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#### COVER NOTE

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From: European Economic and Social Committee (EESC)  
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To: General Secretariat of the Council

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Subject: Opinion of the European Economic and Social Committee on the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on prohibiting products made with forced labour on the Union market [COM (2022) 453 final]<sup>1</sup>

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Delegations will find attached the above document.

Encl.: REX/565 Forced labour products ban

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<sup>1</sup> The current document with other linguistic versions can be found on the following website:  
<https://dmsearch.eesc.europa.eu/search/opinion>



# OPINION

European Economic and Social Committee

## Forced labour products ban

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Prohibiting products made with forced labour in the Union market  
[COM(2022) 453 final]

**REX/565**

Rapporteur-General: **Thomas WAGNSONNER**

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Referral	European Parliament, 06/10/2022 Council, 12/10/2022
Legal basis	Articles 114 and 207 of the Treaty on the Functioning of the European Union
Plenary Assembly decision	14/12/2022
Section responsible	External Relations
Adopted in section	--
Adopted at plenary	25/01/2023
Plenary session No	575
Outcome of vote (for/against/abstentions)	196/1/4

## 1. Conclusions and recommendations

- 1.1 The EESC welcomes the European Commission's proposal for a regulation prohibiting products made with forced labour on the Union market (COM(2022) 453 final)<sup>1</sup> since, as stated in point 1.4.j) of the EU Action Plan on Human Rights and Democracy 2020 – 2024<sup>2</sup>, the promotion of economic, social, cultural and labour rights and therefore the eradication of all forms of forced labour and exploitation are crucial.
- 1.2 The EESC notes that the current proposal fails to properly take into account the perspective of workers forced into exploitation, both inside and outside the European Union. To strengthen the situation of workers forced into labour, European legislation should consider an adequate compensation for victims. The EESC points out that the ratification of the 2014 Protocol to the International Labour Organization (ILO) Forced Labour Convention 1930<sup>3</sup> by all EU Member States is crucial.
- 1.3 The EESC endorses the definition in Article 2(a) of the regulation, based on the ILO's definition of forced labour. This definition includes "all work or service": goods transported using forced labour should therefore be included in the Commission's proposal.
- 1.4 The EESC recognises that the Commission mentions forced child labour in the proposed regulation. To speed up the process of abolishing child labour, the scope of this regulation should include the ILO Minimum Age Convention, 1973 (No. 138)<sup>4</sup>, ILO Recommendation No. 146<sup>5</sup>, the ILO Worst Forms of Child Labour Convention, 1999 (No. 182)<sup>6</sup> and ILO Recommendation No. 190<sup>7</sup>. The EESC points to the need for a corresponding EU legislative initiative to combat all other forms of child labour.
- 1.5 The EESC welcomes the inclusion of all economic operators. The focus of investigations by competent national authorities should depend on the size and economic resources of economic operators. Companies presenting a high risk of using forced labour, as well as big economic operators, should be prioritised.
- 1.6 The EESC notes that no impact assessment was carried out before the proposal was submitted, despite the fact that impact assessments have been carried out on other initiatives such as the proposal for a Directive on Corporate Sustainability Due Diligence (CSDD). This regulation focuses on the banning, suspension of circulation and detention at customs or ports of imported and exported products, which will result in new procedures. The assessment should be balanced and take into account the benefits and costs of tackling forced labour.

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1 [COM\(2022\) 453 final](#)

2 [EU Action Plan on Human Rights \(HRs\) and Democracy 2020 – 2024](#)

3 [ILO P029 - Protocol of 2014 to the Forced Labour Convention, 1930](#)

4 [ILO C138 - Minimum Age Convention, 1973 \(No. 138\)](#)

5 [ILO R146 - Minimum Age Recommendation, 1973 \(No. 146\)](#)

6 [ILO C182 - Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

7 [ILO R190 - Worst Forms of Child Labour Recommendation, 1999 \(No. 190\)](#)

- 1.7 Organised civil society has a central role to play in combating all forms of forced or compulsory labour. The social partners are strategically well-placed to provide institutional engagement and sustainability. The institutional anchoring of social partners and NGOs in this legislation is of paramount importance.
- 1.8 As the current proposal is linked to the proposed Directive on CSDD, there is still a need for clarity on how the two pieces of legislation will work together in practice. The European Commission should follow a coherent approach and avoid inconsistencies.
- 1.9 The EESC welcomes the proposal to issue guidelines, as stated in Article 23 of the regulation, to assist companies with identifying, preventing, mitigating or bringing to an end risks of forced labour in their operations and value chains. This is especially important for small and medium-sized enterprises (SMEs). It is very important that the guidelines are published upon the entry into force of the regulation.
- 1.10 The European Commission must play an active and leading role in the Union Network Against Forced Labour Products (UNAFPLP) proposed in Article 24 of the regulation, in order to support and coordinate the national authorities as they enforce the regulation. The EESC stresses that sufficient funding is a key to create an adequate and effective infrastructure at European and national level to tackle forced labour.
- 1.11 The EESC points out that the proposed database in Article 11 will be a core instrument of the ban. A detailed structure of this database has to be worked out. The EESC emphasises the need for precise and transparent risk indicators based on but not limited to the origin and components of a product and other relevant information. To ensure effective enforcement, detailed information about the product, manufacturer, importer, origin and components are needed, along with the resources and minerals used in the product and its components. This database has to be kept up to date, with new information added partly as a result of investigation processes.
- 1.12 The EESC highlights the importance of transparency and open access to information for companies, competent authorities, organised civil society and the general public. The EESC proposes to introduce a benchmarking system as part of the database. The core of this benchmarking system is a rating system for regions and sectors down to product groups, products and companies presenting high and low risk based on but not limited to the information assembled in the database by experts. The EESC stresses the importance of enabling organised civil society, including the social partners, to provide relevant information.
- 1.13 The EESC believes that the competent authorities should have the right to detain goods at the EU border as soon as they see a substantiated concern pursuant to Article 2(n) of the regulation. The EESC proposes that the economic operators should have different obligations depending on whether they are ranked as high or low risk. Additionally, the competent national authorities should focus their work in the preliminary phase of investigations on products connected to high risk regions, businesses and/or sectors. In any case, business secrets must be ensured for example by using suitable confidentiality clauses.

- 1.14 In the preliminary phase of investigations, the economic operator has to deliver a due diligence statement if the product is connected to high risk regions, businesses and/or sectors. Non-compliance with due diligence requirements that are going to be stated in detail in the guidelines (Article 23) as well as non-transmission of the required due diligence statements must be classified as a substantiated concern and lead to the detention of the product and the direct opening of an investigation.
- 1.15 The EESC asks the European Commission to study the feasibility of a Public EU Rating Agency for environmental and social sustainability, as well as human rights in the business context. Such an agency should develop European standards for due diligence systems among other tasks like the technical support of national competent authorities. These standards could essentially contribute to the creation of a level playing field which is in particular in the interest of European companies.
- 1.16 The EESC notes the need for both clear and comprehensible wording to guarantee legal certainty and easy guidelines to maintain a manageable administrative burden for economic operators, especially SMEs. The national competent authorities must provide technical support for businesses, especially SMEs, when those businesses devise their due diligence systems.
- 1.17 The EESC emphasises the need for uniform, EU-wide minimum penalties for infringements of the regulation. This will avoid a race to the bottom among the Member States and ensure a level playing field.
- 1.18 The European Commission should step up efforts to create international structures intended to solve the problem of forced labour. The EESC again calls for EU support for a binding UN treaty on business and human rights, and for consideration to be given to a possible ILO convention on decent work in supply chains. Cooperation and exchange of information with third countries and international organisations is important to ensure the proper implementation.

## 2. **Background**

- 2.1 The ILO estimates in its recent publication on modern slavery that around 27.6 million people are in situations of forced labour on any given day. No region of the world is spared from forced labour, not even Europe.
- 2.2 ILO Forced Labour Convention, 1930 (No. 29)<sup>8</sup> defines forced or compulsory labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The Forced Labour Protocol (Article 1(3)) consists of three aspects:
- "work or service" refers to all types of work occurring in any activity, industry or sector, including in the informal economy;
  - "menace of any penalty" refers to a wide range of penalties used to compel someone to work;

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<sup>8</sup> [ILO C029 - Forced Labour Convention, 1930 \(No. 29\)](#)

- "offered voluntarily" refers to a worker's free and informed consent to take a job and the freedom to leave at any time (this covers issues such as the involuntary handing over of an identity document).

The ILO classifies ILO Convention No. 29, the 2014 Protocol to Convention No. 29<sup>9</sup> and ILO Convention No. 105<sup>10</sup> on the abolition of forced labour as fundamental ILO Conventions.

- 2.3 The EESC points out that several fundamental international and European agreements prohibit forced labour, like Article 5(2) of the EU Charter of Fundamental Rights<sup>11</sup> and Article 4 of the Universal Declaration of Human Rights<sup>12</sup>. Article 8 of the International Covenant on Civil and Political Rights<sup>13</sup> stipulates that "No one shall be required to perform forced or compulsory labour". Effective instruments dealing with forced labour are necessary to achieve the goals laid down in the UN Sustainable Development Goals<sup>14</sup> (especially SDG 8). The European Social Charter<sup>15</sup> provides a framework for socially just working conditions and fair social rights. The EESC emphasises the crucial importance of enforcing human rights, including labour rights, regardless of the possible conflict with the four freedoms of the internal market (free movement of goods, services, capital and people).
- 2.4 The EESC explored this topic directly in the REX/395 opinion on Combating forced labour in the EU and the world: the role of the EU – the EESC's contribution to the 2014 ILO conference<sup>16</sup> and touched on it in various other opinions, including SOC/727<sup>17</sup>, INT/911<sup>18</sup>, INT/973<sup>19</sup>, REX/532<sup>20</sup> and REX/518<sup>21</sup>.
- 2.5 The number of people in forced labour increased by 2.7 million between 2016 and 2021. The recent crises, especially the COVID-19 pandemic, the climate crisis and multiple armed conflicts, most recently the Russian aggression in Ukraine, have disrupted income and so exacerbated poverty, fuelling the problem of forced labour.
- 2.6 The EESC welcomes the European Commission's proposal for a regulation prohibiting products made with forced labour on the Union market (COM(2022) 453 final). As part of the EU's

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<sup>9</sup> [ILO P029 - Protocol of 2014 to the Forced Labour Convention, 1930](#)

<sup>10</sup> [ILO C105 - Abolition of Forced Labour Convention, 1957 \(No. 105\)](#)

<sup>11</sup> [EU Charter of Fundamental Rights](#)

<sup>12</sup> [Universal Declaration of Human Rights](#)

<sup>13</sup> [International Covenant on Civil and Political Rights](#)

<sup>14</sup> [UN Sustainable Development Goals](#)

<sup>15</sup> [European Social Charter](#)

<sup>16</sup> [OJ C 311, 12.9.2014, p. 31](#)

<sup>17</sup> [OJ C 486, 21.12.2022, p. 149-160](#)

<sup>18</sup> [OJ C 429, 11.12.2020, p. 136](#)

<sup>19</sup> [OJ C 443, 22.11.2022, p. 81](#)

<sup>20</sup> [OJ C 429, 11.12.2020, p. 197](#)

<sup>21</sup> [OJ C 97, 24.3.2020, p. 9](#)

commitment to promote decent work worldwide, combating forced labour has to be a priority on the EU's human rights agenda.

- 2.7 As stated in point 1.4.j) of the EU Action Plan on Human Rights and Democracy 2020–2024, the promotion of economic, social, cultural and labour rights and therefore the eradication of all forms of forced labour and exploitation is crucial to secure in particular the EU's global leadership on human rights and democracy. Together with the Commission's communication on decent work worldwide<sup>22</sup>, this regulation is one in a series of instruments necessary to achieve this goal and support the competitiveness of socially responsible European producers within the common market and elsewhere.
- 2.8 The EESC points out the importance of creating a harmonised EU regulatory framework in this area. Together with the Commission's proposal for a Directive on CSDD<sup>23</sup> which addresses corporate behaviour and due diligence processes for companies, this regulation should be an appropriate regulatory tool for establishing consistency between EU (e.g. Regulation (EU) 2019/1020) and national legislation. It should also complement efforts 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<sup>24</sup> and the Organization for Economic Cooperation and Development (OECD) Guidelines on Multinational Enterprises<sup>25</sup>. Furthermore, the ILO Tripartite Declaration on Principles for Multinational Enterprises and Social Policy<sup>26</sup> (ILO MNE Declaration) and the ILO Handbook for Employers & Business on Combating Forced Labour<sup>27</sup> can be used as support for companies and governments in eradicating forced labour.
- 2.9 Organised civil society has a central role to play in combating all forms of forced or compulsory labour. The social partners, in particular, are strategically well-placed to provide institutional engagement and sustainability. Therefore, institutional anchoring in this legislation of the social partners and NGOs in the future implementation process at all levels of the supply chain is of paramount importance.
- 2.10 The practise of maximising profits at the cost of failing to uphold human rights is one of the leading causes of forced labour. The EESC notes that the causes and roots of forced labour need to be addressed more broadly. Nevertheless, this regulation can be an important additional step in laying the global foundations for a level playing field.

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22 [COM\(2022\) 66 final](#)

23 [COM\(2022\) 71 final](#)

24 [UN Guiding Principles on Business and Human Rights](#)

25 [OECD Guidelines on Multinational Enterprises](#)

26 [ILO MNE Declaration](#)

27 [ILO Handbook for Employers & Business on Combating Forced](#)



### 3. General comments

- 3.1 The EESC points to the importance of taking effective measures to prevent and eliminate the use of forced labour in and outside the EU, to provide victims with protection and access to appropriate and effective remedies such as compensation, and to exact sanctions against the perpetrators of forced or compulsory labour. The EESC would point out that the ratification of the [ILO 2014 Protocol to Convention No. 29 \(P029\)](#)<sup>28</sup> by all EU Member States is the first step in ensuring effective implementation. The EU must apply the recommendations laid out in P029 in its political and legislative work and foster the international ratification process using all available instruments (e.g. trade agreements, development cooperation, human rights dialogue, etc.). Furthermore, the worldwide promotion of the ratification and effective implementation of the [ILO Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#)<sup>29</sup> is a key element in fighting the causes of forced labour.
- 3.2 The implementation of corporate due diligence procedures is an important step in applying corporate responsibility to the production process throughout the supply chain; accordingly, it focuses on the production process. Both efficient application and sustaining a manageable administrative burden, especially for SMEs, require clearly defined and realistic obligations, which are consistent and coherent with regulatory acts that have already been presented by the European Commission, in particular the CSDD initiative. The EESC is pleased that the import ban, which complements the existing and planned regulatory framework, focuses on the product line.
- 3.3 Nevertheless, the focus on the product line disregards the fact that forced labour is often a systemic pattern across the entire organisation of a producer, manufacturer or importer. The EESC stresses that while identifying products is an important starting point, forced labour should not be addressed in silos. The regulation must explicitly aim to include all products of an economic operator, given that forced labour will not be limited to one product line within a facility.
- 3.4 The EESC notes that no impact assessment was carried out before the proposal was submitted, despite the fact that impact assessments have been carried out on other initiatives such as CSDD. This regulation focuses on the banning, suspension of circulation and detention at customs or ports of imported and exported products, which will result in new procedures. Nevertheless, the assessment should be balanced and take into account the benefits and costs of tackling forced labour.
- 3.5 However, as the proposal for the Directive on CSDD is currently being prepared and the proposal for the regulation also provides clear elements of due diligence in supply chains, there is still a need for clarity on how the two pieces of legislation will work together in practice. The European Commission should therefore follow a coherent approach and avoid inconsistencies.

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<sup>28</sup> [Ratification of ILO P029](#)

<sup>29</sup> [ILO C098 - Right to Organise and Collective Bargaining Convention, 1949 \(No. 98\)](#)

- 3.6 The EESC notes that the proposal has severe limitations when it comes to addressing systemic forced labour. To address this issue properly, a clear procedure for incorporating regions and sectors ranked as presenting a high risk of forced labour could vastly strengthen the power of this regulation to address the pervasiveness of state-imposed forced labour (in particular in EU supply chains) and compel companies to remove it.
- 3.7 The EESC points out that the proposed database described in Article 11 will be a core instrument of the ban. Nevertheless, a detailed structure of this database has to be worked out. The EESC emphasises the need for clearly defined, precise, transparent and accurate risk indicators based on but not limited to the origin and components of a product and other relevant information. This database has to be kept up to date, with new information added partly as a result of investigation processes.
- 3.8 The EESC highlights the importance of transparency and open access to information for companies, competent authorities, organised civil society and the general public. Therefore, the EESC proposes to introduce a benchmarking system as part of the database, similar to the one proposed in the European Commission's proposal for the Regulation 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 (COM(2021) 706 final). The core of this benchmarking system is a rating system for regions and sectors down to product groups, products and companies presenting high and low risk based on but not limited to the information assembled in the database by experts. Additionally, the EESC stresses the importance of enabling organised civil society, including the social partners, to provide relevant information. Particular focus has to be placed on enabling civil society organisations in third countries to easily provide relevant information regarding forced labour. Close cooperation with the EU permanent representations and delegations, as well as UN offices (including ILO offices), the recently launched ILO Forced Labour Observatory and its database and other civil society organisations like Delta 8.7 on forced labour is crucial for gathering relevant information.
- 3.9 A key element of the proposal for a regulation is that the competent national authorities, acting on their own initiative or in response to information they have received, have to start an investigation when they have grounds to suspect that these goods were made with forced labour. The EESC believes that the competent national authorities should have the right to detain goods at the EU border as soon as they see a substantiated concern pursuant to Article 2(n). A similar approach is already in use by the US customs authorities in the form of "Withhold Release Orders". The EESC proposes that the economic operators should have different obligations depending on whether they are ranked as high or low risk.
- 3.10 For high risk, a due diligence system has to be mandatory, including information gathering, risk assessment and risk mitigation, similar to the system laid down in the Regulation for Deforestation-free products but tailored to the proposal regarding forced labour. Therefore, detailed information about the product, manufacturer, importer, origin and components is needed, along with the resources and minerals used in the product and its components as part of supply chain mapping and disclosure, which is an essential requirement to determine where forced labour occurs in the value chain. Taking into account the situation of SMEs, simplified

due diligence should be carried out, limited to gathering relevant information. Additionally, the national competent authorities should focus their preliminary investigations on products connected to high risk regions, businesses and/or sectors. In any case, business secrets must be ensured for example by using suitable confidentiality clauses.

- 3.11 In the preliminary phase of investigations, the economic operator has to deliver a due diligence statement if the product is connected to high risk regions, businesses and/or sectors. Non-compliance with due diligence requirements that are going to be stated in detail in the guidelines (Article 23) as well as non-transmission of the required due diligence statements must be classified as a substantiated concern and lead to the detention of the product and the direct opening of an investigation. Regarding products connected to low risk regions, businesses and/or sectors, the economic operators are freed from the mandatory due diligence and the procedure must be carried out as proposed by the European Commission. Nevertheless, to avoid irresponsible disengagement, the EESC emphasises that due diligence should not be a shield against the opening of an investigation.
- 3.12 The EESC points out that proper enforcement can only take place if EU Member States dedicate enough funding and resources to their competent national authorities. The European Commission has already recognised that effective enforcement is massively undermined when national customs authorities are under-resourced. Additionally, the competent national authorities should have sufficient time to carry out an in-depth and careful investigation.
- 3.13 As stated in the recent ILO publication on modern slavery, the socio-demographic composition of the victims of forced labour is diverse. Vulnerable social groups like migrant workers, especially, are at higher risk of forced labour. Therefore, the EESC calls for account to be taken of the situation of migrant workers, stateless people and children. Special emphasis must be placed on gender.
- 3.14 According to the ILO, 160 million children worldwide are involved in child labour. The effective abolition of child labour is part of the ILO Declaration on Fundamental Principles and Rights at Work. The EU's commitment to the fight against child labour is laid down in its zero-tolerance approach to child labour based on Article 32 of the EU Charter of Fundamental Rights, the EU strategy on children's rights<sup>30</sup>, and point 1.4.c of the EU Action Plan on Human Rights and Democracy 2020–2024. The EESC recognises that the European Commission explicitly mentions forced child labour in Article 2(a) of the proposed regulation. Nevertheless, to speed up the process of abolishing child labour, the scope of this regulation should include the ILO Minimum Age Convention, 1973 (No. 138), ILO Recommendation No. 146, the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and ILO Recommendation No. 190. Furthermore, the EESC notes the need for a corresponding EU legislative initiative to combat all other forms of child labour.
- 3.15 The EESC notes that the current proposal fails to properly take into account the perspective of workers forced into exploitation, both inside and outside the European Union. To strengthen the situation of workers forced into labour, European legislation should consider an adequate

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<sup>30</sup> [EU Charter of Fundamental Rights, the EU strategy on children's rights](#)

compensation for victims. Workers' representatives, local trade unions, the International Trade Union Confederation (ITUC) and the workers themselves, as well as civil society organisations should be part of the investigation and decision-making processes so as to make sure that the affected workers' views and interests are taken into account at every stage.

- 3.16 The European Commission should step up efforts to create international structures intended to solve the problem of forced labour and harmonise actions and measures to guarantee legal certainty at international level. Moreover, the EESC has been calling for EU support for a binding UN treaty on business and human rights, and for consideration to be given to a possible ILO convention on decent work in supply chains as already mentioned in the EESC's SOC/727<sup>31</sup> opinion. Cooperation and exchange of information with third countries and international organisations is important to ensure the proper implementation of the regulation's objectives.
- 3.17 The EESC points out that strong and ambitious legislation is essential to combat forced labour in the EU and all its partner countries. Therefore, the current proposal must be aligned with the definitions and criteria in the US, Canada and other developed mature markets in particular (e.g. US UFLPA, US Tariff Act and the Fighting against Forced Labour and Child Labour in Supply Chains Act under discussion) so as to avoid inconsistencies and tackle the issue of forced labour effectively at global level. Nevertheless, it is important to have an efficient EU institutional system for verifying cases of forced labour worldwide, which the companies need to abide by. The proposal should seek to develop joint international structures to address forced labour with a view to greater harmonisation, legal clarity and certainty at international level, especially to avoid EU companies having conflicts with foreign legislation.
- 3.18 Since forced labour is a global problem and given that global value chains are deeply interlinked, international cooperation against forced labour must be promoted. The EESC stresses that strong cooperation and the exchange of information with third-country authorities and international organisations, especially the ILO and UN, are essential to ensure that the ban is properly implemented.
- 3.19 The EU permanent representations and delegations on the ground should play a key role in communicating with victims of forced labour and civil society organisations. They should also play a key role in cooperating with the UN and ILO on collecting and delivering valuable data for risk assessments (e.g. when setting up or supporting national surveys on forced labour) and act as cooperation partners in ongoing investigations. They should be the point of first contact for complaints.
- 3.20 The process of globalisation has strengthened the position of globally active companies and weakened the power of public institutions, especially in the Global South. The EESC points to the importance of incorporating the fight against forced labour into the EU's trade and development cooperation policy. Regarding less and least developed countries, the active support of local labour authorities should be a priority. The EESC emphasises that this legislation should treat all countries equally and warns against placing less and least developed countries at a disproportionate disadvantage.

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31 [OJ C 486, 21.12.2022, p. 149](#)

- 3.21 The EESC welcomes the scope of the proposal, including all economic operators regardless of their size. Still, the focus of authorities' investigations should depend on the size and economic resources of economic operators. Therefore, companies presenting a high risk of using forced labour, as well as big economic operators, should be prioritised. The EESC points out that the uniqueness of digital markets requires special treatment when enforcing this legislation.
- 3.22 The EESC would like to take the opportunity offered by the issuing of this legislative act to ask the European Commission to study the feasibility of a Public EU Rating Agency for environmental and social sustainability, as well as human rights in the business context . as already discussed in the EESC opinion REX/518 point 3.11. Such an agency should develop European standards for due diligence systems. These standards could essentially contribute to the creation of a level playing field which is in particular in the interest of European companies. Moreover, this Agency must develop mandatory quality standards for firms carrying out audits and accreditation processes for these auditing firms in the EU, as well as a monitoring system for regular checks of these firms.
- 3.23 The EESC calls for competent national authorities to be appointed or established in the Member States to carry out the accreditation of firms running audits in the area of environmental and social sustainability, as well as human rights in the business context. The Public Rating Agency must assist competent national authorities by providing technical support and training for implementing national systems supporting businesses with regard to liability and due diligence. The EESC notes that, regarding the implementation of this regulation, there is a need for both clear and comprehensible wording to guarantee legal certainty and easy guidelines to maintain a manageable administrative burden for economic operators, especially SMEs, in their daily work. Therefore, the competent national authorities must provide technical support for businesses, especially SMEs, when those businesses devise their due diligence systems (in line with the UN Guiding Principles on Business and Human Rights, the OECD Guidelines on Multinational Enterprises and the ILO MNE Declaration).

#### **4. Specific comments**

- 4.1 The EESC endorses the definition in Article 2(a), based on the ILO's definition of forced labour which includes "all work or service". Goods transported using forced labour should therefore be included in the proposal both in order to comply with the definition and given the fact that transport services are an essential part of the goods supply chain.
- 4.2 The European Commission must play a strong, active and leading role in the UNAFPLP proposed in Article 24, in order to support and coordinate national authorities as they enforce the regulation. The EESC calls on the Commission to provide a clearly defined structure and sufficient funding for this Network to enable it to support the EU Member States as they gather information and use it to keep up a steady flow of information. The Network should coordinate actions, such as carrying out international investigations, and support the enforcement of import bans. Moreover, the Commission should consider the possibility of carrying out investigations itself as it already does when monitoring and investigating anti-competition practices. The

EESC calls on the Commission to involve organised civil society, especially the social partners, in all of the Network's actions.

- 4.3 The EESC welcomes the European Commission's proposal to issue guidelines, as stated in Article 23 of the proposal, to assist companies in identifying, preventing, mitigating or bringing to an end risks of forced labour in their operations and value chains. Additionally, the Commission or other public authorities should provide clear recommendations on how to develop due diligence schemes for SMEs and therefore particularly support SMEs. The EESC calls on the Commission to involve organised civil society in the drafting process and to publish these guidelines (Articles 11 and 23), both in a way that makes them easily accessible and as soon as possible, in any case well before the regulation enters into force. This will enable the competent national authorities, customs and business entities to prepare for the implementation of the legal act and the possible related difficulties.
- 4.4 The EESC points out that the national competent authorities need the consent of economic operators to carry out investigations, as stated in Article 5(6). This weakens the investigation process and creates a loophole in the proposed regulation.
- 4.5 The EESC emphasises the need for uniform, EU-wide minimum penalties for infringements of the regulation. This will avoid a race to the bottom among the Member States and ensure a level playing field. Additionally, establishing a regular (e.g., 2-year) reporting obligation for the Commission on the application of the regulation in the individual Member States would be beneficial.
- 4.6 The EESC expresses its concern that the implementation of the regulation will be the responsibility of national custom authorities (Article 12). This could potentially create inefficiencies in implementation, as there may be cases of differentiation between the various national customs offices, causing intra-EU inconsistencies. Therefore, proper implementation in the various countries should be emphasised and institutionally secured. It is necessary to provide national enforcement authorities with clear guidelines and resources enabling them to effectively monitor and enforce the proposed regulation. Technical support should be granted to the business community to help it cope with the legislation. To this end, we believe that the EU needs a conceptual framework for common risk assessment, as well as clear guidelines, avoiding duplication of bureaucracy and streamlining procedures when possible.
- 4.7 Regarding the deadlines for the investigation process, we believe that the time required for companies to submit evidence should be longer than 15 days in the preliminary process stage and another 15 days in the second stage of the investigation. Moreover, the 30-day period offered to companies to recall products that violate the regulation should be longer. In addition, there is a need for more clarity on how the withdrawal process will take place in practice, including the destruction of products if necessary.
- 4.8 As mentioned in the EESC's INT/973 opinion on *Sustainable corporate governance*<sup>32</sup>, trade unions and workers' representatives are well aware of where possible misconduct may occur.

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32

[OJ C 443, 22.11.2022, p. 81](#)



Hence, the EESC points to the importance of involving workers' representatives and local trade unions, along with the ITUC, in the process of setting up (risk mapping) due diligence processes and in monitoring them (implementation) and reporting breaches (alert mechanisms). The EESC calls for trade unions and workers' representatives in the EU and third countries to be explicitly mentioned in Article 26(a).

- 4.9 The EESC points out that organised civil society should be consulted during the preparation of the delegated acts referred to in Article 27 of the regulation.

Brussels, 25 January 2023

Christa SCHWENG  
The president of the European Economic and Social Committee

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