



Statement on the proposed regulation prohibiting products made with forced labour (FLR) on the Single Market

The undersigned associations and their members condemn the use of forced labour, which has no place in the supply chains of European products. We support the Union's objectives and want to ensure that the new legislation is workable and effective. Our members endorse a proportionate, risk-based approach under the international frameworks such as the UN Guiding Principles on Business and Human Rights and the International Labour Organization Tripartite Declaration and Standards that allows companies to prioritise their due diligence efforts and respect the principle of responsible disengagement.

We call on co-legislators to carefully consider the following four recommendations:

1) Union interest and governance: increasing the role of the Commission

We support proposals for a more central role for the European Commission in pre-investigation and investigation phases, as proposed by the Council and the European Parliament, including for the Commission to render the final decision, in line with the Council's position. This would not only help to ensure a fair and balanced distribution of submissions but would also add a resource to investigate forced labour claims. Central governance and coordination would be particularly relevant regarding Union interest products from critical sectors and technologies and to avoid disruption of critical supply chains.

2) No reversal of the burden of proof

The proposal of the European Parliament to reverse the burden of proof for high-risk geographic areas is highly concerning and should bear a weight in negotiations proportional to its potentially severe negative impacts on industry and targeted areas. This approach risks incentivising disengagement as it discourages companies from continued engagement with suppliers in good faith, thereby removing any leverage to improve conditions on the ground and mitigate adverse impacts. A withdrawal of economic operators from targeted areas would have severe socio-economic

consequences for our companies, the EU and local communities in high-risk and affected areas. Companies should be able to continue to engage and help lift up affected communities.

In addition, reversing the burden of proof would create disproportionate administrative burden for companies when dealing with product origin verification without providing clear exculpation for compliant products.

Consequently, we recommend following a 'suspend-and-engage' approach aligned with other due diligence standards in the FLR.

3) Focus on a workable and effective mechanism instead of a litigation-oriented framework

The FLR should ensure that investigations are only initiated in case of substantiated concerns and based on evidence and a risk-based approach. In finalising the FLR, negotiators should focus on effective mechanisms, avoid legal uncertainty and increased administrative burdens, while minimising any risks of spurious or unsubstantiated claims. Moreover, to ensure the effectiveness of the mechanism, sufficient time should be given to companies to provide all the information requested by authorities, while taking into account the complexity of supply chains. Channels of communication between the company and the competent authority should always remain open to ensure that at any time, where the suspicions have been lifted or the violation has been adequately mitigated, the investigation may come to an end.

We support the concept of remediation based on an obligation of means and anchored in international due diligence guidelines. Remediation cannot be formulated as an obligation of result, as in many cases companies may not be able to fully remediate victims in third countries, which are often places without rule of law, or will not be able to assure that remediation has taken place. A decision to lift the ban should therefore not be subject to remediation.

4) Ensure policy coherence

We urge EU regulators to ensure policy coherence with existing EU and international responsible business conduct initiatives, in particular the Corporate Sustainability Due Diligence Directive and the Corporate Sustainability Reporting Directive. To avoid conflicts between international standards and the FLR, due diligence efforts of companies should be considered in the pre-investigation phase and disengagement should remain a measure of last resort.

In addition, consistency with circular economy objectives is key; negotiators should focus on the ban of the particular component(s) found to be non-compliant and consider how such components may be removed from and disposed of in a complex product. This would help to focus on the specific supply chain entities involved and

would be proportionate, considering the cost, waste and environmental impact related to disposing of an entire product.

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List of signatories

AmChamEU – American Chamber of Commerce to the European Union,

<https://www.amchameu.eu/>

CLEPA – European Association of Automotive Suppliers,

<https://clepa.eu/>

DIGITALEUROPE,

<https://www.digitaleurope.org/>

ESIA – European Semiconductor Industry Association,

<https://www.eusemiconductors.eu/esia/about-esia>

EuroCommerce,

<https://www.eurocommerce.eu/>

EUROMETAUX,

<https://eurometaux.eu/>

FESI – Federation of the European Sporting Goods Industry,

<https://fesi-sport.org/>

JBCE – Japan Business Council in Europe,

<https://www.jbce.org/en/>