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Trádála agus Fostaíochta
Department of Enterprise,
Trade and Employment

Public consultation on the proposal on prohibiting products made with forced labour on the Union market

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1. Overview

Introduction

The Department of Enterprise, Trade and Employment invites submissions to a public consultation on a proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market. DETE will represent Ireland at negotiations on the Commission's proposals over coming months and responses to the consultation will help inform our position at these negotiations.

Objective of the proposed regulation

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, including forced child labour. The prohibition will cover domestically produced and imported products. Building on international standards (for example, ILO Conventions) and framed as complementing existing horizontal and sectoral EU initiatives, in particular the [proposal for a Directive on Corporate Sustainability Due Diligence](#) (CSDDD), the proposal lays down a prohibition supported by a robust, risk-based enforcement framework. The forced labour proposal is cross-cutting covering trade, customs and internal market, while aligning to international standards and other EU initiatives. The scope is very broad covering all companies (including SMEs) and all products that are imported or made within the EU as well as exports, including their components regardless of industry or geographical location. The provisions also apply to the entire supply chain.

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. Combating forced labour and promoting responsible business practices are priorities of the EU's agenda on business and human rights. The EU is already very active in promoting decent work and freedom from forced labour through a variety of internal and external policies, and international partnerships, including in the ILO, World Trade Organization (WTO) and G7. For instance, the EU Charter of Fundamental Rights explicitly prohibits forced labour, and the EU has a several pieces of legislation in place or in preparation that address this issue (for example, Directive 2011/36/EU on human trafficking;

Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals or the Commission's proposal for a directive on corporate sustainability due diligence). Furthermore in 2021, the Commission and the European External Action Service issued [guidance](#) to assist EU businesses in taking appropriate measures to address the risk of forced labour in their operations and supply chains, based on international standards.

Forced labour takes place in many industries and in every continent in the world, including Europe. The majority of it takes place in the private sector, some of it is imposed by States. The aim of the proposal is not to target specific countries, companies or industries, but rather to effectively ban the selling of forced labour goods in the EU, irrespective of the source. Therefore, the proposal covers all products made available within the EU market, meaning both products made in the EU for domestic consumption and for export, as well as imported goods.

The continued existence of forced labour illustrates, however, the need for additional measures, also aimed at products. The Commission is therefore proposing to complement this set of existing and pending measures with legislation that specifically prohibits the placing of forced labour products on the EU market.

Key aspects of the proposed 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:

- EU Member States will be required to designate competent authorities responsible for implementing and enforcing the regulation, with the necessary powers and resources (Article 12 of the proposed regulation).
- The competent authority/authorities would be asked to follow a risk-based approach (Article 4), meaning that they should focus their efforts on products, companies and places where the risks of forced labour are most prevalent and where the impact is likely to be largest. The emphasis will thus likely be on businesses at early stages of the value chain (importers, manufacturers, producers, product suppliers).
- Private persons or associations can submit information to a competent authority/authorities of alleged violations of forced labour being used for investigation (Article 10).
- The competent authority/authorities would be asked to start investigations on products for which there are well-founded suspicions that they have been made

using forced labour (Article 5). Should they find evidence for these suspicions, they would take a decision to order the withdrawal of the products already placed on the market, and prohibit placing the products on the market, or exporting them.

- If the competent authority/authorities cannot gather all the evidence they require, for instance due to the lack of cooperation by a company or a non-EU state authority, they can take the decision based on the available facts.
- 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 product concerned (Article 17).
- Competent authorities will provide economic operators affected by the decision the opportunity to review the decision (Article 8).
- Customs authorities would also take measures to ensure that the product concerned is 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 State competent authorities of their decision (Article 9).
- The proposed regulation also provides for the creation of a database of forced labour risk areas or products (Article 11). Furthermore, a new platform (EU Forced Labour Product Network) will be created to ensure structured coordination and cooperation between competent authorities and the Commission (Article 24).
- The Commission will publish guidelines no later than 18 months after entry into force of this proposed regulation (Article 23).

Rationale and potential benefits

In putting forward this proposal, the Commission notes that social justice is an issue close to the heart of European citizens. There is therefore an expectation that the EU should act in order to ensure the respect of labour rights and other human rights.

Once the new regulation will be in force, European consumers will feel more confident that the products that they are buying have not been made using forced labour.

In the view of the European Commission, businesses will benefit from increased public trust and credibility to customers, as well as lower reputational and brand risk. Social sustainability will be enhanced and a coherent set of rules across the EU will be easier for companies to follow.

2. Consultation questions

1. General views or comments on the proposed regulation
2. Is the proposed regulation an appropriate, proportionate and well targeted approach to ensure that products made using forced labour cannot enter or leave the European Union?
3. Does the proposed regulation capture all necessary elements to address forced labour?
4. Are there any additional objectives that should be included in the proposal? What are they?
5. How do you think the proposed regulation can be effectively enforced, for example, EU-wide competent authority, Member State competent authority/authorities?
6. How should economic operators be supported to meet their obligations under this proposed regulation?

3. Submissions

The Department of Enterprise, Trade and Employment welcomes submissions on this proposed regulation. Respondents are requested to note that it is the Department's policy to treat all submissions received as being in the public domain unless confidentiality is specifically requested. Respondents are, therefore, requested to clearly identify material they consider to be confidential and to place same in a separate annex to their response, labelled "confidential".

Where responses are submitted by email, and those emails include automatically generated notices stating that the content of same should be treated as confidential, contributors should clarify in the body of their emails as to whether their comments are, in fact, to be treated as confidential.

Respondents are requested to make their submissions in writing or by email. Submissions or questions regarding the consultation should be marked 'Proposed Forced Labour Regulation' and be sent by email to forcedlabour@enterprise.gov.ie or posted to:

Trade Compliance and Responsible Business Unit
Department of Enterprise, Trade and Employment
2nd Floor 1 Earlsfort Terrace Centre
Dublin 2
D02 PW01

The deadline for receipt of submissions is **5pm on Friday, 20 October 2023**.

Freedom of Information

Respondents' attention is drawn to the fact that information provided to the Department may be disclosed in response to a request under the Freedom of Information Acts. Therefore,

should you consider that any information you provide is commercially sensitive, please identify same, and specify the reason for its sensitivity. The Department will consult with any potentially affected respondent regarding information identified as sensitive before making a decision on any Freedom of Information request.