



Comprehensive legal framework for the FTAR industry? Survey of Code of Federal Regulations based on FTAR supply chain functions

Seong Eun Kim and Jung E. Ha-Brookshire
University of Missouri

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The concrete and stabilized legal framework help corporations run their business with certainty (Posener, 1998). However, no independent law system governs the fiber-textile-apparel-retail (FTAR) industry at the federal or state levels in the United States. There are many legal obstacles and confusing legal supports, especially when a new type of business comes out in the FTAR industry (Ki et al., 2020) because of the absence of a uniform legal system that governs the industry (Lehmann, 2017). In the United States, the Code of Federal Regulations (CFR), a federal codification system published by the Federal Register, provides an overarching legal frame for all kinds of businesses or industrial activities (McKinney, 2002); however, little research has been done with reviewing the CFR provisions to identify the legal regulations that FTAR supply chain functions must abide by.

The global supply chain management (GSCM) theory claims that the supply chain of the FTAR industry is highly globalized and fragmented to satisfy consumers needs and wants (Ha-Brookshire & Hawley, 2013). It also illustrates the specific objectives of the supply chain functions (SCF), from forecasting the trend to retailing, calling for inter-functional and inter-organization coordination within the processes. Meanwhile, the legal scholars argue a comprehensive legal framework is necessary for the entire SCF to conduct business operations to be smooth and legally compliant (Posener, 1998). Given the nature of the global and fragmented supply chain, the legal framework that governs the FTAR industry is also complicated, fragmented and ineffective. The fragmented legal system has been found to be ineffective as seen in global finance industry (Lehmann, 2017), and such system eventually increases social costs and, hurt both company and people (Polinsky & Shavell, 2007). Then, what is the overarching legal framework for the US FTAR industry? To answer this question, as the first step, this study focused on surveying US Federal CFRs to identify the federal regulations that the US FTAR business must consider. Specifically, this study had three research questions (RQs): (a) which CFRs the US FTAR business must abide by? (b) which SCFs are governed by the CFRs? (c) which SCFs are the most or the least governed by the CFRs?

For the aforementioned three research questions, the study conducted the directed content analysis of CFRs that govern the US FTAR industry (Title 1 to Title 50 and a total of 303,413

pages as of March 2022 publications available online). Directed content analysis technique is used when the authors seek to verify or extend a theoretical framework, i.e., GSCM SCFs in this study (Hsien & Shannon, 2005). The provisions of the relevant CFRs were categorized into each SCF, from the title to subpart level, according to the scope and purpose of each provision. During this process, the study excluded the legal provisions for overall business operations, such as employment, tax, and administration, because they are unique to the FTAR industry. Throughout the analysis, two researchers discussed the classification of the CFR code into SCF to reach unanimous agreement.

For the RQ(a), 138 provisions were selected and applied to each SCF and 30 were applied in duplicate, resulting in 108 unique provisions. Specifically, 10 out of 50 titles were applicable to US FTAR business (see Table 1). Overall, two sub-themes emerged: (a) consumer protection (n= 68), and (b) environmental protection (n= 40). The consumer protection theme protects the consumers from possible fraud, product harm, and misleading information. The environmental protection theme focused on the public's well-being by protecting the air, water, land, oceans, fisheries, and wildlife (i.e., common-pool resources). For the RQ(b), four out of seven SCFs seemed to be governed by CFRs: (a) sourcing/production, (b) retailing/distribution, (c) merchandising, and (d) product development (see Table 1). For the RQ(c), the frequencies CFR provisions showed that, sourcing/production was the most frequently governed by CFRs (n= 73) and merchandising and product development were the least (n= 14, each).

The further analysis showed that the US legal systems are primarily interested in consumer protection throughout the entire FATR consumption process. The federal legal system protects the consumers so that they can purchase the products with correct information and use them safely through these regulations. When it comes to environmental protection, however, only two SCFs were regulated: (a) sourcing/production and (b) retailing/distribution. These are critical SCFs, given they are closely related to raw material production and logistics coordination, all of which have huge implications for environmental issues for public well-being.

This study explored the breadth of the legal framework that the US FTAR industry must abide by from the perspective of the FTAR study. The findings offer several advantages to the industry members and educators. First, sourcing managers and educators who teach sourcing would need to pay attention to environment-related legal provisions carefully, especially during raw material production and logistic functions. Second, retailers and merchandisers should be aware of the importance of accurate selling information and product descriptions to avoid any potential fraud. Third, product developers should be equipped with the legal processes to propose and maintain intellectual properties and protect their business from any infringement. As much as this study provides a broader view of the US FTAR legal framework, in-depth legal analysis was not offered. Therefore, future research is recommended to delve into the specific legal conflicts or issues that US FTAR businesses may encounter regularly.

Table 1 Descriptions of the CFR classification according to the SCF

Beneficiaries	CFR titles	Supply Chain Functions in GSCM theory			
		S/P	R/D	M	PD
Consumer (n = 68)	Title 15. Commerce and Foreign Trade	3	3	-	-
	Title 16. Commercial Practices	25	24	11	-
	Title 25. Indians	5	1	3	-
	Title 37. Patents, Trademarks, and Copyrights	-	1	-	14
Environment (n=40)	Title 7. Agriculture	8	-	-	-
	Title 9. Animal and Animal Products	1	-	-	-
	Title 10. Energy	4	1	-	-
	Title 39. Postal Service	3	3	-	-
	Title 40. Protection of Environment	23	4	-	-
	Title 50. Wildlife and Fisheries	1	-	-	-
	Total (N = 108)	73	37	14	14

S/P = Sourcing/Production, R/D = Retailing/Distribution, M = Merchandising, PD = Product Development

References

- Ha-Brookshire, J. E., & Hawley, J. M. (2013). Envisioning the clothing and textile-related discipline for the 21st century its scientific nature and domain from the global supply chain perspective. *Clothing and Textiles Research Journal*, 31(1), 17-31. doi.org/10.1177/0887302X12470024
- Hsieh, H. F., & Shannon, S. E. (2005). Three approaches to qualitative content analysis. *Qualitative Health Research*, 15(9), 1277-1288. doi.org/10.1177/1049732305276687
- Ki, C. W., Chong, S. M., & Ha-Brookshire, J. E. (2020). How fashion can achieve sustainable development through a circular economy and stakeholder engagement: A systematic literature review. *Corporate Social Responsibility and Environmental Management*, 27(6), 2401-2424. doi.org/10.1002/csr.1970
- Lehmann, M. (2017). Legal Fragmentation, Extraterritoriality and Uncertainty in Global Financial Regulation. *Oxford Journal of Legal Studies*, 37(2), 406-434. doi.org/10.1093/ojls/gqw028
- McKinney, R. J. (2002). A research guide to the Federal Register and the Code of Federal Regulations. *Law Library Lights*, 46(1). 10-15.
- Polinsky, A. M., & Shavell, S. (2007). The theory of public enforcement of law. *Handbook of Law and Economics*, 1(2007), 403-454. doi.org/10.1016/S1574-0730(07)01006-7
- Posner, R. A. (1998). Creating a legal framework for economic development. *The World Bank Research Observer*, 13(1), 1-11. doi.org/10.1093/wbro/13.1.1