean Clothes Campaign’s Fig Leaf for Fashion Report, which examined the recurring issue of “foreseeable and avoidable disasters” unfolding in garment factories that had been audited and certified<sup>4</sup>.

This section focuses on three different approaches to certification, which include full supply chain certification, mass-balance system, and the certification of cotton based on its country of origin. It is noted that certification within textile and garment supply chains is typically undertaken at Tier 1 (garment factories). Whilst each approach has its advantages and limitations, it is evident that the current system of social certification initiatives is fragmented. Therefore, the need to harmonise the collection of social certification data is becoming increasingly relevant. This is explored in Case Study 6.F on the Social Labor Convergence Program (SLCP).

## Full supply chain certification based on labour standards

Different labour certification initiatives focus on different parts of supply chains. With growing expectations around supply chain transparency, the certification of labour standards throughout entire supply chains is becoming increasingly relevant. The Global Organic Textile Standard (GOTS) and Fairtrade International are examples of certification initiatives that provide social certification at all stages of processing and production.

### Case Study 6.A

## Global Organic Textile Standard (GOTS)

GOTS is a holistic certification standard that uses both social and environmental criteria to assess the sustainability of textiles that contain a minimum of 70% organic fibres.<sup>5</sup> It covers the entire organic fibre supply chain, from processing through to manufacturing and trading. GOTS derives credibility through the use of on-site inspection by third-party certification bodies. Therefore, the GOTS criteria and monitoring processes are considered to be stricter than many other initiatives.<sup>6</sup>

The labour rights component within GOTS is based on the standards established by the International Labour Organisation (ILO), the United Nations' Guiding Principles on Business and Human Rights (UNGPs), and the Organisation for Economic Co-operation and Development (OECD).<sup>7</sup> The topics addressed by the criteria include freedom of association, collective bargaining, child labour, discrimination, workplace safety, working hours, remuneration, precarious employment and migrant workers.

GOTS, while tracing an organic product, by extension also captures the social dimension. This scheme works because there is a premium attached to the cotton and, therefore, the expense of certification movement of physical cotton along the chain is worth it. However, a retailer noted that the use of GOTS certification potentially limits the leverage of Australian cotton branding, stating that "when you label something GOTS, you don't identify it as Indian cotton or Australian cotton or American cotton."

Additionally, there is no premium for Australian cotton above the higher prices it has been able to command through being of high quality and low contamination. Instead, the certification of labour conditions along Australian cotton supply chains could be used to justify and protect the existing premium and differentiate Australian cotton from other high-quality cotton growths.

## Fairtrade Certification

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Fairtrade International is an organisation that seeks to improve living and working conditions for farmers and workers. Fairtrade certifies the production processes for range of products, including cotton. The organisation does not certify genetically modified cotton seeds and a significant percentage of Fairtrade cotton is also organic certified.<sup>8</sup>

Fairtrade represents the gold standard for labour rights certification, as it has established standards around workers' rights, fair business transactions between producers and buyers, and the minimum price that producers will be paid.<sup>9</sup> Beyond this minimum price, producer organisations are paid the Fairtrade Premium associated with the Fairtrade certification. This empowers producers to decide how they want to invest this additional money, whether that be to advance their business/industry or invest in their local community.

Compliance with Fairtrade standards and the payment of the Fairtrade Minimum Price and Premium is ensured through audits by independent certifiers. Through this certification process, Fairtrade provides farmers and workers with access to a stable, fair income and ensures decent working conditions. It also provides greater security for farmers and workers, which facilitates the development of stronger relationships with buyers.<sup>10</sup>

### The Fairtrade Textile Programme

Beyond the certification of cotton production and processing, the organisation has established the Fairtrade Textile Programme, which seeks to “engage all actors across supply chains to build capacity, drive change, and positively impact workers lives.”<sup>11</sup> The four primary areas of focus are workers' rights, living wage, health and safety, and new ways of auditing.

A key component of the programme is the Fairtrade Textile Standard, which seeks to ensure better working conditions throughout textile supply chains, from the farm to the finished product.<sup>12</sup> This standard aims to strengthen social compliance auditing through:

- Ensuring and improving the competencies of auditors
- Involving workers in the process
- Identifying and addressing root causes of non-compliance with standards
- Increasing transparency around the auditing process
- Ensuring quality of audits (i.e. frequent, longer duration, unannounced audits).

This case study demonstrates the importance of establishing standards around the quality of social audits. Further, through the Fairtrade Textile Programme, the organisation seeks to go beyond auditing to promote capacity building and cooperation between supply chain actors, with the rights of workers being centred.

## Mass-balance system

A mass-balance certification system involves brands paying farmers to produce a specified amount of a sustainable fibre, which will be blended with the fibres that are not held to the same standard. The objective of this high-level approach is for brands to support an industry-wide shift. However, this means that there is no guarantee that any of the sustainable fibre they have contributed to will be contained in the final product. Case Study 6.C examines the BCI, which has adopted a mass-balance system for the social certification of cotton.

## Better Cotton Initiative (BCI)

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The BCI is the world's largest cotton sustainability initiative, which seeks to improve standards around cotton production.<sup>13</sup> This includes minimising the environmental impacts and improving conditions for those involved in cotton production. BCI fosters sourcing of sustainable cotton through a mass-balance system, which tracks the volume of Better Cotton in the supply chain.

The Better Cotton Assurance Programme enables farms to become BCI licenced, through demonstrating compliance with the Core Indicators from the BCI Principles and Criteria and adopting a Continuous Improvement Plan. With the programme's focus on promoting a "continuous cycle of learning and improvement", farmers must commit to improving the sustainability of their practices over time to maintain their BCI certification status.<sup>14</sup> This process is supported by capacity building efforts, with BCI providing training on sustainable farming practices to over two million farmers across 21 countries.

The credibility of the Assurance Programme is underpinned by BCI's commitment to external assessment of the conditions on licensed farms.<sup>15</sup> However, this credibility has been subject to scrutiny regarding the licensing of cotton farms in Xinjiang, where there are concerns about the use of forced labour. In response to these criticisms, BCI suspended its licensing of Xinjiang cotton in March 2020, followed by a halt on all field activities in October 2020.<sup>16</sup> Despite growing concerns about human rights abuses in Xinjiang, BCI's response to the issue has been limited to suspending its licensing process. Beyond this, BCI has remained silent on the issue and its statement on its concerns about Xinjiang has been removed from its website.<sup>17</sup> BCI's failure to identify the risk of forced labour in China has raised questions about the efficacy of the mass-balance system, with BCI indicating that it may be replaced by a full traceability system.<sup>18</sup> It has been reported that the planning for this new system is underway.<sup>19</sup>

Other criticisms of BCI relate to the scope of the certification, with claims that the standards are 'low and apply only to the beginning of the cotton supply chain.'<sup>6</sup> Since the BCI licensing process is limited to on-farm practices (tier 4), BCI certification does not assure full supply chain compliance with labour standards. Further, an industry representative noted that the standards required by BCI are lower than the Australian cotton industry's own Best Management Practices (BMP) and, as a result, some Australian cotton growers have questioned the value of BCI certification for their premium product. However, it was also noted that abstaining from BCI presents the risk of being excluded from the fashion industry's definition of "more sustainable cotton."

BCI presents an opportunity to mitigate labour abuses downstream through activating its existing network of over 2,200 actors that are members of BCI, including brands, retailers, manufacturers, producer organisations, civil society members, and associate members.<sup>20</sup> The degree to which there is interest in extending BCI remit beyond on-farm certification remains uncertain. Moreover, the organisation is currently facing considerable public relations challenges and therefore it is unlikely that BCI will be able to extend its scope further.

Whilst it is unclear whether discussions are already underway, there is potential for BCI to partner with other actors (e.g. SLCP) to bolt together an end-to-end certification scheme for the social dimension of supply chain sustainability. Currently, there is a patchwork of initiatives across the supply chain (see Report 1) and consideration should be given to the opportunities for harmonisation. However, it is acknowledged that this requires action from BCI and other actors, which is out of scope for the Australian cotton industry. From the Australian cotton industry's position, retaining and promoting the connection with BCI has value in terms of buy-in across the supply chain.

## ‘Identity fibre’ - Certification of cotton based on country of origin

Cotton producers have sought to certify their product to ensure recognition of sustainability credentials and carry the story along the supply chain. In doing so, certification enables producers to attach a premium to their product based on its provenance. Examples of cotton certification based on country of origin include the Australian Cotton Mark and Cotton USA, which are explored further in the case studies below.

### Case Study 6.D

## Australian Cotton Mark

The Australian Cotton Mark forms part of Cotton Australia’s branding, as it demonstrates the presence of a percentage of Australian cotton in a product.<sup>21</sup> The Australian Cotton mark can be used on products that contain at least 95% Australian cotton, whilst the Australian Cotton Blend Mark can be used on products containing at least 60% Australian Cotton. The branding of Australian cotton through the use of the mark seeks to represent the quality and values associated with Australian cotton, including its social and environmental performance.

The mark can be used by brands, retailers, spinners, fabric mills, and manufacturers. As shown in Table 6.2.1 below, brands that use Australian cotton in their garments include Country Road, Bonds, Sussan, New Denim, Kmart Group, and AS Colour.

Table 6.2.1 - Examples of brands and retailers that use Australian cotton and their involvement in social/labour initiatives

Brand	Social/labour initiatives
Country Road	Country Road partnered with Oritain to trace the sustainable Australian cotton used in their Heritage Sweats to its farm of origin. <sup>22</sup> This is explored further in Chapter 8, Case Study 8.A. Additionally, Country Road works with the <b>BCI</b> to promote more sustainable on-farm practices and is a signatory to the <b>Accord on Fire and Building Safety in Bangladesh</b> . <sup>23 24</sup> The brand has also been developing a Responsible Buying Program, which it intends to implement in 2021. <sup>24</sup>
<b>Bonds</b> (Hanesbrands Inc)	<p>Hanesbrands (Hanes) is more vertically integrated than most apparel companies, as it owns and operates the majority of the facilities used to manufacture its products. These facilities employ nearly 50,000 employees, who produce almost 80% of Hanes’ total unit volume.<sup>25</sup> This gives Hanes greater control of the working conditions within in supply chains, including payment of a living wage.</p> <p>Hanes is a fully-accredited member of the <b>Fair Labor Association (FLA)</b>. This means that FLA is satisfied that Hanes’ social compliance program “has the systems and procedures in place to successfully uphold fair labor standards throughout our supply chain and mitigate and remediate any violations if they occur.”<sup>25</sup> Each year, Hanes undertakes over 600 audits of the facilities within its global supply chains, which each facility being audited once or twice per year.<sup>26</sup> Hanes’ production facilities are audited by a combination of external auditing firms, regional internal auditors, and/or the FLA.</p> <p>Hanes works with the <b>ILO’s Better Work Program</b>.<sup>27</sup> Additionally, Hanes Australasia is a member of <b>Sedex</b>, which seeks to promote the improvement of responsible business practices in global supply chains</p>
Sussan	Sussan’s code of conduct and auditing program are based on the <b>Ethical Trading Initiative (ETI)</b> code of conduct. <sup>28</sup> Audits are undertaken by an independent auditor and cover topics such as freedom of association, work health and safety, child labour, payment of a living wage, work hours, and discrimination. Sussan states that these labour standards are considered to be the minimum standard and “should not be used by companies to avoid achieving even higher standards.” <sup>28</sup>

Brand	Social/labour initiatives
<p><b>Neuw Denim</b></p>	<p>Neuw Denim works with Advance Denim, a denim mill in China, to produce its Australian cotton denims. Advance Denim is a partner of the <b>Cotton LEADS</b> alliance and is certified to the <b>GOTS</b>.<sup>29</sup> Neela Blue, a vertically-integrated denim mill in Pakistan, also produces some of Neuw Denim's Australian cotton range and is GOTS certified.</p>
<p><b>Kmart</b></p>	<p>Kmart made a commitment to source 100% of its cotton as Better Cotton, organic or recycled cotton by July 2020. In pursuit of this target, Kmart has partnered with <b>BCI</b> and its organic products are <b>GOTS</b> certified.<sup>30</sup> The company is also implementing the '<b>Action, Collaboration, Transformation</b>' (<b>ACT</b>) <b>Global Purchasing Practices Standard</b> to improve working conditions for their suppliers.<sup>31</sup></p> <p>Further, Kmart has full traceability of its first-tier supplier factories and has set the target of identifying and publishing 100% of its second-tier processing facilities for the Kmart brand (Anko) by July 2022.<sup>32</sup></p>
<p><b>AS Colour</b></p>	<p>30% of the cotton used by AS Colour is Australian cotton, which is chosen because of its purity, which is needed for light colours, and its sustainability.<sup>33</sup> AS Colour has 100% traceability of its garment producers, fabric producers, and cotton spinners. It also has 95% traceability of its cotton agents. This includes an agent in Bangladesh, which AS Colour is working with to purchase traceable Australian cotton.</p> <p>AS Colour is a member of <b>BCI</b> and an estimated 5% of its products are <b>GOTS</b> Licensed Organic Cotton.<sup>33</sup> The company website states that they intend to increase the percentage of GOTS certified cotton based on customer demand. AS Colour also works with <b>Amfori BSCI</b> to better support its suppliers.<sup>34</sup></p>

Table 6.2.1 highlights that Australian cotton is already connected to a range of social/labour initiatives downstream through the work undertaken by brands. Therefore, there is potential to for the Australian cotton industry to develop partnerships with downstream actors in its existing value chains to further enhance transparency and support the improvement of labour conditions for workers downstream. Additionally, this would better position the industry to carry the Australian cotton story through to the end product.

## Cotton USA

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The Cotton Council International (CCI) is a trade association that works to promote US cotton fibre and products globally.<sup>35</sup> The CCI oversees Cotton USA's licensing program, which enables licensees to use the COTTON USA™ Mark on products that contain more than 50% US cotton. The mark also can be displayed on products being sold online through the use of virtual Cotton USA hang tags. This enables customers to hover their mouse over the virtual hangtag to reveal a pop up, which contains information on the origin, quality and sustainability of US cotton.<sup>36</sup> Through this, customers learn more about the origin and credentials of the fibre within a particular product via the website. The virtual hang tags provide a "digital vehicle to effectively demonstrate greater product benefits" associated with US cotton.<sup>37</sup> Further, the certification of provenance depends on the traceability of the cotton, with Cotton USA partnering with Oritain, a traceability company, to ensure that the provenance of the fibre can be tested and verified.<sup>38</sup>

The CCI has conducted research to understand the value added through labelling cotton with the COTTON USA mark. For example, the CCI conducted research into customer perceptions of COTTON USA branded products, compared to those branded as "100% cotton."<sup>39</sup> The research found that nearly two-thirds of the survey respondents were willing to pay more for a product that had a COTTON USA hangtag. This demonstrates that respondents recognised the premium associated with the COTTON USA mark. More recently, the CCI commissioned research on travellers' perceptions of COTTON

USA-branded hotel towels versus an unbranded alternative.<sup>36</sup> Travellers were presented with a standard greeting message used in an international hotel chain bathroom and another with the same message but also further information on the Cotton USA branded All-American towel collection. The surveys found that the Cotton USA branding added value to the product, with travellers associating the product with being of a higher quality, unique and representing a sense of patriotism. Further, these perceptions were associated with greater satisfaction with the product and increased the likelihood of repeat business.

This example of Cotton USA highlights the value of certifying a fibre by its country of origin, as it enables the sustainability story to be carried through to the end product. In the US, the premium associated with US cotton is based on the perceived quality of the fibre, which evokes a sense of patriotism. A preference for locally-produced goods has also been identified in Australia, with 90% of Australians aged 14 years and over indicating that they are more likely to buy Australia-made products.<sup>40</sup> However, the US market is far bigger than the Australian market. This raises the question of whether Australian cotton can more effectively capture a premium in international markets with cotton that is branded as 100% Australian cotton or cotton that is branded at a farm/regional level, such as Good Earth Cotton.

## Harmonisation of social certification and audit data

In response to the weaknesses of certification schemes and the audit fatigue associated with their processes, there is growing recognition of the need to harmonise data collection for the certification of labour conditions in fashion supply chains. Case Study 6.F examines the SLCP, which is a multi-stakeholder initiative that is undertaking work in the data harmonisation space.

## Social & Labor Convergence Program (SLCP)

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The SLCP is a multi-stakeholder initiative led by the world's leading manufacturers, brands, retailers, industry groups and (inter)governmental organisations, service providers, and civil society organisations. The program is designed to reduce audit fatigue, assess social and labour conditions, and identify opportunities for improvement in global apparel and footwear supply chains.

SLCP uses the Converged Assessment Framework (CAF) as a tool to harmonise the collection and verification of data on working conditions. However, it is not a standard or certification, as it does not make a value-judgement or use a scoring system. Instead, it seeks to collate "high-quality comparable data set on working conditions that can be used by all industry stakeholders."<sup>41</sup> In doing so, it reduces the need for social audits to be undertaken and enables stakeholders to use resources more effectively to support workers. The CAF has over 200 signatories across various industries and has received strong support from the Cotton Textiles Export Promotion Council.

SLCP emphasises the importance of harmonising the collection of agnostic, verified data on working conditions, which can then be used by different actors to make their own value judgement. This multi-stakeholder collaboration is necessary to reduce the replication of work and enable actors to redirect resources to more worker-focused initiatives.

*"The upstream standards, like BCI, are more based on the farming system, so it will be difficult for them to go to the spinner or the fabric producer. But a standard like SLCP has much better sort of opportunity to go more and more upstream" .....* - Vertically integrated manufacturer



### 6.3 Action: Adding labour rights criterion to the Australian Cotton Mark

Existing certification initiatives have mechanisms in place to undertake auditing and buy-in from a range of actors. However, some certification initiatives limit the extent to which Australian cotton can differentiate itself based on its origin. Therefore, consideration must be given to whether association with a particular labour initiative will be beneficial to a) workers and b) to the reputation of the Australian cotton brand.

Consideration of labour rights could be integrated with the Australian Cotton Mark certification through introducing an additional criterion on labour rights. For example, this criterion could require brands to provide evidence of human rights due diligence processes or supply chain transparency to use the Australian Cotton mark. The specific requirement would likely be determined through Cotton Australia consulting with downstream actors to gauge the current practices of brands using Australian cotton.

No **regulatory intervention** would be required, as this action could be implemented by Cotton Australia. Whilst an Australian cotton industry representative stated that they do not currently ask for proof of auditing requirements or human rights due diligence when approving the use of the Australian Cotton mark, they acknowledged that it could be done. However, it would also require buy-in from a range of **actors** downstream, such as garment producers and brands, who may have to change their current practices to meet the defined Australian Cotton Mark requirements. This action would also provide an opportunity for the Australian cotton industry to promote the harmonisation and sharing of quality data amongst supply chain actors through collaborating with actors such as SLCP, and the Open Apparel Registry, and Fair Factories Clearinghouse.

Whilst the blending of Australian cotton with other growths means that the business risk is low, there is still a **business case** for the introduction a labour rights criterion. Discussions around leveraging the Australian Cotton mark are not new; in a 1998 paper, Peter Cornish, the then Chairman of Cotton Australia and the Australian Cotton Industry Council, emphasised the importance of branding Australian cotton to ensure that the Australian cotton mark is synonymous with quality. Through promoting clean supply chains for Australian cotton, the industry would be taking steps towards its Vision 2029 objectives, which include being differentiated, responsible, respected, and innovative.<sup>42</sup>

It is clear that the Australian Cotton mark presents a unique opportunity for the industry to link its product to clean supply chains through adopting a holistic approach to social sustainability certification. Consumer demand for sustainably-produced goods will never be fully achieved if the product is tainted by modern slavery. Through the certification of labour conditions along Australian cotton supply chains, Australian cotton can differentiate itself from other high-quality growths and protect its existing premium in a volatile global market. Additionally, Australian cotton can further benefit from the sense of patriotism towards locally-produced goods.

*“There’s a level of assurance as soon as you would hear that it’s Australian grown cotton, you know, that gives you a sort of an immediate level of assurance already. So I get that losing that ability to leverage the Australian branding, you know, it’s a risk from that perspective.”* ..... - Retailer participant

Further, implementing this action would demonstrate that the industry is being proactive in the labour rights space. The regulatory landscape is changing internationally, and Australia is beginning to catch up. For example, discussion around the Customs Amendment (Banning Goods Produced by Uyghur Forced Labour) Bill 2020 led to the Senate foreign affairs committee recommending “a ban on imports of products made using forced labour.”<sup>43</sup> Therefore, the potential for Australian cotton to end up in supply chains with labour abuses may present a risk to the Australian cotton brand.

There is a **moral case** for the certification of Australian cotton, as the introduction of a labour rights criterion would promote the consideration of workers’ rights throughout the supply chain. Additionally, it would improve dialogue between actors at either end of the cotton supply chain and improve transparency and accountability. Through putting values into action, the Australian cotton industry can set a minimum standard for the social credentials of its product, with the rights of workers being centred.

Buy-in from downstream actors represents a **barrier** to introducing a labour rights criterion to the Australian Cotton mark application. For example, an industry representative acknowledged that “it’s a sell job for us to get brands to use Australian cotton” and that the introduction of a labour rights criterion could present another hurdle. This indicates that some downstream actors may not be willing to make the changes required to meet the Australian cotton mark standard, as additional requirements would potentially represent a cost/burden to them. However, as highlighted in the previous section on downstream due diligence, the regulatory environment and expectations of actors are shifting towards greater responsibility for supply chain labour conditions.

Additionally, buy-in may not be as difficult to attain as some stakeholders have suggested, as the social sustainability of raw materials and supply chain practices is already guiding decision-making by brands. For example, in the wake of Xinjiang forced labour concerns and volatile trade relations with China, an Australian cotton industry stakeholder noted an increase in enquiries from brands about using Australian cotton. This represents an opportunity for Australian cotton to further build its reputation for quality.

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# TRANSPARENCY AND SUPPLY CHAIN VISIBILITY

Achieving visibility and transparency in supply chains is “the manufacturing challenge of our time”, according to a retailer participant. While it may seem complex and challenging to achieve this goal, transparency and visibility of supply chains can be dramatically improved through taking small steps and can ultimately contribute to improved labour conditions for workers.

## 7.1 What is supply chain transparency?

**Supply chain transparency** covers a range of different actions, and is yet to receive standardised terminology, though in principle it can be described as information disclosure.<sup>1</sup> Transparency can be achieved on a spectrum beginning with basic information-gathering on operations up-and-downstream, to detailed information on product testing, supplier’s labour practices compliance, sustainability reports, due diligence practices, and more.<sup>2</sup> **Traceability** also sits on this spectrum and connects operations in the supply chain to ascertain origin (or destination). **Visibility** is the prerequisite to traceability and is the minimum first step in supply chain transparency. It involves the basic mapping of business relationships with a firm, and on occasion, selective disclosure of those findings to the public or other third parties.<sup>3</sup> For the purpose of this solution approach, discussion will be focussed on supply chain visibility via the basic disclosure of business relationships connected to a firm (company name and address). Traceability is discussed as a more proactive extension of this approach in Chapter 8.

Supply chain transparency is an example of an iterative approach, serving as a first step to addressing exploitative labour conditions. Transparency, and greater visibility of the supply chain, will not itself achieve improved working conditions in the cotton value chain, but can serve as both an incentive and accountability measure for improved efforts. It is an increasingly important step to take as transparency via supplier disclosure is an existing and increasingly common practice exercised by fashion brands and retailers. This solution approach is not only iterative, but also scalable. Efforts towards transparency may begin on a small

scale, by disclosing merely the name and address of a supply chain partner, in order to enable the supply chain to be mapped. This can then be expanded to include sustainability ranking and audit report information as it becomes available, to enhance the visibility of a supply chain, and the transparency of actions taken within the chain.

The rapid growth of transparency initiatives may be attributed to an increasing trend towards the adoption of disclosure regulations to address modern slavery by governments around the world, and particularly as a result of industry multi-stakeholder initiatives such as The Transparency Pledge (The Pledge). Instituted by a coalition of nine human rights and labour rights organisations, in collaboration with global unions, The Pledge asks apparel industry stakeholders to publish information on their manufacturing partners on a biannual basis. Participants are fully aligned with The Pledge when they publish the full name of the facility, the site address, the parent company (if applicable), the product types manufactured by the facility, and the number of workers on the site.<sup>4</sup> The coalition has published two reports in 2017 and 2019, demonstrating rapid industry adoption of tier-one supplier disclosure.<sup>5</sup> These findings are reaffirmed through Fashion Revolution’s annual publication of their Fashion Transparency Index, further indicating an increasing trend towards industry adoption of supplier disclosure, while additionally reporting on adoption of social and environmental policy disclosure<sup>1</sup> (see Case Study 7.A).

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<sup>1</sup> *The Fashion Transparency Index includes 220 indicators on social and environmental topics such as animal welfare, biodiversity chemical, climate, due diligence, forced labour, freedom of association, gender equality, living wages, purchasing practices, supplier disclosure, waste and recycling, working conditions and more.*

## Fashion Revolution Transparency Index

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Fashion Revolution is a not-for-profit organisation that was established in response to the 2013 Rana Plaza collapse that killed over 1100 Bangladeshi garment workers<sup>6</sup>. The pivotal tragedy highlighted the exploitation hidden within complex and opaque supply chains as many brands were surprised to learn their clothing was made in the structurally unstable building.<sup>7</sup> Had brands and retailers known where their clothes were being made, the tragedy may have been averted. Transparency and the question of ‘who made my clothes?’ have been a central point of advocacy for Fashion Revolution’s mission to change the industry.

One key tool Fashion Revolution has developed to incentivise transparency is the annually published report known as the Fashion Transparency Index. The index benchmarks brands and retailers with an annual turnover of over \$400 million USD by utilising a questionnaire, independent research, and an expert-led methodology to weigh criteria and develop a final score. The publication notifies readers that the index is “not a shopping guide” and transparency does not necessarily relate to fair working conditions.<sup>7</sup> Despite this disclaimer, the Index has been criticised as reductive and disconnected from the progress the industry needs to practically take to reduce human rights abuses.<sup>8</sup>

The 2020 release of the Fashion Transparency Index triggered immediate criticism from ethical fashion advocates and industry media as the report named the notorious fast-fashion brand, H&M, as the most transparent brand of the 250 brands and retailers featured. H&M responded to the report by claiming they were the “world’s most transparent brand” in a since deleted social media post that was characterised as “greenwashing” (or “social washing”) by ethical fashion advocates.<sup>9</sup> The Instagram post read:

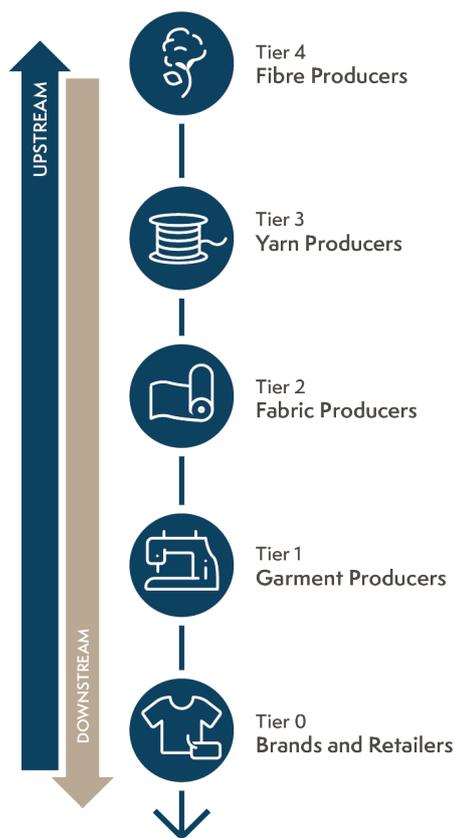
*“The world’s most transparent brand? That’s us! We’re the highest-ranking brand in the Fashion Transparency Index 2020 by @fash\_rev. Actually, we’re the highest scoring brand -- ever! This means that we’re open about who made your clothes and how. To be named no 1 makes us very proud, but we’re not done yet. This is only the beginning of how we’re changing fashion. Read more about the index on [fashionrevolution.org](https://fashionrevolution.org) #HM #WhoMadeMyClothes #WhatsInMyClothes #sustainability #transparency.”*<sup>9</sup>

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Critics argued that the Index was confusing consumers and allowing brands the opportunity to appear socially responsible while they are still restricting access to the actual working conditions their transparent policies and actions attempt to improve.<sup>10</sup> This demonstrates a key gap in industry practice (or regulation) since companies can voluntarily opt-in or out of these industry practices and manipulate the narrative on their social responsibility.

While transparency has been difficult for consumers to navigate, the yearly index has undoubtedly mainstreamed industry conversations on information disclosure and created reputational pressure through the Index’s “name and shame” mechanism.<sup>9</sup> From this perspective, Fashion Revolution can be largely credited for mobilising brands/retailers to take the first step towards improving working conditions in their supply chains. However, the Index should be used sparingly as a ‘reward’ mechanism since transparency is not equivalent to fair and safe working conditions in company supply chains.

## Upstream Actors



- Current direction of transparency practices (supplier disclosure)
- Prospective direction of transparency practices (buyer disclosure)

Figure 7.1.1- Supply chain disclosure in the apparel industry

Increasing industry adoption of supplier transparency, and growing pressure by civil society groups to begin increased disclosure of social and environmental information, indicates a future expectation for industry-wide adoption and pressure on upstream actors to begin adopting common practice disclosure of their supply chain partners (suppliers/buyers). However, there is little available evidence that suggests upstream actors practice the same forms of information disclosure regarding their downstream buyers (e.g., merchants disclosing which spinners buy from them). Therefore, the introduction of upstream actors disclosing this information would constitute an improvement on current disclosure practices in the apparel industry (see Figure 7.1.1).

Young and Dias<sup>11</sup> introduced this downstream transparency concept as “track-ability”, distinguishing the tracking of products downstream as distinctly different to traceability (the tracing of a product back to its source). Sustainable supply chain management literature posits the benefits of upstream actors practicing downstream transparency. Fraser et al.<sup>12</sup> suggest that upstream actors that practice transparency in their downstream supply chains might facilitate meaningful information exchange, collaboration, and potentially strengthened governance.

The significant pressure on brands and retailers to disclose connections beyond tier-one is a challenging task in complex and opaque supply chains. Conceivably, this mounting pressure on downstream actors may diffuse to visible upstream actors, creating expectations to meet brands/retailers “in the middle” by disclosing their downstream supply chains. Figure 7.1.1 suggests that “meeting in the middle” would require upstream actors to track their fibre through spinning to fabric production, and downstream actors to trace their garments back to fabric production. Disclosure from both directions of the chain would foster greater collaboration between actors and increase the possibility for mapping an entire value chain (discussed in Chapter 8). However, disclosure of specific actors in a chain is not an end in itself, rather a means to an end; a tool to enable traceability and sustainable working conditions.<sup>1 2 13</sup>

## 7.2 How would supply chain transparency positively impact workers' rights?

The efficacy of transparency and supply chain disclosure remains a point of resistance for many stakeholders in the apparel supply chain. However, proponents argue that transparency is merely the minimum basic requirement for human rights due diligence, and failing to adopt good industry practice is counterproductive.<sup>5</sup>

Superficial disclosure of buyers' or suppliers' information does not directly impact working conditions, rather it is the prerequisite that facilitates the leveraging of information to improve working conditions. Companies with limited understanding of where the products come from or where their products go are fundamentally unable to evaluate whether they are contributing to human rights issues through their business practices. Basic visibility of who is involved in a product supply chain allows for effective management of supply chain risk and therefore the ability to intervene in high-risk situations to decrease the possibility of human rights abuses or remedy such instances.

### Basic visibility into supply chains allows for:



#### Issue identification and remediation

- Publicly available information allows for "crowdsourced" monitoring of supply chains for fast identification of issues by non-government organisations (NGOs), civil society groups, or multi-stakeholder initiatives (MSIs)
- Identifying the actors connected to an incident allows for fast and effective remediation for the victim/s
- Risk analysis and mitigation protects against potential reputational damage and decreased shareholder value<sup>1 3</sup>



#### Accountability

- An assumption of transparency is that disclosure of suppliers/buyers will increase firm accountability and thus increase efforts to improve working conditions
- Additionally, actors connected to an incident can be more easily held accountable for remediation by consumers, investors, or NGOs<sup>1</sup>



#### Collaboration amongst industry stakeholders

- Transparency fosters collaboration horizontally amongst same-tier actors, and vertically in the chain<sup>1 14</sup>
- Greater leverage is achieved when brands collaborate with others who share the same suppliers
- Collaboration amongst actors also reduces duplication of monitoring and more time and resources spent on addressing issues rather than identifying them<sup>1</sup>



#### Reduced power asymmetries

- Transparency reduces entrenched power asymmetries between powerful and vulnerable actors in the chain<sup>2</sup>

## Improving transparency and visibility in supply chains will not, by itself, improve working conditions, and there are some limitations and shortcomings to this approach:



### Cost and competition risk

- The cost of gathering information not currently legally mandated may deter investors and benefit competitors who are following the same practice<sup>3</sup>. However, the value of transparency practices often outweighs the financial cost<sup>1</sup>
- There is a prevailing myth that factory disclosure may be harmful to companies by releasing “secret proprietary information”, however this decades long practice has not proven to harm companies who choose to disclose
- While there is no formal regulation and only some companies are acting transparently, an uneven competitive playing field exists<sup>1</sup>. However, some companies’ reputations are also enhanced by demonstrating a willingness to scrutinise their supply chain and preference working with ethical partners



### Inconsistent information disclosure

- Where companies in the same industry are sharing information according to their own concept of transparency or different initiatives criteria, it is difficult to compare and contrast information. Fragmented information often allows for the illusion of responsible conduct even though the information disclosed may not support any further analysis<sup>7 13</sup>
- Dissemination of transparency information is often published in inconsistent formats (PDF, excel or word document, or on websites) which makes data difficult to extract and analyse<sup>2</sup>
- Disclosing information on highly complex supply chains often simplifies and reduces the local, social, and ecological contexts<sup>13</sup>
- While the inconsistency of data may be a current limitation to this approach, the existence of overlapping transparency initiatives can also allow for validation of data, and the identification of clear visibility gaps in the supply chain



### Exposure to negative criticism/campaigns

- Workers-rights’ NGOs have a history of creating reputation-attacking campaigns against brands and retailers whose supply chain workers experience harmful working conditions. Corporations are fearful that by disclosing the location and true reporting of their factories they might become the centre of a damaging campaign against them. While corporations’ fears are somewhat reasonable, allowing NGOs access to factory lists more often supports collaboration and assists companies in addressing issues<sup>1</sup>
- NGOs that ‘attack’ corporations do so with the goal of improving working conditions, which ideally is a shared goal with the corporation and is easily addressed through collaboration. NGOs primarily act antagonistically when corporations are resisting calls to address these issues. There is no need for an attack when corporations are listening and responding in good-will to these concerns, especially as shareholders and institutional investors are increasingly willing to act on environment, social and governance (ESG) issues.

## Open Apparel Registry (OAR)

In March 2019, after extensive industry consultation, Natalie Grillon and Katie Shaw launched the Open Apparel Registry (OAR), a freely accessible interactive map of garment facilities across the world. The OAR is a revolutionary approach to untangling the complex web of apparel supply chains by collecting factory name and address data from a multitude of sources (brands, multi-stakeholder initiatives, manufacturers, government databases), standardising the data inputs via an algorithm, and publishing the information under an open source creative commons license.<sup>15</sup>

The software addresses the issue of dynamism of company supplier lists, factory name and address inconsistencies, and the absence of a single neutral registry of factories globally. The algorithm matches slightly inconsistent information (misspelling, grammar, capitalisation, omitted words) from multiple sources and standardises the information to create a single dataset, applying a unique identifier to each facility, and displaying the factory location on the interactive map. By publishing who made the data contribution (often multiple sources) associated with a facility and which companies are affiliated with that facility, the OAR enables unprecedented visibility into global apparel supply chains, practically connecting supply chains in a transparent and easily accessible way.<sup>16</sup>

Grillon and Shaw's approach to supply chain visibility and transparency solves a multitude of issues with companies' disclosure of business relationships. The current practice of companies publishing an updated list of their affiliations once or twice annually creates rigid, hard data trapped in PDFs, website pages, and spreadsheets. Publishing on a 'live' database

facilitates the fluidity of data and the reality of constantly changing supplier lists. Access to 'live' data facilitates timely and accurate transparency reporting, fast and effective responses to issues in the supply chain, and collaboration amongst actors.

Industry collaboration is well underway with a multitude of actors publishing information such as member supplier lists (Partnership for Sustainable Textiles, Dutch Agreement on Sustainable Garments and Textiles) on the OAR platform or integrating the database into their own platforms (Zero Discharge of Hazardous Chemicals, HIGG Index, Social and Labor Convergence) to better verify data.<sup>17 18 19</sup>

The freely accessible data is also used by NGOs and civil society groups to facilitate their advocacy work, call for corporate accountability and remediation efforts, and identify facilities to engage with. For example, when a union leader was unfairly dismissed, Clean Clothes Campaign were able to identify which brands were involved with the facility, what MSI they that were involved with, and were able to swiftly facilitate consultation between the union and MSI to resolve the issue.<sup>20</sup>

While the platform does not directly impact working conditions, free and open access to supply chain information in a standardised format is an extraordinary leap in industry transparency, creating substantial opportunity for a whole range of actors (brands, NGOs, academics, consumers and investors) to institute change. With time, the platform may further disclose improved transparency information including sustainability and labour conditions scores and audits.

The potential costs and shortcomings of this solution approach are mitigated by the increasing reliance on disclosure as a form of regulation. While participation in a transparency scheme may not currently be compulsory, and therefore expose participants to risks of an uneven playing field, global policy trends indicate that this simple step may soon become a compulsory step. Participation in a transparency initiative now is a good investment in preparing for the likelihood of other supply chain partners demanding more information, and the likelihood of governments extending the mandate of existing disclosure regulations. As noted above, transparency initiatives do not directly improve labour conditions for workers, however increased transparency can lead to a greater awareness of different conditions across a supply chain, and higher expectations for the treatment of workers where such information is more easily accessed.

### 7.3 Why is supply chain transparency relevant to the Australian cotton industry?

Stakeholders interviewed for this research indicated that data sharing and supply chain visibility was a key issue for them, but quite challenging to achieve. For instance, no merchant knew where the cotton went post-sale, with one interviewee declaring that “I think if you’re going from the merchant up, it would be a short study because I don’t think that they’re going to have the reach into the supply chain that you’re going to need”. Two participants described the lack of visibility as a “black hole”:

*A cotton industry body participant stated that “we see the spinning mill and there’s this big black hole in the middle of fabric production, dyeing, finishing, where neither end of the supply chain has a visibility.”*

*A merchant participant stated that “there are black holes that we don’t have sight over... we sell it to the spinner, but what happens after the spinner... I don’t know.”*

A retailer participant indicated that with whole of industry collaboration, not just downstream actors, it might be feasible to improve supply chain visibility. Further, an NGO participant noted the value of consolidating available supply chain data through a database for researchers. However, concerns were also raised about how labour intensive it can be to produce transparency data.

Despite concerns over feasibility, this solution approach could work for the Australian cotton industry. Considering the complexity of relationships in supply chains, and the common occurrence of brands not knowing who is making their clothes, supply chain visibility at its most basic function seeks to identify who is in the supply chain. The same might be said for Australian cotton farmers and the next stage in the cotton chain, spinning. Commonly, Australian cotton farmers do not know who they are selling their cotton to, however, they could assist in improving transparency through the supply chain with the step of identifying the actors who are next in their chain.

Transparency via supplier lists disclosure has become an increasingly common corporate social responsibility practice by fashion brands that upstream actors should consider adopting. Taking small steps to improve supply chain transparency allows for the untangling of Australian cotton’s complex supply chains.

Identifying who is downstream in the Australian cotton supply chain would include identifying spinners and developing risk profiles to enable traceability. However, as noted above, this approach can be costly, pose a potential competition risk, and lead to increased reputational risk or guilt by association in instances where Australian cotton producers are connected to a supply chain involving forced or exploited labour practices.



## 7.4 Action: Publishing seller information on the Open Apparel Registry

The proposed action is one step that actors can take now, to participate in a transparency initiative, and contribute to building greater transparency across the sector.

**Actors** involved in this action include merchants and OAR.

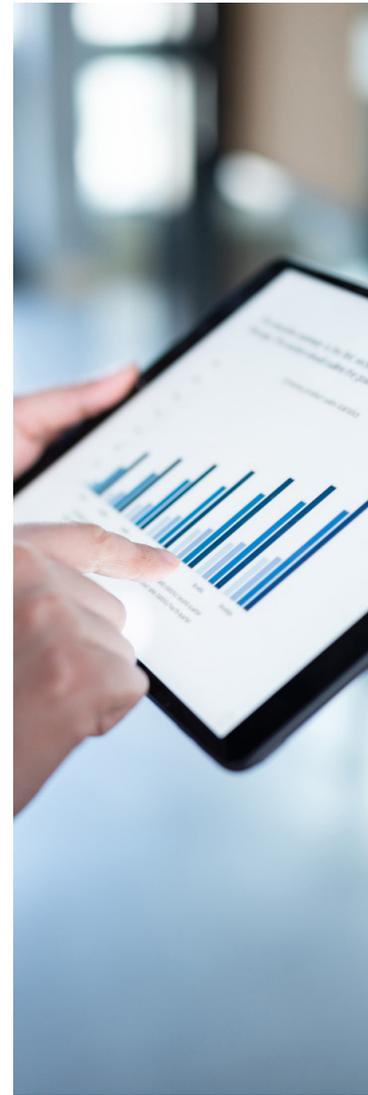
### *OAR is already undertaking the role required for this action.*

Merchants can take action by adding OAR data on who their buyers are, further, they can act as advocates for transparency by asking their buyers to also add their buyers data to the OAR, thus illuminating the blackbox down the chain.

The **business case** for this action emerges from the increasing expectation for disclosure on supply chain conditions in the production of a wide range of goods, particularly textiles and apparel. As noted earlier, disclosure regulations in the form of a Modern Slavery Act have been adopted, or are in the process of being crafted, in the UK and Australia, with similar regulations adopted in the USA, France, Brazil, Hong Kong, Canada, the Netherlands and Switzerland. There may be a future tipping point at which the disclosure of relevant data about actors within a value chain is a standard expectation, either as a result of government regulation, or industry-led regulation. This action allows merchants to get ahead of the trend and establish systems now for improving transparency and visibility in the value chain. In the short term, actors who engage in actions designed to improve transparency and visibility in the value chain may distinguish themselves as desirable actors to conduct business with, due to pressures from others within the value chain for due diligence and transparency.

*“[T]here are black holes that we don’t have sight over... we sell it to the spinner, but what happens after the spinner... I don’t know.”*

- Merchant



The **moral case** for this action is embedded in the potential for supply chain visibility to improve worker welfare. While transparency does not guarantee worker welfare, the uptake of data-sharing across the value chain can lay the groundwork for promoting improved labour conditions. Data-sharing establishes a mechanism through which to conduct greater due diligence, with the ultimate aim of developing a value chain with improved conditions for workers.



The **barriers** to this action include the willingness of actors to engage in the process, and the amount of information those actors possess. The benefits of transparency are primarily cumulative, in that they will only emerge when there is significant buy-in from multiple actors across the value chain. Merchants may also have limited information about who they are selling to. However, even incomplete data is preferable to no data.



The **impact for workers** of this action is minimal if this action alone is adopted. However, transparency in a supply chain could make remediation faster. Other actions may be more easily implemented if this transparency action is successful in improving visibility across the value chain.



The **feasibility of this approach is high**. Despite some cost in establishing transparency systems, the sharing of data is already facilitated by non-government initiatives

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# TRACEABILITY

## 8.1 What is traceability technology?

Traceability is the ability to trace the production of a product, its parts and materials, throughout its supply chains, to ascertain the provenance of the product.<sup>1 2</sup> Whilst traceability has previously relied on paper trails, the emergence of technologies such as blockchain and DNA-enabled traceability have revolutionised the traceability space. Therefore, traceability technology potentially represents an innovative approach to regulating labour conditions along supply chains.

Key benefits of traceability include reduced risk of poor conditions or quality in supply chains, reputational benefits, meeting customer and stakeholder expectations, and developing evidence to substantiate sustainability claims and guide decision-making regarding suppliers.<sup>2</sup> However, there are also barriers to widespread adoption of traceability technologies. These include the significant investment required in the technology and processes, and the challenges presented by complex supply chains, such as coordinating geographically dispersed actors and factors that may impede accessibility for some actors in the supply chain (e.g. language, skills, remote location).

## 8.2 How will traceability technology impact business risk and labour conditions?

Traceability technologies are increasingly being adopted by businesses to verify the social sustainability credentials of their supply chains. The European Commission described traceability as 'an essential step for companies in performing due diligence throughout their global supply chains.'<sup>3</sup> As human rights due diligence requirements continue to strengthen across jurisdictions, traceability technologies are likely to become increasingly important for businesses. Traceability technologies, such as those offered by Oritain and Fibretrace, are already being adopted by Australian brands and retailers.

There are clear benefits associated with the use of traceability technologies. For example, traceability technology can be used to verify the provenance of a product or its materials. Additionally, traceability technologies such as blockchain can address the fabrication of supply chain paper trails, as the data entered through the blockchain is permanent, unchangeable, chronologically ordered, and can be accessed by all actors within the network.<sup>4</sup> This is likely to generate a greater sense of trust in the supply chain data.

*“I would really lean also to investing in traceability via science... rather than via paperwork, which is obviously at high risk for being falsified, and it's an archaic system that we're having to deal with now”*

## Traceable Australian cotton: Country Road and Oritain

In January 2020, Country Road launched a project with Oritain, a traceability technology company, to trace the sustainable Australian cotton used in their Heritage Sweats to its farm of origin. The tracing process begins with Oritain collecting and analysing samples of the cotton fibre in order to generate and assign an 'origin fingerprint'.<sup>5</sup> Oritain then uses this origin fingerprint within its database to test against and verify the origin of the cotton used in garments. This enables Country Road to verify the provenance of the Australian cotton used in its garments, which enhances visibility of its supply chains.<sup>6</sup> Further, Country Road has acknowledged that their preference to use Australian cotton where possible is driven by its reputation for innovative and sustainable farming practices and the desire to support local farmers.<sup>6</sup>

*Blockchain is very promising, and I think it's going to probably be a winner in the long term, but I bet it will be more like five to 10 years."*

- NGO Participant

However, there are also challenges associated with the implementation of traceability technologies and limitations on their effectiveness in impacting labour conditions, including the following:



The utilisation of traceability technologies requires buy-in from actors at each tier of the supply chain, as traceability cannot be achieved without collaboration.<sup>7</sup> The buy-in of actors may be limited by resources, as traceability initiatives are costly in terms of time and resources.<sup>8</sup> They may also be reluctant to participate based on concerns about the business impact of disclosing their suppliers.<sup>9</sup>



The impact of blockchain technology on working conditions is not guaranteed, as blockchain verifies transactions along supply chains but not necessarily the conditions surrounding them. Additionally, the demand for transparent information may negatively impact workers, who may be subject to 'repercussions' if they refuse to validate a transaction because of labour standards concerns.<sup>9(p2)</sup>



There are also concerns about the integrity of the data entered into blockchain. The veracity of data entered by actors along the supply chain is not necessarily verified and is therefore 'vulnerable to inaccuracies or fraud.'<sup>9(p2)</sup> As a result, the use of such technologies for tracing supply chains remains reliant on trust between actors.



The real-world implementation of traceability technologies is still in its early stages, which may result in organisations lacking points of reference for how they could benefit from its adoption.<sup>4</sup>

## Nobody Denim and FibreTrace

Established in Melbourne in 1999, Nobody Denim is an Australian brand that is committed to sustainable business practice. The brand seeks to ensure fair working conditions through the in-house design and production of its garments. In 2020, Nobody Denim collaborated with FibreTrace, with the aim being to produce a fully traceable collection and tell the story of Good Earth Cotton, the first certified carbon positive cotton in the world.<sup>10</sup>

FibreTrace is a transparency technology company that has developed a system where luminescent pigments are embedded into the fabric, either at the raw material or spinning stage.<sup>11</sup> For the Nobody Denim traceable capsule collection, the pigments are embedded into the cotton at the gin. A small handheld device can then be used to read the pigments and verify the status of the cotton throughout the process, when the cotton is being baled up, when it arrives at the spinner, after it is spun into yarn, when it arrives at the fabric mill, when the fabric arrives at Nobody Denim, and for a final time as the finished product.

Each audit along the supply chain is recorded on the blockchain, which FibreTrace describes as “immediate, secure, accessible and irrefutable.”<sup>11</sup> Customers can also scan the swing tag on items from this collection to gain insight into the manufacturing of the product, tracing the process from seed to store.

This collaboration between Nobody Denim and FibreTrace demonstrates the role that traceability technology can play in connecting actors along supply chains, from growers to brands. Further, traceability enhances visibility of supply chains, giving brands greater oversight and, therefore, positioning them to exercise influence throughout their supply chain.

As an Ethical Clothing Australia accredited company, Nobody Denim’s work on tracing their products throughout the supply chain represents another step towards ensuring fair working conditions along supply chains.

### 8.3 Action: Australian Cotton, Traceability and Decent Work

Australian cotton exporters can benefit from the increased implementation of traceability technologies. As consumers and public procurers become more aware of potential labour abuses in supply chains that process cotton, major brands and retailers are likely to pay increased attention to upstream working conditions. As cotton production in Australia is highly mechanised and the risk of labour exploitation in Australia’s agricultural sector is low compared to other cotton exporting countries, being able to prove that a product is made with Australian cotton may alleviate concerns among consumers and public procurers.

Put differently, as the risk of labour exploitation in the production of Australian cotton is lower compared to, for example, Uzbekistan or China, being able to show that only Australian cotton was used in the production of a garment provides major brands and retailers with an opportunity to showcase the social sustainability of their product. This presents an opportunity for Australian cotton producers: as the number of conscious consumers and ‘woke’ brands grows, the implication that cotton has been produced in decent working conditions becomes a value-added activity. In addition to marketing Australian cotton as consisting of high-quality fibres, another premium that can therefore be marketed revolves around the assurance of social sustainability.

While theoretically only cotton producers would have to partner with a traceability platform, in reality several **actors** along the supply chain would have to be involved to make traceability a success. The two key actors that need to be involved are cotton

producers and fashion brands. Whichever technology is used to enable traceability, cotton producers will have to partner with a traceability platform to allow for other stakeholders to determine the origin of the cotton. At the other end of the supply chain, fashion brands will have to actively market their goods as being made from Australian cotton to make cost recovery plausible, as this marketing speaks to the ethical sourcing of the raw materials for which consumers may pay a premium in the marketplace.

This brings us to the **business case** for the use of traceability technology. In partnering with a traceability platform, cotton producers will have to make an upfront investment to make their cotton traceable. This cost can be recovered however if downstream supply chain actors are willing to pay a premium for cotton which origins can be traced to Australia. Aside from the quality of the cotton, the downstream actors may be willing to pay a premium because the cotton is not tainted by labour abuses. Depending on the degree of vertical integration in the supply chain, every actor would have to be willing to pay the premium. If the supply chain is highly fragmented, then various actors would have to see the value of ethically produced cotton to justify paying a premium, whereas with a supply chain that is characterised by increasing vertical integration, fewer actors - and perhaps only the brand itself, would have to see the value of traceable Australian cotton to pay a premium. Ultimately, and most importantly, the question is whether the consumer is willing to pay this premium.

*“If we’re able to say that, listen, we have concern and responsibility over where it goes, where it ends up, it’s fate, if you like, some sort of traceability, that then gives us another story to tell about social responsibility and how much we care about where our cotton we produce ends up.”*

- Australian cotton industry representative

The **moral case** for traceability is strong, as demonstrating the provenance of a good may alleviate concerns about worker exploitation. While technology such as blockchain can be used to include information with every transaction of the cotton as it travels along the supply chain, this information would have to be verified by reputable stakeholders along the supply chains. Put differently, while blockchain provides a tamper proof ledger of information concerning (the circumstances surrounding) transactions, there needs to be oversight on the initial entry of the transaction information, to ensure no false or misleading information is entered. It is key to point out that demonstrating the provenance of a good does not rule out labour abuses. Even in demonstrating the provenance of Australian cotton, proof is only provided of cotton originating from a country that is at comparatively low-risk of labour abuses compared to other cotton-producing regions. Traceability technology would have to be accompanied by rigid procedures that verify transaction information (either through a blockchain consensus protocol that includes reputable actors and workers, or through independent audits).

Yet, pragmatically speaking, the working conditions further downstream - and the audits performed to verify these conditions - are predominantly a concern to major brands and retailers rather than a concern to Australian cotton exporters. While there is a moral case for Australian cotton exporters to be concerned about working conditions surrounding the further processing of cotton downstream, in the current environment pressure from civil society organisations and consumers is applied to brands and retailers to be conscious about where they source from, rather than emphasis lying on cotton producers to be concerned about working conditions in export destinations.

No **regulatory intervention** is needed to implement traceability technology: cotton producers would do this on a voluntary basis. However, while the current Modern Slavery Act in Australia does not require companies to perform a risk assessment of forced labour at downstream supply chain actors, the 2022 review of the Act may introduce provisions to ensure that no goods are sold to companies or transferred to regions where they may come to be associated with forced labour. Being able to trace a product such as cotton through the supply chain means that cotton producers would be on the front foot in addressing this, and they could for example opt not to sell cotton to a particular company or export to a particular destination if it is found that products using Australian cotton are being manufactured using forced labour.

A number of **barriers** that may hinder the implementation and successful operation of traceability technology have already been mentioned. While theoretically only the cotton producer would have to partner with a traceability platform, cost recovery is only possible through the explicit ethical branding of the final product, meaning that a major brand would have to engage in such marketing. Given that few fashion brands have vertically integrated supply chains, multiple stakeholders in the supply chain would have to be willing to pay a premium, while an added difficulty is that the oversight on conditions in a fragmented supply chain poses a challenge. While it may be indisputable

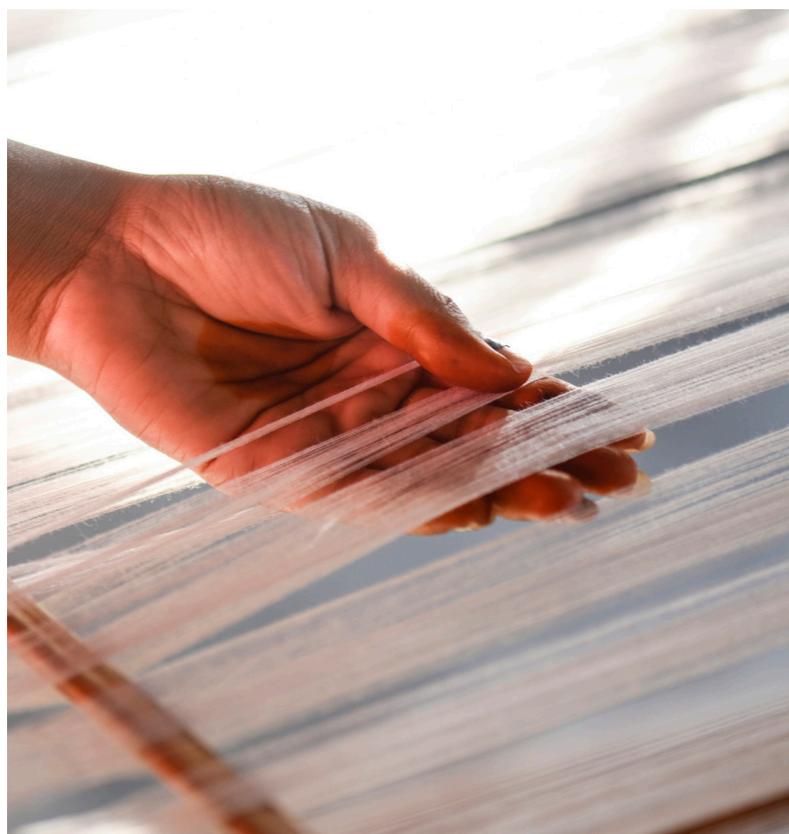
that cotton was grown in Australia, showing the provenance of a product only does just that: it shows cotton was grown in a region that has a comparatively lower risk of labour exploitation compared to other countries. Ensuring no abuses occur further downstream requires rigid verification procedures, which are likely costly and time intensive.

Another factor that warrants scrutiny concerns the fact that available traceability technology platforms and processes are proprietary rather than tools that are available in the public domain. This implies that an investment is required from the stakeholder(s) that seek(s) to demonstrate the provenance of cotton or the working conditions further downstream. The existence of multiple traceability technologies shows that a competitive market has emerged. The existence of rival platforms could have normative implications, as platforms with comparatively weak processes to ensure labour standards could develop.

*“I think [blockchain] is a promising technology, but I’m a little bit more sceptical about how fast it’s going to revolutionise anything.”*

- NGO participant

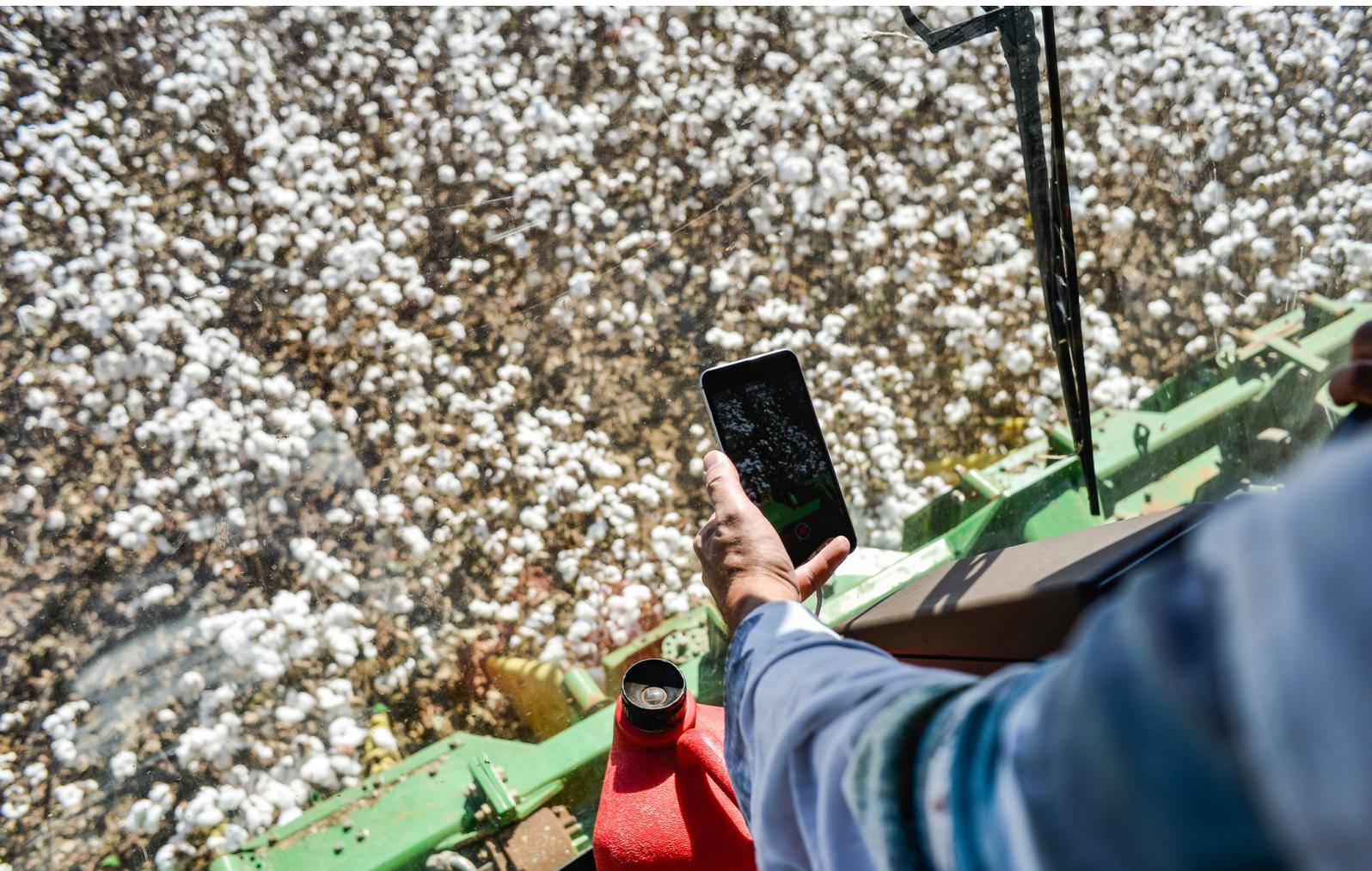
Traceability technology enables brands, retailers and other stakeholders to gain insight into the journey of a commodity from field to factory, and ultimately to the store and the consumer. While these technologies can demonstrate the origin of cotton, therefore potentially alleviating concerns about cotton being sourced from regions associated with high labour risk, traceability technology might also do the opposite: cotton sourced from a region with comparatively low risk of labour exploitation, such as Australia, may come to be associated with labour abuses in the manufacturing process further downstream due to the insights provided by traceability technology. While Australian cotton exporters may have limited insight into, and influence on, working conditions further downstream, they may be held responsible in the public eye and therefore suffer reputational consequences.



The **impact on workers** depends on the degree to which working conditions at critical parts of the supply chain are verified. While traceability shows the origin of a product and shows the journey of a product throughout the supply chain, it is crucial to include information about working conditions that is verified by reputable actors, most importantly by workers themselves. Being able to demonstrate the provenance of Australian cotton in itself does not improve working conditions in garment manufacturing, however if a major fashion brand is actively marketing its product as ethically sourced produced - it would have an incentive to ensure rigid processes are in place to safeguard working conditions throughout the entire supply chain. This would be a way to proactively ensure decent working conditions. In a reactive manner, if supply chain labour abuses come to light, traceability would enable other actors in the supply chain to remediate or cut ties if intervention does not lead to improvement. It is unlikely however that Australian cotton producers have leverage over manufacturers further downstream without partnering with a brand that is explicitly marketing an ethically produced product to consumers.

The **feasibility** of traceability differs depending on the aims. As the case studies demonstrate, demonstrating the Australian origin of cotton can be realised in different ways, meaning that after exporting the cotton various downstream actors are able to verify its provenance. It is however important to remain cautious about traceability technology: while the provenance of cotton and its journey along the supply chain can be documented in an immutable record, the verification of transactions in itself does not guarantee decent labour standards. The reason is that the verification of working conditions surrounding the transactions is dependent on audits, and may therefore not always be congruent with the record kept in the blockchain.

If the aim is to demonstrate that cotton originates from a region with comparatively low risk of labour exploitation, then the technology allows for this, and it is a matter of cotton producers partnering with a traceability platform. However, cost recovery is only likely when cotton producers partner with a major brand that explicitly markets its goods as ethically produced. Therefore, to go beyond demonstrating the origin of the cotton, brands should seek to market their products as ethically produced by also accounting for further steps in the manufacturing process. This poses a considerable challenge and is a less feasible aim.



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# RESHORING AND RIGHT-SHORING

## 9.1 What is reshoring?

Reshoring is the return of production processes to the home country of a company, which reverses the process of offshoring.<sup>1</sup> Downward pressures on the cost of goods have historically driven the offshoring of manufacturing.<sup>2</sup> However, in the context of COVID-19 and volatile trade relations, there has been a renewed interest in reshoring manufacturing. These recent events have highlighted the vulnerabilities of global supply chains and an overreliance on China, prompting “a rethinking of global value chains” and the exploration of reshoring as a potential solution.<sup>3</sup> Reshoring manufacturing represents a break from current practice, as it challenges the trend of cost-cutting through offshoring, and instead requires concerted effort and investment to revive local industry. It is anticipated that COVID-19’s disruptive impact on global supply chains may prompt an acceleration of reshoring and increased focus on establishing resilient supply chains.<sup>1</sup> However, it is also noted that the Productivity Commission’s 2021 report on Australia’s vulnerability to global supply chain disruptions found that the products that were deemed to be vulnerable imports are “not essential or critical to the wellbeing of Australians.”<sup>4</sup>

## 9.2 How will reshoring impact business risk and working conditions?

Reshoring results in more localised production, which benefits producers through increased control over the quality of product, reduced transportation costs, and shorter lead times.<sup>5</sup> Further, reshoring represents an opportunity for differentiation, through specialising in the production of a niche, premium product.<sup>6</sup> In the Australian context, this could include a premium yarn product, spun in Australia using Australian cotton. The locally produced status of goods is often viewed as an indication of the quality of the brand, hence justifying the higher costs associated with domestic production.<sup>1</sup> This is reflected in the growing appetite for locally made goods, as evidenced by retail giant Walmart making a \$350 billion commitment to supporting “products made,

grown or assembled in the U.S.” over the next 10 years, which is estimated to generate 750,000 new jobs through reshoring and increasing orders with domestic suppliers.<sup>7</sup> Additionally, the UK Fashion and Textile Association’s ‘Let’s Make It Here’ database of UK garment manufacturers seeks to promote networking and knowledge of actors in the UK’s fashion and textiles industries, reflecting a renewed interest in local production.<sup>8</sup> In May 2021 the Australian Fashion Council was awarded a \$1 million grant from the Department of Industry, Science, Energy and Resources (DISER), in part “to create more local manufacturing.”<sup>9</sup>

Reshoring results in more localised production and improves supply chain visibility, which enables greater oversight of labour conditions and sustainability commitments.<sup>2</sup> However, whilst reshoring can improve the ability of companies to identify and address labour risks, it does not guarantee fair working conditions. This is evident in the case of reshoring fast fashion production in the UK, with the online fashion giant Boohoo facing allegations of modern slavery in its Leicester factories.<sup>10</sup> The reshoring of production has still been driven by unsustainable purchasing practices, as brands have sought shorter lead times to get on-trend garments into the UK market faster. The garment industry in Leicester has been described as a “country within a country”, where workers are subject to illegal working conditions, representing “a cautionary tale about how the reshoring of manufacturing jobs can go wrong when the government fails to enforce its own laws.”<sup>10</sup> Therefore, reshoring alone cannot be viewed as a guaranteed solution to labour issues in cotton supply chains.

Moreover, there are also notable barriers to reshoring. The process of offshoring manufacturing has resulted in the loss of necessary skills, infrastructure and expertise to locally manufacture high quality products.<sup>11</sup> Further, local labour, required training, and machinery represent an additional cost. The viability of reviving local manufacturing would also require buy-in and reassurance from retailers to ensure that there would be adequate demand.<sup>8</sup> Consequently, reshoring parts of a previously offshored supply chain would require significant investment and collaboration between actors.

## Cotton of the Carolinas by TS Designs

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TS Designs is a t-shirt printing company based in Burlington, North Carolina. It was established in 1977 and after a few years, shifted from manual to fully automated printing, becoming a supplier for major brands such as Nike, GAP, Polo and Tommy.<sup>12</sup> The introduction of the North American Free Trade Agreement (NAFTA) in 1994 had a devastating impact on local manufacturing within the US. Companies outsourced to Mexico in order to reduce labour costs. This prompted TS Designs to pursue a new business model to differentiate their product, with a focus on people, planet and profit.

TS Designs began sourcing cotton directly from North Carolina farmers and creating a patented printing process called REHANCE, which is an eco-friendly alternative to traditional printing methods. The company's flagship product is Cotton of the Carolinas (CotC), a range of locally made t-shirts that use cotton which is grown and processed in North Carolina.<sup>13</sup> The objective of TS Designs is to ensure that the entire production process is undertaken within 600 miles of the company's

Burlington headquarters, as embodied in the slogan "Dirt to Shirt in 600 Miles."<sup>14</sup> With its focus on local manufacturing, TS Designs has directly created 18 jobs and impacts 500 jobs across North Carolina in total.<sup>14</sup>

This range is also transparent and traceable, using different colour combinations for the sleeve and tail threads<sup>15</sup>, which customers can use to search for the garment's journey at [whereyourclothing.com](http://whereyourclothing.com).<sup>12</sup> This displays the stages of manufacturing for a particular garment on a map.

Another strategy to consider is "right-shoring", an approach that has emerged in recent years, which suggests that decision-makers should instead consider the "ideal mix of offshoring, nearshoring and onshoring" based on their business needs.<sup>5</sup> Therefore, the options to reshore production or continue offshore production are not mutually exclusive. Right-shoring is a nuanced strategy that accounts for the diversity in scale, needs, resources and opportunities of stakeholders.

Right-shoring is pertinent for spinning Australian cotton in Australia. While conventional thinking might lean towards spinning a few yarns at a large scale, a more diverse approach to spinning cotton in Australia should be explored, as noted by some of the interviewees.

A consideration of the whole system, from growing to processing to design to manufacture and to retail, is required. Examples from the US and the UK demonstrate diverse 'ecosystems' of cotton spinning at various scales for various markets that collectively demonstrate the viability of a diversified approach. A key factor is design for its capacity to add value in yarn, fabric and garment/product design. A 2021 Australian Fashion Council report estimates that "Every \$1 million in industry production potentially on-shored back to Australia —should this be commercially viable —could generate an economic return of around \$1.2 million."<sup>16</sup> The report stresses that a major opportunity exists for greater domestic sourcing.

## English Fine Cottons (EFC): Reshoring cotton spinning in the UK

In 2013, English Fine Cottons (EFC) began a multi-million-pound project to restore its historical Tower Mill in Dukinfield, becoming the first spinning mill to be opened in the UK in 50 years and the only commercial cotton spinner currently operating in the UK.<sup>17 18</sup> This venture required significant investment by EFC (£4.8 million), as well as a £2 million loan from Greater Manchester Combined Authority, and a £1 million grant from the N Brown Textile Growth Programme.

The key factors driving EFC to reshore spinning production were (1) the global demand for premium quality, 'Made in Britain' goods, and (2) a desire to revive the disappearing British textile industry.<sup>17</sup>

### Benefits of reshoring cotton spinning include:

- Automation of production processes to limit labour costs, whilst still generating local employment opportunities.
- Ability to produce "luxury grade yarns."<sup>18</sup> EFC seeks to ensure the highest quality of its yarn through using only extra-long staple (ELS) varieties of cotton.
- Reduced transportation and warehousing costs for local manufacturers purchasing cotton yarn.<sup>19</sup>

### 9.3 Action: Reshoring the processing of Australian Cotton

Whilst reshoring represents a break from current practice, this solution approach has been gaining interest in the context of COVID-19 and volatile trade relations.

A retailer participant alluded to reshoring as a potential solution through highlighting the value of having a local vertical supply chain, noting that this would require significant investment and the right policy context.

The implementation of reshoring would require buy-in and significant collaboration between a broad range of actors, including government, peak industry bodies, and the fashion and retail industry. This would include engaging with brands to gauge demand for premium Australian grown and spun yarn. In the 2021 Australian Fashion Council report, Elle Roseby, CEO of Country Road states: "The biggest opportunity is in local manufacturing and supporting smart on-shoring. 80% of our customers want to support Australian-made. We send cotton and wool to Vietnam and China to be spun and woven when it could be done here." An opportunity exists for key retailers to position themselves as leaders in supporting reshoring the spinning of Australian cotton, leading by example for the rest of the industry.

***"You need appetite, not just from this part of the industry, you really need the big money and big policy agitation for that to become a reality. But I absolutely do believe that if that was a reality and that we did have a vertical, local vertical supply chain, it'd be a no brainer."***

..... - Australian retailer participant

The **business case** for reshoring centres around the benefits associated with increased control and visibility of supply chains, as well as the diversification of the Australian textile industry. This includes increased supply chain resilience, as decision-makers are better positioned to adapt and have greater oversight of business operations. Additionally, the production of a single-origin Australian yarn would enable producers to verify the provenance of their product with ease, which "would negate the need for investment in block chain as the supply chain would be drastically shorter."<sup>20</sup> This provides an opportunity for differentiation, as the value attached to the niche product may justify the additional costs associated with domestic production.

Cotton Australia's CEO, Adam Kay noted the potential for Australia to add further value to its cotton through reshoring post-ginning cotton processing.<sup>21</sup> He also identified the benefit that increased automation of processing would have on the associated labour costs. Reshoring has direct and indirect

impacts on the local economy, creating Australian jobs. In addition, local production has the capacity to evoke an emotional response from consumers in the form of patriotism, and in a perceived high quality of the product.

There is also a **moral case** for reshoring the processing of Australian cotton. Through increased supply chain visibility and control, companies can reduce the risk of labour abuses in their business operations. The possibility of creating employment opportunities for vulnerable people in Australia warrants investigation. Furthermore, are there opportunities to replicate the success of the agriculture migrant work model? However, there are also concerns that reshoring does not address labour issues in supply chains and may instead take jobs from overseas workers.

In addition to voluntary industry action, a successful reshoring strategy for spinning cotton in Australia would require **regulatory intervention** through policy changes and increased government support. The potential of tax incentives to support the strategy requires investigation.

***“You can’t just have a retailer appetite, you can’t just have a consumer appetite to bring back a vertical industry, you need masses and masses and masses of investment, capital investment, and you need policy levers by the government as well to support that.”***

..... - Australian retailer participant

There are also **barriers** to reshoring that must be acknowledged. Reshoring the processing of Australian cotton would require significant upfront investment in the necessary infrastructure and facilities. Cotton Australia’s CEO Adam Kays also identified energy costs associated with operating these facilities as a key barrier to reshoring spinning.<sup>21</sup> Additionally, the political landscape will determine the feasibility of reshoring at a large scale. As a retailer participant highlighted, reshoring cotton processing would require significant policy change and support from the government. In addition, reshoring represents a significant mindset shift for brands and retailers: a generation of the industry workforce and leadership know offshoring as the norm, and sustained change management facilitation at company and industry levels are likely needed. Right-shoring offers nuance and pathways to staged implementation.

Reshoring spinning in Australia could have a positive **impact on workers** through a greater oversight of working conditions and the enforcement of labour laws. However, it is acknowledged that reports of labour abuses in fashion supply chains are largely concentrated further along the supply chain in garment factories. This means that reshoring spinning will not necessarily keep Australian cotton out of factories with labour issues. Returning to the notion of right-shoring, if the instances of off-shore garment manufacture most prone to labour abuses are identified, these could be prioritised for reshoring. This effort would require support from federal and state governments as well as industry bodies and business. The Australian cotton industry has an opportunity as a stakeholder to voice support for this effort. To accomplish this would likely mean reshoring a diversity of scales of garment manufacture. This could in part draw from examples of successful US brands promoting garments made in the US from US-grown cotton, such as Alabama Chanin, TS Designs and The North Face, while accounting for differences in scale, culture, infrastructure capacities, etc. of the two countries. Furthermore, opportunities for reshoring garment production through advanced manufacturing technologies, for example seamless knitting and digital jacquard weaving, should be explored concurrently with this effort, to ensure the competitiveness and relevance of the Australian manufacturing industry.



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# STRATEGIC PARTNERSHIPS AND COLLABORATION BETWEEN SUPPLY CHAIN ACTORS

## 10.1 What are strategic partnerships between supply chain actors?

Purchasing practices in the garment industry present a risk to workers' rights, as the top-down pressures on suppliers to reduce costs and lead times incentivises non-compliance with regulations on working hours and workplace health and safety.<sup>1</sup> The fast fashion model's expectation of shorter lead times means that factory managers are unable to appropriately plan production. Consequently, these unsustainable purchasing practices drive issues such as forced labour, excessive or unpaid overtime, and illegal subcontracting to informal workers.

The cancellation of orders and delay of payments in the wake of COVID-19 undermined trust between supply chain actors and highlighted fundamental flaws in the global fashion system, where buyer-supplier relationships are transactional and driven by cost.<sup>2 3</sup> Consequently, there is growing recognition of the need to develop more resilient supply chains and sustainable buyer-supplier relationships. This is reflected in the findings of McKinsey & Company's State of Fashion report, which stated that "some 73 percent of the sourcing community expected the trend towards deeper partnerships to accelerate over the coming year."<sup>2(p72)</sup> The report also suggested that there will likely be a shift away from "transactional or non-committal relationships", instead providing "medium- to longer-term volume commitments" and greater alignment on strategy.<sup>2(p73)</sup>

Supply chain collaboration can be defined as a partnership between two or more actors in the chain for the purpose of reaching a common goal and mutual benefit.<sup>4</sup> Collaboration can be vertical or horizontal. Vertical collaboration is a relationship between actors upstream and downstream, while horizontal collaboration is with same-tier actors and third parties such as non-government organisations (NGOs).<sup>5</sup> Collaboration between different actors within a supply chain refers to their ability and willingness to effectively work together towards shared goals.<sup>6</sup> Supply chain actors must be willing to make some short-term sacrifices in exchange for the longer-term benefits associated with stable supplier relationships.<sup>7</sup>



## Bare Ranch, Fibershed and The North Face

In 2014, The North Face sought to localise production through its microline, the Backyard Hoodie project, with the aim to produce as much of the garment as possible within a 150 mile radius of the company's headquarters in Alameda, California.<sup>8</sup> As part of this project, The North Face collaborated with Fibershed, a non-profit organisation in Northern California that works with farmers, designers and brands within the region to promote a 'soil-to-soil' approach to textile manufacturing and to support "farmer and apparel industry partnerships."<sup>9</sup>

Fibershed's Climate Beneficial Wool program seeks to improve the environmental impact of fibre production through promoting sustainability and soil carbon building practices on farms, to "draw carbon dioxide from the atmosphere down into soil."<sup>10</sup> Through this program, Fibershed worked with Bare Ranch, a farm producing wool in Northern California, to develop a carbon plan.<sup>12</sup> This program connected The North Face with Bare Ranch as their local source of Climate Beneficial wool for the Backyard Project collection. The Backyard Hoodie collaboration highlighted the value of local networks of actors and represented the first attempt of a large brand to source a bioregional garment since the North America Free Trade Agreement (NAFTA).<sup>13</sup>

### 10.2 How will strategic partnerships between supply chain actors impact business risk and labour conditions?

A key benefit of collaboration between actors is increased supply chain resilience. Supply chain resilience is considered to be a "network-wide concept", as a single actor cannot achieve it alone. Collaboration between actors may include joint planning across a range of time spans, information-sharing, and increasingly synchronised decision-making. This increased dialogue reduces the impact of disruptions on the supply chain's functioning, as the increased visibility and flexibility of the collaborative supply chain means that actors are better positioned to adapt and recover.

*"To mitigate future ruptures, fashion players should move away from transactional relationships in favour of deeper partnerships that bring greater agility and accountability."*

..... - Business of Fashion & McKinsey, The State of Fashion 2021 Report

Increased collaboration between supply chain actors can also positively impact labour conditions through challenging the current fast fashion model that drives labour abuses. Through moving away from transactional relationships, actors can adopt more sustainable purchasing practices and achieve increased supply chain visibility. Additionally, actors can choose to align with other actors that share their goals and values surrounding social sustainability. The earlier case studies on reshoring and right-shoring, in addition to those presented here, exemplify strategic relationship building throughout a supply chain.



## Case Study 10.B

# New York Textile Lab

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New York (NY) Textile Lab is a company that designs yarns and textiles, and works to establish a relationship between New York-based designers and local farms, mills and manufacturers, to promote a decentralised textile system.<sup>14</sup> Their approach seeks to address the issue of disconnected actors within industrial textile supply chains, where designers often “do not have a relationship to the mills that produce their textiles.”<sup>14</sup>

NY Textile Lab’s focus on a decentralised system seeks to promote the creation of networks of local actors that are committed to the consideration of people and planet. This involves partnering with local farmers, mills and manufacturers

that adopt ethical and transparent practices, and connecting them with local designers. For example, NY Textile Lab works with Hudson Valley-grown alpaca and wool, to be sold to New York-based designers. Therefore, NY Textile Lab empowers local designers to improve their sustainability performance and enhance the value of their product through localising their sourcing practices.<sup>13</sup>

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## Case Study 10.C

# Ethical supply chain with Australian cotton: Neuw Denim and Neela Blue

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Neuw Denim is an Australian/Swedish brand that strives to produce high quality jeans through ethical and responsible processes.<sup>15</sup> Neuw Denim’s co-founder Par Lundqvist noted that the brand opts to use a large percentage of Australian cotton in its denim based on its premium quality and leading environmental practices.<sup>16</sup>

Neuw Denim has worked with Neela Blue, a vertically-integrated denim mill in Pakistan, to produce some of its Australian Cotton range. Neela Blue by Sapphire Fibres is committed to sustainability and holds environmental certifications, as well as the following social certifications:<sup>17</sup>

- Better Cotton Initiative (BCI)<sup>18</sup>
- Global Organic Textile Standard (GOTS)<sup>19</sup>
- Social Accountability International (SA8000)<sup>20</sup>

The relationship between Neuw Denim and Neela Blue highlights the benefits associated with knowing your supplier, as there is greater transparency and alignment of values. For the Australian cotton industry, developing strategic partnerships with downstream actors would provide greater oversight of the certifications and initiatives being implemented by manufacturers and brands that use Australian cotton. This represents an opportunity to more effectively carry the Australian cotton story throughout a clean supply chain.

### 10.3 Action: Developing stable partnerships with downstream actors

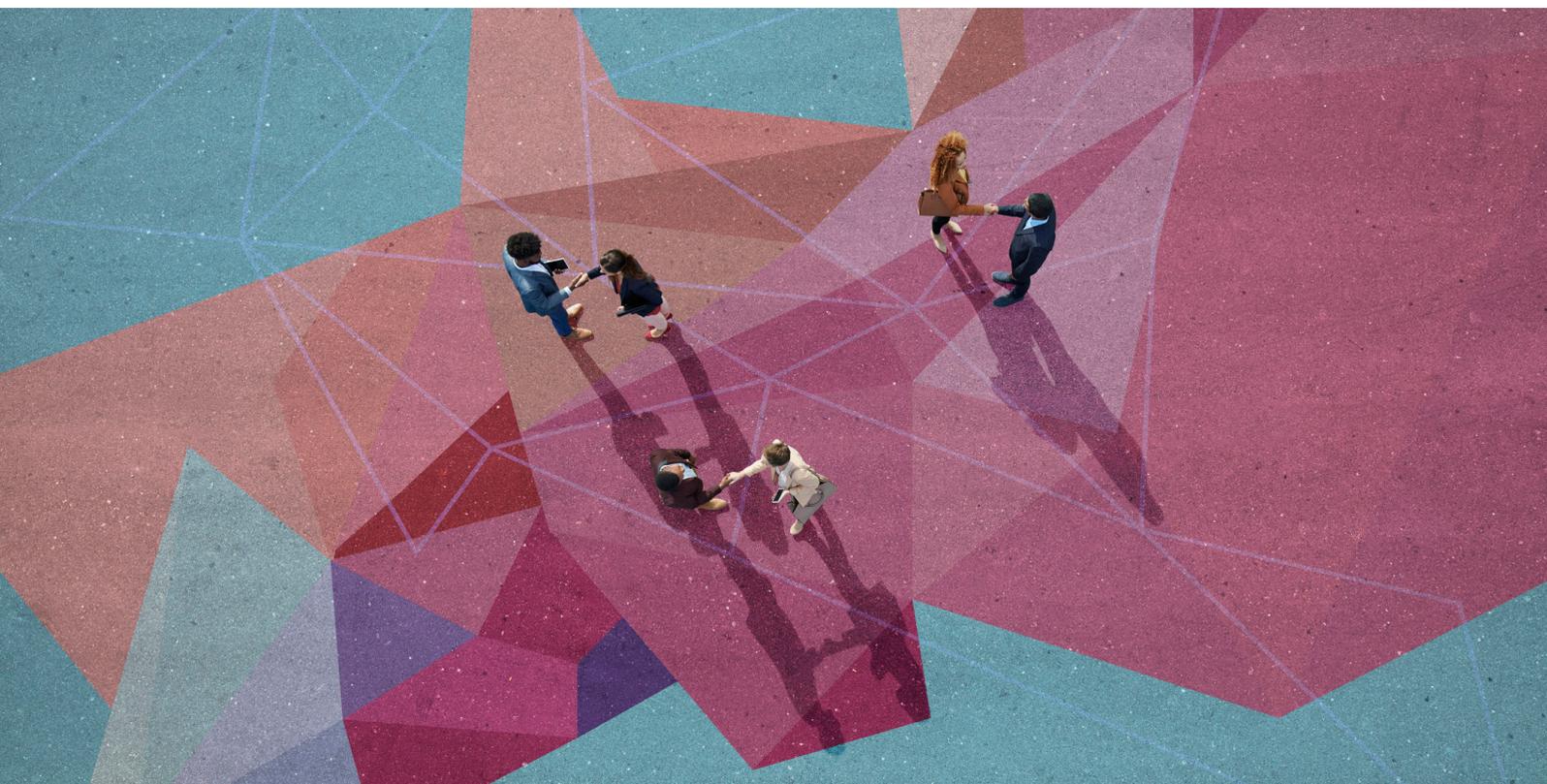
Developing long-term, strategic supply chain partnerships would require buy-in from a range of **actors**, from the Australian cotton industry through to brands and retailers. Australian cotton industry actors could focus on strengthening relationships with the next actors along the chain, such as spinners and vertically integrated manufacturers. Additionally, the Australian cotton industry could collaborate with brands that sell products with Australian cotton and work with them to strengthen relationships throughout the supply chain. This would not **require regulatory** intervention but is predicated on the willingness of different actors to collaborate as part of a network with shared values. In two of the case studies here, there is a relatively impartial facilitator organisation, Fibershed and New York Textile Lab, to help businesses connect as a supply chain. There is an opportunity to identify if an existing organisation in Australia could operate in this capacity.

There is a strong **business case** for the development of stable relationships with downstream supply chain actors, as it creates greater certainty around the placement and fulfilment of orders. This generates more resilient supply chains with greater accountability and trust between buyers and suppliers. Additionally, the improved supply chain visibility associated with stable partnerships provides benefits for the branding of Australian cotton. For example, it would enable the story of Australian cotton to be traced and carried through the entire supply chain with greater ease.

*“We’re about forming relationships with our customers. We have said no to a lot of business. And there’s multiple reasons why we would do that but it’s not just about picking the best brands, or the biggest brands either. It’s about picking the brands that want to work with you and build a relationship.”*

..... - Sportswear manufacturer participant

There is also a strong **moral case** for developing stable partnerships with downstream actors. Selling Australian cotton into shorter and more transparent supply chains would enable greater visibility over working conditions downstream. Further, through developing longer-term, stable partnerships with downstream actors, the Australian cotton industry can challenge the current purchasing practices that characterise fast fashion supply chains, which are directly contribute to unsafe working conditions in garment factories. Therefore, the effective implementation of this action could have a meaningful and long-term **impact on workers** downstream in Australian cotton supply chains.



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# COLLABORATE WITH WORKER-DRIVEN INITIATIVES

## 11.1 What is supply chain collaboration?

The immense complexity and nature of social issues in cotton supply chains necessitates an industry-wide response. There is no single actor or group of actors that are individually capable of untangling the chaotic web of global supply chains that globalisation has produced. As a result, various actors are beginning to collaborate to develop and implement solutions.

Collaboration in the garment industry is commonly instrumented through multi-stakeholder initiatives (MSIs). An MSI is a collection of entities from business, civil society, government, or universities that collaborate to solve business and human rights issues.<sup>1</sup> Examples of MSIs in the garment industry include the Ethical Trading Initiative, Partnership for Sustainable Textiles and Fair Labor Association. MSIs have burgeoned over the past two decades in response to governments' lack of resources and/or political will to address human rights abuses in corporate supply chains.<sup>1</sup> This failure in governance has caused a "gap" that MSIs have sought to rectify by acting as regulatory institutions using industry self-regulation.<sup>2</sup>

Proliferating in the 1990s as globalisation spread, initially MSIs were a response to growing social pressure for corporations to take responsibility for their supply chains (e.g., Nike sweatshop scandal) as government regulation lagged. They were established to share responsibility and accountability for human rights under the scrutiny of a range of stakeholders.<sup>1</sup> Typically, these initiatives resulted in the creation of industry standards of conduct that corporations pledged voluntarily to implement. Voluntary self-regulation has rarely led to substantial, impact change for rights holders (one exception is the Rana Plaza Donors Trust in Case Study 11.A).

Recent research on MSIs have criticised their effectiveness at protecting and promoting human rights, providing access to remedy to victims, and holding corporations to account for violations.<sup>3</sup> A decade-long study found that while MSIs do have benefits, there are critical issues that prevent them from being effective.

1. MSIs do not typically have equal representation of stakeholder groups involved in decision making and replicate traditional top-down power structures
2. The standards promoted by MSIs are often weak and assign responsibility to the least powerful actors in the supply chain (producers in the Global South)
3. MSIs often do not have the appropriate resources in place to monitor and enforce member compliance (weak auditing, non-legally-binding agreements)
4. Many MSIs do not often provide grievance mechanisms or procedures to remedy human rights violations
5. MSIs do not provide transparent evidence that they are positively impacting rights holders and often make unsubstantiated claims
6. The industry influence of MSIs is eroding due to the perception they are centred on corporate interests and ineffective.<sup>3</sup>

The Harvard Law School study found that MSIs are better utilised as a forum for building trust amongst actors,<sup>1</sup> experimentation, learning, and industry engagement, with potential benefits in industry norm creation and policy reform.<sup>3</sup>

***“The micro context of where that person [beneficiary] is situated, regardless of the industry they’re in, greatly informs their vulnerability, their status. And so you really need those hyper-localised groups because... the context is so different [nationally]”***

..... - Retailer participant

## Rana Plaza Donors Trust Fund

The Rana Plaza Trust Fund (The Fund) scheme provides an example of a successful industry collaboration that provided direct remediation to victims. Formed in 2013, the initiative collected monetary donations for direct distribution to victims and families of the Rana Plaza collapse. Global and local unions, brands, retailers, and civil society came together to help cover the costs associated with victims' serious injuries, financial hardship from lost income, and ongoing medical costs. Distribution of the donations was administered via a trust fund that was independently managed by the International Labour Organisation (ILO).<sup>4</sup>

The Fund was instituted in January 2014 with the initial goal of raising \$30 million dollars. By October 2015, \$34 million dollars had been disbursed to the families and victims of the Rana Plaza collapse. Brands and retailers (often those with a supply chain connection to Rana Plaza) raised the majority of the funds, with smaller entities such as the Bangladesh Prime Minister's Fund and civil society groups generating contributions, along with some large anonymous contributions.<sup>5</sup>

Two groups were eligible to submit claims under the scheme. Firstly, victims who were injured or lost earning capacity (including workers in neighbouring buildings and rescue crews), and secondly, the families who had lost loved ones and relied on the deceased's income. Claims were calculated in alignment with the principles of the ILO Employment Injury Benefits Convention No. 121 and tiered according to the individual circumstances (number of dependents, age of beneficiary, wage earned prior to the collapse, extent of injury and future medical care).<sup>6</sup>

Two separate schemes were developed to support ongoing medical assistance for those people who suffered serious injuries. One million dollars was released to BRAC, a Bangladeshi NGO, in order to provide 5 years of medical treatment for the 92 workers who sustained serious disabling injuries. Additionally, a Trust for Injured Workers Medical Care was also established to fund specialist doctor clinics for the remaining injured workers.<sup>7</sup>

The Fund provides an example of a completely voluntarily initiative, leading to transformational change on the ground. This ground-breaking initiative overcame transnational regulatory barriers such as transparency, traceability and weak enforcement of labour and human rights standards to deliver direct remediation to those impacted by the Rana Plaza collapse. The systemic breach of human rights standards makes it difficult to attribute individual responsibility within supply chains, with the Fund navigating this issue by creating shared responsibility, accountability, and remediation costs to compensate victims in a way not regulated or required by international or country level laws.

The Rana Plaza Trust provides an example of how collective action by multiple players within apparel supply chains can lead to improved outcomes for textile workers and their families. Collective action in this instance led to greater cumulative impact for apparel workers than would not have been possible by individual actors in the global apparel sector, highlighting the importance of collaboration to achieve meaningful outcomes.

### 11.2 What is worker-driven social responsibility?

In response to the failings of MSIs there is growing recognition for a newly established model known as 'Worker-driven Social Responsibility' (WSR). WSR deviates from MSI common practice by centring workers as key participants within change processes and aims to create legally-binding contracts between lead actors and workers' organisations. The adoption of binding contracts seeks to ensure increased compliance and provides rigorous enforcement mechanisms.

The WSR model also aligns with the call for gender-specific and context-specific programmes that accurately address the challenges garment workers face in their daily lives. To date, many development programmes have focused on the *condition* of poverty as opposed to structural factors such as gender relations which means that interventions fail to accurately account for the gendered dimensions of exploitation, the female-dense workforce of the garment industry, and workers experience of gender-specific human rights violations (see example of failed development initiative in Case Study 11.B). For example, in Report 1 we found that women are disproportionately affected across

all the 19 countries we reviewed on issues such as recruitment discrimination (pregnancy testing, contractual contraception, preference for single women), pregnancy discrimination (withdrawing maternity leave rights, terminating employment due to pregnancy, and revoking bonuses or pay rises to pregnant women), sexual harassment, a gender wage gap, and limited female union representation. Informal work via subcontracting also conceals their role in the chain and exploits them via a lack of lawful contracts (payment of the legal minimum wage, sick leave, overtime, and other benefits), union representation, and bargaining power.

The WSR model better empowers garment workers to use their voice and become their own agents of change, rather than passive participants in their own exploitation.<sup>8 9</sup>

## The failure of microfinance in Cambodia

When Muhammad Yunus first introduced microfinance in the 1980s the goal was to alleviate poverty via the extension of cheap credit to people typically excluded from traditional banks. It was assumed that impoverished people were natural entrepreneurs and if provided with access to credit, they would be able to break free from the cycle of poverty. Microfinance was celebrated at its inception with donor and humanitarian organisations being critical of 'top-down' approaches. Underlying these initiatives was an assumption that people held a basic level of financial literacy and business knowledge.<sup>10</sup>

Cambodia has one of the largest microcredit sectors globally. However, failure to carry out responsible loaning assessments led to the following detrimental outcomes: 1) microcredit institutions extended credit to Cambodian entrepreneurs whose products/service had little or no market demand, and 2) microcredit institutions, unlike in other countries, required collateral which often took the form of Cambodian families most culturally significant and valuable asset, their natal land title.<sup>11</sup>

When Cambodian businesses supported by microfinance began to fail and associated debts grown, borrowers found themselves in a detrimental situation with their family homes were being seized by microfinance institutions. This catastrophic risk led to

family members migrating to the city to work in garment factories or migrating to Thailand to work in the informal sector, in order to repay the loan. In worst-case scenarios entire families endured debt-bonded labour at brick kilns in order to avoid losing their home.<sup>12</sup>

Amsden<sup>13</sup> argues that a major flaw behind an entrepreneur-centred development scheme is the assumption that supply of a product/service will create its own demand. This is a common fallacy of many supply-oriented development programmes that ignore the lack of well-paid formal jobs available in the market, and favour poverty-alleviation that tends to produce a cohort of educated yet unemployed people. Amsden<sup>13(p64)</sup> uses the example of a \$100 laptop increasing literacy levels versus a well-paid job manufacturing computer parts, both are important though the latter is more likely to break the poverty cycle.

In summary, the microfinance experiment in Cambodia did not alleviate poverty because it failed to carry out responsible loaning practices and lent money to individuals who had little chance of being able to repay the loan. Microfinance in this instance increased vulnerability by increasing loan holders debt and also exposed borrowers to higher risk of destitution.



### 11.3 How can worker-driven collaboration improve worker welfare?

WSR leverages the knowledge and integrity of the key stakeholder group who are the most motivated to see change, garment workers and their representative organisations.

Where workers have input in determining the key priorities, design, monitoring, and enforcement of a program, they are empowered to apply their contextual knowledge to solve issues they experience themselves.

Discussed below are several components that form the WSR model and the corresponding benefit for workers.

#### **Lead companies sign legally binding agreements with suppliers and worker organisations**

- Legally enforceable contracts ensure corporations' respect for human rights is not optional or voluntary, and formally shares the responsibility of working conditions between actors. Typically, responsibility is pushed solely on the supplier. Legally-binding contracts provide all parties with greater certainty and allow collaboration to address issues in a genuine and impactful way<sup>14 15</sup>
- Lead companies are required to provide **financial support** (via price premiums, negotiated higher prices, or other means) to incentivise and support suppliers
- The power dynamic between lead companies and suppliers allows for downward price pressure (via purchasing practices) that inevitably impacts the working conditions and wages of garment workers. By offering financial incentives or support to suppliers, the responsibility is shared by both actors, and lead companies' contribution to working conditions is accounted for<sup>14 15</sup>

#### **Including workers in the development, implementation, and monitoring of compliance standards addresses power imbalances between supply chain actors and gives garment workers agency in identifying the solutions which address their key concerns**

- The WSR model includes worker education on their rights as a method of empowering workers to be agents of change. When workers are aware of their rights, they have an increased capacity to act as potential frontline monitors capable of identifying and reporting on issues
- Workplace rights education delivered through a peer-to-peer model or via independent trainers (separate from employers and buyers) improves workers' trust in the information taught
- Additionally, where an entire workplace is educated on their rights, a complaints mechanism is better anonymised as management are less capable of reprimanding the complainant
- Where workers have had input in developing workplace standards, specific issues experienced by workers are uniquely catered to<sup>14 15</sup>

#### **Monitoring and enforcement mechanisms are rigorous, timely, measurable, and independent**

- Auditors/inspectors who have deep contextual knowledge (culture/factory activity/labour issues) have a greater capacity to assess conditions and identify abuses for remediation
- Independent grievance mechanisms for reporting abuse or non-compliance remove risk of employer retaliation and promote trust amongst workers who directly see issues being rectified.<sup>16 14 15</sup>

More research is required to investigate the efficacy of the WSR model since the concept is novel and lacks substantial empirical data. However, the model addresses many of the shortfalls that previous industry initiatives have failed to institute, primarily through the lack of inclusion of the rights holders that initiatives target. Examples of initiatives that have integrated WSR principles into their approach can be viewed in Case Study 11.C - The Bangladesh Accord and Case Study 11.D - BSR HERproject.

# The Bangladesh Accord on Fire and Building Safety

In the aftermath of the Rana Plaza building collapse on April 24, 2013, a revolutionary Accord was made between 220 global brands, two international trade unions and eight of their affiliate's national unions. The Bangladesh Accord on Fire and Building Safety provides a best practice example of a multi-stakeholder

initiative on workplace health and safety. Signed in May 2013, the Accord seeks to address the significant risk of factory fires and building collapses, with the Accord being amongst the first legally-binding agreements focused on improving worker safety in Bangladesh.<sup>17</sup>

The mechanisms of the Accord are as follows:



## 1. The agreement is legally binding and enforceable

- A. Brands are required to cease sourcing from factories who are non-compliant
- B. Brands must provide **remediation support** to allow factories to meet standards. This support has materialised via increased prices, low-cost loans, or direct payments
- C. Parties must sustain long-term sourcing relationships with Bangladesh



## 2. The Steering Committee comprises equal representation of brands and trade unions and chaired by an independent person appointed by the ILO.



## 3. Inspections are carried out by qualified fire, building, and electrical safety engineers

- A. The inspection programme is paid by brands and involves workers and trade unions
- B. Issues that require remediation are implemented through a corrective action plan with clear deadlines.



## 4. All parties, inspection reports, and corrective action plans associated with the Accord are publicly disclosed.



## 5. A worker-driven approach to ongoing monitoring

- A. A democratically elected safety committee with worker and management representation
- B. All-employee training on workplace safety, safe evacuation, and their worker's rights



## 6. A strong grievance mechanism

- A. Individual workers, groups, or representatives can register anonymous complaints through the Accord and results are relayed to all workers
- B. Complaints are also published directly on the Accord website.<sup>16</sup>

While the Accord has made revolutionary strides in transparency, tripartite governance, legal enforcement, and worker inclusion, it has received several critiques by local actors, government, and academics.<sup>18 19</sup> The sanction mechanism of the Accord created black-listed factories resulting in lost orders and job layoffs. This mechanism has been critiqued as an overreach of non-state actors (foreign brands, NGOs) power on the basis that state-like functions should not be carried out by outsiders beyond the jurisdiction of the country. The recurring issue of power imbalance between large multinational actors and local actors resurfaces here as a lack of inclusion of local government and industry institutions such as the Bangladesh Garment Manufacturers and Exporters Association (BGMEA).<sup>18</sup>

While these critiques are valid and require review, the Accord remains a successful and ground-breaking initiative in the garment industry. Its implementation corresponds with decreased workplace accidents, improved workers' knowledge of their

rights, advanced workers' rights to freedom of association, increased visibility, and credibility for Bangladesh trade unions, and paved a path for future improvement related to workplace exploitation and poverty wages.<sup>16</sup> Critically, the tripartite agreement exemplifies an improvement on most MSIs by delivering real results for workers.

Despite the ground-breaking success of the initiative, the expiry of the Accord in mid-2021 has led to renewal negotiations that undermine the key accountability feature of the agreement. Brands have been reluctant to retain the legally-binding mechanism that's holds them accountable, instead pushing for a return to self-monitoring. Losing the legally-binding element of the Accord has been widely criticised as an essential end to its capability to improve working conditions. Negotiations were stalled in May 2021 for three months,<sup>20 21</sup> and a new agreement was settled on in late August called the International Accord for Health and Safety in the Textile and Garment Industry.<sup>22</sup>

## BSR HERproject

HERproject is a collaborative initiative developed by sustainability consultancy, Business for Social Responsibility (BSR), that endeavours to empower women in global supply chains.<sup>23</sup> The gender-centric model brings together a multitude of partners to implement workplace-based interventions on health, financial inclusion, and gender equality to improve women's wellbeing. Participating factories are identified through collaboration with brands and their suppliers, and the HERproject curriculum is implemented by local partners and peer educators.

The initiative delivers several programs: HERhealth, HERfinance, and HERrespect. HERhealth focuses on women's health such as menstrual hygiene, sexually transmitted diseases, nutrition, prenatal and postnatal care, and addresses myths around health practices.<sup>24</sup> HERfinance builds capacity in financial management through planning and budgeting, understanding the benefits of formal and informal financial services, and additionally supports management's adoption of digital wage payments.<sup>25</sup> HERrespect targets the prevalent issue of home and workplace abuse amongst garment workers. The program allows space for reflection on gender norms, violence, power, and relationships at home and in the workplace, and builds skills in assertiveness, confidence, and non-violent forms of management.<sup>26</sup>

Since first introducing the programmes in 2007, the initiative has proven to be immensely successful with increased health awareness, behaviour changes, and business benefits (e.g., decreased absenteeism during menstruation). However, there are barriers to the full implementation of programmes as factory managers are often concerned about dedicating time to the training sessions due to production pressures, as well as concerns that reputation-threatening factory practices may be exposed (e.g., worker harassment in the HERrespect programme).

Despite these barriers the programmes have been immensely successful. Their success is due to the peer-to-peer and master-trainer models whereby selected female workers participate in the longer-term workshops and share their learnings with peers, colleagues, and their community. This method promotes trust and confidence amongst workers as they are educated by someone highly relatable, and learnings are embedded in the local context. While the curriculum is developed by BSR, the initiative acknowledges the importance of different cultural contexts and collaborates with local NGOs to implement tailored training programmes for the organisational setting.

### 11.4 How would collaborating with an existing initiative impact the Australian cotton Industry?

The Australian cotton industry is situated on the periphery of global apparel supply chains and is distanced far from the tier one garment manufacturing stage where human rights abuses are most prevalent. Therefore, collaboration with industry actors will be a key approach to identifying, intervening, and/or providing restitution to improve working conditions in downstream supply chains. By collaborating with industry actors, the Australian cotton industry will be better placed to enact real change through targeted and contextually relevant intervention.

Any action that the Australian cotton industry chooses to implement should improve upon existing gaps and downfalls of current practice. As identified above, there have been major failings in initiatives that intended to help vulnerable people (see Case Study 11.B). Therefore, any approaches to direct intervention should be targeted and contextually relevant and include the perspectives of the intended beneficiaries.

A worker-driven initiative better ensures a balanced approach to improving the lives of supply chain workers by empowering their voices and integrating their deep contextual knowledge into the solutions that will benefit them. Partnering with local organisations that "fully understand the cultural complexities and nuances of the workers" (retail participant) was a recurring theme in interviews with several participants referring to trust and relationship building as a prerequisite to impactful intervention. One retail participant noted the failings of international actors that "just [say]... do this and [assume] it's done", failing to utilise the expertise of local groups that are uniquely informed about local issues.

***"[T]he workers aren't really treated like they should have any power... and I've never thought that was a...fair way to look at it. So, I think by doing anything to increase their leverage or power... is what needs to actually happen...so that we're not actually seeing human rights and labour issues."*** ..... - Retailer participant



## 11.5 Action: Collaborate with BSR HERproject alongside merchants or brands

One method of instigating direct intervention in the chain is collaborating with a worker-driven initiative such as BSR HERproject to support the implementation of training programmes in spinning mills, fabric mills, or garment factories that process Australian cotton. This action requires collaboration with either merchants or brands to identify suitable areas to intervene in (Heat maps generated in Report 1 could be used as a tool for this purpose) utilising our Heat Maps as well as consulting with other entities connected to the Australian cotton supply chain.

There are several convincing factors that form the **business case** for collaborating with the actors to implement HERproject programmes. Firstly, increased reputational value may be derived from the storytelling ability of direct intervention, supporting the retention of Australian cotton's current environmental sustainability value. Assumably, brands that use the Australian cotton mark will be more motivated to participate in a collaboration since they are better placed to benefit from increased consumer perceived value. Secondly, collaboration with the various actors would strengthen business relationships by increasing factory/mill efficiency, thus benefiting the factory/mill, brands, and the Australian cotton industry (stable buyer/s). Collaborating with brands or merchants would also account for shared costs of intervention, accurately accounting for shared accountability and responsibility to foster 'clean' supply chains.

The **moral case** for this action is identified through the initiatives' success in gender-conscious and culturally relevant implementation, enabling women with the agency to improve their lives. By tailoring their programmes to the female-dense workforce within cotton value chains, HERproject corresponds with interview participants' acknowledgement that gender inequality is a key issue to address. By empowering women with fundamental knowledge on theirs and their family's health, workers and women's rights, and financial management, workers are directly and positively impacted by the initiative.

However, there are **barriers** to consider since identifying mills/factories that process Australian cotton is difficult, and additionally, participant factories are not always welcoming to programmes that consume production time. Such barriers highlight the requirement of collaboration to gain visibility into the supply chain and gain greater leverage to finance programmes and persuade factories to support the training.

Collaborating with industry actors to deliver HERproject programmes in mills/factories in the Australian cotton supply chain is a feasible voluntary action and does not involve any **regulatory intervention**.

## 11.6 Action: Collaborate with stakeholders to finance a trust fund for garment workers

Another method of direct intervention can be drawn from the Rana Plaza Trust Fund example in Case Study 11.A. The Australian cotton industry could collaborate with their associated brands and/or merchants to instigate a trust fund that would offer direct cash contributions to garment workers. The fund could be dedicated to capacity building (training and education), wage increases (living wage), or remediation costs for workers in the Australian cotton chain. The focus of the fund could be derived from consultation with workers in the chain, thus appropriately including their voice to deliver the best benefits for them.

The **business case** for a trust fund may be seen in the pre-emptive action to deliver remediation to victims prior to formal legislation passing. It is not unreasonable to suggest government mandated remediation is foreseeable based on the arguments made in 'market environment' (section 2.3) and 'evolving regulatory context' (section 5.1). At first the fund might be set up as **industry self-regulation** via an Cotton Australia trademark agreement (legally-binding) with partner brands and retailers, though there is potential to widen an agreement to the Australian fashion industry. Contributions to the fund may be tiered according to 1) size of business, 2) degree of leverage, 3) connection to risk (e.g., companies who are the least transparent pay higher 'taxes' into the fund). There are various funding models that could be assessed to ensure fair distribution amongst actors. Another economic benefit of this action is identified through shared accountability, responsibility to remedy, and shared costs for improving working conditions in the supply chain.

The compelling **moral case** for this action is in overcoming the minimal legal pathways for exploited workers to seek restitution. A claims mechanism developed in consultation with workers would ensure they receive benefits directly relevant to their context. Workers could also be included in developing a methodology for calculating financial compensation, method of disbursement, and/or priority issues that the fund should address.

Some of the **barriers** to overcome to achieve a collaboratively funded trust fund might include buy-in from actors to make contributions (especially the least engaged actors), identification of eligible claimants (connection in the Australian cotton chain), and dissemination of information to workers who can make claims. However, considering a similar initiative has successfully been implemented before (albeit not on an on-going scale), this action is feasible if industry actors are prepared to be proactive and commit to improving working conditions.

*"In terms of actual on the ground collaboration and what people are doing... BSR HERproject [have] been doing great [on] worker empowerment [and] upskilling workers in different areas. So, if you're actually looking at solutions to some of the issues... I think they're quite a good one that are well respected...I think existing programs that are already set up are really good."*

..... - Retailer participant

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## DISCUSSION

The main purpose of this report is to find ways in which the Australian cotton industry can influence working conditions further down the cotton value chain. This constitutes a novel approach to a well-known problem. Thus far, in efforts to address poor working conditions in the garment industry, various actors have placed emphasis on the sourcing practices of major brands and fashion retailers. This is true for the Governments in the United Kingdom and in Australia, through the introduction of a Modern Slavery Act in each country, as well as for civil society organisations and conscious consumers through their campaigns and purchasing decisions respectively. The efforts of these stakeholders have focused on potential points of leverage at the endpoint of the value chain, through major fashion brands and retailers, rather than exploring ways to effectuate change at other points in the value chain.

The preceding sections have discussed solution approaches where the Australian cotton industry may play a more significant role in influencing downstream working conditions. These approaches have been evaluated on the basis of illustrative case studies and have been subject to analysis to determine their potential impact and feasibility. While the solution approaches suggest avenues to better create *pull factor* all the way to brands and retailers (i.e., making it more attractive for downstream actors to use Australian cotton), this is currently only feasible for a relatively small proportion of Australia's 2-4 million bales per annum. Hence, some solution approaches can be considered in the immediate term, with a longer-term view in mind to position Australian cotton strategically. This section applies a holistic perspective to the suggested solution approaches by discussing them in the context of the strategic enforcement model (SEM) and by proposing an **ethical branding opportunity**.



## 12.1 Strategic Enforcement Model

As discussed at the outset of the report, taking a SEM perspective implies a proactive approach to labour standards enforcement with limited resources.<sup>1</sup> Its three key elements include:

1. Prioritization and triage are as a baseline element of decision-making due to the limited availability of resources
2. Focusing on interventions that change the behaviours that result in violations, rather than enforcing a specific set of regulations
3. Finding mechanisms that lead to sustainable and ongoing compliance.<sup>2</sup>

Starting with **prioritisation**, the operational reality is that addressing working conditions further downstream is only likely to become a baseline element in decision-making among Australian cotton producers if they financially benefit from doing so. Therefore, solution approaches that translate to a growth in demand for Australian cotton are more likely to be adopted by the industry. This means that the business case for a solution approach will be the determining factor. On that basis, downstream due diligence, cotton certification, transparency initiatives, traceability tools, reshoring and right shoring, strategic partnerships, and/or worker driven initiatives have one thing in common: they need to translate to a growth in demand for Australian cotton.

Australian cotton is currently sold on the open market, where the determining factors are Australia's closeness to Asia, the cotton's low contamination, and the ease of contracting which make Australian cotton attractive to buyers. We propose that Australian cotton could also be sold on the basis of 'brand values' such as ethical production. A major upside of Australian cotton is that it is produced in a highly mechanised manner. Australian cotton is therefore much less likely to be tainted by labour abuses at this stage of the production process, compared to cotton-producing regions that rely heavily on manual labour in cotton production. Of course, the production of Australian cotton only forms a part of the value chain, and there are many other points further downstream where transgressions can occur.

***"To me, sustainable apparel is not just about the sustainability of the fibre that goes into the yarn that goes to the garment. It's also about the sustainability of the entirety of the supply chain."*** ..... - Merchant participant

Therefore, to achieve the ethical branding opportunity, establishing strategic partnerships with several key actors along the value chain is important. For example, Australian cotton exporters will likely have to partner with one or more fashion retailers. As key actors at both ends of the cotton value chain, both producers and retailers are well-positioned to influence the value-adding activities along the value chain. While labour costs are an expense in any production process, the value of decent work can be translated into a price point that reflects ethical production. The fact that the premium price point of the end product would include a margin that is sufficient for workers to be paid the legal minimum (or above), will (in part) negate the need for value chain actors to cut corners in the production process – it is therefore likely to **change behaviours** that result in violations. This model would allow for the branding of the end product, in which Australian cotton is used, as being ethically produced. Finally, ongoing adherence to labour standards is dependent on the success of the ethical branding: if sales are good, the model can be **sustained**.

To make this happen, we must look at the other SEM goals identified by Weil<sup>1</sup> in more detail:



## 1. Moving from a reactive to a proactive approach

By making Australian cotton part of an ethical fashion brand, the Australian cotton industry, partnering retailer(s) and other value chain actors would take a proactive approach to labour standards compliance by explicitly translating the value of decent work into a premium price point. This is a proactive approach, in contrast to existing approaches such as social auditing, which is an activity that focuses on events that have already occurred. Where reactive approaches to labour abuses have merely applied a band-aid to the fast fashion business model that is widely considered to be broken, proactive approaches are intended to ensure that exploitation is avoided. Changing the behaviours of actors in the value chain that (in)directly lead to labour standards abuses is an important part of that and is a key component of the SEM approach.

In the discussion about downstream due diligence, interviewees considered it to be likely that increasing standards and legislation concerning labour standards in value chains will be introduced in the future, in both Australia and in other jurisdictions. The view was expressed that being on the front foot with regard to upcoming regulation can result in a competitive advantage. Importantly, it was noted that existing relationships with high-risk buyers should not simply be severed, but that these relationships should form the basis for continuing discussion to find ways to improve labour conditions. Interviewees do anticipate problems, for example, with the introduction of contract provisions, which buyers would likely meet with scepticism until it was made mandatory by law.

An alternative approach could be modelled on those taken by large fashion brands such as Nike and Levi-Strauss, which started to engage with high-risk suppliers from the 1990s onwards. Australian cotton exporters could engage with high-risk buyers on the same voluntary basis, thereby pre-empting regulatory developments. Of course, the actual outcomes of large fashion brands engaging with high-risk suppliers since the 1990s have been hotly debated, with many practitioners and scholars arguing that the resulting codes of conduct and other private governance mechanisms resulted in limited changes to working conditions at suppliers. Nevertheless, it can be argued that those companies that introduced private governance mechanisms were better prepared for the introduction of legislation in various jurisdictions that have mandated upstream due diligence.

For that reason, in anticipation of regulatory developments that might mandate downstream due diligence, Australian cotton producers may want to introduce some form of private governance that applies to buyers. Interviewees did raise concerns about the cost of compliance, which could potentially result in Australian cotton exporters pricing themselves out of the market. Yet, the cost of complying with a code of conduct would be comparatively low, but realistically so would be the impact on working conditions. It can also be argued that the premium price point of the ethically branded end product could absorb the cost of compliance. Regardless, if regulatory changes concerning mandatory labour standards and human rights due diligence are indeed on the horizon, then the cost of compliance cannot be avoided.



## 2. Setting industry priorities

As mentioned, addressing working conditions further downstream is only likely to become a priority in decision-making among Australian cotton producers if they benefit financially from doing so, or if regulatory changes compel Australian cotton producers to consider this. A key priority that should be considered in this context is risk avoidance. Given the widely known problems with working conditions in the garment industry, a key consideration for Australian cotton producers is to avoid exporting to a destination with a high labour risk profile. Ignoring these risks can leave the Australian cotton industry open to damaging pressure and criticism from civil society. Some of the case studies on downstream due diligence clearly illustrate the risks when sellers knowingly engage with buyers that are unscrupulous or have ill-intent. Regardless of it being a 'sell job' to make downstream actors use Australian cotton, it should not be a 'sell job' at all costs: if sellers are indeed aware of the fact that buyers have a high-risk profile, and it is likely that Australian cotton is further processed under exploitative working conditions, then the Australian cotton industry could experience a severe reputational backlash.

From an industry perspective, it makes sense to prioritise the solution approaches that are most (commercially) feasible. As the transparency chapter indicates (Chapter 7), the implementation of transparency mechanisms is seen as highly feasible. Taking transparency measures such as joining a transparency initiative or publishing supplier or buyer lists would be a small but significant step. Yet, increasing transparency is but the first step towards improving working conditions. While transparency provides insight into labour and human rights risks, these risks still need to be addressed. What is more, while public disclosures such as supplier or buyer lists constitute a useful step, this data may not be granular enough to determine the risk profile of a commodity in detail. This is where traceability can play a role and where a potential commercial opportunity lies.

Being able to demonstrate the provenance of an end-product gives insight into the risk profile of the product, based on its journey from raw material (Australian cotton) to being on store shelves (as an ethically branded product). Tracing a commodity therefore provides more granular insight compared to the transparency provided by disclosing buyer or supplier lists. Due to the technology required, upfront investment is a potential barrier, although the costs may be recouped through the premium price point of the ethically branded good. Traceability, by definition, would have to entail 'downstream due diligence' and involves strategic partnerships as undertaking it requires coordination between all value chain actors.

In terms of deciding on a starting point for intervention, the heat maps produced in Report 1 of this project provide a holistic overview of labour risk, giving insight into several factors that contribute to exploitation and regions where these factors are prevalent. This provides insight to Australian cotton producers as to what the labour risks are in the region(s) where their product is being processed further. Australian cotton producers can not only use the aggregated risk heat maps to decide on a point of intervention, but in terms of the ethical branding opportunity, Australian cotton producers, partnering retailer(s) and other value chain actors can use the heat maps to decide which location or locations are best for the production of the newly created ethical brand – a decision that is not primarily made on the basis of cost, but rather on the basis of labour risk. Regardless, it should be an industry priority to be aware of working conditions in export destinations, as ignorance cannot be used as an excuse in the age of transparency.

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### 3. Using all enforcement tools



While the SEM approach dictates the prioritisation of measures that are feasible and have high impact, it is nevertheless important to holistically consider the entire suite of available options. The SEM approach seeks to combine available measures to achieve maximum impact. Therefore, ideally, the actions identified in the report sections on downstream due diligence, certification, transparency, traceability, reshoring, strategic partnerships, and worker driven initiatives would form part of a multi-pronged approach to address working conditions in the cotton value chain. This, of course, does not mean embracing and implementing every single solution proposed, but it rather means prioritising those actions that are considered to be feasible and are likely to have a mutually reinforcing effect on addressing the problem at hand. For example, establishing a code of conduct for buyers may be feasible, but this measure may not necessarily result in an improvement of working conditions further downstream in and of itself. However, combined with transparency and traceability initiatives, or in tandem with strategic partnerships and worker driven initiatives, these activities may have a larger impact. The question of feasibility is critical in this context. As explained in the introduction of the report, the SEM approach stems from the problems faced by under-resourced labour inspectorates. In an ideal world, there would be enough resources to implement every identified solution. Yet in reality, decision-makers must prioritise which (combination of) approaches are most feasible and are most likely to have an impact.



#### 4. Outreach – Employers

Reaching out to employers is an important part of the SEM approach. In the context of the Australian cotton value chain, this means reaching out to existing business relationships. Interviewees have pointed out that it is unlikely for existing relationships with buyers to be severed, and that dialogue to achieve improvements is preferred. While Australian merchants would likely say their current buyers are not high-risk, we contend that the actual risk lies in not knowing if their buyers' buyers, or (their buyers' buyers' buyers) are high-risk. Interviewees have also pointed out that Australian cotton producers have relatively little leverage to challenge existing purchasing practices or to influence working conditions further downstream. Therefore, ultimately, to avoid being associated with downstream labour abuses and deal with potential fallout, Australian cotton producers may have to make the difficult decision to sever existing relationships if dialogue with buyers does not result in improvements to working conditions further downstream, or if they fail to socialise the idea of downstream due diligence with current buyers. The section on strategic partnerships has indicted the need to shift away from transactional relationships and move towards longer-term strategic partnerships with downstream actors. Developing such strategic partnerships would support the implementation of other actions that are reliant on buy-in from downstream actors, and better position Australian cotton producers to address risk within the value chain, protecting both downstream workers and the Australian cotton brand.

If the production of goods using Australian cotton remains overseas, it will be necessary for the Australian cotton industry to establish new partnerships with buyers and downstream actors that are willing and able to improve working conditions. In choosing who to work with and in order to proactively identify labour standards (non-) compliance, it is important for Australian cotton producers to recognise differences in geography, ownership structure, competitive dynamics, and company history. It is better to locate production in low-risk rather than low-cost regions. In the context of the proposed ethical branding opportunity, oversight on value chain activities would be greatly enhanced if there is an increased level of vertical integration. Increased vertical integration, either domestically or overseas, would also result in added value chain resilience (see section 4.2, 'value chain perspectives'). This is desirable in the context of the disruption that the cotton (and apparel) value chain experienced due to the pandemic and the deteriorating trade relations with China, which is Australia's largest cotton export destination. Alternatively, partnering with (or helping to establish) a worker-owned cooperative that is responsible for production will greatly reduce the risk of non-compliance and will add to the credibility of the ethical brand.

Given the current uncertainty in global value chains, brought on by the ongoing pandemic and the increasing labour and human rights concerns in particular regions, it is not unthinkable to explore the onshoring of some or all activities in the cotton value chain. The earlier discussion section on reshoring has made it apparent that there are several advantages and challenges associated with this approach. While 'right-shoring' provides a potential happy medium, the feasibility of this activity is not as high compared to some of the other solution approaches proposed in this report. Nevertheless, bringing (a part of) the activities in the cotton value chain back to Australian shores would directly redress many of the labour risks currently identified further downstream.



#### 5. Outreach – Workers; and 6. Strategic communications

It is vital to make sure that workers are aware of - and are able to exercise - the rights they are provided under the law. It is important to note that whereas a number of export-oriented regions have paper rights that enable acceptable working conditions, the capacity to exercise those rights is often curbed. Outreach by the Australian cotton industry and partners in the value chain to workers on this matter is vital, whether production occurs with downstream buyers or is (partly) vertically integrated and/or re-shored. In the section on collaboration with worker-driven initiatives, it is argued that while the Australian cotton industry is situated on the periphery of the global apparel value chain, positive impact on labour and human rights can nevertheless be achieved through strategic outreach, partnerships and communication.

In particular, it is increasingly considered to be good practice to rely on the expertise of local groups that are uniquely informed about local issues. Therefore, if certain regions are earmarked as prominent export destinations for Australian cotton through the analysis of buyer lists, and potentially the tracing of Australian cotton through the value chain, it would make sense to partner with local trade unions and other workers' advocacy organisations in those regions. This approach is strategic, in that (limited) resources can be directed towards those regions where they will make the most impact (for example by establishing a trust fund as described by Case Study 11.A), rather than taking a blanket approach by engaging with trade unions and workers' advocacy organisations in every single export destination.

In the context of the ethical branding opportunity, it is critical for the Australian cotton industry and partnering retailer(s) to communicate what the purpose of the newly established ethical brand is, and to explain why Australian cotton producers are participating and why retailers and other actors in the value chain have joined forces. Publicly presenting and promoting an ethical alternative to the sweatshop/fast fashion business model can possibly result in a change of behaviours among producers and consumers that have served as a catalyst for labour abuses. However, it needs to be made sufficiently clear how participants stand to benefit from this new approach: how Australian cotton producers benefit from the increased demand for ethically grown cotton, how the 'cost of compliance' can be recouped through the premium price point of the end-product, and how consumers ultimately purchase a product of superior quality that is produced ethically.



## 7. Regulatory agreements

As discussed under goal 1, the Australian cotton industry should make efforts to be on the front foot in anticipating and pre-empting regulatory developments. This means that the Australian cotton industry must look at ways to engage with actors in the value chain through forms of information sharing (for example through the Open Apparel Registry – see Case Study 7.B) and self-regulation. For example, by establishing voluntary agreements such as a memorandum of understanding that describes expected behaviour, or preferably engaging in an agreement that determines contractually binding obligations. The degree to which these instruments can be binding depends on the influence that the cotton industry and retailers are able to exert on other actors in the value chain. Interviewees did express concern about buy-in from downstream actors – however, since the regulatory landscape is already promoting greater transparency and reporting measures, entering into voluntary agreements is not farfetched.

Australian cotton certification can also play a key role in this process, if there is an increased focus on social sustainability certification. While some downstream actors may be less willing to make changes required by such certification, strategic measures could overcome the notion that it is a 'sell job' to make downstream value chain actors use Australian cotton. For example, in Chapter 6 on Australian cotton certification, it was noted that the cotton industry could be proactive in exercising influence downstream through leveraging the Australian cotton mark by introducing a labour rights criterion (for example by requiring buyers to provide evidence of human rights due diligence processes). Partnering with interested retailers presents an opportunity for the industry to more effectively carry the Australian cotton story through to the final product and sets a minimum standard for the business practices of brands that use Australian cotton.



## 8. Evaluation, performance monitoring, and continuing improvement

David Weil argues that regulatory agencies must create organisational structures that support the strategies that have been chosen. If they do not, staff will not have the tools, skills, or incentives to carry out that strategy.<sup>3</sup> In order to make the major changes in direction described above, Australian cotton industry and partnering retailer(s) will need to change their traditional approaches to actors and activities in the value chain. If the business model underlying the newly established ethical brand is not adapted to support the goal of improving working conditions, then the strategic priorities and measures will be symbolic and unlikely to result substantive outcomes. Key

performance indicators should be developed with the brand's mission in mind: while it is undeniably important for the ethical brand to be economically viable, enhancing the financial bottom line of the brand cannot be the primary motivating force. Seeking perspectives from Australian cotton growers is an important next step to see whether appetite exists for extending industry sustainability targets to consider activities post-farm gate. The SEM approach requires close-knit relationships between actors in the value chain. Ensuring appropriate training, performance criteria, incentives, and a culture consistent with the ethical brand's mission is important. Creating transparency and accountability requires appropriate resources, information, and engagement of decision-makers so that they have the means to achieve the objectives of the brand. The Australian cotton industry and partnering retailer(s) must demonstrate a firm commitment to evaluate a newly created ethical brand, determine the impacts of change to the production model, and potentially revise approaches based on those evaluations. This will greatly enhance the chance of success and assist in building a legitimate brand.



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