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Proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market.

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Responsible Business Webinar

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Background- 1

- On 14 September 2022, the European Commission published its proposal on prohibiting products made with forced labour from entering or leaving the EU market. The proposal has been co-led by DG GROW and DG Trade.
- Forced labour, including forced child labour, continues to be a major global issue, with the ILO estimating the global number of people in a situation of forced labour at around 27.6 million (c.12m women and girls, 3m children- source: *The Economics of Forced Labour*, ILO, 2024)
- c.93% of suspected cases outside EU
- Forced Labour includes coercion, systematic withholding of wages, threats of physical/sexual abuse, paying down of recruitment fees (migrant workers)

Background- 2

- The objective of this proposal is to effectively prohibit the placing and making available on the EU market and the export from the EU of products made with forced labour (Product ban)
- Broad scope: all companies and all products that are imported or made within the EU as well as exports, including their components regardless of industry or geographical location.
- Will not target specific countries (country-neutral), companies or industries, but rather to effectively ban the selling of forced labour goods in the EU, irrespective of the source.

Where is the Proposal now/Timelines

- From September 2022- 16 Working Party Meetings composed of Commission Services and Member State experts and 4 Compromise Texts.
- At second trilogue on 4th March 2024 the Council, Commission and European Parliament reached a provisional deal on the regulation.
- The agreement has subsequently been referred on and approved by the Committees on International Trade and Internal Market and Consumer Protection within the European Parliament, as well as the plenary session of the European Parliament on 23rd April (555 for, 6 against, 45 abstentions).
- Final regulation expected to be brought before new EP in September for final approval, after which it will be published in Official Journal and enter into force.
- Member States and the Commission will have 3 years (36 months) to implement the regulation in its entirety (1 year in which to designate National Competent Authority)

Main Features- 1

- 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.
- Alignment with the EU's efforts in the area of forced labour and modern slavery
- To ensure an effective allocation of investigations between Member State competent authorities (i.e. the bodies tasked with implementation/enforcement) and the Commission, Art. 15 outlines an 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 (93% of cases), the Commission will lead investigations/field inspections.
- Where the suspected forced labour is taking place in the territory of a Member State, the competent authority of that Member State will lead on the investigation.
- At national level, enforcement of the regulation will rest on cooperation between labour inspectorates, market surveillance bodies and customs authorities

Main Features- 2

- Risk based approach to investigations- to be focussed on economic operators and where relevant product suppliers involved in steps of supply chain as close as possible to where the forced labour likely occurs and with highest leverage to prevent, mitigate, and bring it to an end
- Lead competent authorities to take into account size and economic resources of economic operators, in particular whether economic operator an SME, and complexity of supply chain
- Following decision- economic operators subject to investigation to withdraw products from market or remove content from online interface, dispose or replace products concerned
- Where economic operators comply- decision withdrawn and removed from Forced Labour Single Portal
- Penalties for non-compliance, reflecting gravity and duration of infringement, previous infringements, degree of cooperation

Main Features- 3

- To ensure a uniform application of a decision taken by one Member State throughout the Union market, the principle of mutual recognition applies.
- A decision taken by a competent authority in one Member State will be recognised by all other Member States, through a union wide product ban.
- To assist national competent authorities in enforcing the regulation, and for raising awareness/providing guidance to businesses- database to be established and managed by the Commission, with the assistance of external expertise if need be.
- To contain independent and verifiable information from international, institutional, research or academic organisations, in particular the ILO, UN

Support Measures for Business

- Commission to develop measures to support economic operators and business partners in same supply chain
- Commission, in consultation with relevant stakeholders, to make available and regularly update guidelines for economic operators on due diligence in relation to forced labour, for economic operators on best practices for bringing to an end and remediating different types of forced labour
- Guidance to be focussed in particular on assisting SMEs in complying with the regulation
- National Competent Authorities to designate contact points to provide information to SMEs for matters related to application of the regulation; assistance may also be provided
- National Competent Authorities may also organise training for economic operators on risk indicators and how to engage in dialogue with authorities throughout an investigation