

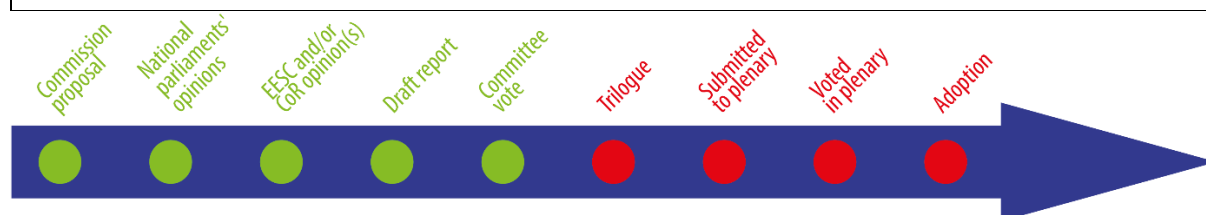
Proposal for a ban on goods made using forced labour

OVERVIEW

On 14 September 2022, the Commission proposed a regulation to ban products made using forced labour, including child labour, on the European Union (EU) internal market. The proposal covers all products made available on the EU market, whether made in the EU for domestic consumption and for export, or imported. It covers products of any type, including their components, from all sectors and industries. EU Member States would be in charge of enforcing its provisions, and their national authorities would be able to withdraw products made with the use of forced labour from the EU market. Customs authorities would identify and stop such products at EU borders.

In the European Parliament, the file has been jointly referred to the IMCO and INTA committees. Their joint report on the proposal was adopted in October 2023 and was confirmed as Parliament's position for the trilogue negotiations during the November I plenary session.

Proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market		
<i>Committee responsible:</i>	Committee on the Internal Market and Consumer Protection (IMCO), Committee on the International Trade (INTA)	COM(2022) 453 final 2022/0269(COD)
<i>Rapporteur:</i>	Maria-Manuel Leitão-Marques (S&D, Portugal)	Ordinary legislative procedure (COD) (Parliament and Council on equal footing – formerly 'co-decision')
<i>Shadow rapporteurs:</i>	Rafaela Samira (Renew, the Netherlands) Krzysztof Hetman (EPP, Poland), Jörgen Warborn (EPP, Sweden) Raphaël Glucksmann (S&D, France) Svenja Hahn (Renew, Germany), Anna Cavazzini (Greens/EFA, Germany), Saskia Bricmont (Greens/EFA, Belgium) Alessandra Basso (ID, Italy), Michiel Hoogeveen (ECR, the Netherlands), Kosma Złotowski (ECR, Poland), Anne-Sophie Pelletier (The Left, France), Helmut Scholz (The Left, Germany)	
<i>Next steps expected:</i>	Trilogue	



Introduction

Forced labour, including forced child labour, is still widespread across the world. The International Labour Organization (ILO) estimates that globally there are around 27.6 million people in a situation of forced labour, of whom 3.3 million are children.¹

The ILO Forced Labour Convention defines forced labour as 'all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily'.² It refers to situations in which persons are coerced to work either through the use of violence or intimidation, or by more indirect means such as manipulated debt, retention of identity papers or threats of denunciation to the immigration authorities.³

While the largest part of forced labour takes place in the private economy, some of it is imposed by government authorities. Forced labour exists in a big number of sectors; some economic activities, such as those in the services, textiles, mining and agriculture sectors, are particularly affected.

The present European Commission [proposal](#) builds on international standards and agreements as well as on EU commitments and existing legislation, for instance, on [combating human trafficking](#) and on [sanctions against illegal employment](#).

While there is EU legislation in force to combat forced labour, neither existing nor pending legislation includes a prohibition on placing and making available on the EU market products made with the use of forced labour. The new proposal would ban these products from the market.

Context

According to the [2021 Eurobarometer on social issues](#), nine in 10 Europeans consider a social Europe to be important to them personally. Fair working conditions were highlighted as one of the key issues, and 71 % of respondents saw a lack of social rights as a serious problem. With its proposal, the European Commission wants to step up efforts to ensure the respect of labour rights and other human rights, thus meeting citizens' expectations. The proposal follows up on the commitment made by Commission President Ursula von der Leyen in her 2021 [State of the Union](#) speech.

The proposal is equally in line with the [EU's 2020-2024 action plan on human rights](#), which identifies the eradication of forced labour and the implementation of international standards on responsible business conduct as a priority.

In July 2021 the Commission together with the European External Action Service (EEAS) issued forced labour business [guidance](#) explaining the practical aspects of due diligence and providing an overview of EU and international instruments on responsible business conduct that are of relevance to combatting forced labour.

Also linked to the subject of the proposal is a Commission communication of February 2022 on [decent work worldwide](#), which reaffirms the EU's commitment to decent work both within the EU and globally and sets out the internal and external policies the EU uses to fulfil its commitment.

Children's rights are a key focus of the Commission proposal. In this respect it abides by the EU Charter of Fundamental Rights, which explicitly prohibits child labour (Article 32). It is also in line with the 2021-2024 [EU strategy on the rights of the child](#), aimed at protecting and promoting the rights of children both in the EU and across the world. The proposal is also in tune with the Council-led [European Child Guarantee](#) initiative promoting equal opportunities for all children in the EU.

Other relevant international standards – such as the [UN Guiding Principles on Business and Human Rights](#) and the Organisation for Economic Co-operation and Development's (OECD) [Guidelines on Multinational Enterprises and Due Diligence](#) – cover responsible business conduct more generally.

Existing situation

At the international level, the Commission proposal ties in with the guiding principles of the ILO's [Convention 29 on Forced Labour](#) and [Convention 105 on the Abolition of Forced Labour](#), together with the [Protocol to Convention 29](#) and [ILO Recommendation 203](#). The eradication of forced labour by 2030 and child labour by 2025 is enshrined as a specific target of the UN [Sustainable Development Goals](#). The proposal is also in line with the EU's commitment to respect for human rights, as enshrined in the [Treaty on European Union](#), which binds the EU's activities to the EU [Charter of Fundamental Rights](#) and the [European Convention on Human Rights](#) (Article 6). The EU Charter of Fundamental Rights explicitly prohibits forced labour ([Article 5](#)), as does the European Convention on Human Rights ([Article 4](#)).

The proposed regulation is intended to complete the EU legislative framework on forced labour. Currently, the EU has several pieces of legislation in place to tackle forced labour, in particular Directive 2011/36/EU on [combating human trafficking](#) and Directive 2009/52/EC on [sanctions against employers of migrants in an irregular situation](#). In February 2022, the Commission submitted a proposal for a directive on [corporate sustainability due diligence](#) (CSDDD). All EU Member States have ratified ILO Convention 29 and are obliged to take measures against forced labour. However, no EU legislation empowers Member States' authorities to ban a product made with forced labour from the market.

The pending [CSDDD](#) proposal addresses companies' global value chains. While the proposed directive would require companies to remedy possible violations of due diligence obligations, it would not require Member States or companies to prohibit the placing and making available of any product on the market. The **proposed regulation on forced labour** would therefore complement these measures with an obligation that **specifically prohibits** the placing of products made with the use of forced labour on the EU market. Unlike the proposed CSDDD, the proposed regulation on forced labour would not introduce any specific requirements for companies to carry out due diligence on forced labour or any other human rights aspects. Businesses falling within the scope of the proposed CSDDD would need to address the risks of forced labour in their supply chain, in line with the obligations under the future CSDDD legislation, which may be sufficient to ensure that no forced labour is involved in their respective supply chains. For these companies, the current proposal would not place any additional compliance requirements as regards prohibiting products made using forced labour.

The two proposals also differ in their respective scope: while the proposed CSDDD covers both human rights and environmental aspects, the proposed forced labour regulation covers only one aspect of human rights. Moreover, not all obligations for due diligence included in the CSDDD proposal are necessary to address forced labour risks.⁴

Following the ratification of two ILO conventions – the Forced Labour Convention 29 and the Abolition of Forced Labour Convention 105 – by all EU Member States, most of them have developed national action plans for the implementation of the UN Guiding Principles on Business and Human Rights. Some Member States have adopted national due diligence legislation, others are considering such legislation.⁵

At the international level, the [United States](#) (US) for instance has taken a series of steps to strengthen its legislation and enforcement practice in the fight against forced labour. A recent prominent example is the Uyghur Forced Labour Prevention Act of 2021, which bans imports from the Xinjiang Uyghur Autonomous Region (XUAR) in the north-west of China.

Parliament's starting position

Several European Parliament resolutions have called for a ban on products made with forced labour. These are listed below.

- In a November 2010 [resolution on human rights and social and environmental standards in international trade agreements](#), Parliament urged the Commission to table a proposal for a regulation banning the import into the EU of goods produced with the use of modern forms of slavery, forced labour, especially forced labour of particularly vulnerable groups, in violation of basic human rights standards.
- In a June 2022 [resolution on a new trade instrument to ban products made by forced labour](#), Parliament called for cooperation with partners who support ending forced labour globally and banning goods made by forced labour.
- In a March 2021 [resolution regarding sustainable and responsible corporate behaviour](#), the Parliament called for a ban on importing products related to severe human rights violations such as forced or child labour. It also stressed that the objective of combating these practices must be included in all EU free-trade agreements.

Furthermore, the Parliament has adopted resolutions on specific issues related to forced labour. These include its resolution of December 2021 [on forced labour in the Linglong factory](#) in Serbia; another one of December 2020 [on forced labour and the situation of the Uyghurs in Xinjiang](#); and a third one of February 2020 [on child labour in mines in Madagascar](#).

Preparation of the proposal

The Commission deems the adoption of a regulation as necessary to avoid obstacles to the free movement of goods in the internal market, and to prevent possible distortions of competition caused by diverging national laws.⁶ The proposal is therefore based on Articles 114 and 207 of the [Treaty of the Functioning of the European Union](#) (TFEU), which lay down the principles of the functioning of the internal market and of the common commercial policy respectively.

Many stakeholders consulted for input on the proposal questioned the absence of a dedicated impact assessment, which the [Commission](#) justified with the need for urgent action and time constraints. The Commission referred instead to evidence collected in the impact assessments carried out in relation to other proposals, such as the one on the CSDDD and the one on sustainable products. Furthermore, analyses and supporting evidence are presented in a separate [staff working document](#).

The changes the proposal would bring

The proposed regulation would complete the existing EU legislative framework on forced labour mentioned above, insofar as it would provide the legal basis to prevent a product made with forced labour from being placed or made available on the EU internal market or exported from the EU (Article 3 of the proposal). Consequently, the proposed regulation would have a direct impact on the EU's trade and export policy.

It is expected that the ban would contribute to international efforts to eradicate forced labour and to protect workers' and children's rights. Consumers could have greater confidence that the goods they buy have been made in full respect of human rights. For businesses, the proposal would help to facilitate social sustainability and to increase public trust and credibility among customers.

Member States

Member States' authorities would be responsible for enforcing the regulation. The Commission proposes a combined approach, with Member States ensuring the effective surveillance of their respective national markets and the Commission providing accompanying measures to ensure coordinated implementation at EU level.

Member States would be required to appoint one or more competent authorities to handle the tasks set out in the proposed regulation (Article 12). These authorities would have to follow a risk-based

approach (Article 4) focused on products, companies and places where the risks of forced labour are most prevalent and where the impact is likely to be the strongest. The emphasis will thus likely be on businesses at early stages of the value chain (importers, manufacturers, producers and product suppliers).

The authorities would be asked to start investigations on products for which there is well-founded suspicion that they have been made with the use of forced labour (Article 5). Should they find evidence justifying this suspicion, they would take a decision to order the withdrawal of the products already placed on the market, prohibit their placement on the market, or prohibit their export. The decision would be communicated to the company concerned, which would be obliged to dispose of the products in question (Article 6). The authorities' decision would also have to be communicated to the national customs authorities (Article 15), which should then prohibit the release for circulation or export of the products concerned (Article 17). Customs authorities would also take measures to ensure that the products concerned are disposed of in accordance with national and EU legislation (Article 20). The national authorities would be obliged to inform the Commission, as well as the other Member States, of their decision (Article 9).

Industry

All businesses making products available on the EU market or exporting products from the EU would be covered by the new rules.

The Commission sets a minimum threshold for the volume and/or value of products below which no investigation would be launched. As such a threshold would exempt small and medium-sized enterprises (SMEs) from the new measures, the Commission deems such an exemption likely to jeopardise the effectiveness of the proposal and create legal uncertainty. The proposal therefore envisages specific measures for SMEs: before initiating a formal investigation, competent authorities would for instance consider the size and resources of the economic operators concerned, as well as the scale of the risk of forced labour. All companies would receive guidelines, giving for instance advice on where and how to detect forced labour in their supply chains. SMEs would benefit from additional support tools.

Companies would be required to dispose of the goods in question and bear the costs of disposal. Companies failing to comply with the decision of a Member State under the proposed regulation would face penalties under national law.

Role of civil society

Information regarding alleged violations of Article 3 of the proposed regulation could also be submitted to the competent authorities by private persons or associations.

Cooperation between the Member States and the Commission

In view of an effective cooperation between the Member States' authorities and the Commission, a new platform, the EU Forced Labour Product Network, would be established.

The Commission would support Member States by providing a public database of forced labour risks in specific geographic areas or with respect to specific products including with regard to forced labour imposed by state authorities. Decisions taken by a national authority in one Member State would be recognised in other Member States (Article 14).

The proposal envisages the adoption of delegated and implementing acts. Delegated acts would supplement the legislative act, specifying in particular certain information to be made available to customs authorities, for instance, regarding the products and product groups but also the manufacturers and suppliers that are subject to the provisions (Article 16). Acting by a majority of its Members, Parliament can object to the delegated act, in which case it would not enter into force.

Implementing acts would be designed to ensure uniform conditions for the implementation of the regulation. These acts would in particular specify the procedural rules and implementation details (Article 22), as well as the details of the information to be included in the decisions of the competent authorities (Article 7). Parliament may oppose a draft implementing act, in particular if it considers the Commission's powers are exceeded or the act is not compatible with the aim of the basic legal act. However, Parliament has no power to block an implementing act.

The proposal entails enforcement costs for public authorities and compliance costs for businesses.

Advisory committees

The [European Economic and Social Committee](#) (EESC) adopted its opinion on the proposal on 25 January 2023. The EESC welcomes the Commission's proposal, while stressing that the ratification of the 2014 Protocol to the ILO Forced Labour Convention of 1930 by all EU Member States is crucial. While acknowledging that the Commission mentions forced child labour in the proposed regulation, the EESC points to the need for a corresponding EU legislative initiative based on existing ILO conventions to combat all other forms of child labour. The EESC states that organised civil society has a central role to play in combating all forms of forced or compulsory labour, and highlights the importance of transparency and open access to information for companies, competent authorities, organised civil society and the general public. The EESC proposes to introduce a benchmarking system as part of the database of forced labour risks areas or products. It 'asks the Commission to study the feasibility of a public EU rating agency for environmental and social sustainability, as well as human rights in the business context', and calls for EU support for a binding UN treaty on business and human rights, and for consideration to be given to a possible ILO convention on decent work in supply chains.

National parliaments

The deadline for national parliaments to complete their subsidiarity checks was 1 December 2022. The Czech Senate and the Czech Chamber of Deputies, the German Bundesrat, the Polish Sejm and the Spanish Parliament have all submitted [opinions](#) on the Commission proposal.

Stakeholder views⁷

[Business Europe](#) (BE), an organisation representing European enterprises, generally welcomes the Commission proposal. However, the organisation seeks further clarity on certain elements of the proposal and raises some broader concerns. In particular, BE sees some overlaps between the proposed regulation and the CSDDD and would like to know how the two acts will work together in practice, in particular in view of avoiding duplication and unnecessary administrative costs for companies. The association also raises concerns regarding a possible fragmentation of the single market, given differences in Member States' approaches to implementation and enforcement. Furthermore, the association questions the proposed timelines for companies, as well as the proportionality in some cases. It also highlights possible implications for international trade partners and requests further explanations and a timely publication of guidelines.

A broad range of [civil society organisations](#), coalitions and trade unions signed a Civil Society Statement on the proposed regulation. While welcoming the regulation in principle, the signees consider the Commission's proposal insufficient. They criticise in particular the fact that the workers' fate is not taken into account. They also demand amendments ensuring that workers' views and interests are considered at all stages of the investigation and decision processes. The organisations also find it regrettable that the burden of proof would be placed entirely on the Member States' competent authorities and ask the co-legislators to seek alternatives to the destruction of goods. They also criticise the lack of remediation measures for affected workers and highlight ambiguities regarding the proposal's enforcement, insisting among other things that companies map and publicly disclose their suppliers, sub-suppliers and business partners throughout their value chains.

Legislative process

The legislative proposal (COM(2022)453) was presented on 14 September 2022. It falls under the ordinary legislative procedure (2022/0269(COD)). In the European Parliament, the file was assigned jointly to the Committee on the Internal Market and Consumer Protection (IMCO) and the Committee on International Trade (INTA), as per Rule 58 of the Rules of Procedures (joint committee procedure). Maria-Manuel Leitão-Marques (S&D, Portugal) was appointed co-rapporteur for IMCO, while Rafaela Samira (Renew, the Netherlands) was appointed co-rapporteur for INTA.

As associated committees, the Committee on Foreign Affairs ([AFET](#)), and the Committee on Employment and Social affairs ([EMPL](#)) each provided an opinion; the Committee on Development ([DEVE](#)), the Committee on Fisheries ([PECH](#)), and the Committee on Legal Affairs ([JURI](#)) also provided their own opinions.

Parliament report

On 16 October 2023, the IMCO and INTA committees adopted their joint [report](#) with 66 votes for, 0 against and 10 abstentions. The report, together with the committees' decision to enter into interinstitutional negotiations, were announced in plenary (Rule 71) during Parliament's November I plenary session; no objection was raised, and the report now constitutes Parliament's position for the trilogue negotiations.

The report aligns the definition of 'forced labour' (Article 2) to the ILO standards and adds to it the following wording: '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 or herself voluntarily'. The report strengthens the role of the Commission in investigations (Articles 4 and 5) and tasks the Commission with calling upon external expertise to provide a database of geographical areas and economic sectors at high risk of using forced labour (Article 11). For products in specific economic sectors in specific geographic area where high risk of state-imposed forced labour has been identified, the burden of proof would be reversed: companies would have to prove that they have not violated the rules and have performed the required diligence actions (Article 5).

Where rules have been violated, the economic operators (those involved in the value chain of the products) should recycle the products or (if perishable) donate them to charitable organisations; if neither is possible, only then should they dispose of the products (Article 6). Products that have been removed from the market would be allowed to re-enter it only after the company demonstrates it has stopped using forced labour in its operations or supply chain and has remedied any relevant cases (Article 6). The report seeks to ensure a more efficient information exchange by asking the Commission to set up a dedicated centralised mechanism for submission of information (Article 10) and to provide guidance to economic operators, with a particular focus on assisting SMEs and economic operators falling outside the scope of the proposed CSDDD (Article 23), to ensure their compliance with the proposed regulation.

Next steps

In the Council, the Working Party on Competitiveness and Growth is working on the file. Once the Council has adopted its position, trilogue negotiations can start.

EUROPEAN PARLIAMENT SUPPORTING ANALYSIS

[Forced labour and child labour](#), Citizens' Enquiries Unit, EPRS, November 2022.

[External policy tools to address modern slavery and forced labour](#), Policy Department for External Relations, Directorate General for External Policies of the Union, May 2022.

Grieger G., [US approach to preventing imports of goods made using forced labour](#), EPRS, January 2022.

Bakowski P. et al., [Understanding EU action against human trafficking](#), EPRS, May 2021.

Zamfir L., [Towards a mandatory EU system of due diligence for supply chains](#), EPRS, October 2020.

OTHER SOURCES

European Parliament, [Prohibiting products made with forced labour on the EU market](#), Legislative Observatory (OEIL).

ENDNOTES

- ¹ Global Estimates of Modern Slavery: Forced Labour and Forced Marriage, International Labour Organization, September 2022, p. 2.
- ² International Labour Organization Convention 29 on Forced Labour.
- ³ The convention has been ratified by 59 states parties to the ILO, meaning that following its entry into force on 9 November 2016, these states are legally obliged to respect its provisions and regularly report on them to the ILO's standards supervisory bodies.
- ⁴ Commission staff working document, p. 34.
- ⁵ *ibid.*, p. 17.
- ⁶ According to the Commission, several Member States have announced the need to adopt legislation to ban products made with the use of forced labour from their markets. These national laws are likely to diverge and would, as a consequence, affect the movement of goods within the internal market.
- ⁷ This section aims to provide a flavour of the debate and is not intended to be an exhaustive account of all different views on the proposal. Additional information can be found in related publications listed under 'European Parliament supporting analysis'.

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