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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on prohibiting products made with forced labour on the Union market - Outcome of the European Parliament's first reading and Corrigendum procedure (Strasbourg, 23 April 2024 and 22 October 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint Declaration on practical arrangements for the co-decision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this legislative file at first reading.

This file was expected² to undergo the Corrigendum procedure³ in the European Parliament after adoption by the outgoing European Parliament of its position at first reading.

¹ OJ C 145, 30.6.2007, p.5.

² 10078/24.

II. VOTES

At its sitting of 23 April 2024, the European Parliament adopted amendment 177 (without legal linguistic revision) to the Commission proposal and a legislative resolution, constituting the European Parliament's position at first reading. It reflects what had been provisionally agreed between the Institutions.

After finalisation of the adopted text by the legal linguists, the European Parliament approved on 22 October 2024 a corrigendum to the position adopted at first reading.

With this corrigendum, the Council should be able to approve the position of the European Parliament as set out in the Annex⁴ hereto, thus bringing to a close the first reading for both Institutions.

The act would then be adopted in the wording which corresponds to the European Parliament's position.

³ Rule 251, EP Rules of Procedure.

⁴ The text of the corrigendum is set out in the Annex. It is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol "■" indicates deleted text.

P9_TA(2024)0309**Prohibiting products made with forced labour on the Union market**

European Parliament legislative resolution of 23 April 2024 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)0453 – C9-0307/2022 – 2022/0269(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0453),
- having regard to Article 294(2) and Articles 114 and 207 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0307/2022),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 24 January 2023¹,
- having regard to the provisional agreement approved by the committees responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 13 March 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the joint deliberations of the Committee on International Trade and the Committee on the Internal Market and Consumer Protection under Rule 58 of the Rules of Procedure,
- having regard to the opinions of the Committee on Foreign Affairs, the Committee on Employment and Social Affairs, the Committee on Development, the Committee on Fisheries and the Committee on Legal Affairs,
- having regard to the report of the Committee on International Trade and the Committee on the Internal Market and Consumer Protection (A9-0306/2023),

¹ OJ C 140, 21.4.2023, p. 75.

1. Adopts its position at first reading hereinafter set out;
2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 23 April 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market *and amending Directive (EU) 2019/1937*

(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 Committee⁶,

Acting in accordance with the ordinary legislative procedure⁷,

⁶ OJ C 140, 21.4.2023, p. 75.

⁷ Position of the European Parliament of 23 April 2024.

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, ***contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all***. The ILO declared the elimination of all forms of forced or compulsory labour as a principle of fundamental rights. The ILO classifies ILO Convention No 29, ***including the supplementing*** 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 and issues recommendations to prevent, eliminate, and remedy forced labour, such as the Forced Labour (Supplementary Measures) Recommendation No 203***. ***The ILO has developed several indicators used to identify and indicate cases of forced labour, such as threats and actual physical and sexual harm, abuse of vulnerability, abuse of working and living conditions and excessive overtime, deception, restriction of movement or confinement to the workplace or a limited area, isolation, debt bondages, withholding wages or excessive wage reduction, retention of passports and identity documents or threat of denunciation to the authorities when the worker has an irregular immigration status. Forced labour is very often linked to poverty and discrimination. The manipulation of credit and debt, either by employers or by recruiting agents, is still a key factor that traps vulnerable workers in forced labour situations. According to the ILO supervisory bodies, prison labour, including where it is performed for private companies, does not in itself constitute forced labour, provided that it is done on a voluntary basis, for the benefit of the prisoner and is comparable to the conditions of a free labour relationship. Community work as an alternative penal sanction to imprisonment should always be in the public interest and should, under no circumstances, be abused by states as a means to degrade the convicted person or deprive that person of their dignity. In cases in which work or service is imposed by exploiting the worker's vulnerability under the threat of a penalty, that threat does not need to take the form of a penal sanction but might take the form of a loss of rights or benefits.***

- (2) The use of forced labour is widespread in the world. It is estimated that about 27,6 million people were in situations of forced labour in 2021. Vulnerable and marginalised groups in society are particularly susceptible to being pressured into performing forced labour. *Such groups include women, children, ethnic minorities, persons with disabilities, lower casters, indigenous and tribal people, and migrants, especially undocumented migrants, who have a precarious status and operate in the informal economy.* Even when it is not state imposed, forced labour is often a consequence of *the absence or* lack of good governance with regard to certain economic operators *and a demonstration of a state's failure to enforce social and labour rights, particularly for vulnerable and marginalised groups. Forced labour can also take place as a result of authorities' tacit consent. 86 % of all forced labour cases occur in the private sector, in particular through the forced labour exploitation of 17,3 million people. The obligations of economic operators set out in this Regulation should be predictable and clear in order to ensure full and effective compliance and contribute to bringing forced labour to an end.*

- (3) The eradication of forced labour *in all its forms, including state imposed 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 (TEU). *In order to achieve Target 8.7 of the United Nations' Sustainable Development Goals, the Union should uphold and promote its values and contribute to the protection of human rights, in particular the rights of the child.* Article 5 of the Charter of Fundamental Rights of the European Union (the 'Charter') *explicitly prohibits slavery, servitude, forced or compulsory labour and trafficking in human beings*, and Article 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms provides 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 for the Protection of Human Rights and Fundamental Freedoms as requiring Member States to penalise and effectively prosecute any act maintaining a person in the situations set out in that Article. *The right to effective remedies for violations of fundamental rights is a human right, and a fundamental element in the process of effective prosecution of crimes. Existing Union law, the United Nations Guiding Principles on the Business and Human Rights (UNGPs), the Council of Europe recommendation on human rights and business and the Organisation for Economic Co-operation and Development (OECD) guidelines, such as the Guidelines for Multinational Enterprises on Responsible Business Conduct, affirm that victims have the right to an effective remedy for business-related human rights violations or abuses, including forced labour.*

- (4) All Member States have ratified the fundamental ILO conventions in the area of forced labour, *namely ILO Convention No 29 and ILO Convention No 105*, and ILO Convention No 182 on the Worst Forms of Child Labour (ILO Convention No 182). 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 *and promote decent work and labour rights worldwide*. The Union promotes due diligence in *line* with international guidelines and principles established by international organisations, including the ILO, the OECD and the United Nations, to ensure that forced labour does not have a place in the *supply* 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, *whereas trade and gender provisions establish a gender lens that is essential for the economic empowerment of women in order to combat gendered forced labour*. Moreover, unilateral *tariff* preferences under the Union's Generalised Scheme of Preferences *may* be withdrawn for serious and systematic violations of ILO Convention No 29 and ILO Convention No 105.

- (7) *Forced labour has a distinct impact on vulnerable and marginalised groups, such as children, women, migrants, refugees or indigenous peoples, and therefore an intersectional and gender-sensitive approach is essential to combat forced labour effectively. This Regulation is therefore expected to contribute to the objectives of relevant international agreements and conventions, such as ILO Convention No 182, the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, the Beijing Declaration of September 1995, the Global Compact for Safe, Orderly and Regular Migration, the Geneva Convention Relating to the Status of Refugees, the United Nations Declaration on the Rights of Indigenous Peoples and ILO Convention No 169 on indigenous and tribal peoples.*
- (8) Directive 2011/36/EU of the European Parliament and of the Council⁸ harmonises the definition of trafficking in human beings, including forced labour or services, and establishes **rules on** 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 (prohibition of products made with forced labour), should be without prejudice to that Directive, and in particular to the competence of law enforcement and judicial authorities to investigate and prosecute offences related to trafficking in human beings, including labour exploitation.

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) ■ Regulation (EU) 2017/821 of the European Parliament and of the Council⁹ requires Union importers of minerals *or metals* 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) 2023/1542 of the European Parliament and of the Council¹⁰ contains obligations for economic operators to carry out due diligence in their supply chains, including with respect to labour rights. Regulation (EU) 2023/1115 of the European Parliament and of the Council¹¹ requires due diligence regarding certain commodities and products associated with deforestation and forest degradation, including with respect to human rights.

⁹ 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).

¹⁰ **Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023** concerning batteries and waste batteries, **amending** Directive 2008/98/EC and Regulation (EU) 2019/1020 **and repealing Directive 2006/66/EC (OJ L 191, 28.7.2023, p. I).**

¹¹ Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 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 and repealing Regulation (EU) No 995/2010 (OJ L 150, 9.6.2023, p. 206).

- (10) Directive 2013/34/EU of the European Parliament and of the Council¹² **requires** 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 and on respect for human rights, including on forced labour, anti-corruption and bribery matters. Furthermore, Directive (EU) 2022/2464 of the European Parliament and of the Council¹³ on corporate sustainability reporting **amended that requirement by introducing** detailed reporting requirements for companies falling within the scope of that Directive regarding respect for 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. ■
- (11) *As a member of the World Trade Organisation (WTO), the Union is committed to promoting a rules-based, open, multilateral trading system. Any measures introduced by the Union that affect trade should be WTO compliant.*

¹² Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

¹³ **Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting (OJ L 322, 16.12.2022, p. 15).**

- (12) In July 2021, the Commission and the European External Action Service published guidance on due diligence for EU businesses to address the risk of forced labour in their operations and supply chains.
- (13) As recognised in the communication of the Commission of 23 February 2022 on decent work worldwide for a global just transition and a sustainable recovery, notwithstanding the current policies and legislative framework, further action is 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.
- (14) *Core priorities of the Union, as enshrined in the EU Action Plan on Human Rights and Democracy 2020-2024, include promoting decent work and a human-centred future of work ensuring respect for fundamental principles and human rights, promoting social dialogue, as well as the ratification and effective implementation of relevant ILO conventions and protocols, strengthening responsible management in global supply chains and access to social protection.*

- (15) In its resolutions of 9 June 2022 on a new trade instrument to ban products made by forced labour¹⁴, of 17 December 2020 on forced labour and the situation of the Uyghurs in the Xinjiang Uyghur Autonomous Region¹⁵ and of 16 December 2021 on forced labour in the Linglong factory and environmental protests in Serbia¹⁶, the European Parliament strongly condemned forced labour and called for a ban on products made with forced labour. 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.
- (16) To complete the Union legislative and policy framework on forced labour, the placing and making available on the Union market of 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.
- (17) Currently there is no Union law 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.
- (18) In order to ensure the effectiveness of this Regulation, the prohibition of products made with forced labour should apply to products for which forced labour has been used at any stage of the production, manufacture, harvest or extraction of those products, including in the working or processing related to such products. The prohibition of products made with forced labour 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. ***This Regulation does not apply to the provision of transport services.***

¹⁴ OJ C 493, 27.12.2022, p. 132.

¹⁵ OJ C 445, 29.10.2021, p. 114.

¹⁶ OJ C 251, 30.6.2022, p. 124.

- (19) The prohibition of products made with forced labour 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 *stating that forced or compulsory labour means 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, with the exclusion of any work or service exacted in virtue of compulsory military service laws for work of a purely military character; any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations; any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population; and minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered to be normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.*

- (20) *Based on the definition of forced labour specified in ILO Convention No 29 and used in this Regulation, the ILO indicators of forced labour and the ILO guidelines entitled ‘Hard to See, Harder to Count’ set out the most common signs that point to the possible existence of forced labour and should be taken into account when implementing this Regulation. However, those indicators may be insufficient for the identification of forced labour imposed by state authorities, which is based on systemic and global coercive policies that require additional, specifically designed indicators.*
- (21) *The definition of ‘forced labour imposed by state authorities’ should be aligned with ILO Convention No 105, which specifically prohibits the use of forced labour or compulsory labour as a means of political coercion or education or as punishment for the expression of political views or views ideologically opposed to the established political, social or economic system. It also prohibits the use of forced labour as a method of mobilising and using it for the purposes of economic development, as a means of labour discipline, as a punishment for having participated in strikes, or as a means of racial, social, national or religious discrimination.*

- (22) *Distance sales, including online selling, should also fall within the scope of this Regulation. In the case of a product offered for sale online or through other means of distance sales, the product should be considered to be made available on the market if the offer for sale is targeted at end users in the Union. In line with the applicable Union law on private international law, a case-by-case analysis should be carried out in order to establish whether an offer is targeted at end users in the Union. An offer for sale should be considered to be targeted at end users in the Union if the relevant economic operator directs, by any means, its activities to a Member State. For the case-by-case analyses, relevant factors, such as the geographical areas to which dispatch is possible, the languages available and used for the offer or for ordering, means of payment, the use of currency of the Member State or a domain name registered in one of the Member States should be taken into consideration in this regard. In the case of online sales, the mere fact that the interface of economic operators or the interface of providers of online marketplaces is accessible in the Member State in which the end users is established or domiciled is insufficient. The fact that products offered for sale online or through other means of distance sales are deemed to be made available on the Union market if the offer for sale is targeted at end users in the Union empowers competent authorities to check and take the necessary actions in relation to such products pursuant to this Regulation, even though they are not yet actually placed on the Union market at the moment of the offer for sale online or through other means of distance sales. Such products are to comply with the relevant Union law in force at the moment when they are actually placed on the Union market and, in the case of products entering the Union, when they are placed under the customs procedure ‘release for free circulation’. The fact that the product, offered for sale online or through other means of distance sales, is deemed to be made available on the market if the offer for sale is targeted at end users in the Union should be without prejudice to rules regarding products entering or leaving the Union market.*

- (23) *There has been an increase in the use of intermediary services, in particular online marketplaces, for the sale of products. In this regard, any information related to the sale of products contravening the prohibition of products made with forced labour established in this Regulation should be considered to be illegal content within the meaning of Article 3, point (h), of Regulation (EU) 2022/2065 of the European Parliament and of the Council¹⁷ and should be subject to the obligations and measures set out in that Regulation.*
- (24) *The Commission and the competent authorities of the Member States should identify violations of the prohibition of products made with forced labour. In designating the competent authorities, Member States should ensure that those authorities have sufficient **human and financial** resources and that their staff have the necessary competences and knowledge, especially with regard to human rights, **labour rights, gender equality, supply chain management** and due diligence processes. Competent authorities should coordinate closely with national labour inspection authorities 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.*

¹⁷ *Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, p. 1).*

- (25) *In order to ensure the effective implementation of its tasks under this Regulation, in particular with regard to carrying out investigations, the Commission should be able to request the assistance of other Union bodies, offices or agencies with an appropriate mandate. Those tasks could include: processing submissions of information, supporting the allocation of investigations, conducting the preliminary investigations and investigations, facilitating cooperation with and among authorities of Member States, facilitating international cooperation, supporting the development of support tools and, if appropriate, supporting implementation by customs authorities and supporting the Commission in preparing decisions to ban products made with forced labour. This is without prejudice to the Commission's task, in its role as a lead competent authority, to take decisions to prohibit the placing on the market of products made with forced labour. The Commission, in its role as a lead competent authority, should exercise its powers impartially, transparently and with due respect for obligations of professional secrecy and should have the necessary expertise. The Commission should have the means to finance the necessary staff and related costs to carry out the tasks entrusted to it under this Regulation and build the required expertise.*

- (26) *Competent authorities and the Commission should be guided by the principle of proportionality when implementing this Regulation. Competent authorities ■ and the Commission ■ should ensure, in particular, that all the measures and actions carried out during the preliminary phase of the investigation and during the investigation and those set out in the decision are suitable and necessary to achieve the desired purpose and do not impose an excessive burden on economic operators.*
- (27) In order to ensure cooperation between *the Commission and* competent authorities designated under this Regulation and authorities designated under other relevant Union and national law and in order to ensure consistency in their actions and decisions, the Commission and competent authorities designated under this Regulation should request information from other relevant authorities, where necessary, regarding whether economic operators under assessment are subject to and carry out due diligence in relation to forced labour in accordance with applicable Union or national law setting out due diligence and transparency requirements with respect to forced labour. *When requesting information from economic operators, competent authorities should, where possible, follow the Commission's once-only principle, through increased cooperation and dialogue between authorities who are engaged in overseeing product regulation. For the same purposes, and where appropriate, competent authorities designated under this Regulation should inform other relevant authorities, such as market surveillance authorities, of their actions and decisions.*

- (28) The uniform enforcement of the prohibition of products made with forced labour entering or leaving the Union market can only be achieved through a systematic exchange of information and cooperation amongst competent authorities, customs authorities and the Commission. *Such information exchange and cooperation should be supported by the Commission.*
- (29) For the collection, processing and storage of information, in a structured form, on issues relating to the *investigations, decision-making process, and* enforcement of the prohibition of products made with forced labour, the competent authorities should use the information and communication system for market surveillance referred to in Article 34 of Regulation (EU) 2019/1020 of the European Parliament and of the Council¹⁸, in accordance with the implementing act that the Commission should be empowered to adopt under this Regulation (the ‘ICSMS’). The Commission, competent authorities and customs authorities should have access to that system to carry out their respective duties under this Regulation. *It is also possible for competent authorities to use other existing communication systems to communicate with other authorities within their own Member State, as long as it does not affect the obligation of using the ICSMS for the purposes of implementing this Regulation.*

¹⁸ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

(30) In order to optimise and unburden the control process of products entering or leaving the Union market, it is necessary to allow for 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 of products made with forced labour should be communicated from the ICSMS to the electronic Customs Risk Management System referred to in Article 36 of Commission Implementing Regulation (EU) 2015/2447¹⁹, without prejudice to any future evolution of the customs 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, *inter alia*, transfer the notification of the suspension, the conclusion of competent authorities and the outcome of the actions taken by customs authorities. The EU Single Window Environment for Customs should support those second data transfers between the 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.

¹⁹ 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).

- (31) *The Commission should establish an indicative and non-exhaustive database of forced labour risks to support the work of competent authorities in assessing potential violations of the prohibition of products made with forced labour and help economic operators identify possible forced labour risks in their supply chains. The Commission should be able to resort to external expertise to develop the database. The database should identify forced labour risks in specific geographic areas or with respect to specific products or product groups, with a particular focus on widespread and severe forced labour risks, based on reliable and verifiable information from international institutions, such as the ILO and the UN, and research or academic institutions. That database should be made publicly available through the Forced Labour Single Portal. Where there is reliable and verifiable evidence that products produced by specific economic sectors in specific geographic areas present a high risk of having been made with forced labour imposed by state authorities, those sectors in those areas should be identified in the database established pursuant to this Regulation.*
- (32) 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 also take into account the size and economic resources of economic operators. In addition, the Commission should issue guidelines on forced-labour risk indicators, *including how to identify them, which should be based on independent and verifiable information, including reports from international organisations, in particular the ILO.*

- (33) *The Commission should prevent an unnecessary administrative burden for SMEs. In addition, the Commission should develop accompanying measures to support the efforts of economic operators and their business partners in the same supply chain, in particular SMEs. Member States should designate contact points for SMEs for the purposes of this Regulation which can be existing business and human rights helpdesks or due diligence contact points. SMEs should be able to contact the competent authority of the Member State in which they are established, using the information provided in the Forced Labour Single Portal. They should, in particular, be able to liaise with a competent authority to support them throughout the course of an investigation. Sufficient support resources should also be made available online in a clear and understandable way for SMEs.*
- (34) *The Commission should issue guidelines on how to engage in dialogue with competent authorities* ■ *in order to help economic operators, and in particular SMEs, as well as other stakeholders, to comply with the prohibition of products made with forced labour. Furthermore, the Commission should also issue guidelines to assist any person or association in submitting information.*
- (35) *Taking into account the variety of Union law dealing with forced labour issues, the Commission should provide guidance for economic operators, in particular SMEs, on how to apply the different obligations stemming from Union law.*

- (36) The Commission should issue guidelines in order to facilitate the implementation of this **Regulation** by economic operators and competent authorities. *Guidelines for economic operators* should include guidance on due diligence in relation to forced labour, *including for different types of suppliers and sectors of activity, on best practices for bringing to an end and remediating forced labour and on responsible disengagement. Remediation is understood to be the restitution of the affected person or persons or communities to a situation equivalent or as close as possible to the situation they would be in had forced labour not occurred, proportionate to the company's involvement in the forced labour, including financial or non-financial compensation provided by the company to a person or persons affected by forced labour and, where applicable, reimbursement of the costs incurred by public authorities for any necessary remedial measures. Guidance for competent authorities should focus on information relevant for the practical implementation of this Regulation.* 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 guidelines should be developed in consultation with relevant stakeholders and rely on experience and best practices from relevant Member State authorities.* 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.

- (37) Since forced labour is a global problem and given the interlinkages of global **supply** chains, it is necessary to promote international cooperation against forced labour, which would also improve the efficiency of implementing this **Regulation**. The Commission should, **as appropriate**, cooperate **■** and exchange information with authorities of third countries, **international organisations and other relevant stakeholders** to enhance the effective implementation of this **Regulation**. International cooperation with authorities of third countries, **including with countries with similar legislation in place**, should take place in a structured way as part of the existing dialogue structures **with those** countries, or, if necessary, specific dialogue structures that will be created on an ad hoc basis. **This cooperation should be able to include exchanges of information on forced labour risks, such as those identified in the database, and on decisions to ban products, but should not include information on ongoing investigations. Union delegations can contribute to disseminating information about this Regulation and to facilitate the submission of information on forced labour risks by relevant stakeholders. International cooperation may also include the development of cooperation initiatives and accompanying measures to support relevant stakeholders in their efforts to eliminate forced labour from global supply chains, as well as the creation of enabling environments in third countries to promote and protect human rights.**
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- (38) Any 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 should be informed of the outcome of the assessment of their submission of information.
- Submissions of information on alleged violations should be made via a single information submission point set up by the Commission and made available on the Forced Labour Single Portal. In order to ensure the ease of use of the submissions of information and the standardisation of the information provided, the Commission should issue guidance on the use of the single information submission point and should be able to adopt implementing acts to specify the procedural rules, templates and details of the submissions of information. Submissions of information that are manifestly incomplete, unfounded or made in bad faith should be discarded. Adequate measures should be put in place to ensure the protection of any person associated with the submission or the information contained therein including from retaliation.*
- (39) *Whistleblowers can bring new information to the attention of competent authorities to help them to detect breaches of this Regulation and enable them to take action. In order to ensure that adequate arrangements are in place to enable whistleblowers to alert the competent authorities to actual or potential breaches of this Regulation and to protect the whistleblowers from retaliation, this Regulation should provide that Directive (EU) 2019/1937 of the European Parliament and of the Council²⁰ is applicable to the reporting of breaches of this Regulation and to the protection of persons reporting such breaches, insofar as they fall within the personal scope of that Directive.*

²⁰ *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).*

- (40) *To enhance legal certainty, the applicability, pursuant to this Regulation, of Directive (EU) 2019/1937 regarding reports of breaches of this Regulation and the protection of persons reporting such breaches should be reflected in that Directive. The Annex to Directive (EU) 2019/1937 should therefore be amended accordingly. It is for the Member States to ensure that, from the date of application of this Regulation, that amendment is reflected in the transposition measures adopted in accordance with that Directive. However, the adoption of national transposition measures is not a condition for the applicability of that Directive regarding the reporting of breaches of this Regulation or the protection of reporting persons.*
- (41) *To ensure ease of access to relevant information regarding this Regulation, the Commission should set up a single web portal at Union level, available to the public in all official languages of the institutions of the Union.*

- (42) When identifying potential violations of the prohibition of products made with forced labour, the *Commission or the* competent authorities should follow a risk-based approach and assess all of the information available to them. *In order to implement the risk-based approach in the prioritisation of their investigations, the Commission and competent authorities should take into account the share of the part of the product suspected to have been made with forced labour in the final product, the quantity and volume of products concerned, and the scale and severity of the suspected forced labour, including whether forced labour imposed by state authorities could be a concern. The Commission and competent authorities should also take into account the size and economic resources of the economic operators and the complexity of the supply chain, and focus to the extent possible on the economic operators and where relevant product suppliers that are closer to the risk of forced labour and have the highest leverage to prevent, mitigate and bring to an end the use of forced labour.*

(43) *Before initiating an investigation, the lead competent authority should be able to request information from economic operators under assessment and also from other relevant stakeholders, including the persons or associations that have submitted relevant information to competent authorities. The lead competent authority should be able to choose not to request additional information from economic operators if it assesses that this could lead to an attempt by those economic operators to hide a situation of forced labour and thus jeopardise the investigation. The lead competent authority should initiate an investigation where, based on its assessment of all available information or on the basis of any other facts available where it was not possible to gather information and evidence during the preliminary phase of the investigation, it establishes that there is a substantiated concern that there has been a violation of the prohibition of products made with forced labour.*

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(44) In order to increase the effectiveness of the prohibition of products made with forced labour, competent authorities should grant reasonable time to economic operators to identify, mitigate, prevent and bring to an end the risk of forced labour, *taking into account, inter alia, the complexity of the process and the number of stakeholders involved.*

- (45) Before initiating an investigation, the lead competent authority should request the economic operators under assessment to provide information on actions taken to mitigate, prevent, bring to an end risks of forced labour *or remediate forced labour cases* in their operations and *supply* chains with respect to the products under assessment. Carrying out due diligence in relation to forced labour should *contribute to helping* the economic operator to be at a lower risk of having forced labour in its operations and *supply* chains. Appropriate due diligence in accordance with relevant Union law and international standards can help *to identify and address* forced labour in the *supply* chain. That implies that no investigation should be initiated where the lead competent authority considers that there is no substantiated concern of a violation of the prohibition of products made with forced labour, *or that the reasons for a substantiated concern have been eliminated*, 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.
- (46) The lead competent authority, 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 *supply* 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 and quantity of products concerned, as well as the scale of suspected forced labour.

- (47) The lead competent authorities should bear the burden of establishing whether forced labour has been used at any stage of the production, manufacture, harvest or extraction of a product placed or made available on the market or for export, including in the 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 *during the investigation. Where, in response to a request for information from a lead competent authority, an economic operator or a public authority refuses or fails, without a valid justification, to provide the information requested, provides incomplete or incorrect information with the objective of blocking the investigation, provides misleading information or otherwise impedes the investigation, including when a risk of forced labour imposed by state authorities is identified, the lead competent authority should be able to establish that the prohibition of products made with forced labour has been violated on the basis of any other relevant and verifiable information gathered during the preliminary phase of the investigation or during the investigation. The lead competent authority should also take those factors into account when reviewing a decision taken on that basis.*

(48) *Where the lead competent authority establishes that economic operators have violated the prohibition of products made with forced labour, it 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 products concerned already made available from the Union market and donate perishable products to charitable or public interest causes. In the case of non-perishable products, economic operators should recycle such products, and if that is not possible, they should have the product destroyed, rendered inoperable, or otherwise disposed of in accordance with national law in compliance with Union law, including Union law on waste management. Nevertheless, particular attention should be paid to preventing disruptions to supply chains of strategic or critical importance for the Union and, in this regard, to products, the disposal of which would alter the proper functioning of the internal market and of such supply chains. In those cases, by way of derogation from the obligation to impose an order to have the product concerned disposed of, the lead competent authority should, where appropriate, be able to order the product concerned to be withheld for a defined period, at the cost of the economic operators. When assessing the strategic or critical importance of a product for the Union, the lead competent authority should, in particular, take into account the list of sectors established in the Regulation (EU) 2024/1735 of the European Parliament and of the Council²¹ and the Commission Recommendation (EU) 2023/2113²² as well as the products listed in the Regulation (EU) 2024/1252 of the European Parliament and of the Council²³.*

²¹ *Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 (OJ L, 2024/1735, 28.6.2024, ELI: <http://data.europa.eu/eli/reg/2024/1735/oj>).*

²² *Commission Recommendation (EU) 2023/2113 of 3 October 2023 on critical technology areas for the EU's economic security for further risk assessment with Member States (OJ L, 2023/2113, 11.10.2023, ELI: <http://data.europa.eu/eli/reco/2023/2113/oj>).*

²³ *Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020 (JO L, 2024/1252, 3.5.2024, ELI: <http://data.europa.eu/eli/reg/2024/1252/oj>).*

When assessing whether a derogation from the obligation to impose an order of disposal is appropriate, the lead competent authority should bear in mind the likelihood of the economic operators concerned complying with the conditions for the review of the decision establishing a violation of the prohibition of products made with forced labour within the period defined by the lead competent authority. The period set by the lead competent authority would allow the economic operators concerned to demonstrate that they have eliminated forced labour with regard to the product concerned, by having brought it to an end within their supply chain. Changing a supply chain, in the sense of relying on different suppliers, cannot be considered as a method of eliminating forced labour regarding the product concerned by that decision, since it would result in a different product. If the economic operators concerned provide the evidence demonstrating that they have eliminated forced labour with regard to the product concerned, the lead competent authority should review its decision prohibiting the placing and making available of such products on the Union market, leading to its withdrawal, and therefore lift the withholding of the products concerned. If the economic operators concerned do not provide such evidence, they should comply with the order to dispose of the products concerned after the expiry of the period included in the decision prohibiting the placing and making available of such products on the Union market, which contains the order to withhold the products for a defined period.

- (49) In a decision establishing a violation of the prohibition of products made with forced labour, the **lead** competent authority should state the findings of the investigation, and the information underpinning the findings, and set a reasonable time limit within which the economic operators should comply with that decision, as well as information identifying the product to which the decision applies. The Commission should be empowered to adopt the implementing acts necessary to specify the details of the information to be contained in such decisions. ***The decisions of the lead competent authority should be made publicly available.***
- (50) In setting a reasonable time limit within which to comply with orders set out in a decision establishing a violation of the prohibition of products made with forced labour, the **lead** competent authority should take into account the size and economic resources of the economic operators concerned.
- (51) To ensure effective enforcement, decisions taken by a lead 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 information from the same supply chain for which forced labour has been found.
- (52) Economic operators should be able to request a review of the decisions of **lead** competent authorities pursuant to this Regulation, after having provided new **substantial** information ***which demonstrates that the products placed or made available on the Union market or intended to be exported from the Union market are in compliance with the prohibition of products made with forced labour. The lead*** competent authority should withdraw its decision ***for the future*** where ***the economic operators demonstrate that they have complied with that decision and eliminated forced labour from their operations or supply chains*** for the products concerned. ***Decisions of lead competent authorities pursuant to this Regulation should be subject to judicial review in accordance with the applicable Union and national law.***

- (53) If the economic operators fail to comply with the decision of the **lead** competent **authority** by the end of the established timeframe, the competent authorities should ensure that the **products concerned** are prohibited from being placed or made available on the Union market, or from being exported or are withdrawn from the Union market and that any perishable products remaining with the relevant economic operators are **donated to charitable or public interest causes**. Competent authorities should ensure that **non-perishable products are recycled, or, if that is not possible, that they are** destroyed, rendered inoperable, or otherwise disposed of in accordance with national law, consistent with Union law, including Union law on waste management **and on ecodesign for sustainable products** at the expense of the economic operators. **Where possible, competent authorities should ensure that the disposal or destruction method chosen from all of the available options has the smallest environmental impact possible. Competent authorities of Member States should be responsible for the enforcement of decisions in their own territory, including decisions adopted by the Commission. After a decision is communicated via the ICSMS, all competent authorities concerned with that decision should proceed with the relevant enforcement actions provided for in this Regulation.**

(54) *The effect on animal welfare should be considered when enforcing the prohibition of placing and making available on the market or exporting products made using forced labour in order to spare the animals concerned avoidable pain, distress or suffering. In addition, this Regulation should be without prejudice to Union law regarding animal welfare, such as Council Regulations (EC) No 1/2005²⁴ and (EC) No 1099/2009²⁵.*

(55) Decisions of the *lead* competent authorities establishing a violation of the prohibition of products made with forced labour should be communicated to customs authorities, who should aim to identify the product concerned from products declared for release for free circulation or export. The competent authorities *of the Member States* should be responsible for the overall enforcement of the prohibition of products made with forced labour in the Union market as well as products entering or leaving that market. Since forced labour is part of the manufacturing process and does not leave any trace on the product, and as Regulation (EU) 2019/1020 covers only manufactured products and its scope is limited to release for free circulation, customs authorities would be unable to act autonomously under Regulation (EU) 2019/1020 in the application and enforcement of the prohibition of products made with forced labour. 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 Council²⁶ and its general provisions on the control and supervisory powers of customs authorities.

²⁴ *Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97 (OJ L 3, 5.1.2005, p. 1).*

²⁵ *Council Regulation (EC) No 1099/2009 of 24 September 2009 on the protection of animals at the time of killing (OJ L 303, 18.11.2009, p. 1).*

²⁶ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- (56) The information currently **provided or** made available to customs authorities by economic operators includes only general information on 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 breach this Regulation and should accordingly be stopped at the external borders of the Union, economic operators should submit to customs authorities information allowing for the identification of products to which a decision of the **lead** competent authority relates. 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, *inter alia*, the database established under this Regulation as well as the information and decisions of the **lead** competent authorities encoded in the ICSMS. Moreover, the Commission should be empowered to adopt ■ implementing acts necessary to specify the details of the information to be **provided or** made available to customs authorities by the economic operators. Such information should include the description, name or brand of the product, specific requirements under Union law 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 the 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 number. The review of the Union Customs Code will consider introducing in customs legislation the information required to be **provided or** made available to customs authorities by economic operators for the enforcement of this Regulation and, more broadly, in order to strengthen the transparency of the supply chain. ***The Commission should issue guidance to and support economic operators, especially SMEs, on how to collect the required information.***

- (57) Customs authorities that identify a product that may be covered by a decision communicated by the *lead* competent authority establishing a violation of the prohibition of products made with forced labour 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 *and duly justified, the* competent authorities should be authorised to require maintaining the suspension of the release of the product concerned, *taking into account the potential damage for the economic operator*. 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 of a product for free circulation or export should not be deemed to be proof of compliance with Union law, since such a release does not necessarily include a complete assessment of such compliance.

- (58) Where the competent authorities conclude that a product corresponds to a decision establishing a violation of the prohibition of products made with forced labour, they should immediately inform customs authorities which should refuse its release for free circulation or export. *Customs authorities should be able, where a competent authority so requests and on behalf and under the responsibility of that competent authority, to alternatively seize that product and put it at the disposal of and under the authority of that competent authority. In such cases, the relevant competent authority should take all the necessary measures to ensure that the product concerned is disposed of appropriately, including by way of its donation to charitable or public interest causes, its recycling or otherwise its disposal* in accordance with national law consistent with Union law *at the expense of the relevant economic operator.*
- (59) *The lead competent authority should take into due consideration the risk of disengagement by economic operators who are either related to products or regions in the database, or who have had their product removed from the Union market, as well as the consequences on affected workers. The lead competent authority should therefore, where appropriate, support economic operators in adopting and carrying out suitable and effective measures for bringing forced labour to an end. Responsible disengagement includes complying with collective agreements and articulating escalation measures.*

- (60) 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 to release such products for free 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.
- (61) Where, in order to give effect to the prohibition of products made using forced labour, it is necessary to process personal data pursuant to this Regulation, 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 of products made with forced labour should be subject to Regulations (EU) 2016/679²⁷ and (EU) 2018/1725²⁸ of the European Parliament and of the Council.

²⁷ 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).

²⁸ 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).

- (62) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission *as regards the procedural rules and the details of the arrangements for the use of the ICSMS; the procedural rules, templates and details for the submission of information on alleged violations of the prohibition on the placing or making available of products made with forced labour on the Union market or exporting them; the decisions adopted by the Commission establishing that the prohibition on the placing or making available of products made with forced labour on the Union market or exporting them has been violated; the withdrawal of those decisions; the details of the content of those decisions and of the equivalent decisions adopted by the lead competent authorities; and the arrangements and details for providing or making available to the customs authorities certain information on specific products or product groups*. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁹.

²⁹ 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).

- (63) *The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to the withdrawal of the decisions establishing that the prohibition on the placing or making available or exporting of products made with forced labour has been violated, imperative grounds of urgency so require.*
- (64) 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 and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making³⁰. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (65) In order to ensure that the customs authorities are *able to act effectively, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of further specifying the additional* information identifying the ■ product *concerned that economic operators should make available or provide to the customs authorities* as regards products entering or leaving the Union market. *That information should be information identifying the product concerned, information about the manufacturer or the producer and information about the product suppliers.* Customs authorities need to be enabled to obtain information rapidly on specific products identified in the decisions of the lead competent authorities in order to take actions and measures effectively and swiftly. In such cases, delegated acts should be adopted pursuant to an urgent procedure.

³⁰ OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj.

- (66) *Member States should confer on their competent authorities the power to impose and implement effective, proportionate and dissuasive penalties in cases where the economic operator has failed to comply with a decision prohibiting the placing on the market of products made with forced labour. The rules on penalties, applicable in the event of non-compliance with a decision, should be established by Member States, giving due regard to elements such as the gravity and duration of the infringement, previous infringements by the economic operator, the degree of cooperation with competent authorities and any other mitigating or aggravating factor applicable to the circumstances of the particular case. The Commission should issue guidance for Member States on the method for calculating financial penalties and the thresholds applicable and the Union Network Against Forced Labour Products should promote best practices in the application of such penalties.*
- (67) *The Commission should carry out an evaluation of the implementation and enforcement of this Regulation and submit a report thereon to the European Parliament, the Council and the European Economic and Social Committee. The report should assess the contribution of this Regulation to the elimination of products made with forced labour from the Union market and to the fight against forced labour as well as to the cooperation between competent authorities and international cooperation to eliminate forced labour. The report should also assess the impact of this Regulation on businesses, in particular SMEs, and on victims, as well as the overall costs and benefits of the prohibition of products made with forced labour. The report should further assess the alignment of this Regulation with other relevant Union law.*

(68) *This Regulation respects the right to good administration, enshrined in Article 41 of the Charter, which includes, inter alia, the right of every person to be heard, before any individual measure which would affect him or her adversely is taken. In this regard, the lead competent authority conducting the investigation should inform the economic operators concerned about the initiation of the investigation and the possible consequences thereof. To ensure their right to due process, economic operators should have the opportunity to provide information in their defence to the competent authorities upon their request during the investigation. Economic operators should have the possibility to request the lead competent authority to review the decision affecting them, by providing new substantial information. The decisions adopted by Member States' competent authorities should be subject to judicial review foreseen in applicable national law. The decisions adopted by the Commission under this Regulation are subject to review by the Court of Justice of the European Union in accordance with Article 263 TFEU.*

- (69) Since the objective of this Regulation, namely, prohibiting economic operators from placing and making available *on the Union market* or exporting from the Union market products made with forced labour *in order to improve the functioning of the internal market, while contributing to the fight against forced labour*, 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 TEU. 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.
- (70) 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, objective and scope

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 *in order to improve the functioning of the internal market, while contributing to the fight against forced labour.*
2. This Regulation does not cover the withdrawal of products which have reached end users in the Union market.
3. *This Regulation does not create additional due diligence obligations for economic operators other than those already provided for in Union or national law.*

Article 2

Definitions

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

- (1) ‘forced labour’ means forced or compulsory labour as defined in Article 2 of ILO Convention No 29 **■** , *including forced child labour*;

- (2) 'forced labour imposed by state authorities' means the use of forced labour as described in Article 1 of ILO Convention No 105;
- (3) 'due diligence in relation to forced labour' means efforts by economic operators to implement mandatory requirements, voluntary guidelines, recommendations or practices to identify, prevent, mitigate or bring to an end the use of forced labour with respect to products that are to be *placed or to be* made available on the Union market or to be exported;
- (4) '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 ■ ;
- (5) 'placing on the market' means the first making available of a product on the Union market;
- (6) 'product' means any item that can be valued in money and is capable, as such, of being the subject of commercial transactions, whether it is extracted, harvested, produced or manufactured;
- (7) '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 in the working or processing related to a product at any stage of its supply chain;

- (8) *‘supply chain’ means the system of activities, processes and actors involved at all stages upstream of a product being made available on the market, namely the extraction, harvesting, production and manufacturing of a product in whole or in part, including in the working or processing related to the product at any of those stages;*
- (9) ‘economic operator’ means any natural or legal person or association of persons placing or making available products on the Union market or exporting products;
- (10) ‘manufacturer’ means *any natural or legal person who manufactures a product or has a product designed or manufactured, and markets that product under its name or trademark;*
- (11) ‘producer’ means the producer of agricultural products as referred to in Article 38(1) of the Treaty on the Functioning of the European Union, or the producer of raw materials;
- (12) ‘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, as a manufacturer or in any other capacity;

- (13) *‘end user’ means any natural or legal person residing or established in the Union to whom a product has been made available either as a consumer outside of any trade, business, craft or profession or as a professional end user in the course of its industrial or professional activities;*
- (14) ‘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;
- (15) ‘exporter’ means an exporter as defined in Article 1, point (19), of Commission Delegated Regulation (EU) 2015/2446³¹;
- (16) ‘substantiated concern’ means a ***reasonable indication*** based on objective, ***factual*** and verifiable information for the Commission or competent authorities to suspect that it is likely that a product was made with forced labour;
- (17) *‘lead competent authority’ means the authority responsible, pursuant to Article 15, for assessing submissions of information, conducting investigations, and taking decisions, namely a Member State competent authority or the Commission;*
- (18) ‘customs authorities’ means customs authorities as defined in Article 5, point (1), of Regulation (EU) No 952/2013;

³¹ 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).

- (19) '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 *to be* placed under the customs procedure 'release for free circulation';
- (20) 'products leaving the Union market' means products *to be* placed under the customs procedure 'export';
- (21) 'release for free circulation' means the procedure laid down in Article 201 of Regulation (EU) No 952/2013;
- (22) 'export' means the procedure laid down in Article 269 of Regulation (EU) No 952/2013.

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.



Article 4

Distance sales

Products offered for sale online or through other means of distance sales shall be deemed to be made available on the market if the offer is targeted at end users in the Union. An offer for sale shall be considered to be targeted at end users in the Union if the relevant economic operator directs, by any means, its activities to a Member State.

Article 5

Competent authorities

1. Each Member State shall designate one or more competent authorities to be responsible for carrying out the obligations set out in this Regulation. Member State competent authorities **and the Commission** shall **work in close cooperation and** be responsible for ensuring the effective and uniform implementation of this Regulation throughout the Union.

2. Where a Member State has designated more than one competent authority, it shall clearly demarcate their respective duties and establish communication and coordination mechanisms that enable those authorities to collaborate closely and exercise their duties effectively.
3. No later than ... *[12 months from the date of entry into force of this Regulation]*, Member States shall, through the information and communication system referred to in **Article 7(1)**, provide the Commission and the other Member States with the following information:
 - (a) the names, addresses and contact details of the competent authority or authorities;
and
 - (b) the areas of competence of the competent authority or authorities.

Member States shall regularly update the information set out in points (a) and (b).
4. The Commission shall make the list of competent authorities publicly available on ***the Forced Labour Single Portal*** referred to in Article 12 and shall regularly update that list, based on the updates received from Member States.
5. Member States shall ensure that their competent authorities exercise their powers impartially, transparently and with due respect for the obligations of professional secrecy. Member States shall ensure that their competent authorities have the necessary powers, ***expertise***, and resources to carry out investigations, including sufficient budgetary resources ■ .

6. *Member States shall ensure that their competent authorities coordinate closely and exchange information with the relevant national authorities, such as labour inspection authorities and judicial and law enforcement authorities, including those responsible for the fight against trafficking in human beings, and the authorities designated by Member States under Directive (EU) 2019/1937.*
7. Member States shall confer on their competent authorities the power to impose penalties in accordance with Article 37, *either directly, in cooperation with other authorities, or by way of an application to the competent judicial authorities.*

Chapter II

Governance

Article 6

Union Network Against Forced Labour Products

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

3. The Network shall be composed of representatives from each Member *State*, representatives from the Commission and, where appropriate, *representatives* from customs authorities.
4. *The Commission shall coordinate the work of the Network. A representative from the Commission shall chair the meetings of the Network.*
5. *The secretariat of the Network shall be provided by the Commission. The secretariat shall organise the meetings of the Network and provide it with technical and logistical support.*
6. *Members of the Network shall participate actively to ensure efficient coordination and cooperation, and to contribute to the uniform implementation of this Regulation.*
7. The Network shall have the following tasks:
 - (a) to facilitate the identification of common *enforcement* priorities in order *to achieve the objective of this Regulation as set out in Article 1;*
 - (b) *to facilitate the coordination of investigations;*
 - (c) *to follow-up on the enforcement of decisions referred to in Article 20;*
 - (d) *upon request from the Commission, to contribute to the development of guidelines referred to in Article 11;*
 - (e) *to facilitate and coordinate the collection and exchange of information, expertise and best practices with regard to the implementation of this Regulation;*

- (f) *to contribute to uniform risk-based approaches and administrative practices for the implementation of this Regulation;*
- (g) *to promote best practices in the application of penalties provided for in Article 37;*
- (h) *to cooperate, as appropriate, with the relevant Commission services, Union bodies, offices and agencies and Member State authorities on the implementation of this Regulation,*
- (i) *to promote the cooperation, exchange of personnel and visiting programmes among competent authorities and customs authorities, as well as among those competent authorities and competent authorities of third countries and international organisations;*
- (j) *to facilitate the organisation of training and capacity building activities, regarding the implementation of this Regulation, for the Commission and Union delegations in third countries and competent authorities, customs authorities and other relevant authorities of Member States;*
- (k) *upon request from the Commission, to provide assistance to the Commission on the development of a coordinated approach to engagement and cooperation with third countries pursuant to Article 13;*
- (l) *to monitor situations of systemic use of forced labour;*

- (m) to assist in the organisation of information and awareness-raising campaigns on this Regulation;*
- (n) to promote and facilitate collaboration with regard to exploring possibilities for using new technologies for the enforcement of this Regulation and the traceability of products;*
- (o) to collect data on remediation linked to the decisions and evaluation of their effectiveness.*

- 8. Other relevant Member State authorities may attend meetings of the Network on an ad hoc basis. Experts and stakeholders, including representatives from trade unions and other workers' organisations, civil society and human rights organisations, business organisations, international organisations, relevant authorities of third countries, the European Union Agency for Fundamental Rights, the European Labour Authority, the relevant Commission services, Union delegations and Union bodies, offices and agencies with expertise in the areas covered by this Regulation may be invited to attend meetings of the Network or to provide written contributions.*
- 9. The Network shall meet at regular intervals and, where necessary, at the duly motivated request of the Commission or a Member State.*
- 10. The Commission and the Member States shall ensure that the Network has the necessary resources to carry out the tasks referred to in paragraph 7, including sufficient budgetary resources.*

11. The Network shall establish its rules of procedure.



Article 7

Information and communication systems

1. For the purposes of Chapters ***I, III, IV and V of this Regulation, the Commission and*** competent authorities shall use the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 in accordance with the implementing act referred to in paragraph 7, point (a), of this Article. The Commission, competent authorities and customs authorities shall have access to that system for the purposes of this Regulation.
2. Decisions communicated pursuant to Article **26(3)** shall be entered in the relevant customs risk management environment.
3. The Commission shall develop an interconnection to enable the automated communication of the decisions referred to in Article **26(3)** from the information and communication system referred to in paragraph 1 of this Article to the environment referred to in paragraph **2 of this Article**. That interconnection shall start operating no later than **2** years from the date of the adoption of the implementing act referred to in paragraph 7, point (b), of this Article.

4. Requests and notifications between competent authorities and customs authorities pursuant to **Chapter V, Section II**, as well as the ensuing messages shall be exchanged via the information and communication system referred to in paragraph 1.
5. ***An interconnection between the information and communication system referred to in paragraph 1 and the EU Single Window Environment for Customs shall be established in accordance with Regulation (EU) 2022/2399 for the purposes of exchanging*** requests and notifications between customs and competent authorities pursuant to **Chapter V, Section II** of this Regulation. That interconnection shall be ***established at the latest*** within **4** years from the date of adoption of the implementing act referred to in paragraph 7, ***point (a)***. The requests, notifications and ensuing messages referred to in paragraph 4 shall be exchanged 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 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 of this Article.

7. The Commission may adopt implementing acts 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 paragraph 1;
 - (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, as well as the rules on its confidentiality and controllership, in accordance with paragraph 6.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 35(2).

Article 8

Database of forced labour risk areas or products

1. The Commission shall *establish a database, with the assistance of* external expertise *if needed. This database shall* provide indicative, non-exhaustive, *evidence-based*, verifiable and regularly updated *information* on forced labour risks in specific geographic areas or with respect to specific products *or product groups*, including with regard to forced labour imposed by state authorities. The database shall *prioritise the identification of widespread and severe forced labour risks.*

2. *The database referred to in paragraph 1 shall be based on independent and verifiable information from international organisations, in particular the ILO and the UN, or institutional, research or academic organisations.*

The database shall not publicly disclose information that names economic operators directly.

The database shall indicate specific economic sectors in specific geographic areas for which there is reliable and verifiable evidence that forced labour imposed by state authorities exists.

3. The Commission shall ensure that the database is *easily accessible, including for persons with disabilities, and* made publicly available, *in all official languages of the institutions of the Union*, by ... [18 months after ■ the date of entry into force of this Regulation].



Article 9

Single information submission point

1. *The Commission shall set up a dedicated centralised mechanism for the submission of information (single information submission point). The single information submission point shall be available in all official languages of the institutions of the Union. It shall be user-friendly and made available free of charge.*

2. Information *on alleged violations of Article 3 shall be submitted via the single information submission point* by any natural or legal person or any association that does not have a legal personality. *Submissions of information* shall contain information on the economic operators or products concerned, provide the reasons *and evidence* substantiating the alleged violations, *and where possible, supporting documents. The Commission may adopt implementing acts to specify the procedural rules, templates and details in relation to those submissions of information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 35(2).*

3. *The Commission shall discard any submissions of information to the single information submission point that are manifestly incomplete, unfounded or made in bad faith and distribute the retained submissions of information for assessment by the lead competent authority according to the method for the allocation of investigations set out in Article 15.*

4. The *lead* competent authority *in charge of the assessment referred to in paragraph 3* shall *acknowledge receipt of the submission of information, diligently and impartially assess the information and inform the natural or legal person or association* concerned of the outcome of the assessment of *its* submission of information *as soon as possible*.

5. *The lead competent authority may ask the person or association referred to in paragraph 2 to provide additional information.*

6. *In cases where there is a significant lapse of time between the submission of information to the single information submission point and a decision to proceed with an investigation pursuant to Chapter III, the lead competent authority shall, to the extent possible, consult the person or association submitting the information to verify whether the situation has, to the best of their knowledge, changed significantly.*
7. Directive (EU) 2019/1937 shall apply to the reporting of breaches of this Regulation and the protection of persons reporting such breaches.

Article 10

Support measures for SMEs

The Commission shall develop accompanying measures to support the efforts of economic operators and their business partners in the same supply chain, in particular SMEs. Where appropriate, information on those measures shall be made available through the Forced Labour Single Portal referred to in Article 12.

Competent authorities shall designate contact points to provide information to SMEs regarding matters related to the application of this Regulation. Those contact points may also provide assistance to SMEs on those matters.

Member States' competent authorities may also organise training sessions for economic operators on forced labour risk indicators and on how to engage in dialogue with those competent authorities throughout an investigation.

Article 11

Guidelines

The Commission, *in consultation with relevant stakeholders*, shall *make available*, by ... [18 months after the date of entry into force of this Regulation], *and regularly update*, guidelines which shall include the following:

- (a) guidance *for economic operators* on due diligence in relation to forced labour, *including forced child labour*, which shall take into account applicable Union and national law, 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, *different types of suppliers along the supply chain, and different sectors*;
- (b) *guidance for economic operators on best practices for bringing to an end and remediating different types of forced labour*;
- (c) *guidance for competent authorities on the practical implementation of this Regulation, in particular Articles 8, 17 and 18, including benchmarks for assisting competent authorities in their risk-based assessments in the context of investigations and guidelines on the applicable standard of evidence*;

- (d) *guidance for customs authorities and economic operators on the practical implementation of Article 27 and, where appropriate, any other provision laid down in Chapter V, Section II;*
- (e) information on the risk indicators of forced labour, *including how to identify such indicators*, which shall be based on independent and verifiable information, including reports from international organisations, in particular the ILO, civil society, business organisations *and trade unions*, and on experience from implementing Union law setting out due diligence requirements regarding forced labour;
- (f) *guidance for economic operators on due diligence in relation to forced labour imposed by state authorities;*
- (g) *guidance for economic operators and product suppliers on how to engage in dialogue with competent authorities pursuant to Chapter III, in particular on the type of information to be submitted;*
- (h) *guidance on how to submit information pursuant to Article 9;*
- (i) guidance for *Member States on the method for calculating financial penalties and the applicable thresholds;*
- (j) *further information to facilitate the competent authorities' implementation of and the economic operator's compliance with* this Regulation.

The guidance referred to in points (a), (b) and (f), shall focus in particular on assisting SMEs to comply with this Regulation.

The guidelines referred to in the first paragraph shall be consistent with guidelines provided in accordance with other relevant Union law.

Article 12
Forced Labour Single Portal

The Commission shall establish and regularly update a single website (Forced Labour Single Portal), making available to the public, in the same place and in all the official languages of the institutions of the Union, the following items:

- (a) the names, addresses and contact details of the competent authorities;*
- (b) the guidelines;*
- (c) the database;*
- (d) a list of publicly available information sources of relevance for the implementation of this Regulation, including sources which make disaggregated data available on the impact and victims of forced labour, such as gender-disaggregated data or data about forced child labour, allowing age and gender-specific trends to be identified;*
- (e) the single information submission point;*
- (f) any decision to ban a product;*
- (g) any withdrawal of a ban;*
- (h) the result of reviews.*



Article 13

International Cooperation

1. In order to facilitate the effective implementation and enforcement of this Regulation, the Commission ***shall***, as appropriate, cooperate ■ and exchange information with ■ the authorities of third countries, international organisations, civil society representatives, ***trade unions, business organisations and other relevant stakeholders***.
2. ***International cooperation with the authorities of third countries shall take place in a structured way, for example in the context of existing dialogues with third countries, such as human rights and political dialogues, dialogues on the implementation of the trade and sustainable development commitments of trade agreements or the Generalised Scheme of Preferences, and Union development cooperation initiatives. If necessary, specific dialogues may be created on an ad hoc basis. International cooperation may involve exchanges of information on forced labour risk areas or products, of best practices for bringing forced labour to an end, and of information on decisions to ban products, including their reasons and evidence, in particular with third countries that have similar legislation in place.***
3. For the purposes of paragraph 2, ***the Commission and Member States may consider the development of cooperation initiatives and accompanying measures to support the efforts of economic operators, in particular SMEs, as well as civil society organisations, social partners and third countries to tackle forced labour and its root causes.***

Chapter III
Investigations

Article 14
Risk-based approach

1. *The Commission and the competent authorities of Member States shall follow a risk-based approach when assessing the likelihood of a violation of Article 3, when initiating and conducting the preliminary phase of the investigations and when identifying the products and economic operators concerned.*
2. *In their assessment of the likelihood of a violation of Article 3, the Commission and the competent authorities shall use the following criteria, as appropriate, in order to prioritise products suspected to have been made with forced labour:*
 - (a) *the scale and severity of the suspected forced labour, including whether forced labour imposed by state authorities could be a concern;*
 - (b) *the quantity or volume of products placed or made available on the Union market;*
 - (c) *the share of the part of the product suspected to have been made with forced labour in the final product.*
3. *The assessment of the likelihood of a violation of Article 3 shall be based on all relevant, factual, and verifiable information available to the Commission and competent authorities, including, but not limited to, the following:*
 - (a) *information and decisions encoded in the information and communication system referred to in Article 7(1), including any previous cases of compliance or non-compliance of an economic operator with Article 3;*

- (b) *the database* referred to in Article 8;
- (c) *the risk indicators and other information pursuant to Article 11, point (e);*
- (d) *submissions of information made pursuant to Article 9;*
- (e) *information received by the Commission or the competent authority from other authorities relevant for the implementation of this Regulation, such as Member States' due diligence, labour, health or fiscal authorities, on the products and economic operators under assessment;*
- (f) *any issues arising from meaningful consultations with relevant stakeholders, such as civil society organisations and trade unions.*

4. *When initiating a preliminary investigation pursuant to Article 17, the lead competent authority shall, to the extent possible, focus on the economic operators and, where relevant, product suppliers involved in the steps of the supply chain as close as possible to where the forced labour is likely occurring, and with the highest leverage to prevent, mitigate and bring to an end the use of forced labour. The lead competent authority shall also take into account the size and economic resources of the economic operators concerned, in particular whether the economic operator is an SME, and the complexity of the supply chain.*

I

Article 15

Allocation of investigations

1. *Where the suspected forced labour is taking place outside the territory of the Union, the Commission shall act as the lead competent authority.*
2. *Where the suspected forced labour is taking place in the territory of a Member State, a competent authority of *that* Member State ■ shall act as the lead competent authority.*

Article 16

Coordination of investigations and mutual assistance

1. *The Commission and competent authorities shall cooperate closely with each other and provide each other with mutual assistance in order to implement this Regulation in a consistent and efficient manner.*
2. *The lead competent authority shall respect the right of the economic operator to be heard at all stages of the process.*
3. *The lead competent authority shall, at any time and without undue delay, communicate via the information and communication system referred to in Article 7(1) in the event that it discovers new information about suspected forced labour taking place in a territory for which it is not competent pursuant to Article 15.*

4. *The lead competent authority may request the support of other relevant competent authorities. This may include requesting support in order to contact economic operators whose place of establishment is within the territory of that Member State or whose language of operation is that of a Member State. Other competent authorities that have an interest in the investigation may request to be closely involved in the investigation.*
5. *A competent authority that has received, through the information and communication system referred to in Article 7(1), a request for information from another competent authority shall provide an answer within 20 working days of the date of receipt of the request.*
6. *The competent authority that has received a request for information may ask the requesting competent authority to complement the information contained in the request if it concludes that the information provided initially is not sufficient.*
7. *The competent authority that has received a request for information may refuse to comply with that request only if it demonstrates that complying with the request would substantially impair the execution of its own activities.*

■

Preliminary phase of investigations

- 1.*** Before initiating an investigation in accordance with Article ***18(1)***, ***the lead*** competent ***authority*** shall request information from the economic operators under assessment ***and, where relevant, other product suppliers, on the relevant*** actions they have taken in order to identify, prevent, mitigate, bring to an end ***or remediate*** risks of forced labour in their operations and ***supply*** chains with respect to the products under assessment, including on the basis of any of the following, ***unless it would jeopardise the outcome of the assessment:***
- (a) applicable Union or national law setting out due diligence and transparency requirements with respect to forced labour;
 - (b) the guidelines issued by the Commission ■ ;
 - (c) due diligence guidelines or recommendations of the UN, ILO, OECD or other relevant international organisations, ***in particular guidelines and recommendations relating to geographic areas, production sites and economic activities in certain sectors in which there are systematic and widespread forced labour practices;***
 - (d) any other ***meaningful*** due diligence ***or other information*** in relation to forced labour ***in their supply chain.***

The lead competent authority may request information on those actions from other relevant stakeholders, including the persons or associations that have submitted relevant, factual, and verifiable information pursuant to Article 9 and any other natural or legal persons related to the products and geographical areas under assessment, as well as from the European External Action Service and Union delegations in relevant third countries.

2. Economic operators shall respond to the request ■ referred to in paragraph 1 of this Article within 30 working days of the day they received such request. Economic operators may provide ■ any other information they may deem useful for the purposes of this Article. *Where necessary, economic operators may request support from a contact point referred to in Article 10, on how to engage with the lead competent authority.*
3. Within 30 working days from the date of receipt of the information submitted by economic operators pursuant to paragraph 2 of this Article, the lead competent authority shall conclude the preliminary phase of its investigation regarding whether there is a substantiated concern that there has been a violation of Article 3, on the basis of the assessment referred to in Article 14(3) and the information submitted by economic operators pursuant to paragraph 2 of this Article.

■
4. *Notwithstanding paragraph 3 of this Article, the lead competent authority may conclude that there is ■ a substantiated concern that there has been a violation of Article 3 on the basis of any other facts available, where a lead competent authority has refrained from requesting information in accordance with paragraph 1 of this Article or in the situations referred to in Article 20(2), points (a) to (e).*

5. *The lead competent authority shall not initiate an investigation pursuant to Article 18, and shall inform the economic operators under assessment accordingly, where, on the basis of the assessment referred to in Article 14(3) and, if any, of the information submitted by economic operators pursuant to paragraph 2 of this Article, it considers that there is no substantiated concern that there has been a violation of Article 3, or that the reasons that motivated the existence of a substantiated concern have been eliminated, for instance due to, but not limited to, the applicable legislation, guidelines, recommendations or any other due diligence in relation to forced labour as referred to in paragraph 1 of this Article being applied in a way that mitigates, prevents and brings to an end the risk of forced labour.*
6. *The lead competent authority shall communicate, through the information and communication system referred to in Article 7(1), the outcome of its assessment pursuant to paragraph 5 of this Article.*



Article 18
Investigations

1. ***The lead*** competent authority that ***determines, pursuant to paragraphs 3 or 4 of Article 17, that there is a substantiated concern that there has been a violation of Article 3, shall*** initiate an investigation ***on the products and economic operators concerned and*** inform the economic operators subject to the investigation, within 3 working days of the date of the decision to initiate such investigation, of 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 right of the economic operators to submit documents or information to the ***lead*** competent authority, and the date by which such information is to be submitted.
2. ***The lead competent authority shall communicate, through the information and communication system referred to in Article 7(1), that an investigation has been initiated pursuant to paragraph 1 of this Article.***

3. Where requested by the *lead* competent authority, economic operators under investigation shall submit **■** any information that is relevant and necessary for the investigation, including information identifying the products under investigation *and, where appropriate, identifying the part of the product to which the investigation should be limited*, as well as the manufacturer, *producer, product supplier, the importer or the exporter* of those products *or parts thereof*. In requesting such information, the *lead* competent authority shall, to the extent possible, *prioritise the economic operators under investigation involved in the steps of the supply chain as close as possible to where the forced labour is likely occurring, and take into account the size and economic resources of the economic operators, in particular whether the economic operator is an SME, the quantity of products concerned, the complexity of the supply chain, as well as the scale of suspected forced labour. Where necessary, economic operators may request support from a contact point referred to in Article 10 on how to engage with the lead competent authority.*
4. *The lead competent authority shall set a deadline of at least 30 working days and no longer than 60 working days for economic operators to submit the information referred to in paragraph 3. Economic operators may request an extension of that deadline with a justification. When deciding whether to grant such an extension, the lead competent authority shall consider the size and economic resources of the economic operators concerned, including whether the economic operator is an SME.*
5. *The lead competent authority may collect information from or interview any relevant natural or legal person who consents to be interviewed for the purpose of collecting information relating to the subject matter of the investigation, including relevant economic operators or any other stakeholders.*
6. *The lead competent authority may, where necessary, carry out all necessary checks and inspections in accordance with Article 19.*

Article 19
Field inspections

1. *In exceptional situations where the lead competent authority deems it necessary to conduct field inspections, it shall do so taking into consideration where the risk of forced labour is located.*
2. *Where the risk of forced labour is located in the territory of the Member State, the lead competent authority may conduct its own inspections, in accordance with national law in compliance with Union law. If necessary, the lead competent authority may request cooperation from other national authorities relevant for the implementation of this Regulation, such as labour, health or fiscal authorities.*
3. *Where the risk of forced labour is located outside the territory of the Union, the Commission acting as lead competent authority may carry out all necessary checks and inspections provided that the economic operators concerned give their consent and that the government of the third country in which the inspections are to take place has been officially notified and raises no objection. The Commission may request assistance from the European External Action Service, as appropriate, to facilitate such contacts.*

I

Chapter IV

Decisions

Article 20

Decisions *regarding the violation of Article 3*

1. ***The lead*** competent authority shall assess all information and evidence gathered pursuant to ***Chapter III***, and, on that basis, establish whether ***the products, that have been placed or made available on the market or are being exported, are in violation of Article 3***, within a reasonable period of time from the date it initiated the investigation pursuant to Article ***18(1)***. ***The lead competent authority shall endeavour to adopt the decision referred to in paragraph 4 of this Article or close the investigation within 9 months from the date it initiated the investigation.***
2. Notwithstanding paragraph 1 of this Article, the ***lead*** competent authority 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 ***17(1)*** and Article ***18(3)***, ***in particular where, in response to a request for information, an economic operator or a public authority:***
 - (a) ***refuses to provide the information requested without a valid justification;***
 - (b) ***fails to provide the information requested within the time limit prescribed without a valid justification;***
 - (c) ***provides incomplete or incorrect information with the objective of blocking the investigation;***
 - (d) ***provides misleading information; or***

(e) *otherwise impedes the investigation, including when a risk of forced labour imposed by state authorities is identified during the preliminary phase of the investigation or during the investigation.*

3. Where the *lead* competent authority cannot establish that *the products concerned have been placed or made available on the market or are being exported in violation of Article 3, it shall close the investigation and inform the economic operators that have been subject to the investigation thereof.* It shall *also inform all other competent authorities through the information and communication system referred to in Article 7(1).* Closing the investigation *shall not preclude the initiation of a new investigation into the same product and economic operator in the case of new relevant information.*

4. Where the *lead* competent authority establishes that *the products concerned have been placed or made available on the market or are being exported in violation of Article 3*, it shall, without delay, adopt a decision containing:

- (a) a prohibition on the placing or making available of the products concerned on the Union market and on exporting them;

- (b) an order requiring the economic operators that have been subject to the investigation to withdraw the *products* that have already been placed or made available on the Union market *or to remove content from an online interface referring to the products or listings of the products concerned*;
- (c) an order requiring the economic operators that have been subject to the investigation to dispose of the *products concerned* in accordance with *Article 25 or, if parts of the product which are found to be in violation of Article 3 are replaceable, an order requiring those economic operators to dispose of those parts of that product.*

Where relevant, the prohibition referred to in point (a) of the first subparagraph and the order referred to in point (c) of the first subparagraph shall identify the parts of the product found to be in violation of Article 3, that must be replaced in order for the product to be placed or made available on the market or exported.

5. *By way of derogation from paragraph 4, first subparagraph, point (c), and, where appropriate, in order to prevent disruptions to a supply chain of strategic or critical importance for the Union, the lead competent authority may refrain from imposing an order to dispose of the product concerned pursuant to paragraph 4. The lead competent authority may instead order that the product concerned be withheld for a defined period of time, which shall be no longer than the time necessary to eliminate forced labour with regard to the product concerned, at the cost of the economic operators.*

If economic operators demonstrate, during that period of time, that they have eliminated forced labour from the supply chain with regard to the product concerned, without changing that product and by bringing to an end the forced labour identified in the decision referred to in paragraph 4 of this Article, the lead competent authority shall review its decision in accordance with Article 21.

If economic operators do not demonstrate, during that period of time, that they have eliminated forced labour from the supply chain with regard to the product concerned, without changing that product and by bringing to an end the forced labour identified in the decision referred to in paragraph 4, point (c) of that paragraph shall apply.

6. *Where the Commission acts as the lead competent authority, the decision referred to in paragraph 4 of this Article shall be adopted by means of an implementing act. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 35(2).*
7. *The lead competent authority shall notify the decision referred to in paragraph 4 of this Article to all of the economic operators it is addressed to and communicate it to all competent authorities and, where applicable, to the Commission through the information and communication system referred to in Article 7(1).*
8. *Decisions taken by a lead competent authority of a Member State, pursuant to paragraph 4, shall be recognised and enforced by competent authorities in the other Member States, insofar as they relate to products with the same identification information and as originating from the same supply chain which has been found to be using forced labour.*

Article 21


Review of decisions regarding the violation of Article 3

- 1. The lead competent authority shall allow economic operators affected by a decision referred to in Article 20 to request a review of that decision at any time. The request for a review shall contain information which demonstrates that the products are placed or made available on the market or are to be exported in compliance with Article 3. That information shall contain new substantial information that was not brought to the attention of the lead competent authority during the investigation.*
- 2. The lead competent authority shall take a decision on the request referred to in paragraph 1 within 30 working days of the receipt of that request.*
- 3. Where economic operators have demonstrated that they have complied with the decision referred to in Article 20, and that they have eliminated forced labour from their operations or supply chain with respect to the products concerned, the lead competent authority shall withdraw its decision for the future, inform the economic operators and remove it from the Forced Labour Single Portal.*
- 4. Where the Commission acts as the lead competent authority, the withdrawal referred to in paragraph 3 of this Article shall be implemented by means of an implementing act. Such implementing acts shall be adopted in accordance with the examination procedure referred to in Article 35(2). On duly justified imperative grounds of urgency relating to the protection of rights of defence and of property of the economic operators concerned, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 35(3). Those implementing acts shall remain in force for a period not exceeding 12 months.*

5. *Economic operators that have been affected by a decision referred to in Article 20 of a lead competent authority of a Member State shall have access to a court or tribunal to review the procedural and substantive legality of the decision.*
6. *Paragraph 5 is without prejudice to any provision of national law which requires that administrative review procedures be exhausted prior to recourse to judicial proceedings.*
7. *Decisions referred to in Article 20 adopted by a lead competent authority of a Member State 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 22

Content of decisions

1. The decision referred to in Article 20 shall contain all of the following:
 - (a) the findings of the investigation and the information *and evidence* underpinning the findings;
 - (b)  reasonable time *limits* for the economic operators to comply with the *orders*, which shall not be less than 30 working days; *in the case of perishable goods, animals and plants, the time limit shall not be less than 10 working days*; when setting *the time limits, the lead* competent authority shall take into account the economic operator's size and economic resources, *including whether the operator is an SME, the share of the part of the product and whether it is replaceable; the time limits shall be proportionate to the time needed to comply with the different orders and no longer than necessary*;

- (c) all relevant information, in particular the details allowing the identification of the product to which the decision applies, including details about the manufacturer, producer, the product suppliers, the importer, the exporter *and, where appropriate, the production site*;
- (d) where available and applicable, information required under customs legislation as defined in Article 5, point 2, of Regulation (EU) No 952/2013;
- (e) *information on the taking of a judicial review against a decision.*

2. The Commission shall adopt implementing acts further specifying the details of the information to be included in the decision referred to in Article 20. Those details shall, at minimum, include details of the information to be *provided or* made available to customs authorities in accordance with Article 27(3) *in order to enable the identification of products pursuant to Article 26(4)*. Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 35(2).

CHAPTER V

Enforcement

Section I

Competent authorities

Article 23

Enforcement of decisions

1. *Where, within the reasonable time limit referred to in Article 22(1), point (b), an economic operator has failed to comply with the decision referred to in Article 20, the competent authorities shall be responsible for the enforcement of that decision and shall ensure all of the following:*
 - (a) *the prohibition on the placing or making available of the products concerned on the Union market and on the export of them;*
 - (b) *the withdrawal from the Union market by relevant authorities of products that have already been placed or made available on the market, in accordance with Union and national law;*
 - (c) *the disposal of withdrawn products and products remaining with the economic operator in accordance with Article 25, at the expense of that economic operator;*
 - (d) *the restriction of access to the products concerned and to listings referring to those products by requesting the relevant third party to implement such restriction.*
2. *If the economic operator has failed to comply with the decision referred to in Article 20, the competent authority shall impose either directly, in cooperation with other authorities, or by way of an application to the competent judicial authorities, penalties on the economic operator concerned pursuant to Article 37.*

Article 24

Withdrawal and disposal of products made with forced labour

- 1. *An order to withdraw and dispose of products placed or made available on the Union market pursuant to Article 20(4) of this Regulation shall be communicated, through the information and communication system referred to in Article 7(1) of this Regulation, to the market surveillance authorities referred to in Article 10 of Regulation (EU) 2019/1020 and any other relevant authorities for the products concerned.***
- 2. *The enforcement of the withdrawal and disposal of the products referred to in paragraph 1 shall be the responsibility of the competent authority, in coordination with any other relevant authorities for the products concerned.***

Article 25

Manner of disposal of products made with forced labour

In line with the waste hierarchy set out in Directive 2008/98/EC of the European Parliament and of the Council³², economic operators and the Member States competent authorities responsible for the disposal of products, as required by Article 20(4), point (c), and Article 23(1), point (c), of this Regulation, respectively, shall dispose of those products by recycling them or, when that is not possible, by rendering those products inoperable. Perishable products, shall be donated for charitable or public interest purposes or, when that is not possible, be rendered inoperable.

³² ***Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).***

Section II
Customs authorities

Article 26

Controls by customs authorities

1. Products entering or leaving the Union market shall be subject to the controls and measures laid down in this *Section*.
2. The application of this *Section* is without prejudice to *any* other Union *legal act governing customs risk management, customs controls and the release of goods for free circulation and export, in particular* Regulation (EU) No 952/2013.
3. The *lead* competent authority shall, without delay, *communicate to the customs authorities of Member States decisions referred to in Article 20 to prohibit the placing or making available of products on the Union market and their export*.
4. Customs authorities shall rely on the decisions communicated pursuant to paragraph 3 of this Article to identify products that may not comply with the prohibition laid down in Article 3 of this Regulation. For that purpose, they shall carry out controls on products entering or leaving the Union market *based on risk management as laid down in* Regulation (EU) No 952/2013.
5. The *lead* competent authority shall, without delay, communicate to the customs authorities of Member States *any* withdrawal of, *as well as any changes to a decision pursuant to a review in accordance with Article 21*.

Article 27

Additional information to be **provided or** made available to customs authorities

1. The Commission is empowered to adopt delegated acts in accordance with Article 33 to supplement this Regulation by identifying the products or product groups for which the information referred to in paragraph 2 of this Article shall be provided to customs authorities. ***The products or product group concerned shall be chosen following a proportionate approach, building, inter alia, on the information available in the database, information*** encoded in the information and communication system referred to in Article 7(1), ***and substantiated information exchanged in the Network.***
2. ***The person intending to place a product, covered by a delegated act adopted pursuant to paragraph 1 of this Article, under the customs procedures ‘release for free circulation’ or ‘export’ shall provide or make available to customs authorities information identifying the product, information about the manufacturer or the producer and information about the product suppliers,*** unless the provision of such information is already required pursuant to customs legislation referred to in Article 5, point 2, of Regulation (EU) No 952/2013.
3. The Commission may adopt implementing acts ***specifying the detailed arrangements for implementing paragraphs 1 and 2 of this Article, and defining*** the details of the information to be **provided or** made available to customs authorities ■ pursuant to paragraph 2 of this Article. ***Those*** implementing acts ■ shall be adopted in accordance with the examination procedure referred to in Article 35(2).

4. Where a specific product has been identified in a decision referred to in Article 20, in order for the customs authorities to be able to act immediately *on that specific product*, the procedure provided for in Article 34 shall apply to delegated acts adopted pursuant to *paragraph 1 of this Article*.

Article 28

Suspension

Where customs authorities identify, *through their relevant risk management system*, that a product entering or leaving the Union market might, *according to* a decision *communicated* pursuant to Article 26(3), be in violation of Article 3, they shall suspend the release of that product for free circulation or export. Customs authorities shall immediately notify the competent authorities of *their Member State of* that suspension and transmit all relevant information to enable them to establish whether the product is covered by a decision communicated pursuant to Article 26(3).

Article 29

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 28, that 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 pursuant to paragraph 1 shall not be deemed proof of compliance with Union law and, in particular, with this Regulation.

Article 30

Refusal to release for free circulation or export

1. Where the competent authorities conclude that a product, which has been notified to them in accordance with Article 28, is a product made with forced labour pursuant to a decision referred to in Article 20, they shall require customs authorities not to release it for free circulation or to allow its export.
2. Competent authorities shall immediately enter the information referred to in paragraph 1 of this Article in the information and communication system referred to in Article 7(1) and notify the customs authorities accordingly. Upon receipt of 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 any other relevant accompanying document:

‘Product made with forced labour - release for free circulation/export not authorised - Regulation (EU) ...⁺’.
3. Where the release for free circulation or export of a product has been refused in accordance with *paragraph 1*, customs authorities shall ***dispose of*** that product ■ in accordance with national law ***in compliance*** with Union law. ■
4. ***Upon the request of a competent authority, and on behalf and under the responsibility of that competent authority, customs authorities may alternatively seize the product the release for free circulation or export of which has been refused and put it at the disposal of and under the authority of that competent authority. In such cases, that competent authority shall take the necessary measures to ensure that the product concerned is disposed of in accordance with Article 25.***

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 67/24 (2022/0269(COD)).

Article 31

Exchange of information and cooperation

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

Chapter VI
Final provisions

Article 32

Confidentiality

1. The competent authorities shall only use information received pursuant to this Regulation for the purpose of applying this Regulation, ***unless otherwise required by Union or national law in compliance with Union law.***
2. **■** The Commission, Member States and competent authorities shall treat the identity of those who provide information, or the information provided, as confidential, ***in accordance with Union or national law in compliance with Union law, unless stated otherwise by those who provided the information ■*** .
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 33

■ 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 27(1) shall be conferred on the Commission for an indeterminate period of time from ... [date of entry into force of this Regulation].
3. The delegation of power referred to in Article 27(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 of 13 April 2016 on Better Law-Making.
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 27(1) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of 2 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 2 months at the initiative of the European Parliament or of the Council.

Article 34

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 33(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 35

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.
3. *Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.*

Article 36
Amendment to Directive (EU) 2019/1937

In Part I.C.1 of the Annex to Directive (EU) 2019/1937, the following point is added:

- ‘(iv) Regulation (EU) .../... of the European Parliament and of the Council of... on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937 (OJ L ...)⁺.’*

Article 37
Penalties

1. **█** Member States shall lay down the rules on penalties applicable to economic operators for non-compliance with a decision referred to in Article 20 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. *Competent authorities shall ensure that the penalties referred to in paragraph 1 give due regard to the following, as applicable:*
 - (a) the gravity and duration of the non-compliance with a decision referred to in Article 20;*
 - (b) any relevant previous non-compliance with a decision referred to in Article 20 by the economic operator;*
 - (c) the degree of cooperation with the competent authorities;*

⁺ OJ: Please insert in the text the number, the date of adoption and publication reference of the Regulation contained in document PE-CONS 67/24 (2022/0269(COD)).

(d) *any other mitigating or aggravating factor applicable to the circumstances of the case, such as financial benefits, gains or losses avoided, directly or indirectly, from the non-compliance with a decision referred to in Article 20.*

3. ■ Member States shall, by ... [24 months from the date of entry into force of this Regulation], notify ■ the Commission *of those rules and of those measures*, and shall notify it, without delay, of any subsequent amendment affecting them.

4. *Member States, when laying down rules on applicable penalties in accordance with paragraphs 1 and 2 of this Article, shall take utmost account of the guidance referred to in Article 11, point (i).*

Article 38

Evaluation and review

1. *By ... [5 years from the date of entry into force of this Regulation] and every 5 years thereafter, the Commission shall carry out an evaluation of the enforcement and the implementation of this Regulation. The Commission shall present a report on the main findings to the European Parliament, the Council and to the European Economic and Social Committee. The evaluation shall in particular include an assessment of:*

(a) *whether the mechanism in place effectively contributes to the objective of this Regulation, as set out in Article 1;*

(b) *the cooperation between competent authorities, including within the Network, as well as all other relevant authorities in applying this Regulation;*

- (c) *the effectiveness of international cooperation in contributing to the elimination of forced labour from global supply chains;*
- (d) *the impact on businesses, and in particular on SMEs, including on their competitiveness of the procedures related to the investigations and decisions;*
- (e) *the cost of compliance for economic operators, and in particular for SMEs;*
- (f) *the overall costs and benefits and the effectiveness of the prohibition.*

Where the Commission considers it appropriate, the report shall be accompanied by a legislative proposal for the amendment of the relevant provisions of this Regulation.

2. *The report shall also assess whether the scope needs to be enlarged to include services ancillary to the extraction, harvesting, production or manufacturing of products.*
3. *As part of the assessment under paragraph 1, point (a), the report shall cover the impact of this Regulation on victims of forced labour, with particular regard to the situation of women and children. The assessment of this impact shall be based on regular monitoring of information from international organisations and relevant stakeholders.*
4. *In its report, the Commission shall further assess the need for a specific mechanism to address and remediate forced labour, including an impact assessment for the implementation of such a mechanism.*

Article 39

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*.

It shall apply from ... [36 months from the date of entry into force of this Regulation].

However, Articles 5(3), 7, 8, 9(2), 11, 33, 35 and 37(3) shall apply from ... [date of entry into force of this Regulation].

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

Done at ...,

For the European Parliament

For the Council

The President

The President
