



Questions and Answers: Prohibition of products made by forced labour in the Union Market

Brussels, 14 September 2022

STATE OF THE UNION 2022

What is forced labour?

Forced labour is defined by the International Labour Organization (ILO) as *"all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily."*

It refers to situations in which persons are coerced to work through the use of violence or intimidation, or by more indirect means such as manipulated debt, retention of identity papers or threats of denunciation to immigration authorities.

Why is this initiative needed?

Forced labour, including forced child labour, continues to be a major global issue, with the ILO estimating the global number of people in a situation of forced labour at around 27.6 million. Combating forced labour and promoting responsible business practices are priorities of the EU's agenda on business and human rights.

The EU is already very active in promoting decent work and freedom from forced labour through a variety of internal and external policies, and international partnerships, including in the ILO, World Trade Organization (WTO) and G7. For instance, the EU Charter of Fundamental Rights explicitly prohibits forced labour, and the EU has a several pieces of legislation in place or in preparation that address this issue (e.g. Directive 2011/36/EU on human trafficking; Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals or the Commission's proposal for a directive on corporate sustainability due diligence). Furthermore in 2021, the Commission and the European External Action Service issued [guidance](#) to assist EU businesses in taking appropriate measures to address the risk of forced labour in their operations and supply chains, based on international standards.

The continued existence of forced labour illustrates, however, the need for additional measures, also aimed at products. The Commission is therefore proposing to complement this set of existing and pending measures with legislation that specifically prohibits the placing of forced labour products on the EU market.

What is the planned scope for this new legislative instrument?

The [legislative proposal](#) will effectively prohibit the placing on the EU market of products made with forced labour, as well as their export from the EU.

Forced labour takes place in many industries and in every continent in the world, including Europe. The majority of it takes place in the private sector, some of it is imposed by States. The aim of the proposal is not to target specific countries, companies or industries, but rather to effectively ban the selling of forced labour goods in the EU, irrespective of the source. Therefore, the proposal covers all products made available within the EU market, meaning both products made in the EU for domestic consumption and for export, as well as imported goods.

Are some sectors more affected by forced labour than others?

Forced labour is found in a large number of sectors. Some service sectors, textiles, mining and

agriculture are among the sectors where forced labour has frequently been reported. All industry sectors are covered by this initiative.

Who will enforce the forced labour instrument?

EU Member States will be required to designate competent authorities responsible for implementing and enforcing the Regulation, with the necessary powers and resources. The Commission will support Member States for instance by ensuring the availability of a public database, efficient coordination among the Member States' competent authorities and by issuing guidelines.

Member States' customs authorities will be in charge of enforcement at the EU borders. They will rely on the decisions by Member States' competent authorities to identify the products concerned and carry out controls for imports and exports.

How will the forced labour instrument work in practice?

The investigative process will be carried out in two phases. In the preliminary phase, the authorities assess if there are well-founded reasons to suspect that products have been likely made with forced labour. If they determine that there is a substantiated concern of forced labour, they will proceed to the investigation phase.

Competent authorities will in all phases have to follow a risk-based approach. It means that they should focus their enforcement efforts where they are likely to be most effective, namely on the economic operators involved in the steps of the value chain as close as possible to where the risk of forced labour is likely to occur. They should also take into account the size and economic resources of the economic operators, the quantity of products concerned, as well as the scale of suspected forced labour.

In carrying out investigations, competent authorities will examine all the information available to them. This includes: independent and verifiable information on risks that forced labour has been used in the production process; information on market surveillance and compliance of products shared by other Member States; submissions made by third parties including civil society; information on whether a company carries out forced labour due diligence in its operations and supply chains.

Which tools will be made available for authorities and companies?

The Regulation also provides for the creation of a database of forced labour risk areas or products. Furthermore, a new platform (EU Forced Labour Product Network) will be created to ensure structured coordination and cooperation between competent authorities and the Commission.

The Commission will also support companies by issuing guidelines, which could include guidance on due diligence and advice on where and how to detect forced labour in their supply chains.

Are SMEs excluded from these rules?

The Regulation focuses on products, irrespective of the size of the companies involved. However, the Commission is well aware of the particular situation of SMEs and has taken this into account both in the design and enforcement of the Regulation. For example, competent authorities will take into account the size and resources of the companies when carrying out their assessments and investigations. The Commission also anticipates that there will be a need to support SMEs with guidelines, which could include guidance on how to carry out various steps of due diligence in relation to forced labour, and how to ensure consistency with requirements under other relevant EU legislation.

What happens if companies do not comply with the new rules?

If the authorities have established that a product was made by forced labour, it cannot be sold in the EU, or exported from the EU. In case the product is already on the market, the company in question will be required to withdraw it from the market. It will also be required to dispose of the products. The economic operator concerned will bear the costs of disposing of the prohibited product. This will provide a strong deterrent and incentive for companies to comply. Furthermore, if a company does not follow the decision of a Member State under this Regulation, they face penalties under national law.

What are the benefits for citizens?

Social justice is an issue close to the heart of European citizens. According to the [2021 Eurobarometer on social issues](#), nine in ten Europeans consider a social Europe to be important to them personally. One of the most key issues singled out by respondents was fair working conditions. At the same time, 71% of respondents see a lack of social rights as a serious problem. There is

therefore an expectation that the EU should act in order to ensure the respect of labour rights and other human rights.

Once the new Regulation will be in force, European consumers will feel more confident that the products that they are buying have not been made using forced labour.

What are the benefits for companies?

Businesses will benefit from increased public trust and credibility to customers, as well as lower reputational and brand risk. Social sustainability will be enhanced and a coherent set of rules across the EU will be easier for companies to follow.

What are the costs for companies?

Companies of all sizes have increasingly invested in transparency of their supply chain, which is a key tool for identifying whether or not there is a risk of forced labour. The costs will vary depending on the size of the company, the sector and on the supply chain for a given company. Normally, the costs will relate to the procedures needed to monitor the supply chain, administrative costs for engaging with competent authorities and customs authorities.

What is the expected impact on forced labour worldwide?

The new instrument will introduce a prohibition on placing on the EU market products made with forced labour, no matter where they are made. The prohibition will therefore contribute to the international efforts to eradicate forced labour. As for companies, the Regulation will act as an additional incentive to ensure that their supply chains are forced-labour free.

Are there international standards concerning workers' rights?

ILO standards on forced labour (Conventions 29 on Forced Labour and 105 on Abolition of Forced Labour, together with the 2014 Protocol to Convention 29 and ILO Recommendation 203 Of 2017) are the main standards at the international level to combat this scourge. Their implementation is supported by an extensive ILO Business Network for Forced Labour, and well-targeted technical assistance. Other relevant international standards cover responsible business conduct more generally, and include the UN Guiding Principles on Business and Human Rights and the Organisation for Economic Co-operation and Development (OECD) Guidelines on Multinational Enterprises and Due Diligence. Furthermore, the above-mentioned forced labour business guidance issued by the Commission and the European External Action Service explains the practical aspects of due diligence and provides an overview of EU and international instruments on responsible business conduct that are relevant for combatting forced labour.

What is the relationship between this legislation and due diligence legislation?

The Commission's proposal for a [directive on corporate sustainability due diligence](#) addresses corporate behavior and due diligence processes for the companies falling in its scope. The proposal focuses on establishing a system within company law and corporate governance to address human rights and environmental abuses in companies' own operations, their subsidiaries' operations and their value chains. Companies are required to engage with business partners in their value chains to remedy the violations. While the proposal includes sanctions in case of non-compliance with the due diligence obligations, it does not require Member States or companies to prohibit the placing and making available of any product on the market.

By contrast, the forced labour proposal will effectively prohibit the placing on the EU market of products made with forced labour, as well as their export from the EU.

Though different, the two proposals are interlinked. If a company has carried out effective due diligence on its supply chains, such that they mitigate, prevent and bring to an end risks of forced labour, this will be taken into account by the competent authorities when they assess whether there is a well-founded suspicion that a product is likely to have been made with forced labour.

Is the Commission cooperating with partners/international organisations?

Forced labour is a global problem and the efforts to combat it need to rely on international cooperation. We are already cooperating with partners and with international organisations on the global fight against forced labour.

In coherence with this, the proposal includes an article on international cooperation to support the implementation of the market prohibition by means of dialogue with third countries. In particular, the Commission has proposed to use existing dialogue structures – such as the Human Rights Dialogues with third countries – or others to be created ad hoc as frameworks to engage and cooperate with authorities of non-EU countries.

Furthermore, the Commission will maintain its current strong cooperation and level of engagement with international organisations, governments of third countries, civil society representatives and business organisations.

To support the efforts of companies and partner countries, the Commission will propose the adoption of accompanying measures and to reinforce the local capacity in tackling forced labour.

QANDA/22/5416

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