

Limits of Duty of Care in Global Supply Chains: A Comparative Analysis

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Abstract

For four decades, global supply chains have occupied a central position in academic and political debates, driven by the growing imperative to reconcile economic performance with corporate social responsibility. Within this context, soft law has emerged as the favored mechanism for transnational regulation, functioning both as a catalyst for normative innovation and as a strategic means to circumvent more stringent constraints on flow management. A comparative analysis of France and the United States reveals two distinct paradigms: a formalized, legalistic, and preventive French framework centered on the duty of vigilance—a uniquely French statutory obligation—and a more coercive U.S. framework that leverages customs sanctions alongside geopolitical objectives, albeit applied selectively. The article's originality stems from its critical integration of legal and management perspectives, transcending the simplistic dichotomy between restrictive regulation and self-regulation. Employing comparative social science methodologies, it opens significant research avenues into the prerequisites for inclusive transnational governance, emphasizing the mobilization of diverse stakeholders and hybrid control mechanisms to transform the broader principle of duty of care into an instrument of enhanced logistical justice.

Keywords: Comparative analysis, Corporate accountability, Duty of care (vigilance), France, Global supply chains, Governance, Logistical justice, Soft law, Transnational regulation, United States

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1. Introduction

Over the past two decades, global supply chains have garnered increasing attention from scholars in management, law, and political science. This surge reflects growing awareness of the social, environmental, and ethical consequences of neoliberal globalization, particularly within the textile, electronics, and agri-food sectors (Gereffi, 2018). Governance of global supply chains can no longer be framed solely through the lens of economic efficiency; it now incorporates emerging responsibilities that address normative concerns historically neglected by logisticians. The rising frequency of crises—including health, climate, and geopolitical disruptions—forces corporations to reevaluate their obligations toward workers, territories, and ecosystems involved in their operations (Chebo *et al.*, 2024). The shift toward responsible governance has not produced a uniform legal framework but has instead evolved into a complex assemblage of instruments, regulatory registers, and stakeholders, resulting in a hybrid legal landscape where binding (“hard”) standards coexist with more flexible transnational regulatory mechanisms commonly known as “soft law.” This duality defines international environmental law, where guiding principles appear in both legally binding treaties and non-binding instruments that shape global environmental governance (Nyekwere *et al.*, 2022).

Soft law encompasses non-legally binding standards that influence corporate and state behavior through incentives, reputational pressures, and social accountability. This category includes codes of conduct, ethical charters, guidelines, private standards, and voluntary commitments developed by corporations, NGOs, or international organizations (Shaffer & Pollack, 2012; Terpan, 2015; Eliantonio & Korkea-aho, 2023). Within global supply chains, soft law has emerged as the predominant regulatory approach, largely because it facilitates intervention beyond national jurisdictions without necessitating formal multilateral agreements (Ruhmkorf, 2018). Nonetheless, its effectiveness remains debated: some scholars view soft law as a practical mechanism for promoting improved practices (LeBaron & Ruhmkorf, 2017; Coglianese, 2020), while critics argue it often serves a symbolic role or a convenient excuse to avoid binding regulation (Utting, 2005; Reviglio, 2023). This dual nature reflects the inherent ambivalence of contemporary regulatory regimes, where normative innovation coexists with the risk of regulatory stagnation. Critical decisions concerning human rights, climate justice, and labor conditions within global supply chains continue to unfold within this uncertain regulatory space.

This article offers an original and critical analysis of soft law in the governance of global supply chains by examining the evolving interplay between legal frameworks and management practices. It evaluates the concrete effectiveness of legal mechanisms in improving social and environmental outcomes while exploring how these standards reshape corporate responsibilities within a polycentric and fragmented governance landscape. The second section traces the origins and defining characteristics of soft law on the global stage. The third section presents a comparative analysis beginning with the French case—a pioneer in duty of care legislation—highlighting its advances and operational limitations. The fourth section examines the United States, marked by a more coercive approach intertwined with geopolitical concerns that sharply contrasts with the French model. The fifth section exposes the disconnect between dominant rhetoric and fragmented practices, outlines weaknesses in current mechanisms, and identifies emerging regulatory paradigms. Throughout, the article emphasizes the urgent need for more inclusive transnational governance frameworks that integrate regulatory rigor, transparency, and social justice to strengthen the duty of care's effectiveness.

2. Soft Law Enforcement Gaps

The governance of global supply chains faces a profound challenge: reconciling the economic efficiency of complex transnational networks with robust protection of human rights and the environment. Rising production fragmentation, driven by globalization, complicates product traceability and obstructs accountability for violations often concealed within upstream or downstream links. Buhmann (2015) examines this governance dilemma amid fragmentation and transnationality, highlighting tensions between soft law and binding mechanisms in applying the United Nations Guiding Principles on Business and Human Rights. Within this context, the duty of care has become a central principle, expanding corporate responsibility beyond direct operations to include first- and second-tier suppliers (Merminod & Paché, 2011). Over recent decades, the concept has gained prominence, intersecting legal, ethical, and political domains while raising critical questions about the scope and effectiveness of existing regulatory frameworks. Despite ambitious commitments, many critics point to weak enforcement and sanctioning mechanisms, coupled with a persistent gap between standards and actual practices, collectively undermining legal instruments' capacity to foster responsible and equitable governance across global supply chains.

2.1. Challenging Soft Law through Legislation

The duty of care is part of a global movement toward corporate accountability that arose in the late twentieth century, aiming to regulate multinational corporations amid accelerating globalization and growing public scrutiny. Since the 1990s, voluntary frameworks such as the OECD Guidelines for Multinational Enterprises (2000) and the United Nations Global Compact (2004) have established ethical standards addressing human rights, environmental protection, and corporate governance. These soft law mechanisms primarily rely on self-regulation, goodwill, and voluntary corporate cooperation, lacking legally binding enforcement. This absence of compulsory obligations has faced substantial criticism, particularly from legal scholars and experts who highlight the frameworks' insufficiency in effectively preventing social and environmental abuses within complex and legally fragmented global supply chains (Deva & Bilchitz, 2013; Ruggie, 2013; Berning & Sotirov, 2023; Wilhelm, 2024). Such critiques have fueled increasing calls for stricter regulations to curb the excesses of neoliberalism and ensure genuine accountability across all levels of corporate activity.

Faced with the structural limitations of voluntary instruments, growing demands call for stricter legal obligations on transnational corporations. Numerous studies highlight the predominantly declarative nature of due diligence commitments, which often fail to translate into effective, verifiable actions—especially within fragmented global supply chains (Schilling-Vacaflor, 2021; Gustafsson *et al.*, 2023). Persistent challenges undermine existing mechanisms: vague or incomplete action plans, lack of transparency in monitoring processes, and prioritization of reputational risks over actual harm experienced by workers or local communities (Barraud de Lagerie *et al.*, 2020; Sachs & Tricot, 2020). Additionally, the absence of dissuasive sanctions and legal ambiguities regarding responsibility allocation between contractors and subcontractors diminish the effectiveness of control instruments. Consequently, the concept of logistical justice—defined as the equitable distribution of obligations and the availability of remedies addressing harm caused by unfair or abusive practices in global supply chains—remains largely theoretical, particularly in high-risk sectors such as textiles and agri-food (Gustafsson *et al.*, 2023).

2.2. Exposing Enforcement Failures in Corporate Vigilance

The implementation of the duty of care reveals substantial legal and operational limitations that undermine its overall effectiveness. Legally, litigation remains infrequent and often unsuccessful, diminishing the mechanism's

deterrent capacity (da Graça Pires & Schönfelder, 2025). The absence of automatic administrative sanctions, combined with the difficulties NGOs face in establishing a clear causal link between violations and downstream harm, constitutes a significant barrier (Deva, 2023). Moreover, numerous comparative studies highlight pronounced variability in duty of care enforcement (see Camy [2022] for a literature review). Corporate responses range from proactive, ambitious initiatives to merely formalistic approaches focused on declarative compliance rather than genuine prevention of social and environmental damage (Bartley, 2018). This uneven application stems from sectoral differences, varying degrees of stakeholder pressure, and the instrumental use of legislation for reputational management. Such fragmentation weakens normative impact, fosters impunity, and limits the potential for meaningful transformation of global supply chains (Savourey & Brabant, 2021).

Research in strategic management reveals that vigilance plans often serve primarily as communication tools intended to bolster corporate image among consumers and investors, rather than as effective operational mechanisms for managing, preventing, and controlling risks (Bair & Palpacuer, 2015). Such practices significantly fuel the spread of greenwashing and social washing, constructing a superficial “*façade*” of ethical behavior without effecting substantive change in organizational processes, decision-making, or conduct. Moreover, prevailing regulations frequently shift considerable responsibility onto upstream actors—such as suppliers or logistics service providers—without granting sufficient resources, authority, or meaningful support necessary to comply with increasingly complex demands (Locke, 2013). In the absence of capacity building and shared governance, transferring responsibility in this manner risks exacerbating dysfunctions and inequalities within global supply chains, ultimately undermining progress toward logistical justice and threatening the long-term sustainability of ongoing initiatives.

Given the persistent challenges in enforcing legal provisions related to the duty of care, a comparative approach proves especially valuable for identifying factors that drive success or failure. Comparative analysis in international law is widely recognized as a powerful methodological tool for uncovering divergences and convergences among normative systems while shedding light on the institutional, cultural, and political dynamics that shape them (Zweigert & Kötz, 1997). Applied to the governance of global supply chains, this framework provides critical insight into how different national strategies influence transparency, accountability, and social justice. By examining two countries with contrasting regulatory models—France, which emphasizes a preventive and systemic approach, and the United States, which adopts a repressive and targeted policy—such analysis exposes the tensions, compromises, and power relations that underpin international regulation of product flows. This comparative scrutiny enhances understanding of the geopolitical and managerial challenges tied to logistical justice, highlighting the practical consequences of institutional choices.

3. The French Case

France has emerged as a pioneer in legislating the social and environmental responsibilities of large corporations through the enactment of Law No. 2017-399 of March 27, 2017, which established a corporate *duty of vigilance* (duty of care). The measure was driven by the glaring deficiencies revealed by industrial catastrophes—most notably the Rana Plaza collapse in Bangladesh in April 2013, which claimed more than 1,100 lives. The statute applies to companies exceeding specific workforce and revenue thresholds, requiring the adoption of vigilance plans designed to identify risks and prevent serious violations of human rights, health and safety standards, and environmental protections. Comparative analyses by Bright *et al.* (2020), Dehbi & Martin-Ortega (2023), and Gustafsson *et al.* (2023) underscore significant heterogeneity in implementation, shaped by variables such as corporate scale, industrial sector, and organizational compliance culture, even within Europe. Although the law has attracted considerable international attention and influenced policy discourse, its effectiveness remains contested, hindered by the difficulty of assessing the substantive rigor of published plans and the relatively small number of legal actions initiated to date.

3.1. France's Duty of Vigilance and Legal Challenges

The March 2017 duty of vigilance law requires large French companies to develop, publish, and implement vigilance plans designed to identify, prevent, and mitigate serious risks to human rights, environmental protection, and occupational health across their entire value chain (the official text is available at <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626/>, Accessed September 10, 2025). Celebrated as a major advance in the extraterritorial regulation of multinational enterprises (Bose, 2023), the measure departs from voluntary frameworks by imposing a legally binding obligation without precedent in France. It extends corporate accountability beyond domestic operations, encompassing subsidiaries, suppliers, and subcontractors. Yet implementation has exposed significant weaknesses. Sherpa (2021) reports that many covered companies

release incomplete plans, lacking robust operational measures and supported by inadequate monitoring and alert mechanisms. Such deficiencies cast doubt on the framework's transformative potential, which continues to fall short of driving a structural overhaul of industrial practices within the hypercompetitive environment described by D'Aveni (1994).

The judicial mechanisms designed to enforce the duty of vigilance law display substantial deficiencies in both effectiveness and impact. French jurisprudence has remained cautious, slow, and fragmented, exemplified by the Lafarge case in Syria where, as Muñoz (2022) observes, the company's payments, procurement agreements, and logistical arrangements with armed groups such as ISIS reveal the intricate nexus between corporate economic objectives and complicity in international crimes. Table 1 summarizes the key factual and procedural milestones of the litigation, which began after Lafarge's financing of armed groups between 2013 and 2014 to sustain its Syrian operations prompted the Paris prosecutor's office to open a preliminary investigation in 2017 for complicity in crimes against humanity, culminating in the indictment of the company and several executives in 2019. This litigation stands as a landmark in recognizing corporate criminal liability in high-risk contexts; yet, as of mid-2025, no final judgment has been rendered, underscoring the protracted pace of judicial proceedings in complex transnational cases. Sequeira (2021) frames the Lafarge case as pivotal in the fight against impunity, while Young (2021) emphasizes its role in strengthening normative frameworks. Schmidt & Kasznár (2024) further examine the enduring tension between economic imperatives and ethical obligations, underlining its emblematic status in advancing logistical justice within global supply chains.

3.2. France's Compliance Formalities and Operational Limits

Beyond normative compliance, the genuine transformation of global supply chains remains impeded by deeply entrenched economic logics. Since the 1990s, numerous French firms have extensively outsourced production to low-wage countries where labor standards frequently fall short. Carbonnier & Palier (2022) emphasize that the "French-style low-cost" strategy hinges on large-scale relocation to regions with weakened social security systems. This structural dynamic severely limits the impact of legislative measures, which struggle to drive enduring changes in managerial practices. The French textile sector illustrates this challenge: despite the profound shock caused by the 2013 Rana Plaza disaster, large retailers such as Kiabi and Auchan continue to face repeated criticism over their suppliers' social compliance failures (Sherpa, 2021). Likewise, within the food industry, companies including Lactalis and Ferrero have been condemned for deteriorating subcontractor conditions, particularly in health monitoring (Haverland, 2022). These examples reveal a persistent trend where regulatory compliance often remains largely formal, failing to trigger substantive reforms in the core managerial practices governing global supply chains.

Recent evaluations reveal that despite ambitious national regulatory frameworks, French firms—particularly within the luxury sector—continue to struggle to translate legal mandates into substantive operational transformation. The intricate complexity and fragmentation inherent in global supply chains largely hinder effective and systematic oversight. The *2023 Apparel & Footwear Benchmark* published by KnowTheChain notably ranks prominent French luxury conglomerates such as LVMH and Kering among the weakest performers in global human rights due diligence, highlighting pervasive issues including opacity, superficial vigilance, and ineffective remediation mechanisms (<https://business-humanrights.org>, Accessed July 6, 2025). Risk management efforts remain predominantly confined to documentary compliance and institutional rhetoric, while substantive changes in core business practices remain elusive. Such a persistent disjunction between corporate social responsibility (CSR) rhetoric and actual operational conduct jeopardizes consumer trust and threatens the esteemed prestige that defines French luxury on the international stage. Scholarly research cautions that CSR initiatives within luxury brands often appear as "uncomfortable hybrids," undermining brand authenticity and fostering consumer skepticism alongside accusations of hypocrisy (Sipilä *et al.*, 2021).

Table 1. Lafarge in Syria: Timeline of Key Facts and Legal Proceedings

Period	Factual episode	Procedural milestone
2013–2014	- Company operations at Jalabiya plant continued despite territorial shifts - Payments and commercial dealings took place with local armed groups, including ISIS, to keep the plant running	- Criminal facts alleged in subsequent complaints - Formed the factual core of later indictments
November 2016	Eleven former Syrian employees, together with NGOs, filed a criminal complaint in France accusing Lafarge and executives of financing armed groups and aiding abuses	Complaint triggered a formal preliminary inquiry by French authorities
June 2017	Paris public prosecutor opened a judicial investigation into financing of a terrorist organization and related offences	Opening of an investigative phase under French criminal procedure
June 2018	Investigating judges issued indictments against Lafarge and several individuals for offences including complicity in crimes against humanity and financing terrorism	Formal <i>mise en examen</i> (indictment) by examining judges—transition from inquiry to sustained criminal investigation
November 2019	Paris Court of Appeal delivered a decision that narrowed admissibility of some civil-party submissions and affected the scope of charges at that stage	- Lower-court rulings modified - Some charges were contested or set aside, producing significant procedural interlocutory rulings
September 2021	France’s <i>Cour de cassation</i> (criminal chamber) reviewed prior admissibility rulings and remanded parts of the file for re-examination	Supreme-court control: dismissal of certain lower-court holdings and demand to re-open specific charges (notably complicity in crimes against humanity)
May 2022	Paris Court of Appeal confirmed that the company could be charged with complicity in crimes against humanity	Re-confirmation of the most serious charge at appellate level, preserving its prosecutorial trajectory
October 2022	Parallel U.S. proceedings: Lafarge S.A. and its Syrian subsidiary pleaded guilty in U.S. Federal court to conspiring to provide material support to terrorist organizations and agreed a large financial penalty	Guilty plea and financial resolution in U.S. Federal court—distinct but related transnational enforcement outcome
October 2024	Paris investigating judges ordered Lafarge and several former executives to stand trial on charges including financing of a terrorist organization and embargo violations	- Investigating chamber committed the case to trial in France - Trial preparation and scheduling followed
Late 2025 (scheduled)	National press reporting indicate trial proceedings in Paris were expected to be set for late 2025	Anticipated criminal trial before a French criminal court (calendar subject to judicial scheduling)

Source: The author.

4. The U.S. Case

The U.S. approach to the duty of care is defined by a strict integration of legal mandates with explicit geopolitical objectives, standing in sharp contrast to the French model, which prioritizes prevention, transparency, and systemic responsibility. In the U.S. context, regulation moves well beyond voluntary compliance, deploying coercive instruments such as customs controls, targeted economic sanctions, and expansive extraterritorial oversight—particularly in the fight against forced labor. This posture forms part of a wider strategic agenda that seeks to regulate global supply chains while safeguarding national economic power. As Ruggie (2013) demonstrated, the United States embeds corporate social responsibility within a governance model that aligns international norms with sovereign priorities. Vogel (2010) further highlighted the pioneering influence of hybrid U.S. regulations, notably the California Transparency in Supply Chains Act, which imposes mandatory reporting and due diligence requirements. Within this architecture, human rights governance operates as a strategic lever, fusing normative ethics with industrial imperatives and the projection of regulatory power abroad.

4.1. U.S. Customs Law as Ethical and Economic Tool

For nearly a century, the United States has maintained a robust legislative framework to bar the importation of goods produced through forced labor. Its cornerstone, Section 307 of the Tariff Act of 1930, prohibits the entry of any product “wholly or in part” manufactured by forced labor, indentured servitude, or penal labor. For decades, however, enforcement was undermined by the “consumptive demand” exception, which allowed imports when domestic production was insufficient—a loophole closed only in 2015. Even then, implementation remained uneven until a renewed commitment to human rights triggered far more aggressive action. Since 2022, enforcement has shifted from symbolic to systematic, relying heavily on Withhold Release Orders (WROs) and

the Forced Labor Enforcement Task Force (FLETF) (Bhala, 2024). The Uyghur Forced Labor Prevention Act (UFLPA), enacted in December 2021 and effective June 2022, marks a decisive turning point. The statute imposes an irrebuttable presumption that all goods from China’s Xinjiang region are tainted by forced labor unless importers present conclusive evidence to the contrary. By reversing the burden of proof, it redefines the legal landscape of U.S. trade policy. As the Congressional Research Service notes, the UFLPA represents a watershed moment, placing the eradication of forced labor at the center of the nation’s import regime (<https://www.wita.org/atp-research/section-307-imports-forced-labor/>, Accessed April 16, 2025). Table 2 details the principal U.S. legislative instruments and enforcement mechanisms addressing forced labor, emphasizing the structural innovations introduced by the UFLPA.

Beyond the specific case of Xinjiang, the U.S. legislative arsenal extends across numerous countries and sectors, targeting practices that constitute forced labor, including exploitation in plantations, sweatshops, and extractive industries. Enforcement relies on coordinated action by U.S. Customs and Border Protection, the Department of Labor, and the Department of State, which investigate supply chains, publish lists of high-risk goods, and issue orders blocking their importation. As Greenfield *et al.* (2025) observe, interagency coordination has become a strategic pillar of U.S. trade policy, leveraging legal mechanisms to compel companies to overhaul risk management within their supply networks. Since Donald Trump’s return to the presidency in January 2025, this orientation has intensified sharply against the backdrop of an open trade confrontation. While the language of human rights remains present, it is now subsumed within a nationalist economic doctrine centered on industrial reshoring and strategic decoupling from China. The resulting legal tightening is redefining market access conditions, embedding ethical requirements, economic sovereignty, and geopolitical rivalry into the very architecture of U.S. import regulation (Anonymous, 2025).

Table 2. U.S. Forced Labor Import Laws Overview

Legislative framework	Key provisions	Enforcement mechanisms	Significance and innovations
<i>Tariff Act of 1930 (Section 307)</i>	- Prohibition of imports “wholly or in part” produced by forced labor, indentured servitude, or penal labor - Had a “consumptive demand” exception until 2015	- Sporadic enforcement historically - Renewed vigor since 2022 with Withhold Release Orders (WROs) and Forced Labor Enforcement Task Force (FLETF)	- Foundation of U.S. forced labor import restrictions - Early legal basis enabling current actions - Precedent for linking trade policy with human rights concerns
<i>Uyghur Forced Labor Prevention Act (UFLPA)</i>	Rebuttable presumption that all goods from Xinjiang are made with forced labor unless importers prove otherwise “by clear and convincing evidence”	- Enforcement via U.S. Customs and Border Protection seizures - Rigorous evidence requirements - Burden of proof shifted to importers	- Major shift in U.S. trade law - Places forced labor prevention at the core of import policy - Representing a legal and policy breakthrough

Source: The author.

4.2. Strategic Enforcement of U.S. Customs Law

The United States’ use of customs legislation, notably the UFLPA, transcends the mere imposition of universal ethical standards on global supply chains. It constitutes a deliberate and calculated strategy aimed at curbing China’s industrial and technological rise by leveraging human rights as a potent geopolitical and economic instrument. While forced labor in Xinjiang is extensively documented (Crane, 2013), the stark contrast with the relative leniency toward other regions—such as Southeast Asia and Latin America—where similar abuses persist, exposes a pronounced double standard deeply embedded in policy discourse (LeBaron & Rühmkorf, 2017). These regions are systematically undervalued within U.S. policy frameworks, underscoring the selective nature of enforcement and regulatory priorities. The exclusion of specific countries reveals that the primary objective lies in protecting strategic interests in critical sectors like advanced technology and agriculture rather than promoting impartial and universal global justice. As such, the UFLPA functions less as a universal governance mechanism and more as a tool of asymmetrical influence, complicating corporate compliance efforts and subordinating ethical considerations to geopolitical imperatives and strategic calculations.

The electronics sector exemplifies the intricate interplay of geopolitical forces shaping global supply chains. Apple, as a leading importer of critical components into the United States, operates under heightened regulatory scrutiny, particularly regarding rare metals such as cobalt and tantalum—minerals frequently extracted under egregious labor conditions. Confronted with stringent requirements imposed by the UFLPA, Apple has been compelled to significantly enhance its traceability and auditing frameworks, a non-negotiable step to avert sanctions and secure continued access to the U.S. market. Such regulatory imperatives catalyze profound supply chain restructuring, often entailing elevated costs and protracted lead times, as documented in investigations into labor practices at Foxconn and the provenance of electronic materials (Sandoval, 2016). In parallel, Nike contends with the formidable complexity of its textile supply chains, where voluntary corporate codes fall short of preventing the resurgence of modern slavery and forced labor, particularly given the multilayered subcontracting that diffuses oversight (Caspersz *et al.*, 2022). The United States' integration of customs enforcement and ethical mandates transcends simple trade moralization, serving instead as a formidable instrument compelling firms within its jurisdiction to enshrine social responsibility as an indispensable strategic priority.

5. Discussion

The French and U.S. duty of care systems exemplify fundamentally contrasting paradigms, raising questions about the true capacity of national legislation to sustainably shape the governance of global supply chains. While both frameworks assert a shared goal of advancing social and environmental responsibility, their approaches are grounded in markedly different legal traditions and economic rationales. The French model, rooted in legal obligation, contrasts sharply with the U.S. preference for soft law and self-regulation (Carroll, 2021). This divergence also reflects opposing views on the State's role in structuring the global economic landscape. Comparative analysis thus demands moving beyond surface-level readings based on stated intentions to probe underlying tensions, geopolitical compromises, and their implications for genuine logistical justice. It reveals persistent normative fragmentation and underscores the urgent need for renewed dialogue on effective transnational regulatory mechanisms that engage diverse actors to guide public policy toward legal coherence, operational rigor, and social equity.

5.1. Unified Rhetoric Fragmented Practice

The juxtaposition of French and U.S. duty of care frameworks exposes fundamentally divergent models for managing global supply chains. The French system, characterized by a legalistic and preventive stance, primarily seeks to establish a normative framework that fosters multi-stakeholder dialogue, procedural compliance, and heightened corporate accountability. Yet, frequent formalistic enforcement and the absence of effective sanctions significantly limit its practical impact, as Bartley (2018) emphasizes. In contrast, the United States employs more coercive tools—such as customs restrictions and blacklists—designed to penalize human rights abuses and exert economic pressure, though geopolitical fluctuations dilute the strategy's systemic effectiveness (LeBaron & Rühmkorf, 2017). This institutional divergence generates a paradox: both frameworks face persistent challenges in ensuring full transparency across increasingly complex supply chains and meaningful worker participation. Without enhanced coordination bridging voluntary initiatives and binding regulations, governance at the global level will remain fragmented, obstructing progress toward truly effective, equitable, and universal CSR that transcends national interests and geopolitical considerations.

The dual regulatory impasse facing global supply chain governance demands a thorough reassessment of local stakeholders' meaningful participation. The literature highlights the shortcomings of top-down approaches that impose standards without adequate consultation, often failing to grasp the complex realities on the ground and undermining enforcement effectiveness (Gereffi, 2018). Fragmentation of norms also exposes the absence of coherent frameworks that integrate local imperatives within global supply chains, weakening national legal regimes' capacity to address the specific needs of affected communities (Bristol-Alagbariya, 2020). Bartley (2018) advocates for the active involvement of trade unions, NGOs, and impacted populations throughout all phases, from policy design to implementation. Shared governance based on transparency, ethical accountability, and inclusivity requires a fundamental rebalancing of power across global chains. For their part, Locke *et al.* (2007) demonstrate that strengthened auditing combined with recognition of workers' rights fosters tangible improvements. Without these structural changes, regulations risk remaining symbolic, incapable of delivering lasting logistical justice. Democratic and inclusive governance is therefore essential to overcome the operational challenges inherent in global supply chains.

5.2. Regulatory Failures Evolving Paradigms

The limitations inherent in both the French and U.S. duty of care frameworks have catalyzed a surge in regulatory initiatives aimed at addressing global supply chain governance more effectively. The European Corporate Sustainability Due Diligence Directive (CS3D), promulgated in the *Official Journal of the European Union* on July 5, 2024, stands as a landmark effort toward transnational harmonization. It imposes comprehensive due diligence obligations on large corporations, encompassing independent audits, enhanced traceability protocols, and sanction mechanisms for non-compliance. Concurrently, national legislation in Germany and the Netherlands reflects a burgeoning political resolve to advance responsible supply chain governance (De Marchi & Alford, 2022). Yet, these evolving frameworks remain vulnerable to well-documented challenges: excessive formalism, insufficient enforcement, and superficial engagement of workers and affected communities (Amengual, 2010). Absent robust political commitment, such mechanisms risk degenerating into symbolic gestures, exploited primarily for reputational management. The consequent danger lies in normative recycling, wherein new regulations perpetuate prior ineffectiveness by failing to dismantle structural asymmetries or to redefine shared responsibilities within global supply chains.

Although its limitations should not be underestimated, the CS3D unquestionably paves the way for a third regulatory paradigm, transcending the binary opposition between the French and U.S. models. By embedding vigilance within a transnational framework combining legal obligations and political harmonization, it establishes a hybrid European normative space that merges the French approach of legally binding vigilance plans with a heightened focus on enforcement and sanction mechanisms—elements reminiscent of, but not fully replicating, the U.S. coercive strategy. This hybrid framework aligns with Pirard *et al.* (2023) on “hybrid governance,” where public and private components compensate for each other’s weaknesses. Moreover, as Reyntjens (2016) emphasizes, integrating insights from legal pluralism and hybrid governance highlights how state and non-state norms can mutually reinforce each other, suggesting that CS3D’s transnational architecture could benefit from explicitly leveraging these complementarities. Through its supranational design, the directive fosters “*governance by integration*,” prevention, traceability, and control are embedded in common standards across the internal market while retaining national mechanisms for operational implementation. Its originality lies in reconciling normative constraints with political guidance, enabling practical convergences such as harmonized diligence requirements and trade facilitation conditioned on social and environmental compliance. Full realization requires rigorous implementation to prevent purely declarative formalism or geopolitical instrumentalization.

Abandoning the duty of care would signify relinquishing one of the few effective levers to regulate the social and environmental externalities generated by globalization. The goal is not to discard the existing paradigm, but to fundamentally reconceptualize it to unlock its full potential. Achieving this requires shifting away from a top-down approach focused on corporate compliance toward a more horizontal model that incorporates the perspectives and expertise of actors directly exposed to risks—local unions, workers’ associations, NGOs, and affected communities. Such a transformation demands an institutional overhaul grounded in deliberative, polycentric governance (Crane *et al.*, 2019), capable of harmonizing global norms with localized action. Additionally, regulatory frameworks must evolve to embed accessible, responsive, and restorative accountability mechanisms designed to rebuild trust among impacted populations (Baur & Palazzo, 2011). Constructing tangible logistical justice ultimately rests on the explicit acknowledgment of asymmetrical power relations inherent in supply chains, a prerequisite for transforming the duty of care from a mere moral obligation into a potent instrument of social change.

6. Conclusion

This article addresses a longstanding blind spot in global supply chain literature: the analytical divide between legal standards and managerial logics. Rejecting unilateral interpretations rooted solely in one perspective, it advances a transversal approach that integrates law, governance, and corporate strategy. Its originality stems not only from this intersection but also from the examination of structural tensions it uncovers, including fragmented temporalities, asymmetric legitimization processes, and divergent modes of action. Accordingly, the study moves beyond the sterile dichotomy between binding regulation and voluntary self-regulation by demonstrating how these frameworks intertwine, circumvent, and reconfigure one another in practice. Methodologically, it draws upon social science tools to interpret legal standards as situated practices rather than fixed entities. This conceptual shift enhances understanding of internal contradictions within vigilance systems while providing a renewed analytical lens to assess their practical effectiveness. Far from a normative argument, the article delivers

a critical mapping of actor dynamics, power relations, and the uneven impacts characterizing global supply chain governance.

At the theoretical level, the article advances a critical perspective on global supply chain governance by recognizing the coexistence of multiple normative regimes. It emphasizes that evaluating the effectiveness of legal systems cannot rely solely on compliance metrics or managerial adoption but must also account for broader relational dynamics, including interpretation, circumvention, and reappropriation. In doing so, the work contributes to ongoing debates on legal pluralism and standard-setting in a post-Westphalian global order. From a managerial standpoint, while some projections—such as the intensification of U.S. trade policy since January 2025 or the potential effects of the Lafarge trial later in 2025—draw on contemporary events, their purpose is primarily to illustrate structural trends and enduring institutional dynamics rather than to make definitive predictions. The analysis remains relevant even amid rapid developments, as it highlights recurring patterns of coordination, legitimization, and implementation in global supply chains. Within multinational corporations, law transcends being a mere external constraint; it functions as a strategic lever for coordination and structural integration when embedded in inclusive governance models. This shift requires evolving managerial competencies, including understanding standards, negotiating their application, and anticipating their varied impacts. Importantly, fostering sustained dialogue among corporate lawyers, CSR officers, and supply chain managers is essential to overcome fragmented due diligence approaches and to strengthen transparency and sustainability across global supply chains.

Bridging the persistent divide between law and management calls for several concrete strategies. First, developing hybrid governance mechanisms can facilitate a nuanced understanding of tensions between economic performance and regulatory demands. Second, integrating interdisciplinary modules into both initial and continuing education—covering litigation, ethical arbitration, and innovative contractual frameworks—would better equip professionals to navigate the complexities of global supply chain governance. Third, multinational corporations should actively engage in normative co-construction with local stakeholders, leveraging soft law, voluntary standards, and digital traceability technologies. Fourth, employing strategic analysis tools—such as competitive mapping and non-compliance risk modeling—would help clarify underlying tensions and foster constructive dialogue between legal and managerial domains. Such initiatives are not intended to reconcile fundamentally distinct fields, as evidenced by the persistent separation between law schools and business schools in most Western countries, which often limits students' exposure to cross-disciplinary problem-solving and legitimates “siloeed” way of thinking. Instead, they aim to build operational bridges that encourage shared regulation, collective accountability, and the integration of legal and managerial perspectives into coherent and actionable governance practices.

To reinforce the practical value of the recommendations, they can be illustrated with concrete examples. For instance, developing hybrid governance mechanisms could take the form of joint committees bringing together corporate lawyers, CSR managers, and union representatives to co-design sectoral vigilance plans that are responsive to local conditions, operational realities, and cultural specificities. Similarly, integrating interdisciplinary modules could involve hands-on training, combining simulations of international disputes, real-life case studies, and collaborative problem-solving exercises, as exemplified by initiatives such as the United Nations Global Compact, which equips professionals to navigate complex compliance and traceability issues in supply chains. Moreover, active engagement by multinational corporations with local stakeholders could take the form of collaborative audits, real-time digital monitoring platforms, and the systematic use of strategic tools, including sectoral risk maps, comparative analyses of non-compliance across subsidiaries, and social performance indicators integrated into management dashboards. Together, these illustrations show that coordinated practices among legal professionals, managers, and local actors can create global supply chain governance that is simultaneously more effective, fair, and sustainable.

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References

- Amengual, M. (2010). Complementary labor regulation: The uncoordinated combination of state and private regulators in the Dominican Republic. *World Development*, 38(3), 405–414. <https://doi.org/10.1016/j.worlddev.2009.09.007>
- Anonymous (2023). Policy as a one-legged stool: U.S. actions against supply chain forced labor abuses. *Harvard Law Review*, 136, 1700–1723. <https://harvardlawreview.org/print/vol-136/policy-as-a-one-legged-stool-u-s-actions-against-supply-chain-forced-labor-abuses/>
- Bair, J., & Palpacuer, F. (2015). CSR beyond the corporation: Contested governance in global value chains. *Global Networks*, 15(s1), S1–S19. <https://doi.org/10.1111/glob.12085>
- Barraud de Lagerie, P., Béthoux, E., & Mias, A. (2020). La mise en œuvre du devoir de vigilance: Une managérialisation de la loi? *Droit & Société*, 106, 699–714. <https://doi.org/10.3917/drs1.106.0699>
- Bartley, T. (2018). *Rules without rights: Land, labor, and private authority in the global economy*. Oxford: Oxford University Press.
- Baur, D., & Palazzo, G. (2011). The moral legitimacy of NGOs as partners of corporations. *Business Ethics Quarterly*, 21(4), 579–604. <https://doi.org/10.5840/beq201121437>
- Berning, L., & Sotirov, M. (2023). Hardening corporate accountability in commodity supply chains under the European Union deforestation regulation. *Regulation & Governance*, 17(4), 870–890. <https://doi.org/10.1111/rego.12540>
- Bhala, R. (2024). The forced labor revolution in U.S. international trade law. *International Lawyer*, 57(2), 387–411. https://www.americanbar.org/groups/international_law/resources/international-lawyer/57-2/forced-labor-revolution-us-international-trade-law/
- Bose, D. (2023). Decentring narratives around business and human rights instruments: An example of the French *devoir de vigilance* law. *Business & Human Rights Journal*, 8(1), 18–42. <https://doi.org/10.1017/bhj.2023.6>
- Bright, C., Marx, A., Pineau, N., & Wouters, J. (2020). Toward a corporate duty for lead companies to respect human rights in their global value chains? *Business & Politics*, 22(4), 667–697. <https://doi.org/10.1017/bap.2020.15>
- Bristol-Alagbariya, E.-T. (2020). Sustainable development: A soft law concept transforming SD-oriented initiatives of the UN system into hard law instruments in UN member-States and promoting partnerships around the globe. *Journal of Law, Policy & Globalization*, 94, 40–52. <https://doi.org/10.7176/JLPG/94-06>
- Buhmann, K. (2015). Business and human rights: Understanding the UN guiding principles from the perspective of transnational business governance interactions. *Transnational Legal Theory*, 6(2), 399–434. <https://doi.org/10.1080/20414005.2015.1073516>
- Camy, J. (2022). *La diligence des sociétés transnationales en matière de droits fondamentaux: Etude de droit français et de droit anglais (devoir de vigilance et duty of care)*. Unpublished doctoral dissertation, Paris Nanterre University.
- Carbonnier, C., & Palier, B. (2022). Les désajustements de l'Etat social. *Gestion & Finances Publiques*, 1(1), 32–42. <https://doi.org/10.3166/gfp.2022.1.005>
- Carroll, A. (2021). Corporate social responsibility: Perspectives on the CSR construct's development and future. *Business & Society*, 60(6), 1258–1278. <https://doi.org/10.1177/00076503211001765>
- Caspersz, D., Cullen, H., Davis, M., Jog, D., McGaughey, F., Singhal, D., Sumner, M., & Voss, H. (2022). Modern slavery in global value chains: A global factory and governance perspective. *Journal of Industrial Relations*, 64(2), 177–199. <https://doi.org/10.1177/00221856211054586>
- Chebo, A., Dhliwayo, S., & Batu, M. (2024). The linkage between global financial crises, corporate social responsibility and climate change: Unearthing research opportunities through bibliometric reviews. *Frontiers in Climate*, 6, Article 1388444. <https://doi.org/10.3389/fclim.2024.1388444>
- Coglianesse, C. (2020). Environmental soft law as a governance strategy. *Jurimetrics*, 61(1), 19–51. <https://www.jstor.org/stable/27010045>
- Crane, A. (2013). Modern slavery as a management practice: Exploring the conditions and capabilities for human exploitation. *Academy of Management Review*, 38(1), 49–69. <https://doi.org/10.5465/amr.2011.0145>

- Crane, A., Matten, D., Glozer, S., & Spence, L. (2019). *Business ethics: Managing corporate citizenship and sustainability in the age of globalization* (5th ed.). Oxford: Oxford University Press.
- da Graça Pires, C., & Schönfelder, D. (2025). Mandatory human rights and environmental due diligence in practice: Key insights from France and Germany. *Revista Española de Empresas y Derechos Humanos*, 4, 3–8. <https://doi.org/10.69592/3020-1004-N4-ENERO-2025-ART1>
- D'Aveni, R. (1994). *Hypercompetition: Managing the dynamics of strategic maneuvering*. New York: The Free Press.
- Dehbi, F., & Martin-Ortega, O. (2023). An integrated approach to corporate due diligence from a human rights, environmental, and TWAIL perspective. *Regulation & Governance*, 17(4), 927–943. <https://doi.org/10.1111/regg.12538>
- De Marchi, V., & Alford, M. (2022). State policies and upgrading in global value chains: A systematic literature review. *Journal of International Business Policy*, 5(1), 88–111. <https://doi.org/10.1057/s42214-021-00107-8>
- Deva, S. (2023). Mandatory human rights due diligence laws in Europe: A mirage for rightsholders? *Leiden Journal of International Law*, 36(2), 389–414. <https://doi.org/10.1017/S0922156522000802>
- Deva, S., & Bilchitz, D., eds. (2013). *Human rights obligations of business: Beyond the corporate responsibility to respect?* New York: Cambridge University Press.
- Eliantonio, M., & Korkea-aho, E. (2023). Soft law. In Smits, J., Husa, J., Valcke, C., & Narciso, M. (eds.), *Elgar encyclopedia of comparative law* (pp. 418–424). Cheltenham: Edward Elgar.
- Gereffi, G. (2018). *Global value chains and development: Redefining the contours of 21st century capitalism*. New York: Cambridge University Press.
- Greenfield, V., Sytsma, T., Kerrigan, A., Buenaventura, M., Patel, K., Steiner, M., Meredith, M., Scruggs, A., Hoak, L., Giglio, K., Hicks, D., & Welburn, J. (2025). *Forced labor in global supply chains: Trade enforcement impacts and opportunities*. Pentagon City, VA: Homeland Security Operational Analysis Center.
- Gustafsson, M.-T., Schilling-Vacaflor, A., & Lenschow, A. (2023). Foreign corporate accountability: The contested institutionalization of mandatory due diligence in France and Germany. *Regulation & Governance*, 17(4), 891–908. <https://doi.org/10.1111/regg.12498>
- Haverland, A. (2022). Comment fonctionnent les contrôles sanitaires dans l'agroalimentaire? *L'Usine Nouvelle*, October 22. <https://www.usinenouvelle.com/article/dans-le-viseur-apres-les-affaires-buitoni-kinder-et-lactalis-comment-fonctionnent-les-contrôles-sanitaires-dans-l-agro.N1992962>
- LeBaron, G. (2018). *The global business of forced labour: Report of findings*. Sheffield: SPERI & University of Sheffield.
- LeBaron, G., & Rühmkorf, A. (2017). Steering CSR through home state regulation: A comparison of the impact of the UK bribery act and modern slavery act on global supply chain governance. *Global Policy*, 8(S3), 15–28. <https://doi.org/10.1111/1758-5899.12398>
- Locke, R. (2013). *The promise and limits of private power: Promoting labor standards in a global economy*. New York: Cambridge University Press.
- Locke, R., Qin, F., & Brause, A. (2007). Does monitoring improve labor standards? Lessons from Nike. *ILR Review*, 61(1), 3–31. <https://doi.org/10.1177/001979390706100101>
- Merminod, N., & Paché, G. (2011). Supply management and corporate social responsibility: The challenge of global chain traceability. *Journal on Chain & Network Science*, 11(3), 213–222. <https://doi.org/10.3920/JCNS2011.x201>
- Muñoz, A.-C. (2022). La complicidad empresarial en crímenes internacionales a la luz del Estatuto de Roma (a propósito del Caso Lafarge). *Eunomia: Revista en Cultura de la Legalidad*, 22, 188–209. <https://doi.org/10.20318/eunomia.2022.6812>
- Nyekwere, E.-H., Okogbule, I., & Agwor, D. (2022). Understanding the principles of international environmental law and their reflections in international environmental treaties and non-binding soft law instruments. *Journal of Law, Policy & Globalization*, 123, 73–95. <https://doi.org/10.7176/JLP/123-08>
- Pirard, R., Pacheco, P., & Romero, C. (2023). The role of hybrid governance in supporting deforestation-free trade. *Ecological Economics*, 210, Article 107867. <https://doi.org/10.1016/j.ecolecon.2023.107867>

- Reviglio, M. (2023). The shift to soft law at Europe borders: Between legal efficiency and legal validity. *Global Jurist*, 23(1), 23–41. <https://doi.org/10.1515/gj-2022-0040>
- Reyntjens, F. (2016). Legal pluralism and hybrid governance: Bridging two research lines. *Development & Change*, 47(2), 346–366. <https://doi.org/10.1111/dech.12221>
- Ruggie, J. (2013). *Just business: Multinational corporations and human rights*. New York: W. W. Norton & Company.
- Ruhmkorf, A. (2018). Global supply chain governance: The search for “what works.” *Deakin Law Review*, 23, 63–82. <https://doi.org/10.21153/dlr2018vol23no0art806>
- Sachs, T., & Tricot, J. (2020). The French law on corporate duty of vigilance: Rethinking corporate governance? *Droit & Société*, 106, 683–698. <https://doi.org/10.3917/drs1.106.0683>
- Sandoval, M. (2016). Foxconned labour as the dark side of the information age: Working conditions as Apple’s contract manufacturers in China. In Fuchs, C., & Mosco, V. (eds.), *Marx in the age of digital capitalism* (pp. 350–395). Leiden: Brill.
- Savourey, E., & Brabant, S. (2021). The French law on the duty of vigilance: Theoretical and practical challenges since its adoption. *Business & Human Rights Journal*, 6(1), 141–152. <https://doi.org/10.1017/bhj.2020.30>
- Schilling-Vacaflor, A. (2021). Putting the French duty of vigilance law in context: Towards corporate accountability for human rights violations in the global South? *Human Rights Review*, 22, 109–127. <https://doi.org/10.1007/s12142-020-00607-9>
- Schmidt, G., & Kasznár, A. (2024). The Lafarge group—A short case study. *Gradus*, 11(2), 1–5. <https://doi.org/10.47833/2024.2.ECO.021>
- Sequeira, B. (2021). The Lafarge case: Tackling corporate impunity in the battlefield. *Revista Eletrônica de Direito*, 26(3), 87–107. <https://cij.up.pt/en/red/previous-editions/the-lafarge-case-tackling-corporate-impunity-in-the-battlefield/>
- Shaffer, G., & Pollack, M. (2012). Hard and soft law. In Dunoff, J., & Pollack, M. (eds.), *Interdisciplinary perspectives on international law and international relations: The state of the art* (pp. 197–222). New York: Cambridge University Press.
- Sherpa (2021). *Creating a public authority to enforce the duty of vigilance law: A step backward?* Paris: Policy Brief.
- Sipilä, J., Alavi, S., Edinger-Schons, L., Dörfer, S., & Schmitz, C. (2021). Corporate social responsibility in luxury contexts: Potential pitfalls and how to overcome them. *Journal of the Academy of Marketing Science*, 49(2), 280–303. <https://doi.org/10.1007/s11747-020-00755-x>
- Terpan, F. (2015). Soft law in the European Union—The changing nature of EU law. *European Law Journal*, 21(1), 68–96. <https://doi.org/10.1111/eulj.12090>
- Utting, P. (2005). *Rethinking business regulation: From self-regulation to social control*. Geneva: U.N. Research Institute for Social Development.
- Vogel, D. (2010). The private regulation of global corporate conduct: Achievements and limitations. *Business & Society*, 49(1), 68–87. <https://doi.org/10.1177/0007650309343407>
- Wilhelm, M. (2024). Mandatory due diligence legislation: A paradigm shift for the governance of sustainability in global value chains? *Journal of International Business Policy*, 7(4), 459–465. <https://doi.org/10.1057/s42214-024-00193-4>
- Young, M. (2021). Lafarge’s case cemented: Holding corporations liable for crimes against humanity. *Emory International Law Review Recent Developments*, 36, 1–13. <https://scholarlycommons.law.emory.edu/eilr-recent-developments/33>
- Zweigert, K., & Kötz, H. (1997). *An introduction to comparative law* (3rd ed.). Oxford: Oxford University Press.