

Eurochambres position on the EC proposal for a regulation on prohibiting products made with forced labour on the Union market

The European chamber network is committed to sustainable and responsible economic activity, that fully respects human rights, including the prohibition of forced labour. In this sense we welcome the Commissions intention to eradicate forced labour and have taken due note of the proposed regulation. Based on our initial assessment, Eurochambres has made some initial recommendations.

1. Executive summary

The EU Commission's proposal to ban products made with forced labour from the Union market imposes new compliance obligations on companies, including SMEs in an effort to eradicate forced labour. procuring goods from outside the EU. In this sense we welcome the Commissions intention to eradicate forced labour and have taken due note of the proposed regulation. However, it contains some key weaknesses that the remain to be addressed such as the absence of a careful impact assessment, including on the impact on SMEs and ensuring consistency and coherence with existing EU regulatory acts, in particular the Corporate Sustainability Due Diligence initiative.

2. Why chamber network considers the EC proposal for a regulation on prohibiting products made with forced labour on the Union market relevant

The European chamber network is committed to sustainable and responsible economic activity, that fully respects human rights, including the prohibition of forced labour. The proposed Regulation to ban placing products made with forced labour on the EU market will impact SMEs in Europe who are not aware of the potential use of forced labour in a given supply chain.

3. Summary of Eurochambres' main messages

- In terms of procedure, Eurochambres recognizes that the Commission took into account relevant international studies (ILO, OECD) in the design of the proposal, but we regret the fact that no dedicated impact assessment has been published prior to the publication of the proposal. Impact assessments are an integral part of the EU's better regulation agenda, and a cornerstone for evidence-based policy making, which the Commission ought to adhere to. We therefore call on the European Commission to publish a dedicated impact assessment before the regulation enters into force, detailing, the impact on SMEs, and whether existing legislation and measures would not be able to address the problem at hand sufficiently.
- In terms of content, overall, we strongly welcome the Commission proposal to place the burden of proof for establishing violations on the competent authorities in Member States, and not to delegate that task to European companies and SMEs, who in times of a major economic slowdown, are already facing increased compliance

requirements from EU and national legislators.

- We also believe it is essential that any new legislative measure on forced labour is consistent and coherent with regulatory acts that have already been presented by the European Commission, in particular the Corporate Sustainability Due Diligence initiative. As it stands, the proposed measure by the EC would pose significant burdens on European companies, regulating conditions which are very often outside the direct control of our companies (tier I), due to the very the complex nature of today's global supply chains.
- With respect to forced labour, there is also a wide array of existing legal frameworks in Europe for combatting the problem. All EU member states have ratified the fundamental ILO conventions on forced labour and child labour. In addition, the EU actively supports the fight against forced labour in its trade policy, both in unilaterally and through its trade agreements with third country partners. There are also comprehensive multilateral due diligence undertakings such as the OECD Guidelines and OECD Guiding Principles as well as the United Nations Guiding Principles. Especially, and as mentioned, next to existing legislation at national level, a proposed new EU directive on Corporate Sustainability and Due Diligence is currently undergoing the legislative process and would require companies to act responsibly not only in terms of labour and environmental questions, but also on the essential question of human rights.
- In view of this, we believe a general framework at EU level can provide coherence to the different national initiatives, yet it must be made sure that this instrument does not create further red tape and administrative burdens to enterprises, especially SMEs and MSME's and is fully consistent with already proposed relevant EU legislative action.
- Furthermore, we believe guidelines for economic operators (Art 23) and the database of forced labour risk areas/products (Art 11) which are to be established by the European Commission, must be ready and publicly accessible by the entry into force of the regulation, not 18 or 24 months thereafter. This is all the more important, as the current proposal does not foresee an SME exclusion, but instead requires a risk-based investigation by the competent authorities to which our economic operators must be able to respond within 15 working days.
- Moreover, we see the need for further clarifications in the proposed regulation, on the interaction of economic operators with competent authorities in the member states. This includes the procedure for establishing the closeness to where the risk of forced labour is taking place, the procedure for submitting a claim alleging a forced labour violation by natural or legal persons or associations not having legal personality (Art 4 a), as well as establishing a concrete timeframe for competent authorities to issue a final decision on an investigation (Art 6 (1)), which we would suggest to be 30 working days in line with the timeframe proposed for authorities to complete the preliminary investigation. To this end, it is necessary to provide national enforcement authorities with clear guidelines and resources to effectively monitor and enforce the proposed Regulation. Technical support should be granted to the business community to help them cope with the legislation. In order to do so, we believe, the EU needs a conceptual framework for common risk assessment as well as clear guidelines on implementation, avoiding duplication of bureaucracy and leading

towards the simplification of procedures, when possible.

- Additionally, mechanism should be set up allowing economic and social partners to participate in the future implementation process at all levels of the supply chain.
- Lastly, in terms of sanctions (Article 30) we would like to stress the need to incentivize compliance, (i.e., through positive rewards). At the same time, when sanctions are imposed, we believe it will also be necessary to incorporate provisions that are proportionate and reflect nuances in terms of the involvement of an economic operator in forced labour. Consequently, this should be reflected in the varying type of recommendations or sanctions imposed by the competent authorities.



Eurochambres, the Association of European Chambers of Commerce and Industry represents over 20 million businesses in Europe through 45 members (43 national associations of chambers of commerce and industry and two transnational chamber organisations) and a European network of 1700 regional and local chambers. More than 93% of these businesses are small and medium sized enterprises (SMEs).

More info and previous positions on: <https://bit.ly/ECHPositions>

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