

Understanding the EU Forced Labour Regulation

Assessment
and
recommendations

ECCHR



Introduction

- 2 Background
- 2 Our reflections on the Regulation
- 4 Glossary

Implementation timeline

- 5 Entry into force and date of application
- 5 Commission guidelines
- 6 Review of the Regulation

How the Regulation works

- 7 Subject matter and scope
- 7 Forced Labour Single Portal
- 8 Single information submission point
- 8 Risk database
- 9 Investigations and evidentiary standards
- 15 International cooperation
- 15 Relationship between the CSDDD and the Regulation

Evaluation and recommendations

- 17 Stakeholder engagement
- 19 Remediation
- 20 Responsible disengagement
- 21 Disclosure of supply chains and EU customs data

Conclusion

22

Introduction

Background

The European Union’s Regulation on prohibiting products made with forced labour on the EU market (otherwise known as the Forced Labour Regulation) entered into force on 13 December 2024.¹ It bans the sale, import and export of goods made using forced labour.

The International Labour Organization (ILO) estimates that globally there are 17.3 million people in forced labour in the private sector and 3.9 million people in state-imposed forced labour at any given time.² Although some companies voluntarily work to identify and prevent the risk of forced labour in their value chains, many do not or do not do so effectively. Such patchy and inconsistent efforts are unable to adequately tackle the pervasive and global problem of forced labour. Countries now increasingly recognise the need to implement bans on products made with forced labour.³ The EU Forced Labour Regulation is part of this global shift towards targeted action to eliminate forced labour in global supply chains.

Many of the root causes of forced labour are systemic, linked to poverty, discrimination and social exclusion.⁴ Weak rule of law and restrictions on freedom of association make it difficult for workers to raise concerns and assert their rights. Yet certain business models and practices exacerbate the problem by creating demand for forced labour, and so companies continue to profit from forced labour. In 2024, the ILO published data on the total annual illegal profits generated from privately imposed forced labour exploitation: \$63.9 billion, which equates to \$3687 illegal profit per victim.⁵ The same research outlines that the total illegal gains from forced labour “appear to have risen dramatically over the last decade”.⁶

Targeted action is needed to eliminate forced labour, protect the most vulnerable groups and effectively address the root causes of forced labour.⁷ Import controls can be a powerful tool to encourage companies to carry out due diligence to prevent forced labour at both direct and indirect business partners, as well as to end and remediate identified cases of forced labour. Seizing products suspected of being made with forced labour can act as a strong incentive for companies to act swiftly, and cutting off market access can be a strong driver of meaningful action.

Since 2021, Anti-Slavery International and the European Center for Constitutional and Human Rights (ECCHR) have been advocating for the EU to introduce import controls to block or seize goods made or transported in whole or in part with forced labour, including forced labour of children. As part of our advocacy in this area, we published a [model law](#) with the key elements that would create a worker-centred Regulation, analysis on [evidentiary standards](#), an initial [position paper](#), as well as a [submission of evidence](#) to the European Commission.

Our reflections on the Regulation

Anti-Slavery International and ECCHR welcome the Regulation blocking products made by forced labour. Given that the EU single market is the world’s largest consumer market, the Regulation has the potential to influence business practices globally, to prevent forced labour, improve the lives of workers worldwide, and stop companies profiting from forced labour in their supply chains.

1 Regulation (EU) 2024/3015 on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937 [2024] OJ L 12.12.2024, available at: eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024R3015 (accessed 12 December 2024).

2 ILO, Walk Free, and IOM, ‘Global Estimates of Modern Slavery: Forced Labour and Forced Marriage’ (September 2022), available at: www.ilo.org/publications/major-publications/global-estimates-modern-slavery-forced-labour-and-forced-marriage (accessed 29 October 2024).

3 The US, Mexico and Canada have already introduced legislation to ban products made with forced labour.

4 For an analysis of root causes of forced labour, see: Genevieve LeBaron, Neil Howard, Cameron Thibos, and Penelope Kyritsis, ‘Confronting the root causes: forced labour in global supply chains’ (Open Democracy, 19 March 2019), available at: cdn-prod.opendemocracy.net/media/documents/Confronting_Root_Causes_Forced_Labour_In_Global_Supply_Chains.pdf (accessed 27 November 2024).

5 ILO, ‘Profits and poverty: The economics of forced labour’ (March 2024) pg. 15, available at: ilo.org/publications/major-publications/profits-and-poverty-economics-forced-labour (accessed 29 October 2024).

6 ILO, ‘Profits and poverty: The economics of forced labour’ (March 2024) pg. 13, available at: ilo.org/publications/major-publications/profits-and-poverty-economics-forced-labour (accessed 29 October 2024).

7 For an analysis of root causes of forced labour, see: Open Democracy, ‘Confronting root causes: forced labour in global supply chains’ (19 March 2019), available at: opendemocracy.net/en/beyond-trafficking-and-slavery/confronting-root-causes/ (accessed 20 November 2024).

The Regulation will address a significant gap in the EU legislative framework, as there has previously been no instrument in the EU that prohibits the market flow of products made with forced labour. It will also be a complementary instrument to the EU Corporate Sustainability Due Diligence Directive (CSDDD).⁸ [see → [Relationship between the CSDDD and the Regulation](#)]

Opportunities to ensure positive impact

This analysis is intended to inform the work of civil society organisations and allies active in this sector. It aims to help them advocate for the effective implementation of the Regulation and support enforcement of the prohibition of forced labour goods. Our analysis explains the provisions included in the final text and outlines what still needs to be done in terms of implementation. This paper is focused on the next three years to the point of full implementation.

We have identified weaknesses within the text of the law which should be addressed in implementation and guidelines. These weaknesses also serve to guide monitoring of the legislation to identify challenges in implementation in order to inform future reviews of the legislation.

What is state-imposed forced labour?

State-imposed forced labour means forced labour imposed by state authorities as described in Article 1 of the ILO Convention on the Abolition of Forced Labour, 1957 (No. 105). State-imposed forced labour includes the use of forced labour as punishment for the expression of political views, for the purposes of economic development, as a means of labour discipline, as punishment for participation in strikes or as a means of racial, religious or other discrimination.

Import controls are crucial in relation to state-imposed forced labour to pressure perpetrating governments to end such practices, including by having their products banned from the EU market. However, the Regulation does not go far enough. For example, it doesn't explicitly provide for regional bans or bans to specific entities or groups of entities. The result is a product-by-product approach which risks having an insufficient impact on perpetrating governments.

It does not include a rebuttable presumption of forced labour for products originating from contexts/ industries where there is state-imposed forced labour. This approach is particularly insufficient and limited for addressing the widespread and systemic scale and nature of state-imposed forced labour, and creates an additional burden on enforcement entities to meet the evidentiary standard. The Commission and Member States therefore should look to address these limitations through implementation and enforcement of the Regulation, for example through use of the risk database. [see → [Risk database](#)]

Recital 3 of the Regulation⁹ welcomingly states that the eradication of forced labour in all its forms, including state-imposed forced labour, is a priority for the EU. State-imposed forced labour, and how the Regulation accounts for it, is therefore pertinent. As such, specific state-imposed forced labour boxouts for key elements are provided at key points throughout the analysis.

⁸ Directive (EU) 2024/1760 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859 [2024] OJ L, 5.7.2024, available at: eur-lex.europa.eu/eli/dir/2024/1760/oj (accessed 18 December 2024).

⁹ Recitals outline the reasons for the provisions (articles) within the Regulation and can provide authoritative interpretation.

Glossary

Forced labour

ARTICLE 2(1)

Forced or compulsory labour as defined in Article 2 of ILO Convention No 29, including forced child labour.

State-imposed forced labour

ARTICLE 2(2)

The use of forced labour as described in Article 1 of ILO Convention No 105.

Due diligence in relation to forced labour

ARTICLE 2(3)

Efforts by economic operators to implement mandatory requirements, voluntary guidelines, recommendations or practices to identify, prevent, mitigate or bring to an end the use of forced labour with respect to products that are to be placed or to be made available on the Union market or to be exported.

Product made with forced labour

ARTICLE 2(7)

A product for which forced labour has been used in whole or in part at any stage of its extraction, harvest, production or manufacture, including in the working or processing related to a product at any stage of its supply chain.

Supply chain

ARTICLE 2(8)

The system of activities, processes and actors involved at all stages upstream of a product being made available on the market, namely the extraction, harvesting, production and manufacturing of a product in whole or in part, including in the working or processing related to the product at any of those stages.

Economic operator

ARTICLE 2(9)

Any natural or legal person or association of persons placing or making available products on the Union market or exporting products.

[In this paper we refer to business/businesses or company/companies, rather than economic operator(s). For the purposes of this paper, these terms are considered to have the same meaning.]

Substantiated concern

ARTICLE 2(16)

A reasonable indication based on objective, factual and verifiable information for the Commission or competent authorities to suspect that it is likely that a product was made with forced labour.

Lead competent authority

ARTICLE 2(17)

The authority responsible, pursuant to Article 15 (Allocation of investigations), for assessing submissions of information, conducting investigations, and taking decisions, namely a Member State competent authority or the Commission.

Remediation

RECITAL 36

The restitution of the affected person or persons or communities to a situation equivalent or as close as possible to the situation they would be in had forced labour not occurred, proportionate to the company's implication in the forced labour, including financial or non-financial compensation provided by the company to a person or persons affected by forced labour and, where applicable, reimbursement of the costs incurred by public authorities for any necessary remedial measures.

Implementation timeline

Entry into force and date of application

The Regulation entered into force on 13 December 2024. However, only a few provisions apply from this date.¹⁰ The entirety of the Regulation will apply on 14 December 2027, three years after entry into force.¹¹ This means that the point at which any forced labour products will start to be banned from the EU market will be from 14 December 2027.

Although the Regulation has entered into force, there is still some way to go before it is fully implemented. The Regulation will be directly applicable in all EU Member States, but the Regulation will take full effect after three years and the enforcement can begin only then. Meanwhile, Member States need to designate “competent authorities” which will have the responsibility to oversee implementation and enforcement of the Regulation, and the European Commission needs to draft “implementing and delegated acts” and draw up guidelines to support implementation. Two years after the Regulation is fully applicable, the Commission must review its enforcement and implementation.

Commission guidelines

The Commission will publish guidelines to provide support to companies, competent authorities, customs authorities, Member States and stakeholders.¹² The guidelines will be drafted in consultation with stakeholders and made available by 14 June 2026 and be regularly updated. The guidelines will also be consistent with guidelines provided in relation to other relevant EU law. We believe it is important that these guidelines encourage best practice and are worker-centred. Below we highlight recommendations on these guidelines in relation to how the Regulation works and the key areas of focus in this analysis.

The forthcoming guidelines of notable interest to us are:¹³

- Guidance for businesses on due diligence in relation to forced labour, including forced child labour¹⁴
- Guidance for businesses on best practices for bringing to an end and remediating different types of forced labour¹⁵
- Guidance for competent authorities on the practical implementation of the Regulation, particularly in relation to the risk database, pre-investigation and investigation, including benchmarks for assisting competent authorities in their risk-based assessments of investigations and guidelines on the applicable standard of evidence¹⁶ [see → [Investigations and evidentiary standards](#)]
- Information on risk indicators of forced labour, including on how to identify them, which will be based on independent and verifiable information, including reports from international organisations, in particular the ILO, civil society, business organisations and trade unions, and on experience from implementing EU legislation setting out due diligence requirements with respect to forced labour¹⁷

¹⁰ For example, the provision that obligates Member States to provide information on their chosen competent authorities to implement and enforce the Regulation is applicable from 13 December 2024. Article 39 outlines that Articles 5(3), 7, 8, 9(2), 11, 33, 35 and 37(3) apply from the date of entry into force. Article 5(3) relates to Member States providing information on competent authorities within one year of the Regulation’s entry into force.

¹¹ Article 39.

¹² Article 11.

¹³ Other guidelines include guidance for customs authorities and companies for the practical implementation of the additional information being provided to customs authorities (Article 27 and, where appropriate, any other provision laid down in Section II of Chapter V (Enforcement: Customs Authorities) of the Regulation) (Article 11(d)); guidance for companies and product suppliers on how to engage in dialogue with competent authorities pursuant to Chapter III (Investigations), in particular on the type of information to be submitted (Article 11(g)); further information to facilitate the competent authorities’ implementation of and the company’s compliance with this Regulation (Article 11(j)).

¹⁴ Article 11(a).

¹⁵ Article 11(b).

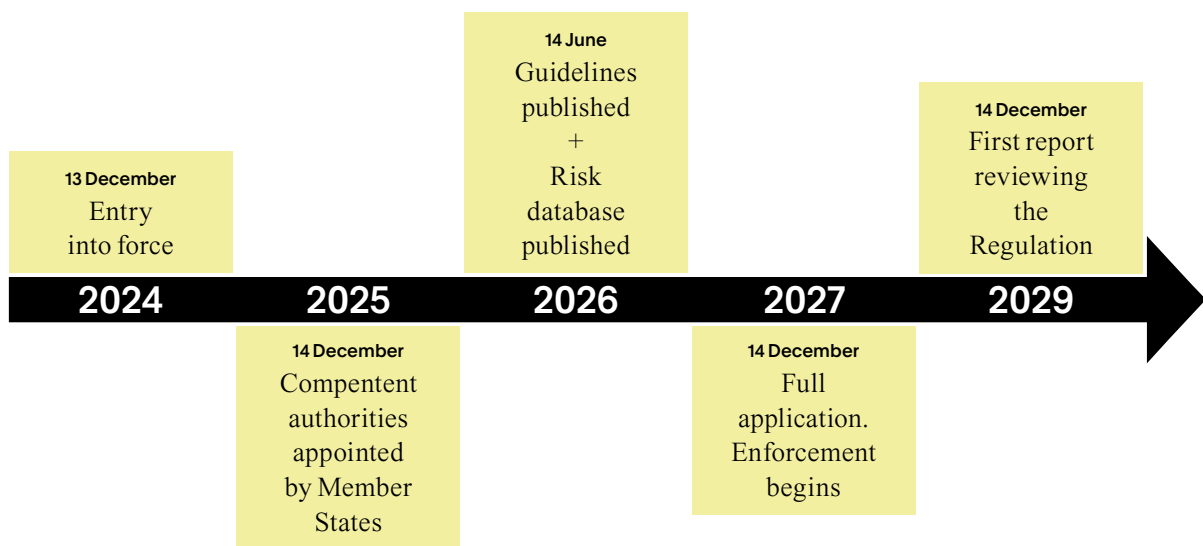
¹⁶ Article 11(c).

¹⁷ Article 11(e).

- Guidance for businesses on due diligence in relation to state-imposed forced labour¹⁸
- Guidance on how to submit information to the “single information submission point”¹⁹
- Guidance for Member States on the method for calculating financial penalties and the applicable thresholds²⁰

Review of the Regulation

Article 38 (Evaluation and review) requires the Commission to review the enforcement and implementation of the Regulation. The Commission must submit its first report by 14 December 2029 (and every five years thereafter).²¹ The review clause does not limit which areas of the Regulation should be assessed nor which amendments may need to be considered. Instead, the provision outlines that the evaluation shall include an assessment of particular areas such as the effectiveness of the Regulation, the impact on victims of forced labour and the need for a specific mechanism to address and remediate forced labour.²² Reviews can inform future amendments of the Regulation.



¹⁸ Article 11(f).

¹⁹ Article 11(h).

²⁰ Article 11(i).

²¹ Article 38(1).

²² This includes an impact assessment for such a mechanism.

How the Regulation works

Subject matter and scope

The Regulation is “product-based” and prohibits products made with forced labour from being imported into, sold (including online²³) within, or exported from the EU.²⁴ A “product made with forced labour” is defined broadly as any product for which forced labour has been used in whole or in part at any stage of its supply chain.²⁵ The Regulation extends to inputs at all stages of the production chain and applies to all products regardless of sector or origin. It will also apply to all importers or exporters, regardless of size.²⁶ Unfortunately, the Regulation does not apply to where forced labour is found in the services linked to the journey of a product, such as transport, warehousing and logistics, despite the extremely high risk for labour exploitation and forced labour at these specific stages.²⁷

In order to define forced labour, the Regulation refers to the ILO definition of forced labour,²⁸ namely “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”²⁹ The definition requires two separate components: involuntariness and coercion. Forced labour therefore means both the absence of a worker’s free and informed consent to take a job (i.e. a person may be misled on working or living conditions associated with the job), but also the worker’s ability to leave at any time, as well as a sort of coercion which can be physical (e.g. imprisonment) or psychological (e.g. a threat to a family member, or the threat of being reported to the authorities).

Recital 20 clarifies that the ILO ‘Hard to see, harder to count’ guidelines³⁰ represent the most common signs that point to the possible existence of forced labour and should be taken into account when assessing the existence of forced labour.

Forced Labour Single Portal

Central to enforcement is the Forced Labour Single Portal which will consolidate all relevant information and resources. The Commission will set up and regularly update a single website making available to the public, in all the official languages of the institutions of the EU, the following information:

- **Information on the component authorities:** the names, addresses and contact details
- **All guidelines**, such as how to identify risk indicators of forced labour; on due diligence in relation to forced labour, taking into account various supplier types and industry sectors; as well as on best practices for bringing to an end and remediating different types of forced labour [see → [Commission guidelines](#)]
- **A risk database with information on forced labour risks** in specific geographic areas or specific products or groups of products [see → [Risk database](#)]
- A list of **publicly available information sources** of relevance for the implementation of the Regulation, including sources with disaggregated data on the impact and victims of forced labour, such as gender-disaggregated data or data about forced child labour, allowing identification of age- and gender-specific trends

²³ Article 4.

²⁴ Article 3.

²⁵ Article 2(7).

²⁶ Article 2(9).

²⁷ Anti-Slavery International and ECCHR, ‘Anti-Slavery International and European Center for Constitutional and Human Rights response to the European Commission Call for Evidence on the proposed EU forced labour instrument to “keep the EU market free from products made, extracted or harvested with forced labour, whether they are made in the EU or elsewhere in the world.”’ (June 2022), available at: antislavery.org/reports/our-response-to-the-european-commission-call-for-evidence-on-the-proposed-eu-forced-labour-instrument/ (accessed 18 December 2024).

²⁸ Article 2(1).

²⁹ Article 2 of ILO Convention (No. 29) concerning forced or compulsory labour, as modified by the Final Articles Revision Convention 1946 (adopted 28 June 1930, entered into force 1 May 1932) 39 UNTS 55, available at: normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029 (accessed 18 December 2024).

³⁰ ILO, ‘Hard to see, harder to count: Handbook on forced labour surveys’ (27 February 2024), available at: ilo.org/publications/hard-see-harder-count-handbook-forced-labour-surveys (accessed 18 December 2024).

- The **single information submission point** is where submissions or petitions can be made, which can then lead to investigations [see → [Single information submission point](#)]
- **Enforcement decisions**, such as any decision to ban a product, any withdrawal of a ban, and the result of reviews

Single information submission point

To facilitate stakeholders submitting information, the Commission will establish a centralised information point.³¹ Submissions can be made by any person or group, such as an individual, whistleblowers, workers' representatives, civil society organisations, or even a company.³² Those submitting information can be referred to as petitioners.

The Regulation specifies that submissions have to contain information on the company or products concerned, provide the reasons and evidence substantiating the allegation of forced labour and, where possible, supporting documents.³³ Under the Regulation, the Commission will discard any submissions that are “manifestly incomplete, unfounded or made in bad faith” and distribute the remaining submissions to the relevant competent authority.³⁴ The relevant competent authorities will be notified and will be responsible for assessing the information.³⁵ The lead competent authority may ask the petitioner for more information³⁶ and will contact petitioners with the outcome “as soon as possible”.³⁷ Where there is “a significant lapse of time” between submission of information and a decision to proceed with an investigation, the petitioner may be consulted to verify whether the situation has changed significantly.³⁸

Article 32 provides that the identity of those providing information will be treated as confidential, while Recital 38 outlines that “adequate measures” should be put in place to protect petitioners and any person associated with the submission or information within it, including from retaliation. The Commission can disclose general information, but this must be done in a way that does not reveal the identity of those providing information.³⁹ The EU Whistleblowing Directive⁴⁰ is also referred to, which protects whistleblowers that have a work-related relationship with a company (such as current or former workers). It does not cover a wider definition of human rights defenders nor any external individual or group reporting forced labour.

Further guidance on how to submit information to the information point will be made available by the Commission in June 2026.⁴¹ [see → [Flow chart on investigations](#)]

Risk database

The Commission has to establish an indicative and non-exhaustive database of forced labour risk areas or products.⁴² This would signal to companies where possible forced labour risks in their supply chains are. It is also a key source of information for the Commission and other competent authorities in investigating possible violations of the prohibition to place products made with forced labour on the market. [see → [Pre-investigations](#)] The database will be made publicly available through the Forced Labour Single Portal. [see → [Forced Labour Single Portal](#)]

The database will identify forced labour risks in specific geographic areas or with respect to specific products or product groups, and identifying widespread and severe forced labour risks will be prioritised.⁴³ The database will also indicate specific economic sectors in specific geographic areas where there is reliable and verifiable evidence of state-imposed forced labour. [see → [What is state-imposed forced labour?](#)] However, it is explicitly stated that the database will not publicly disclose information that names any companies directly.

The information included in the database is to be based on independent and verifiable information from international institutions, such as the ILO and the UN, as well as research or academic institutions.⁴⁴

31 Article 9.
32 Article 9(2).
33 Article 9(2).
34 Article 9(3).
35 Article 9(4).
36 Article 9(5).
37 Article 9(4).
38 Article 9(6).
39 Article 32(3).
40 This is an existing EU Directive 2019/1937.
41 Article 11(h).
42 Article 8.
43 Article 8(1).
44 Article 8(2).

Of note is that media or civil society organisations are not explicitly named as a source of information. This is a concern to us, given the vast research and evidence provided by media and civil society organisations on forced labour globally. It is therefore important that such reports are also included in the database. For example, the vast majority of sources used in the US Department of Labor’s “List of Goods Produced by Child Labor or Forced Labor” come from civil society and trade unions.⁴⁵

Investigations and evidentiary standards

The enforcement of the prohibition on products made with forced labour will be carried out by Member State competent authorities and the Commission. The process in which the investigation will be carried out is broken down in multiple steps.

Allocation of investigation and cooperation

The investigations will be allocated to a “lead competent authority” being either a Member State’s competent authority or the Commission.⁴⁶ Where the suspected forced labour takes place outside of the EU, the Commission is the lead competent authority.⁴⁷ However, where the suspected forced labour takes place within a Member State, the competent authority of the Member State is the lead competent authority.⁴⁸

These competent authorities, and customs authorities where appropriate, will cooperate through a newly founded Union Network Against Forced Labour Products.⁴⁹ This should provide a “platform for structured coordination and cooperation between the competent authorities of the Member States and the Commission, and for streamlining the enforcement of this Regulation, within the Union, thereby making enforcement more effective and coherent.”⁵⁰ The Network will be responsible for the coordination and harmonization of best practices within the EU but also with third countries. Within the framework, the competent authorities can coordinate investigations, as well as during all phases of the investigation using the information and communication system.⁵¹ The European Agency for Fundamental Rights, the European Labour Authority, authorities of third countries, experts and stakeholders—including representatives from trade unions and other workers’ organisations, civil society and human rights organisations, business organisations, international organisations—can be invited to attend meetings of the Network or to provide written contributions.⁵²

Pre-investigations based on a risk-based approach

The Regulation’s process includes a pre-investigation stage which is a “preliminary phase of investigations” before initiating a full investigation.⁵³ A pre-investigation can be triggered reactively, because of a submission via the single information submission point, [see → [Single information submission point](#)] or by one of the competent authorities. The enforcement is based on a “risk-based” approach,⁵⁴ followed by a product-specific investigation. This means that when initiating and conducting the pre-investigation phase, the competent authority will assess the severity of the situation, using the following criteria:⁵⁵

- 1 The scale and severity of the suspected forced labour, including whether state-imposed forced labour could be a concern
- 2 The quantity or volume of products placed or made available on the EU market
- 3 The share of the part of the product suspected to have been made with forced labour in the final product

45 US Department of Labor, ‘List of Goods Produced by Child Labor or Forced Labor’, available at: dol.gov/agencies/ilab/reports/child-labor/list-of-goods (accessed 10 January 2024).

46 Article 15.

47 Article 15(1).

48 Article 15(2).

49 Article 6.

50 Article 6(1).

51 Article 7 and Article 16. This system already exists for the collection, processing and storage of information, on issues relating to the enforcement of EU harmonisation legislation as outlined in Article 34 of an existing EU Regulation 2019/1020.

52 Article 6(8).

53 Article 17.

54 Article 14.

55 Article 14(2).

Competent authorities will prioritise products suspected of being made with forced labour and assess the likelihood of a violation based on:⁵⁶

- Information in the information and communication system⁵⁷ including past enforcement actions
- The risk database which lists forced labour risk areas and products [see → Risk database]
- The risk indicators of forced labour contained in the guidelines issued by the Commission⁵⁸
- Submissions made by petitioners via the single information submission point [see → Single information submission point]
- Information received by other competent authorities (e.g. authorities in relation to CSDDD [see → Relationship between the CSDDD and the Regulation], labour or health)
- Information resulting from meaningful consultations with stakeholders including civil society organisations and trade unions

Lead competent authorities will request information from the companies under assessment (and other suppliers if relevant) on the relevant actions taken to identify, prevent, mitigate, bring to an end or remediate risks of forced labour in their operations and supply chains.⁵⁹ Companies will have 30 working days to respond to this request.⁶⁰ However, the lead competent authority can choose not to make such a request if it would jeopardise the outcome of the assessment. Lead competent authorities may also request information from other relevant stakeholders, including relevant petitioners.

Investigations

If, during the pre-investigation, the lead competent authority finds a “substantiated concern”, namely when they possess objective and verifiable information to suspect that the products were likely made with forced labour, they will launch an investigation.⁶¹

This differs from the US Tariff Act where an investigation is initiated when it appears to be warranted by the circumstances, which is a significantly lower threshold to satisfy. In addition, areas identified in the Regulation as being “high risk” of being made with forced labour by the Commission are not subject to a reversal of the burden of proof as in the US Uyghur Forced Labor Prevention Act (UFLPA) which applies under section 307 of the US Tariff Act of 1930. The UFLPA establishes a “rebuttable presumption” that any goods produced or manufactured wholly or in part in the Uyghur Region or by certain identified entities, are made with forced labour, and are therefore subject to an import prohibition. Thus, the mere fact that goods have any inputs from the Uyghur Region will spark an enforcement action by US Customs and Border Protection.

When launching an investigation, the lead competent authority will inform the concerned companies and, if necessary, request relevant information.⁶² However, when requesting information, the lead competent authority is supposed to prioritise companies which are situated “as close as possible to where the forced labour is likely occurring” in the supply chain, while also taking into account the size and capacity of the companies, the quantity of products concerned, the complexity of the supply chain, and the scale of the suspected forced labour.⁶³ Companies will have a deadline between 30 and 60 working days, as determined by the lead competent authority, to submit the requested information.⁶⁴ The lead competent authority can also interview or collect information from any relevant stakeholders⁶⁵ and, in exceptional cases, perform field inspections.⁶⁶

⁵⁶ Article 14(3).

⁵⁷ Article 7. This system already exists for the collection, processing and storage of information, on issues relating to the enforcement of EU harmonisation legislation as outlined in Article 34 of an existing EU Regulation 2019/1020.

⁵⁸ Article 11(e). [see Commission guidelines]

⁵⁹ Article 17(1).

⁶⁰ Article 17(2).

⁶¹ The lead competent authority will conclude the pre-investigation within 30 working days from the date of receipt of the information submitted by the companies (Article 17(3)).

⁶² Within 3 working days of the date of the decision to initiate the full investigation (Article 18(1)).

⁶³ Article 18(3).

⁶⁴ Article 18(4).

⁶⁵ Article 18(5).

⁶⁶ Article 19.

Decision-making

The lead competent authority will assess all information and evidence gathered during the investigation stages and “establish” whether the products have been made with forced labour and are therefore in violation of Article 3 (Prohibition of products made with forced labour).⁶⁷ The lead competent authority can also establish that Article 3 has been violated on the basis of any other facts available where it was not possible to gather information and evidence during the investigation stages,⁶⁸ in particular where in response to a request for information, a company or a public authority:⁶⁹

- Refuses to provide the information requested without a valid justification;
- Fails to provide the information requested within the time limit prescribed without a valid justification;
- Provides incomplete or incorrect information with the objective of blocking the investigation;
- Provides misleading information; or
- Otherwise impedes the investigation, including when a risk of state-imposed forced labour is identified during the preliminary phase of the investigation or the investigation itself.

The lead competent authority will “endeavour” to adopt a decision within 9 months from the date the investigation was initiated or otherwise close the investigation.⁷⁰ Where the Commission is the lead competent authority, it shall adopt decisions (enforcement decisions and any withdrawal of decisions) by using implementing acts.⁷¹ Implementing acts are acts which either have a general scope or deal with a specific case. They lay down rules to ensure uniform conditions for implementing EU law in all Member States. They are adopted by the Commission, but they cannot modify anything in the relevant original EU instrument. In adopting an implementing act, the Commission will be assisted by a committee.⁷²

Consequences of a successful forced labour investigation

If the investigation leads to the determination that the products were made with forced labour, the lead competent authority will adopt a decision which contains three measures:⁷³

- A ban on placing or making available the products concerned on the EU market and exporting them;
- A requirement for companies to withdraw the targeted products from the EU market (including products already on the market); and
- A requirement for companies to dispose of the respective products or, if parts of the product are made with forced labour, a requirement to dispose of those parts.

These measures are only applicable after the determination that the products were made with forced labour. Companies must comply within “reasonable time limits” which will be at least 30 working days or at least 10 working days for perishable goods, animals and plants.⁷⁴ The ban will apply to all companies placing or making available the product on, or exporting the product from, the EU market, and not only to those which were investigated.⁷⁵

For “critical” products made with forced labour, the company can be ordered to withhold the product “for a defined period of time, which shall be no longer than the time necessary to eliminate forced labour with regard to the product concerned, at the cost of the [company]”.⁷⁶ Once forced labour has been eliminated—without changing the product and by having ended the forced labour as identified in the decision—the product can be put on the market again. Products are considered “critical” if they are:

⁶⁷ Article 20(1).

⁶⁸ Article 20(2), in relation to Article 17(1) and Article 18(3).

⁶⁹ Article 20(2).

⁷⁰ Article 20(1).

⁷¹ Article 20(6) and Article 21(4).

⁷² The Regulation empowers the Commission to issue implementing acts for a number of issues ranging on the procedural rules, templates and details for the submission of information on alleged violations, the rules and details of the use of the information and communication system, the details of the content of enforcement decisions by the Commission and national competent authorities, and the arrangement and details for providing information about specific products or product groups to customs authorities (Recital 62).

⁷³ Article 20(4).

⁷⁴ Article 20(1)(b).

⁷⁵ Article 26(3).

⁷⁶ Article 20(5).

Understanding the EU Forced Labour Regulation

- Part of the list of sectors established in the EU's Net Zero Industry Act;⁷⁷
- Part of the Commission Recommendation of 3 October 2023 on critical technology areas for the EU's economic security for further risk assessment with Member States;⁷⁸ or
- Part of the products listed in the EU's Critical Raw Materials Act.⁷⁹

Reviews

Companies affected by a decision can request a review of that decision at any time.⁸⁰ Such a request must contain new information which demonstrates that forced labour has been eliminated from their operations or supply chain with respect to the banned products.⁸¹ The lead competent authority will take a decision on the request within 30 working days of receiving it.⁸² If companies eliminate forced labour from their supply chains, the decision to ban products may be withdrawn and those banned products can be admitted back on the EU market.⁸³

Additional sanctions

Where companies do not comply with a decision (by failing to take the banned products off the market and dispose of them), they can be fined.⁸⁴ The Member State competent authorities will need to be empowered to determine and implement the penalty, which needs to be effective, proportionate and dissuasive.⁸⁵

⁷⁷ Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 [2024] OJ L 28.6.2024, available at: data.europa.eu/eli/reg/2024/1735/oj (accessed 20 December 2024).

⁷⁸ Commission Recommendation (EU) 2023/2113 of 3 October 2023 on critical technology areas for the EU's economic security for further risk assessment with Member States [2023] OJ L 11.10.2023, available at: data.europa.eu/eli/reco/2023/2113/oj (accessed 20 December 2024).

⁷⁹ Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) No 2018/858, (EU) 2018/1724 and (EU) 2019/1020 [2024] OJ L 3.5.2024, available at: data.europa.eu/eli/reg/2024/1252/oj (accessed 20 December 2024).

⁸⁰ Article 21.

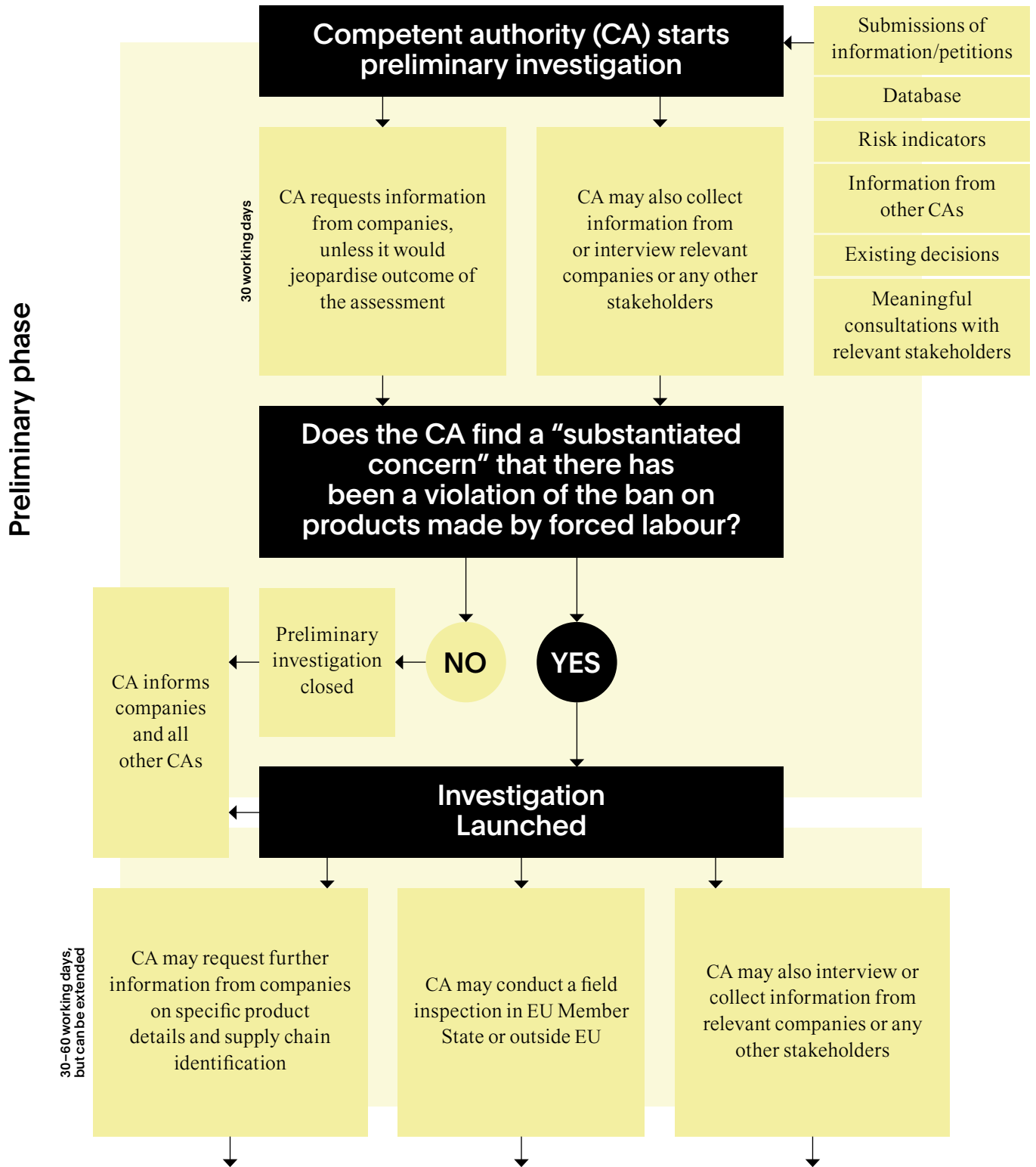
⁸¹ Article 21(1).

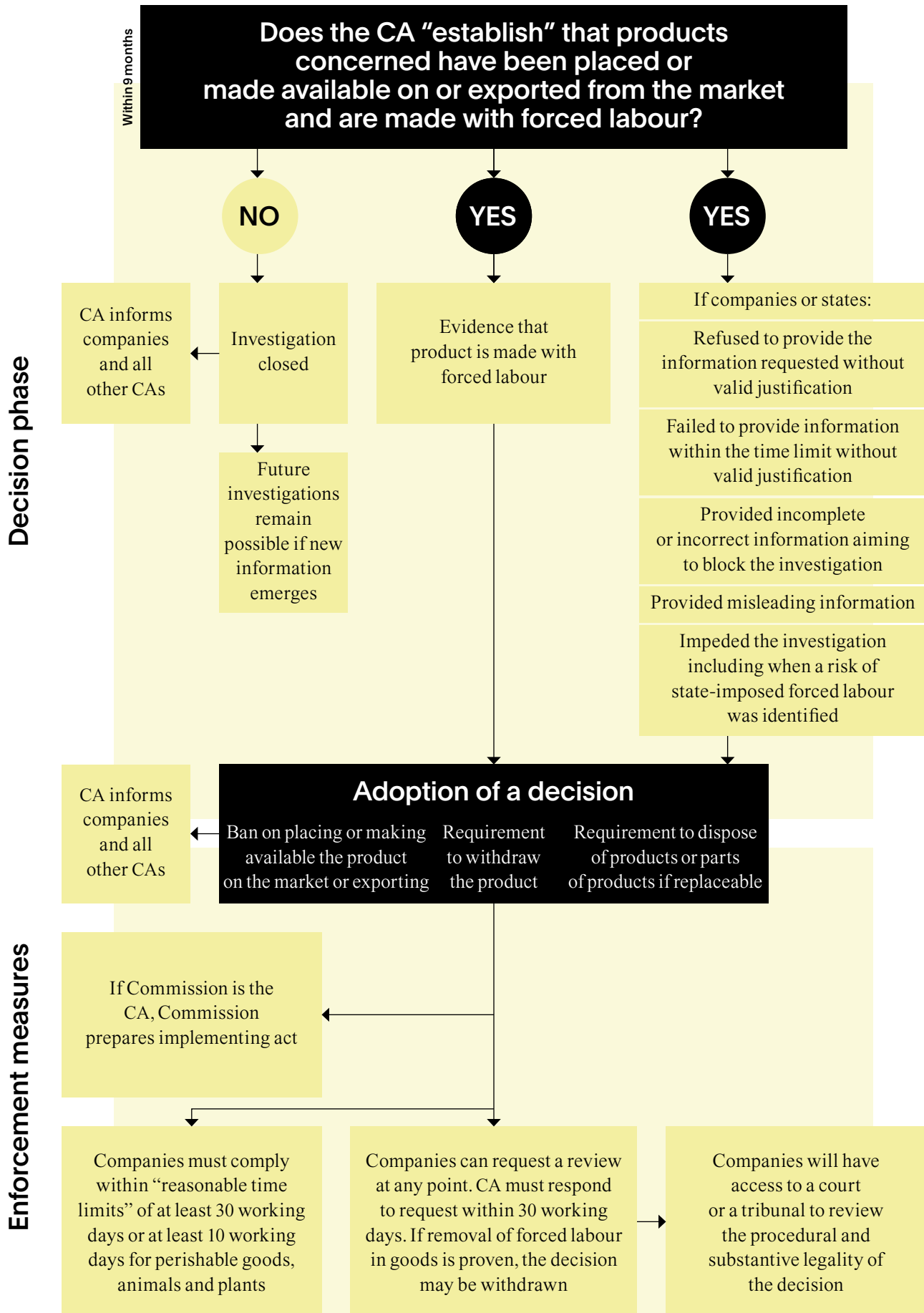
⁸² Article 21(2).

⁸³ Article 21(3).

⁸⁴ Article 37.

⁸⁵ Article 37(1)-(2).





International cooperation

Article 13 outlines that the Commission must cooperate and exchange information with authorities of third countries (including those with similar legislation), international organisations, civil society representatives, trade unions, business organisations and other relevant stakeholders. However, it has significant discretion on if and when it does so. The Regulation states that cooperation with authorities of third countries should take place in a structured way and gives a preference to existing dialogues with third countries.⁸⁶ This includes human rights and political dialogues, dialogues on the implementation of trade and sustainable development commitments of trade agreements or the Generalised Scheme of Preferences, and EU development cooperation initiatives. However, we believe that a number of these existing dialogues may not be sufficiently appropriate or even applicable to certain countries and thus specific dialogues will need to be created on an ad hoc basis.

Content-wise, such cooperation may include exchanges of information on forced labour risks such as those identified in the database, and on decisions to ban products, but will not include information on ongoing investigations.⁸⁷ International cooperation can also include the development of cooperation initiatives and accompanying measures to support relevant stakeholders⁸⁸ in their efforts to root out forced labour from global supply chains, as well as the creation of enabling environments in third countries to promote and protect human rights.⁸⁹

Relationship between the CSDDD and the Regulation

The Regulation can be seen as part of a broader approach to address forced labour in companies' operations and supply chains, including in the recently introduced Corporate Sustainability Due Diligence Directive. In order to avoid duplication with the CSDDD, the Council of the European Union and European Parliament have decided not to impose specific additional mandatory due diligence requirements in relation to forced labour in the Regulation. The CSDDD already lays out detailed obligations for due diligence to identify, prevent, mitigate and account for actual and potential adverse impacts on human rights, including forced labour. The Annex to the CSDDD explicitly lists slavery and forced labour as a violation of (human) rights, aligning with relevant international agreements.

However, the CSDDD primarily focuses on corporate conduct and due diligence procedures for very large companies. The Regulation prohibits the placement of products made with forced labour on the EU market or the export of such products from the EU market. The Regulation therefore has broader coverage in terms of company size, potentially covering all companies.

Nonetheless, companies are encouraged to conduct human rights due diligence, regardless of whether they are subject to the CSDDD. While doing so may not prevent or address all instances of forced labour in the supply chain, it may be one effective strategy to reduce the risk of forced labour occurring and thus products being sanctioned under the Regulation. While enforcement under the Regulation looks at the existence of forced labour in the supply chain independent of the due diligence conducted by the company, the quality of the due diligence will help steer the risk-based approach of the pre-investigation stage in particular. [\[see → Pre-investigations\]](#)

The Regulation can act as an additional enforcement measure to compel companies whose products are intended/destined for the EU market to undertake preventative actions and encourage the provision of remedy to victims of forced labour. We also view the use of the Regulation as appropriate for when 'on the ground' interventions as part of human rights due diligence efforts to address forced labour are not feasible, not reasonably expected to address the forced labour, simply impossible (as, for example, in cases of state-imposed forced labour), or have proven to have failed and urgent remedy is necessary.

The Commission must publish guidelines on effective due diligence practices to aid compliance with this Regulation.⁹⁰ These guidelines must take into account the specific challenges for micro, small and medium-sized companies,⁹¹ which are not subject to CSDDD obligations but are encouraged to conduct such due diligence.

⁸⁶ Article 13(2).

⁸⁷ Article 13(2) and Recital 37.

⁸⁸ Article 13(3) lists these as companies, in particular small and medium-sized enterprises, as well as civil society organisations, social partners and third countries.

⁸⁹ Article 13(3) and Recital 37.

⁹⁰ Article 11(a).

⁹¹ Recital 32.

Understanding the EU Forced Labour Regulation

Finally, the Regulation does not impose civil liability on companies that fail to comply with their due diligence obligations regarding forced labour. Instead, it foresees the withdrawal of products from the market and additional penalties if companies try to circumvent enforcement decisions. [see → [Additional sanctions](#)] In contrast, the CSDDD provides possibilities for administrative enforcement and civil enforcement through litigation, holding in scope companies liable for damages caused by breaches of their obligations including those related to forced labour. Therefore, companies that fall under both the Regulation and the CSDDD can be held liable under the CSDDD through civil litigation, in addition to facing administrative sanctions under both instruments if they are linked to forced labour without performing adequate due diligence to identify, address and possibly remediate it.

Evaluation and recommendations

The Regulation has a broad scope, with the potential to ban all products made with forced labour from any company (regardless of size, location or sector) from the EU market. However, gaps in the Regulation mean that implementation and enforcement must be meaningful for the fullest impact, coupled with support to workers and communities in affected contexts to use the Regulation for their benefit. For instance, there is no requirement of remediation as a precondition to lifting a ban, which is a missed opportunity to ensure the Regulation secures a tangible impact on the lives of the people in forced labour. [see → [Remediation](#)] There is also a very high level of proof required to impose a ban. [see → [Investigations and evidentiary standards](#)] Our analysis below focusses on key areas and we highlight recommendations.

Stakeholder engagement

Stakeholders are referred to in the Regulation, with stakeholder engagement included in certain areas. Measures of stakeholder engagement include:

- Lead competent authorities may consult with relevant stakeholders, including the persons or associations having submitted information, in the preliminary phase of investigations⁹² and during the full investigation⁹³
- Experts and stakeholders (including trade unions, civil society and human rights organisations) may be invited to attend Union Network Against Forced Labour Products meetings or to provide written contributions⁹⁴
- All guidelines to be developed and reviewed by the Commission must be in consultation with relevant stakeholders⁹⁵

Stakeholders can also submit information on alleged violations of Article 3 (Prohibition of products made with forced labour) via the single information submission point. [see → [Single information submission point](#)]

Stakeholders are not defined anywhere in the Regulation. While this potentially allows for a broad range of stakeholders to be consulted, it runs the risk that consultation with affected stakeholders will not be prioritised in the pre-investigation and investigation process. This is particularly important given that no mention is made in the Regulation of any consultation with workers potentially affected by forced labour, even in cases where the company under scrutiny is informed and required to provide information about the due diligence measures enacted.⁹⁶

Additionally, there is no express requirement to take into account the particular needs of stakeholders from groups or populations at heightened risk of vulnerability or marginalisation (where specific contexts or intersecting factors create additional barriers to participation and access to justice). In the context of forced labour, this can include migrant workers, casual, temporary and seasonal workers, homeworkers, workers from marginalised groups such as Indigenous Peoples, people of lower castes or ethnic minorities, illiterate workers, women and children.

⁹² Article 17(1)—“Lead competent authorities may request information on those actions from other relevant stakeholders, including the persons or associations having submitted relevant, factual, and verifiable information pursuant to Article 9 and any other natural or legal persons related to the products and geographical areas under assessment, as well as from the European External Action Service and Union Delegations in relevant third countries.”

⁹³ Article 18(5)—“Lead competent authorities may collect information from or interview any relevant natural or legal person who consents to be interviewed for the purpose of collecting information relating to the subject matter of the investigation, including relevant [companies] and any other stakeholders.”

⁹⁴ Article 6(8).

⁹⁵ Article 11.

⁹⁶ Recital 43 outlines that other relevant stakeholders include those that submitted relevant information to competent authorities.

While stakeholder engagement is incorporated into the investigation stages under the Regulation, competent authorities are granted discretion (rather than required) to engage with stakeholders, as well as choose with which stakeholders. Considering the importance of determining the existence or elimination of forced labour, it is crucial to not rely solely on professed due diligence actions by companies, including social audits and certification bodies, as they are wholly ineffective at identifying forced labour.⁹⁷ Instead, the views of workers and trusted representatives can give accurate insight into whether forced labour is present and/or has been eliminated, and whether effective steps are in place to prevent it. It is therefore crucial that when it comes to implementation of the Regulation, competent authorities consistently prioritise engagement with affected stakeholders and their representatives.

Additionally, the Regulation does not explicitly account for situations in which effective engagement with affected stakeholders is not reasonably possible. We believe that in such situations, credible representatives of affected communities/workers and experts should be consulted with. Experts should include civil society organisations, trade unions, individuals or other entities defending human rights who can provide credible insights.⁹⁸

State-imposed forced labour

It is extremely important for engagement with representatives and experts to take place where engagement with affected stakeholders is credibly unfeasible. In situations of state-imposed forced labour, credible engagement with workers on the ground is almost impossible. This is due to the repressive political contexts in which state-imposed forced labour often takes place, such as in Turkmenistan and the Uyghur Region where there are security risks and freedoms are severely constrained.

Recommendations

Through the upcoming Regulation implementation and the guidance, in the outline of the procedures and evidence required, the Commission should require that the veracity and validity of the information provided by the company (during the investigation stages or in any review of a ban) be triangulated with potentially affected workers, either directly or indirectly. Engagement with affected stakeholders is particularly important when considering lifting a ban, as they can verify if forced labour has been eliminated, including risk of recurrence and what, if any, remediation has taken place. [see → Remediation]

Article 11(c) outlines that the Commission will issue guidance for competent authorities on the practical implementation of Articles 17 (Preliminary phase of investigations) and 18 (Investigations). Stakeholder engagement is referred to in both Articles 17 and 18. The Commission should therefore ensure that these guidelines provide concrete instruction on meaningful engagement with stakeholders, explicitly including engagement with affected stakeholders, while paying particular attention to the needs, interests and safety of groups in situations of heightened vulnerability.

⁹⁷ Anti-Slavery International, 'The inadequacies of social auditing: why we need worker-led solutions' (16 February 2022), available at: antislavery.org/latest/social-auditing-inadequate-why-we-need-worker-led-solutions (accessed 31 October 2024). See also, Transparentem, 'Hidden Harm: Audit Deception in Apparel Supply Chains and the Urgent Case for Reform' (October 2021), available at: transparentem.org/wp-content/uploads/2021/09/Hidden-Harm-Audit-Deception-in-Apparel-Supply-Chains-and-the-Urgent-Case-for-Reform.pdf (accessed 31 October 2024); Human Rights Watch, 'Bangladesh: Social Audits Shortchange Workers' (14 September 2023), available at: hrw.org/news/2023/09/14/bangladesh-social-audits-shortchange-workers (accessed 31 October 2024); Human Rights Watch, "'Obsessed with Audit Tools, Missing the Goal": Why Social Audits Can't Fix Labor Rights Abuses in Global Supply Chains' (November 2022), available at: hrw.org/sites/default/files/media_2022/11/Social_audits_brochure_1122_WEBSPREADS_0.pdf (accessed 31 October 2024).

⁹⁸ This is accounted for in the CSDDD under Article 13(4) and Recital 65.

Remediation

Recital 36 defines remediation as “the restitution of the affected person or persons or communities to a situation equivalent or as close as possible to the situation they would be in had forced labour not occurred, proportionate to the company’s implication in the forced labour, including financial or non-financial compensation provided by the company to a person or persons affected by forced labour and, where applicable, reimbursement of the costs incurred by public authorities for any necessary remedial measures.”

Despite the acknowledgement of the right to an effective remedy as fundamental to business-related human rights violations, including forced labour,⁹⁹ the Regulation does not require remediation as a prerequisite to lift a ban on products made with forced labour.¹⁰⁰ Remediation is only included in the Regulation as a voluntary requirement. Were the law to include remedy as a precondition to lifting a ban, this would encourage a worker-centred focus and positive impact on affected workers, as well as the prevention of the recurrence of forced labour in the future.¹⁰¹

However, the Regulation does create an incentive to remediate. At the preliminary stage of investigation, [see → [Pre-investigations](#)] companies will be asked to provide information on their due diligence efforts, including any remediation measures taken.¹⁰² Article 17(5) essentially provides for the possibility that a full investigation will not be pursued if the company under scrutiny demonstrates that it has mitigated, prevented or brought to an end the risk of forced labour. While remediation is not explicitly referred to here, it is important to note that for certain indicators of forced labour, in order to end that forced labour, it is necessary to provide remedy. For instance, where illegal wage deductions need to be paid or in situations of bonded labour, particularly for migrant workers, where the repayment of unfair recruitment fees is necessary to eliminate the debt for each worker.

Additionally, the Union Network Against Forced Labour Products is tasked with collecting data from all companies that have had products banned on what remediation was provided.¹⁰³ [see → [Allocation of investigation and cooperation](#)] Similarly, although this does not create an obligation to remediate, the data will be used as part of the review process¹⁰⁴ to assess the impact of the Regulation and whether a specific mechanism to address and remediate forced labour is needed.¹⁰⁵

Recommendations

The implementing act and guidance in relation to the procedural aspects of investigations should ensure that companies are incentivised to provide remedy to workers and that companies having done so will not be sanctioned.

Pursuant to Article 11(b), the Commission will provide guidance for companies on best practices for bringing to an end and remediating different types of forced labour. It is important that these guidelines articulate remediation requirements in line with international standards, ensuring a range of remediation measures, both procedural as well as substantive. It is important that affected workers and their credible representatives are involved in defining the parameters of remedy, and that the final remedy is commensurate with the nature and severity of the circumstances. Further, it must be emphasised that all remediation measures involve verification from workers or independent monitoring by trade unions and civil society organisations that represent or work with affected workers. This would ensure that the measures adequately address the specific needs of affected workers.

⁹⁹ Recital 3.

¹⁰⁰ Article 21(3), and Article 20(5) for critical products.

¹⁰¹ In our [model law](#) we advocated for (model law Article 16(3)) evidence of remediation measures to include evidence of one or more of the following: a) financial and non-financial compensation, including compensation based on the duration and extent of the forced labour, and any harms suffered; b) restitution for the victims, to restore their position before the forced labour took place (for example, returning their passport); c) rehabilitation (for example, provision of treatment or counselling); d) forced labour; and where it is accompanied by one or more of the above measures, apologies.

¹⁰² Article 17(1).

¹⁰³ Article 6(7)(o).

¹⁰⁴ Article 38(1), the review will take place two years after the application (implementation) of the Regulation (by 14 December 2029) and every five years thereafter.

¹⁰⁵ Article 38(3)-(4).

State-imposed forced labour

In the context of state-imposed forced labour, companies are unable to support the direct provision of remedy to workers. As an alternative, we recommend that companies that have contributed to or profited from state-imposed forced labour engage with representatives of the affected community to provide financial aid to affected refugees.

Responsible disengagement

Import bans can carry the risk of encouraging full disengagement by EU companies from suppliers or ‘risky’ contexts—instead of supporting efforts to address the root causes of forced labour and improve the situation.¹⁰⁶

Recital 59 accounts for this risk somewhat, outlining that “lead competent authorities should take into due consideration the risk of disengagement by [companies] who are either related to products or regions in the database, or who have had their product removed from the Union market, as well as the consequences on affected workers.” As such, lead competent authorities should “where appropriate, support [companies] in adopting and carrying out measures suitable and effective for bringing forced labour to an end.” Recital 59 also outlines that responsible disengagement includes complying with collective agreements and articulating escalation measures.

Acknowledgement of the risk of disengagement and possible consequences for workers is a welcome inclusion in the final text. It is therefore key that when it comes to implementation of the Regulation, prior to issuing a product ban, the competent authorities consult with credible, independent and legitimate representatives of potentially affected stakeholders, to assess the consequences of disengagement. We believe that should a ban be issued, this assessment should determine—as much as possible—suitable and effective measures for bringing forced labour to an end, including remediation measures. [see → Remediation]

While the Regulation does not require companies to disengage responsibly, the CSDDD does include provisions of responsible disengagement for in scope companies.¹⁰⁷ [see → Relationship between the CSDDD and the Regulation] Under the CSDDD, companies are required to consider the impact of disengagement prior to making a decision to terminate a business relationship; and where a decision to disengage is made, steps to prevent, mitigate or end the impacts of disengagement must be taken.¹⁰⁸ However, not all companies that will be affected by the Regulation will be under the scope of the CSDDD. Therefore, how companies should approach responsible disengagement must be addressed in the Regulation guidelines.

Article 11(b) provides that best practice guidance will be made available for companies for bringing to an end and remediating different types of forced labour. Recital 36 explains that such guidance should also include responsible disengagement.

¹⁰⁶ Anti-Slavery International and ECCHR, ‘Anti-Slavery International and European Center for Constitutional and Human Rights’ position on import controls to address forced labour in supply chains’ (June 2021) pg. 4, available at: antislavery.org/reports/anti-slavery-international-and-european-center-for-constitutional-and-human-rights-position-on-import-controls-to-address-forced-labour-in-supply-chains/ (accessed 29 October 2024); Anti-Slavery International and ECCHR, ‘Anti-Slavery International and European Center for Constitutional and Human Rights response to the European Commission Call for Evidence on the proposed EU forced labour instrument to “keep the EU market free from products made, extracted or harvested with forced labour, whether they are made in the EU or elsewhere in the world.”’ (June 2022) pg. 5, available at: antislavery.org/reports/our-response-to-the-european-commission-call-for-evidence-on-the-proposed-eu-forced-labour-instrument/ (accessed 29 October 2024).

¹⁰⁷ Articles 10(6) and 11(7).

¹⁰⁸ For a more detailed analysis of responsible disengagement under the CSDDD, see, Anti-Slavery International, ‘EU Corporate Sustainability Due Diligence Directive: Anti-Slavery International’s analysis’ (October 2024) pgs. 29–31, available at: antislavery.org/reports/analysis-of-the-eu-corporate-sustainability-due-diligence-directive-csddd/ (accessed 7 November 2024).

State imposed forced labour

Unfortunately, the Regulation itself does not acknowledge and differentiate between contexts where responsible disengagement might require different actions, such as situations of state-imposed forced labour. In such situations, companies cannot typically prevent, mitigate, or remedy abuses through credible on the ground due diligence due to the scale of the abuses, restrictions on freedoms, and the role of the state. In these situations, companies cannot use or increase their leverage to improve conditions, and direct remediation to affected individuals is almost impossible. A company's only recourse to make sure it is not using or benefiting from state-imposed forced labour programmes is to end all ties with exposed industries and, where necessary, regions.¹⁰⁹ In situations involving directly implicated entities, swift disengagement is necessary.

Recommendations

It is important that the Commission's guidance on responsible disengagement sets out how companies can responsibly disengage without exacerbating harm. This means outlining that companies should engage to mitigate the risk of forced labour, using leverage to do so. It should be clarified that relying on different suppliers cannot be considered as elimination of forced labour for the products concerned to ensure disengagement is used as a last resort.¹¹⁰ Further, the guidelines should account for situations in which credible due diligence is impossible on the ground and there is no prospect of change, such as in situations of state-imposed forced labour. They should recognise that these situations require urgent and immediate disengagement, given the scale, scope, and irremediability of state-imposed forced labour.

Article 11(c) outlines that the Commission will issue guidance for competent authorities on the practical implementation of Articles 17 (Preliminary phase of investigations) and 18 (Investigations). [see → [Investigations and evidentiary standards](#)] In these guidelines, it is important that the mitigation provided for in Recital 59 (due consideration of the risk of disengagement and the consequences on affected workers) is accounted for and done so in consultation with affected stakeholders and their credible representatives, such as trade unions or civil society actors.

Given that all guidelines should be consistent with those provided in relation to other EU laws,¹¹¹ the responsible disengagement guidelines for the Regulation should be in line with the responsible disengagement provisions in the CSDDD and build on the guidelines to be provided for the CSDDD.

Disclosure of supply chains and EU customs data

Effective implementation and enforcement of the Regulation requires increased traceability and disclosure of EU supply chains. The experience of groups that have filed petitions under the US forced labour import ban (section 307 of the US Tariff Act) shows that access of civil society organisations, investigative journalists or trade unions to relevant information, including customs data, is crucial.

In the EU, by contrast, customs data is not publicly available.¹¹² As a result, relevant stakeholders cannot readily obtain the information needed to identify products made with forced labour which may enter the EU and submit their findings to the competent authorities. Without such data, a submission of information on forced labour is unlikely to contain sufficient indications of which companies and which supply chains are concerned, in order to prompt an investigation.

Recommendations

Following the example of other countries, like the US, Brazil and India, EU customs data should be made accessible to stakeholders in order to facilitate the enforcement of the Regulation. The relevant legislative framework, the Union Customs Code, is currently undergoing reform providing EU lawmakers with an opportunity to grant stakeholders access to customs data.¹¹³

¹⁰⁹ In contrast, under the CSDDD, state-imposed forced labour is given as an example of when there would be no reasonable expectation that efforts to improve the situation would succeed, and therefore disengagement is required. See Anti-Slavery International, 'EU Corporate Sustainability Due Diligence Directive: Anti-Slavery International's analysis' (October 2024) pgs. 29–31, available at: antislavery.org/reports/analysis-of-the-eu-corporate-sustainability-due-diligence-directive-csddd (accessed 7 November 2024).

¹¹⁰ This is in line with the CSDDD.

¹¹¹ Article 11.

¹¹² In contrast, Article 12 of Regulation (EU) No 952/2013 expressly forbids such public disclosure.

¹¹³ SOMO, 'Transparency for fairer and greener EU supply chains' (November 2023), available at: somo.nl/transparency-for-fairer-and-greener-eu-supply-chains (accessed 19 December 2024).

Conclusion

The adoption of the EU Forced Labour Regulation is a significant milestone in tackling forced labour in global supply chains and preventing companies profiting from forced labour goods. The Regulation reaffirms the EU's commitment to eradicating forced labour from global supply chains. This sends a clear and strong message to all companies placing or making available products on the EU market or exporting them from the EU: profits from forced labour goods are no longer accepted and all workers must be free from risks of forced labour.

Nonetheless, the instrument suffers from some weaknesses which have been identified in this analysis. The implementation of the Regulation and development of guidelines over the next three years present an opportunity for some of these weaknesses to be addressed.

Civil society organisations and the Commission have the opportunity to work together to ensure that the instrument is attuned to the needs of workers. This means strengthening the voice of workers and their representatives in all stages of the investigation process and ensuring appropriate qualification and verification of information provided by companies when the Regulation is being enforced. Similarly, the Commission should make sure that guidance for companies and competent authorities encourages working with suppliers to eliminate forced labour and remediate workers, while acknowledging the need for a different approach for situations such as state-imposed forced labour.

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