

VAN BAEL & BELLIS



Preparing for compliance with the EU Forced Labour Products Ban Regulation

| 3 May 2024

WHAT IS THE FORCED LABOUR PRODUCTS BAN REGULATION?

The [EU Forced Labour Products Ban Regulation](#) prohibits placing and making available on the EU market, as well as exporting from the EU, products made with forced labour. The ban applies if forced labour has been used in whole or in part at any stage of a product's extraction, harvest, production or manufacture, including working or processing related to a product at any stage of its supply chain. It applies to all products, including components, regardless of the sector and the origin, for which forced labour has been used, in whole or in part, at any stage of the supply chain. Products made with forced labour may be detained, seized, or withdrawn from the EU market.

WHAT IS FORCED LABOUR?

Forced labour is forced or compulsory labour, meaning work or services exacted from a person under the menace of a penalty, including forced child labour and forced labour imposed by state authorities. In defining forced labour, the Regulation refers to the ILO [Convention on Forced Labour No. 29](#) and [Convention on the Abolition of Forced Labour No. 105](#).

WHAT BUSINESSES ARE AFFECTED?

The forced labour products ban applies to any economic operator placing or making available products on the EU market or exporting products from the EU. In essence, any economic operator exporting from or importing in the EU, or distributing, consuming or using on the EU market (in the course of a commercial activity, whether in return of payment or free of charge) products made through forced labour must comply with the forced labour products ban. The ban also applies to online sales and other distance selling.

Economic operators will need to undertake due diligence to demonstrate that there are no forced labour risks in their supply chain.

HOW WILL THE FORCED LABOUR PRODUCTS BAN OPERATE?

Both the Commission and Member State competent authorities will have powers to investigate the forced labour products ban. The Commission will act as the lead competent authority if the suspected forced labour is taking place in third countries. Member State competent authorities will be in charge of suspected forced labour taking place within the EU.

The Commission will establish a publicly accessible single information submission point to receive information about alleged instances of forced labour. It will also create a database with indicative information on forced labour risks in specific geographic areas or with respect to individual products or product groups.

During the *preliminary phase* of an investigation, economic operators will need to provide, within 30 working days, information on their due diligence actions taken to identify, prevent, mitigate, bring to an end or remediate the risks of forced labour in their operations and supply chain. Within 30 working days from receiving that information, the lead competent authority must establish whether there is a substantiated concern of a violation of the forced labour products ban.

If there is a substantiated concern, the lead competent authority must *initiate an investigation* in respect of the product(s) and the economic operator(s). The economic operators under investigation must be informed, within 3 working days from the decision initiating an investigation, of the scope and underlying reasons of the investigation, the possibility to submit information and the possible consequences. Economic operators have the right to be heard at any stage of the investigation. In exceptional situations, *field inspections* may be conducted if deemed necessary.

WHAT ARE THE POSSIBLE OUTCOMES OF AN INVESTIGATION?

When *no violation is established*, the lead competent authority must close the investigation and inform accordingly the affected economic operators. However, should new relevant information arise, the lead competent authority may launch a new investigation into the same products and economic operators.

When a violation is established, the lead competent authority will order the withdrawal and disposal (e.g. recycling, donation or destruction) of the products made through forced labour. Separate rules apply to parts of a complex product and critical products.

The lead competent authority must complete the investigation (and adopt a decision) within 9 months from the date of its initiation. The Commission will adopt its decisions by means of implementing acts. Decisions taken by a competent authority of one Member State must be recognised and enforced across the EU. Administrative and judicial review of their decisions is available.

All decisions banning a product (and their withdrawal, if relevant) will be published in the Forced Labour Single Portal and will be taken into account in future investigations.

WHAT PENALTIES WILL APPLY IN CASE OF NON-COMPLIANCE?

Member State competent authorities will be in charge of ensuring that economic operators comply with a decision of the lead competent authority. Non-compliance will result in the application of penalties, according to the rules which will be established by Member States.

WHEN WILL THE FORCED LABOUR PRODUCTS BAN BECOME APPLICABLE?

The European Parliament formally [adopted](#) the compromise text on 23 April 2024. After the Regulation is formally adopted by the Council, it will enter into force on the day following its publication in the Official Journal of the EU. The Regulation will become applicable **36 months** from the date of its entry into force, meaning that the forced labour products ban will likely become applicable in Q2-Q4 **2027**.

For additional general information, please refer to our [Client Alert](#) of 15 September 2022, the [Client Alert](#) of 23 October 2023, and the [Client Alert](#) of 14 February 2024. If you have any questions on how to prepare for the implementation of the forced labour products ban, do not hesitate to contact VBB team.

Lawyers to contact



Isabelle Van Damme
Partner
ivadamme@vbb.com



Tetyana Payosova
Sr. Associate
tpayosova@vbb.com



Irene Salvatore
Associate
isalvatore@vbb.com

BRUSSELS

Glaverbel Building
Chaussée de La Hulpe 166
B-1170 Brussels, Belgium

Phone: +32 (0)2 647 73 50
Fax: +32 (0)2 640 64 99

GENEVA

26, Bd des Philosophes
CH-1205 Geneva
Switzerland

Phone: +41 (0)22 320 90 20
Fax: +41 (0)22 320 94 20

LONDON

Holborn Gate
330 High Holborn
London, WC1V 7QH
United Kingdom

Phone: +44 (0)20 7406 1471