

## **Technical Seminar #19:**

# **A future without Modern Slavery: EU-legislation and upcoming requirements for the textile sector**

**28 February 2024**

With the European Commission's proposal for a regulation to prohibit products made with forced labour on the EU market, the EU plans to ban all products made under such conditions for domestic consumption, export and import. The regulation will have wide-ranging impact as it covers all companies and products, regardless of size or sector in which they operate. In this session we looked at the potential impact of this forced labour ban on the textile sector and how companies can begin to prepare for the upcoming obligations in their supply chains.

## **Summary**

The EU Commission's new regulation on forced labor represents a pivotal advancement in the European Union's efforts to combat modern slavery and uphold human rights within its borders and beyond. This regulation introduces stringent measures aimed at holding businesses accountable for their supply chains and ensuring ethical practices throughout their operations. This approach is important since an estimated 27.6 million people are in forced labor, in many industries and in every continent. The proposal builds on internationally agreed definitions and standards, and underlines the importance of close cooperation with global partners. National authorities will be empowered to withdraw from the EU market products made with forced labor, following an investigation. EU customs authorities will identify and stop products made with forced labor at EU borders.

At its core, the regulation emphasizes the importance of supply chain due diligence, requiring businesses to actively identify, prevent, and mitigate risks of forced labor within their supply chains. Moreover, the regulation encourages collaboration and engagement among stakeholders, recognizing the interconnected nature of global supply chains. By engaging with suppliers, civil society organizations, and other relevant

actors, businesses can enhance the effectiveness of their anti-forced labor initiatives and drive meaningful change across industries.

Overall, the EU Commission's new regulation on forced labor signals a significant shift towards greater accountability and responsibility. By setting clear standards and expectations, the regulation empowers brands and suppliers to take proactive steps in combating modern slavery and upholding human rights. As stakeholders work together to implement and enforce these measures, the EU strives towards a future where forced labor is eradicated, and dignity and freedom are upheld for all individuals.



**Anna Cavazzini,**

Member of the European Parliament, The Greens/EFA

The primary goal, as discussed by Anna, is to eliminate forced labor from supply chains and ensure proper remediation for affected individuals. Efforts include reinforcing remediation processes and implementing a system where companies must prove the absence of forced labor in their supply chains, especially in regions where state-imposed forced labor is prevalent. She emphasizes the crucial role of the European Commission in investigating and enforcing compliance, advocating for granting the Commission more authority, implementing a ‘burden of proof’ and including its involvement as a 28th authority responsible for investigation and decision-making. This also involves maintaining a database of regional information to facilitate enforcement efforts. However, Ms. Cavazzini acknowledges the ongoing debate regarding the extent of authority to be given to the Commission versus member states, stressing the importance of a balanced approach that considers both centralized enforcement and the expertise of national authorities. Negotiations are underway between the Parliament and the Council, with Ms. Cavazzini and others aim to reconcile differences with a focus on achieving effective implementation and enforcement of the regulation.

## Takeaways:

- Anna discusses potential consequences of the new law on forced labor, suggesting a preventive approach to discourage companies from risking non-compliance. She explores scenarios involving forced labor detection in products and potential actions by authorities and companies, including withdrawal from the market.
- Anna explains that all member states would need to designate an authority to check for forced labor in products. She suggests that existing authorities responsible for due diligence laws could also handle forced labor checks.
- Anna advises companies, brands, and buyers to conduct risk assessments in their supply chains to identify and mitigate forced labor risks preemptively. She suggests preparing strategies to address these risks to ensure compliance with future legislation.



### **Libby Annat,**

Partner and Co-Founder at Due Diligence Design

Libby highlights if the Forced Labour Ban regulation goes to plan by 2025/2026, large companies will face significant reporting and regulatory obligations. With a two to three-year window before the regulation takes effect, companies are urged to begin preparations now. The regulation is anticipated to cover the entire scope of the textile value chain, impacting all sectors and supply chains. Due Diligence Design offers insights into the potential rollout of the regulation and advises companies on necessary preparations. Ms. Annat stresses that companies should not solely rely on existing directives like the corporate sustainability due diligence directive or the German Supply Chain Act, as the forthcoming regulation will offer a different direction where more comprehensive coverage will be used to ensure products are free from forced labor upon reaching the market. Enforcement of the regulation is expected to be carried out by EU member state competent authorities, likely overseen by ministries of trade or equivalent bodies. These authorities will focus on investigating areas with the highest risks and impacts. Companies operating in high-risk countries will bear the burden of proof to demonstrate that forced labor was not utilized. Ms. Annat breaks

down that the Commission will introduce delegated acts, requiring companies to provide traceability information to customs authorities for high-risk products or regions. Due Diligence Design emphasizes the need for early preparation, particularly among larger companies, as authorities will adopt a risk-based approach to implementation. This approach incentivizes companies to proactively assess and address forced labor risks, laying the groundwork for labor policies and strategies.



**Clemence Aron,**

Programme Director, Mekong Club

In the presentation by Clémence Aron, the focus is on the prevalence of forced labor within textile supply chains and recommendations for companies to identify and mitigate such issues. Ms. Aron begins by highlighting the staggering statistics, with an estimated 50 million people worldwide in situations of modern slavery, including 28 million victims of forced labor. Textiles and garments are among the top products associated with forced labor, comprising 35% of goods at risk. The complex nature of global supply chains exacerbates vulnerabilities, with forced labor occurring at various stages. Clemence defines forced labor according to the International Labor Organization (ILO) and emphasizes the vulnerability of migrant workers, who are three times more susceptible to exploitation. She outlines indicators of forced labor, such as abuse of vulnerability, excessive overtime, and isolation, underscoring the need for companies to understand and address these signs.

Ms. Aron discusses the drivers of forced labor, including the lack of transparency, irresponsible recruitment practices, and price pressures within supply chains. She also addresses the limitations of social audits in identifying forced labor and the impact of COVID-19 on exacerbating vulnerabilities. Aron then provides recommendations for companies to address forced labor, aligned with the framework of human rights due diligence. Key steps include committing to policies and management systems, training employees, mapping supply chains, reviewing risks, and adopting preventive measures. Responsible recruitment practices, engagement with key stakeholders, and

establishing grievance mechanisms are also crucial aspects. Aron emphasizes the importance of collaboration and communication among brands, suppliers, and workers to address forced labor effectively.

To learn more, watch the [recording of the Seminar](#). The slides presented in this seminar are attached below. For more online seminars on similar topics, check out the [Asian Dialogues Series](#).

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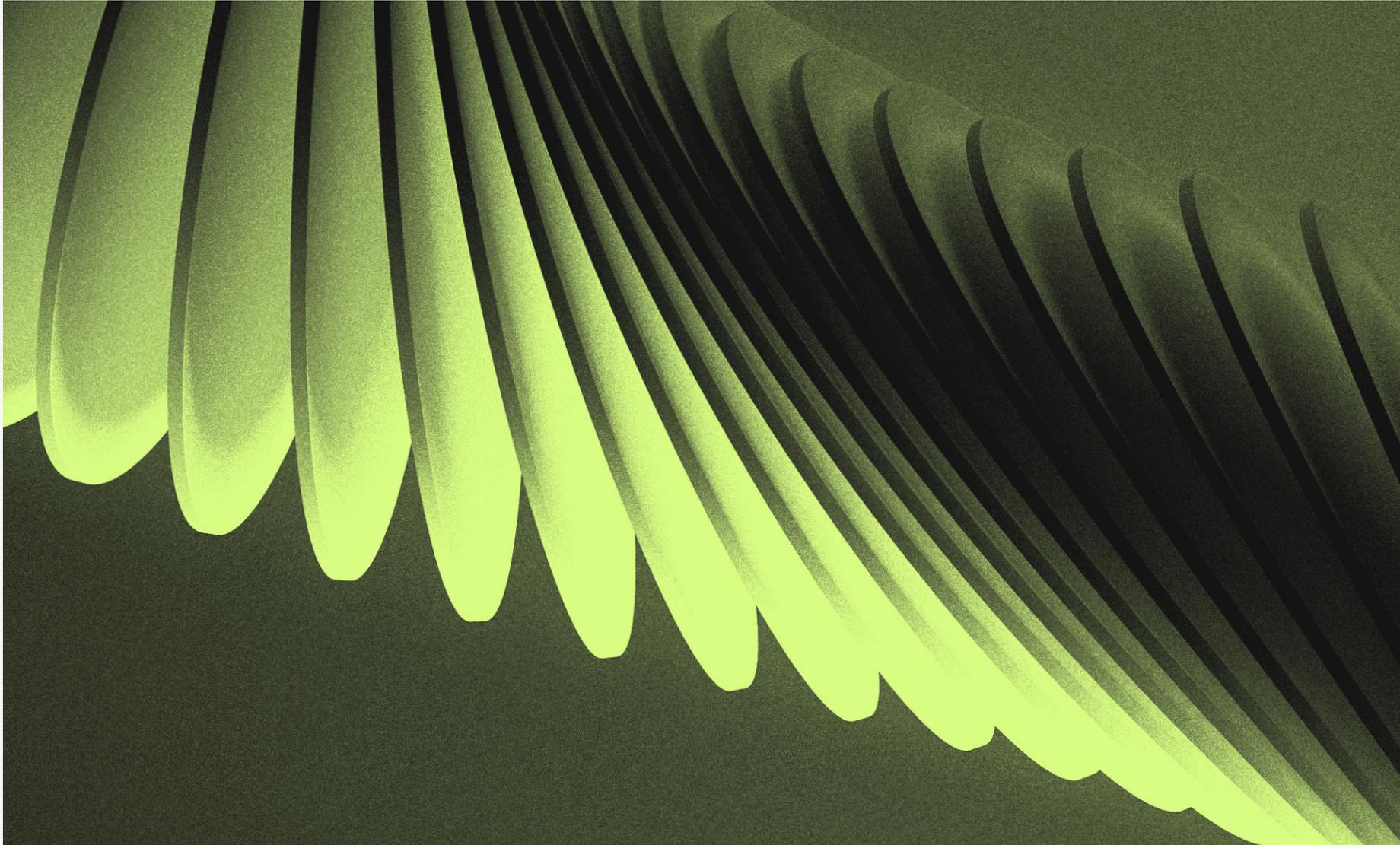


FABRIC Asia



# EU Forced Labour Ban

28 February 2024



Due Diligence Design prepares business for existing and emerging responsible business conduct legislation, international due diligence standards, and the direction of travel for decision-making, by providing intelligence, technical expertise and expert advisory services.

# Introduction

The EU Commission's draft proposal for a Regulation on prohibiting products made with forced labour on the EU market (the Regulation) was published on 14 September 2022.

It bans products made with forced labour from entering and being distributed on the EU market, and from being exported from the EU market.

The Regulation will have a wide-ranging impact as it covers all companies and products, regardless of size or sector in which they operate.

As a Regulation, once passed it will be legally binding and immediately applicable to all Member States in the same way and at the same time. Based on the current timetable, we expect the Regulation to enter into force for companies in 2025.

*The contents of this document do not constitute legal or financial advice and are provided for general information purposes only.*

# What companies need to know

## Scope of the Regulation

1. The regulation bans products made with forced labour from entering and being distributed on the EU market, and from being exported from the EU market.
2. It applies to all companies placing goods on the EU market, but there will be an emphasis on larger companies at early stages of the EU value chain. The EU Council has also proposed the regulation covers products offered for sale online or through other means of distance sales.
3. All products and their components are covered by the Regulation, regardless of the sector, origin, or stage of the supply chain where forced labour took place.
4. The Regulation uses the ILO definition of forced labour, including the ILO's 11 indicators for forced labour. The Regulation will be enforced by EU Member State Competent Authorities and Customs Authorities

## Enforcement by authorities

5. The Regulation will be enforced by EU Member State Competent Authorities and Customs Authorities
6. Competent Authorities will be responsible for determining what products and companies are investigated. Investigations should be risk-based - the competent authorities are required to focus their investigations where the risks are highest, most severe and have the most impact.
7. Customs authorities are responsible for stopping products that the competent authorities have determined are made with forced labour from entering or exiting the EU.
8. The EU Parliament has proposed a reversal of burden of proof for certain goods produced in high-risk areas, where competent authorities could presume that the products are made with forced labour.

## High-risk products and traceability

9. The EU Commission will introduce additional acts (Delegated Acts) which will require companies to submit traceability information to customs authorities on high-risk products or geographies.
10. The EU Commission has indicated that traceability information will extend past Tier 2 level (i.e., to raw material production).
11. We expect Delegated Acts to focus on products from conflict-affected and high-risk areas (CAHRAs) and countries with state-sponsored forced labour.
12. The EU Commission will identify high-risk products and regions through a database and risk indicators.

## Submitting cases

13. Individuals and organisations can submit cases but the competent authorities who decide what is investigated.
14. When a case is triggered, companies have only 15 working days to prepare a submission to the competent authority.
15. Submission requirements are substantial.
16. A decision against a company by the competent authority could result in litigation against a company brought by civil society and / or victims.

# The investigatory process

# Investigatory process

## Preliminary Investigation (Step 1)

- A preliminary investigation is initiated by the competent authority.
- The company is required to provide information on its forced labour due diligence within 15 working days.
- This due diligence information must align with relevant legislation and guidance.
- Companies can also provide additional information that they feel would be useful.
- The competent authority will take the company's information into account, along with other public sources of information, and will also consider whether the company has any previous non-compliances with the Regulation.

- At this point the competent authority is looking at whether forced labour is probable.
- A competent authority will have 30 working days to decide whether there is a substantiated concern that a product breaches the ban. This triggers a full investigation.

## Full Investigation (Step 2)

- If a full investigation is triggered, companies have a further 15 working days to provide any additional information to the competent authorities.
- Companies can submit a request for an extension of that time if there is a justifiable reason.
- Competent authorities can conduct their own checks and inspections in producer countries.

# Investigatory process

## Decision (Step 3)

- Competent authorities have to reach a decision within a reasonable period of time, not defined by the Regulation.

## Review (Step 4)

- Companies can request a review of the decision. They need to provide NEW information to the competent authorities within 15 working days.
- At this stage, the competent authority can reverse its original decision.

## Enforcement and Penalties (Step 5)

- If a competent authority decides that the Regulation was breached, it will
  - Prohibit the products from being made available or exported from the EU market
  - Order the company, within a specified time limit (at least 30 days) to withdraw all relevant products already placed in the EU market and dispose of them in accordance with EU and national law.
- Companies will face penalties if they fail to comply with a decision.
- If companies comply with the decision and at a later point provide NEW evidence that they have eliminated forced labour in their operations or supply chains, the ban is lifted but ONLY for future products.
- The EU Parliament position goes further and introduces remediation for workers harmed in the supply chain.

# What companies need to do



# What you need to do

We recommend companies take the following key actions in line with the steps of OECD Due Diligence guidance

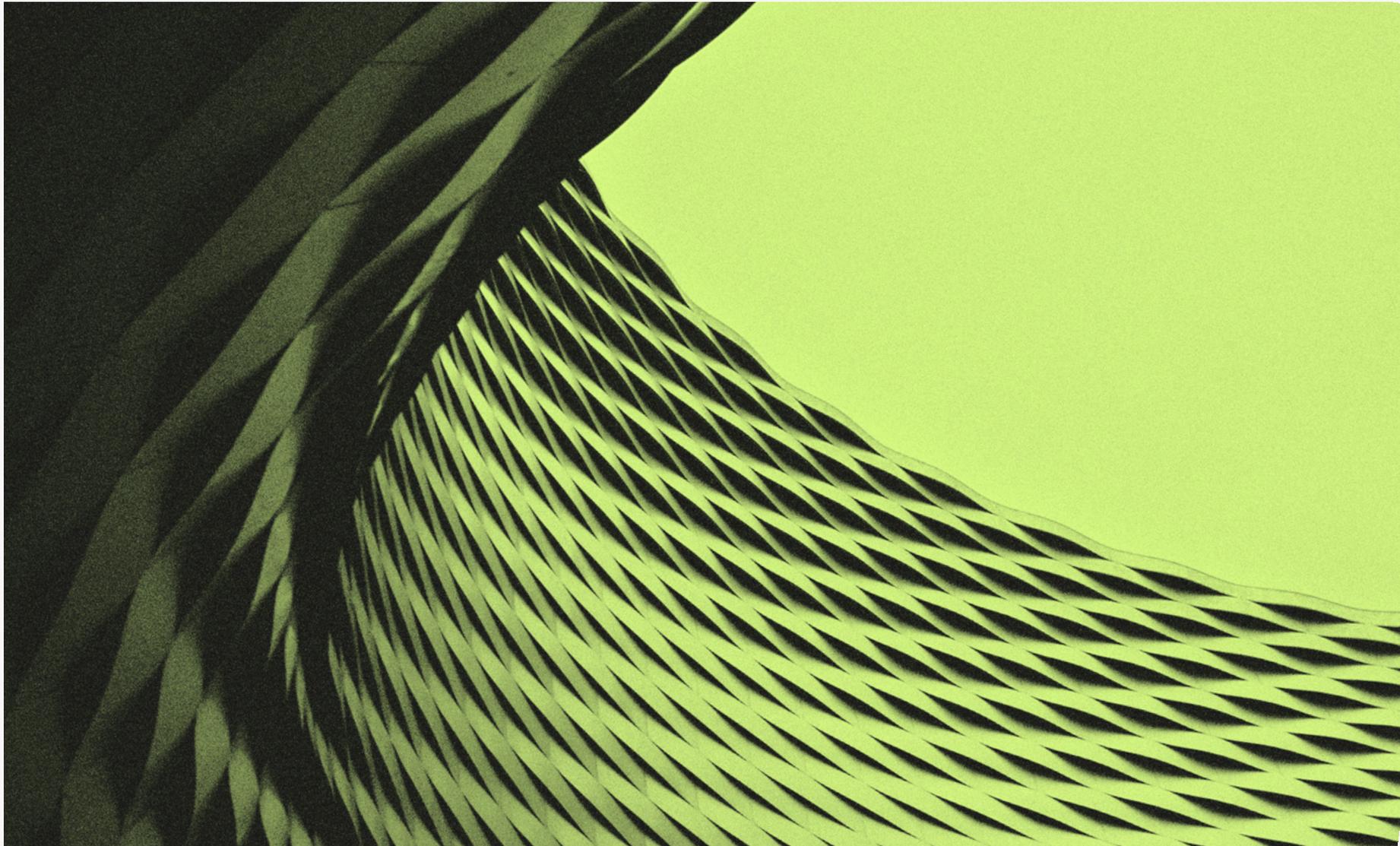
1. Develop a forced labour policy and strategy that meets the key guidance including the EU Forced Labour Guidance, OECD due diligence guidance and the EU CSDDD.
2. Map which products and sourcing regions are the highest risk for forced labour across your full supply chain.
3. Ensure you have full traceability for all high-risk products so that you are ready to respond to any investigations.
4. For each high-risk product and geography identified, you will need to demonstrate that you are carrying out programming to prevent forced labour.
5. Be prepared to exit any supply chains where you are unable to undertake effective due risk prevention and mitigation for forced labour risks.
6. Be prepared for civil litigation cases to follow on from competent authority decisions against you.
7. It will not be enough to comply with the EU CSDDD and / or the German Supply Chain Act to ensure compliance with the Regulation.

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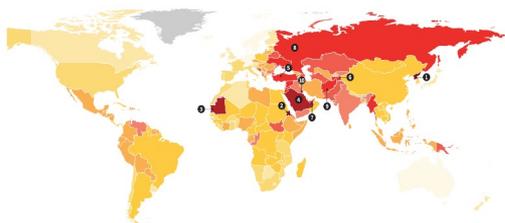


February 2024

# Reflections on the Forced Labour Ban and recommendations for companies

Empowering  
Businesses  
to Create a  
**Slave-Free  
World**

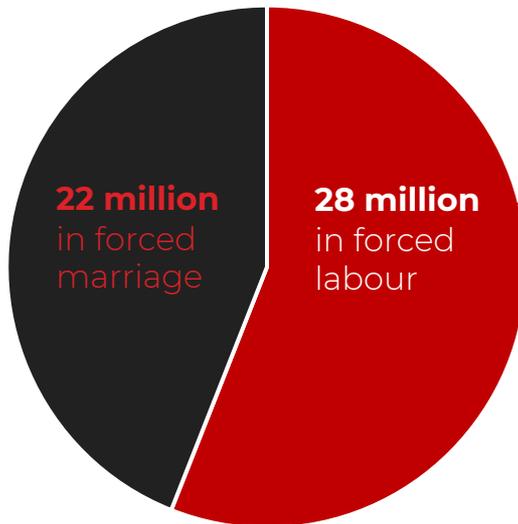
# 50 million people in modern slavery\*



**Figure 5**  
Estimated prevalence of modern slavery by country (noting estimated prevalence per 1,000 population for the 10 countries with highest prevalence)



Rank	Country	Prevalence
1	North Korea	104.6
2	Eritrea	90.3
3	Mauritania	32.0
4	Saudi Arabia	21.3
5	Türkiye	15.6
6	Tajikistan	14.0
7	United Arab Emirates	13.4
8	Russia	13.0
9	Afghanistan	13.0
10	Kuwait	13.0



**86%**  
of forced labour in the private sector

# Global Slavery Index insights

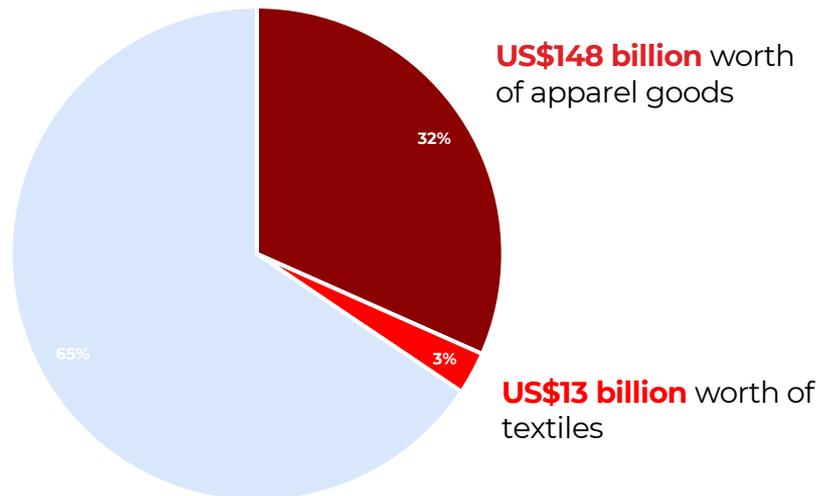
## IMPORTING RISK

Measuring the connection between modern slavery and global imports. G20 countries rank among the largest importers (and exporters) in the world. The importing risk analysis provides a high-level indication of how the world's most developed countries are connected to modern slavery, not only through exploitation occurring within their own borders but also through the goods they import.



# Global Slavery Index insights

**US\$ 468 billion** worth of goods imported by the G20 are at risk of being tainted by modern slavery



# Forced labour

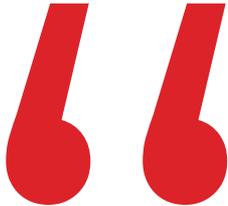
*"all work or service which is exacted from any person*

- ***under the threat of a penalty and***
- ***for which they have not offered themselves voluntarily."***

*ILO Forced Labour Convention, 1930 (No. 29)*



# Example



A migrant worker accepts a job in a garment factory in a nearby country. As part of the **recruitment process**, she has to pay US\$1,500 for this job.

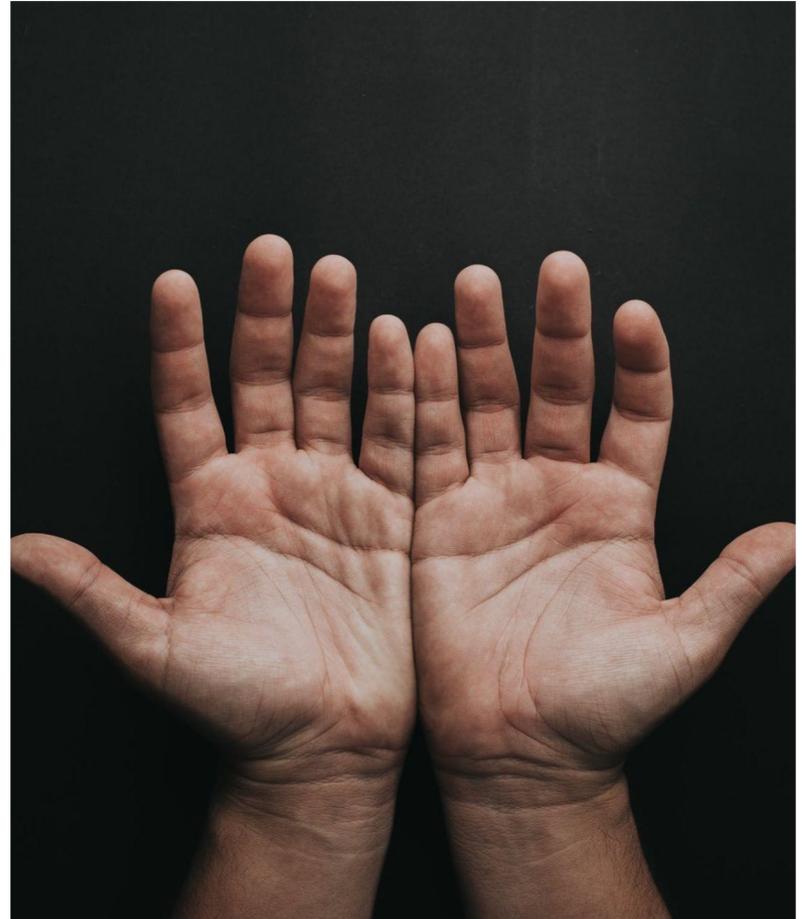
After signing the contract, the **additional fees and interest** raise the amount to US\$3,000 over time.

For two years, **she works to pay back the money owed**. She is told that she **cannot leave until this debt is covered**. The factory kept her passport, which **holds her in place**.



# ILO Forced Labour Indicators

-  Abuse of vulnerability
-  Deception
-  Excessive overtime
-  Isolation
-  Retention of identity documents
-  Withholding of wages
-  Restriction of movement
-  Abusive working and living conditions
-  Debt bondage
-  Physical and sexual violence
-  Intimidation and threats



# Forced labour Indicators tool

## Retention of Identity Documents

The retention by the employer of identity documents or other valuable personal possessions is an element of forced labour if workers are unable to access these items on demand and if they feel that they cannot leave the job without making their loss. Without the identity documents, the worker may not be able to obtain other jobs or access essential services and may also be afraid to ask for help from local authorities or NGOs.

**Example**  
A worker's passport is stored in a locked safe within the supervisor's office. Whenever she needs to renew her passport, she must approach one of the staff members who has the key to unlock the safe. She does not feel comfortable requesting access to her passport. On several occasions, she has had to call in sick. Her main reason for being absent several hours beyond their scheduled time, if they complain or refuse to do this work, they are told they will have their pay cut or they will lose their job.

## Potential Indicators

- 1 Do workers always have access to their identity documents?
- 2 Do workers have lockers or other safe locations to store their identity documents and/or valuable personal possessions?
- 3 Does the employer hold on to these documents? If so, why?
- 4 If documents are withheld, can a worker retain the document at any time?

Rating 3  
The Mekong Club Forced Labour Indicators

## Withholding of Wages

When wages are systematically and deliberately withheld to compel a worker to remain or if this is used to deny a worker the opportunity to change employers, this can point to forced labour.

**Example**  
A worker at a scaffolding factory regularly has her wages withheld. This sometimes happens for several months. She is told that she will receive the payments if she increases her shipping packing targets. This often occurs during the peak season to ensure that workers do not accept jobs at other factories.

## Potential Indicators

- 1 Are there irregular payments of wages made to workers?
- 2 Are there delayed payments of wages made to workers? If so, for how long?
- 3 Is an explanation for irregular and/or delayed payments offered to employees?
- 4 Are there cases where a worker never receives payment?
- 5 Are delayed payments used to keep an employee working at a worksite?

Rating 4  
The Mekong Club Forced Labour Indicators

## Restriction of Movement

Restriction of movement occurs with workers who are locked up and guarded to prevent them from escaping at work or while being transported.

**Example**  
Workers at a toy factory are taken by a bus to their dormitories after each shift. This compartment has high walls and a regularly locked door. They are not allowed to leave unless the supervisors give their approval. This approval is never offered.

## Potential Indicators

- 1 Do workers have the freedom to enter and exit the work premises without restrictions?
- 2 If not, do workers face restrictions related to protection of their safety and security in hazardous work sites?
- 3 Do workers need to request prior permission from a supervisor to attend a medical appointment?

## Abusive Working and Living Conditions

Forced labour victims are likely to endure living and working conditions that workers would never freely accept. Abusive living conditions often represent an entry to the possible existence of coercion that is preventing the exploited workers from leaving the job. Working conditions and accommodation can be degrading, dangerous and dirty.

**Example**  
The factory dormitory is filled beyond capacity; twenty people occupy a space that should only house six workers. The workers are forced to eat and sleep on the same floor. They do not have access to drinkable water at night. There is only one shared toilet.

## Potential Indicators

- 1 Is work performed under conditions that are degrading (polluting or dirty) or hazardous (difficult or dangerous without adequate protective gear), and in severe breach of labour law?
- 2 Would living conditions be described as substandard?
- 3 Would living conditions be considered overcrowded and unhealthy without any remedy?
- 4 How many toilets are available for workers in the living space?

# Drivers of forced labour in textile supply chains

Lack of transparency

Subcontracting

Lack of regulatory oversight

Inadequate auditing & inspection

Recruitment

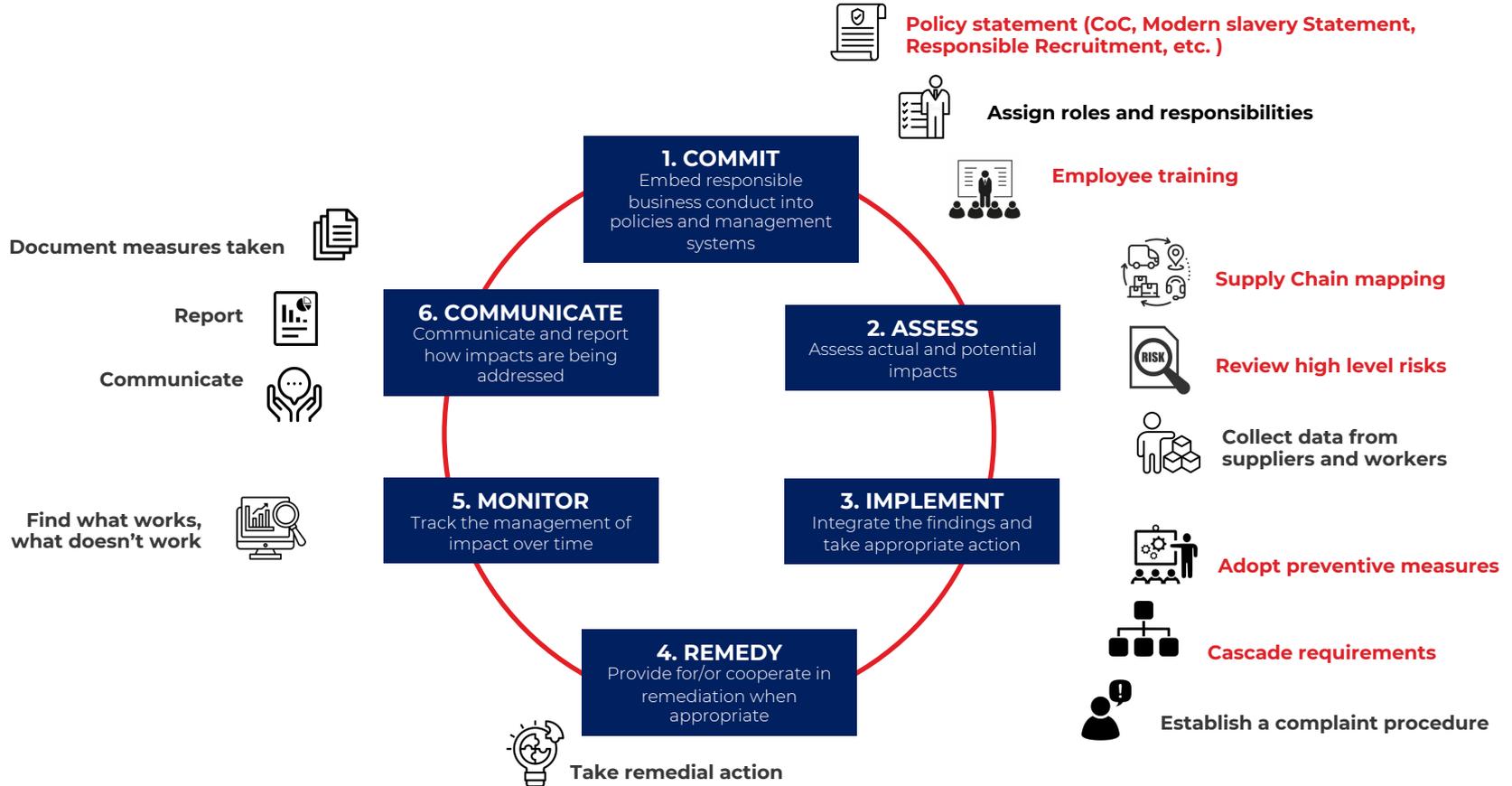
Price pressure

Lack of international standards

Covid 19



# Forced labour due diligence to align with the upcoming obligations



# Responsible Recruitment

## Responsible Recruitment Programme

- Prohibition of charging recruitment fees
- Prohibition of retention of identity documents
- Clear and transparent contracts understood by workers
- Select recruitment agencies

## The Employer Pays Principle

No worker should pay for a job - the costs of recruitment should be borne not by the worker but by the employer.

*Image: Better Work*



# Engage with suppliers and workers

- Self-assessment Questionnaires
- Social Audits
- Worker surveys
- Grievance Mechanisms
- Investigations



Image: Ecotextile News



**Thank you!**

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