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**NOTE**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. prev. doc.:	5903/24
No. Cion doc.:	12711/22 + COR1
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on prohibiting products made with forced labour on the Union market - Preparation for the trilogue

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**I. INTRODUCTION**

1. On 14 September 2022, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market<sup>1</sup>.

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<sup>1</sup> Doc. 12711/22 + COR 1.

2. The proposal aims at prohibiting products made using forced labour on the market of the European Union (EU) as well as their export from the EU. The prohibition covers all products made, whether in whole or in part, using forced labour and it applies to all sectors and companies.
3. The proposal is based on Articles 114 and 207 of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).
4. On 26 January 2024, the Permanent Representatives Committee agreed on the text of the mandate for negotiations with the European Parliament, as set out in doc. 5903/24.
5. The European Economic and Social Committee delivered its opinion<sup>2</sup> on 27 January 2023.
6. In the European Parliament, the Committee on Internal Market and Consumer Protection (IMCO) and the Committee on International Trade (INTA) have the lead responsibility. Ms Maria Manuel LEITÃO-MARQUES (S&D, PT) and Ms Samira RAFAELA (Renew, NL) were appointed rapporteurs. The IMCO and INTA Committees adopted their joint report on 16 October 2023. The European Parliament adopted its negotiating mandate at the plenary session of 8 November 2023.

## **II. INTERINSTITUTIONAL NEGOTIATIONS**

7. The first trilogue with the European Parliament took place on 30 January 2024. Delegations were briefed about the outcome of the trilogue at the Coreper meeting on 2 February 2024.
8. At the subsequent nine informal technical meetings, which were held on 31 January and 5, 7, 8, 12, 14, 15, 20 and 21 February, the Council and the EP were able to agree on many technical issues and discussed all political issues of high importance to both institutions. The outcome of these meetings is reflected in the 5-column table published as doc. 6881/24 ADD1.

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<sup>2</sup> Doc. 5856/23.

9. Additional technical meetings will take place on 26 and 28 February 2024 to finalise discussions at the technical level, with a view to the forthcoming trilogue on 4 March 2024.
10. Three Working Party meetings took place on 14, 20 and 22 February 2024 to inform delegations about the progress made so far and to check their flexibility on open technical and political issues.

### **III. PREPARATION FOR THE TRILOGUE**

11. The Presidency has identified a number of issues where it might be necessary to revise the Council's mandate of 26 January 2024, in order to find a political agreement with the European Parliament:

***a) Database (Art. 9)***

12. The Presidency acknowledges the sensitivity of using external expertise in establishing and managing the database, and therefore it will stick to the given mandate. The information contained in that database should be based on reports from international organisations, in particular the International Labour Organization, and follow an objective and transparent assessment by the Commission.

***b) Risk-based approach (Art. 14)***

13. To clarify how to apply the risk-based approach, the Presidency suggests amending Article 14. The new provisions establish distinct criteria for competent authorities and the Commission to prioritise products and economic operators when assessing the likelihood of a violation of Article 3. For products, these criteria are i) the scale and severity of the suspected forced labour, ii) the quantity or volume of products placed or made available on the Union market, iii) the share of the components or parts of the product likely to be in violation of Article 3 in the final product. For economic operators, the focus shifts to their proximity in the supply chain to forced labour risks and their leverage to address them. Articles 15 and 18 are adjusted accordingly. Additionally, the guidelines will specify how to apply this risk-based approach in practice.

*c) Allocation of investigations (new Art. 14a)*

14. To ensure an effective allocation of investigations between competent authorities and the Commission, the Presidency proposes a new article outlining the allocation mechanism. The latter is based on the location of the suspected forced labour, while respecting the principle of subsidiarity. Where the suspected forced labour is taking place outside the territory of the Union, investigations will be carried out by the Commission. Where the risks are located in the territory of a Member State, the competent authority of that Member State will lead the investigations. The allocation of information submissions is aligned accordingly. Article 16 is deleted, and Article 19 is amended to streamline field inspections within and outside the EU. When reference is made to the “lead competent authority” throughout the text, that reference should be understood as a reference to either the Commission or the relevant Member State competent authority, based on the allocation mechanism outlined in Article 14a.
15. If competent authorities, while assessing the likelihood of a violation of Article 3, find new information about the suspected forced labour, they must inform the competent authority of another Member State, provided that the suspected forced labour is taking place in the territory of that Member State. Similarly, they must inform the Network and the Commission if the suspected forced labour is occurring outside the EU.
16. To further guide the Presidency in the forthcoming negotiations, delegations are invited to express their views on the following question and drafting suggested in square brackets and bold in Article 14a(5) of the Annex:

*Do you support the possibility for a significant number and/or a qualified majority of Member States to request the Commission to assess the likelihood of a violation of Article 3 for suspected forced labour taking place outside the territory of the Union as proposed in Article 14(5), whereby the Commission would be obliged to comply with this request, if it has not investigated yet?*

***d) Preliminary phase of investigations (Art. 15) and investigations (Art. 18)***

In addition to the changes to Articles 15 and 18 as outlined above in relation to the revised Article 14, and to achieve a balanced compromise between the Council's and EP's mandates, the Presidency proposes the following:

17. In Article 15, the lead competent authority should request information from economic operators, unless it would jeopardise the outcome of the assessment of the likelihood of a violation of Article 3. At the same time, Article 18 was revised accordingly to strengthen the right for economic operators to be heard during the investigation phase. The lead competent authority should also have the possibility to request information on relevant actions taken to address forced labour from other relevant stakeholders (not only from economic operators).
18. Furthermore, in the new compromise text, the lead competent authority should conclude the preliminary phase of investigations within 30 working days from the date when it receives the requested information from economic operators, rather than within 60 working days from the date when economic operators were notified of the request. While maintaining the previous deadlines for both competent authorities and economic operators, this adjustment ensures uniform and standardised deadlines for competent authorities, promoting equal treatment for economic operators. The lead competent authority should also be allowed to conclude the preliminary phase if economic operators fail to respond to the request without valid justification.
19. To ensure that economic operators, in particular SMEs, get any clarification needed when they receive an information request, without overburdening the process with a systematic consultation, the Presidency proposes that each competent authority and the Commission would establish a hotline for questions related directly to the application of this Regulation (see Article 11a in the Annex). This hotline can be based on or linked to existing support measures on due diligence for economic operators.

20. In Article 18, formal consultations with economic operators under assessment should take place during the investigation phase, instead of the preliminary phase, and include any relevant natural or legal person who consents to be interviewed for the purposes of collecting relevant information. Additionally, the lead competent authority should conclude the investigation within reasonable time limits, without undue delay.

*e) Decisions (Arts. 20, 21)*

21. To ensure continuity, efficiency and respect for Member States' sovereignty, the new compromise text aligns decision-making with the allocation of investigations, following the principle of 'who leads the investigation, takes the decision'.
22. Where the Commission concludes that a product has been placed or made available on the market or is being exported in violation of Article 3, it will adopt an implementing act in the form of a decision. To ensure political ownership by Member States, the compromise text maintains comitology, by applying the examination procedure to the adoption of this implementing act in accordance with Article 5 of Regulation (EU) No 182/2011. Where the committee composed of Member States' representatives delivers no opinion, the Commission will not adopt the implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 will apply.
23. Where forced labour is taking place in the territory of a Member State and a violation of Article 3 is established, the competent authority from that Member State will adopt the decision. To ensure a uniform application of a decision taken by one Member State throughout the Union market, the principle of mutual recognition, as outlined in the original Commission proposal, has been reinserted. Additionally, the possibility of consultations before the final decision is taken, is maintained, regardless of who takes the decision. Review possibilities must be maintained, with full respect for national administrative procedures.

24. Delegations have also expressed the need for sufficient proportionality when applying decisions on products found to be in violation of Article 3. Therefore, the Presidency has clarified that the prohibition to place or make available on the market and export the products concerned, and the order to withdraw as well as the order to dispose of the products concerned may be applied independently from each other (see Article 20 in the Annex). In line with that, time limits to comply with the different orders should be adapted to the time needed to comply with each order (see Article 21 in the Annex).
25. Furthermore, the new compromise proposal clarifies that if components or parts of the product are found to be in violation of Article 3, but replaceable, the order for economic operators to dispose of the products concerned may apply only to the respective components or parts of products, to ensure the impact of the decision is as targeted as possible.
26. Additionally, the Presidency would like to request further guidance on the following question and drafting suggested in square brackets and bold in Article 20 of the Annex :

*Do Member States support the inclusion of a possibility for the lead competent authority to abstain from disposing of certain products or ordering their destruction, based on their critical importance for the functioning of supply chains, but still prohibit their circulation on the market until economic operators prove that appropriate corrective measures have been taken to eliminate forced labour from their supply chains?*

***f) State-imposed forced labour***

27. The Presidency understands that both a reversal of the burden of proof on economic operators and a delegated act identifying specific economic sectors in specific geographic areas at high risk of state-imposed forced labour must remain red lines in the forthcoming negotiations.
28. However, in the spirit of compromise, the Presidency understands that delegations can be flexible regarding the inclusion of indicative information for competent authorities and economic operators on state-imposed forced labour as well as for the prioritisation of products likely made using state-imposed forced labour.

29. Additionally, the revised compromise text provides further clarification on the non-cooperation clause. In cases the economic operator obstructs the investigation, new provisions specify that the lead competent authority may adopt a decision based on all other information and evidence gathered throughout the investigation process (Articles 14, 15, 18 and 19) and disregard the evidence provided that may be misleading or impeding the investigation.

***g) Remediation***

30. The Presidency understands that the inclusion of remediation as a condition to withdraw a product ban is a red line for Member States. However, the Presidency has also understood that Member States have a certain flexibility on including guidelines on remediation and allowing economic operators the option to voluntarily provide information on their remediation actions during the preliminary phase.

***h) Penalties***

31. The Presidency acknowledges the opposition from Member States to harmonise penalties through a delegated act and will maintain that position during the forthcoming negotiations.

#### **IV. CONCLUSION**

32. The Permanent Representatives Committee is invited to:
- a) take note of the 5-column table and confirm the lines preliminary agreed at the technical level and marked as green in the 5-column table (doc. 6881/24 ADD1),
  - b) indicate flexibility of the issues presented in points 12 – 31 and related proposals in the Annex to this note, and
  - c) provide political guidance on the questions in points 16 and 26 and related proposals in the Annex to this note.



*Article 9***Database**

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 or product groups. The database shall prioritise the identification of widespread and severe forced labour risks.

The database shall be based on independent and verifiable information, including reports from international organisations, in particular the International Labour Organization, civil society, business organisations, and social partners.

It shall not publicly disclose information that directly names economic operators. The database shall be made available in all official languages of the Union.

*Article 10***Single information submission point**

1. The Commission shall set up a dedicated centralised mechanism for the submission of information, available on the forced labour single window referred to in Article 12. This mechanism shall be available in all official languages of the institutions of the Union, and it shall be user friendly and free of charge.
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. The submission referred to in paragraph 2 shall be directed to a competent authority or the Commission based on where the suspected forced labour is taking place, pursuant to Article 14a. The competent authority or the Commission shall proceed with the assessment of the likelihood of a violation of Article 3.
4. The competent authority or the Commission 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.
5. Directive (EU) 2019/1937 of the European Parliament and of the Council shall apply to the reporting of all breaches of this Regulation and the protection of persons reporting such breaches.
6. The identity of the natural or legal person or any association not having legal personality making a submission pursuant to paragraph 2 shall not be made available to the public.

#### *Article 11a*

#### **Support measures for economic operators**

Member State competent authorities shall set up a contact point for economic operators, in particular SMEs, and an accompanying hotline to answer questions to support the application of the obligations within this regulation.

Add accompanying recital : Existing business and human rights helpdesks or Member State due diligence contact points may be appointed as contact points or hotlines for the purposes of this Regulation.

## Chapter III

### Investigations

#### *Article 14*

#### **Risk-based approach**

1. Competent authorities and the Commission shall follow a risk-based approach in assessing the likelihood of a violation of Article 3.
2. In their assessment of the likelihood of a violation of Article 3, competent authorities and the Commission shall use the following criteria, as appropriate, in order to prioritise products suspected to have been made with forced labour:
  - (a) scale and severity of the suspected forced labour;
  - (b) quantity or volume of products placed or made available on the Union market;
  - (c) share of the component or part of the product likely to be in violation of Article 3 in the final product.
3. In that assessment, competent authorities and the Commission shall, to the extent possible, focus on the economic operators and, where relevant, product suppliers involved in the steps of the supply chain as close possible to where the forced labour likely occurs, and with the highest leverage to prevent, mitigate, and bring to an end the use of forced labour. Competent authorities and the Commission shall also take into account the size and economic resources of the economic operators, in particular, whether the economic operator is an SME, and the complexity of the supply chain.

4. The assessment of the likelihood of a violation of Article 3 shall be confidential, based on all relevant, factual, and verifiable information available to competent authorities and the Commission, including, but not limited to, the following:
- (a) information and decisions encoded in the information and communication system referred to in Article 8(1), including any past cases of compliance or non-compliance of an economic operator with Article 3;
  - (b) the database referred to in Article 9;
  - (c) the risk indicators and other information pursuant to Article 11, point (b);
  - (d) submissions made pursuant to Article 10;
  - (e) information received by the competent authority or the Commission from other authorities relevant for the implementation of this regulation, such as Member States' due diligence, labour, health or fiscal authorities, on the products and economic operators under assessment unless the sharing of such information is not in accordance with Union law or national law in compliance with Union law, or substantially impairs the execution of the activities of such authorities;
  - (ea) any issues arising from meaningful consultations with relevant stakeholders, such as civil society organisations and trade unions.

Add accompanying recital on how the risk-based approach applies and how competent authorities and the Commission should ensure efficient allocation of resources when conducting simultaneous investigations on different products.

**Allocation of investigations**

1. Where the suspected forced labour is taking place outside the territory of the Union, the Commission shall act as lead competent authority.
2. Where the suspected forced labour is taking place in the territory of a Member State, a competent authority of that Member State shall act as lead competent authority.
3. During their assessment of the likelihood of a violation of Article 3, competent authorities shall, at any time and without undue delay, inform a competent authority from another Member State if they find new information about suspected forced labour taking place within the territory of that Member State.
4. During their assessment of the likelihood of a violation of Article 3, competent authorities shall, at any time and without undue delay, inform the Network and the Commission if they find new information about suspected forced labour taking place outside the territory of the Union.
- [5. **Where a significant number of Member States, acting within the Network, deems it relevant, they may request the Commission to assess the likelihood of a violation of Article 3 for suspected forced labour taking place outside the territory of the Union. The Commission shall proceed with that assessment.]**

**Preliminary phase of investigations**

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

Lead competent authorities may request information on those actions from other relevant stakeholders, including the persons or associations having submitted relevant, factual, and verifiable information pursuant to Article 10 and any other natural or legal persons related to the products and geographical areas under assessment, as well as from the European External Action Service and EU Delegations in relevant third countries.

2. Economic operators shall respond to the request referred to in paragraph 2 within 30 working days from the day they received such request. Economic operators may provide any other information they may deem useful for the purposes of this Article. Where necessary, economic operators may request support on how to engage with the lead competent authority from the hotline referred to in Article 11a.
3. Within 30 working days from the date of receipt of the information submitted by economic operators pursuant to paragraph 3, lead competent authorities shall conclude the preliminary phase of their investigation as to whether there is a substantiated concern of violation of Article 3, on the basis of the assessment referred to in paragraph 1 and the information submitted by economic operators pursuant to paragraph 3.
4. Notwithstanding paragraph 3, lead competent authorities may conclude that there is substantiated concern on the basis of all evidence and information gathered pursuant to paragraph 1 and Article 14(4), where the economic operators fails to provide the information requested within the time limit prescribed without a valid justification, or where lead competent authorities have refrained from requesting information in accordance with paragraph 1.
5. Lead competent authorities shall not initiate an investigation pursuant to Article 18, and shall inform the economic operators under assessment accordingly, where, on the basis of the assessment referred to in paragraph 1 and, if any, of the information submitted by economic operators pursuant to paragraph 3, they consider that there is no substantiated concern of a violation of Article 3, or that the reasons that motivated the existence of a substantiated concern have been eliminated, for instance due to, but not limited to, the applicable legislation, guidelines, recommendations or any other due diligence in relation to forced labour referred to in paragraph 1 being applied in a way that mitigates, prevents and brings to an end the risk of forced labour.
6. Lead competent authorities shall communicate through the information and communication system referred to in Article 8(1) the outcome of their assessment pursuant to paragraph 5.

*Article 16*

**Designation of the lead competent authority**

*Deleted*

*Article 17*

**Coordination of investigations and mutual assistance**

1. The Commission and competent authorities shall cooperate closely between them and provide each other with mutual assistance in order to implement this Regulation in a consistent and efficient manner.
2. The lead competent authority may, where appropriate, request the support of other relevant competent authorities. Other competent authorities that have an interest in the investigation may request to be closely involved in the investigation.
3. A competent authority that has received, through the information and communication system referred to in Article 8(1), a request for information from another competent authority shall provide an answer within 20 working days from the date of receipt of the request.
4. The requested competent authority may ask the requesting competent authority to complement the information contained in the request if it concludes that the information provided initially is not sufficient.
5. A requested competent authority may refuse to comply with a request only if the requested authority demonstrates 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 8(1) whether the product concerned is already being investigated. Where there is already a lead competent authority investigating it, other competent authorities shall share all the relevant evidence and information they may have with that lead competent authority to facilitate the investigation, in compliance with Union and national law, and shall not start a separate investigation.

### *Article 18*

### **Investigations**

1. Lead competent authorities that, pursuant to Article 15(4) determine that there is a substantiated concern of a violation of Article 3, shall initiate an investigation on the products and economic operators concerned and inform the economic operators subject to the investigation, within 3 working days 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;
  - (d) the possibility for the economic operators to submit any other document or information to the competent authority in charge of the investigation, and the date by which such information has to be submitted;

2. Where requested to do so by lead competent authorities, economic operators under investigation shall submit any information that is relevant and necessary for the investigation, including information identifying the products under investigation, where appropriate, identifying the component or part of the product to which the investigation should be limited, the manufacturer or producer of those components, parts of products or products and the product suppliers or suppliers of the components or parts of the product. Where necessary, economic operators may request support on how to engage with the lead competent authority from the hotline referred to in Article 11a.
3. Economic operators shall have at least 30 working days from the request referred to in paragraph 2 to submit the information or make a justified request for an extension of that time limit. When deciding on such extension, lead competent authorities shall consider the size and economic resources of the economic operators concerned, including whether the economic operator is an SME.
4. Lead competent authorities may interview any relevant natural or legal person who consents to be interviewed for the purpose of collecting information relating to the subject matter of the investigation, including relevant economic operators and any other stakeholders.
5. Lead competent authorities may, where needed, carry out all necessary checks and inspections in accordance with Article 19.

Add accompanying recital: the right to be heard of the economic operator shall be respected in the investigation process.

### Field inspections

1. In exceptional situations where the lead competent authority may deem it necessary to conduct field inspections, it shall undertake this with consideration to where the risk of forced labour is located.
2. Where the risk of forced labour is located in the territory of the Member State, the lead competent authority may conduct its own inspections, in accordance with national law in compliance with Union law. If 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. Where the risk of forced labour is located outside the territory of the Union, the Commission acting as lead competent authority may request the government of the 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.
4. The Commission may request the assistance from the European External Action Service, as appropriate, to facilitate such contacts.
5. The findings of the inspections carried out pursuant to paragraphs 3, 4 and 4a shall be communicated through the information and communication system referred to in Article 8(1).

## Chapter IV

### Decisions

#### *Article 20*

### Decisions

1. Lead competent authorities shall assess all information and evidence gathered pursuant to Chapter III, and, on that basis, 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 initiated the investigation pursuant to Article 18(1).
2. Without prejudice to paragraph 1, lead competent authorities may establish that the products concerned have been placed or made available on the market or are being exported in violation of Article 3 where an economic operator under investigation impedes the investigation.
3. Where lead competent authorities cannot establish that the products concerned have been placed or made available on the market or are being exported in violation of Article 3, they shall inform the economic operators that have been subject to the investigation. They shall also inform all other competent authorities through the information and communication system referred to in Article 8(1). Such information shall not preclude the launch of a new investigation into the same product and economic operator in case new relevant information arises.

- 3a. Before adopting the decision referred to in paragraph 4, lead competent authorities shall give the economic operators under investigation the opportunity to submit observations on the preliminary findings on which they intend to adopt their decisions, within a time limit set by lead competent authorities, which shall not be less than 30 working days or, in case of perishable goods, animals and plants, not less than 5 working days. Lead competent authorities may, where appropriate, request the support of other relevant competent authorities.
4. Where lead competent authorities establish that the products concerned have been placed or made available on the market or are being exported in violation of Article 3, they shall without delay adopt a decision containing **[any of the following, as appropriate]** :
- (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 24 **or, if the components or parts of the product, which are found to be in violation of Article 3, are replaceable, an order to dispose of the respective components or parts of products.**

**If appropriate, the prohibition and the order referred to in subparagraph (a) and (c) shall identify the components or parts of products found to be in violation of Article 3, which must be replaced in order for the product to be placed or made available on the market or exported.**

- 4aa. [The lead competent authority may, where appropriate and having due regard to potential severe supply chain disruptions, refrain from imposing an order to dispose of the product concerned, and instead order the product concerned to be withheld, at the cost of the economic operator. If economic operators demonstrate, within the time limit set by the lead competent authority, that they have eliminated forced labour from their operations or supply chain with respect to the products concerned and taken appropriate corrective measures, the lead competent authority shall review its decision referred to in paragraph 4 in accordance with paragraph 7.]**
- 4a. Where the Commission acts as lead competent authority, decisions referred to in paragraph 4 shall be adopted by means of implementing acts in the form of a decision. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 33(2). The Commission shall endeavour to adopt its decision within 6 months from the date it closed the investigation pursuant to Article 18(1).
5. Lead competent authorities shall notify the final decision to all economic operators to which it is addressed and communicate it to all competent authorities, through the information and communication system referred to in Article 8(1).
- 5a. Decisions taken pursuant to paragraph 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.
6. Economic operators that have been affected by a decision of a Member State competent authority pursuant to this Regulation shall have access to a court to review the procedural and substantive legality of the decision.

- 6a. Paragraph 6 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. A lead competent authority that has taken a decision pursuant to paragraph 4 may, on its own initiative or upon request by an economic operator concerned by that decision and who is able to submit new substantial information that was not brought to the attention of the lead competent authority during the investigation and included in the file referred to in paragraph 1, repeal at any moment a decision adopted pursuant to paragraph 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. Decisions adopted by Member State competent authorities pursuant 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.

Add accompanying recital: An economic operator under investigation should be considered to be impeding an investigation where it provides deliberately incomplete or incorrect information, or misleading information in response to a request for information; or fails to provide the information requested within the time limit prescribed by the lead competent authority without a valid justification.

Add accompanying recital on how corrective measures means actions taken to prevent, mitigate, bring to an end the forced labour and restituting the affected persons to a situation equivalent or as close as possible to the situation they would be in had the forced labour not occurred.

**Content of the decision**

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

(a) [cf 5-column document]

(b) reasonable time limits for the economic operators to comply with the orders, which shall not be less than 30 working days. In case of perishable goods, animals and plants, the time limit shall not be less than 10 working days;

(c) – (e) [cf 5-column document]

When setting the time limits referred to in point (b), the lead competent authority shall take into account the economic operator's size and economic resources, including whether the operator is an SME, **the share of component or part of the product and whether it is replaceable. The time limits shall be proportionate to the time needed to comply with the different orders.**



Amend recital 27 as follows:

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

The Commission should nevertheless pay particular attention to the potential disruption of supply chains of strategic or critical importance for the Union and, in this regard, to products whose destruction would alter the proper functioning of the internal market and of such supply chains. In those cases, the lead competent authority should, for a limited period of time, give priority to the free circulation of products already placed and made available on the market and consider, for those products that have not been released for free circulation, their withholding at the economic operator's expense allowing them to demonstrate that they have eliminated forced labour from their operations or supply chain with respect to the products concerned and taken appropriate corrective measures. When assessing the strategic or critical importance for the Union, the lead competent authority should, notably, rely on the list of sectors establish in the Net Zero Industry Act (Regulation n°XXX) of the European Parliament and of the Council and take into account the Commission Recommendation on Technology Areas Critical to EU Economic Security for Further Risk Assessment with Member States as well as the products listed in the Critical Raw Materials Act (Regulation n°XXX) of the European Parliament and of the Council.