

**2024
Edition**

**Factsheet 4:
EU Forced Labour
Regulation & Guidance**

An Apparel Supplier's Guide **2.0**

**Key Sustainability Legislation
in the EU, US, and UK**

EU Strategy for Sustainable and Circular Textiles
EU Corporate Sustainability Due Diligence Directive
EU Corporate Sustainability Reporting Directive
New York Fashion Act
EU Forced Labour Regulation & Guidance
US Uyghur Forced Labor Prevention Act
EU Ecodesign for Sustainable Products Regulation
EU Packaging & Packaging Waste Directive & Provisional Regulation
EU Microplastics Regulation
UK Plastic Packaging Tax
EU Product Environment Footprint Guide
EU Textiles Regulation
EU Taxonomy
The German Due Diligence in the Supply Chain Act
Lessons for Fashion: How the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices

Acknowledgements

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The Remedy Project is a social enterprise that works to improve access to justice and remedy for migrant workers in global supply chains. They work constructively with governments, civil society, law enforcement, and the private sector to translate the UN Guiding Principles on Business and Human Rights into practice. For more information please see www.remedyproject.co.

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Introduction

UPDATE

a. Objective

In July 2023 the first iteration of this guide covering, 12 pieces of legislation, was published. This document is an update to that guide and includes updates to the 12 factsheets issued last year as well as three additional factsheets covering new legislation not previously included.

This document is intended to enable suppliers in the apparel value chain that are established or headquartered outside of the Global North¹, or whose operations are based outside these jurisdictions or whose supply chains extend to the Global South, to better understand how sustainability-related legislation in the Global North could potentially impact them. While suppliers may not, in all cases, be directly subject to the obligations created by these Global North

laws, they may still experience knock-on effects as they form an integral part of the global apparel value chain and produce goods for multinational brands and retailers who have increasing compliance obligations as they adopt new practices in order to respond to the increased legislation. As such, this document aims to:

- Offer a public resource and roadmap for suppliers to proactively respond to and prepare for the requirements of these Global North laws.
- Provide a platform for dialogue and information exchange where suppliers and manufacturers can explore engagement (where possible) with policy makers in Global North jurisdictions.
- Support suppliers in delivering the fashion industry's social and environmental performance goals, and drive meaningful change for rights holders – whether workers, local communities, cotton farmers– globally.

b. Important legislative context to understand

As governments in the Global North embark on ambitious plans to transition towards climate neutrality, inclusive and sustainable growth, the body of sustainability legislation is expanding rapidly.

The European Union (EU) is at the forefront of these changes, introducing a plethora of legislative and non-legislative measures to implement priority policies such as the [European Green Deal](#). The European Green Deal is a cornerstone of the EU's industrial strategy, comprising a series of proposals to make the EU's climate, energy, transport, and taxation policies fit for reducing net greenhouse gas emissions by at least 55% by 2030, and to secure the global competitiveness and resilience of European industry². There are also sector-specific initiatives such as the EU Strategy for Sustainable and Circular Textiles, which aim to implement the commitments made

¹ For the purposes of this document, "Global North" encompasses the European Union, United Kingdom, and the United States.

² European Commission, [A European Green Deal](#)

under the European Green Deal (see infographic on the next page “**Snapshot of the Legislative Landscape in the Global North**”), by setting out measures to address the design and consumption of textile products, and promote a greener and fairer value chain in the textiles industry. The legislations covered in this document such as the EU Ecodesign for Sustainable Products Regulation and Digital Product Passport, EU Corporate Sustainability Due Diligence Directive, EU Regulation on Prohibiting Products Made With Forced Labour on the Union Market (Forced Labour Regulation), are only some of the initiatives taken by the EU to execute on the European sustainability policy objectives³.

These legislations create legally binding obligations on companies to consider how they are managing their social and environmental impact. Many of these laws and regulations have global application and/or will impact apparel manufacturing and sourcing hubs outside of the Global North. As such, while these laws originate from the Global North such as the EU, United Kingdom, and United States, they will impact companies operating outside of these jurisdictions. It is therefore a prescient

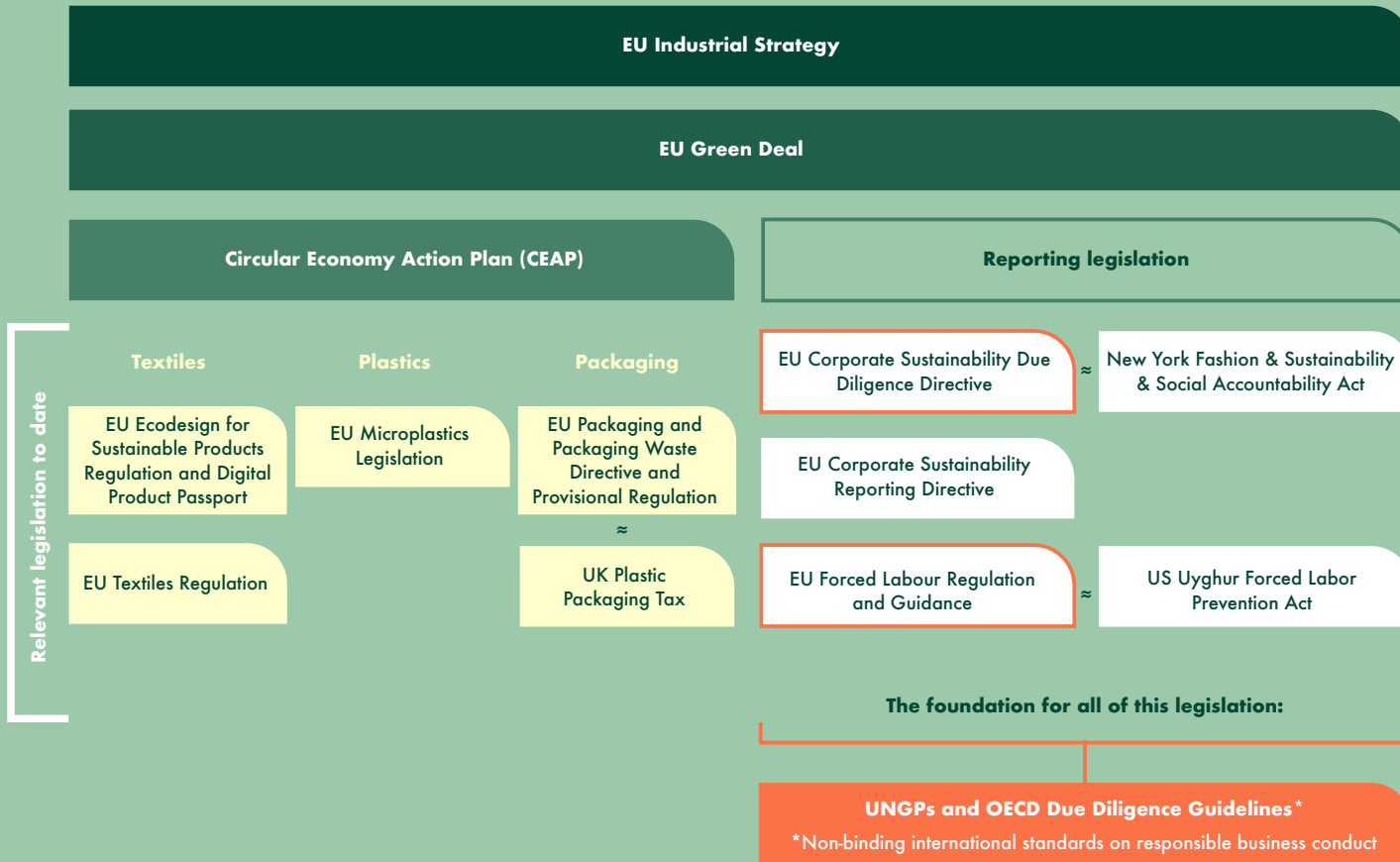
time for companies directly subject to these legislations, and for those who have business relationships with them, to align their sustainability policies and practices with these laws.

At a high level, these laws (especially those relating to mandatory human rights due diligence) can be collectively understood as a legal framework that translates elements of the United Nations Guiding Principles on Business and Human Rights (UNGPs) into binding legal obligations. The UNGPs represent the authoritative framework on how businesses should operationalize their commitments to human rights. As businesses are increasingly required to comply with different (and sometimes overlapping) laws in this area, it is The Remedy Project’s view that businesses that are able to operate in accordance with the UNGPs and other international frameworks such as the OECD Due Diligence Guidance for Responsible Business Conduct will be more successful in making this transition. Complying with the highest international standards could help future-proof business against future legislative changes and may also be more efficient from a process perspective. Furthermore, the Remedy Project sees a trend of many

brands upgrading their internal compliance and value chain requirements based on the UNGPs and international frameworks. Thus, complying with these international standards could help businesses position themselves to align with brands’ expectations and easily and effectively adapt to future legislative requirements, as well as satisfy the requirement of other business partners and customers. Instead of having to operate in accordance with different standards of compliance for each jurisdiction and each counterparty, the business can adopt a less fragmented, and thus less burdensome, approach to compliance. Of course, even if suppliers align with established international frameworks, different brands will continue to set varying detailed procedural requirements on their supply chain partners, particularly in the near future. We therefore continue to recommend that suppliers proactively work with brands and retailers on implementation to reduce the risk of multiple interpretations.

³ See for example the summaries of EU legislation on environment and climate change.

Snapshot of the Legislative Landscape in the Global North



Note * The legislations, regulations and directives in this diagram are not the complete set laid out under the umbrella strategies. Head to the [European Commission](https://ec.europa.eu/commission/press-room/detail/2023/07/eu-2023-12) website to learn more.

c. General implications for companies supplying apparel & beyond

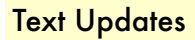
These legislative developments make clear that businesses will need to re-think the way they approach sustainability. This new era of legislation moves sustainability from “nice to have” to “must-have” and requires companies to implement human rights and environmental risk management practices. With this transition, we expect to see more cross-functional efforts to embed considerations of human rights and environmental impacts into business’ day-to-day operations and overall strategy. In this new landscape, in-house legal teams must work closely with procurement and sourcing, operations, product teams, and in-house sustainability experts to achieve compliance. There must also be executive and management level buy-in, and attention given to sustainability issues.

How to Use ● This Document

This document comprises a series of factsheets. For each legislation, the factsheet will cover the following topics on the right.

Updates to Factsheets will be identified by these indicators:

UPDATE 

 Text Updates

1. Key Changes

A summary of key changes to the legislation since August 2023.

2. Overview

A summary of the key aspects of the legislation.

3. Context

A description of the political context and policy objectives that the legislation seeks to address or achieve.

4. Status

Whether the legislation is in effect and if not, the current stage of the legislative procedure. If known, the expected timeline for implementation is also provided. For proposed EU legislation, users may find it helpful to refer to the [European Parliament's infographic](#) for information on the different stages of the EU legislative procedure.

5. Scope

This section sets out the types of companies or products that fall within the scope of the legislation. This may include, for example, an explanation of the thresholds that a certain company must meet for the legislation to apply. Our suggestion to suppliers is to start by identifying whether they are directly in-scope and, if so, review the obligations and compliance recommendations for companies in-scope (Sections 5 & 6). If a supplier has established that they are not directly in-scope, it is our suggestion that those suppliers review whether the brands for which they produce are in scope. If a supplier's customer is within scope, our suggestion is to review the potential implications for suppliers to companies in-scope (see Section 7).

6. Obligations for companies in-scope

A description of the duties and responsibilities that must be undertaken by the companies that are directly subject to the legislation.

7. Compliance recommendations for companies in-scope

Suggested recommendations for companies to prepare for compliance with the legislation (where the legislation is not yet in effect), or considerations for companies seeking to improve their compliance (where the legislation is already in effect). For the avoidance of doubt, these compliance recommendations do not constitute legal advice or opinion; companies should seek legal advice from attorneys concerning any specific situation or legal question they may have. Moreover, as the text of the laws in many cases remains subject to change, companies should refer to the most updated version of the legislation in developing their compliance strategy. The enforcement actions undertaken by the relevant regulator (once the law is in effect) will also determine the scope of compliance obligations.

8. Potential implications for suppliers to companies in-scope

In some instances, suppliers in the apparel value chain who are not directly subject to the concerned legislation, may still be impacted by the legislation as they supply to companies in-scope (i.e., a fashion brand or fashion retailer in-scope). These may include requirements around transparency and traceability, or obligations to undergo audits or obtain certifications. This section sets out the potential implications of the legislation for suppliers. For the avoidance of doubt, companies in-scope will approach compliance differently and many of the legislations covered in this document are in nascent stages of development. Moreover, the enforcement actions undertaken by the relevant regulator will also affect how companies in-scope respond to the legislation. As such, the guidance provided herein is only intended to represent our best estimates of the knock-on effects of the concerned legislation and is for informational purposes only.

9. Penalties for non-compliance

Where applicable or known, the penalties for companies in-scope that fail to comply with the legislation are set out.

10. Form of Enforcement

A description of the key forms of enforcement action that may be taken by the relevant authorities.

11. Reporting/disclosure for companies in-scope

An overview of the key information disclosure obligations (if any) for companies in-scope.

12. Access to remedy mechanisms and litigation risk

This section notes where the relevant legislation provides a right for legal action to be taken against a company for alleged non-compliance.

13. Opportunity to participate and engage in legislative development

Where applicable, opportunities to participate in public consultation.

14. Useful resources to support compliance

Links to third-party resources and guidance are provided for further detail on how companies in-scope may approach compliance and how suppliers or business partners to companies in-scope may prepare for cascaded compliance requirements.

Glossary

A glossary of key terms used in this document is set out below.

Brands: For the purposes of this document, this refers to a multinational company that is engaged in the business of offering branded apparel products.

Companies in-scope: Companies that are directly subject to the obligations set out in the relevant legislation.

Due Diligence: A process that businesses should carry out to identify, prevent, mitigate, and account for how they address the actual and potential adverse human rights or environmental impacts in their operations, their value chain and other business relationships.

EU Decision: A “decision” is binding on those to whom it is addressed (e.g., an EU country or an individual company) and is directly applicable.⁴

EU Delegated Act: A delegated act is an EU legislative mechanism to ensure that EU

laws that are passed can be implemented properly or reflect developments in a particular sector.

EU Directive: A directive is a legislative act that sets out a goal that all EU countries must achieve. However, it is up to the individual countries to devise their own laws on how to reach these goals⁵.

EU Regulation: A regulation is a binding legislative act. It must be applied in its entirety across the EU⁶.

EU negotiation position: A particular stance taken by a European Institution in a negotiation where it outlines the preferred result.

EU provisional agreement: When after negotiations, an informal agreement is reached on the text of a legislative proposal that then needs to be formally approved by the European Parliament and the Council of the European Union during the legislative procedure.

Adopted: When a law is officially approved at the end of the legislative procedure.

Approved: Used as a synonym for adopted or used in cases of approval of draft versions of the law.

Derogated: Not included or not applied.

European Commission: The European Commission is the EU’s politically independent executive arm. It is responsible for drawing up proposals for new European legislation, and it implements the decisions of the European Parliament and the Council of the EU.

European Council: The European Council is the EU institution that defines the general political direction and priorities of the European Union.

European Parliament: The European Parliament is the EU’s law-making body that is directly elected by EU voters every 5 years.

Grievance Mechanism: Any routinized, State-based, or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought⁷.

^{4,5,6} European Union, Types of legislation

⁷ UNGPs Principle 25 and commentary

Types of EU legislation

- **Directive:**
A legislative act that sets out a goal for EU countries who then have to devise their own laws on how to reach these goals.
- **Regulation:**
A binding legislative act which must be applied in its entirety across the EU.
- **Decision:**
A binding law only on those to whom it is addressed (e.g. an EU country or an individual company) and is directly applicable (it does not have to be implemented by the recipient).
- **Delegated and Implementing Acts:**
Non-legislative acts adopted by the European Commission aimed at supplementing elements of a legislative act for uniform implementation.

Supplier: For the purposes of this document, unless otherwise specified, this refers to a supplier in the apparel value chain. While the information provided herein is applicable across the entire value chain, it is primarily intended for Tier 1 suppliers and sub-contractors who produced finished goods for fashion brands and retailers, and Tier 2 suppliers and sub-contractors who provide services and goods, such as knitting, weaving, washing, dyeing, finishing, printing for finished goods, and components (e.g., buttons, zippers, soles, down and fusible) and materials for finished goods.

Value Chain: A value chain encompasses all activities related to the production of goods or the provision of services by a company, including the development of the product or the service and the use and disposal of the product as well as the related activities of upstream and downstream business relationships of the company.

Intentionally added: Deliberately utilized in the formulation of a material or component where its continued presence is desired in the final product to provide a specific characteristic, appearance or quality.

EU Forced Labour Regulation and Guidance

EU Proposed Regulation on Prohibiting Products Made With Forced Labour on the Union Market and EU Forced Labour Guidance

UPDATE

1. Key Updates

Upon approval by the European Parliament, the Regulation Prohibiting Products made with Forced Labour on the Union Market (the Forced Labour Regulation) is expected to be adopted, published in the Official Journal of the European Union, and go into effect three years thereafter. The approved text of the Forced Labour Regulation provides more detail on what the preliminary investigation process and investigation process will entail. It also introduces the development of a forced labour online portal for keep information, reporting and tools. The main changes relate to Section 4, 9, 10 and 14.

2. Overview

UPDATE

The Regulation

On September 14, 2022, the European Commission published a proposal for the Forced Labour Regulation. On March 5, 2024, the European Parliament and the European Council reached a provisional deal on the text of the Forced Labour Regulation. The Parliament approved the Forced Labour Regulation during its April 2024 plenary. The Regulation is expected to be published in the European Journal in the first half of 2024 and would take effect 36 months after its formal publication.

The objective of the Forced Labour Regulation¹ is to prevent products made with forced labour (including forced child labour) from being sold in the EU market or being exported from the EU. This includes products of any type, including their components, from all sectors and industries, at any stage of the supply chain.

The Forced Labour Single Portal

The Forced Labour Regulation requires the European Commission to develop a Forced Labour Single Portal, a public website including key information and tools related to the Forced Labour Regulation. The Forced Labour Single Portal will include:

- ▶ A list of, and contact information for, all Member State Authorities responsible for enforcing the Regulation;
- ▶ Guidelines to be issued by the European Commission (further discussed below);
- ▶ A database of forced labour risk geographic areas or products containing indicative, non-exhaustive, evidence based, verifiable and regularly updated information on forced labour risks in specific geographic areas or with respect to specific products or product groups, including with regard to forced labour imposed by state authorities (the information will be required to be sourced from international organizations, in particular the ILO and the United Nations Organization, or from institutional, research, or academic institutions);
- ▶ A list of publicly available information sources of relevance for the implementation of the Forced Labour Regulation, including sources which make available disaggregated data on the impact and victims of forced labour, such as gender-disaggregated data or data about forced child labour, allowing to identify age- and gender-specific trends;
- ▶ A dedicated centralized mechanism for the submission of information on alleged violations of the Forced Labour Regulation, including information on the company or products concerned, reasons and evidence for substantiating the allegation and, where possible, supporting documents (the **Single Information Submission Point**); and
- ▶ Any decisions taken under the Forced Labour Regulation to ban a particular product, as well as any withdrawal of such a ban and the result of reviews.

¹ A regulation is a binding legislative act. It must be applied in its entirety across the EU.

The Guidelines

18 months after the Forced Labour Regulation enters into force, the European Commission, in consultation with relevant stakeholders, will issue guidelines which will include, among other things:

- ▶ Guidance on due diligence in relation to forced labour, including forced child labour, that takes into account applicable national and EU legislation setting out due diligence requirements with respect to forced labour, guidelines and recommendations from international organizations and, the size and economic resources of operators, companies, different types of suppliers along the supply chain and different sectors.
- ▶ Guidance on due diligence in relation to forced labour imposed by state Authorities.
- ▶ Guidance on best practices for bringing an end and remediating different types of forced labour.
- ▶ Information on risk indicators of forced labour, including on how to identify them, based on independent and verifiable information, including reports from

international organizations, in particular the International Labour Organization (the **ILO**), civil society, business organizations and experience from implementing EU legislation setting out due diligence requirements with respect to forced labour².

- ▶ Guidance on how to engage in dialogue with Member State authorities, in particular on the type of information to be submitted.
- ▶ Guidance on how to submit information via the single information submission point.
- ▶ Guidance for Member States on the method for calculating financial penalties and the applicable thresholds.
- ▶ Further information to facilitate the competent authorities' implementation of the Regulation.

As the Forced Labour Regulation has yet to enter into force, these guidelines are not yet available.

Previous Forced Labour Guidance

The European Commission and European External Action Service previously published a forced labour guidance in July 2021, to assist EU businesses in taking appropriate measures to address the risk of forced labour in their operations and supply chains (the **Guidance**).³ This Guidance is non-binding and is intended to provide practical guidance for European companies, ahead of the introduction of a mandatory due diligence obligations.

This factsheet will primarily discuss the Forced Labour Regulation but where applicable, the information provided in the Guidance is also referenced.

² The proposal envisages the adoption of delegated and implementing acts by the European Commission aimed at supplementing and specifying the key concepts of the legislative act, including how to identify the information on risk indicators.

³ European Commission, New EU guidance helps companies to combat forced labour in supply chains. Note that the link to download the guidance is currently broken on the date of access (March 29, 2023).

3. Context

The Forced Labour Regulation was first announced by Ursula von der Leyden, the President of the Commission, in her State of the Union address in September 2021.

The Forced Labour Regulation complements to Corporate Sustainability Due Diligence Directive and Corporate Sustainability Reporting Directive by increasing the stakes if a company does not conduct supply chain due diligence and appropriately exclude forced labour from its supply chain. It highlights the importance for companies to enforce their human rights due diligence programs.

4. Status

On March 5, 2024, the European Parliament and European Council reached a provisional deal on the text of the Forced Labour Regulation. On March 13, 2024, the European Council approved the adoption of the Forced Labour Regulation. The Parliament approved the Forced Labour Regulation during its April 2024 plenary. Once formally adopted and published in the Official Journal of the European Union, the Forced Labour Regulation would enter into force and start applying three years later.

5. Scope

The Forced Labour Regulation covers all products of any type, including their components, irrespective of sector or origin, including for example:

- ▶ Products manufactured in the EU for consumption in the EU;
- ▶ Products manufactured in the EU for export outside of the EU; and
- ▶ Products manufactured outside of the EU for sale in the EU (i.e., imported goods).

The Forced Labour Regulation does not target specific companies or industries, although the European Commission has recognized that forced labour has been more frequently reported in certain sectors, including services, textiles, mining, and agriculture.

The prohibition on forced labour will apply to all economic operators, which are defined as natural or legal persons or associations of persons **placing or making products available on the EU market or exporting products from the EU**. For ease of readability, we will use the term “company” in this factsheet, instead of economic operator.

● Points to Note

- The Forced Labour Regulation defines “**making [products] available on the market**” as supplying a product for distribution, consumption, or use within the EU market in the course of commercial activity. When the product is sold online or through other means of distance sales, the product is considered to be made available in the EU if it is targeted at end users or consumers in the EU. The scope includes both products sold in exchange for payment and offered for free.
- The “**placing of products**” under the Forced Labour Regulation means the first instance of making a product available on the EU market.
- Based on these definitions, the Forced Labour Regulation has a wide-reaching scope and broad extra-territorial application. For example, a garment supplier incorporated in Bangladesh that produces garments at its factories in Bangladesh and exports the garments to the EU for distribution by a European retailer may be subject to investigation under this Forced Labour Regulation.





The Forced Labour Regulation will require competent authorities to demonstrate that there is “substantial concern” that forced labour was involved at some stage of the supply chain before preventing a product from being made available in the EU market or exported from the EU market. A “**substantiated concern**” would mean a reasonable indication and based on objective, factual and verifiable information, for the competent authorities to suspect that the product was likely made with forced labour.

The definition of “forced labour” means **forced or compulsory labour**, including forced child labour, as defined in Article 2 of the Convention on Forced Labour, 1930 (No. 29) of the ILO, i.e., “all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered him or herself voluntarily”.

- Points to Note**
 - Based on the Forced Labour Regulation, a **product made with forced labour** is any product where forced labour has been used in whole or in part at any stage of its extraction, harvest, production, or manufacture, including working or processing related to a product at any stage of its supply chain.
 - For example, if a cotton shirt is found to have used cotton that was farmed by workers in a situation of forced labour, the cotton shirt would be considered a product made with forced labour.



6. Obligations for companies in-scope

We recommend that companies placing or making available products on the EU market or exporting such products should take appropriate measures to identify and eliminate any forced labour risks in their supply chains. The scope of the measures and due diligence depends on the proximity to possible forced labour in the supply chain, the specific type of products and the resources of the relevant company. In other words, companies in-scope should take a risk-based approach to due diligence. A risk-based approach recognizes that companies may not have the resources to identify or respond to all risks of forced labour related to their activities and business relationships at the same time. As such, companies should prioritize their efforts based on the severity and likelihood of harm, focusing their attention and resources at their higher-risk operations and business relationships.

The Forced Labour Regulation does not include any formal or specific measures or due diligence obligations. However, it provides that the European Commission will issue guidelines within 18 months after the entry into force. As explained above, these

guidelines have yet to be published. As such, it is not possible at this early stage to provide further specificity with respect to companies' obligations.

That being said, the existing Guidance published by the European Commission and European External Action Service offers a framework for undertaking due diligence with respect to forced labour risks. For the avoidance of doubt, this Guidance is non-binding and the advice provided therein may not be aligned with the final text of the Forced Labour Regulation. As such, the below is provided for information purposes only:

According to the Guidance, due diligence should correspond with risks and appropriate to a company's circumstances and context. Due diligence should cover both the company's own activities and its business relationships, e.g, its upstream supply chain. It may also be important to consider how particular risks affect different groups, including women, religious or ethnic minorities.

The Guidance sets forth the following a **six-step framework for effective due diligence** which is based on OECD due diligence framework:

- 1 Embed responsible business conduct into the company's policies and management systems
- 2 Identify and assess actual or potential adverse impacts in the company's operations, supply chains and business relationships.
- 3 Cease, prevent, and mitigate adverse impacts.
- 4 Track implementation and results.
- 5 Communicate how impacts are addressed.
- 6 Provide for or cooperate in remediation when appropriate.

The Guidance also recommends specific measures to **address forced labour**, including:

- ▶ Policies and management systems should be tailored to the risk of forced labour.
- ▶ Risk factors should be considered as part of the due diligence process.
- ▶ Considerations when carrying out in-depth risk assessment of certain high-risk suppliers or supply chain segments.
- ▶ Considerations when taking action to address risks of forced labour.
- ▶ Considerations for responsible disengagement.
- ▶ Considerations for remediation.

7. Compliance recommendations for companies in-scope

Given the broad scope of the Forced Labour Regulation and significant consequences of non-compliance, companies in-scope should already ensure that they have an effective due diligence program to identify and address the risk of forced labour in their operations, supply chains and business relationships. This may include (but is not limited) to the following measures:

- ▶ Ensure that their policies (e.g., a human rights policy, or supplier code of conduct) and management systems address the risk of forced labour and are effectively embedded within their day-to-day business conduct and operations.
- ▶ Conduct and strengthen risk assessments in their own operations and in sourcing practices to identify and assess the

actual or potential risk of forced labour. Manufacturing and/or sourcing countries, or raw materials supply chains (e.g., cotton), that are identified as higher risk or 'red flags' should be subject to enhanced due diligence. This process of risk prioritization will enable companies in-scope to determine where to place their time and resources.

- ▶ Conduct a comprehensive supply chain mapping and request upstream suppliers and business partners to provide data to enable traceability of materials.
- ▶ Require upstream suppliers and business partners to implement their own forced labour due diligence programs and disclose how they are seeking to identify and address the risk of forced labour. Any information or data provided by upstream suppliers and business partners should be verified, through conducting audits and on-site investigations, deploying worker engagement tools, and engaging with relevant stakeholders (e.g., trade unions, civil society, and worker organizations).
- ▶ Implement an effective grievance mechanism that is accessible to any stakeholder in their

value chain to report allegations of forced labour. Grievance mechanisms should be considered by companies to be a "must-have" and a proactive way of engaging with risk, rather than a "nice to have".

In determining whether there is a violation of the Forced Labour Regulation, the competent authorities will take into account among other things, information on the company's actions taken to identify, prevent, mitigate, bring to an end or remediate risks of forced labour in their operations and supply chains with respect to the product(s) under assessment. The competent authorities may also request information on those actions from other relevant stakeholders, including any persons related to the products and geographical areas under assessment.

Where the competent authorities find that the company's due diligence actions effectively identify, prevent, mitigate, bring to an end or remediate the risk of forced labour in their operations and supply chain, they may not initiate an investigation.

8. Potential implications for suppliers to companies in-scope



Suppliers should expect that companies in-scope will be strengthening their due diligence programs. Today, many European and US-headquartered apparel brands already have due diligence programs and policies that stipulate zero tolerance for forced labour. It is anticipated that these brands and retailers (if they aren't already doing so today) will seek “no forced labour” declarations from suppliers in light of the Forced Labour Regulation. Brands and retailers will also request their suppliers to provide contractual assurances, which may be in the form of warranties and indemnities.



It is expected that these measures will cascade up the supply chain, and consequently, that many suppliers will in turn require their upstream suppliers and business partners to provide similar declarations and contractual assurances. However, companies should be wary of over-reliance on such declarations, and must ensure that they proactively conduct robust due diligence programs and have an effective grievance mechanism in place.



Suppliers should also implement their own due diligence systems to identify, prevent and remediate the risk of forced labour in their operations and supply chain. These systems should be aligned with the OECD due diligence framework. Suppliers may find industry-wide tools and standards helpful.⁴ Suppliers may also invest in supply chain traceability technology or participate in industry-wide supply chain mapping tools. However, as explained above, it is important that suppliers ensure that any such tools or industry-wide schemes are effective and backed up by robust datasets and methodology.



Suppliers should also expect companies in-scope to require them to have an effective grievance mechanism in place, and to socialize the grievance mechanisms operated by companies in-scope. Companies in-scope may also seek to provide support and tools to their suppliers to build their upstream business partners' capacities to identify and address forced labour risks.



In the event that suppliers are faced with forced labor allegations through complaints addressed to the centralized mechanism established by the Commission, suppliers can prepare for such an eventuality by (i) being rigorous in conducting a thorough mapping of their supply chain; (ii) implementing robust due diligence programs that provide a well-rounded view of risks and an assessment of salient risks; and maintaining detailed records of due diligence findings and action taken to address risks identified. It would also be helpful to suppliers to develop and continue to improve their operational level grievance mechanism which is a fundamental part of early risk identification and mitigation.

⁴ For example, the YESS Standards for Spinning & Fabric.

9. Penalties for non-compliance

- Pursuant to the Forced Labour Regulation, if a competent authority finds that the forced labour prohibition has been violated, it will adopt a decision:**

 - prohibiting the placing or making the relevant products available on the EU market and their export from the EU;
 - ordering the company concerned to withdraw the relevant products from the EU market where they have already been placed or made available on the EU market or to remove content from an online interface referring to the relevant product or listing the relevant product; and
 - ordering the company to dispose of the relevant products product or parts of the product by recycling them, or, in the case of perishable products, by donating them for charitable or public interest purposes (or, in each case, when that is not possible, by render inoperable those products).

UPDATE

In the event disposal of the product would disrupt a supply chain of strategic or critical importance for the EU, the lead competent authority may instead order the product concerned to be withheld for a defined period of time, which shall be no longer than the time necessary to eliminate forced labour for the product concerned, at the cost of the company. If, during this time, the company demonstrates that they have eliminated forced labour from the supply chain without changing the product and by having brought to an end the forced labour identified in the decision, the lead competent authority would review such decision. If the company does not demonstrate that they have eliminated forced labor from the supply chain of the relevant product, they would be required to dispose of the product in the manner set forth above.

Companies will be granted **at least 30 business days** to comply with the decision (or, in the case of perishable goods, animals, and plants, at least 10 business days).

UPDATE

- ▲ **If a company fails to comply with a decision within the time limit provided, the lead competent authority will be responsible for enforcing the decision by ensuring the following:**

 - The company is prohibited from placing or making available the products concerned on the EU market and exporting them from the EU market;
 - The products concerned already placed or made available on the EU market are withdrawn by relevant authorities, in accordance with EU and national laws;
 - The products concerned remaining with the company are disposed of in accordance with the Forced Labour Regulation, at the expense of the company; and
 - Access to the products and to listing referring to the products concerned is restricted by requesting the relevant third party to implement such measures.

- ▲ **If a company fails to comply with a decision within the time limit provided, the competent authority will be required to impose penalties on the company. Member States will be required to lay down rules on penalties applicable to non-compliance with a decision, which would be required to give due regard to the following:**

 - The gravity and duration of the infringement;
 - Any relevant previous infringements by the company;
 - The degree of cooperation with the competent authorities; and
 - Any other mitigating or aggravating factor applicable to the circumstances of the case, such as financial benefits gains, or losses avoided, directly or indirectly, from the infringement.

There is no standard penalty amount and as such the form and amount of penalty will depend on the relevant EU country's rules.



10. Form of enforcement

Within 12 months of the Forced Labour Regulation entering into force, each EU Member State would be required to designate competent authorities which would be responsible for enforcing the Forced Labour Regulation. If the suspected forced labour is taking place in the territory of a Member State, the relevant Member State authority will act as the lead competent authority in the investigation. However, if the suspected forced labour is taking place outside the territory of the EU, the European Commission will act as the lead competent authority conducting the investigation.

Competent authorities will be required to follow a risk-based approach in assessing the likelihood of a violation, initiating and conducting the preliminary phase of the investigations and identifying the products and companies concerned.

UPDATE

- ▲ **In assessing the likelihood of a violation, competent authorities will be required to use the following criteria in prioritizing the products suspected to have been made with forced labour:**
 - Scale and severity of the suspected forced labor, including whether forced labor imposed by state authorities should be a concern;
 - Quantity or volume of products placed or made available on the EU market; and
 - Share of the part suspected to have been made with forced labour in the final product.

- ▲ **The assessment of the likelihood of a violation will be required to be based on all relevant, factual and verifiable information available, including, but not limited to, the following:**
 - Information and decisions encoded in the information and communication system referred to in Article 34 of Regulation (EU) 2019/1020 the European Parliament and of the Council, including any past cases of compliance or non-compliance of a company with the Regulation;
 - The database of forced labor risk areas or products housed on the Forced Labor Single Portal;
 - The risk indicators and other information provided pursuant to guidelines to be issued by the European Commission;
 - Submissions made pursuant to via the Single Information Submission Point;
 - Information received by the lead competent authority from other authorities relevant for the implementation of the Forced Labour Regulation, such as Member States' due diligence, labor, health or fiscal authorities, on the products and companies under assessment; and
 - Any issues arising from meaningful consultations with relevant stakeholders, such as civil society organizations and trade unions.

Investigations by competent authorities will be carried out in two phases: **(i) a preliminary phase and (ii) an investigative phase.** Competent authorities will bear the burden of establishing that forced labour has been used at any stage of production, manufacture, harvest, or extraction of a product.

Before initiating an investigation, the competent authorities would be required to request from the concerned company, and, where relevant, other product suppliers, information on actions taken to identify, prevent, mitigate, bring to an end or remediate risks of forced labour in their operations and supply chains with respect to the products under assessment. Competent authorities may also request information on those actions from other relevant stakeholders, including the persons or associations having submitted relevant, factual, and verifiable information to the Single Information Submission Point and any other natural or legal persons related to the products and geographical areas under assessment, as

well as from the European External Action Service and EU Delegations in relevant third countries.

The company will be required to respond to requests from competent authorities within 30 business days from the day such requests

are received. Competent authorities will then have 30 business days after receipt of information from the company to conclude the preliminary stage of their investigation and determine whether there is a substantial concern of violation of the Forced Labour Regulation.

UPDATE

▲ If competent authorities determine there is a substantiated concern of forced labour, an investigation will proceed to the next phase. If that occurs, notice will be provided to the company concerned within three business days from the date of the decision to initiate the investigation. The notice will be required to include the following:

- The initiation of the investigation and the possible consequences thereof;
- The products subject to the investigation;
- The reasons for the initiation of the investigation, unless it will jeopardize the outcome of the investigation; and
- The possibility for the company to submit any other document or information to the lead competent authority, and the date by which such information must be submitted.

Upon request, companies under investigation will be required to submit any information relevant and necessary for the investigation, including information identifying the products under investigation and, where appropriate, identifying the part of the product to which the investigations should be limited, the manufacture, producer or product supplier of those products or parts thereof. Companies will be provided between 30 and 60 business days to submit any such information, subject to the right to request an extension of that deadline with a justification.

UPDATE

During the investigation, lead competent authorities will be permitted to collect information from or interview any relevant persons who consent to be interviewed for the purpose of collecting information relating to the subject matter of the investigation, including relevant companies and any other stakeholders.

In exceptional situations, lead competent authorities may conduct field inspections. Where the risk of forced labour is located in the territory of a Member State, the competent authority may conduct its own inspections. Where the risk of forced labor is located outside of the territory of the EU, the Commission may carry out all necessary checks and inspections, provided that the companies concerned provide their consent and the government of the third country in which the inspections are to take place has been notified and raises no objection.

▲ **Within a reasonable period of time, and ideally within nine months, from the date of initiating the investigation, the lead competent authority will be required to adopt a decision as to whether the company has violated the Forced Labour Regulation. If the competent authority cannot establish a violation, they will be required to close the investigation and inform the company. If the competent authority establishes a violation, they will be required to adopt a decision containing the following information:**

- The findings of the investigation and the information and evidence underpinning the findings;
- Reasonable time limits for the company to comply with the orders, which shall not be less than 30 business days (and, in the case of perishable goods, animals and plants, not less than 10 business days);
- All relevant information and in particular the details allowing the identification of the product concerned, including
- details about the manufacturer, producer, product suppliers and, where appropriate, production site;



UPDATE

The European Commission would be required to adopt implementing acts further specifying the details of the information to be included in the decision.

Customs authorities would, in cooperation with the competent authorities, enforce the Forced Labour Regulation by controlling entry into or exit from the EU of products made with forced labour. Where customs authorities identify a product entering or leaving the EU market that may, according to a decision, be in violation of the Forced Labour Regulation, the customs authorities would be required to suspend the release for free circulation or export of that product until either of the following conditions has been satisfied:

- The Member State Authorities or the Commission, as applicable, have not requested the customs authorities to maintain the suspension within four business days of the initial suspension (or two business days for perishable products, animals and plants); or
- The Member State Authorities or the Commission, as applicable, informed the customs authorities of their approval for release for free circulation or export pursuant to the Regulation.

11. Reporting/ disclosure requirements for companies in-scope

Not Applicable.

12. Access to remedy mechanisms and litigation risk

Competent authorities would be required to give the concerned companies a reasonable time of at least 30 days to comply with their decision.

Companies affected by a decision would be permitted, at any time, to submit a request for a review containing new substantial information that was not brought to the attention of the competent authority during the investigation and which demonstrates that the products are in compliance with the Forced Labour Regulation. The competent authority would be required to issue a decision on the request for a review within 30 business days of receipt of the request. If the company is able to provide evidence it has complied with the decision and eliminated forced labour from its operations or supply chain with respect to the products concerned, the competent authority would be required to withdraw its decision for the future, inform the company and remove it from the Forced Labor Single Portal.

Companies that have been affected by a decision of a Member State authority (but not by the European Commission) would have access to a court or a tribunal to review the procedural and substantive legality of the decision.

If the concerned company can provide evidence showing it has complied with the decision and eliminated forced labour from its operations or supply chain for the relevant product, the competent authority must withdraw its decision.

13. Opportunity to participate and engage in legislative developments (if any)

Public consultation for the Forced Labour Regulation has closed.

14. Useful resources to support compliance

European Council, Regulation on prohibiting products made with forced labour on the Union market

European Commission, [Questions and Answers: Prohibition of products made by forced labour in the Union Market](#)

European Commission, [Factsheet Forced Labour Ban](#)

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**EU Strategy for
Sustainable and
Circular Textiles**

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**EU Corporate
Sustainability
Reporting
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**EU Corporate
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**New York
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**EU Forced Labour
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Lessons for fashion: How the agricultural sector is tackling commercial compliance through the EU Directive on unfair trading practices