



Federation of the European  
Sporting Goods Industry

FESI Position Paper

# Regulation Prohibiting Products Made with Forced Labour on the Union Market

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January 2024

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## Summary:

1. Develop **guidelines with strong links** to international standards
2. Ensure that the process is clear, transparent, and **avoids placing the burden of proof on businesses**
3. Ensure **harmonisation throughout the Union** under the supervision of the European Commission
4. Ensure that products made with forced labour are **not automatically destroyed**
5. Understand that seemingly **simple solutions cannot solve complex problems**

The Sporting Goods Industry has a zero-tolerance policy on forced labour in all forms within its supply chains and is working in tight collaboration with its suppliers where possible to identify and eliminate forced labour and the conditions that can lead to forced labour in sourcing countries, inside and outside the European Union.

Therefore, FESI and its members welcome the EU's proposal for a legislation tackling this complex issue. FESI also salutes efforts from the European Parliament and the Council of the European Union to improve the Commission's draft proposal aimed at preventing products made with forced labour from being placed on the Union market. The co-legislators have already successfully addressed many of our initial concerns, such as recognising that authorities need verifiable and credible information before launching pre-investigations, refraining from copying the US WRO model, moving away from the reversed burden of proof, embracing the risk-based approach, and allowing recycling and donations to be considered in addition to destruction.

However, the effectiveness of this Regulation will only be ensured if it is practical to implement and does not overburden companies that – for the most part – already have efficient systems in place to detect and prevent labour right violations in their sphere of influence.

Ahead of the upcoming trilogues between the European Parliament and the Council of the European Union, FESI wishes to make the following recommendations:

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## **1. Develop guidelines with strong links to international standards**

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FESI commends references in the current text to reflect on the numerous positive industry-led initiatives which have contributed to significantly decrease the prevalence of labour right violations in supply chains such as the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance.

FESI believes that these provisions should serve as a basis to develop future Commissions' guidelines facilitating the implementation of the prohibition by economic operators and competent authorities. Therefore, we strongly support the Parliament's asks to have guidelines published no later than 12 months before the entry into force of the Regulation.

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## **2. Ensure that the process is clear, transparent, and avoids placing the burden of proof on businesses**

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The Commission should develop a transparent process for identifying products made with forced labour. On this regard, FESI welcomes the opportunity given to companies to have a say once the preliminary phases of investigations are concluded, before a decision to withdraw a product from the market has been made.

FESI also welcomes the Council's current position on avoiding placing the burden of proof on businesses but is concerned about the Parliament's decision to introduce a burden of proof for products coming from areas identified as high-risk. This provision would place a significant administrative burden on businesses, potentially limiting their capacity to effectively monitor their supply chain elsewhere.

Instead, FESI supports the decision to introduce a database with regularly updated information about products and geographical areas at severe risk of forced labour. We believe that this database will help economic operators to conduct internal checks in the supply chain where deemed appropriate.

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## **3. Ensure harmonisation throughout the Union under the supervision of the European Commission**

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As the implementation will most likely be up to the EU Member State, there must be tools to ensure harmonisation and equitable implementation across the EU. For any action to be effective and future proof, restrictions need to be designed in a non-discriminatory, country-agnostic, and proportionate manner. For this reason, coordination and guidance from the European Commission will be key. This is why FESI supports the Council's calls to ensure the Commission's stronger involvement in investigations and enforcement, particularly when it comes to products considered of Union interest.

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#### **4. Ensure that products made with forced labour are not automatically destroyed**

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FESI welcomes the Parliament and Council's decision to not automatically destroy goods that were found to have been made with forced labour. This process would significantly contribute to waste emissions and place an added burden on waste management facilities. Businesses welcome the opportunity of considering whether a product should be donated, recycled or destroyed based on its characteristics. This is much more in line with the principles laid out in the Green Deal.

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#### **5. Understand that seemingly simple solutions cannot solve complex problems**

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Preventing products made by forced labour from being sold in the EU is a step forward. However, this will not eradicate forced labour on its own. The current approach to combating forced labour, be it an import or sales ban, does not focus on rooting out forced labour at its source in the EU or abroad, nor on the perpetrators allowing the forced labour to take place.

Corporate due diligence can only supplement Governmental duty to protect decent work but cannot replace Government's obligation and duty of care. There is a strong need for government-to-government partnerships and capacity building measures for national labour inspection systems from supranational institutions (ILO, World Bank, IFC, and OECD). This enables the ability to address deficits in all production sites within an entire economy and not just those connected to global supply chains and the Sporting Goods Industry. Without such ambitious measures, forced labour will unfortunately remain a reality for a long time.

Founded in 1960 FESI - the Federation of the European Sporting Goods Industry represents the interests of approximately 1.800 sporting goods manufacturers (85% of the European market) through its National member Sporting Goods Industry Federations and its directly affiliated companies. 70-75% of FESI's membership is made up of Small and Medium Sized Enterprises. In total, the European Sporting Goods Industry employs over 700.000 EU citizens and has an annual turnover of some 81 billion euro.

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