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NOTE

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

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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
- Analysis of the final compromise text with a view to agreement

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 market¹.

¹ 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. The European Economic and Social Committee delivered its opinion² on 27 January 2023.
5. 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. WORK CONDUCTED IN COUNCIL PREPARATORY BODIES

6. The examination of the proposal by the Working Party on Competitiveness and Growth started on 18 November 2022 under the Czech Presidency.
7. On 26 January 2024, the Permanent Representatives Committee agreed on the mandate for negotiations with the European Parliament³.
8. The first trilogue with the Parliament took place on 30 January 2024. Twelve technical meetings were held in January, February, and March 2024 to find solutions to technical issues and exchange views on political issues relevant to both institutions.
9. The co-legislators reached a provisional agreement on the proposed Regulation at the second trilogue on 4 March 2024. The Presidency briefed the Working Party on Competitiveness and Growth and the Permanent Representatives Committee about the outcome of the trilogue on 6 March 2024.

² Doc. 5856/23.

³ Doc. 5903/24.

III. MAIN ELEMENTS OF THE COMPROMISE TEXT

a) Objective of the proposed Regulation and its consistency with international law and other EU legislation

10. The overall objective of the proposed Regulation to prohibit the placing and making available on the Union market or exporting from the Union market products made with forced labour fits in with the EU's efforts in the area of forced labour and modern slavery by aligning the proposed Regulation with both international standards and the EU legislation already in place.

b) Definitions and scope (Art. 2, 4)

11. The proposed Regulation relies on the 'forced labour' definition set out in Art. 2 of the Convention on Forced Labour, 1930 (No. 29) of the International Labour Organization, without further elaborating on its modern application.
12. The scope of the Regulation is clarified by including products offered for sale online or through other means of distance sales as specified in Art. 4.

c) Database (Art. 8)

13. The database pursuant to Art. 8 is to be established and managed by the Commission, with the assistance of external expertise if need be. The database should contain independent and verifiable information from international, institutional, research or academic organisations, in particular the International Labour Organization and the United Nations Organization.

d) Support measures for SMEs (Art. 10)

14. Art. 10 provides for national contact points to support SMEs in matters related to the application of the proposed Regulation. Furthermore, Member States' competent authorities may also organise trainings for economic operators on forced labour risk indicators and on how to engage in dialogue with them throughout the whole investigation process.

e) Risk-based approach (Art. 14)

15. When assessing the likelihood of a violation of this Regulation, the Commission and competent authorities should apply, as appropriate, the following criteria: i) scale and severity of the suspected forced labour, including whether forced labour imposed by state authorities could be a concern; ii) quantity or volume of products placed or made available on the Union market; and iii) share of the part suspected to have been made with forced labour in the final product.
16. When initiating the preliminary phase of investigation, lead competent authorities should, to the extent possible, focus on the economic operators and, where relevant, product suppliers close to forced labour risks and with the highest leverage to prevent, mitigate and bring to an end the use of forced labour. Furthermore, they should take into account the size and economic resources of the economic operators, in particular where the economic operator is an SME, and the complexity of the supply chain.

f) Allocation of investigations (Art. 15)

17. To ensure an effective allocation of investigations between competent authorities and the Commission, Art. 15 outlines a new allocation mechanism based on the location of the suspected forced labour. Where the suspected forced labour is taking place outside the territory of the Union, the Commission will be leading investigations. Where the suspected forced labour is taking place in the territory of a Member State, the competent authority of that Member State will act as a lead competent authority.

g) Preliminary phase of investigations (Art. 17) and investigations (Art. 18)

18. Before initiating an investigation, lead competent authorities should request from economic operators under assessment information on any relevant actions taken to identify, prevent, mitigate, bring to an end or remediate risks of forced labour in their operations and supply chains, unless such a request would jeopardise the outcome of the assessment. The lead competent authority may also request information on those actions from other relevant stakeholders.

19. Economic operators should respond to the request within 30 working days from the date they receive it. The lead competent authorities should conclude the preliminary phase of investigations within 30 working days from the date they receives the requested information from economic operators.
20. The lead competent authority should inform the economic operator concerned about its decision to initiate investigation within 3 working days from the date of such decision.
21. During the investigation phase, the lead competent authority may collect information from any relevant natural or legal person who consents to it, including the relevant economic operators and any other stakeholders.

h) Coordination of investigations and mutual assistance (Art. 16)

22. In order to ensure a consistent and efficient coordination of investigations, the lead competent authority should, at any time and without an undue delay, communicate via the relevant information and communication system any new information about suspected forced labour taking place in the territory outside its competence. It may also request information and support from another competent authority.
23. A competent authority that receives a request for information should provide an answer within 20 working days from the date of receipt of the request.
24. At all stages of this process, the lead competent authority should respect the right of the economic operator concerned to be heard.

i) Decisions (Art. 20, 22)

25. The proposed Regulation aligns the decision-making process with the allocation mechanism above, following the principle of ‘who leads the investigation, takes the decision’.
26. 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 applies.

27. Where the Commission concludes that a product has been placed or made available on the market or is being exported in violation of this Regulation, it will adopt an implementing act, by applying the examination procedure in accordance with Article 5 of Regulation (EU) No 182/2011.
28. The lead competent authorities should endeavour to adopt their decisions within 9 months from the date they initiated the investigation. Where the lead competent authority establishes that economic operators violated Article 3, it should 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.

j) Disposal of the product concerned (Art. 20, 25)

29. The proposed Regulation clarifies that if a part of the product under investigation is found to be in violation of Article 3, but replaceable, the order to dispose of the product concerned should apply only to that respective part.
30. In case of products or parts, whose disposal would alter the proper functioning of the internal market and cause the disruption of a supply chain of strategic or critical importance to the Union, the lead competent authority should, where appropriate, be able to order the product concerned to be withheld for a defined period, at the cost of the economic operators.
31. Furthermore, in case of perishable products, the disposal shall be done by donating the products concerned for charitable or public interest purposes or, when that is not possible, by rendering those products inoperable.

k) Penalties (Art. 37)

32. The penalties applicable to non-compliance with a decision taken by the lead competent authority will be implemented in accordance with national law and with due regard to the principles listed in Art. 37 and the guidance issued by the Commission.

l) Remediation (Art. 16, 38)

33. Art. 16 refers to remediation as an option for economic operators under assessment to provide information on their relevant actions taken to remediate risks of forced labour in their operations and supply chains.
34. Pursuant to Art. 38, remediation should be included in the Commission report assessing the need for a specific mechanism to address and remediate forced labour, together with an impact assessment for the implementation of such mechanism.

m) State-imposed forced labour (Art. 8, 11, 14, 20)

35. The proposed Regulation contains provisions providing for i) a dedicated sub-category on state-imposed forced labour in the database pursuant to Art. 8, ii) specific guidance on state-imposed labour in guidelines pursuant to Art. 11, iii) state-imposed labour as a criterion specifying the scale and severity of forced labour in Art. 14, and iv) a strengthened non-cooperation clause in Art. 20.

n) Timelines (Art. 5, 8, 11, 39)

36. Member States should designate their national competent authorities no later than 12 months after the entry into force of this Regulation.
37. The database of forced labour risk areas or products and guidelines for relevant stakeholders should be available no later than 18 months after the entry into force of this Regulation.
38. The proposed Regulation will apply from 36 months after the entry into force of this Regulation.

IV. CONCLUSION

39. The Permanent Representatives Committee is invited to:
- approve the compromise text set out in the Annex to this note, and
 - instruct the Presidency to send a letter to the Chairs of the IMCO and INTA Committees of the European Parliament confirming that, should the Parliament adopt its position at first reading, in accordance with Article 294(3) TFEU and in the exact form as set out in the Annex, the Council would approve, in accordance with Article 294(4) TFEU, the position of the European Parliament and the act would be adopted in the wording corresponding to the position of the European Parliament.
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PE-CONS No/YY - 2022/0269(COD)

REGULATION 2024/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on prohibiting products made with forced labour on the Union market *and amending*
Directive (EU) 2019/1937

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 and Article 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

Whereas:

- (1) As recognised in the Preamble to the 2014 Protocol to Convention No. 29 on forced labour ('ILO Convention No. 29') of the International Labour Organization ('ILO'), forced labour constitutes a serious violation of human dignity and fundamental human rights, ***contributes to the perpetuation of poverty and stands in the way of the achievement of decent work for all***. The ILO declared the elimination of all forms of forced or compulsory labour as a principle concerning the fundamental rights. The ILO classifies ILO Convention No. 29, ***including the supplementing*** the 2014 Protocol to Convention No. 29 and the ***Forced Labour (Supplementary Measures) Recommendation No. 203 and the ILO Convention No.105 on the abolition of forced labour ('ILO Convention No.105')*** as fundamental ILO ***Conventions***^{1,2} ***and issues recommendations to prevent, eliminate, and remedy forced labour***³. ***The ILO has developed several indicators used to identify and indicate cases of forced labour, such as threats and actual physical and sexual harm, abuse of vulnerability, abuse of working and living conditions and excessive overtime, deception, restriction of movement or confinement to the workplace or a limited area, isolation, debt bondages, withholding wages or excessive wage reduction, retention of passports and identity documents or threat of denunciation to the authorities when the worker has an irregular immigration status***⁴. ***Forced labour is very often linked to poverty and discrimination. The manipulation of credit and debt, either by employers or by recruiting agents, is still a key factor that traps vulnerable workers in forced labour situations***⁵. ***According to the ILO supervisory bodies, prison labour, including where it is performed for private companies, is not in itself constitutive of forced labour provided that it is done on a voluntary basis, for the benefit of the prisoner and approximates the conditions of a free labour relationship. Community work as an alternative penal sanction to imprisonment should always be in the public general interest and should, under no circumstances, be abused by States as means to degrade the convicted person or deprive***

² <https://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>.

³ *ILO Forced Labour (Supplementary Measures) Recommendation, 2014.*

⁴ *17b* https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf

⁵ *ILO, the Profits and Poverty: The economics of forced labour:* https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf

*the person of their dignity*⁶. *In cases in which work or service is imposed by exploiting the worker's vulnerability, under the threat of a penalty, such threat does not need to take the form of a penal sanction but might take the form also of a loss of rights or benefits.*

- (2) The use of forced labour is widespread in the world. It is estimated that about 27.6 million people were in forced labour in 2021.⁷ *Vulnerable and marginalised groups in a society, such as women, children, ethnic minorities, persons with disabilities, lower casters, indigenous and tribal people, migrants, especially if they are undocumented, have a precarious status and operate in the informal economy, are particularly susceptible to be pressured into performing forced labour. Even when it is not state imposed, forced labour is often a consequence of **the absence or** lack of good governance of certain economic operators **and a demonstration of a state's failure to enforce social and labour rights, particularly for vulnerable and marginalised groups. Forced labour can also take place as a result of authorities' tacit consent. The vast majority of forced labour occurs in the private sector, in particular through forced labour exploitation (17.3 million people), which accounts for 86 % of all forced labour cases***⁸. *The obligations of economic operators set out in this Regulation should be predictable and clear in order to ensure full and effective compliance and contribute to bringing forced labour to an end.*

⁶ *17e* https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_089199.pdf Page 27

⁷ *The 2021 Global Estimates of Modern Slavery*, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_854733.pdf.

⁸ *18d The 2021 Global Estimates of Modern Slavery*, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipecc/documents/publication/wcms_854733.pdf

- (3) The eradication of forced labour *in all its forms, including state imposed forced labour*, is a priority for the Union. Respect for human dignity and the universality and indivisibility of human rights are firmly enshrined in Article 21 of the Treaty on European Union. ***In order to achieve Target 8.7 of the Sustainable Development Goals, the Union should uphold and promote its values and contribute to the protection of human rights, in particular the rights of the child.*** Article 5 of the Charter of Fundamental Rights of the European Union ***explicitly prohibits slavery, servitude, forced or compulsory labour and trafficking in human beings*** and Article 4 of the European Convention on Human Rights provide that no one is to be required to perform forced or compulsory labour. The European Court of Human Rights has repeatedly interpreted Article 4 of the European Convention on Human Rights as requiring Member States to penalise and effectively prosecute any act maintaining a person in the situations described set out in Article 4 of the European Convention on Human Rights⁹. ***The right to effective remedies for violations of fundamental rights is a human right, and a fundamental element in the process of effective prosecution of crimes. Existing Union law, the UN Guiding Principles on the Business and Human Rights (UNGPs), the Council of Europe and the OECD affirm that victims have the right to an effective remedy for business-related human rights violations or abuses, including forced labour.***
- (4) All Member States have ratified the fundamental ILO Conventions, ***namely No29*** on forced labour and ***No 182 on the worst forms of*** child labour¹⁰. They are therefore legally obliged to prevent and eliminate the use of forced labour and to report regularly to the ILO.

⁹ For instance paras. 89 and 102 in *Siliadin v. France* or para. 105 in *Chowdury and Others v. Greece*.

¹⁰ https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---ilo-brussels/documents/publication/wcms_195135.pdf.

- (5) Through its policies and legislative initiatives the Union seeks to eradicate the use of forced labour *and promote decent work and labour rights worldwide*. The Union promotes due diligence in *line* with international guidelines and principles established by international organisations, including the ILO, the Organisation for Economic Co-operation and Development (hereinafter “OECD”) and the United Nations (hereinafter “UN”), to ensure that forced labour does not find a place in the *supply* chains of undertakings established in the Union.
- (6) Union trade policy supports the fight against forced labour in both unilateral and bilateral trade relationships. The trade and sustainable development chapters of Union trade agreements contain a commitment to ratify and effectively implement the fundamental ILO Conventions, which include ILO Convention No. 29 and ILO Convention No. 105, *whereas trade and gender provisions establish a gender lens that is essential for the economic empowerment of women in order to combat gendered forced labour*. Moreover, unilateral *tariff* preferences under the Union’s General Scheme of Preferences *may* be withdrawn for serious and systematic violations of ILO Convention No. 29 and ILO Convention No. 105.
- (7) *Forced labour has a distinct impact on vulnerable and marginalised groups, such as children, women, migrants, refugees or indigenous peoples, and therefore an intersectional and gender sensitive approach is essential to combat forced labour effectively. This Regulation is therefore expected to contribute to the objectives of relevant international agreements and conventions, such as the ILO Convention 182, Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, the Beijing Declaration, the Global Compact for Safe, Orderly and Regular Migration, the Geneva Convention Relating to the Status of Refugees; the United Nations Declaration on the Rights of Indigenous Peoples and the ILO Convention 169.*

- (8) The Anti-trafficking Directive (Directive 2011/36/EU) of the European Parliament and of the Council¹¹ harmonises the definition of trafficking in human beings, including forced labour or services, and establishes **rules on** minimum penalties. Any rules laid down concerning the prohibition of placing and making available on the Union market domestic or imported products made with forced labour, or exporting such products, and the obligation to ensure that such products are withdrawn from the Union market ('the prohibition'), should be without prejudice to that Directive, and in particular to the competence of law enforcement and judicial authorities to investigate and prosecute offences on trafficking in human beings, including labour exploitation.
- (9) Regulation (EU) 2017/821 of the European Parliament and of the Council¹² requires Union importers of minerals **or metals** falling under the scope of that Regulation to carry out due diligence obligations consistent with Annex II to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, and the due diligence recommendations set out therein. Regulation (EU) **No 2023/1542 of the European Parliament and of the Council** contains obligations for economic operators to carry out due diligence in their supply chains, including with respect to labour rights.¹³ Regulation (EU) **2023/1115 of the European Parliament and of the Council**¹⁴ requires due diligence regarding the legal and deforestation free character of products and commodities within its scope, including with respect to human rights.

¹¹ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101, 15.4.2011, p.1.

¹² Regulation (EU) 2017/821 of the European Parliament and of the Council of 17 May 2017 laying down supply chain due diligence obligations for Union importers of tin, tantalum and tungsten, their ores, and gold originating from conflict-affected and high-risk areas, OJ L 130, 19.5.2017, p. 1.

¹³ **Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023** concerning batteries and waste batteries, **amending** Directive 2008/98/EC and Regulation (EU) 2019/1020 and **repealing Directive 2006/66/EC, OJ L 191, 28.7.2023, p. 1-117.**

¹⁴ Regulation (EU) 2023/1115 of the European Parliament and of the Council on making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010, OJ L 150, 9.6.2023, p. 206-247.

- (10) *Article 19a* of Directive 2013/34/EU of the European Parliament and of the Council *in its version of 21 November 2021 requires* Member States to ensure that certain economic operators annually publish non-financial statements in which they report on the impact of their activity on environmental, social and employee matters, respect for human rights, including regarding forced labour, anti-corruption and bribery matters.¹⁵ Furthermore, Directive *(EU) 2022/2464 of the European Parliament and of the Council* on Corporate Sustainability Reporting *amended that requirement by introducing* detailed reporting requirements for covered companies regarding the respect of human rights, including in global supply chains. The information that undertakings disclose about human rights should include, where relevant, information about forced labour in their value chains.¹⁶
- (11) *As a member of the World Trade Organisation (WTO), the Union is committed to promoting a rules-based, open, multilateral trading system. Any measures introduced by the Union that affect trade should be WTO compliant.*
- (12) In July 2021, the Commission and the European External Action Service published guidance to assist Union businesses in taking appropriate measures to address the risk of forced labour in their operations and supply chains.¹⁷
- (13) As recognised in the Commission’s Communication on decent work worldwide¹⁸, notwithstanding the current policies and legislative framework, further action is needed to achieve the objectives of eliminating forced-labour products from the Union market and, hence, further contributing to the fight against forced labour worldwide.

¹⁵ Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups, OJ

¹⁶ Directive 20XX/XX/EU of the European Parliament and of the Council amending Directive 2013/34/EU, Directive 2004/109/EC, Directive 2006/43/EC and **Regulation 2014/537/EU**(EU) No 537/2014, as regards corporate sustainability reporting, OJ XX, XX.XX.20XX, p. XX **L 322, 16.12.2022, p. 15.**

¹⁷ Guidance on due diligence for EU businesses to address the risk of forced labour in their operations and supply chains.

¹⁸ Communication 23 March 2022 from the Commission to the European Parliament, the Council and the European Economic and Social Committee on decent work worldwide for a global just transition and a sustainable recovery (COM(2022) 66 final).

- (14) *Promoting decent work and a human-centred future of work ensuring the respect of fundamental principles and human rights, promoting social dialogue as well as the ratification and effective implementation of relevant ILO conventions and protocols, strengthening responsible management in global supply chains and access to social protection are core priorities of the Union as enshrined in the EU Action Plan on Human Rights and Democracy 2020-2024.*
- (15) The European Parliament in its resolutions strongly condemned forced labour and called for a ban on products made with forced labour.¹⁹ It is therefore a matter of public moral concern that products made with forced labour could be available on the Union market or exported to third countries without an effective mechanism to ban or withdraw such products.
- (16) To complete the Union legislative and policy framework on forced labour, the placing and making available on the Union market of products made with forced labour or exporting domestically produced or imported products made with forced labour should be prohibited and it should be ensured that those products are withdrawn from the Union market.
- (17) Currently there is no Union legislation that empowers Member States' authorities to directly detain, seize, or order the withdrawal of a product on the basis of a finding that it was made, whether in whole or in part, with forced labour.

¹⁹ See Resolutions: MOTION FOR A RESOLUTION on a new trade instrument to ban products made by forced labour (europa.eu), Texts adopted - Forced labour and the situation of the Uyghurs in the Xinjiang Uyghur Autonomous Region - Thursday, 17 December 2020 (europa.eu), Texts adopted - Forced labour in the Linglong factory and environmental protests in Serbia - Thursday, 16 December 2021 (europa.eu).

- (18) In order to ensure the effectiveness of this Regulation, such prohibition should apply to products for which forced labour has been used at any stage of their production, manufacture, harvest and extraction, including working or processing related to the products. The prohibition should apply to all products, of any type, including their components, and should apply to products regardless of the sector, the origin, whether they are domestic or imported, or placed or made available on the Union market or exported. ***This Regulation should not apply to the provision of transport services.***
- (19) The prohibition should contribute to the international efforts to abolish forced labour. The definition of ‘forced labour’ should therefore be aligned with the definition laid down in ILO Convention No. 29 ***stating that forced or compulsory labour means all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily, with the exclusion of (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character; (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country; (c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations; (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population; (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.***²⁰

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

²¹ *What is forced labour, modern slavery and human trafficking (Forced labour, modern slavery and human trafficking) (ilo.org) and the ILO Conventions No. 29 and No. 105 referred therein.*

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

- (23) *Intermediary services, in particular online marketplaces have become increasingly used for the sale of products. In this regard, any information related to the sale of products contravening the prohibition established in this Regulation should be considered illegal content within the meaning of article 3(h) of Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) and should be subject to the obligations and measures under that Regulation.*
- (24) *The Commission and the competent authorities of the Member States should identify violations of the prohibition. In appointing those competent authorities, Member States should ensure that those authorities have sufficient **human and financial** resources and that their staff has the necessary competences and knowledge, especially with regard to human rights, **labour rights, gender equality, supply** chain management and due diligence processes. Competent authorities should closely coordinate with national labour inspections and judicial and law enforcement authorities, including those responsible for the fight against trafficking in human beings in such a way as to avoid jeopardising investigations by such authorities.*
- (25) *In order to ensure the effective implementation of its tasks under the Regulation, in particular to carry out investigations, the Commission has the possibility to request the assistance of other Union bodies, offices or agencies with an appropriate mandate. These tasks could include: processing submissions of information, supporting the allocation of investigations, conducting the preliminary investigations and investigations, facilitating cooperation with and among authorities of Member States, facilitating international cooperation, supporting the development of support tools and, if appropriate, supporting implementation by customs and supporting the Commission in preparing decisions to ban products. This is without prejudice to the Commission's task in its role as competent authority to take the decisions to prohibit the placing on the market of products in cases. The Commission in its role as competent authority exercises its powers impartially, transparently and with due respect for obligations of professional secrecy and should have the necessary expertise. The Commission should have the means to finance the necessary staff and related costs to carry out the tasks entrusted to it under the Regulation and build the required expertise.*

- (26) ***Competent authorities and the Commission should be guided by the principle of proportionality when implementing this Regulation. Competent authorities and the Commission should ensure, in particular, that all the measures and actions carried out during the preliminary investigation and the investigation and set out in the decision are suitable and necessary to achieve the desired purpose and do not impose a burden on economic operators that is excessive in relation to the objective sought.***
- (27) In order to ensure cooperation among ***the Commission and*** competent authorities designated under this and other relevant legislation and in order to ensure consistency in their actions and decisions, competent authorities designated under this Regulation should request information from other relevant authorities, where necessary, on whether 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. ***When requesting information from economic operators, competent authorities should whenever possible follow the Commission's once-only principle, through increased cooperation and dialogue between authorities who are engaged in overseeing product regulation. For the same purposes, and where appropriate, competent authorities designated under this Regulation should inform other relevant authorities, such as Market Surveillance authorities, of their actions and decisions.***
- (28) A uniform enforcement of the prohibition as regards products entering or leaving the Union market can only be achieved through systematic exchange of information and cooperation amongst competent authorities, customs authorities and the Commission. ***This cooperation should be supported by the Commission.***
- (29) For the collection, processing and storage of information, in a structured form, on issues relating to the ***investigations, decision-making process, and*** enforcement of the prohibition, the competent authorities should use ICSMS. The Commission, competent authorities and customs authorities should have access to that system to carry out their respective duties under this Regulation. ***It is also possible for competent authorities to use other existing communication systems with other authorities within their own Member State, as long as this does not affect the obligation of using ICSMS for the purposes of implementing and enforcing this Regulation.***

(30) In order to optimise and unburden the control process of products entering or leaving the Union market, it is necessary to allow for an automated data transfer between the ICSMS and customs systems. Three different data transfers should be distinguished in view of their respective purposes. Firstly, decisions establishing a violation of the prohibition should be communicated from the ICSMS to the Electronic Customs Risk Management System (CRMS) referred to in Article 36 of Commission Implementing Regulation (EU) 2015/2447²², without prejudice to any future evolution of the customs risk management environment, for use by customs authorities to identify products that may correspond to such a decision. The available interfaces of the customs environment should be used for those first data transfers. Secondly, where customs authorities identify such a product, case management will be necessary to, among others, transfer the notification of the suspension, the conclusion of competent authorities and the outcome of the actions taken by customs. The EU Single Window Environment for customs should support those second data transfers between ICSMS and national customs systems. Thirdly, customs systems contain information on products entering and leaving the Union market that would be relevant for competent authorities to carry out their duties but that is not accessible to them. The relevant information should therefore be extracted and transmitted to the ICSMS. The three interconnections should be highly automated and easy-to-use, so as to limit any additional burden for customs authorities. The Commission should be empowered to adopt, in cooperation with customs authorities and competent authorities, the implementing acts necessary to determine the procedural rules, practical arrangements and data elements to be transferred between the ICSMS and customs systems and any other ancillary requirement.

²² Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, OJ L 343, 29.12.2015, p. 558.

- (31) *The Commission should establish an indicative and non-exhaustive database of forced labour risks to support the work of competent authorities in assessing possible violations of the prohibition and help economic operators identify possible forced labour risks in their supply chains. The Commission may resort to external expertise to develop the database. The database should identify forced labour risks in specific geographic areas or with respect to specific products or product groups, with special focus on widespread and severe forced labour risks, based on reliable and verifiable information from international, institutions, such as the International Labour Organisation and the United Nations Organisation, and research or academic institutions. The database should be made publicly available through the Forced Labour Single Portal. Where there is reliable and verifiable evidence that products produced by specific economic sectors in specific geographic areas present a high risk of having been made with forced labour imposed by state authorities, those sectors in those areas should be identified in the database established under this Regulation.*
- (32) Micro, small and medium-sized enterprises ('SMEs') can have limited resources and ability to ensure that the products they place or make available on the Union market are free from forced labour. The Commission should therefore issue guidelines on due diligence in relation to forced labour, which should take into account also the size and economic resources of economic operators. In addition, the Commission should issue guidelines on forced-labour risk indicators, *including how to identify them, which should be based on independent and verifiable information, including reports from international organisations, in particular the International Labour Organization.*

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

(36) The Commission should issue guidelines in order to facilitate the implementation of the **Regulation** by economic operators and competent authorities. **Guidelines for economic operators** should include guidance on due diligence in relation to forced labour, **including for different types of suppliers and sectors of activity, on best practices for bringing to an end and remediating forced labour and on responsible disengagement. Remediation is understood to be the restitution of the affected person or persons or communities to a situation equivalent or as close as possible to the situation they would be in had forced labour not occurred, proportionate to the company's implication in the forced labour, including financial or non-financial compensation provided by the company to a person or persons affected by forced labour and, where applicable, reimbursement of the costs incurred by public authorities for any necessary remedial measures. Guidance for competent authorities should focus on information relevant for the practical implementation of the Regulation.** The guidance on due diligence in relation to forced labour should build on the Guidance on due diligence for Union businesses to address the risk of forced labour in their operations and supply chains published by the Commission and the European External Action Service in July 2021. The guidelines should be consistent with other Commission guidelines in this regard and relevant international organisations' guidelines. **The guidelines should be developed in consultation with relevant stakeholders and rely on experience and best practices from relevant Member State authorities.** The reports from international organisations, in particular the ILO, as well as other independent and verifiable sources of information should be considered for the identification of risk indicators.

(37) Since forced labour is a global problem and given the interlinkages of the global **supply** chains, it is necessary to promote international cooperation against forced labour, which would also improve the efficiency of applying and enforcing the **Regulation**. The Commission should, **as appropriate**, cooperate and exchange information with authorities of third countries, **international organisations and other relevant stakeholders** to enhance the effective implementation of the **Regulation**. International cooperation with authorities of non-EU countries, **including with countries with similar legislation in place**, should take place in a structured way as part of the existing dialogue structures **with those** countries, or, if necessary, specific ones that will be created on an ad hoc basis. **This cooperation may include exchanges of information on forced labour risks, such as those identified in the database, and on decisions to ban products but should not include information on ongoing investigations. Diplomatic representations of the Union should contribute to disseminating information about this Regulation and to facilitate the submission of information on forced labour risks by relevant stakeholders. International cooperation may also include the development of cooperation initiatives and accompanying measures to support relevant stakeholders in their efforts to root out forced labour from global supply chains, as well as the creation of enabling environments in third countries to promote and protect human rights.**

- (38) Any person, whether it is a natural or legal person, or any association not having legal personality, should be allowed to submit information to the competent authorities when it considers that products made with forced labour are placed and made available on the Union market and to be informed of the outcome of the assessment of their submission. ***Submissions of information on alleged violations should be made via a single information submission point set up by the Commission and made available on the Forced Labour Single Portal. In order to ensure the ease of use for the submissions of information and the standardisation of the information provided, the Commission should issue guidance on the use of single information submission point and may adopt implementing acts to specify the procedural rules, templates and details of the submissions. Submissions that are manifestly incomplete, unfounded or made in bad faith should be discarded. Adequate protection measures should be put in place to ensure the safety of any person associated with the submission or the information contained therein including from retaliation.***
- (39) ***Whistleblowers can bring new information to the attention of competent authorities to help them to detect infringements of this Regulation and enable them to take action. It should be ensured that adequate arrangements are in place to enable whistleblowers to alert the competent authorities to actual or potential infringements of this Regulation and to protect the whistleblowers from retaliation. For that purpose, it should be provided in this Regulation that Directive (EU) 2019/1937 of the European Parliament and of the Council is applicable to the reporting of breaches of this Regulation and to the protection of persons reporting such breaches, insofar as they fall within the personal scope of application of that Directive.***

- (40) *To enhance legal certainty, the applicability, pursuant to this Regulation, of Directive (EU) 2019/1937 to reports of breaches of this Regulation and to the protection of persons reporting such breaches should be reflected in that Directive. The Annex to Directive (EU) 2019/1937 should therefore be amended accordingly. It is for the Member States to ensure that this amendment is reflected in their transposition measures adopted in accordance with Directive (EU) 2019/1937, although the adoption of national transposition measures is not a condition for the applicability of that Directive to the reporting of breaches of this Regulation and to the protection of reporting persons from the date of application of this Regulation.*
- (41) *To ensure ease of access to relevant information on this Regulation, the Commission should set up a single webportal at the Union level, available to the public in all official languages of the institutions of the Union.*
- (42) *When identifying potential violations of the prohibition, the Commission or the competent authorities should follow a risk-based approach and assess all information available to them. In order to implement the risk-based approach in the prioritisation of their investigations, the Commission and competent authorities should take into account the share of the suspected part in the final product, the quantity and volume of products concerned, and the scale and severity of the suspected forced labour, including whether forced labour imposed by state authorities could be a concern. The Commission and competent authorities should also take into account the size and economic resources of the economic operators and the complexity of the supply chain, and focus to the extent possible on the economic operators and where relevant product suppliers that are closer to the risk of forced labour and have the highest leverage to prevent, mitigate and bring to an end the use of forced labour.*

(43) *Before initiating an investigation, the lead competent authorities should be able to request information from economic operators under assessment but also from other relevant stakeholders, including the persons or associations having submitted relevant information to competent authorities. Lead competent authorities should be able to opt for not requesting additional information from economic operators if they assess that this could lead to an attempt by those economic operators to hide a situation of forced labour and thus endanger the investigation. The lead competent authorities should initiate an investigation where, based on their assessment of all available information or on the basis of any other facts available where it was not possible to gather information and evidence during the preliminary phase of the investigation, they establish that there is a substantiated concern of a violation of the prohibition.*

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

- (45) Before initiating an investigation, competent authorities should request from the economic operators under assessment information on actions taken to mitigate, prevent, bring to an end risks of forced labour *or remediate forced labour cases* in their operations and *supply* chains with respect to the products under assessment. Carrying out such due diligence in relation to forced labour should *contribute to helping* the economic operator to be at a lower risk of having forced labour in its operations and *supply* chains. Appropriate due diligence *could mean* that forced labour issues in the *supply* chain have been identified and addressed in accordance with relevant Union legislation and international standards. That implies that where the competent authority considers that there is no substantiated concern of a violation of the prohibition, *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 being applied in a way that mitigates, prevents and brings to an end the risk of forced labour, no investigation should be initiated.
- (46) Competent authorities, when requesting information during the investigation, should prioritise to the extent possible and consistent with the effective conduct of the investigation the economic operators under investigation that are involved in the steps of the *supply* chain as close as possible to where the likely risk of forced labour occurs and take into account the size and economic resources of the economic operators, the quantity of products concerned, as well as the scale of suspected forced labour.

- (47) Competent authorities should bear the burden of establishing that forced labour has been used at any stage of production, manufacture, harvest or extraction of a product, including working or processing related to the product on the basis of all information and evidence gathered during the investigation, including its preliminary phase. To ensure their right to due process, economic operators should have the opportunity to provide information in their defence to the competent authorities ***upon request during the investigation. Where in response to a request for information from a lead competent authority, an economic operator or a public authority refuses or fails, without a valid justification, to provide information requested, provides incomplete or incorrect information with the objective of blocking the investigation, provides misleading information or otherwise impedes the investigation, including when a risk of forced labour imposed by state authorities is identified, the lead competent authority should be able to establish that the prohibition has been violated on the basis of any other relevant and verifiable information gathered during the preliminary phase of the investigation and the investigation. Lead competent authorities should also take these factors into account when reviewing a decision taken on this basis.***

(48) *Where the lead competent authority establishes that economic operators violated the prohibition, it should without delay prohibit the placing and making available of such products on the Union market and their export from the Union, and require the economic operators that have been investigated to withdraw the [] products **concerned** already made available from the Union market and **donate perishable products to charitable or public interest purposes. If such products are not perishable, economic operators should recycle those products, and if that is not possible, they should have the product destroyed, rendered inoperable, or otherwise disposed of in accordance with national law consistent with Union law, including Union legislation on waste management.***

Nevertheless, particular attention should be paid to preventing disruptions of supply chains of strategic or critical importance for the Union and, in this regard, to products whose disposal would alter the proper functioning of the internal market and of such supply chains. In those cases, by way of exception from the obligation to impose an order to have the product concerned disposed of, the lead competent authority should, where appropriate, be able to order the product concerned to be withheld for a defined period, at the cost of the economic operators. When assessing the strategic or critical importance of a product for the Union, the lead competent authority should, notably, take into account the list of sectors established in [proposed Regulation of the European Parliament and of the Council on establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem (Net Zero Industry Act)] and the Commission Recommendation of 3 October 2023 on critical technology areas for the EU's economic security for further risk assessment with Member States as well as the products listed in the proposed Regulation of the European Parliament and of the Council establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) 168/2013, (EU) 2018/858, 2018/1724 and (EU) 2019/1020 - Critical Raw Materials Act. When assessing whether an exception from the obligation to impose an order of disposal is appropriate, lead competent authorities should bear in mind the likelihood that economic operators will comply with the conditions for the review of the decision within the period defined by the lead competent authority. The period set by the lead competent authority would allow the economic operators concerned to demonstrate that they have eliminated forced labour with regards to the product concerned, by having brought it to an end within their supply chain. Changing one's supply chain, in the sense of relying

on different suppliers, cannot be considered as a way to eliminate the forced labour regarding the product concerned by a decision, since it would result in a different product. If the concerned economic operators provide the evidence for such demonstration, the lead competent authority should review its decision prohibiting the placing and making available of such products on the Union market, leading to its withdrawal and hence lifting the withholding of the products concerned. If the concerned economic operators do not provide such evidence, the decision prohibiting the placing and making available of such products on the Union market which contains the order to withhold the products for a defined period should also contain an order to dispose the products after the expiry of that period.

- (49) In that decision, *lead* competent authorities should state the findings of the investigation, and the information underpinning the findings, and set a reasonable time within which the economic operators should comply with the decision, as well as information allowing for the identification of the product to which the decision applies. The Commission should be empowered to adopt the implementing acts necessary to specify the details about the information to be contained in such decisions. ***The decisions from lead competent authorities should be publicly available.***
- (50) In setting a reasonable time to comply with the order, *lead* competent authorities should take into account the size and economic resources of the economic operators concerned.
- (51) To ensure effective enforcement decisions taken by a competent authority in one Member State should be recognised and enforced by competent authorities in the other Member States regarding products with the same identification from the same supply chain for which forced labour has been found.

- (52) Economic operators should have the possibility to request a review of the decisions by the *lead* competent authorities, after having provided new *substantial* information *which demonstrates that the products placed or made available on the market or to be exported are in compliance with Article 3*. *Lead* competent authorities should withdraw their decision *for the future* where *the economic operators demonstrate that they have complied with the decision and eliminated forced labour from their operations or supply chain with respect to the products concerned*. *The decisions by the lead competent authorities should be subject to judicial review in accordance with the applicable rules and procedures*.
- (53) If the economic operators fail to comply with the decision of the *lead* competent *authority* by the end of the established timeframe, the competent authorities should ensure that the *products concerned* are prohibited from being placed or made available on the Union market, exported or withdrawn from the Union market and that any such products remaining with the relevant economic operators are *donated to charitable or public interest purposes, in case they are perishable*. *If such products are not perishable, competent authorities should recycle those products, and if that is not possible, they should have the products destroyed, rendered inoperable, or otherwise disposed of in accordance with national law consistent with Union law, including Union legislation on waste management and on ecodesign for sustainable products at the expense of the economic operators*. *Where possible, competent authorities should ensure that the disposal or destruction method chosen has the smallest environmental impact possible of all the available options*. *Competent authorities from Member States should be responsible for the enforcement of the decisions in their own territory, including of decisions adopted by the Commission*. *After the decisions are communicated via the ICSMS, all competent authorities concerned with the specific decision shall proceed with the relevant enforcement actions foreseen in the Regulation*.
- (54) *The effect on animal welfare should be considered when enforcing the prohibition of the placing and making available of products made using forced labour in order to spare the animals concerned any avoidable pain, distress or suffering*. *In addition, this Regulation should be without prejudice to the legislation regarding animal welfare, such as Council*

Regulations (EC) No 1/2005²³ and (EC) No 1099/2009²⁴.

- (55) Decisions of the *lead* competent authorities establishing a violation of the prohibition should be communicated to customs authorities, who should aim at identifying the product concerned amongst products declared for release for free circulation or export. The competent authorities *of the Member States* should be responsible for the overall enforcement of the prohibition with regard to the internal market as well as products entering or leaving the Union market. Since forced labour is part of the manufacturing process and does not leave any trace on the product, and Regulation (EU) 2019/1020 covers only manufactured products and its scope is limited to release for free circulation, the customs authorities would be unable to act autonomously under Regulation (EU) 2019/1020 for the application and enforcement of the prohibition. The specific organisation of controls of each Member State should be without prejudice to Regulation (EU) No 952/2013 of the European Parliament and of the Council²⁵ and its general provisions on the control and supervisory powers of customs authorities.

²³ *Council Regulation (EC) No 1/2005 of 22 December 2004 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97, OJ L 3, 5.1.2005, p. 1.*

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

²⁵ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (recast) (OJ L 269, 10.10.2013, p. 1).

(56) The information currently *provided or* made available to customs authorities by economic operators includes only general information on the products but lacks information on the manufacturer or producer and product suppliers as well as specific information on products. In order for customs authorities to be able to identify products entering or leaving the Union market that may violate the Regulation and should accordingly be stopped at the EU external borders, economic operators should submit to customs authorities information allowing matching a decision of the *lead* competent authorities with the product concerned. This should include information on the manufacturer or producer and the product suppliers as well as any other information on the product itself. To this end, the Commission should be empowered to adopt delegated acts identifying the products for which such information should be provided using, amongst others, the database established under this Regulation as well as the information and decisions of the *lead* competent authorities encoded in the information and communication system set out in Article 34 of Regulation (EU) 2019/1020 ('ICSMS'). Moreover, the Commission should be empowered to adopt **■** implementing acts necessary to specify the details of the information to be *provided or* made available to customs by the economic operators. This information should include the description, name or brand of the product, specific requirements under Union legislation for the identification of the product (such as a type, reference, model, batch or serial number affixed on the product, or provided on the packaging or in a document accompanying the product, or unique identifier of the digital product passport) as well as details on the manufacturer or producer and the product suppliers, including for each of them their name, trade name or registered trademark, their contact details, their unique identification number in the country they are established and, where available, their Economic Operators Registration and Identification (EORI) number. The review of the Union Customs Code will consider introducing in the customs legislation the information required to be *provided or* made available to customs by the economic operators for the enforcement of this Regulation and more broadly to strengthen the transparency of the supply chain. ***The Commission should issue guidance and support to economic operators, especially SMEs, on how to collect the required information.***

- (57) Customs authorities that identify a product that may be covered by a decision communicated by *lead* competent authorities establishing a violation of the prohibition should suspend the release of that product and notify the competent authorities immediately. Competent authorities should reach a conclusion within a reasonable timeframe on the case notified to them by the customs authorities, either by confirming or by denying that the product concerned is covered by a decision. Where necessary *and duly justified, the* competent authorities should be authorised to require maintaining the suspension of its release, *taking into account the potential damage for the economic operator*. In the absence of a conclusion by competent authorities within the specified time limit, customs authorities should release the products if all other applicable requirements and formalities are fulfilled. Generally, the release for free circulation or export should also not be deemed to be proof of compliance with Union law, since such a release does not necessarily include a complete control of such compliance.
- (58) Where the competent authorities conclude that a product corresponds to a decision establishing a violation of the prohibition, they should immediately inform customs authorities which should refuse its release for free circulation or export. *Customs authorities* should be *able, where a competent authority so requests and on behalf and under the responsibility of that competent authority, to alternatively seize that product and put it at the disposal of and under the authority of that competent authority. In such cases, the relevant competent authority should take all the necessary measures to ensure that the product concerned is disposed appropriately. That may include its donation to charitable organisations or organisations that benefit public interest, its recycling or its otherwise disposal* of in accordance with national law consistent with Union law *at the expense of the relevant economic operator*.

- (59) *The lead competent authorities should take into due consideration the risk of disengagement by economic operators who are either related to products or regions in the database, or who have had their product removed from the Union market, as well as the consequences on affected workers. Lead competent authorities should therefore, where appropriate, support economic operators in adopting and carrying out measures suitable and effective for bringing forced labour to an end. Responsible disengagement includes complying with collective agreements and articulating escalation measures.*
- (60) The conditions applicable to products during the suspension of their release for free circulation or export, including their storage or destruction and disposal of in case of a refusal of release for circulation, should be determined by customs authorities, where applicable pursuant to Regulation (EU) No 952/2013. Should products entering the Union market require further processing, they are to be placed under the appropriate customs procedure allowing such processing in accordance with Articles 220, 254, 256, 257 and 258 of Regulation (EU) No 952/2013.
- (61) Where, for the prohibition, it is necessary to process personal data, such processing should be carried out in accordance with Union law on the protection of personal data. Any processing of personal data under the prohibition should be subject to Regulation (EU) 2016/679 of the European Parliament and of the Council²⁶ and Regulation (EU) 2018/1725 of the European Parliament and of the Council²⁷.

²⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1.

²⁷ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

- (62) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission *as regards: (a) the procedural rules and the details of the arrangements for the use of the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020; (b) the procedural rules, templates and details for the submission of information on alleged violations of the prohibition on the placing or making available or exporting of products made out of forced labour; (c) the decisions adopted by the Commission establishing that the prohibition on the placing or making available or exporting of products made out of forced labour has been violated; (d) the withdrawal of those decisions; (e) the details of the content of those decisions and of the equivalent decisions adopted by competent authorities ; (f) the arrangements and details for providing or making available to the customs authorities certain information on specific products or product groups.* Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁸.
- (63) *The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to the withdrawal of the decisions establishing that the prohibition on the placing or making available or exporting of products made out of forced labour has been violated, imperative grounds of urgency so require.*
- (64) In order to supplement or amend certain non-essential elements of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

²⁸ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers, OJ L 55, 28.2.2011, p. 13.

- (65) In order to ensure that the customs authorities are *able to act effectively the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of further specifying the additional* information identifying the **█** product *concerned that economic operators should make available or provide to the customs authorities* as regards products entering or leaving the Union market. *That information may be information identifying the product concerned, information about the manufacturer or the producer and information about the product suppliers.* Customs authorities need to be enabled to obtain information rapidly on specific products, identified in the decisions of the competent authorities in order to take actions and measures effectively and swiftly. In such cases, delegated acts should be adopted in an urgent procedure.
- (66) *Member States shall confer on their competent authorities the power to impose and implement effective, proportionate and dissuasive penalties in cases where the economic operator has failed to comply with a decision prohibiting the placing on the market of products. The rules on penalties applicable to non-compliance with a decision should be established by Member States, giving due regard to elements such as the gravity and duration of the infringement, previous infringements by the economic operator, the degree of cooperation with competent authorities and any other mitigating or aggravating factor applicable to the circumstances of the particular case. The Commission should issue guidance for Member States on the method for calculating financial penalties and the thresholds applicable and the EU Network should promote best practices in the application of such penalties.*

- (67) *The Commission should carry out an evaluation of the implementation and enforcement of this Regulation and submit a report thereon to the European Parliament, the Council and the European Economic and Social Committee. The report should assess the contribution of the Regulation to the elimination of products made with forced labour from the internal market and to the fight against forced labour as well as to the cooperation between competent authorities and international cooperation to eliminate forced labour. The report should also assess the impact of the Regulation, on businesses, in particular SMEs, and on victims, as well as the overall costs and benefits of the prohibition. The report should further assess the alignment of this Regulation with other relevant Union legislation.*
- (68) *This Regulation respects the right to good administration, enshrined in Article 41 of the EU Charter of Fundamental Rights, which includes, inter alia, the right of every person to be heard, before any individual measure which would affect him or her adversely is taken. To this regard, the lead competent authorities conducting the investigation should inform the economic operators concerned about the initiation of the investigation and the possible consequences thereof. To ensure their right to due process, economic operators should have the opportunity to provide information in their defence to the competent authorities upon their request during the investigation. Economic operators should have the possibility to request the lead competent authority to review the decision affecting them, by providing new substantial information. The decisions adopted by Member States' competent authorities should be subject to judicial review foreseen in applicable national law. The decisions adopted by the Commission under this Regulation are subject to review by the Court of Justice in accordance with Article 263 TFEU.*
- (69) Since the objective of this Regulation, namely, the prohibition, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

- (70) In order to allow for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the Official Journal of the European Union,

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter and scope

1. This Regulation lays down rules prohibiting economic operators from placing and making available on the Union market or exporting from the Union market products made with forced labour *with a view to improving the functioning of the internal market, while contributing to the fight against 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 does not create additional due diligence obligations for economic operators besides those already provided by Union or national law.*

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 requirements, voluntary guidelines, recommendations or practices to identify, prevent, mitigate or bring to an end the use of forced labour with respect to products that are to be **placed or to be** made available on the Union market or to be exported;
- (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;
- (h) ***'supply chain' means the system of activities, processes and actors involved at all stages upstream of the product being made available on the market, namely the extraction, harvesting, production and manufacturing of a product in whole or in part, including working or processing related to the product at any of those stages;***

- (i) ‘economic operator’ means any natural or legal person or association of persons who is placing or making available products on the Union market or exporting products *from the Union*;
- (j) ‘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*;
- (k) ‘producer’ means the producer of agricultural products as referred to in Article 38(1) Treaty on the Functioning of the European Union or of raw materials;
- (l) ‘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;
- (m) *‘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;*
- (n) ‘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;
- (o) ‘exporter’ means the exporter as defined in Article 1, point (19), of Commission Delegated Regulation (EU) 2015/2446²⁹;

²⁹ 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).

- (p) ‘substantiated concern’ means a *reasonable indication* based on objective, *factual* and verifiable information, for the competent authorities to suspect that products were likely made with forced labour;
- (q) ‘*lead competent authority*’ means *the authority responsible for assessing submissions, conducting investigations, and taking decisions in accordance with Article 15, which could be a Member State competent authority or the Commission*;
- (r) ‘customs authorities’ means customs authorities as defined in Article 5, point (1), of Regulation (EU) No 952/2013 of the European Parliament and of the Council³⁰;
- (s) ‘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’;
- (t) ‘products leaving the Union market’ means products *to be* placed under the customs procedure ‘export’;
- (u) ‘release for free circulation’ means the procedure laid down in Article 201 of Regulation (EU) No 952/2013;
- (v) ‘export’ means the procedure laid down in Article 269 of Regulation (EU) No 952/2013;
- (w) ‘EU Customs Single Window Certificates Exchange System’ or (EU CSW-CERTEX) means the system established by Article 4 of **■** Regulation (EU) **2022/2399** of the European Parliament and of the Council³¹ **■** ;

³⁰ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

³¹ 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)**.

- (x) ‘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 .

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

Cases where a product is offered through distance selling

Products offered for sale online or through other means of distance selling 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.

Article 5

Competent authorities

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

2. Where 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 ... **[12 months from the date of entry into force of this Regulation]**, Member States shall, through the information and communication system referred to in Article 7(I), 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 subparagraph of this paragraph.

4. The Commission shall make the list of the designated competent authorities publicly available on ***the Forced Labour Single Portal*** and shall regularly update that list, based on the updates received from Member States.
5. Member States shall ensure that the designated competent authorities exercise 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, ***expertise***, and resources to carry out the investigations, including sufficient budgetary and other resources ■ .

6. *Member States shall ensure that competent authorities 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, and the authorities designated by the Member State under Directive (EU) 2019/1937 of the European Parliament and of the Council³².*
7. Member States shall confer on their competent authorities the power to impose, *either directly, in cooperation with other authorities or by application to the competent judicial authorities*, penalties in accordance with Article 37.

Chapter II

Governance

Article 6

Union Network Against Forced Labour Products

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

³² *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).*

3. The Network shall be composed of representatives from each Member *State*, representatives from the Commission and, where appropriate, *representatives* from the customs authorities.
4. *The Commission shall coordinate the work of the Network. A representative from the Commission shall chair the meetings of the Network.*
5. *The Network shall have a secretariat provided by the Commission. The secretariat shall organise the meetings of the Network and provide technical and logistical support to the Network.*
6. *Members of the Network shall actively participate to ensure efficient coordination and cooperation, and contribute to the uniform implementation of this Regulation.*
7. The Network shall have the following tasks:
 - (a) facilitate the identification of common *enforcement* priorities *to achieve the objectives of prohibiting products made with forced labour on the Union market and contributing to the fight against forced labour;*
 - (b) *facilitate the coordination of investigations;*
 - (c) *follow-up on the enforcement of decisions taken pursuant to Article 20;*
 - (d) *upon request from the Commission, contribute to the development of guidelines referred to in Article 11;*
 - (e) *facilitate and coordinate the collection and exchange of information, expertise and best practices with regard to the application of this Regulation;*
 - (f) *contribute to uniform risk-based approaches and administrative practices for the implementation of this Regulation;*
 - (g) *promote best practices in the application of penalties provided by Article 37;*

- (h) cooperate, as appropriate, with Commission services, Union agencies or Member State authorities relevant for the implementation of this Regulation,*
- (i) promote the cooperation, exchanges of personnel and visit programmes among competent authorities and customs authorities, as well as between these and third countries' competent authorities and international organisations;*
- (j) facilitate the organisation of training and capacity building activities on the implementation of this Regulation for competent authorities, customs authorities and other relevant authorities of Member States, the Commission and Union Delegations in third countries;*
- (k) upon request from the Commission, provide assistance to the Commission on the development of a coordinated approach for engagement and cooperation with third countries pursuant to Article 13,*
- (l) monitor situations of systemic use of forced labour;*
- (m) assist in the organisation of information and awareness-raising campaigns about this Regulation;*
- (n) promote and facilitate collaboration to explore possibilities for using new technologies for the enforcement of this Regulation and the traceability of products;*
- (o) collect data on remediation linked to the decisions and evaluation of their effectiveness.*

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



Article 7

Information and communication systems

1. For the purposes of Chapters **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 of the European Parliament and of the Council³³. 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 **26(3)** shall be entered in the relevant customs risk management environment.

³³ Regulation (EU) 2019/1020 of the European Parliament and of the Council of 20 June 2019 on market surveillance and compliance of products and amending Directive 2004/42/EC and Regulations (EC) No 765/2008 and (EU) No 305/2011 (OJ L 169, 25.6.2019, p. 1).

3. The Commission shall develop an interconnection to enable the automated communication of decisions referred to in Article **26(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 2 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 *Chapter V, Section II* 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. *An interconnection between the information and communication system referred to in paragraph 1 and the EU Single Window Environment for Customs shall be established in accordance with Regulation (EU) 2022/2399 for the purposes of exchanging the requests and notifications between customs and competent authorities pursuant to Chapter V, Section II of this Regulation. That interconnection shall be established at the latest within 4 years from the date of adoption of the implementing act referred to in paragraph 7. 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) 2015/2447³⁴ 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.

³⁴ Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

7. The Commission is empowered to adopt implementing acts in accordance with the examination procedure pursuant to Article 35(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;
 - (c) the data to be transmitted, as well as the rules on its confidentiality and controllership, in accordance with paragraph 6.

Article 8

Database of forced labour risk areas or products

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

2. ***The database shall be based on independent and verifiable information, from international organisations, in particular the International Labour Organization and the United Nations Organization, or institutional, research or academic organisations.***

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.

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

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



Article 9

Single information submission point

1. ***The Commission shall set up a dedicated centralised mechanism for the submission of information. 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 ***on alleged violations of Article 3 shall be made via the single information submission point referred to in paragraph 1*** by any natural or legal person or any association not having legal personality. ***The submissions*** shall contain information on the economic operators or products concerned, provide the reasons ***and evidence*** substantiating the allegation, ***and where possible, supporting documents.*** ***The Commission is empowered to adopt implementing acts to specify the procedural rules, templates and details of the submissions. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 35(2).***



3. *The Commission shall discard any submissions that are manifestly incomplete or unfounded or made in bad faith and distribute the remaining submissions according to the allocation key referred to in Article 15 for their assessment.*
4. *The lead competent authority in charge of the assessment pursuant to paragraph 3 shall diligently and impartially assess the information, acknowledge the receipt of the submission and inform the person of the outcome of the assessment of its submission as soon as possible.*
5. *The lead competent authority may ask the person or association referred to in paragraph 1 to provide additional information.*
6. *In cases where there is a significant time interval between the submission of information and the decision to proceed with an investigation according to Chapter III, the lead competent authority shall, to the extent possible, verify with the person or association submitting the information whether the situation has, to the best of their knowledge, significantly changed.*
7. Directive (EU) 2019/1937 shall apply to the reporting of *the* breaches of this Regulation and the protection of persons reporting such breaches.

Article 10

Support measures for SMEs

The Commission shall develop accompanying measures to support the efforts of economic operators and their business partners in the same supply chain, in particular the micro, small and medium-sized enterprises. Where appropriate, these measures shall be made available through the Forced Labour Single Portal.

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

Member State competent authorities may also organize trainings for economic operators on forced labour risk indicators and on how to engage in dialogue with authorities throughout an investigation.

Article 11
Guidelines

The Commission, *in consultation with relevant stakeholders*, shall *make available and regularly update* guidelines, no later than ... [18 months after the date of entry into force of this Regulation], which shall include the following:

- (a) guidance *for economic operators* on due diligence in relation to forced labour, *including forced child labour*, which shall take into account applicable *national and* 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, *different types of suppliers along the supply chain, and different sectors*;
- (b) *guidance for economic operators on best practices for bringing to an end and remediating different types of forced labour*;
- (c) *guidance for competent authorities on the practical implementation of Articles 16 and 18, Article 8, including benchmarks for assisting competent authorities in their risk-based assessments of investigations and guidelines on the applicable standard of evidence*;
- (d) *guidance for customs authorities and economic operators for the practical implementation of Article 27 and, where appropriate, any other provision laid down in Section II of Chapter V of this Regulation*;
- (e) information on risk indicators of forced labour, *including on how to identify them*, 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;

- (f) *guidance for economic operators on due diligence in relation to forced labour imposed by state authorities;*
- (g) *guidance for economic operators and product suppliers on how to engage in dialogue with competent authorities pursuant to Chapter III, in particular on the type of information to be submitted;*
- (h) *guidance on how to submit information pursuant to Article 9;*
- (i) *guidance for Member States on the method for calculating financial penalties and the thresholds applicable;*
- (j) *further information to facilitate the competent authorities' implementation of and the economic operator's compliance with this Regulation;*

█ *The guidance referred to in points (a), (b) and (f), shall focus in particular on assisting small and medium-sized enterprises (SMEs) in complying with this Regulation.*

The guidelines shall be consistent with guidelines provided in accordance with other relevant Union law.

Article 12 Forced Labour Single Portal

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

- (a) *the list and contacts of the designated competent authorities;*
- (b) *the guidelines;*
- (c) *the database;*
- (d) *a list of publicly available information sources of relevance for the implementation of this Regulation, including sources which make available disaggregated data on the impact and victims of forced labour, such as gender-disaggregated data or data about forced child labour, allowing to identify age- and gender-specific trends;*

- (e) *the single information submission point;*
- (f) *any decision to ban a product;*
- (g) *any withdrawal of a ban;*
- (h) *the result of reviews.*

Article 13

International Cooperation

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

Chapter III

Investigations

Article 14

Risk-based approach

1. Competent authorities *and the Commission* shall follow a risk-based approach *when* assessing the likelihood *of violation of* Article 3, *initiating and conducting the preliminary phase of the investigations and identifying the products and economic operators concerned.*
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, including whether forced labour imposed by state authorities could be a concern;*
 - (b) *quantity or volume of products placed or made available on the Union market;*
 - (c) *share of the part suspected to have been made with forced labour in the final product.*
3. The *assessment of the likelihood of a violation of Article 3 shall be based on all relevant, factual, and verifiable information available to 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 7(1), including any past cases of compliance or non-compliance of an economic operator with Article 3;*

- (b) *the database referred to in Article 8;*
- (c) *the risk indicators and other information pursuant to Article 11, point (e);*
- (d) *submissions made pursuant to Article 9;*
- (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;*
- (f) *any issues arising from meaningful consultations with relevant stakeholders, such as civil society organisations and trade unions.*

4. *When initiating a preliminary investigation pursuant to Article 17, lead competent authorities 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. Lead competent authorities 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.*

Article 15

Allocation of investigations

1. *Where the suspected forced labour is taking place outside the territory of the Union, the Commission shall act as 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.*

Article 16

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. *Lead competent authorities shall respect the right of the economic operator to be heard at all stages of the process.*
3. *Lead competent authorities shall, at any time and without undue delay, communicate via the information and communication system referred to in Article 7(1) if they find new information about suspected forced labour taking place in a territory for which they are not competent for pursuant to Article 15.*
4. *The lead competent authority may request the support of other relevant competent authorities, including to contact economic operators whose place of establishment is within the territory of that Member State or whose language of operation is that of a Member State. Other competent authorities that have an interest in the investigation may request to be closely involved in the investigation.*
5. *A competent authority that has received, through the information and communication system referred to in Article 7(1), a request for information from another competent authority shall provide an answer within 20 working days from the date of receipt of the request.*
6. *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.*
7. *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.*

■

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 with respect to forced labour;
 - (b) the guidelines issued by the Commission **■** ;
 - (c) due diligence guidelines or recommendations of the UN, ILO, OECD or other relevant international organisations, ***in particular 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 9 and any other natural or legal persons related to the products and geographical areas under assessment, as well as from the European External Action Service and Union Delegations in relevant third countries.

2. Economic operators shall respond to the request referred to in paragraph 1 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 a contact point referred to in Article 10.

3. Within 30 working days from the date of receipt of the information submitted by economic operators pursuant to paragraph 2, 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 Article 14(3) and the information submitted by economic operators pursuant to paragraph 2.

■

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

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 Article 14(3) and, if any, of the information submitted by economic operators pursuant to paragraph 2, 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 7(1) the outcome of their assessment pursuant to paragraph 5.*

■

Article 18
Investigations

1. **Lead** competent authorities that, *pursuant to Article 17(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, 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 **lead** competent authority, and the date by which such information has to be submitted.

2. **Lead competent authorities shall communicate through the information and communication system referred to in Article 7(1) the initiation of an investigation pursuant to paragraph 1.**

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

Article 19

Field inspections

1. *In exceptional situations where the lead competent authority 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 carry out all necessary checks and inspections provided that the economic operators concerned give their consent and that the government of the third country in which the inspections are to take place has been officially notified and raises no objection. Assistance from the European External Action Service may be requested, as appropriate, to facilitate such contacts.*

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). Lead competent authorities shall endeavour to adopt their decisions within 9 months from the date they initiated the investigation.*

2. Notwithstanding paragraph 1, **lead** competent authorities may establish that Article 3 has been violated on the basis of any other facts available where it was not possible to gather information and evidence pursuant to Article 17(1) and Article 18(3), notably where, in response to a request for information, an economic operator or a public authority:
- (a) *refuses to provide the information requested without a valid justification; or*
 - (b) *fails to provide the information requested within the time limit prescribed without a valid justification; or*
 - (c) *provides incomplete or incorrect information with the objective of blocking the investigation; or*
 - (d) *provides misleading information; or*
 - (e) *otherwise impedes the investigation, including when a risk of forced labour imposed by state authorities is identified during the preliminary phase of the investigation or 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 close the investigation and 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 7(1). Closing the investigation shall not preclude the launch of a new investigation into the same product and economic operator in case new relevant information arises.*
- I**
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:
- (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 *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 25 or, if the parts of the product, which are found to be in violation of Article 3, are replaceable, an order to dispose of the respective parts of products*.

Where *relevant, the prohibition referred to in point (a) of this paragraph and the order referred to in point (c) of this paragraph shall identify the parts of the product 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.*

5. *By way of exception from paragraph 4, point (c) and where appropriate in view of preventing disruptions of a supply chain of strategic or critical importance for the Union, the lead competent authorities may refrain from imposing an order to dispose of the product concerned in the decision referred to in paragraph 4. The lead competent authorities may instead order the product concerned to be withheld for a defined period of time, which shall be no longer than the time necessary to eliminate forced labour for the product concerned, at the cost of the economic operators:*
- (a) *if economic operators demonstrate, during this period of time, that they have eliminated forced labour from the supply chain of the products concerned, without changing that product and by having brought to an end the forced labour as identified in the decision referred to in paragraph 4, the lead competent authority shall review its decision in accordance with Article 21;*

- (b) *if economic operators do not demonstrate, during this period of time, that they have eliminated forced labour from the supply chain of the products concerned, without changing that product and by having brought to an end the forced labour as identified in the decision referred to in paragraph 4, paragraph 4, point (c) shall apply.*
6. *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 35(2).*
7. *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 7(1).*
8. *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.*

Article 21

Review of decisions adopted regarding the violation of Article 3

1. *Lead competent authorities shall provide economic operators affected by a decision adopted pursuant to Article 20 with the possibility of requesting a review of that decision at any time. The request for a review shall contain information which demonstrates that the products are placed or made available on the market or to be exported in compliance with Article 3. That information shall contain new substantial information that was not brought to the attention of the competent authority during the investigation.*
2. *A lead competent authority shall take a decision on the request for review within 30 working days from the date of receipt of the request.*

3. *Where economic operators have demonstrated that they have complied with the decision referred to in Article 20, and that they have eliminated forced labour from their operations or supply chain with respect to the products concerned, the lead competent authority shall withdraw its decision for the future, inform the economic operators and remove it from the Forced Labour Single Portal referred to in Article 12.*
4. *Where the Commission acts as lead competent authority, the withdrawal referred to in paragraph 3 shall be implemented via an implementing act. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 35(2). On duly justified imperative grounds of urgency relating to the protection of rights of defence and of property of the economic operators concerned, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 35(3). Those acts shall remain in force for a period not exceeding 12 months.*
5. *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 or a tribunal to review the procedural and substantive legality of the decision.*
6. *Paragraph 4 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 Member State competent authorities pursuant to this Regulation are without prejudice to any decisions of a judicial nature taken by national courts or tribunals of the Member States with respect to the same economic operators or products.*

Article 22

Content of the decision

1. The decision referred to in Article 20 shall contain all of the following:
 - (a) the findings of the investigation and the information *and evidence* underpinning the findings;
 - (b) **■** reasonable time *limits* for the economic operators to comply with the *orders*, which shall not be less than 30 working days. ***In case of perishable goods, animals and plants, the time limit shall not be less than 10 working days.*** When setting *the time limits, the lead* competent authority shall take into account the economic operator's size and economic resources, ***including whether the operator is an SME, the share of the part of the product and whether it is replaceable. The time limits shall be proportionate to the time needed to comply with the different orders and no longer than necessary;***
 - (c) all relevant information and in particular the details allowing the identification of the product, to which the decision applies, including details about the manufacturer, producer, the product suppliers ***and, where appropriate, production site;***
 - (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 27(3) ***to enable the identification of products requested by Article 26(4).*** Those implementing acts shall be adopted in accordance with the examination procedure pursuant to Article 35(2).

CHAPTER V

Enforcement

Section I

Competent authorities

Article 23

Enforcement of the decisions by competent authorities

1. *Where within the reasonable time limit referred to in Article 22(1), point (b) an economic operator has failed to comply with the decision referred to in Article 20(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 and to export them;*
 - (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 25, at the expense of the economic operator;*
 - (d) *that access to the products and to listings referring to 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 either directly, in cooperation with other authorities or by application to the competent judicial authorities, penalties on the economic operator pursuant to Article 37.*

Article 24

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) shall be communicated, through the information and communication system referred to in Article 7(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 shall be of the responsibility of the competent authority, in coordination with any other relevant authorities for the product concerned.**

Article 25

Disposal of products made with forced labour

In line with the waste hierarchy set out in Directive 2008/98/EC of the European Parliament and of the Council³⁵, economic operators and Member States competent authorities responsible for the disposal of products, pursuant to Article 20(4), point (c) shall dispose of the products concerned by recycling them or, when that is not possible, by rendering those products inoperable. In case of perishable products, the disposal shall be done by donating the products concerned for charitable or public interest purposes or, when that is not possible, by rendering those products inoperable.



³⁵ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p. 3).

Section II

Customs authorities

Article 26

Controls by customs authorities

1. Products entering or leaving the Union market shall be subject to the controls and measures laid down in this **Section**.
2. The application of this **Section** is without prejudice to *any* other Union **legal acts governing customs risk management, customs controls and the release for free circulation of goods and export, in particular** Regulation (EU) No 952/2013.
3. The **lead** competent authority shall without delay **communicate to the customs authorities of Member States decisions 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 **lead** competent authority shall without delay communicate to the customs authorities of Member States **any** withdrawal, **as well as any changes of a** decision referred to in Article 20(4) **pursuant to Article 21**.

Article 27

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

1. The Commission is empowered to adopt delegated acts in accordance with Article 33 to supplement this Regulation by identifying the products or product groups for which the information referred to in paragraph 2 shall be provided to customs authorities. ***The products or product group concerned shall be chosen following a proportionate approach, building, amongst others, on the information available in the database, information encoded in the information and communication system, and substantiated information exchanged in the Network.***
2. ***The person intending to place a product covered by a delegated act adopted pursuant to paragraph 1 of this Article under the customs procedures ‘release for free circulation’ or ‘export’ shall provide or make available to customs authorities information identifying the product, information about the manufacturer or the producer and information about the product suppliers,*** unless the provision of such information is already required pursuant to customs legislation referred to in Article 5(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. ***Those*** implementing acts **■** shall be adopted in accordance with the examination procedure pursuant to Article 35(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 34 shall apply to delegated acts adopted pursuant to ***paragraph 1.***

Article 28
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 26(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 **■** competent authorities of *their respective Member State 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 26(3).

Article 29
Release for free circulation or export

1. Where the release for free circulation or the export of a product has been suspended in accordance with Article 28, 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 30

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 28 is a product made with forced labour pursuant to a decision referred to in Article 20, they shall require customs authorities not to release it for free circulation nor to allow its export.
2. Competent authorities shall immediately enter that information in the information and communication system referred to in Article 7(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) .../...’ [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 **dispose of** the product concerned **█** in accordance with national law *in compliance* 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 25.***

Article 31

Exchange of information and cooperation

1. To enable a risk-based *analysis* 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, *the Commission*, competent authorities and customs authorities shall cooperate closely and exchange risk-related information, *in which the Commission will take on a coordination role*.
2. Cooperation among authorities and exchange of *risk-related* 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 ■ .

Chapter VI

Final provisions

Article 32

Confidentiality

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

3. Paragraph 2 shall not preclude the Commission from disclosing general information in a summary form, provided such general information does not contain any information which allows the identification of the provider of the information. Such disclosure of general information in a summary form shall take into account the legitimate interest of the parties concerned in preventing the disclosure of confidential information.

Article 33

Exercise of the Delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 27(1) shall be conferred on the Commission for an indeterminate period of time from ... [date of entry force of this Regulation].
3. The delegation of power referred to in Article 27(1) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making³⁶.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

³⁶ 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 27(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 34

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.
2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 33(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

Article 35

Committee procedure

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

Article 36
Amendment to Directive (EU) 2019/1937

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

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

Article 37
Penalties

1. **█** Member States shall lay down the rules on penalties applicable to non-compliance with a decision referred to in Article 20 and shall take all measures necessary to ensure that they are implemented in accordance with national law.
2. The penalties provided for shall be effective, proportionate and dissuasive. **Competent authorities shall ensure that the penalties referred to in paragraph 1 give due regard to the following, as applicable:**
 - (a) the gravity and duration of the 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.*
3. **█** Member States shall, by ... [24 months from the date of entry into force of this Regulation], notify **█** the Commission **of those rules and of those measures**, and shall notify it, without delay, of any subsequent amendment affecting them.

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

Article 38

Evaluation and review

1. *By 2 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, the Council and to the European Economic and Social Committee. The evaluation shall in particular include an assessment of:*
- (a) whether the mechanism in place effectively contributes to the objectives of the Regulation, as set out in Article 1, namely the elimination of products made with forced labour from the internal market and the contribution to fight forced labour;*
 - (b) the cooperation between competent authorities, including within the Network, as well as all other relevant authorities in applying the Regulation;*
 - (c) the effectiveness of international cooperation to contribute to the elimination of forced labour from global supply chains;*
 - (d) the impact on businesses, and in particular on SMEs, including on their competitiveness of the procedures related to the investigations and decisions;*
 - (e) the cost of compliance for economic operators, and in particular for SMEs;*
 - (f) the overall cost-benefit and effectiveness of the prohibition.*

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

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

Article 39

Entry into force and date of application

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

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

However, Articles 5(3), 7, 8, 9(2), 11, 33, 34, 35 and 37(3) shall apply from ... [date of entry into force of this Regulation].

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

Done at ...,

For the European Parliament

For the Council

The President

The President
