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2022/0269 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on prohibiting products made with forced labour on the Union market

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The international community has committed to eradicating forced labour by 2030 (United Nations Sustainable Development Goal 8.7).[1] However, its use remains widespread. The International Labour Organisation (ILO) has estimated the global number of people in forced labour at 27.6 million[2].

In line with the EU Treaties, the EU promotes the respect for human rights worldwide, including related labour rights for example as part of its commitment to promoting decent work. In this context, combating forced labour and promoting corporate sustainability due diligence standards are priorities of the EU's agenda on human rights.

The objective of this proposal is to effectively prohibit the placing and making available on the EU market and the export from the EU of products made with forced labour, including forced child labour. The prohibition covers domestically produced and imported products. Building on international standards and complementing existing horizontal and sectoral EU initiatives, in particular the corporate sustainability due diligence and reporting obligations, the proposal lays down a prohibition supported by a robust, risk-based enforcement framework.

The initiative was first announced by President von der Leyen in her State of the Union speech on 15 September 2021[3]. The general elements of this proposal were laid down on 23 February 2022 in the Commission *Communication on decent work worldwide*[4] and in the Commission proposal for a directive on corporate sustainability due diligence[5].

• Consistency with existing policy provisions in the policy area

Both the *Communication on decent work worldwide* and the Commission proposal for a directive on corporate sustainability due diligence announced that the Commission was preparing a new legislative initiative, which would effectively prohibit the placing and making available on the EU market of products made with forced labour.

Forced labour impacts are covered by the proposed directive on corporate sustainability due diligence. In particular, the Annex to the proposed directive lists forced labour among the violations of rights and prohibitions, as included in relevant international agreements, such as the ILO Convention No.29 on forced labour, Protocol of 2014 to the Forced Labour Convention 2014 Protocol, and the ILO Convention No.105 on the abolition of forced labour.

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1 https://www.unodc.org/roseap/en/sustainable-development-goals.html.

2 The 2021 Global Estimates of Modern Slavery, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf.

3 State of the Union 2021 | European Commission (europa.eu).

4 Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on decent work worldwide for a global just transition and a sustainable recovery, COM(2022) 66 final, 23.2.2022.

5 Proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, COM(2022) 71 final, 23.2.2022.

The Commission's proposal for a directive on corporate sustainability due diligence addresses corporate behaviour and due diligence processes for the companies falling in its scope and does not provide for measures specifically intended to prevent the placing and making available on the EU market of products made with forced labour. 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. Disengagement remains the last resort where adverse impacts cannot be mitigated. While it 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.

The EU Charter of Fundamental Rights[6] in its Article 5(2) explicitly prohibits forced labour. This prohibition is well enshrined in current EU legislation and forthcoming legislative initiatives, as well as addressed by international and European initiatives.

In July 2021, the Commission and the European External Action Service published guidance[7] 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. That document served as a bridge towards legislation targeting forced labour. This proposal is in line with the approach of that guidance, which will be taken into account when addressing the actions of economic operators.

Forced labour is a form of labour exploitation, which is punishable under Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims[8]. Moreover, the Directive establishes the liability of legal persons, accompanied by administrative and criminal sanctions, for the exploitations referred to in that Directive, where they were committed for their benefit by any person who has a leading position within the legal person or where the offence was possible due to lack of supervision or control. This proposal will complement that Directive and will not impede the competent authorities, including law enforcement, from taking actions within their competence, with regard to the alleged or confirmed human trafficking offence related to forced labour and labour exploitation.

The Employers' Sanctions Directive[9] prohibits the employment of irregularly staying non-EU nationals, including victims of trafficking in human beings. This proposal will also complement that Directive.

The continued existence of forced labour illustrates the need for additional measures, also aimed at products, to prevent the placing and making available of products made with use of forced labour.

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6 Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391.

7 Guidance on due diligence for EU businesses to address the risk of forced labour in their operations and supply chains.

8 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, 15.4.2011, p.1.

9 Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, OJ L 168, 30.6.2009, p. 24.

- **Consistency with other EU policies**

The EU's 2020-2024 action plan on human rights and democracy[10] includes as a priority on the part of the EU and Member States to promote the eradication of forced labour and the implementation of international standards on responsible business conduct, such as 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[11]. This proposal is in line with the priorities of that action plan. It also complements the EU strategy on the rights of the child[12], which in line with Article 32 of the EU Charter of Fundamental Rights, commits the EU to a zero-tolerance approach against child labour and to ensuring that supply chains of EU companies are free of it.

This proposal has no bearing on the application of other human rights requirements. It will also complement the EU's regulatory environment, which currently does not include a prohibition of placing and making available products made with forced labour on the EU market. International cooperation with authorities of non-EU countries will take place in a structured way as part of the existing dialogue structures, for example Human Rights Dialogues with third countries, or, if necessary, specific ones that will be created on an ad hoc basis. The High Representative in his/her functions as Vice-President of the Commission will ensure consistency with the different areas of the external action within the Commission.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This proposal is based on Articles 114 and 207 of the Treaty on the Functioning of the European Union (TFEU).

Article 114 TFEU establishes that the Parliament and the Council are to adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

The aim of the Regulation is to avoid the obstacles to the free movement of goods and to remove the distortions of competition in the internal market that would result from divergences in national laws, regulations or administrative provisions regarding the placing and making available on the Union market of products made with forced labour.

There is an increasing attention for the persistence of the problem of forced labour and for the need to avoid that products made with forced labour are made available. Several parliaments and governments of Member States have announced the need to adopt legislation to ensure that products made with forced labour do not end up in their markets. Against that background, there is a concrete risk that Member States will adopt national laws that are prohibiting the placing and making available of goods made with forced labour on their territory. Those laws are likely to diverge. Such divergence is likely to lead to circumvention

[10] https://www.eeas.europa.eu/sites/default/files/eu_action_plan_on_human_rights_and_democracy_2020-2024.pdf

[11] For the list of sectoral guidance documents, see http://mneguidelines.oecd.org/sectors/.

[12] Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions "EU strategy on the rights of the child", COM(2021) 142 final, 24.3.2021.

efforts that would affect the movement of goods within the internal market. It follows that a divergence in the laws of the Member States regarding the placing and making available of products made with forced labour on their national market risks creating distortions in the internal market and creating unjustified barriers for the freedom of movement for goods.

Under Article 207 TFEU the common commercial policy must be based on uniform principles, e.g., with regard to export policy. Since this proposal will have direct and immediate effects on trade, in the form of an export prohibition on products made with forced labour, and a prohibition on products proven to have been made with forced labour from entering the EU market, Article 207 should be a legal basis.

- **Subsidiarity (for non-exclusive competence)**

The implementation of this proposal, particularly the investigations and decisions to prohibit the products made with forced labour, will fall within the competence of Member States' national authorities. Customs authorities will act, primarily based on the decisions issued by Member States' competent authorities, at the EU external borders to identify and stop products made with forced labour entering or leaving the EU market. However, Member State legislation alone in that area is not likely to be sufficient and efficient, and the objectives of the proposal cannot be adequately achieved by legislation at Member State level only. EU legislation and enforcement co-ordination are necessary for the following reasons:

– The functioning of EU market requires common provisions in this area. Divergence in the laws of the Member States risks creating distortions in the internal market and unjustified barriers for the freedom of movement for goods.
– The enforcement effort must be uniform across the EU. If enforcement is less stringent in some parts of the EU, weak areas are created, which may threaten the public interest and create unfair trading conditions.
– Risks related to forced labour in companies' value chains often have cross-border effects, reaching into several EU Member States and/or non-EU countries. This highlights the need for an EU-wide approach, with legal certainty and a level playing field for companies operating across the internal market and beyond.

The proposal is therefore **necessary** to ensure **strong and uniform enforcement** in this area, to prevent distortions in the functioning of the internal market, preserve the public interests defended in this context, and to ensure a level playing field for businesses established within and outside the EU.

- **Proportionality**

Since this proposal targets products made with forced labour of any type and provenance, all economic operators placing and making available those products on the EU market would be within scope. Nevertheless, efficient enforcement will require competent authorities to focus their efforts where the risks of forced labour are most prevalent, and where the impact is likely to be largest. This means that emphasis will likely be placed on larger economic operators at early stages of the EU value chain (e.g., importers, manufacturers, producers or product suppliers).

The proposal lays down a common set of powers for all competent authorities in Member States, which should help strengthen enforcement. Enforcement powers will lie with the Member States. Some Member States may need to adapt their national procedural laws to ensure that their enforcement authorities can effectively use their powers in a cross-border

context, to cooperate and to address non-compliant products within the EU. The level of harmonisation chosen is necessary to ensure smooth cooperation and exchange of evidence among competent authorities.

The proposal will improve enforcement cooperation and coherence by establishing a network of relevant authorities, without imposing a disproportionate or excessive burden on Member State authorities. Therefore, the proposal does not exceed what is necessary to attain its objectives.

- **Choice of the instrument**

A regulation is necessary to achieve the objectives of effective enforcement and compliance. A directive would not achieve the objectives since jurisdictional discrepancies may persist after its transposition, putting harmonised enforcement at risk.

The Commission will issue guidelines to provide support to Member State enforcement authorities and to companies, providing general and background information with advice on how to apply and comply with the proposal.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

The consultation included the publication of the call for evidence, the targeted consultation and other outreach activities and ad hoc feedback. The aim of the consultation strategy was to receive input from relevant stakeholders from both EU and non-EU countries. The main stakeholders consulted included:

- companies (including micro, small and medium-sized enterprises [41] (SMEs) and their representative organisations and other operators in supply chains that may be affected by forced labour;
- trade union organisations;
- EU Member States and non-EU countries;
- international organisations (notably the ILO and the OECD);
- civil society organisations/ non-governmental organisations (NGOs).

The targeted consultation took place from 19 May 2022 until 23 June 2022. The consultation drew on input from relevant Member State authorities and stakeholders through meetings of existing platforms and networks. The envisaged initiative was presented at 14 such meetings, including the European Product Compliance Network, DG TRADE's Civil Society Dialogue, the Commission Expert Group on Trade and Sustainable Development, and the exchange of views with the European social partner organisations. Representatives of Member States and more than 450 other stakeholders participated in the targeted consultation.

In general, all stakeholders agreed that forced labour is a complex issue and that it needs to be tackled and brought to an end. However, some of them indicated that in the EU this should be done through Member States' national criminal laws. Both representatives of Member States and other stakeholders underlined that the envisaged EU instrument has to be WTO-

compatible and based on international standards, such as the ILO's definition of forced labour. All stakeholders questioned the absence of a dedicated impact assessment.

A majority of stakeholders also stressed that the new instrument should be compatible and interlinked with the proposal for a directive on corporate sustainability due diligence, but should not duplicate it, especially with regards to implementation and enforcement of both instruments.

Many stakeholders argued that greater emphasis be placed on proportionality, indicating that putting an additional burden on companies, particularly SMEs, has to be avoided. Stakeholders also asked for guidance, particularly to help them in the risk identification. Some stakeholders raised the issue of how to avoid differences in implementation of the new instrument in different Member States.

The call for evidence for the proposal was published[13] on the Better Regulation portal (also known as 'Have Your Say') to give stakeholders an opportunity to comment on the need for action and the envisaged initiative, as well as to provide input on any further issue to consider when developing this policy field. The target audience consisted of experts and representatives of interested parties, such as business associations, importers and manufacturers, consumers, NGOs, trade unions, retail businesses and national representatives, including national authorities in charge of enforcing relevant rules.

The call for evidence was open for public comments and feedback from 23 May 2022 until 20 June 2022. In total 107 responses were received, 76 of which had additional information or a position paper attached to them.

The respondents were mainly business associations (33%), representatives of NGOs (31%) and companies/business organisations (15%), followed by trade unions, citizens, public authorities, and academic/research institutions.

Stakeholders from 22 countries on five continents provided their feedback. Most of responses came from stakeholders based in Belgium (33 – this also includes those who provided their feedback through their representation in Belgium), Germany (19) and the USA (12).

Regarding the scope of the instrument, the main point of contention was whether it should be limited to each specific consignment being looked at individually, or whether it should also allow for increased scrutiny for specific products, industries, production sites, regions and countries.

Stakeholders largely agreed on using the ILO's definition of forced labour as established in Forced Labour Convention, 1930 (No. 29) and the ILO's 11 indicators of forced labour[14]. Stakeholders also often referred to the OECD Guidelines for Multinational Enterprises, and the OECD Due Diligence Guidance on Responsible Business Conduct, as well as to the UN Guiding Principles on Business and Human Rights. They often noted that they already adhered to those guidelines and asked for the proposal to be in line with them.

There were disagreements between what evidence is needed by authorities to withhold a consignment at the point of entry. Stakeholders from civil society expressed the desire for

[13] Effectively banning products produced, extracted or harvested with forced labour (europa.eu)

[14] https://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm

rebuttable presumption for specific products, industries, production sites, regions and countries that have a significant incidence of forced labour. National authorities should also be allowed to initiate investigations if they have reasonable suspicion that the products contain elements of forced labour in the value chain. In addition, a complaint mechanism should be installed to allow civil society and trade unions to submit complaints for investigation. The private sector would prefer a country- and product-agnostic view, where investigations are initiated based on reasonable suspicion. Submissions also diverged in terms of the burden of proof, namely whether it should be up to the importer to prove that their goods do not contain traces of forced labour, or whether it is the responsibility of the customs authority to prove that forced labour was used in the production process of the investigated shipment. In any case, most stakeholders agree that concrete processes and investigative standards should be in place, to ensure predictability and uniformity.

On enforcement, most stakeholders agreed that the same standards should be in place for all Member States, and that the risk of fragmentation should be avoided. It is therefore necessary to provide national enforcement authorities with clear guidelines and the resources needed to effectively monitor and enforce the proposed regulation (including for training and to ensure national authorities have enough staff on hand), and for the EU to play a coordination role.

Consistency with existing EU and national regulations was often mentioned by respondents from the private sector, with a view to avoiding the duplication of efforts by companies and increased red tape. Other submissions rather see this initiative as complementing gaps in other regulations, as for example the exemption of SMEs from the proposed directive on corporate sustainability due diligence.

On the issue of SMEs, views are also divergent. Representatives of civil society underlined that SMEs should not benefit from exclusions or special provisions, as they did for the proposed directive on corporate sustainability due diligence. As SMEs make up the majority of companies in the EU, their full inclusion is crucial for the new instrument to have a meaningful impact. On the other hand, a significant number of representatives of business associations or companies/business organisations advocated for SMEs to receive special treatment, by either providing them with detailed guidelines, specific provisions or even exclusions from the instrument. The main argument in this respect was that smaller companies have less resources to conduct in depth due diligence and that they have less market power to put pressure on suppliers to make additional efforts or provide access to their production sites and employees.

The new proposal would need to make sure that products found to be produced with forced labour should not only be banned from the EU single market, but also that they cannot be rerouted to countries that do not have a ban in place, or do not have the capacity to investigate and/or enforce. Hence, increasing cooperation with authorities in non-EU countries to ensure that products prohibited from entering their market, do not end up in the EU single market and vice versa is paramount.

The added value of a database was also stressed in the feedback received. Stakeholders suggested that public authorities could provide a registry of penalised and banned entities and products. This would help companies, especially SMEs, as they could avoid problematic suppliers. A number of stakeholders also requested that customs authorities disclose their data for transparency reasons. Representatives of civil society organisations demanded that importers should be required to map and provide details on all of their suppliers.

Many stakeholders presented the company- or sector-specific initiatives they have put in place to address forced labour in their value chains, and the results they have achieved.

- **Impact assessment**

The issue to be addressed – forced labour – is in direct opposition to the respect for human dignity and the universality and indivisibility of human rights as laid down in Article 21 of the Treaty on European Union, as well as in Article 5(2) of the EU Charter of Fundamental Rights and in Article 4 of the European Convention on Human Rights.

Against this background, forced labour requires urgent action, which does not allow for an impact assessment. However, the evidence collected in the impact assessments of other initiatives such as the proposal for a directive on corporate sustainability due diligence and the Sustainable Product Initiative have fed into the drafting of this proposal. For that reason and given the importance and urgency of the initiative, a derogation was granted under the Commission's Better Regulation Guidelines. The analysis and supporting evidence will still be presented in a staff working document within three months of the publication of this proposal.

In terms of costs, the proposal will mainly entail enforcement costs for public authorities and compliance costs for economic operators. The Commission will also incur limited costs.

The compliance costs are costs that companies will face to ensure they do not place and make available on the EU market products made with forced labour. Their costs will depend on whether or not they are already covered by due diligence provisions (for example, the proposed directive on corporate sustainability due diligence) or whether they have already carried out due diligence on a voluntary basis.

Concerning the costs for Member States that will implement the proposal, this will depend on the existing administrative structure at national level (i.e., are authorities already in place performing similar tasks or not), national legislation already in place for connected issues and the potential update of the customs systems.

- **Regulatory fitness and simplification**

All economic operators making products available on the EU market or exporting from it should be covered. This is necessary to effectively prohibit products made with forced labour from being made available on the EU market.

SMEs could have limited resources and expertise to implement effective due diligence systems. Withdrawing goods from the market could also mean higher burdens for SMEs compared to a large company.

For SMEs, several adjustments will therefore be needed. One way of accommodating the particular needs and constraints of SMEs could theoretically be to **exempt** such companies from the scope of this proposal. This is not a viable option, however, since the proposal will have to focus on products suspected of having been made with forced labour, irrespective of the size of the economic operators involved. It cannot be excluded beforehand that the entities which authorities may approach when they launch forced labour investigations are in some cases SMEs. Exempting SMEs would therefore affect the effectiveness of the proposal and create uncertainty. Furthermore, it is important to consider that since SMEs are usually part of value chains, policies addressing large enterprises within these supply chains also impact

SMEs, who need to have due diligence procedures to gain access to financing, and to meet demands from larger buyers/suppliers that exercise due diligence. As pointed out in the Commission's recommendations in the *Annual Report on European SMEs 2021/2022*[42], it may well be more appropriate for legislation to consider simplified voluntary tools and mitigating measures that allow SMEs to demonstrate their sustainability commitments.

The Commission evaluated the merits of introducing a **threshold** for the volume and/or value of products, below which authorities would not launch forced labour investigations under this proposal. As it may be more likely that SMEs make smaller quantities available on the market, such a *de minimis* clause could in principle serve as a way of taking their situation into consideration and largely exempting them from investigations. However, establishing *de minimis* thresholds would distort the level playing field in the internal market, creating loopholes. It would also not be a guarantee that SMEs always fall outside the scope of this proposal, since smaller economic operators could certainly make considerable volumes of products available on the market, depending on the sector.

Therefore, rather than a clear-cut exemption for SMEs, or a *de minimis* threshold, their situation should be addressed through the design of the measure, including the risk-based enforcement and the support tools. This will include, for example:

Design of the measure: When deciding on the time limits for submission of information the competent authorities will consider the size and resources of the economic operators concerned, knowing that smaller companies would not have as many resources for value chain overview and mapping as larger companies.

Risk-based enforcement: Competent authorities should focus their enforcement efforts where they are likely to have the best effect, 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.

Support tools: As experience has shown that SMEs benefit from support tools such as guidelines or templates that require lower costs, the Commission will issue guidance, which shall take into account the size and economic resources of economic operators.

4. BUDGETARY IMPLICATIONS

The legislative financial statement attached to this proposal sets out the implications for budgetary, human and administrative resources.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will actively monitor the implementation of the proposed regulation and will ensure that the proposed regulation achieves its objectives. Monitoring will focus in particular on effectively preventing products made with forced labour from being made available on the EU market or exported from the EU, and on ensuring effective cooperation between competent authorities. It will also take into account the impact on business and in particular on SMEs.

- **Detailed explanation of the specific provisions of the proposal**

Chapter I contains the general provisions: the subject matter (Article 1), the definitions (Articles 2) and the prohibition of products made with forced labour, namely making them available on the EU market and exporting them (Article 3).

Chapter II details investigations and decisions by competent authorities. Member States will be required to designate one or more competent authorities responsible for carrying out the obligations arising from this proposal (Article 12). At the preliminary phase of investigations, the competent authorities will be required to follow a risk-based approach, and, in particular, assess the risk of a violation of the above-mentioned prohibition (Article 4). If the competent authority determines that there is a substantiated concern of such a violation, it will be required to investigate the products and economic operators concerned (Article 5). The chapter also specifies the decisions of competent authorities (Article 6), their content (Article 7), review (Article 8) and recognition (Article 14). The competent authorities will have obligations to inform the Commission and the competent authorities of other Member States (Article 9) and obligations regarding administrative cooperation and reciprocal communication (Article 13). The chapter also contains provisions on the submission of information on alleged violations (Article 10) and the database of forced labour risks areas or products (Article 11).

Chapter III concerns provisions for products entering or leaving the EU market. Specific provisions for customs controls are necessary, as Regulation (EU) 2019/1020 is not fit for purpose in this case, and customs authorities cannot act as a first line of defence as they usually do under Regulation (EU) 2019/1020. Therefore, they will rely on the decisions of the competent authorities. Furthermore, customs authorities must have available specific information on the natural and legal persons involved in the manufacturing process, as well as on the product itself, in order for them to be able to stop in an effective manner products made with forced labour entering or leaving the EU market, as per the decisions of the competent authorities.

Therefore, Chapter III includes provisions for customs controls (Article 15), information to be made available to customs authorities by the economic operator (Article 16), suspension of the release for free circulation or the export of products that may be in violation of the prohibition (Article 17), their release for free circulation or export in case of no violation (Article 18), refusal of their release for free circulation or export (Article 19) and disposal of the products refused for release for free circulation or export (Article 20), as well as provisions on the exchange of information and cooperation between competent authorities and customs authorities (Article 21).

Chapter IV contains provisions on information systems (Article 22), on the guidelines that the Commission will have to issue in order to help competent authorities implement this proposed regulation and economic operators comply with it, as well as provisions ensuring clarity of tasks and consistency of action among competent authorities (Article 23) and on the establishment, composition and tasks of the EU Forced Labour Product Network that will serve as a platform for structured coordination and cooperation between competent authorities and the Commission (Article 24).

Chapter V sets out the final provisions: on confidentiality (Article 25), international cooperation (Article 26), delegated acts (Article 27), urgency procedure (Article 28),

committee procedure (Article 29), penalties (Article 30) and the entry into force and date of application of this proposed regulation (Article 31).

2022/0269 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on prohibiting products made with forced labour on the Union market

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 and Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[15],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) As recognised in the Preamble to the 2014 Protocol to Convention No. 29 on forced labour ('ILO Convention No. 29') of the International Labour Organization ('ILO'), forced labour constitutes a serious violation of human dignity and fundamental human rights. The ILO declared the elimination of all forms of forced or compulsory labour as a principle concerning the fundamental rights. The ILO classifies ILO Convention No. 29, the 2014 Protocol to Convention No. 29 and the ILO Convention No.105 on the abolition of forced labour ('ILO Convention No.105') as fundamental ILO Conventions[16]. Forced labour covers a wide variety of coercive labour practices where work or service is exacted from persons that have not offered it themselves voluntarily.[17]

(2) The use of forced labour is widespread in the world. It is estimated that about 27.6 million people were in forced labour in 2021.[18] Vulnerable and marginalised groups in a society are particularly susceptible to be pressured into performing forced labour. Even when it is not state imposed, forced labour is often a consequence of a lack of good governance of certain economic operators.

(3) The eradication of forced labour is a priority for the Union. Respect for human dignity and the universality and indivisibility of human rights are firmly enshrined in Article 21 of the Treaty on European Union. Article 5(2) of the Charter of Fundamental

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15 OJ C , , p. .

16 https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm.

17 The ILO definition of forced labour according to the ILO Forced Labour Convention, 1920 (No. 29), What is forced labour, modern slavery and human trafficking (Forced labour, modern slavery and human trafficking) (ilo.org).

18 The 2021 Global Estimates of Modern Slavery, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf.

Rights of the European Union and Article 4 of the European Convention on Human Rights provide that no one is to be required to perform forced or compulsory labour. The European Court of Human Rights has repeatedly interpreted Article 4 of the European Convention on Human Rights as requiring Member States to penalise and effectively prosecute any act maintaining a person in the situations described set out in Article 4 of the European Convention on Human Rights.[19]

(4) All Member States have ratified the fundamental ILO Conventions on forced labour and child labour.[20] They are therefore legally obliged to prevent and eliminate the use of forced labour and to report regularly to the ILO.

(5) Through its policies and legislative initiatives the Union seeks to eradicate the use of forced labour. The Union promotes due diligence in accordance with international guidelines and principles established by international organisations, including the ILO, the Organisation for Economic Co-operation and Development (hereinafter "OECD") and the United Nations (hereinafter "UN"), to ensure that forced labour does not find a place in the value chains of undertakings established in the Union.

(6) Union trade policy supports the fight against forced labour in both unilateral and bilateral trade relationships. The trade and sustainable development chapters of Union trade agreements contain a commitment to ratify and effectively implement the fundamental ILO Conventions, which include ILO Convention No. 29 and ILO Convention No. 105. Moreover, unilateral trade preferences under the Union's General Scheme of Preferences could be withdrawn for serious and systematic violations of ILO Convention No. 29 and ILO Convention No. 105.

(7) The Anti-trafficking Directive (Directive 2011/36/EU) of the European Parliament and of the Council[21] (the Anti-trafficking Directive) harmonises the definition of trafficking in human beings, including forced labour or services, and establishes minimum penalties. Any rules laid down concerning the prohibition of placing and making available on the Union market domestic or imported products made with forced labour, or exporting such products, and the obligation to ensure that such products are withdrawn from the Union market ('the prohibition'), should be without prejudice to that Directive, and in particular to the competence of law enforcement and judicial authorities to investigate and prosecute offences on trafficking in human beings, including labour exploitation.

(8) [In particular, Directive 20XX/XX/EU on Corporate Sustainability Due Diligence sets out horizontal due diligence obligations to identify, prevent, mitigate and account for actual and potential adverse impacts on human rights, including forced labour, and the environment in the company's own operations, its subsidiaries and in its value chains, in accordance with international human and labour rights standards and environmental conventions. Those obligations apply to large companies over a certain threshold in terms of number of employees and net turnover, and to smaller companies in high-

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19 For instance paras. 89 and 102 in *Siliadin v. France* or para. 105 in *Chowdury and Others v. Greece*.

20 https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-brussels/documents/publication/wcms_195135.pdf.

21 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, 15.4.2011, p.1.

impact sectors over a certain threshold in terms of number of employees and net turnover.[22]]

(9) In addition, Regulation (EU) 2017/821 of the European Parliament and of the Council[23] requires Union importers of minerals falling under the scope of that Regulation to carry out due diligence obligations consistent with Annex II to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and the due diligence recommendations set out therein. [Regulation (EU) No XX/20XX concerning batteries and waste batteries contains obligations for economic operators to carry out due diligence in their supply chains, including with respect to labour rights.[24]] [Regulation (EU) XX/20XX on making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation[25] requires due diligence regarding the legal and deforestation free character of products and commodities within its scope, including with respect to human rights.]

(10) Articles [XX] of Directive 2013/34/EU of the European Parliament and of the Council require Member States to ensure that certain economic operators annually publish non-financial statements in which they report on the impact of their activity on environmental, social and employee matters, respect for human rights, including regarding forced labour, anti-corruption and bribery matters.[26] [Furthermore, Directive 20XX/XX/EU on Corporate Sustainability Reporting puts forward detailed reporting requirements for covered companies regarding the respect of human rights, including in global supply chains. The information that undertakings disclose about human rights should include, where relevant, information about forced labour in their value chains.[27]]

(11) In July 2021, the Commission and the European External Action Service published guidance to assist Union businesses in taking appropriate measures to address the risk of forced labour in their operations and supply chains.[28]

(12) As recognised in the Commission's Communication on decent work worldwide[29], notwithstanding the current policies and legislative framework, further action is

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22 Directive 20XX/XX/EU of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937, OJ XX, XX.XX.20XX, p. XX.

23 Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas, OJ L 130, 19.5.2017, p. 1.

24 REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 20XX/XX, OJ XX, XX.XX.20XX, p. XX.

25 Regulation of the European Parliament and of the Council on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No XXX/20XX, OJ XX, XX.XX.20XX, p. XX.

26 Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, OJ

27 Directive 20XX/XX/EU of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and Regulation (EU) No 537/2014, as regards corporate sustainability reporting, OJ XX, XX.XX.20XX, p. XX.

28 Guidance on due diligence for EU businesses to address the risk of forced labour in their operations and supply chains.

29 Communication 23 March 2022 from the Commission to the European Parliament, the Council and the European Economic and Social Committee on decent work worldwide for a global just transition and a sustainable recovery (COM(2022) 66 final).

needed to achieve the objectives of eliminating forced-labour products from the Union market and, hence, further contributing to the fight against forced labour worldwide.

(13) The European Parliament in its resolutions strongly condemned forced labour and called for a ban on products made with forced labour.[30] It is therefore a matter of public moral concern that products made with forced labour could be available on the Union market or exported to third countries without an effective mechanism to ban or withdraw such products.

(14) To complete the Union legislative and policy framework on forced labour, the placing and making available on the Union market products made with forced labour or exporting domestically produced or imported products made with forced labour should be prohibited and it should be ensured that those products are withdrawn from the Union market.

(15) Currently there is no Union legislation that empowers Member States' authorities to directly detain, seize, or order the withdrawal of a product on the basis of a finding that it was made, whether in whole or in part, with forced labour.

(16) In order to ensure the effectiveness of the prohibition, such prohibition should apply to products for which forced labour has been used at any stage of their production, manufacture, harvest and extraction, including working or processing related to the products. The prohibition should apply to all products, of any type, including their components, and should apply to products regardless of the sector, the origin, whether they are domestic or imported, or placed or made available on the Union market or exported.

(17) The prohibition should contribute to the international efforts to abolish forced labour. The definition of 'forced labour' should therefore be aligned with the definition laid down in ILO Convention No. 29. The definition of 'forced labour applied by state authorities' should be aligned with ILO Convention No. 105, which prohibits specifically 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 a punishment for participation in strikes, or as a means of racial, religious or other discrimination.[31]

(18) Micro, small and medium-sized enterprises ('SMEs') can have limited resources and ability to ensure that the products they place or make available on the Union market are free from forced labour. The Commission should therefore issue guidelines on due diligence in relation to forced labour, which should take into account also the size and economic resources of economic operators. In addition, the Commission should issue guidelines on forced-labour risk indicators and on publicly available information in order to help SMEs, as well as other economic operators, to comply with the requirements of the prohibition.

(19) The competent authorities of the Member States should monitor the market to identify violations of the prohibition. In appointing those competent authorities, Member States

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30 See Resolutions: MOTION FOR A RESOLUTION on a new trade instrument to ban products made by forced labour (europa.eu), Texts adopted - Forced labour and the situation of the Uyghurs in the Xinjiang Uyghur Autonomous Region - Thursday, 17 December 2020 (europa.eu), Texts adopted - Forced labour in the Linglong factory and environmental protests in Serbia - Thursday, 16 December 2021 (europa.eu).

31 What is forced labour, modern slavery and human trafficking (Forced labour, modern slavery and human trafficking) (ilo.org) and the ILO Conventions No. 29 and No. 105 referred therein.

should ensure that those authorities have sufficient resources and that their staff has the necessary competences and knowledge, especially with regard to human rights, value chain management and due diligence processes. Competent authorities should closely coordinate with national labour inspections and judicial and law enforcement authorities, including those responsible for the fight against trafficking in human beings in such a way as to avoid jeopardising investigations by such authorities.

(20) In order to increase the effectiveness of the prohibition, competent authorities should grant reasonable time to economic operators to identify, mitigate, prevent and bring to an end the risk of forced labour.

(21) When identifying potential violations of the prohibition, the competent authorities should follow a risk-based approach and assess all information available to them. Competent authorities should initiate an investigation where, based on their assessment of all available information, they establish that there is a substantiated concern of a violation of the prohibition.

(22) Before initiating an investigation, competent authorities should request from the economic operators under assessment information on actions taken to mitigate, prevent or bring to an end risks of forced labour in their operations and value chains with respect to the products under assessment. Carrying out such due diligence in relation to forced labour should help the economic operator to be at a lower risk of having forced labour in its operations and value chains. Appropriate due diligence means that forced labour issues in the value chain have been identified and addressed in accordance with relevant Union legislation and international standards. That implies that where the competent authority considers that there is no substantiated concern of a violation of the prohibition, for instance due to, but not limited to the applicable legislation, guidelines, recommendations or any other due diligence in relation to forced labour being applied in a way that mitigates, prevents and brings to an end the risk of forced labour, no investigation should be initiated.

(23) In order to ensure cooperation among competent authorities designated under this and other relevant legislation and in order to ensure consistency in their actions and decisions, competent authorities designated under this Regulation should request information from other relevant authorities, where necessary, on whether economic operators under assessment are subject to and carry out due diligence in relation to forced labour in accordance with applicable Union legislation or Member States legislation setting out due diligence and transparency requirements with respect to forced labour.

(24) During the preliminary phase of investigation, competent authorities should focus on the economic operators involved in the steps of the value chain where there is a higher risk of forced labour with respect to the products under investigation, also taking into account their size and economic resources, the quantity of products concerned and the scale of the suspected forced labour.

(25) Competent authorities, when requesting information during the investigation, should prioritise to the extent possible and consistent with the effective conduct of the investigation the economic operators under investigation that are involved in the steps of the value chain as close as possible to where the likely risk of forced labour occurs and 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.

(26) Competent authorities should bear the burden of establishing that forced labour has been used at any stage of production, manufacture, harvest or extraction of a product, including working or processing related to the product on the basis of all information and evidence gathered during the investigation, including its preliminary phase. To ensure their right to due process, economic operators should have the opportunity to provide information in their defence to the competent authorities throughout the investigation.

(27) Competent authorities that establish that economic operators violated the prohibition, should without delay prohibit the placing and making available of such products on the Union market and their export from the Union, and require the economic operators that have been investigated to withdraw the relevant products already made available from the Union market and have them destroyed, rendered inoperable, or otherwise disposed of in accordance with national law consistent with Union law, including Union legislation on waste management.

(28) In that decision, competent authorities should state the findings of the investigation, and the information underpinning the findings, and set a reasonable time within which the economic operators should comply with the decision, as well as information allowing for the identification of the product to which the decision applies. The Commission should be empowered to adopt the implementing acts necessary to specify the details about the information to be contained in such decisions.

(29) In setting a reasonable time to comply with the order, competent authorities should take into account the size and economic resources of the economic operators concerned.

(30) If the economic operators fail to comply with the decision of the competent authorities by the end of the established timeframe, the competent authorities should ensure that the relevant products are prohibited from being placed or made available on the Union market, exported or withdrawn from the Union market and that any such products remaining with the relevant economic operators are destroyed, rendered inoperable, or otherwise disposed of in accordance with national law consistent with Union law, including Union legislation on waste management at the expense of the economic operators.

(31) Economic operators should have the possibility to request a review of the decisions by the competent authorities, after having provided new information showing that it cannot be concluded that the relevant products have been made with forced labour. Competent authorities should withdraw their decision where they establish on the basis of that new information, that it cannot be established that the products have been made with forced labour.

(32) Any person, whether it is a natural or legal person, or any association not having legal personality, should be allowed to submit information to the competent authorities when it considers that products made with forced labour are placed and made available on the Union market and to be informed of the outcome of the assessment of their submission.

(33) The Commission should issue guidelines in order to facilitate the implementation of the prohibition by economic operators and competent authorities. Such guidelines should include guidance on due diligence in relation to forced labour and complementary information for the competent authorities to implement the prohibition. The guidance on due diligence in relation to forced labour should build on

the Guidance on due diligence for Union businesses to address the risk of forced labour in their operations and supply chains published by the Commission and the European External Action Service in July 2021. The guidelines should be consistent with other Commission guidelines in this regard and relevant international organisations' guidelines. The reports from international organisations, in particular the ILO, as well as other independent and verifiable sources of information should be considered for the identification of risk indicators.

(34) Decisions of the competent authorities establishing a violation of the prohibition should be communicated to customs authorities, who should aim at identifying the product concerned amongst products declared for release for free circulation or export. The competent authorities should be responsible for the overall enforcement of the prohibition with regard to the internal market as well as products entering or leaving the Union market. Since forced labour is part of the manufacturing process and does not leave any trace on the product, and Regulation (EU) 2019/1020 covers only manufactured products and its scope is limited to release for free circulation, the customs authorities would be unable to act autonomously under Regulation (EU) 2019/1020 for the application and enforcement of the prohibition. The specific organisation of controls of each Member State should be without prejudice to Regulation (EU) No 952/2013 of the European Parliament and of the Council[32] and its general provisions on the control and supervisory powers of customs authorities.

(35) The information currently made available to customs authorities by economic operators includes only general information on the products but lacks information on the manufacturer or producer and product suppliers as well as specific information on products. In order for customs authorities to be able to identify products entering or leaving the Union market that may violate the Regulation and should accordingly be stopped at the EU external borders, economic operators should submit to customs authorities information allowing matching a decision of the competent authorities with the product concerned. This should include information on the manufacturer or producer and the product suppliers as well as any other information on the product itself. To this end, the Commission should be empowered to adopt delegated acts identifying the products for which such information should be provided using, amongst others, the database established under this Regulation as well as the information and decisions of the competent authorities encoded in the information and communication system set out in Article 34 of Regulation (EU) 2019/1020 ('ICSMS'). Moreover, the Commission should be empowered to adopt, the implementing acts necessary to specify the details of the information to be made available to customs by the economic operators. This information should include the description, name or brand of the product, specific requirements under Union legislation for the identification of the product (such as a type, reference, model, batch or serial number affixed on the product, or provided on the packaging or in a document accompanying the product, or unique identifier of the digital product passport) as well as details on the manufacturer or producer and the product suppliers, including for each of them their name, trade name or registered trademark, their contact details, their unique identification number in the country they are established and, where available, their Economic Operators Registration and Identification (EORI) number. The review of the Union Customs Code will consider introducing in the customs legislation the

[32] Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast) (OJ L 269, 10.10.2013, p. 1).

information required to be made available to customs by the economic operators for the enforcement of this Regulation and more broadly to strengthen the transparency of the supply chain.

(36) Customs authorities that identify a product that may be covered by a decision communicated by competent authorities establishing a violation of the prohibition should suspend the release of that product and notify the competent authorities immediately. Competent authorities should reach a conclusion within a reasonable timeframe on the case notified to them by the customs authorities, either by confirming or by denying that the product concerned is covered by a decision. Where necessary the competent authorities should be authorised to require maintaining the suspension of its release. In the absence of a conclusion by competent authorities within the specified time limit, customs authorities should release the products if all other applicable requirements and formalities are fulfilled. Generally, the release for free circulation or export should also not be deemed to be proof of compliance with Union law, since such a release does not necessarily include a complete control of such compliance.

(37) Where the competent authorities conclude that a product corresponds to a decision establishing a violation of the prohibition, they should immediately inform customs authorities which should refuse its release for free circulation or export. The product should be destroyed, rendered inoperable, or otherwise disposed of in accordance with national law consistent with Union law, including legislation on waste management, which excludes re-export in case of non-Union goods.

(38) The conditions applicable to products during the suspension of their release for free circulation or export, including their storage or destruction and disposal of in case of a refusal of release for circulation, should be determined by customs authorities, where applicable pursuant to Regulation (EU) No 952/2013. Should products entering the Union market require further processing, they are to be placed under the appropriate customs procedure allowing such processing in accordance with Articles 220, 254, 256, 257 and 258 of Regulation (EU) No 952/2013.

(39) A uniform enforcement of the prohibition as regards products entering or leaving the Union market can only be achieved through systematic exchange of information and cooperation amongst competent authorities, customs authorities and the Commission.

(40) For the collection, processing and storage of information, in a structured form, on issues relating to the enforcement of the prohibition, the competent authorities should use ICSMS. The Commission, competent authorities and customs authorities should have access to that system to carry out their respective duties under this Regulation.

(41) In order to optimise and unburden the control process of products entering or leaving the Union market, it is necessary to allow for an automated data transfer between the ICSMS and customs systems. Three different data transfers should be distinguished in view of their respective purposes. Firstly, decisions establishing a violation of the prohibition should be communicated from the ICSMS to the Electronic Customs Risk Management System (CRMS) referred to in Article 36 of Commission Implementing Regulation (EU) 2015/2447[33], without prejudice to any future evolution of the customs

[33] Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, OJ L 343, 29.12.2015, p. 558.

risk management environment, for use by customs authorities to identify products that may correspond to such a decision. The available interfaces of the customs environment should be used for those first data transfers. Secondly, where customs authorities identify such a product, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of competent authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs should support those second data transfers between ICSMS and national customs systems. Thirdly, customs systems contain information on products entering and leaving the Union market that would be relevant for competent authorities to carry out their duties but that is not accessible to them. The relevant information should therefore be extracted and transmitted to the ICSMS. The three interconnections should be highly automated and easy-to-use, so as to limit any additional burden for customs authorities. The Commission should be empowered to adopt, in cooperation with customs authorities and competent authorities, the implementing acts necessary to determine the procedural rules, practical arrangements and data elements to be transferred between the ICSMS and customs systems and any other ancillary requirement.

(42) To ensure effective enforcement decisions taken by a competent authority in one Member State should be recognised and enforced by competent authorities in the other Member States regarding products with the same identification from the same supply chain for which forced labour has been found.

(43) Where, for the prohibition, it is necessary to process personal data, such processing should be carried out in accordance with Union law on the protection of personal data. Any processing of personal data under the prohibition should be subject to Regulation (EU) 2016/679 of the European Parliament and of the Council[34] and Regulation (EU) 2018/1725 of the European Parliament and of the Council[35].

(44) To ensure effective enforcement of the prohibition, it is necessary to establish a network aimed at structured coordination and cooperation between the competent authorities of the Member States and, where appropriate, experts from customs authorities, and the Commission. That network should also aim at streamlining the practices of the competent authorities within the Union that facilitate the implementation of joint enforcement activities by Member States, including joint investigations. That administrative support structure should allow the pooling of resources and maintain a communication and information system between Member States and the Commission, thereby helping to strengthen the enforcement of the prohibition.

(45) Since forced labour is a global problem and given the interlinkages of the global value chains, it is necessary to promote international cooperation against forced labour, which would also improve the efficiency of applying and enforcing the prohibition. The Commission should as appropriately cooperate with and exchange information

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34 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.

35 Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

with authorities of third countries and international organisations to enhance the effective implementation of the prohibition. International cooperation with authorities of non-EU countries should take place in a structured way as part of the existing dialogue structures, for example Human Rights Dialogues with third countries, or, if necessary, specific ones that will be created on an ad hoc basis.

(46) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[36].

(47) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(48) In order to ensure that the customs authorities are provided with all the necessary information about the product to act effectively, including the information identifying the relevant product, information about the manufacturer or the producer and information about the product suppliers as regards products entering or leaving the Union market, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. Customs authorities need to be enabled to obtain information rapidly on specific products, identified in the decisions of the competent authorities in order to take actions and measures effectively and swiftly. In such cases, delegated acts should be adopted in an urgent procedure.

(49) Since the objective of this Regulation, namely, the prohibition, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(50) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the Official Journal of the European Union,

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter and scope

[36] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

1. This Regulation lays down rules prohibiting economic operators from placing and making available on the Union market or exporting from the Union market products made with forced labour.

2. This Regulation shall not cover the withdrawal of products which have reached the end-users in the Union market.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(a) 'forced labour' means forced or compulsory labour as defined in Article 2 of the Convention on Forced Labour, 1930 (No. 29) of the International Labour Organization, including forced child labour;

(b) 'forced labour imposed by state authorities' means the use of forced labour as described in Article 1 of the Convention on the Abolition of Forced Labour, 1957 (No. 105) of the International Labour Organization;

(c) 'due diligence in relation to forced labour' means the efforts by economic operator 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 made available on the Union market or to be exported;

(d) 'making available on the market' means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge and in the case where the product is offered for sale online or through other means of distance sales, the making available on the market is deemed to take place when the offer for sale is targeted at users in the Union;

(e) 'placing on the market' means the first making available of a product on the Union market;

(f) 'product' means any product that can be valued in money and is capable, as such, of forming the subject of commercial transactions, whether it is extracted, harvested, produced or manufactured, including working or processing related to a product at any stage of its supply chain;

(g) 'product made with forced labour' means 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 working or processing related to a product at any stage of its supply chain;

(h) 'economic operator' means any natural or legal person or association of persons who is placing or making available products on the Union market or exporting products;

(i) 'manufacturer' means the manufacturer of the product pursuant to the Union legislation applicable to that product;

(j) 'producer' means the producer of agricultural products as referred to in Article 38(1) TFEU or of raw materials;

(k) ‘product supplier’ means any natural or legal person or association of persons in the supply chain who extracts, harvests, produces or manufactures a product in whole or in part, or intervenes in the working or processing related to a product at any stage of its supply chain, whether as manufacturer or in any other circumstances;

(l) ‘importer’ means any natural or legal person or association of persons established within the Union who places a product from a third country on the Union market;

(m) ‘exporter’ means the exporter as defined in Article 1, point (19) of Commission Delegated Regulation (EU) 2015/2446[37];

(n) ‘substantiated concern’ means a well-founded reason, based on objective and verifiable information, for the competent authorities to suspect that products were likely made with forced labour;

(o) ‘customs authorities’ means customs authorities as defined in Article 5, point (1), of Regulation (EU) No 952/2013;

(p) ‘products entering the Union market’ means products from third countries intended to be placed on the Union market or intended for private use or consumption within the customs territory of the Union and placed under the customs procedure ‘release for free circulation’;

(q) ‘products leaving the Union market’ means products placed under the customs procedure ‘export’;

(r) ‘release for free circulation’ means the procedure laid down in Article 201 of Regulation (EU) No 952/2013;

(s) ‘export’ means the procedure laid down in Article 269 of Regulation (EU) No 952/2013;

(t) ‘EU Customs Single Window Certificates Exchange System’ or (EU CSW-CERTEX) means the system established by Article 4 of the [Regulation (EU) XX/20XX establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013 COM/2020/673 final];

(u) “National single window environments for customs” means the national single window environments for customs as defined in point 9 of Article 2 of [Regulation (EU) XX/20XX of the European Parliament and of the Council[38]].

Article 3

Prohibition of products made with forced labour

Economic operators shall not place or make available on the Union market products that are made with forced labour, nor shall they export such products.

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[37] Commission Delegated Regulation (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code, OJ L 343, 29.12.2015, p. 1.

[38] Regulation (EU) XX/20XX of the European Parliament and of the Council of ..... ,OJ, ...

Chapter II

Investigations and decisions of competent authorities

Article 4

Preliminary phase of investigations

1. Competent authorities shall follow a risk-based approach in assessing the likelihood that economic operators violated Article 3. That assessment shall be based on all relevant information available to them, including the following information:

   (a) submissions made by natural or legal persons or any association not having legal personality pursuant to Article 10;

   (b) the risk indicators and other information pursuant to Article 23, points (b) and (c);

   (c) the database referred to in Article 11;

   (d) information and decisions encoded in the information and communication system referred to in Article 22(1), including any past cases of compliance or non-compliance of an economic operator with Article 3;

   (e) information requested by the competent authority from other relevant authorities, where necessary, on whether the economic operators under assessment are subject to and carry out due diligence in relation to forced labour in accordance with applicable Union legislation or Member States legislation setting out due diligence and transparency requirements with respect to forced labour.

2. In their assessment of the likelihood that economic operators violated Article 3, competent authorities shall focus 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 and 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.

3. Before initiating an investigation in accordance with Article 5(1), the competent authority shall request from the economic operators under assessment information on actions taken to identify, prevent, mitigate or bring to an end risks of forced labour in their operations and value chains with respect to the products under assessment, including on the basis of any of the following:

   (a) applicable Union legislation or Member States legislation setting out due diligence and transparency requirements with respect to forced labour;

   (b) the guidelines issued by the Commission pursuant to Article 23, point (a);

   (c) due diligence guidelines or recommendations of the UN, ILO, OECD or other relevant international organisations;

   (d) any other due diligence in relation to forced labour.

4. Economic operators shall respond to the request of the competent authority referred to in paragraph 3 within 15 working days from the day they received such request.

Economic operators may provide to competent authorities any other information they may deem useful for the purposes of this Article.

5. Within 30 working days from the date of receipt of the information submitted by economic operators pursuant to paragraph 4, the competent authorities shall conclude the preliminary phase of their investigation as to whether there is a substantiated concern of violation of Article 3 on the basis of the assessment referred to in paragraph 1 and the information submitted by economic operators pursuant to paragraph 4.

6. The competent authority shall duly take into account where the economic operator demonstrates that it carries out due diligence on the basis of identified forced labour impact in its supply chain, adopts and carries out measures suitable and effective for bringing to an end forced labour in a short period of time.

7. Competent authorities shall not initiate an investigation pursuant to Article 5, and shall inform the economic operators under assessment accordingly, where, on the basis of the assessment referred to in paragraph 1 and the information submitted by economic operators pursuant to paragraph 4, the competent authorities consider that there is no substantiated concern of a violation of Article 3, for instance due to, but not limited to, the applicable legislation, guidelines, recommendations or any other due diligence in relation to forced labour referred to in paragraph 3 being applied in a way that mitigates, prevents and brings to an end the risk of forced labour.

Article 5

Investigations

1. Competent authorities that, pursuant to Article 4(5), determine that there is a substantiated concern of a violation of Article 3, shall decide to initiate an investigation on the products and economic operators concerned.

2. Competent authorities that initiate an investigation pursuant to paragraph 1 shall inform the economic operators subject to the investigation, within 3 working days from the date of the decision to initiate such investigation about the following:

   (a) the initiation of the investigation and the possible consequences thereof;

   (b) the products subject to the investigation;

   (c) the reasons for the initiation of the investigation, unless it would jeopardise the outcome of the investigation;

   (d) the possibility for the economic operators to submit any other document or information to the competent authority, and the date by which such information has to be submitted.

3. Where requested to do so by competent authorities, economic operators under investigation shall submit to those competent authorities any information that is relevant and necessary for the investigation, including information identifying the products under investigation, the manufacturer or producer of those products and the product suppliers. In requesting such information, competent authorities shall to the extent possible:

   (a) prioritise the economic operators under investigation involved in the steps of the value chain as close as possible to where the likely risk of forced labour occurs and

(b) 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.

4. Economic operators shall submit the information within 15 working days from the request referred to in paragraph 3 or make a justified request for an extension of that time limit.

5. When deciding on the time limits referred to in this Article, competent authorities shall consider the size and economic resources of the economic operators concerned.

6. Competent authorities may carry out all necessary checks and inspections including investigations in third countries, provided that the economic operators concerned give their consent and that the government of the Member State or third country in which the inspections are to take place has been officially notified and raises no objection.

Article 6

Decisions of competent authorities

1. Competent authorities shall assess all information and evidence gathered pursuant to Articles 4 and 5 and, on that basis, establish whether Article 3 has been violated, within a reasonable period of time from the date they initiated the investigation pursuant to Article 5(1).

2. Notwithstanding paragraph 1, competent authorities may 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 pursuant to Article 5(3) or (6).

3. Where competent authorities cannot establish that Article 3 has been violated, they shall take a decision to close the investigation and inform the economic operator thereof.

4. Where competent authorities establish that Article 3 has been violated, they shall without delay adopt a decision containing:

(a) a prohibition to place or make the products concerned available on the Union market and to export them;

(b) an order for the economic operators that have been subject to the investigation to withdraw from the Union market the relevant products that have already been placed or made available on the market;

(c) an order for the economic operators that have been subject to the investigation to dispose of the respective products in accordance with national law consistent with Union law.

5. Where an economic operator has failed to comply with the decision referred to in paragraph 4, the competent authorities shall ensure all of the following:

(a) that it is prohibited to place or make available the products concerned on the market;

(b) that the products already placed or made available on the market are withdrawn from the Union market;

(c) that any product remaining with the economic operator concerned is disposed of in accordance with national law consistent with Union law at the expense of the economic operator.

6. Where economic operators provide evidence to the competent authorities that they have complied with the decision referred to in paragraph 4, and that they have eliminated forced labour from their operations or supply chain with respect to the products concerned, the competent authorities shall withdraw their decision for the future and inform the economic operators.

Article 7

Content of the decision

1. The decision referred to in Article 6(4) shall contain all of the following:

(a) the findings of the investigation and the information underpinning the findings;

(b) a reasonable time limit for the economic operators to comply with the order, which shall not be less than 30 working days and no longer than necessary to withdraw the respective products. When setting such a time limit, the competent authority shall take into account the economic operator's size and economic resources;

(c) all relevant information and in particular the details allowing the identification of the product, to which the decision applies, including details about the manufacturer or producer and the product suppliers;

(d) where available and applicable, information required under customs legislation as defined in Article 5(2) of Regulation (EU) No 952/2013.

2. The Commission shall adopt implementing acts further specifying the details of the information to be included in the decisions. Those details shall as a minimum include details of information to be made available to customs authorities in accordance with Article 16(3). Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 29.

Article 8

Review of decisions

1. Competent authorities shall provide economic operators affected by a decision adopted pursuant to Article 6(4) the possibility of requesting a review of that decision within 15 working days from the date of receipt of that decision. In case of perishable goods, animals and plants, that time limit shall be 5 working days. The request for review shall contain information which demonstrates that the products are placed or made available on the market or to be exported in compliance with Article 3.

2. A request for a review of a decision adopted pursuant Article 6(4) shall contain new information that was not brought to the attention of the competent authority during the investigation. The request for a review shall delay the enforcement of the decision adopted pursuant to Article 6(4) until the competent authority decides on the request for the review.

3. A competent authority shall take a decision on the request for review within 15 working days from the date of receipt of the request. In case of perishable goods, animals and plants that time limit shall be 5 working days.

4. Where a competent authority considers that after taking into account the new information provided by the economic operator in accordance with paragraph 1 it cannot establish that the products have been placed or made available on the market or are being exported in violation of Article 3, it shall withdraw its decision adopted pursuant to Article 6(4).

5. Economic operators that have been affected by a decision of a competent authority pursuant to this Regulation shall have access to a court to review the procedural and substantive legality of the decision.

6. Paragraph 5 shall be without prejudice to any provision of national law which requires that administrative review procedures be exhausted prior to recourse to judicial proceedings.

7. Decisions adopted by competent authorities pursuant to Article 6 and to this Article are without prejudice to any decisions of a judicial nature taken by national courts or tribunals of the Member States with respect to the same economic operators or products.

Article 9

Information obligations of the competent authorities

1. The competent authority shall without delay inform the Commission and the competent authorities of other Member States using the information and communication system referred to in Article 22(1) about the following:

   (a) any decision not to initiate an investigation following a preliminary phase of investigation, referred to in Article 4(7);

   (b) any decision to initiate an investigation referred to in Article 5(1);

   (c) any decision to prohibit placing and making available of the products on the market and their export, as well as to order the withdrawal of the products already placed or made available on the market and their disposal referred to in Article 6(4);

   (d) any decision to close the investigation referred to in Article 6(3);

   (e) any withdrawal of the decision referred to in Article 6(6);

   (f) any request of an economic operator for a review referred to in Article 8(1);

   (g) any result of the review referred to in Article 8(4).

2. The Commission shall make available the decisions, and the withdrawals referred to in the paragraph 1, points (c), (d), (e) and (g) on a dedicated website.

Article 10

Submission of information regarding violations of Article 3

1. Submissions of information by any natural or legal person or any association not having legal personality, to competent authorities on alleged violations of Article 3

shall contain information on the economic operators or products concerned and provide the reasons substantiating the allegation.

2. The competent authority shall, as soon as possible, inform the person or association referred to in paragraph 1 of the outcome of the assessment of their submission.

3. Directive (EU) 2019/1937 of the European Parliament and of the Council[39] shall apply to the reporting of all breaches of this Regulation and the protection of persons reporting such breaches.

Article 11

Database of forced labour risk areas or products

1. The Commission shall call upon external expertise to provide an indicative, non-exhaustive, verifiable and regularly updated database of forced labour risks in specific geographic areas or with respect to specific products including with regard to forced labour imposed by state authorities. The database shall be based on the guidelines referred to in Article 23, points (a), (b) and (c), and relevant external sources of information from, amongst others, international organisations and third country authorities.

2. The Commission shall ensure that the database is made publicly available by the external expertise at the latest 24 months after the entry into force of this Regulation.

3. Economic operators placing or making available on the Union market or exporting products which are not mentioned in the database referred to in paragraph 1 of this Article, or which come from areas that are not mentioned in that database, shall also be required to comply with Article 3.

Article 12

Competent authorities

1. Member States shall designate one or more competent authorities responsible for carrying out the obligations set out in this Regulation. Designated Member State competent authorities shall be responsible for ensuring the effective and uniform implementation of this Regulation throughout the Union.

2. Where Member States have designated more than one competent authority, they shall clearly demarcate the respective duties and establish communication and coordination mechanisms that enable those authorities to collaborate closely and exercise their duties effectively.

3. No later than three months after the date of entry into force of this Regulation, Member States shall, through the information and communication system referred to in Article 22(1), provide the Commission and the other Member States with the following information:

   (a) the names, addresses and contact details of the designated competent authority or authorities;

[39] Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, OJ L 305, 26.11.2019, p. 17.

(b) the areas of competence of the designated competent authority or authorities.

Member States shall regularly update the information set out in points (a) and (b) of the first sub-paragraph of this paragraph.

4. The Commission shall make the list of the designated competent authorities publicly available on its website and shall regularly update that list, based on the updates received from Member States.

5. Member States shall ensure that the designated competent authorities exercise their powers impartially, transparently and with due respect for obligations of professional secrecy. Member States shall ensure that their competent authorities have the necessary powers and resources to carry out the investigations, including sufficient budgetary and other resources and coordinate closely with the national labour inspections and judicial and law enforcement authorities, including those responsible for the fight against trafficking in human beings.

6. Member States shall confer on their competent authorities the power to impose penalties in accordance with Article 30.

Article 13

Administrative cooperation and communication among competent authorities

1. The Commission shall ensure efficient cooperation among the competent authorities of the Member States through facilitating and coordinating the exchange and collection of information and best practices with regard to the application of this Regulation.

2. Competent authorities shall actively participate in the Network referred to in Article 24.

Article 14

Recognition of decisions

1. Decisions taken by a competent authority in one Member State shall be recognised and enforced by competent authorities in the other Member States in so far as they relate to products with the same identification and from the same supply chain for which forced labour has been found.

2. A competent authority that has received, through the information and communication system referred to in Article 22(1), a request from a competent authority of another Member State for information to verify any evidence provided by an economic operator shall provide that information within 15 working days from the date of receipt of the request.

3. Where two or more competent authorities initiate investigations concerning the same products or economic operators, the lead authority shall be the one which first informed the Commission and the competent authorities of other Member States of the decision to initiate an investigation in accordance with Article 9(1), point (b).

4. Before initiating an investigation in accordance with Article 5, a competent authority shall verify in the information and communication system referred to in Article 22(1) whether there is a lead authority referred to in paragraph 3 investigating the same product and economic operator.

5. Where there is a lead authority as referred to in paragraph 3, competent authorities shall share all the evidence and information they may have with that lead authority to facilitate the investigation and shall not start a separate investigation.

6. The lead authority shall carry out the investigation and adopt a decision in accordance with Article 6 on the basis of the assessment of all evidence before it.

Chapter III

Products entering or leaving the Union market

Article 15

Controls

1. Products entering or leaving the Union market shall be subject to the controls and measures laid down in this Chapter.

2. The application of this Chapter is without prejudice to other Union legislation governing the release for free circulation or export of products, in particular Articles 46, 47, 134 and 267 of Regulation (EU) No 952/2013.

3. The competent authority shall without delay, where no request for a review has been introduced within the time limits referred in Article 8(1) or the decision is definitive in case of a request for a review as referred to in Article 8(3), communicate to the customs authorities of Member States:

   (a) any decision to prohibit the placing or making available of the products on the Union market and their export, as well as to order the withdrawal of the products already placed or made available on the Union market and their disposal referred to in Article 6(4);

   (b) any decision following the review referred to in Article 8(3).

4. Customs authorities shall rely on the decisions communicated pursuant to paragraph 3 to identify products that may not comply with the prohibition laid down in Article 3. For that purpose, they shall carry out controls on products entering or leaving the Union market in accordance with Articles 46 and 47 of Regulation (EU) No 952/2013.

5. The competent authority shall without delay communicate to the customs authorities of Member States a withdrawal of the decision referred to in Article 6(6).

Article 16

Information to be made available to customs authorities

1. The Commission is empowered to adopt delegated acts in accordance with Article 27 to supplement this Regulation by identifying the products or product groups for which the information referred to in paragraph 2 shall be provided to customs authorities, amongst others, on the basis of the database referred to in Article 11 or f information and decisions encoded in the information and communication system referred to in Article 22(1).

2. Customs authorities shall be provided with information identifying the product, information about the manufacturer or the producer and information about the

product suppliers as regards products entering or leaving the Union market that have been identified by the Commission pursuant to paragraph 1, unless the provision of such information is already required pursuant to customs legislation referred to in Article 5(2) of Regulation (EU) No 952/2013.

3. The Commission may adopt implementing acts further specifying the details of the information to be made available to customs authorities pursuant to paragraph 1.

4. The implementing acts referred to in paragraph 3 shall be adopted in accordance with the examination procedure pursuant to Article 29.

5. Where a specific product has been identified in a decision referred to in Article 6(4), in order for the customs authorities to be able to act immediately, the procedure provided for in Article 28 shall apply to delegated acts adopted pursuant to this Article.

Article 17

Suspension

Where customs authorities identify a product entering or leaving the Union market that may, in accordance with a decision received pursuant to Article 15(3), be in violation of Article 3, they shall suspend the release for free circulation or the export of that product. Customs authorities shall immediately notify the relevant competent authorities of the suspension and transmit all relevant information to enable them to establish whether the product is covered by a decision communicated pursuant to Article 15(3).

Article 18

Release for free circulation or export

1. Where the release for free circulation or the export of a product has been suspended in accordance with Article 17, the product shall be released for free circulation or exported where all the other requirements and formalities relating to such a release or export have been fulfilled and where either of the following conditions is satisfied:

   (a) within 4 working days of the suspension, if the competent authorities have not requested the customs authorities to maintain the suspension. In case of perishable products, animals and plants that time limit shall be 2 working days;

   (b) the competent authorities informed the customs authorities of their approval for release for free circulation or export pursuant to this Regulation.

2. The release for free circulation or export shall not be deemed proof of compliance with Union law and, in particular, with this Regulation.

Article 19

Refusal to release for free circulation or export

1. Where the competent authorities conclude that a product that has been notified to them in accordance with Article 17 is a product made with forced labour pursuant to a decision referred to in Article 6(4), they shall require customs authorities not to release it for free circulation nor to allow its export.

2. Competent authorities shall immediately enter that information in the information and communication system referred to in Article 22(1) and notify the customs authorities accordingly. Upon such notification, customs authorities shall not allow the release for free circulation or export of that product and shall also include the following notice in the customs data-processing system and, where possible, on the commercial invoice accompanying the product and on any other relevant accompanying document:

   'Product made with forced labour - release for free circulation/export not authorised - Regulation (EU) XX/20XX' [*OP to indicate reference of this Regulation*].

Article 20

Measures on products refused for release for free circulation or export

Where the release for free circulation or export of a product has been refused in accordance with Article 19, customs authorities shall take the necessary measures to ensure that the product concerned is disposed of in accordance with national law consistent with Union law. Articles 197 and 198 of Regulation (EU) No 952/2013 shall apply accordingly.

Article 21

Exchange of information and cooperation

1. To enable a risk-based approach for products entering or leaving the Union market and to ensure that controls are effective and performed in accordance with the requirements of this Regulation, competent authorities and customs authorities shall cooperate closely and exchange risk-related information.
2. Cooperation among authorities and exchange of risk information necessary for the fulfilment of their respective functions under this Regulation, including through electronic means, shall take place between the following authorities:
   (a) customs authorities in accordance with Article 46(5) of Regulation (EU) No 952/2013;
   (b) competent authorities and customs authorities in accordance with Article 47(2) of Regulation (EU) No 952/2013.

Chapter IV

Information systems, guidelines and coordinated enforcement

Article 22

Information and communication systems

1. For the purposes of Chapters II and III, competent authorities shall use the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020. The Commission, competent authorities and customs authorities shall have access to that system for the purposes of this Regulation.
2. The decisions communicated pursuant to Article 15(3) shall be entered in the relevant customs risk management environment.

3. The Commission shall develop an interconnection to enable the automated communication of decisions referred to in Article 15(3) from the information and communication system referred to in paragraph 1 to the environment referred to in paragraph 4. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 7, point (b), in respect of that interconnection.

4. Requests and notifications exchanged between competent authorities and customs authorities pursuant to Articles 17 to 20 of this Regulation as well as the ensuing messages shall take place by means of the information and communication system referred to in paragraph 1.

5. The Commission shall interconnect the national single window environments for customs with the information and communication system referred to in paragraph 1 to enable the exchange of requests and notifications between customs and competent authorities pursuant to Articles 17 to 20 of this Regulation. That interconnection shall be provided through [EU CSW-CERTEX pursuant to Regulation XX/20XX][40] within four years from the date of adoption of the implementing act referred to in paragraph 7(c). The exchanges referred to in paragraph 4 shall take place through that interconnection as soon as it is operational.

6. The Commission may extract from the surveillance system referred to in Article 56(1) of Commission Implementing Regulation (EU) 2015/2447 information on products entering or leaving the Union market related to the implementation of this Regulation and transmit it to the information and communication system referred to in paragraph 1.

7. The Commission is empowered to adopt implementing acts in accordance with the examination procedure pursuant to Article 29 to specify the procedural rules and the details of the implementation arrangements for this Article, including:

   (a) the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership, of the information and communication system referred to in paragraphs 1 and 4;

   (b) the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3;

   (c) the data to be transmitted between the information and communication system referred to in paragraph 1 and the national single window environments for customs for the purposes of paragraph 5;

   (d) the data to be transmitted, as well as the rules on its confidentiality and controllership, in accordance with paragraph 6.

Article 23

Guidelines

The Commission shall issue guidelines no later than 18 months after the entry into force of this Regulation, which shall include the following:

[40] Established by the Regulation on the EU Single Window Environment for Customs (EU SWE-C).

(a) guidance on due diligence in relation to forced labour, which shall take into account applicable Union legislation setting out due diligence requirements with respect to forced labour, guidelines and recommendations from international organisations, as well as the size and economic resources of economic operators;

(b) information on risk indicators of forced labour, which shall be based on independent and verifiable information, including reports from international organisations, in particular the International Labour Organization, civil society, business organisations, and experience from implementing Union legislation setting out due diligence requirements with respect to forced labour;

(c) a list of publicly available information sources of relevance for the implementation of this Regulation;

(d) further information to facilitate the competent authorities' implementation of this Regulation;

(e) guidance for the practical implementation of Article 16 and, where appropriate, any other provision laid down in Chapter III of this Regulation.

Article 24

Union Network Against Forced Labour Products

1. A Union Network Against Forced Labour Products ('the Network') is established. The Network shall serve as a platform for structured coordination and cooperation between the competent authorities of the Member States and the Commission, and to streamline the practices of enforcement of this Regulation within the Union, thereby making enforcement more effective and coherent.

2. The Network shall be composed of representatives from each Member States' competent authority, representatives from the Commission and, where appropriate, experts from the customs authorities.

3. The Network shall have the following tasks:

(a) facilitate the identification of common priorities for enforcement activities, to exchange information, expertise and best practices;

(b) conduct joint investigations;

(c) facilitate capacity building activities and contribute to uniform risk-based approaches and administrative practices for the implementation of this Regulation in the Member States;

(d) contribute to the development of guidance to ensure the effective and uniform application of this Regulation;

(e) promote and facilitate collaboration to explore possibilities for using new technologies for the enforcement of this Regulation and the traceability of products;

(f) to promote the cooperation and exchange of expertise and best practices between competent authorities and customs authorities;

4. The Commission shall support and encourage cooperation between enforcement authorities through the Network and participate in the meetings of the Network.

5. The Network shall establish its rules of procedure.

CHAPTER V

Final provisions

Article 25

Confidentiality

1. The competent authorities shall only use information received pursuant to this Regulation for the purpose of applying this Regulation.
2. Where requested, the Commission, Member States and competent authorities shall treat the identity of those who provide information, or the information provided, as confidential. A request for confidentiality shall be accompanied by a non-confidential summary of the information supplied or by a statement of the reasons why the information cannot be summarised in a non-confidential manner.
3. Paragraph 2 shall not preclude the Commission from disclosing general information in a summary form, provided such general information does not contain any information which allows the identification of the provider of the information. Such disclosure of general information in a summary form shall take into account the legitimate interest of the parties concerned in preventing the disclosure of confidential information.

Article 26

International Cooperation

1. In order to facilitate effective implementation and enforcement of this Regulation, the Commission may as appropriate cooperate, engage and exchange information with, amongst others, authorities of third countries, international organisations, civil society representatives and business organisations. International cooperation with authorities of third countries shall take place in a structured way as part of the existing dialogue structures with third countries or, if necessary, specific ones that will be created on an ad hoc basis.
2. For the purposes of paragraph 1, cooperation with, amongst others, international organisations, civil society representatives, business organisations and competent authorities of third countries may result in the Union developing accompanying measures to support the efforts of companies and partner countries efforts and locally available capacities in tackling forced labour.

Article 27

Delegated Acts and Exercise of the Delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 16(1) shall be conferred on the Commission for an indeterminate period of time from date of entry force of this Regulation.

3. The delegation of power referred to in Article 16(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016[41].

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 16(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 28

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 27 (6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

Article 29

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Article 3(2) of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 30

Penalties

[41] Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1)

1. The Member States shall lay down the rules on penalties applicable to non-compliance with a decision referred to in Article 6(4) and shall take all measures necessary to ensure that they are implemented in accordance with national law.
2. The penalties provided for shall be effective, proportionate and dissuasive.
3. The Member States shall, by [OP enter DATE = 24 months from entry into force of this Regulation], notify those provisions to the Commission, where they have not previously been notified, and shall notify it, without delay, of any subsequent amendment affecting them.

Article 31

Entry into force and date of application

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall apply from [OP enter DATE = 24 months from its entry into force].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

1.2. Policy area(s) concerned

1.3. The proposal/initiative relates to:

1.4. Objective(s)

1.4.1. General objective(s)

1.4.2. Specific objective(s)

1.4.3. Expected result(s) and impact

1.4.4. Indicators of performance

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long-term including a detailed timeline for roll-out of the implementation of the initiative

1.5.2. Added value of Union involvement (it may result from different factors, e.g., coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

1.5.3. Lessons learned from similar experiences in the past

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

1.5.5. Assessment of the different available financing options, including scope for redeployment

1.6. Duration and financial impact of the proposal/initiative

1.7. Management mode(s) planned

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

2.3. Measures to prevent fraud and irregularities

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

3.2.2. Estimated output funded with operational appropriations

3.2.3. Summary of estimated impact on administrative appropriations

3.2.4. Compatibility with the current multiannual financial framework

3.2.5. Third-party contributions

3.3. Estimated impact on revenue

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Proposal for a Regulation of the European Parliament and of the Council prohibiting products made with forced labour on the Union market

1.2. Policy area(s) concerned

Internal Market for goods and services

[Common commercial policy]

1.3. The proposal/initiative relates to:

☒ **a new action**

☐ **a new action following a pilot project/preparatory action**[42]

☐ **the extension of an existing action**

☐ **a merger or redirection of one or more actions towards another/a new action**

1.4. Objective(s)

1.4.1. General objective(s)

The international community has committed to eradicating forced labour by 2030 (United Nations Sustainable Development Goal 8.7). However, its use remains widespread. The International Labour Organisation (ILO) has estimated the global number of people in forced labour at 27.6 million.

The objective of this Regulation is to effectively prohibit the placing and making available on the Union market and the export from the Union of products made by forced labour, including forced child labour. The prohibition covers both domestic, imported and exported products. Building on international standards and complementing existing horizontal and sectoral EU initiatives, in particular the due diligence and transparency obligations, the Regulation combines a prohibition with a robust, risk-based enforcement framework.

1.4.2. Specific objective(s)

Specific objective No:

1. Eradicating forced labour in the EU and contribute to reducing the recourse to forced labour in the world.

2. Putting in place and supporting competent authorities within the Member States to address the forced labour issues.

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The Proposal is expected to create a frameswork for identifying products made with forced labour made available in the EU and prohibiting them thereafter.

[42] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

This will consititute a major disincentive to use forced labour to produce, extract, harvest or manufacture products and make them availble in the EU. It will also level the playing field and remove unfair competition based on lower prices due to the use of forced labour.

As the economic operators will have to address the issues of forced labour in their supply chain in order to confidently market these products in the EU, the number of forced labour victims will decrease. Furthermore, the proposed act will also include measures to address state –promoted forced labour.

With the tools to be put in place for this proposal, the economic operators will have further guidance and information on how to avoid forced labour in their supply chain, and consumers will be informed of the products for which forced labour was used.

1.4.4. Indicators of performance

Specify the indicators for monitoring progress and achievements.

Number of preliminary phase investigations and invetsigations carried out;

Number of products identified containing forced labour.

Volume of products withdrawn form the market or not allowed for free circulation at the border.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term including a detailed timeline for roll-out of the implementation of the initiative

The proposed regulation shall enter into force on the day following the publication in the Official Journal of the European Union and will be applicable [24] months after that date.

In preparation for the application of this Regulation, the Commission will have to prepare guidelines for the competent authorities and the economic operators, within [18] months from the entering into force (Article 23).

The Commission will aslo provide a database of forced labour risks areas and products, calling on external expertise (Article 11).

The Commission will be empowered to adopt implementing acts to define the procedural rules and the details of the implementation arrangements for the information and communictaion systems (Article 22) and to further specify the details of the information to be included in the decisions of the competent authorities (Article 7).

1.5.2. Added value of Union involvement (it may result from different factors, e.g., coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Reasons for action at European level (ex-ante)

The extent of forced labour in the world and the importance of the Union market for the producers using forced labour are compelling reasons to act at EU level to stop

stop the placing and making available on the union market of such products with aim to contribute to the eradication of this phenomenon.

Action at the Member States' legislation alone in the area is not likely to be sufficient and efficient to attain the objectives of the proposal. European legislation and enforcement co-ordination is necessary for the following reasons:

-The functioning of Union market will require common provisions in this area.

- The enforcement effort must be uniform across the Union. If enforcement is less stringent in some parts of the EU, weak areas are created which may threaten the public interest and create unfair trading conditions.

- Risks related to forced labour in companies' value chains often have cross-border effects, reaching into several Union Member States and/or third countries. This highlights the need for an EU-wide approach, with legal certainty and a level-playing field for companies operating across the internal market and beyond.

Expected generated Union added value (ex-post)

By prohibiting products made iwith forced labour from being made available on the Union market, the Union will contribute significantly to the eradication of forced labour all over the world. This will also benefit the victims of forced labour as the economic operators will address forced labour by taking the appropriate measures of paying compensations, correcting the employment contracts, etc. in line with the international due diligence standards.

1.5.3. Lessons learned from similar experiences in the past

The present regulation is a new action and there is no experience in the past in the EU. However, in developing it, we have learned from the experience of similar measures adopted by international organisations and partner countries, the United States of America, in particular.

1.5.4. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

The proposal is a political priority of the European Commission and delivers on the commitment to promote the respect of human rights worldwide. It is complementary to other legislative proposals of the Commission such as the proposal for a Directive on Corporate Sustainability Due Diligence and the proposal for a Regulation on Corporate Sustainability Reporting.

It builds on the logic of other product related legislation such as the Market Surveillance Regulation. Furthermore, the information and communication instrument necessary for the enforcement of this regulation is built on the system created for the Market Surveillance Regulation.

Regarding the work of the customs authorities and the customs procedures, the systems already in place for them will be adapted to allow for the implementation of this regulation

1.5.5. Assessment of the different available financing options, including scope for redeployment

As all the products being made available on the Union market fall in the scope of the Regulation and due to the newness of the activities, it will necessitate additional human resources, and administrative resources, as well as operational appropriations.

The following provisions will imply annual costs for the Commission:

- Guidelines and database of forced labour risk areas or products (Articles 11 and 23)
- Union Forced Labour Product Network (Article 24) and Committee (Article 27)
- Information and Communication System (Article 22)

The proposal will be of unlimited duration. The Commission will serve as the secretariat for the Union Forced Labour Product Network, requiring constant human resources. As concerns the Information and Communication System, a new module will need to be established of the existing information and communication system referred to in Article 34 of Regulation (EU) 2019/1020, as well as adaptations of the information systems for the customs. The guidelines and the database (where external input will be provided) will also require administration from the Commission. All tasks are estimated to require more human resources in the first two years of implementation.

These provisions are preliminarily estimated to require human resources as shown below in Full Time Equivalents (FTEs). The FTEs would be divided between DG GROW, DG TRADE and DG TAXUD, and involve AD as well as AST staff.

	First year after adoption	Second year after adoption	Subsequent years
Guidelines and database	3	3	3
Union Forced Labour Product Network, Committee	6	3	3
Information and Communication System	4	3	2

In addition, the proposal will incur other administrative expenditures. These concern mainly costs related to the Information and Communication System, but also administrative costs related to hosting of the database, publication of guidelines, and organisation of meetings of the Network and the Committee. Such costs are estimated at 4.3 million EUR.

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

– ☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY

– ☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

☒ **unlimited duration**

– Implementation with a start-up period from 2024 to [2025],

– followed by full-scale operation.

1.7. Management mode(s) planned[43]

☒ **Direct management** by the Commission

– ☒ by its departments, including by its staff in the Union delegations;

– ☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

– ☐ third countries or the bodies they have designated;

– ☐ international organisations and their agencies (to be specified);

– ☐ the EIB and the European Investment Fund;

– ☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

– ☐ public law bodies;

– ☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

– ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

– ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

– *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

[43] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The standard rules for monitoring the Commission expenditures for the implementation of this Reagulation apply.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The management mode for this initiative is direct management by the Commission and its responsibilities in implanting it will pertain to its departments. The reasons are:

- the high policy content such as with the development of the guidelines ;

- the information and communication systems required for the implementation of this legislation are already under the control of the Commission services.

The Commission will be assisted by a committee composed of representatives of the Member States. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council.

2.2.2. Information concerning the risks identified and the internal control system(s) set up to mitigate them

Operational risks regard the information and communication systems and that it fails to effectively support the cooperation between the competent authorities and their cooperation with customs authorities.

Operational risks regarding the database on how operational and informative it would be for the competent authorities.

Guidance:

This includes explaining how the root causes of high error rates in the previous programme(s) are being addressed now, e.g. by simplifying previously complex modalities which were prone to error and/or by intensifying the (ex-ante and/or ex-post) controls for inherently high-risk activities.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

The costs of controls are negligible compared to the appropriations for the enforcement of the legislation.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The measures implemented by the Commission will be subject to the ex-ante and ex-post controls in accordance with the Financial Regulation. Contracts and agreements financing the implementation of this Regulation will expressly entitle the

Commission, including OLAF and the Court of Auditors to conduct audits, on the spot checks and inspections.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.[44]	from EFTA countries [45]	from candidate countries[46]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1	03.010101 - Support expenditure for the Single Market Programme	Non-diff.	YES	YES[47]	YES[6]	NO
1	03.020101 - Operation and development of the internal market of goods and services	Diff.	YES	TBD[6]	TBD[6]	NO
1	03.020107 – Market Surveillance	Diff.	YES	TBD[6]	TBD[6]	NO
6	14.200402 - External trade relations and Aid for Trade	Diff.	NO	NO	NO	NO

[44] Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
[45] EFTA: European Free Trade Association.
[46] Candidate countries and, where applicable, potential candidates from the Western Balkans.
[47] Negotiations for participation of candidate and third countries in the Single Market Programme ongoing

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

– ☐ The proposal/initiative does not require the use of operational appropriations

– ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

Heading of multiannual financial framework	1	Single Market, Innovation and Digital

EUR million (to three decimal places)

DG: GROW			Year 2024	Year 2025	Year 2026	Year 2027	Following years	**TOTAL**
○ Operational appropriations								
Budget line 03.020101 - Operation and development of the internal market of goods and services	Commitments	(1a)	0.602	0.612	0.425	0.375	0.000	**2.014**
	Payments	(2a)	0.301	0.607	0.519	0.400	0.187	**2.014**
Budget line 03.020107 – Market Surveillance	Commitments	(1b)	0.182	0.182	0.075	0.075	0.000	**0.514**
	Payments	(2b)	0.050	0.134	0.155	0.100	0.075	**0.514**
Appropriations of an administrative nature financed from the envelope of specific programmes[48]								
Budget line 03.010101 - Support expenditure for the Single Market Programme		(3)	0	0	0.062	0.062	0.000	**0.124**
TOTAL appropriations	Commitments	=1a+1b +3	0.784	0.794	0.562	0.512	0.000	**2.652**

[48] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

for DG GROW[49]	Payments	=2a+2b +3	0.351	0.741	0.736	0.562	0.150	**2.652**

TOTAL operational appropriations	Commitments	(4)	0.784	0.794	0.500	0.450	0.000	**2.528**
	Payments	(5)	0.351	0.741	0.674	0.500	0.262	**2.528**
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)	0.000	0.000	0.062	0.062	0.000	**0.124**
TOTAL appropriations under HEADING 1 of the multiannual financial framework	Commitments	=4+ 6	0.784	0.794	0.562	0.512	0.000	**2.652**
	Payments	=5+ 6	0.351	0.741	0.736	0.562	0.262	**2.652**

Heading of multiannual financial framework	6	Neighborhood and the World

[49] The operational appropriations from DG GROW covers also DG TAXUD costs of EUR 1.5 million for the period 2024-2027 for the integration with the EU Customs Single Window Certificate Exchange system (EU CSW-CERTEX), as well as the Common Risk Management System (CRMS 2).

DG: TRADE			Year 2024	Year 2025	Year 2026	Year 2027	Following years	**TOTAL**
○ Operational appropriations								
Budget line - 14.200402 - External trade relations and Aid for Trade[50]	Commitments	(1a)	0,750	0,300	0,300	0,300	0.000	**1.650**
	Payments	(2a)	0.200	0.600	0.300	0.300	0.250	**1.650**
Appropriations of an administrative nature financed from the envelope of specific programmes[51]								
Budget line		(3)						
TOTAL appropriations for DG TRADE	Commitments	=1a+1b +3	0,750	0,300	0,300	0,300	0.000	**1.650**
	Payments	=2a+2b +3	0.200	0.600	0.300	0.300	0.250	**1.650**

○ TOTAL operational appropriations	Commitments	(4)	0,750	0,300	0,300	0,300	0.000	**1.650**
	Payments	(5)	0.200	0.600	0.300	0.300	0.250	**1.650**
○ TOTAL appropriations of an administrative nature financed from the envelope for specific programmes		(6)						
TOTAL appropriations	Commitments	=4+ 6	0,750	0,300	0,300	0,300	0.000	**1.650**

50 This budget line will cover the costs of the development of the risk indicators and the database.

51 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

under HEADING 6 of the multiannual financial framework	Payments	=5+ 6	0.200	0.600	0.300	0.300	0.250	**1.650**

<u>If more than one operational heading is affected by the proposal / initiative, repeat the section above:</u>

TOTAL operational appropriations (all operational headings)	Commitments	(4)	1.534	1.094	0.800	0.750	0.000	**4.178**
	Payments	(5)	0.551	1.341	0.974	0.800	0.512	**4.178**
TOTAL appropriations of an administrative nature financed from the envelope for specific programmes (all operational headings)		(6)	0.000	0.000	0.062	0.062	0.000	**0.124**
TOTAL appropriations under HEADINGS 1 to 6 of the multiannual financial framework (Reference amount)	Commitments	=4+ 6	1.534	1.094	0.862	0.812	0.000	**4.302**
	Payments	=5+ 6	0.551	1.341	1.036	0.862	0.512	**4.302**

Heading of multiannual financial framework	7	'Administrative expenditure'

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
DG: GROW						
○ Human resources		0.883	0.484	0.327	0.327	**2.021**
○ Other administrative expenditure						
TOTAL DG GROW	Appropriations	0.883	0.484	0.327	0.327	**2.021**

		Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
DG: TAXUD						
Human resources		0.242	0.242	0.242	0.242	**0.968**
Other administrative expenditure						
TOTAL DG TAXUD	Appropriations	0.242	0.242	0.242	0.242	**0.968**

		Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
DG: TRADE						
○ Human resources		0.484	0.399	0.399	0.399	**1.681**
○ Other administrative expenditure						
TOTAL DG TRADE	Appropriations	0.484	0.399	0.399	0.399	**1.681**

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	1.609	1.125	0.968	0.968	**4.670**

EUR million (to three decimal places)

		Year **2024**	Year **2025**	Year **2026**	Year **2027**	Following years	**TOTAL**
TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework	Commitments	3.143	2.219	1.830	1.780	0.000	**8.972**
	Payments	2.160	2.466	2.004	1.830	0.512	**8.972**

3.2.2. Estimated output funded with operational appropriations

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and			Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)	**TOTAL**

outputs ⇩	**OUTPUTS**																	
	Type[52]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1[53]…																		
- Output																		
- Output																		
- Output																		
Subtotal for specific objective No 1																		
SPECIFIC OBJECTIVE No 2 ...																		
- Output																		
Subtotal for specific objective No 2																		
TOTALS																		

52 Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

53 As described in point 1.4.2. 'Specific objective(s)…'

3.2.3. *Summary of estimated impact on administrative appropriations*

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

– ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
HEADING 7 of the multiannual financial framework					
Human resources	1.609	1.125	0.968	0.968	**4.670**
Other administrative expenditure					
Subtotal HEADING 7 of the multiannual financial framework	1.609	1.125	0.968	0.968	**4.670**
Outside HEADING 7[54] of the multiannual financial framework					
Human resources					
Other expenditure of an administrative nature	0.000	0.000	0.062	0.062	**0.124**
Subtotal outside HEADING 7 of the multiannual financial framework	0.000	0.000	0.062	0.062	**0.124**
TOTAL	1.609	1.125	1.030	1.030	4.794

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

[54] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.1. Estimated requirements of human resources

– ☐ The proposal/initiative does not require the use of human resources.

– ☒ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

		Year 2024	Year 2025	Year 2026	Year 2027
20 01 02 01 (Headquarters and Commission's Representation Offices)		7	5	4	4
20 01 02 03 (Delegations)					
01 01 01 01 (Indirect research)					
01 01 01 11 (Direct research)					
Other budget lines (specify)					
20 02 01 (AC, END, INT from the 'global envelope')		6	4	4	4
20 02 03 (AC, AL, END, INT and JPD in the delegations)					
XX 01 xx **yy zz** [55]	- at Headquarters				
	- in Delegations				
01 01 01 02 (AC, END, INT - Indirect research)					
01 01 01 12 (AC, END, INT - Direct research)					
Other budget lines (specify)					
TOTAL		**13**	**9**	**8**	**8**

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Officials and temporary staff will draft guidelines for the economic operators and competent authorities, set up meetings and coordinate with among the Commission services for the enforcement of the proposed regulation. They will also prepare the network meetings and ensure facilitation and cooperation between competent authorities, manage the ICSMS and website and make sure that queries of all stakeholders are answered when appropriate.
External staff	The External staff will provide additional assistance to Officials and temporary staff in the completion of their duties. In addition they will complete tasks that are not covered by the competencies of Officials and temporary staff, and other exceptional tasks that might arise, including specialised work.

[55] Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.4. *Compatibility with the current multiannual financial framework*

The proposal/initiative:

– ☒ can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

Redeployment will be considered first within the Single Market Programme.

☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

– ☐ requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. *Third-party contributions*

The proposal/initiative:

– ☒ does not provide for co-financing by third parties

– ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year **N**[56]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

[56] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

Estimated impact on revenue

- ☒ The proposal/initiative has no financial impact on revenue.
- ☐ The proposal/initiative has the following financial impact:
  - ☐ on own resources
  - ☐ on other revenue
  - please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[57]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article ……								

For assigned revenue, specify the budget expenditure line(s) affected.

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[57] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e., gross amounts after deduction of 20 % for collection costs.