



Council of the  
European Union

Brussels, 18 January 2024  
(OR. en)

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**Interinstitutional File:  
2022/0269(COD)**

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**5287/24  
ADD 1**

**LIMITE**

**MI 23  
COMPET 36  
CONSOM 12  
POLCOM 10  
ENFOCUSTOM 2  
JAI 32  
EMPL 13  
SOC 19  
CODEC 46  
UD 4**

**NOTE**

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From: General Secretariat of the Council  
To: Permanent Representatives Committee

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No. prev. doc.: 15455/2/23 REV2  
No. Cion doc.: 12711/22 + COR1

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND  
OF THE COUNCIL on prohibiting products made with forced labour on the  
Union market  
- Mandate for negotiations with the European Parliament  
Room document from the Presidency

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## **Forced Labour Regulation**

### **Belgian Presidency compromise proposal**

Considering the positions expressed by Member States during the last Internal Market Working Party meeting on 17 January, the Presidency suggests to amend the current compromise proposal (ST 15455/2/23) according to three key changes:

#### **1. Commission handling of information submissions**

The current compromise text foresees that the submissions of information regarding the violations of Art. 3 are centralised through a single point (Art. 10) and directed, to competent authorities for pre-investigation, based on fair and objective criteria. Subsequently, competent authorities may request the Commission to take over the pre-investigation for products of Union interest (Art. 14(2)).

The Presidency acknowledges the administrative burden of such a process. Therefore, the Presidency suggests to further simplify the allocation. The Commission would initially process all submissions, assessing whether the products concerned are of Union interest. If affirmative, the Commission would automatically take over the pre-investigation (Art. 10(3a)). If not, the submission is directed to a competent authority based on the existing fair and objective criteria (Art. 10(4)).

As a result, Member States would no longer be in the in first line to assess submissions, while preventing back-and-forth between the Commission and competent authorities in case of products of Union interest.

*Article 10*

**Single information submission point**

**3a. The Commission shall assess whether the products concerned by the submission referred to in paragraph 2 are of Union interest pursuant to Article 14(3). Where the products concerned are of Union interest, the Commission shall proceed with the preliminary phase of investigation pursuant to Article 15.**

4. **Where the products concerned are not of Union interest,** the submission shall be directed to a competent authority in a way to ensure a fair and balanced distribution of submissions. Such distributions among competent authorities shall be based on objective criteria, including the location of the registered office, the central administration or principal place of business of the economic operator concerned, and the territory in which the product concerned is placed or made available, exported or manufactured.

Article 15(1),(2),(4),(5),(6),(7) Article 16(2) and Article 20(1a) shall be aligned accordingly:

**[or where applicable the Commission acting upon a request pursuant to Article 14(2) or acting pursuant to Article 10(3a)]**

## **2. Determining Union interest**

The current compromise envisages that competent authorities, in determining the Union interest, assess the various interests at stake, including scale and severity of suspected forced labour, the critical importance to the Union of the products and their relation to critical infrastructures (Art. 14(3)).

The Presidency acknowledges the difficulties and sensitivities in using the critical importance to the Union or the relation to critical infrastructures to define the Union interest.

In this regard, the Presidency proposes to remove the reference to critical importance and infrastructures in the definition, while maintaining the reference to scale and severity of suspected forced labour. Alternatively, the Presidency suggests to add the significant impact to the internal market as a criterion. Additionally, whilst the criteria are often interlinked, the Presidency wants to underline that they are not cumulative.

*Article 14*

**Information on the likelihood of a violation of Article 3**

3. The determination of the Union interest shall be based on all relevant, verifiable and credible information available to competent authorities, or to the Commission acting pursuant to Article 10(3), and shall consist of an appreciation assessment of the scale and severity of suspected forced labour and/or whether the products concerned have a significant impact on the internal market.

~~**the critical importance to the Union of the products concerned and their relation to critical infrastructures**~~

An accompanying recital can be introduced accordingly:

The assessment as to whether products suspected of forced labour are presumed to have a significant impact on the internal market should take into account one or more of the following criteria: (i) the location of suspected forced labour, particularly if takes place in a third country; (ii) the distortive impact on the competitiveness of the products concerned on the internal market; and (iii) the number of Member States involved, taking into consideration the territory in which the products concerned are placed or made available, exported or manufactured.

### 3. Field inspections in third countries

The Presidency proposes clarifying the procedure for field inspections in third countries. If Member States deem it necessary to conduct inspections, they may request the Commission to establish contact with third countries. The article also maintains that the Commission cannot conduct inspections itself. Instead, it must request the government of the third country to do so, ensuring respect for territorial sovereignty. If the Commission's request is rejected by the third country, this may trigger the activation of the non-cooperation clause.

#### *Article 19.*

#### **Field inspections**

4. In cases where the risk of forced labour is located outside the territory of the Union **and the Commission is not leading the investigation**, the lead competent authority may **ask the Commission to** request the government of a third country where the risk of forced labour is located to conduct an inspection, to provide relevant information or verify evidence provided by economic operators. ~~**Where the lead competent authority may is a competent authority,**~~ **if The Commission may request assistance** from ~~**the Commission and**~~ the European External Action Service, as appropriate, to facilitate such contacts. ~~**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.**~~