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NOTE

From:	Presidency
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on prohibiting products made with forced labour on the Union market <i>- Presidency revised compromise text</i>

In view of the upcoming Working Party for Competitiveness and Growth (Internal Market) on 20 December 2023.

This second PCY text focused only on the Articles and not on the recitals, which were not modified in this second PCY text.

Delegations will find in Annex to this note:

- a clean version of the second Presidency compromise text (Annex 1);
- a marked version of the second Presidency compromise text (Annex 2), with the following:
 - Deletions proposed in the first PCY text compared to the original COM proposal have been deleted in this second PCY text and do not appear anymore;

- Additions proposed in the first PCY text compared to the original COM text and which were not changed still appear in **bold underlined**;
 - Structural changes of the order of the articles are detailed in each Article title and can be checked in the “Table with corresponding Articles with the new revised structure”;
 - Changes on the content of the text compared to the first PCY text appear in **italic bold underlined**.
 - Updated cross-references changes (to reflect as an example that the former article 6 of the first PCY text is now the article 20 of the second PCY text) do not appear to facilitate reading of the text
 - Deletions compared to the first PCY compromise appear in ~~*italie*~~
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Clean version of the Presidency revised compromise text

2022/0269 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**on prohibiting products made with forced labour on the Union market**

[Recitals]

Chapter I**GENERAL PROVISIONS***Article 1***Subject matter and scope**

1. This Regulation lays down harmonised rules prohibiting economic operators from placing and making available on the Union market or exporting from the Union market products made with forced labour.
2. This Regulation shall not cover the withdrawal of products which have reached the end-users in the Union market.
3. This Regulation shall not create additional due diligence obligations for economic operators besides those already provided by mandatory national or Union requirements, in particular national measures transposing [Directive 20XX/XX/EU of the European Parliament and of the Council on Corporate Sustainability Due Diligence].

Article 2

Definitions

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

- (a) ‘forced labour’ means forced or compulsory labour, including forced child labour, as defined in Article 2 of the Convention on Forced Labour, 1930 (No. 29) of the International Labour Organization;
- (b) ‘forced labour imposed by state authorities’ means the use of forced labour as described in Article 1 of the Convention on the Abolition of Forced Labour, 1957 (No. 105) of the International Labour Organization;
- (c) ‘due diligence in relation to forced labour’ means the efforts by economic operator to implement mandatory national or EU requirements, in particular national measures transposing [Directive 20XX/XX/EU of the European Parliament and of the Council on Corporate Sustainability Due Diligence], 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;
- (d) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (e) ‘placing on the market’ means the first making available of a product on the Union market;
- (f) ‘product’ means any product that can be valued in money and is capable, as such, of forming the subject of commercial transactions, whether it is extracted, harvested, produced or manufactured, including working or processing related to a product at any stage of its supply chain;

- (g) ‘product made with forced labour’ means a product for which forced labour has been used in whole or in part at any stage of its extraction, harvest, production or manufacture, including working or processing related to a product at any stage of its supply chain;
- (ga) ‘supply chain’ means the entire network of operators involved at all stages, upstream of the product being made available on the market, related to the extraction, harvesting, production, manufacturing and supply of a product or parts of the products to be incorporated in the final products to be made available;
- (h) ‘economic operator’ means the manufacturer, producer, product supplier, importer, exporter or any natural or legal person or association of persons who is placing or making available products on the Union market or exporting products;
- (i) ‘manufacturer’ means any natural or legal person who manufactures a product or has a product designed or manufactured, and markets that products under its name or trademark;
- (j) ‘producer’ means the producer of agricultural products as referred to in Article 38(1) TFEU or of raw materials;
- (k) ‘product supplier’ means any natural or legal person or association of persons in the supply chain who extracts, harvests, produces or manufactures a product in whole or in part, or intervenes in the working or processing related to a product at any stage of its supply chain, whether as manufacturer or in any other circumstances;
- (ka) ‘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;
- (l) ‘importer’ means any natural or legal person or association of persons established within the Union who places a product from a third country on the Union market;

- (m) ‘exporter’ means the exporter as defined in Article 1, point (19) of Commission Delegated Regulation (EU) 2015/2446¹;
- (n) ‘substantiated concern’ means a reasonable indication based on objective and verifiable information, for the competent authorities to suspect that products were likely made with forced labour;
- (na) ‘Competent authority’ means competent authority as designated pursuant to Article 5 of this Regulation;
- (o) ‘customs authorities’ means customs authorities as defined in Article 5, point (1), of Regulation (EU) No 952/2013;
- (p) ‘products entering the Union market’ means products from third countries intended to be placed on the Union market or intended for private use or consumption within the customs territory of the Union and to be placed under the customs procedure ‘release for free circulation’;
- (q) ‘products leaving the Union market’ means products to be placed under the customs procedure ‘export’;
- (r) ‘release for free circulation’ means the procedure laid down in Article 201 of Regulation (EU) No 952/2013;
- (s) ‘export’ means the procedure laid down in Article 269 of Regulation (EU) No 952/2013;
- (t) ‘EU Customs Single Window Certificates Exchange System’ or (EU CSW-CERTEX) means the system established by Article 4 of the Regulation (EU) 2022/2399 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013;

¹ 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.

- (u) “National single window environments for customs” means the national single window environments for customs as defined in point 9 of Article 2 of Regulation (EU) 2022/2399 of the European Parliament and of the Council².

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 (ex-Articles 2a and 8d(1))

Cases where the product is offered for distance sales

1. 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 one or more Member States.
2. Any information related to the advertising, promotion and sale of products subject to a decision taken pursuant to Article 20 of this Regulation shall be considered as an illegal content within the meaning of article 3, point (h), of Regulation (EU) 2022/2065. Competent authorities may, in accordance with Article 9 of Regulation (EU) 2022/2065, issue an order to act against one or more specific items of such illegal content.

² Regulation (EU) XX/20XX 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013, OJ L 317, 9.12.2022, p.1.

Chapter II

Governance

Article 5 (ex-Article 12, 13(4))

Competent authorities

1. Member States shall designate one or more competent authorities responsible for carrying out the obligations set out in this Regulation. These competent authorities shall work in close cooperation with the Commission to ensure an effective and uniform implementation of this Regulation.
2. Where Member States have designated more than one competent authority, they shall clearly demarcate the respective duties and establish communication and coordination mechanisms that enable those authorities to collaborate closely and exercise their duties effectively.
3. No later than [OP enter DATE = 12 months after the date of entry into force of this Regulation], Member States shall, through the information and communication system referred to in Article 9(1), provide the Commission and the other Member States with the following information:
 - (a) the names, addresses and contact details of the designated competent authority or authorities;
 - (b) the areas of competence of the designated competent authority or authorities.

Member States shall regularly update the information set out in points (a) and (b) of the first sub-paragraph of this paragraph.
4. The Commission shall make the list of the designated competent authorities publicly available on its website and shall regularly update that list, based on the updates received from Member States.

5. Member States shall ensure that the designated competent authority or authorities exercise its or their powers impartially, transparently and with due respect for obligations of professional secrecy. Member States shall ensure that their competent authorities have the necessary powers and resources to carry out the investigations, including sufficient budgetary and other resources and coordinate closely and exchange information with the relevant national authorities such as the labour inspections and judicial and law enforcement authorities, including those responsible for the fight against trafficking in human beings.
6. Competent authorities may cooperate with other national authorities relevant for the implementation of this regulation, such as the authorities designated by the Member State under the Directive (EU) [XXX/XXX] on Corporate Sustainability Due Diligence and the 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.
7. Member States shall confer on their competent authorities the power to impose penalties in accordance with Article 34.

Article 6 (ex-Articles 24 and 13 (1, 3))

Union Network Against Forced Labour Products

1. A Union Network Against Forced Labour Products ('the Network') is established. The Network shall serve as a platform for structured coordination and cooperation between the competent authorities of the Member States and the Commission, and to streamline the practices of enforcement of this Regulation within the Union, thereby making enforcement more effective and coherent.
2. The Network shall be composed of representatives from each Member States' competent authority, representatives from the Commission and, where appropriate, experts from the customs authorities or other relevant authorities. Where appropriate, external experts and stakeholders may be invited to participate in the meetings.

3. The Commission shall chair the Network and provide technical and logistical support to its members through an executive secretariat.
4. Members of the Network shall actively participate to ensure efficient coordination and cooperation.
5. The Network shall have the following tasks:
- (a) facilitate the identification of common priorities to achieve the objective of banning products made from forced labour from the Union market, thereby further contributing to the fight against forced labour;
 - (b) facilitate and coordinate the exchange and collection of information and best practices with regard to the application of this Regulation;
 - (c) contribute to uniform risk-based approaches and administrative practices for the implementation of this Regulation in the internal market;
 - (d) facilitate and promote coordinated investigations pursuant to Article 17;
 - (e) ensure the exchange of information and coordination between competent authorities and the Commission pursuant to Article 6;
 - (f) promote the cooperation and exchange of expertise and best practices among competent authorities and customs authorities pursuant to Article 8;
 - (g) improve the functioning of controls, including through the monitoring of information and communication systems referred to in Article 9, guidelines and coordinated enforcement referred to in Chapter IV and by providing operational and technical assistance to competent authorities.
 - (h) facilitate training and capacity building activities for the competent authorities and customs authorities of the Member States;

- (i) follow-up on the enforcement of decisions taken pursuant to Article 20;
- (j) promote and facilitate collaboration to explore possibilities for using new technologies for the enforcement of this Regulation and the traceability of products;
- (k) promote the cooperation and exchange of expertise and best practices among competent authorities and customs authorities;
- (l) promote best practices in the application of penalties provided by Article 34;
- (m) cooperate, as appropriate, with other Union agencies or national authorities relevant for the implementation of this regulation, such as the authorities designated by the Member State under the Directive (EU) [XXX/XXX] on Corporate Sustainability Due Diligence and the 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.

6. The Network may assist the Commission in the following tasks:

- (a) set up and regularly update the database referred to in Article 10;
- (b) be consulted and contribute to the development of guidance referred to in Article 11;
- (c) develop a coordinated approach to engage and cooperate with third countries pursuant to Article 13;

7. The Network shall establish its rules of procedure.

Information obligations of the competent authorities

1. The competent authority shall without delay inform the Commission and the competent authorities of other Member States and other relevant authorities, such as Market Surveillance authorities, using the information and communication system referred to in Article 9(1) about the following:
 - (aa) any request for information made in accordance with Article 16(2);
 - (a) any decision not to initiate an investigation following a preliminary phase of investigation, referred to in Article 16(7);
 - (b) any decision to initiate an investigation referred to in Article 16(5);
 - (c) any decision to prohibit placing and making available of the products on the market and their export, as well as to order the withdrawal of the products already placed or made available on the market and their disposal referred to in Article 20(4);
 - (d) any decision to close the investigation referred to in Article 20(3);
 - (e) any withdrawal of the decision referred to in Article 20(8);
 - (g) any result of the review referred to in Article 20(7);
 - (h) any result of the judicial review referred to in Article 21(1e).

Article 8 (ex-Article 21)

Exchange of information and cooperation between competent authorities and customs authorities

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

Article 9 (ex-Article 22)

Information and communication systems

1. For the purposes of Chapters III, IV, and V, competent authorities and the Commission shall use the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020. The Commission, competent authorities and customs authorities shall have access to that system for the purposes of this Regulation.
2. The decisions communicated pursuant to Article 23(3) shall be entered in the relevant customs risk management environment.
3. The Commission shall develop an interconnection to enable the automated communication of decisions referred to in Article 23(3) from the information and communication system referred to in paragraph 1 to the environment referred to in paragraph 2. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 7, point (b), in respect of that interconnection.

4. Requests and notifications exchanged between competent authorities and customs authorities pursuant to Articles 25 to 27 of this Regulation as well as the ensuing messages shall take place by means of the information and communication system referred to in paragraph 1.
5. The Commission shall interconnect the national single window environments for customs with the information and communication system referred to in paragraph 1 to enable the exchange of requests and notifications between customs and competent authorities pursuant to Articles 25 to 27 of this Regulation. That interconnection shall be provided through EU CSW-CERTEX pursuant to Regulation (EU) 2022/2399³ within four years from the date of adoption of the implementing act referred to in paragraph 7(c). The exchanges referred to in paragraph 4 shall take place through that interconnection as soon as it is operational.
6. The Commission may extract from the surveillance system referred to in Article 56(1) of Commission Implementing Regulation (EU) 2015/2447 information on products entering or leaving the Union market related to the implementation of this Regulation and transmit it to the information and communication system referred to in paragraph 1.
7. The Commission is empowered to adopt implementing acts in accordance with the examination procedure pursuant to Article 31(2) to specify the procedural rules and the details of the implementation arrangements for this Article, including:
- (a) the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership, of the information and communication system referred to in paragraphs 1 and 4;
 - (b) the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership for the interconnection referred to in paragraph 3;

³ Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013, OJ L 317, 9.12.2022, p. 1.

- (c) the data to be transmitted between the information and communication system referred to in paragraph 1 and the national single window environments for customs for the purposes of paragraph 5;
- (d) the data to be transmitted, as well as the rules on its confidentiality and controllership, in accordance with paragraph 6.

Article 10 (ex-Article 11)

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 an indicative, non-exhaustive, verifiable and regularly updated information of forced labour risks in specific geographic areas or with respect to specific products including with regard to forced labour imposed by state authorities. The database shall be based on the guidelines referred to in Article 11, points (a), (b) and (c), and relevant external sources of information from, amongst others, international organisations and third country authorities. It shall not publicly disclose information that directly names economic operators. The database shall be made available in all official languages of the institutions of the Union.
2. The Commission shall ensure that the database is made publicly available no later than 18 months after the entry into force of this Regulation.

Article 11 (ex-Article 23)

Guidelines

1. The Commission, in consultation with relevant stakeholders, shall make available and regularly update guidelines, no later than [OP enter DATE = 18 months after the entry into force of this Regulation], for competent authorities and economic operators, with a specific focus on SMEs. These guidelines shall include the following elements, adapted as necessary to the relevant addressees:

- (a) guidance on due diligence in relation to forced labour, which shall take into account applicable Union legislation setting out due diligence requirements with respect to forced labour, guidelines and recommendations from international organisations, as well as the size and economic resources of economic operators, such guidance should include information and best practices on how to bring to an end to and remediate forced labour;
- (aa) information on how this Regulation articulates itself with other due diligence legislation, in particular [Directive 20XX/XX/EU of the European Parliament and of the Council on Corporate Sustainability Due Diligence];
- (ab) guidance for the practical implementation of Article 26 and, where appropriate, any other provision laid down in Chapter IV of this Regulation;
- (b) information on risk indicators of forced labour, which shall be based on independent and verifiable information, including reports from international organisations, in particular the International Labour Organization, civil society, business organisations, trade unions and experience from implementing Union legislation setting out due diligence requirements with respect to forced labour;
- (c) guidance on the use of the database referred to in Article 10 and a list of publicly available information sources of relevance for the implementation of this Regulation;
- (d) guidance as to submission of information or evidence pursuant to articles 16(4), 18(2),
- (e) guidance on how to submit information pursuant to Article 15(2);
- (f) further information to facilitate the competent authorities' implementation of and the economic operator's compliance this Regulation.

Article 12 (new article)

Forced Labour Single Window

The Commission shall set up a single website making available to the public, in the same place and in all the languages of the Union, the following items:

- (a) the guidelines referred to in Article 11;
- (b) the database referred to in Article 10;
- (c) the single information submission point referred to in Article 15;
- (d) the direct link to the content of any decision to close the investigation referred to in Article 20(3);
- (e) the direct link to the content of any decision to prohibit placing and making available of the products on the market and their export, as well as to order the withdrawal of the products already placed or made available on the market and their disposal referred to in Article 20(4).

Article 13 (ex-Article 26)

International Cooperation

1. In order to facilitate effective implementation and enforcement of this Regulation, the Commission shall as appropriate cooperate, engage and exchange information with, amongst others, authorities of third countries, international organisations, civil society representatives, trade unions and business organisations.
 - (a) International cooperation with authorities of third countries shall take place in a structured way as part of the existing dialogue structures with third countries or, if necessary, specific ones that will be created on an ad hoc basis.
 - (b) The Commission shall have regular contact and cooperation in particular with countries that have similar legislation in place, to share information of forced labour risk areas or products as well as best practices for bringing to an end forced labour.

2. For the purposes of paragraph 1, cooperation with, amongst others, international organisations, civil society representatives, business organisations and competent authorities of third countries may result in the Union developing accompanying measures to support the efforts of companies to comply with this regulation and of partner countries to tackle forced labour, as well as supporting locally available capacities for that purpose.

Chapter III

Investigations

Article 14 (ex-Articles 4(1))

Information on the likelihood of a violation of Article 3

1. Competent authorities shall follow a risk-based approach in assessing the likelihood that economic operators violated Article 3. That assessment shall be confidential, based on all relevant and verifiable information available to them, including, but not limited to, the following information:
- (a) information and decisions encoded in the information and communication system referred to in Article 9(1), including any past cases of compliance or non-compliance of an economic operator with Article 3;
 - (b) the database referred to in Article 10;
 - (c) the risk indicators and other information pursuant to Article 11, point (b);
 - (d) submissions made pursuant to Article 15;
 - (e) information requested by the competent authority from other authorities relevant for the implementation of this regulation, such as national labour, health or fiscal authorities, on the products and economic operators under assessment;
 - (ea) consultations with civil society organisations and trade unions.

Article 15 (ex-Article 10)

Single information submission point

1. The Commission shall set up a single information submission point, available on the forced labour single window referred to in Article 12. Information submission shall be possible in all official languages of the Union.
2. Submissions of information by any natural or legal person or any association not having legal personality, to competent authorities on alleged violations of Article 3 shall contain information on the economic operators or products concerned and provide the reasons substantiating the allegation, and where applicable, supporting documents.
3. When submitting information, the natural or legal person or the association not having legal personality shall have the option to identify one or several competent authorities to review their information.
4. Taking into account the optional proposition made by the information submitter referred to in paragraph 3, as well as other criteria such as language of the submission, the nationality of the Economic operators concerned or the country where the product concerned is put on the market, the submission shall be oriented to the pertinent competent authority. If necessary, this designation process may be done through the Network to ensure cooperation, as well as a fair repartition of the workload, among competent authorities.
5. The competent authority shall, within a reasonable period of time, inform the person or association referred to in paragraph 2 of the outcome of the assessment of their submission.
6. Directive (EU) 2019/1937 of the European Parliament and of the Council⁴ shall apply to the reporting of all breaches of this Regulation and the protection of persons reporting such breaches.

⁴ 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.

Preliminary phase of investigations

1. In their assessment of the likelihood that economic operators violated Article 3, competent authorities shall focus on the economic operators involved in the steps of the supply chain as close as possible to where the risk of forced labour is likely to occur. They shall also take into account the size and economic resources of the economic operators concerned, the quantity of products concerned that is made available on the Union Market, and the scale of suspected forced labour.
2. Before initiating an investigation in accordance with Article 18(1), the competent authority shall request from the economic operators under assessment information on its current actions taken to identify, prevent, mitigate or bring to an end 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:
 - (a) applicable Union legislation or Member States legislation setting out due diligence and transparency requirements in relation to forced labour;
 - (b) the guidelines issued by the Commission pursuant to Article 11;
 - (c) due diligence guidelines or recommendations of the UN, ILO, OECD or other relevant international organisations;
 - (d) any other due diligence or information in relation to forced labour in their supply chain.
- 3a. In their assessment of the likelihood that economic operators violated Article 3, the competent authority shall also duly take into account the situations where the economic operator demonstrates that it, voluntary or in order to comply with national or Union legislation, carries out due diligence on the basis of identified forced labour impact in its supply chain, adopts and carries out measures suitable and effective for bringing to an end, and mitigate the risk of forced labour in a reasonable period of time.

3. Economic operators shall respond to the request of the competent authority referred to in paragraph 2 within 30 working days from the day they received such request. Economic operators may provide to competent authorities any other information they may deem useful for the purposes of this Article.
4. If the competent authorities consider that there is a substantiated concern of violation of Article 3 and before initiating an investigation according to Article 18(1), the competent authority may invite the economic operator under assessment for consultations. These consultations shall take place within the time frames established in paragraphs 3 and 5.
5. Within 30 working days from the date of receipt of the information submitted by economic operators pursuant to paragraph 4 or from the day by which the economic operator should have submitted the information, the competent authorities shall close the preliminary phase of their investigation as to whether there is a substantiated concern of violation of Article 3, on the basis of the assessment referred to in paragraph 1 and, if any, the information submitted by economic operators pursuant to paragraph 3.
6. Competent authorities shall not initiate an investigation in accordance with Article 18(1), and shall inform the economic operators under assessment accordingly, where, on the basis of the assessment referred to in paragraph 1 and the information submitted by economic operators pursuant to paragraph 3, the competent authorities consider that there is no substantiated concern of a violation of Article 3.

Article 17 (ex-Articles 5(1), 13(2) and 13a(5)-(7))

Coordination of investigations

1. Competent authorities shall cooperate closely between them and with the Commission and provide each other with mutual assistance in order to apply this Regulation in a consistent and efficient manner.
2. Competent authorities that, pursuant to Article 16(5), determine that there is a substantiated concern of a violation of Article 3, shall communicate through the information and communication system referred to in Article 9(1) their intention of initiating an investigation on the products and economic operators concerned.

3. Where multiple competent authorities communicate such intent and do not agree on the designation of a lead competent authority, the first one to have informed of its intention shall lead the investigation ('Lead Competent authority'). The lead Competent authority may, where appropriate, request the support of other competent authorities.
4. A competent authority that has received, through the information and communication system referred to in Article 9(1), a request from a competent authority of another Member State for information or to verify any evidence provided by an economic operator shall provide an answer within 30 working days from the date of receipt of the request. Exchanges shall take place in a language mutually agreed between the competent authorities concerned.
5. A requested competent authority may refuse to comply with a request only in one of the following situations:
 - (a) the requested authority concludes that the applicant authority has not provided sufficient information;
 - (b) the requested authority demonstrates reasonable grounds showing that complying with the request would substantially impair the execution of its own activities.
6. Before initiating an investigation in accordance with Article 18, a competent authority shall verify in the information and communication system referred to in Article 9(1) whether there is a lead Competent authority investigating the product with the same identification and from the same supply chain or same economic operator. Where there is a lead Competent authority, other competent authorities shall share all the relevant evidence and information they may have with that lead Competent authority to facilitate the investigation and shall not start a separate investigation.

Investigations

1. Competent authorities that initiate an investigation shall inform the economic operators subject to the investigation, within 5 working days from the date of the decision to initiate such investigation about the following:
 - (a) the initiation of the investigation and the possible consequences thereof;
 - (b) the products subject to the investigation;
 - (c) the reasons for the initiation of the investigation, unless it would jeopardise the outcome of the investigation;
 - (d) the possibility for the economic operators to submit any other document or information to the competent authority, and the date by which such information has to be submitted.
2. Where requested to do so by competent authorities, economic operators under investigation shall have at least 30 working days to submit any information that is relevant and necessary for the investigation. It shall include information identifying the products under investigation, the manufacturer or producer of those products and the product suppliers.
3. In requesting such information, and defining the time limit to submit it, competent authorities shall to the extent possible:
 - (a) prioritise the economic operators under investigation involved in the steps of the supply chain as close as possible to where the likely risk of forced labour occurs and
 - (b) take into account the size and economic resources of the economic operators, the quantity of products concerned put on the market, as well as the scale of suspected forced labour.

4. Economic operators may request a justified extension of that time limit, which shall not exceed 15 working days.
5. Competent authorities may decide, where needed, to conduct inspections, in accordance with Article 19.
6. Once the lead Competent Authority has finalised its investigation, it shall send its complete findings to the Commission. The communication of the finding shall be made in one of the languages of the Union, using the most appropriate form of communication mean, such as secured electronic communications or direct mail, and the Commission shall accuse receipt of the findings to the competent authority.

Article 19 (new article)

Field inspections

1. Where the lead Competent authority deems it necessary to conduct field inspections, it shall undertake this with consideration to where the risk of forced labour is located.
2. In cases where the risk of forced labour is located in the territory of the lead Competent authority, it shall conduct its own inspections. If needed, the lead competent authority may ask the cooperation of other national authorities relevant for the implementation of this regulation, such as labour, health or fiscal authorities.
3. In cases where the risk of forced labour is located in the territory of another Member State, the lead Competent authority shall request the support of the competent authority of the Member State concerned to conduct the inspection. A requested competent authority may refuse to comply with a request only in one of the following situations:
 - (a) the requested authority concludes that the applicant authority has not provided sufficient information;
 - (b) the requested authority considers that the request is contrary to Union legislation;
 - (c) the requested authority demonstrates reasonable grounds showing that complying with the request would substantially impair the execution of its own activities.

2. In cases where the risk of forced labour is located outside the territory of the Union, the lead Competent authority shall request the Commission to carry out the inspection. For this purpose, the Commission shall involve the EEAS or the relevant EU delegation, prior to any inspection. The field inspection shall take place only provided that the government of that third country has been officially notified and raises no objection to the inspection.
3. The findings of the inspections carried out pursuant to paragraphs 2 and 3 shall be communicated by the Commission or the requested Competent authority to the lead Competent authority using the most appropriate form of communication mean, such as secured electronic communications or direct mail and in a language previously agreed upon.

Chapter IV

DECISIONS

Article 20 (ex-article 6, including the formerly deleted 6(6) of COM proposal)

Decisions of the Commission

1. Competent authorities shall compile and transmit to the Commission all information and evidence gathered pursuant to Article 16, 18 and 19. On that basis, the Commission shall establish whether the products concerned have been placed or made available on the market or are being exported in violation of Article 3, within a reasonable period of time from the date they received the information from the competent authorities according to Article 18(6).
2. Notwithstanding paragraph 1, where it was not possible to gather information and evidence pursuant to Article 16, 18(2) or 19, the Commission may establish that the products concerned have been placed or made available on the market or are being exported in violation of Article 3 on the basis of any other relevant and verifiable information.

3. Where the Commission 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 adopt a decision to raise no objection. Such decision shall not preclude competent authorities to launch a new investigation into the same product and economic operator in case new relevant information arises.
4. Where the Commission 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 to place or make the products concerned available on the Union market and to export them;
 - (b) an order for the economic operators that have been subject to the investigation to withdraw from the Union market the products concerned that have already been placed or made available on the market and/or to remove content from an online interface referring to the products or listings of the products concerned;
 - (c) an order for the economic operators that have been subject to the investigation to dispose of the products concerned in accordance with Article 22, national law consistent with Union law.
5. The Commission shall endeavour to adopt its decision referred to in paragraph 4 within [XX] months from the transmission of all information and evidence referred to in paragraph 1.
6. Before adopting the decision referred to in paragraph 4, the Commission shall communicate its preliminary findings to the concerned economic operators. The concerned economic operators may submit their observations to the Commission on their preliminary finding, within a time limit set by the Commission but not be less than 30 working days or not less than 5 working days, in case of perishable goods, animals and plants. The Commission shall base its decisions referred to in paragraph 4 only on preliminary findings on which economic operators have been able to comment.

7. The Commission may, on its own initiative or upon request by an economic operators concerned by a decision and who is able to submit new information that was not brought to the attention of the competent authority during the investigation and included in the file referred to in paragraph 1, reconsider, amend or repeal at any moment a decision adopted pursuant to Article 20(4) for one of the following reasons:
- (a) there has been a substantial change in any of the facts on which the decision was based;
 - (b) the decision was based on incomplete, incorrect or misleading information.
8. Where economic operators concerned by a decision provide sound and verifiable evidence to the competent authorities that they have complied with the decision referred to in paragraph 4, and that they have eliminated forced labour from their operations or supply chain with respect to the products concerned, the Commission shall adopt a decision. This decision shall state that the previous product ban is repelled and that the new products made from its forced labour free supply chain can be placed on the market or exported.

Article 21 (ex-Article 7)

Content of the decision

1. The decision referred to in Article 20(4) shall also contain all of the following:
- (a) the findings of the investigation and the information underpinning the findings;
 - (b) a reasonable time limit for the economic operators to comply with the order, which shall not be less than 30 working days. When setting such a time limit, the Commission shall take into account the economic operator's size and economic resources and the availability of alternative sources of supply. In case of perishable goods, animals and plants, the time limit shall be no less than 10 working days from the date of notification of the decision referred to in Article 20(4) and no longer than necessary to withdraw the products concerned and to dispose of them;

- (c) all relevant information and in particular the details allowing the identification of the product, to which the decision applies, including details about the manufacturer or producer and the product suppliers;
 - (d) where available and applicable, information required under customs legislation as defined in Article 5(2) of Regulation (EU) No 952/2013;
 - (e) information on the possibilities for 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 decisions. Those details shall as a minimum include details of information to be provided or made available to customs authorities in accordance with Article 26(3). Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 31(2).

Chapter V

ENFORCEMENT

Article 22 (ex-Article 8a)

Enforcement of the decisions by competent authorities

1. Where within the reasonable time limit referred to in Article 21(1)(b) an economic operator has failed to comply with the decision referred to in Article 20(4), the competent authorities shall be responsible of the enforcement of the decision and shall ensure all of the following:
- (a) that it is prohibited to place or make available the products concerned on the Union market;
 - (b) that the products concerned already placed or made available on the market are withdrawn from the Union market by relevant authorities, in accordance with Union and national laws;

- (c) that the products concerned remaining with the economic operator are disposed of in accordance with Article 22, at the expense of the economic operator;
 - (d) that access to the online interface referring to the products and listings of the products concerned is restricted by requesting the relevant third party to implement such measures.
2. If the economic operator has failed to comply with the decision, the competent authority shall impose penalties on the economic operator pursuant to article 34.

Article 23 (ex-Article 8b)

Withdrawal of products made with forced labour

1. Any decision to order the withdrawal of the products already placed or made available on the Union market and their disposal referred to in Article 20(4) should be communicated, through the information and communication system referred to in Article 9(1), to the Market surveillance authorities as referred to in Article 10 of Regulation (EU) 2019/1020 or the other authorities relevant for the product concerned.
2. The enforcement of the withdrawal of products is of the responsibility of the competent authority, in coordination with the Market surveillance authorities as referred to in Article 10 of Regulation (EU) 2019/1020, or the other authorities relevant for the product concerned.

Article 24 (ex-Article 8c)

Disposal of products made with forced labour

1. Disposal of the products concerned shall include at least one of the following actions, as applicable, conducted in accordance with national law consistent with Union law:
- (a) recycling or donation of the products concerned for charitable or public interest purposes, especially in the case of agricultural and food products;
 - (b) destruction of the products concerned;

- (c) rendering the products concerned inoperable;
 - (d) otherwise disposing of the products concerned in accordance with national law consistent with Union law.
2. The above paragraph shall also apply to economic operators responsible for disposing products according to Article 20(1)(c).

Article 25 (ex-Article 15)

Controls by customs authorities

1. Products entering or leaving the Union market shall be subject to the controls and measures laid down in this Chapter.
2. The application of this Chapter is without prejudice to any other Union legal acts governing customs risk management, customs controls and the release for free circulation of goods and export, under Regulation (EU) No 952/2013.
3. The Commission shall without delay, communicate to the customs authorities of Member States, all decisions to prohibit the placing or making available of the products on the Union market and their export, pursuant to Article 20(4).
4. Customs authorities shall rely on the decisions communicated pursuant to paragraph 3 to identify products that may not comply with the prohibition laid down in Article 3. For that purpose, they shall carry out controls on products entering or leaving the Union market based on risk management as laid down in Regulation (EU) No 952/2013.
5. The Commission shall without delay communicate to the customs authorities of Member States any withdrawal of the decision referred to in Article 20(8).

Additional information to be provided or made available to customs authorities

1. The Commission is empowered to adopt delegated acts in accordance with Article 31 to supplement this Regulation by identifying the products or product groups for which the information referred to in paragraph 2 shall be provided to customs authorities. The products or product group concerned shall be chosen on a risk-based approach, building amongst others, on the information available in the database referred to in Article 10, on the decisions taken on the basis of Article 20(4), on information exchanged in the Union Network Against Forced Labour Products and on decisions encoded in the information and communication system referred to in Article 9(1).
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(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 pursuant to paragraph 1.
4. The implementing acts referred to in paragraph 3 shall be adopted in accordance with the examination procedure pursuant to Article 31(2).
5. Where a specific product has been identified in a decision referred to in Article 20(4), in order for the customs authorities to be able to act immediately on that specific product, the procedure provided for in Article 32 shall apply to delegated acts adopted pursuant to paragraph 1.

Article 27 (ex-Article 17)

Suspension

Where customs authorities identify, through their relevant risk management system, a product entering or leaving the Union market that may, according to a decision communicated pursuant to Article 25(3), be in violation of Article 3, they shall suspend the release for free circulation or the export of that product. Customs authorities shall immediately notify the relevant competent authorities of the suspension and transmit all relevant information to enable them to establish whether the product is covered by a decision communicated pursuant to Article 25(3).

Article 28 (ex-Article 18)

Release for free circulation or export

1. Where the release for free circulation or the export of a product has been suspended in accordance with Article 27, the product shall be released for free circulation or exported where all the other requirements and formalities relating to such a release or export have been fulfilled and where either of the following conditions is satisfied:
 - (a) within 4 working days of the suspension, if the competent authorities have not requested the customs authorities to maintain the suspension. In case of perishable products, animals and plants that time limit shall be 2 working days;
 - (b) the competent authorities informed the customs authorities of their approval for release for free circulation or export pursuant to this Regulation.
2. The release for free circulation or export shall not be deemed proof of compliance with Union law and, in particular, with this Regulation.

Refusal to release for free circulation or export

1. Where the competent authorities conclude that a product that has been notified to them in accordance with Article 27 is a product made with forced labour pursuant to a decision referred to in Article 20(4), they shall require customs authorities not to release it for free circulation nor to allow its export.
2. Competent authorities shall immediately enter that information in the information and communication system referred to in Article 9(1) and notify the customs authorities accordingly. Upon such notification, customs authorities shall not allow the release for free circulation or export of that product and shall also include the following notice in the customs data-processing system and, where possible, on the commercial invoice accompanying the product and on any other relevant accompanying document:

‘Product made with forced labour - release for free circulation/export not authorised - Regulation (EU) XX/20XX’ [OP to indicate reference of this Regulation].
3. Where the release for free circulation or export of a product has been refused in accordance with paragraph 1, customs authorities shall take the necessary measures to ensure that the product concerned is disposed of in accordance with national law consistent with Union law.
4. Upon request of a competent authority and on behalf and under the responsibility of that competent authority, customs authorities may alternatively seize that product 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 24.

CHAPTER VI

Final provisions

Article 30 (ex-Article 25)

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 EU or national law consistent with Union law.
2. Member States and the Commission, their officials and other persons working under their supervision shall ensure the protection of confidential information acquired in application of this Regulation in accordance with the relevant applicable rules. To that end, they shall not disclose information covered by the obligation of professional secrecy that they have acquired pursuant to this Regulation.
3. Where requested, 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 EU or national law consistent with Union law. A request for confidentiality shall be accompanied by a non-confidential summary of the information supplied or by a statement of the reasons why the information cannot be summarised in a non-confidential manner.
4. 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 31 (ex-article 27)

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 26(1) shall be conferred on the Commission for five years from [OP ENTRY DATE = date of entry force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 26(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016⁵.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

⁵ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1)

6. A delegated act adopted pursuant to Article 26(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 32 (ex-Article 28)

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 31(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 33 (ex-article 29)

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.

Penalties

1. Member States shall lay down the rules on penalties applicable to non-compliance with a decision referred to in Article 20(4) and shall take all measures necessary to ensure that they are implemented in accordance with national law.
2. The penalties provided for shall be effective, proportionate and dissuasive. 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 infringement;
 - (b) any relevant previous infringements by the economic operator;
 - (c) the degree of cooperation with the competent authorities;
 - (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 infringement.
- 2a. The pecuniary penalties provided by this article shall amount to not more than [X%] of the economic operator's total annual Union-wide turnover in the financial year preceding the fining decision, calculated in accordance with the calculation of aggregate turnover for undertakings laid down in Article 5(1) of Council Regulation (EC) No 139/2004 (24).
- 2b. The sums recovered by competent authorities through penalties contemplated in this article may be dedicated by the Member States to remediate the consequences of forced labour, according to EU and national legislation.
3. Member States shall, by [OP enter DATE = 24 months from 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.

Article 35 (ex-article 30a)

Review

By 5 years after the start of the application of this Regulation and every 5 years thereafter, the Commission shall carry out an evaluation of the enforcement and the implementation of the Regulation. The Commission shall present a report on the main findings to the European Parliament and the Council. The evaluation shall in particular include an assessment of whether a further centralised approach for the enforcement of the Regulation, either by the Commission or by a dedicated agency, shall be considered and whether remediation measures shall also be included. Where the Commission finds it appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation or an update of the guidelines referred to Article 11.

Article 36 (ex-article 31)

Entry into force and date of application

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

This Regulation shall apply from [OP enter DATE = 36 months from its entry into force].

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

Done at Brussels,

For the European Parliament

For the Council

The President

The President

Marked version of the Presidency revised compromise text

2022/0269 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**on prohibiting products made with forced labour on the Union market**

[Recitals]

Chapter I**GENERAL PROVISIONS***Article 1***Subject matter and scope**

1. This Regulation lays down **harmonised** rules prohibiting economic operators from placing and making available on the Union market or exporting from the Union market products made with forced labour.
2. This Regulation shall not cover the withdrawal of products which have reached the end-users in the Union market.
3. ***This Regulation shall not create additional due diligence obligations for economic operators besides those already provided by mandatory national or Union requirements, in particular national measures transposing [Directive 20XX/XX/EU of the European Parliament and of the Council on Corporate Sustainability Due Diligence].***

Article 2

Definitions

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

- (a) ‘forced labour’ means forced or compulsory labour, **including forced child labour**, as defined in Article 2 of the Convention on Forced Labour, 1930 (No. 29) of the International Labour Organization;
- (b) ‘forced labour imposed by state authorities’ means the use of forced labour as described in Article 1 of the Convention on the Abolition of Forced Labour, 1957 (No. 105) of the International Labour Organization;
- ~~(ba) ‘**remediate**’ means **financial or non-financial compensation provided by the economic operator to a person or persons affected by forced labour, that shall be proportionate to the significance and scope of the forced labour and the economic operator’s implication;**~~
- (c) ‘due diligence in relation to forced labour’ means the efforts by economic operator to implement mandatory **national or EU** requirements, **especially in particular national measures transposing [Directive 20XX/XX/EU of the European Parliament and of the Council on Corporate Sustainability Due Diligence]**, 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;
- (d) ‘making available on the market’ means any supply of a product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (e) ‘placing on the market’ means the first making available of a product on the Union market;

- (f) 'product' means any product that can be valued in money and is capable, as such, of forming the subject of commercial transactions, whether it is extracted, harvested, produced or manufactured, including working or processing related to a product at any stage of its supply chain;
- (g) 'product made with forced labour' means a product for which forced labour has been used in whole or in part at any stage of its extraction, harvest, production or manufacture, including working or processing related to a product at any stage of its supply chain;
- (ga) 'supply chain' means the entire network of operators involved at all stages, upstream of the product being made available on the market, related to the extraction, harvesting, production, manufacturing and supply of a product or parts of the products to be incorporated in the final products to be made available;**
- (h) 'economic operator' means **the manufacturer, producer, product supplier, importer, exporter or** any natural or legal person or association of persons who is placing or making available products on the Union market or exporting products;
- ~~**(ha) 'provider of an online marketplace' means a provider of an intermediary service using an online interface which allows consumers to conclude distance contracts with traders for the sale of products;**~~
- ~~**(hb) 'online interface' means any software, including a website, part of a website or an application, including mobile applications;**~~
- (i) 'manufacturer' means **any natural or legal person who manufactures a product or has a product designed or manufactured, and markets that products under its name or trademark;**
- (j) 'producer' means the producer of agricultural products as referred to in Article 38(1) TFEU or of raw materials;
- (k) 'product supplier' means any natural or legal person or association of persons in the supply chain who extracts, harvests, produces or manufactures a product in whole or in part, or intervenes in the working or processing related to a product at any stage of its supply chain, whether as manufacturer or in any other circumstances;

(ka) ‘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;

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

(m) ‘exporter’ means the exporter as defined in Article 1, point (19) of Commission Delegated Regulation (EU) 2015/2446⁶;

(n) ‘substantiated concern’ means a **reasonable indication ~~duly reasoned claim~~ based on objective and verifiable information**, for the competent authorities to suspect that products were likely made with forced labour;

(na) ‘Competent authority’ means competent authority as designated pursuant to Article 5 of this Regulation;

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

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

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

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

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

⁶ 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.

- (t) ‘EU Customs Single Window Certificates Exchange System’ or (EU CSW-CERTEX) means the system established by Article 4 of the Regulation (EU) 2022/2399 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013;
- (u) “National single window environments for customs” means the national single window environments for customs as defined in point 9 of Article 2 of Regulation (EU) 2022/2399 of the European Parliament and of the Council⁷.

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 (ex-Articles 2a and 8d(1))

Cases where the product is offered for distance sales

1. **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 one or more Member States.**
2. **Any information related to the advertising, promotion and sale of products subject to a decision taken pursuant to Article 20 of this Regulation shall be considered as an illegal content within the meaning of article 3, point (h), of Regulation (EU) 2022/2065. Competent authorities may, in accordance with Article 9 of Regulation (EU) 2022/2065, issue an order to act against one or more specific items of such illegal content.**

⁷ Regulation (EU) XX/20XX 2022/2399 of the European Parliament and of the Council of **23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013**, OJ L 317, 9.12.2022, p.1.

Article 8d

Specific provisions on providers of online marketplaces related to forced labour

- ~~2. Without prejudice to the general obligations provided for in Article 11 of Regulation (EU) 2022/2065, providers of online marketplaces shall designate a single point of contact allowing for direct communication, by electronic means, with competent authorities and the Commission, in particular for the purpose of notifying decisions taken pursuant to Article 6(4).~~
- ~~3. Providers of online marketplaces shall ensure that they have internal processes in place in order to comply without undue delay with the decision taken pursuant to Article 6(4) of this regulation.~~

Chapter II

Governance

Article 5 (ex-Article 12, 13(4))

Competent authorities

1. Member States shall designate one or more competent authorities responsible for carrying out the obligations set out in this Regulation. These competent authorities shall **work in close cooperation with the Commission to ensure an** effective and uniform implementation of this Regulation.
2. Where Member States have designated more than one competent authority, they shall clearly demarcate the respective duties and establish communication and coordination mechanisms that enable those authorities to collaborate closely and exercise their duties effectively.

3. No later than **IOP enter DATE = 12** months after the date of entry into force of this Regulation], Member States shall, through the information and communication system referred to in Article 9(1), provide the Commission and the other Member States with the following information:

- (a) the names, addresses and contact details of the designated competent authority or authorities;
- (b) the areas of competence of the designated competent authority or authorities.

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

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

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

6. **Competent authorities ~~responsible for the application of this regulation~~ may cooperate with other national authorities relevant for the implementation of this regulation, such as the ~~competent~~ authorities designated by the Member State under the Directive (EU) [XXX/XXX] on Corporate Sustainability Due Diligence and the 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.**

7. Member States shall confer on their competent authorities the power to impose penalties in accordance with Article 34.

Article 6 (ex-Articles 24 and 13 (1, 3))

Union Network Against Forced Labour Products

1. A Union Network Against Forced Labour Products ('the Network') is established ~~and led by the Commission through an executive secretariat that provides technical and logistical support to its members.~~ The Network shall serve as a platform for structured coordination and cooperation between the competent authorities of the Member States and the Commission, and to streamline the practices of enforcement of this Regulation within the Union, thereby making enforcement more effective and coherent.
2. The Network shall be composed of representatives from each Member States', ~~designated by their~~ competent authority ~~or authorities~~, representatives from the Commission and, where appropriate, experts from the customs authorities or other relevant authorities. Where appropriate, external experts and stakeholders may be invited to participate in the meetings.
- ~~2a. The Commission, through the executive secretariat shall coordinate the work of the network, in particular by chairing the meetings.~~
- ~~3. To ensure efficient cooperation and coordination, the Commission and competent authorities shall actively participate in the Network referred to in Article 24. This network is chaired and coordinated by the Commission.~~
3. The Commission shall chair the Network and provide technical and logistical support to its members through an executive secretariat.
4. Members of the Network shall actively participate to ensure efficient coordination and cooperation.

5. ~~Under the leadership of the Commission, the~~ **The** Network shall have the following tasks:

- (a) facilitate the identification of common priorities **to achieve the objective of banning products made from forced labour from the Union market, thereby further contributing to the fight against forced labour;**
- (b) ~~The Commission shall ensure efficient cooperation~~ **and coordination** among the competent authorities of the Member States through facilitating and coordinating **facilitate and coordinate** the exchange and collection of information and best practices with regard to the application of this Regulation;
- (c) **contribute to uniform risk-based approaches and administrative practices for the implementation of this Regulation in the internal market;**
- (d) **facilitate and promote coordinated** ~~joint~~ investigations **pursuant to Article 17;**
- ~~(d) — contribute to~~ **an** effective and uniform application of this Regulation;
- (e) **ensure the exchange of information and coordination between competent authorities and the Commission pursuant to Article 6;**
- (f) **promote the cooperation and exchange of expertise and best practices among competent authorities and customs authorities pursuant to Article 8;**
- (g) **improve the functioning of controls, including through the monitoring of information and communication systems referred to in Article 9, guidelines and coordinated enforcement referred to in Chapter IV and by providing operational and technical assistance to competent authorities.**
- (h) facilitate **training** and capacity building activities **for the competent authorities and customs authorities of the Member States;**
- (i) **follow-up on the enforcement of** ~~recognition of~~ decisions taken pursuant to **Article 20 by competent authorities of all Member States;**

- (j) promote and facilitate collaboration to explore possibilities for using new technologies for the enforcement of this Regulation and the traceability of products;
- (k) ~~to~~ promote the cooperation and exchange of expertise and best practices ~~between~~ among competent authorities and customs authorities;
- (l) ~~to promote best practices in the application of penalties provided by Article 34;~~
- (m) cooperate, as appropriate, with other Union agencies or national authorities relevant for the implementation of this regulation, such as the authorities designated by the Member State under the Directive (EU) [XXX/XXX] on Corporate Sustainability Due Diligence and the 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.

6. The Network may assist the Commission in the following tasks:

- (a) set up and regularly update the database referred to in Article 10;
- (b) be consulted and contribute to the development of guidance referred to in Article 11;
- (c) develop a coordinated approach to engage and cooperate with third countries pursuant to Article 13;

7. The Network shall establish its rules of procedure.

Article 7 (ex-Article 9)

Information obligations of the competent authorities

1. The competent authority shall without delay inform the Commission and the competent authorities of other Member States **and other relevant authorities, such as Market Surveillance authorities,** using the information and communication system referred to in Article 9(1) about the following:

(aa) any request for information made in accordance with Article 16(2);

- (a) any decision not to initiate an investigation following a preliminary phase of investigation, referred to in Article 16(7);
- (b) any decision to initiate an investigation referred to in Article 16(5);
- (c) any decision to prohibit placing and making available of the products on the market and their export, as well as to order the withdrawal of the products already placed or made available on the market and their disposal referred to in Article 20(4);
- (d) any decision to close the investigation referred to in Article 20(3);
- (e) any withdrawal of the decision referred to in Article 20(8);
- ~~(f) any request of an economic operator for a review referred to in Article 8(1);~~
- (g) any result of the review referred to in Article 20(7);

(h) any result of the judicial review referred to in Article 21(1e).

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

Article 8 (ex-Article 21)

Exchange of information and cooperation between competent authorities and customs authorities

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

Article 9 (ex-Article 22)

Information and communication systems

1. For the purposes of Chapters III, IV, and V, competent authorities **and the Commission** shall use the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020. The Commission, competent authorities and customs authorities shall have access to that system for the purposes of this Regulation.
2. The decisions communicated pursuant to Article 23(3) shall be entered in the relevant customs risk management environment.
3. The Commission shall develop an interconnection to enable the automated communication of decisions referred to in Article 23(3) from the information and communication system referred to in paragraph 1 to the environment referred to in paragraph **2**. That interconnection shall start operating no later than two years from the date of the adoption of the implementing act referred to in paragraph 7, point (b), in respect of that interconnection.

4. Requests and notifications exchanged between competent authorities and customs authorities pursuant to Articles 25 to 27 of this Regulation as well as the ensuing messages shall take place by means of the information and communication system referred to in paragraph 1.
5. The Commission shall interconnect the national single window environments for customs with the information and communication system referred to in paragraph 1 to enable the exchange of requests and notifications between customs and competent authorities pursuant to Articles 25 to 27 of this Regulation. That interconnection shall be provided through EU CSW-CERTEX pursuant to Regulation **(EU) 2022/2399**⁸ within four years from the date of adoption of the implementing act referred to in paragraph 7(c). The exchanges referred to in paragraph 4 shall take place through that interconnection as soon as it is operational.
6. The Commission may extract from the surveillance system referred to in Article 56(1) of Commission Implementing Regulation (EU) 2015/2447 information on products entering or leaving the Union market related to the implementation of this Regulation and transmit it to the information and communication system referred to in paragraph 1.
7. The Commission is empowered to adopt implementing acts in accordance with the examination procedure pursuant to Article 31**(2)** to specify the procedural rules and the details of the implementation arrangements for this Article, including:
- (a) the functionalities, data elements and data processing, as well as the rules on the processing of personal data, confidentiality and controllership, of the information and communication system referred to in paragraphs 1 and 4;

⁸ **Regulation (EU) 2022/2399 of the European Parliament and of the Council of 23 November 2022 establishing the European Union Single Window Environment for Customs and amending Regulation (EU) No 952/2013, OJ L 317, 9.12.2022, p. 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 between the information and communication system referred to in paragraph 1 and the national single window environments for customs for the purposes of paragraph 5;
- (d) the data to be transmitted, as well as the rules on its confidentiality and controllership, in accordance with paragraph 6.

Article 10 (ex-Article 11)

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 an indicative, non-exhaustive, verifiable and regularly updated **information** of forced labour risks in specific geographic areas or with respect to specific products including with regard to forced labour imposed by state authorities. The database shall be based on the guidelines referred to in Article 11, points (a), (b) and (c), and relevant external sources of information from, amongst others, international organisations and third country authorities. **It shall not publicly disclose information that directly names economic operators. The database shall be made available in all official languages of the institutions of the Union.**
2. The Commission shall ensure that the database is made publicly available **no later than 18** months after the entry into force of this Regulation.

Article 11 (ex-Article 23)

Guidelines

1. The Commission, **in consultation with relevant stakeholders**, shall **make available and regularly update** guidelines, no later than **[OP enter DATE = 18 months after the entry into force of this Regulation]**, **for competent authorities and economic operators, with a specific focus on SMEs. These guidelines** shall include the following **elements, adapted as necessary to the relevant addressees**:
- (a) guidance on due diligence in relation to forced labour, which shall take into account applicable Union legislation setting out due diligence requirements with respect to forced labour, guidelines and recommendations from international organisations, as well as the size and economic resources of economic operators, **such guidance should include information and best practices on how to bring to an end to and remediate forced labour**;
 - (aa) **information on how this Regulation articulates itself with other due diligence legislation, in particular [Directive 20XX/XX/EU of the European Parliament and of the Council on Corporate Sustainability Due Diligence]**;
 - (ab) **guidance for the practical implementation of Article 26 and, where appropriate, any other provision laid down in Chapter IV of this Regulation**;
 - (b) information on risk indicators of forced labour, which shall be based on independent and verifiable information, including reports from international organisations, in particular the International Labour Organization, civil society, business organisations, **trade unions** and experience from implementing Union legislation setting out due diligence requirements with respect to forced labour;
 - (c) **guidance on the use of the database referred to in Article 10 and** a list of publicly available information sources of relevance for the implementation of this Regulation;

- (d) guidance as to submission of information or evidence pursuant to articles 16(4), 18(2),
- (e) guidance on how to submit information pursuant to Article 15(2);
- (f) further information to facilitate the competent authorities' implementation of ~~and-~~or~~~~ the economic operator's compliance this Regulation.

Article 12 (new article)

Forced Labour Single Window

The Commission shall set up a single website making available to the public, in the same place and in all the languages of the Union, the following items:

- (a) the guidelines referred to in Article 11;
- (b) the database referred to in Article 10;
- (c) the single information submission point referred to in Article 15;
- (d) the direct link to the content of any decision to close the investigation referred to in Article 20(3);
- (e) the direct link to the content of any decision to prohibit placing and making available of the products on the market and their export, as well as to order the withdrawal of the products already placed or made available on the market and their disposal referred to in Article 20(4).

Article 13 (ex-Article 26)

International Cooperation

1. In order to facilitate effective implementation and enforcement of this Regulation, the Commission **shall** as appropriate cooperate, engage and exchange information with, amongst others, authorities of third countries, international organisations, civil society representatives, **trade unions** and business organisations.

(a) International cooperation with authorities of third countries shall take place in a structured way as part of the existing dialogue structures with third countries or, if necessary, specific ones that will be created on an ad hoc basis.

(b) The Commission shall have regular contact and cooperation in particular with countries that have similar legislation in place, to share information of forced labour risk areas or products as well as best practices for bringing to an end forced labour.
2. For the purposes of paragraph 1, cooperation with, amongst others, international organisations, civil society representatives, business organisations and competent authorities of third countries may result in the Union developing accompanying measures to support the efforts of companies **to comply with this regulation** and **of** partner countries **to tackle forced labour, and as well as supporting** locally available capacities **for that purpose** ~~*in tackling forced labour.*~~

Chapter III

Investigations

Article 14 (ex-Articles 4(1))

Information on the likelihood of a violation of Article 3

1. Competent authorities shall follow a risk-based approach in assessing the likelihood that economic operators violated Article 3. That assessment shall be **confidential**, based on all relevant **and verifiable** information available to them, including, **but not limited to**, the following information:
 - (a) information and decisions encoded in the information and communication system referred to in Article 9(1), including any past cases of compliance or non-compliance of an economic operator with Article 3;
 - (b) the database referred to in Article 10;
 - (c) the risk indicators and other information pursuant to Article 11, points (b) ~~and (c)~~;
 - (d) submissions made **pursuant to Article 15** ~~by natural or legal persons or any association not having legal personality~~;
 - (e) information requested by the competent authority from other ~~relevant~~ authorities **relevant for the implementation of this regulation, such as national labour, health or fiscal authorities, on the products and economic operators under assessment**, ~~where necessary, including on whether the economic operators under assessment are subject to and carry out due diligence in relation to forced labour in accordance with applicable Union legislation or Member States legislation setting out due diligence and transparency requirements with respect to forced labour~~;
- (ea) consultations with civil society organisations and trade unions.**

Article 15 (ex-Article 10)

Single information submission point of information regarding violation of Article 3

1. The Commission shall set up a single information submission point, available on the forced labour single window referred to in Article 12. Information submission shall be possible in all official languages of the Union.
2. Submissions of information by any natural or legal person or any association not having legal personality, to competent authorities on alleged violations of Article 3 shall contain information on the economic operators or products concerned and provide the reasons ~~and documents~~ substantiating the allegation, and where applicable, supporting documents.
3. When submitting information, the natural or legal person or the association not having legal personality shall have the option to identify one or several competent authorities to review their information.
4. Taking into account the optional proposition made by the information submitter referred to in paragraph 3, as well as other criteria such as language of the submission, the nationality of the Economic operators concerned or the country where the product concerned is put on the market, the submission shall be oriented to the pertinent competent authority. If necessary, this designation process may be done through the Network to ensure cooperation, as well as a fair repartition of the workload, among competent authorities.
5. The competent authority shall, ~~as soon as possible,~~ within a reasonable period of time, inform the person or association referred to in paragraph 2 of the outcome of the assessment of their submission.
6. Directive (EU) 2019/1937 of the European Parliament and of the Council⁹ shall apply to the reporting of all breaches of this Regulation and the protection of persons reporting such breaches.

⁹ 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.

Article 16 (ex-Article 4(2)-(8))

Preliminary phase of investigations

1. In their assessment of the likelihood that economic operators violated Article 3, competent authorities shall focus on the economic operators involved in the steps of the **supply** chain as close as possible to where the risk of forced labour is likely to occur ~~and~~. **They shall also** take into account the size and economic resources of the economic operators **concerned, as well as the share of the component in the final product,** the quantity of products concerned **that is made available on the Union Market, and** the scale of suspected forced labour.
2. Before initiating an investigation in accordance with Article 18(1), the competent authority shall request from the economic operators under assessment information on **its current ongoing** actions taken to identify, prevent, mitigate or bring to an end 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:
 - (a) applicable Union legislation or Member States legislation setting out due diligence and transparency requirements **in relation** to forced labour;
 - (b) the guidelines issued by the Commission pursuant to Article 11;
 - (c) due diligence guidelines or recommendations of the UN, ILO, OECD or other relevant international organisations;
 - (d) any other due diligence **or information** in relation to forced labour **in their supply chain or other information on the absence of forced labour.**

- 3a. In their assessment of the likelihood that economic operators violated Article 3, the competent authority shall also duly take into account *the situations* where the economic operator demonstrates that it, *voluntary or in order to comply with national or Union legislation*, carries out due diligence on the basis of identified forced labour impact in its supply chain, adopts and carries out measures suitable and effective for bringing to an end, and mitigate the risk of forced labour in a *reasonable short* period of time.**
3. Economic operators shall respond to the request of the competent authority referred to in paragraph 2 within **30** working days from the day they received such request. Economic operators may provide to competent authorities any other information they may deem useful for the purposes of this Article.
- 4. If the competent authorities ~~conclude~~ consider that there is a substantiated concern of violation of Article 3 and before initiating an investigation according to Article 18(1), the competent authority ~~shall~~ may invite the economic operator under assessment for consultations. These consultations shall take place within the time frames established in paragraphs 3 and 5.**
5. Within 30 working days from the date of receipt of the information submitted by economic operators pursuant to paragraph 4 **or from the day by which the economic operator should have submitted the information**, the competent authorities shall ~~conclude~~ **close** the preliminary phase of their investigation as to whether there is a substantiated concern of violation of Article 3, on the basis of the assessment referred to in paragraph 1 and, **if any**, the information submitted by economic operators pursuant to paragraph 3.
6. Competent authorities shall not initiate an investigation **in accordance with** Article 18(1), and shall inform the economic operators under assessment accordingly, where, on the basis of the assessment referred to in paragraph 1 and the information submitted by economic operators pursuant to paragraph 3, the competent authorities consider that there is no substantiated concern of a violation of Article 3.

~~7. Before initiating an investigation in accordance with Article 5(1), the competent authority shall inform and coordinate its actions with any other competent authority designated by the Member State under Directive (EU) [XXX/XXX] on Corporate Sustainability Due Diligence and 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.~~

Article 17 (ex-Articles 5(1), 13(2) and 13a(5)-(7))

Coordination of investigations

- ~~1. Competent authorities shall cooperate closely between them and with the Commission and provide each other with mutual assistance in order to apply this Regulation in a consistent and efficient manner. Mutual assistance shall include, in particular exchange of information in accordance with Article 9.~~
2. Competent authorities that, pursuant to Article 16(5), determine that there is a substantiated concern of a violation of Article 3, shall ~~decide to initiate~~ communicate through the information and communication system referred to in Article 9(1) their intention of initiating an investigation on the products and economic operators concerned.
3. Where multiple competent authorities communicate such intent and do not agree on the designation of a lead competent authority, the first one to have informed of its intention shall lead the investigation ('Lead Competent authority'). The lead Competent authority may, where appropriate, request the support of other competent authorities.
4. A competent authority that has received, through the information and communication system referred to in Article 9(1), a request from a competent authority of another Member State for information or to verify any evidence provided by an economic operator shall provide an answer within 30 working days from the date of receipt of the request. Exchanges shall take place in a language mutually agreed between the competent authorities concerned.

5. A requested competent authority may refuse to comply with a request only in one of the following situations:
- (a) the requested authority concludes that the applicant authority has not provided sufficient information;
 - (b) the requested authority demonstrates reasonable grounds showing that complying with the request would substantially impair the execution of its own activities.
6. Before initiating an investigation in accordance with Article 18, a competent authority shall verify in the information and communication system referred to in Article 9(1) whether there is a lead Competent authority referred to in paragraph 4 and 6 investigating the product with the same identification and from the same supply chain or same economic operator. Where there is a lead Competent authority as referred to in paragraph 4 and 6, other competent authorities shall share all the relevant evidence and information they may have with that lead Competent authority to facilitate the investigation and shall not start a separate investigation.

Article 13a

Coordinated actions, joint investigations and designation of the lead authority

- 1. Where a competent authority identifies pursuant to Article 4(5) a substantiated concern of a violation of Article 3 covering at least two Member States, it shall inform the Commission and the concerned competent authorities through the Network referred to Article 24.
- 2. In the situations referred to in paragraphs (1) the Commission shall ensure a coordinated action among the competent authorities and, if appropriate, promote joint investigations.
- 3. If a joint investigation is initiated pursuant to paragraph (1), the lead authority shall be the one that first informed the Commission and competent authorities of other Member States.

- ~~4. Where two or more competent authorities initiate investigations concerning products with the same identification and from the same supply chain or same economic operators, the lead authority shall be the one which first informed the Commission and the competent authorities of other Member States of the decision to initiate an investigation in accordance with Article 9(1), point (b).~~
- ~~8. The lead authority shall carry out the investigation and adopt a decision in accordance with Article 6 on the basis of the assessment of all evidence before it.~~

Article 18 (ex-Articles 5(2)-(5))

Investigations

1. Competent authorities that initiate an investigation pursuant to paragraph 1 shall inform the economic operators subject to the investigation, within **5** working days from the date of the decision to initiate such investigation about the following:
- (a) the initiation of the investigation and the possible consequences thereof;
 - (b) the products subject to the investigation;
 - (c) the reasons for the initiation of the investigation, unless it would jeopardise the outcome of the investigation;
 - (d) the possibility for the economic operators to submit any other document or information to the competent authority, and the date by which such information has to be submitted.
2. Where requested to do so by competent authorities, economic operators under investigation shall **have at least 30 working days to** submit ~~within not more than 30 working days~~, any information that is relevant and necessary for the investigation. **It shall include** information identifying the products under investigation, the manufacturer or producer of those products and the product suppliers.

3. In requesting such information, and defining the time limit to submit it, competent authorities shall to the extent possible:
- (a) prioritise the economic operators under investigation involved in the steps of the supply chain as close as possible to where the likely risk of forced labour occurs and
 - (b) take into account the size and economic resources of the economic operators, the quantity of products concerned put on the market, as well as the scale of suspected forced labour.
4. Economic operators may request a justified extension of that time limit, which shall not exceed 15 working days.
5. Competent authorities may decide, where needed, to conduct inspections, in accordance with Article 19.
6. Once the lead Competent Authority has finalised its investigation, it shall send its complete findings to the Commission. The communication of the finding shall be made in one of the languages of the Union, using the most appropriate form of communication mean, such as secured electronic communications or direct mail, and the Commission shall accuse receipt of the findings to the competent authority.

Article 19 (new article)

Field inspections

1. Where the lead Competent authority deems it necessary to conduct field inspections, it shall undertake this with consideration to where the risk of forced labour is located.
2. In cases where the risk of forced labour is located in the territory of the lead Competent authority, it shall conduct its own inspections. If needed, the lead competent authority may ask the cooperation of other national authorities relevant for the implementation of this regulation, such as labour, health or fiscal authorities.

3. In cases where the risk of forced labour is located in the territory of another Member State, the lead Competent authority shall request the support of the competent authority of the Member State concerned to conduct the inspection. A requested competent authority may refuse to comply with a request only in one of the following situations :
- (a) the requested authority concludes that the applicant authority has not provided sufficient information;
 - (b) the requested authority considers that the request is contrary to Union legislation;
 - (c) the requested authority demonstrates reasonable grounds showing that complying with the request would substantially impair the execution of its own activities.
2. In cases where the risk of forced labour is located outside the territory of the Union, the lead Competent authority shall request the Commission to carry out the inspection. For this purpose, the Commission shall involve the EEAS or the relevant EU delegation, prior to any inspection. The field inspection shall take place only provided that the government of that third country has been officially notified and raises no objection to the inspection.
3. The findings of the inspections carried out pursuant to paragraphs 2 and 3 shall be communicated by the Commission or the requested Competent authority to the lead Competent authority using the most appropriate form of communication mean, such as secured electronic communications or direct mail and in a language previously agreed upon.
6. ~~Competent authorities may carry out investigations, including all necessary checks and inspections within the Union, provided that the government of the Member State in which the inspections are to take place has been officially notified and raises no objection.~~

- ~~7. In cases where a competent authority needs to carry out checks and inspections in another Member State for the purpose of its investigation, these checks and inspections shall be led by the competent authority of the Member State where the checks and inspections take place. This information shall be encoded in the information and communication system referred to in Article 22(1).~~
- ~~8. The findings of these inspections shall be communicated to the lead competent authority. If the lead authority, in collaboration with the competent authorities involved, concludes that Article 3 has been violated, on the basis of the results of inspections in other Member States and the elements gathered pursuant to Articles 4 and 5, it shall adopt a decision according to Article 6.~~
- ~~9. When a competent authority deems that it requires gathering information regarding a third country for the purpose of its investigation, it shall notify the Commission through the network mentioned in Article 24. The Commission shall then promote a coordinated action between its services and the competent authorities involved to define the most appropriate way to gather such information.~~
- ~~10. When the Commission and the competent authorities involved deem necessary to conduct a field inspection in a third country for the purposes of an investigation, such inspection shall be led by the Commission, provided that the government of that third country has been officially notified and raises no objection to the inspection. The findings of these inspections shall be communicated by the Commission to the lead competent authority. If the lead authority, in collaboration with the competent authorities involved and the Commission, concludes that article 3 has been violated, on the basis of the results of inspections in third countries and the elements gathered pursuant to article 4 and 5, it shall adopt a decision according to Article 6.~~
- ~~11. The Commission shall inform the EEAS of investigations regarding third countries and may ask for the support of the EU Delegation in the concerned country to gather information and carry out checks and inspections.~~

Chapter IV

DECISIONS

Article 20 (ex-article 6, including the formerly deleted 6(6) of COM proposal)

Decisions of ~~competent authorities~~ the Commission

1. Competent authorities shall ~~assess~~ compile and transmit to the Commission all information and evidence gathered pursuant to Article 16, 18 and 19. ~~and, on~~ On that basis, the Commission shall establish whether the products concerned have been placed or made available on the market or are being exported in violation of Article 3 ~~has been violated~~, within a reasonable period of time from the date ~~they initiated the investigation pursuant to Article 5(1)~~ they received the information from the competent authorities according to Article 18(6).
2. Notwithstanding paragraph 1, where it was not possible to gather information and evidence pursuant to Article 16, 18(2) or 19, ~~competent authorities~~ the Commission may establish that the products concerned have been placed or made available on the market or are being exported in violation of Article 3 ~~has been violated~~ on the basis of any other relevant and verifiable information.
3. Where ~~competent authorities~~ the Commission cannot establish that the products concerned have been placed or made available on the market or are being exported in violation of Article 3 ~~has been violated, they shall take~~ it shall adopt a decision to raise no objection. a decision to close the investigation and inform the economic operator thereof. The closing of the investigation for lack of proof Such decision shall not preclude the right of the competent authorities authority to launch start a new investigation into the same product and economic operator in case new relevant information arises.

4. Where ~~competent authorities~~ the Commission establishes that the products concerned have been placed or made available on the market or are being exported in violation of Article 3 ~~has been violated, they~~ it shall without delay adopt a decision containing:
- (a) a prohibition to place or make the products concerned available on the Union market and to export them;
 - (b) an order for the economic operators that have been subject to the investigation to withdraw from the Union market the products concerned that have already been placed or made available on the market and/or to remove content from an online interface referring to the products or listings of the products concerned;
 - (c) an order for the economic operators that have been subject to the investigation to dispose of the products concerned in accordance with Article 22, national law consistent with Union law³.

~~(d) other elements provided by Article 7.~~

5. The Commission shall endeavour to adopt its decision referred to in paragraph 4 within [XX] months from the transmission of all information and evidence referred to in paragraph 1.

6. Before adopting the decision referred to in paragraph 4, the Commission shall communicate its preliminary findings to the concerned economic operators. The concerned economic operators may submit their observations to the Commission on their preliminary finding, within a time limit set by the Commission but not be less than 30 working days or not less than 5 working days, in case of perishable goods, animals and plants. The Commission shall base its decisions referred to in paragraph 4 only on preliminary findings on which economic operators have been able to comment.

7. The Commission may, on its own initiative or upon request by an economic operators concerned by a decision and who is able to submit new information that was not brought to the attention of the competent authority during the investigation and included in the file referred to in paragraph 1, reconsider, amend or repeal at any moment a decision adopted pursuant to Article 20(4) for one of the following reasons:

- (a) there has been a substantial change in any of the facts on which the decision was based;
- (b) the decision was based on incomplete, incorrect or misleading information.

8. Where economic operators concerned by a decision provide sound and verifiable evidence to the competent authorities that they have complied with the decision referred to in paragraph 4, and that they have eliminated forced labour from their operations or supply chain with respect to the products concerned, the Commission shall adopt a decision. This decision shall state that the previous product ban is repelled and that the new products made from its forced labour free supply chain can be placed on the market or exported.

Article 21 (ex-Article 7)

Content of the decision

1. The decision referred to in Article 20(4) shall also contain all of the following:
 - (a) the findings of the investigation and the information underpinning the findings;
 - (b) a reasonable time limit for the economic operators to comply with the order, which shall not be less than 30 working days. When setting such a time limit, the Commission ~~competent authority~~ shall take into account the economic operator's size and economic resources and the availability of alternative sources of supply. In case of perishable goods, animals and plants, the time limit shall be no less than 10 working days from the date ~~of receipt of that decision~~ of notification of the decision referred to in Article 20(4) and no longer than necessary to withdraw the products concerned and to dispose of them;

- (c) all relevant information and in particular the details allowing the identification of the product, to which the decision applies, including details about the manufacturer or producer and the product suppliers;
- (d) where available and applicable, information required under customs legislation as defined in Article 5(2) of Regulation (EU) No 952/2013;
- (e) information on the possibilities for review pursuant to Article 8 and for a judicial review against a definitive decision.**

2. The Commission shall adopt implementing acts further specifying the details of the information to be included in the decisions. Those details shall as a minimum include details of information to be **provided or** made available to customs authorities in accordance with Article 26(3). Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 31**(2)**.

Article 14

Recognition of decisions

- 1.** ~~Decisions taken pursuant to Article 6(4) by a competent authority in one Member State shall be recognised and enforced by competent authorities in the other Member States, in so far as they relate to products with the same identification and from the same supply chain for which forced labour has been found.~~
- 2.** ~~**If a competent authority of another Member States objects, on duly justified grounds, to the decision taken pursuant to Article 6 by a competent authority or the Commission, it shall inform the Commission within 30 working days. The Commission shall then assess and decide whether the initial decision was justified or not.**~~

Review of decisions

- ~~1. Competent authorities shall provide economic operators to whom a decision is addressed pursuant to Article 6(4) the possibility of requesting a review of that decision within 30 working days from the date of receipt of that decision. In case of perishable goods, animals and plants, that time limit shall be 5 working days. The request for review shall contain information which demonstrates that the products are placed or made available on the market or to be exported in compliance with Article 3. The request for review is also admissible in case of products that have already perished.~~
- ~~(1a) A decision adopted pursuant to Article 6(4) becomes definitive and eligible for judicial review once the time limit foreseen in paragraph 1 for economic operator to request review and the time limit foreseen in Article 14(2) for competent authorities has expired without requesting a review of the decision.~~
- ~~(1b) Economic operators to whom a decision is addressed pursuant to Article 6 (4) can only present a single request for review.~~
- ~~2. A request for a review of a decision adopted pursuant to Article 6(4) shall contain new information that was not brought to the attention of the competent authority during the investigation. The request for a review shall delay the enforcement of the decision adopted pursuant to Article 6(4) until the competent authority decides on the request for the review.~~
- ~~3. The competent authority shall take a decision on the request for review within 15 working days from the date of receipt of the request. In case of perishable goods, animals and plants that time limit shall be 5 working days.~~
- ~~4. Where the a competent authority considers that after taking into account the new information provided by the economic operator in accordance with paragraph 1 it cannot establish that the products have been placed or made available on the market or are being exported in violation of Article 3, it shall revoke its decision adopted pursuant to Article 6(4).~~

~~(4a) Where the competent authority considers that the new information provided by the economic operator in accordance with paragraph 1 does not affect its decision adopted pursuant to Article 6(4), it shall confirm that decision.~~

~~(4b) A decision referred to in paragraph 6 of this Article shall be definitive and eligible for a judicial review from the day of receipt of that decision by the economic operator.~~

~~5. Economic operators that have been affected by a decision of a competent authority pursuant to this Regulation shall have access to a court to review the procedural and substantive legality of the decision. 6. Paragraph 5 shall be without prejudice to any provision of national law which requires that administrative review procedures be exhausted prior to recourse to judicial proceedings.~~

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

Chapter V

ENFORCEMENT

Article 22 (ex-Article 8a)

Enforcement of the decisions by competent authorities

~~1. Where within the reasonable time limit referred to in Article 21(1)(b) an economic operator has failed to comply with the decision referred to in Article 20(4), and the decision became definitive because no review was submitted against it within the time limit provided in Article 8(1) or following its review according to Article 8(3), the competent authorities, with the support of the Commission, shall be responsible of the enforcement of the decision and shall ensure all of the following:~~

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

~~(b) that the products concerned already placed or made available on the market are withdrawn from the Union market by relevant authorities, in accordance with Union and national laws;~~

- (c) that the products concerned remaining with the economic operator are disposed of in accordance with Article 22, at the expense of the economic operator;
- (d) that access to the online interface referring to the products and listings of the products concerned is restricted by requesting the relevant third party to implement such measures.
2. If the economic operator has failed to comply with the decision, the competent authority shall impose penalties on the economic operator pursuant to article 34.
- ~~3. Where economic operators provide evidence to the competent authorities that they have complied with the decision referred to in paragraph 4, and that they have eliminated and remediated forced labour from their operations or supply chain with respect to the products concerned, the competent authorities shall withdraw their decision for the future and inform the economic operators.~~

Article 23 (ex-Article 8b)

Withdrawal of products made with forced labour

1. Any decision to order the withdrawal of the products already placed or made available on the Union market and their disposal referred to in Article 20(4) should be communicated, through the information and communication system referred to in Article 9(1), to the Market surveillance authorities as referred to in Article 10 of Regulation (EU) 2019/1020 or the other authorities relevant for the product concerned to the nationally recognized responsible institution.
2. The enforcement of the withdrawal of products is of the responsibility of the competent authority, in coordination with the Market surveillance authorities as referred to in Article 10 of Regulation (EU) 2019/1020, or the other authorities relevant for the product concerned nationally recognized responsible institution.

Article 24 (ex-Article 8c)

Disposal of products made with forced labour

1. Disposal of the products concerned shall include at least one of the following actions, as applicable, conducted in accordance with national law consistent with Union law:
 - (a) recycling or donation of the products concerned for charitable or public interest purposes, especially in the case of agricultural and food products;
 - (b) destruction of the products concerned;
 - (c) rendering the products concerned inoperable;
 - ~~(e) in the case of agricultural and food products, donation of the products concerned for charitable or public interest purposes, or, if that is not possible, disposing of them in accordance with Union law on waste management;~~
 - (d) otherwise disposing of the products concerned in accordance with national law consistent with Union law.
2. The above paragraph shall also apply to economic operators responsible for disposing products according to Article 20(1)(c).

Article 25 (ex-Article 15)

Controls by customs authorities

1. Products entering or leaving the Union market shall be subject to the controls and measures laid down in this Chapter.
2. The application of this Chapter is without prejudice to **any** other Union **legal acts** governing **customs risk management, customs controls and** the release for free circulation of **goods and export, under** Regulation (EU) No 952/2013.

3. The **Commission** ~~competent authority~~ shall without delay, ~~where no request for a review has been introduced within the time limits referred in Article 8(1) or the decision is definitive in case of a request for a review as referred to in Article 8(3),~~ communicate to the customs authorities of Member States: **all decisions to prohibit the placing or making available of the products on the Union market and their export, pursuant to Article 20(4).**
- ~~(a) — any decision to prohibit the placing or making available of the products on the Union market and their export, referred to in Article 6(4);~~
- ~~(b) — any decision following the review referred to in Article 8(3).~~
4. Customs authorities shall rely on the decisions communicated pursuant to paragraph 3 to identify products that may not comply with the prohibition laid down in Article 3. For that purpose, they shall carry out controls on products entering or leaving the Union market **based on risk management as laid down in** Regulation (EU) No 952/2013.
5. The **Commission** ~~competent authority~~ shall without delay communicate to the customs authorities of Member States **any** a withdrawal of the decision referred to in Article 20(8).

Article 26 (ex-Article 16)

Additional information to be provided or made available to customs authorities

1. The Commission is empowered to adopt delegated acts in accordance with Article 31 to supplement this Regulation by identifying the products or product groups for which the information referred to in paragraph 2 shall be provided to customs authorities. **The products or product group concerned shall be chosen on a risk-based approach, building** amongst others, on the **information available in** the database referred to in Article 10, **on the** decisions **taken on the basis of Article 20(4), on information exchanged in the Union Network Against Forced Labour Products and on decisions** encoded in the information and communication system referred to in Article 9(1).

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(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 pursuant to paragraph 1.
4. The implementing acts referred to in paragraph 3 shall be adopted in accordance with the examination procedure pursuant to Article 31(2).
5. Where a specific product has been identified in a decision referred to in Article 20(4), in order for the customs authorities to be able to act immediately **on that specific product**, the procedure provided for in Article 32 shall apply to delegated acts adopted pursuant to **paragraph 1**.

Article 27 (ex-Article 17)

Suspension

Where customs authorities identify, **through their relevant risk management system**, a product entering or leaving the Union market that may, **according to** a decision **communicated** pursuant to Article 25(3), be in violation of Article 3, they shall suspend the release for free circulation or the export of that product. Customs authorities shall immediately notify the relevant competent authorities of the suspension and transmit all relevant information to enable them to establish whether the product is covered by a decision communicated pursuant to Article 25(3).

Article 28 (ex-Article 18)

Release for free circulation or export

1. Where the release for free circulation or the export of a product has been suspended in accordance with Article 27, the product shall be released for free circulation or exported where all the other requirements and formalities relating to such a release or export have been fulfilled and where either of the following conditions is satisfied:
 - (a) within 4 working days of the suspension, if the competent authorities have not requested the customs authorities to maintain the suspension. In case of perishable products, animals and plants that time limit shall be 2 working days;
 - (b) the competent authorities informed the customs authorities of their approval for release for free circulation or export pursuant to this Regulation.
2. The release for free circulation or export shall not be deemed proof of compliance with Union law and, in particular, with this Regulation.

Article 29 (ex-Article 19)

Refusal to release for free circulation or export

1. Where the competent authorities conclude that a product that has been notified to them in accordance with Article 27 is a product made with forced labour pursuant to a decision referred to in Article 20(4), they shall require customs authorities not to release it for free circulation nor to allow its export.

2. Competent authorities shall immediately enter that information in the information and communication system referred to in Article 9(1) and notify the customs authorities accordingly. Upon such notification, customs authorities shall not allow the release for free circulation or export of that product and shall also include the following notice in the customs data-processing system and, where possible, on the commercial invoice accompanying the product and on any other relevant accompanying document:

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

3. Where the release for free circulation or export of a product has been refused in accordance with paragraph 1, customs authorities shall take the necessary measures to ensure that the product concerned is disposed of in accordance with national law consistent with Union law.

4. **Upon request of a competent authority and on behalf ~~and~~ under the responsibility of~~/~~ that competent authority, customs authorities may alternatively seize that product 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 24.**

CHAPTER VI

Final provisions

Article 30 (ex-Article 25)

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 EU or national law consistent with Union law.**
2. **Member States and the Commission, their officials and other persons working under their supervision shall ensure the protection of confidential information acquired in application of this Regulation in accordance with the relevant applicable rules. To that end, they shall not disclose information covered by the obligation of professional secrecy that they have acquired pursuant to this Regulation.**
3. Where requested, 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 EU ~~law~~ or national law consistent with Union law.** A request for confidentiality shall be accompanied by a non-confidential summary of the information supplied or by a statement of the reasons why the information cannot be summarised in a non-confidential manner.
4. 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 31 (ex-article 27)

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 26(1) shall be conferred on the Commission for **five years** from **[OP ENTRY DATE = date of entry force of this Regulation]**. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**
3. The delegation of power referred to in Article 26(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016¹⁰.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

¹⁰ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1)

6. A delegated act adopted pursuant to Article 26(1) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 32 (ex-Article 28)

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 31(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 33 (ex-article 29)

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.

Article 34 (ex-article 30)

Penalties

1. Member States shall lay down the rules on penalties applicable to non-compliance with a decision referred to in Article 20(4) and shall take all measures necessary to ensure that they are implemented in accordance with national law.
2. The penalties provided for shall be effective, proportionate and dissuasive. 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 infringement;
 - (b) any relevant previous infringements by the economic operator;
 - (c) the degree of cooperation with the competent authorities;
 - (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 infringement.
- 2a. The pecuniary penalties provided by this article shall amount to ~~not less than [X%]~~ and not more than [X%] of the economic operator's total annual Union-wide turnover in the financial year preceding the fining decision, calculated in accordance with the calculation of aggregate turnover for undertakings laid down in Article 5(1) of Council Regulation (EC) No 139/2004 (24).
- 2b. The sums recovered by competent authorities through penalties contemplated in this article may be dedicated by the Member States to remediate the consequences of forced labour, according to EU and national legislation.
3. Member States shall, by [OP enter DATE = 24 months from 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.

Article 35 (ex-article 30a)

Review

By 5 years after the start of the application of this Regulation and every 5 years thereafter, the Commission shall carry out an evaluation of the enforcement and the implementation of the Regulation. The Commission shall present a report on the main findings to the European Parliament and the Council. The evaluation shall in particular include an assessment of whether a *further* centralised approach for the enforcement of the Regulation, either by the Commission or by a dedicated agency, shall be considered and whether remediation measures shall also be included. Where the Commission finds it appropriate, the report shall be accompanied by a legislative proposal for amendment of the relevant provisions of this Regulation or an update of the guidelines referred to Article 11.

Article 36 (ex-article 31)

Entry into force and date of application

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

This Regulation shall apply from [OP enter DATE = **36** months from its entry into force].

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

Done at Brussels,

For the European Parliament

For the Council

The President

The President
