

Mandates of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Working Group on the issue of human rights and transnational corporations and other business enterprises and the Special Rapporteur on trafficking in persons, especially women and children

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Working Group on the issue of human rights and transnational corporations and other business enterprises and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 51/15, 53/3 and 53/9.

In this connection, we would like to bring your attention to several areas that warrant further clarification and strengthening to ensure that the guidelines to be issued by 14 June 2026 pursuant to article 11 of [the Regulation \(EU\) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market and amending Directive \(EU\) 2019/1937](#) (hereafter “Regulation”) are aligned with the States’ obligations under international human rights law.

To this end, and before turning to the areas where further clarification would be beneficial, we wish to acknowledge that the adoption of the EU Forced Labour Regulation is a significant milestone in strengthening enforcement and ensuring that products made with forced labour – whether in whole or in part, and whether produced within the EU or imported – cannot be placed or made available on the Union market, nor exported. This important step provides a solid foundation upon which effective implementation can be built.

Ensuring UNGPs aligned human rights due diligence (guideline under article 11(a))

The guidelines to be issued under article 11(a) should provide detailed and practical directions to economic operators on conducting human rights due diligence in relation to forced labour. It should be fully aligned with existing international human rights norms and standards, particularly the United Nations Guiding Principles on Business and Human Rights (UNGPs), which set out the foundational framework for human rights due diligence. In conducting the due diligence, **a human rights based, risk based approach** should be adopted. This means that businesses should prioritize mitigating and remediating areas where the most severe adverse human rights impacts occur, rather than focusing solely on the most visible or easily identifiable gaps. For example, companies should not limit their efforts to Tier 1 or direct suppliers, as has been proposed in the Omnibus Simplification Package. Due diligence obligations

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to the United Nations Office and other international organizations in Geneva

should extend throughout the entire value chain where risks of forced labour may exist.

The guideline should also make explicit that **all stakeholders, including workers and their organizations such as legitimate trade unions or other legitimate workers representation, civil society organisations, local communities and rights-holders affected by business activities, should always be involved**, in keeping with the approach of the UNGPs.

In this regard, we wish to recall the [statements of the Working Group on Business and Human Rights dated 12 February 2025 and 20 March 2025](#), and OHCHR's [Commentary on the Omnibus Proposal](#) which expressed concern regarding the “Omnibus Simplification Package.”

Where appropriate, the guidelines should provide sector-specific guidance and examples for different industries, including high-risk sectors such as agriculture, textiles, constructions, electronics, and mining. It should further adapt requirements to the size and capacity of operators, particularly small and medium-sized enterprises (SMEs), to ensure proportional yet effective implementation.

Ensuring responsible disengagement and rights based remediation (guideline under articles 11(a) and (b))

The guidelines under articles 11(a) and (b) should, in line with principles 19 and 23 of the UNGPs and these commentaries, clarify that **disengagement is responsible**, when attempts to apply leverage to prevent, mitigate or eliminate instances of forced labour are unlikely to result in effective actions. Reliance on alternative suppliers within the same context should not in itself be considered as having ended forced labour and would equally require remediation. Such disengagement can in turn generate new risks and impacts, which should be addressed when taking the decision to disengage. Before disengaging, companies and competent authorities should assess potential adverse impacts on workers and develop mitigation plans to avoid further harm. In this process, meaningful consultation with potentially affected groups and their representatives is essential. Such meaningful consultation should also be required by competent authorities **prior** to issuing a product ban, so that decisions incorporate an assessment of the likely consequences for workers and inform the design of remedial measures.

Remediation measures should include **access to effective remedy** as explained under the commentary of principle 25 of the UNGPs, including apologies, restitution, rehabilitation, financial or non-financial compensation, and guarantees of nonrecurrence. The guidelines should set out a non-exhaustive list of concrete measures, such as payment of wages owed, return of identity documents, financial and non-financial compensation, rehabilitation and reintegration support. It is important that **affected workers and their credible representatives are involved in defining the parameters of remedy**, and that the final remedy is commensurate with the nature and severity of the circumstances. Further, it must be emphasized that all remediation measures involve verification from workers or independent monitoring by trade unions and civil society organisations that represent or work with affected workers. This would ensure that the measures adequately address the specific needs of affected workers. The fate of workers who no longer are in the company but who may have suffered from the same conditions of forced labor should be taken into account when defining corrective

action plans and the provision of remedy. Economic operators should ensure that grievance mechanisms are safe, confidential and non-retaliatory, and that any disengagement from business partners does not expose victims to further harm—such as loss of income, deportation or criminalization.

The guidelines should also promote **data collection and transparency** regarding remediation and disengagement outcomes, including through cooperation with the **Union Network Against Forced Labour Products**, to enable regular evaluation of the Regulation’s effectiveness and its impact on affected workers. In addition, it should emphasize that remediation requires addressing the **root causes** and enabling factors of forced labour, such as recruitment fees, restriction of movement, and exploitative visa or employment schemes and that changes are made to internal policies and processes that may affect those root causes to avoid repetition. Companies should collaborate with States, national human-rights institutions, and survivor-led and/or workers’ organisations to support collective remediation efforts and systemic change.

Reference can also be made to the Guideline on access to remedies in the [OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking](#), which affirms that victims of trafficking have an enforceable right to fair and adequate remedies, including criminal, civil or administrative recourse. Procedures for obtaining such remedies must be clearly communicated in a culturally appropriate language and format, and measures should be taken to ensure that victims can remain safely in the jurisdiction in which the remedy is sought.

Establishing Clear Evidentiary Standards, Procedural Parameters, and the Possible Use of Rebuttable Presumptions (guideline under article 11(c))

While article 3 establishes a prohibition on placing, making available on, or exporting products made with forced adult or child labour from the European Union market, the Regulation does not provide detailed guidance on what constitutes a **“substantiated concern”** under article 2(16) sufficient to trigger an investigation under article 17. Nor does it outline the level or type of evidence required to substantiate findings. The absence of such parameters may lead to fragmented implementation across Member States, insufficient protection for victims, and unequal treatment of economic operators subject to investigations.

To address this gap, the guidelines to be issued pursuant to article 11(c) should establish clear yet appropriate evidentiary and procedural standards for investigations, in accordance with the specificity of forced labour administrative nature of the sanction foreseen. They should further operationalize “substantiated concern” defined under article 2(16) and specify the threshold as well as admissible and credible sources of information. Most importantly, “credible source” should clearly include reports from workers’ organisations including trade unions, civil society organisations, workers, and the media, recognising the fact that forced labour cases often rely on indirect or secondary evidence. In case of conflicting sources, a balance of probabilities test should guide decision making. Furthermore, the guidelines should explore the possible use of **rebuttable presumptions** – particularly in cases of state-imposed or systemic forced labour, where obtaining direct evidence is inherently difficult – to strengthen enforcement effectiveness and align with the preventive rationale of international human-rights and labour standards. For example, similar approaches have been adopted

under the Uyghur Forced Labor Prevention Act (UFLPA) which applies under section 307 of the U.S. Tariff Act of 1930. The UFLPA establishes a *rebuttable presumption* that goods mined, produced or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region, or by certain identified entities, are made with forced labour and are therefore prohibited from importation.

Ensuring Appropriate Expertise and Meaningful Stakeholder Participation in Forced Labour Investigations (guideline under article 11(c))

The guidelines under article 11(c) should also describe the process for verifying information subject to assessment for investigation and delineate the respective stages of preliminary phase of investigations and formal investigation, as envisaged under articles 17, 18 and 19, with indicative timelines and procedural safeguards to ensure transparency. It should further ensure that investigations are carried out by officials with appropriate technical expertise on forced labour indicators and risks, particularly within the relevant national and sectoral contexts, with sound knowledge of national, European and international labour standards, and with experience in working with, or knowledge of, relevant victim support organisations, including civil society organisations, workers' organisations, such as trade unions and specialised victims support services. The guidelines should further ensure that officials involved possess adequate expertise on responsible business conduct and human rights due diligence to analyze complex value chain structures.

In particular, to ensure that investigations under the Regulation are supported by credible and context-specific information, the article 11(c) guidelines should establish procedures guaranteeing the **meaningful participation of affected stakeholders**, in particular workers, survivors, trade unions and organisations representing them. Competent authorities with subject-matter expertise should engage with them in all relevant phases of the investigation, including procedures under articles 17, 18 and 19. Such engagement should both be ad hoc and institutionalised through transparent consultation mechanisms, including safe and confidential channels for workers to provide information without fear of retaliation or re-victimisation.

Additionally, the guidelines should require competent authorities and economic operators to take into account the **specific needs and circumstances of groups or populations at heightened risk of vulnerability or marginalization**, where intersecting factors may create additional barriers to participation and access to justice. In the context of forced labour, this includes migrant workers; temporary and seasonal workers; and workers from marginalized groups, such as Indigenous Peoples, caste-affected communities or ethnic minorities, workers with limited literacy skills, women and children. The guidelines should therefore mandate that investigation and consultation processes integrate **inclusive and accessible participation measures**, such as translation and interpretation services, culturally appropriate and disability inclusive communication channels, gender- and age-sensitive procedures. It should also encourage competent authorities to work in partnership with community-based organisations and workers' representatives that have direct access to, and trust among, these groups. Embedding these requirements would help ensure that enforcement of the Regulation is not only effective but also equitable, consistent with international human rights obligations relating to non-discrimination, equality, and access to justice.

Furthermore, the guidelines should explicitly integrate a victim-centred and trauma-informed approach, ensuring that interactions with workers and survivors are conducted with sensitivity to their experiences and vulnerabilities. Investigators should be trained to adopt **a trauma-informed and victim-centred approach**, enabling them to identify and work effectively with workers facing multiple and intersecting risks, including discrimination and severe forms of labour exploitation. Competent authorities should also cooperate with existing protection and remedy mechanisms to facilitate victims' access to justice and rehabilitation. Embedding these participatory guarantees into the Regulation's implementation framework would enhance its legitimacy, ensure the inclusion of those most affected, and align enforcement practices with international human rights standards on participation, access to remedy and non-discrimination.

The guidelines under article 11(c) should also further operationalise the Regulation's risk-based approach by identifying objective criteria for prioritising enforcement, as set out in article 14(2)(a) to (c). It should also make transparent both the process and results of the prioritization to ensure monitoring and accountability of those decisions and emphasise the need for effective coordination among competent authorities within and across Member States, as well as international cooperation in cross-border investigations.

*Enhancing transparency and ensuring effective access to customs Data
(guideline article 11(c) and (d))*

The effectiveness of the Regulation's implementation and enforcement depends on enhanced traceability and transparency within EU and global value chains. In practice, access to relevant and reliable information – such as import and customs data – is essential for civil society organisations, workers' representatives, and investigative journalists to identify products and companies potentially linked to forced labour and to submit substantiated information to competent authorities, including on the link between the product under investigation and the European market. The experience under the United States Tariff Act section 307, where civil society petitions have prompted numerous investigations, demonstrates that access to customs data significantly strengthens enforcement mechanisms and public accountability.

In the EU, by contrast, customs data is currently not publicly available, which hampers the ability of stakeholders to contribute meaningfully to enforcement and oversight. Without such access, submissions of information are unlikely to contain sufficient detail to establish and trace the connection between specific companies, products, and supply chains and the European market. As a result, the investigation on potential cases of forced labour may suffer delays and obstacles which could have been lifted at institutional level, and civil society's role in monitoring and assisting competent authorities might be substantially limited. It should also be clarified that in the absence of accessible customs and trade data, civil society and petitioners cannot reasonably be expected to provide such information or establish the connection with certainty, and that this responsibility should only rest with competent authorities.

The guidelines to be issued under article 11(c) should therefore require the Commission and Member States to establish mechanisms for stakeholder access to customs and import data, including through anonymized or aggregated publication formats that balance commercial confidentiality with the public interest in transparency.

The guidelines under article 11(d) should further provide detailed instructions for customs authorities and economic operators on how to disclose and share relevant data in a secure manner.

Finally, the guidelines should encourage the Union and Member States to take into account the ongoing reform of the Union Customs Code to provide legal grounds for such access and to ensure coherence with existing due diligence and trade transparency frameworks. Enhanced disclosure of customs data would empower stakeholders to play a proactive role in identifying risk patterns, supporting investigations, and ensuring that the Regulation fulfils its purpose of eliminating products made with forced labour from the EU market.

Clarifying context-specific approaches to responsible disengagement in state imposed forced labour (guideline article 11(f))

The guidelines to be developed under article 11(f) should provide comprehensive direction for economic operators and competent authorities on how to identify, prevent and respond to **state-imposed or state-sponsored forced labour**. State-imposed forced labour includes forms of labour exacted by public authorities for purposes such as **political repression, economic development, labour discipline, punishment for participation in strikes, or discrimination on grounds of race, social or national origin, religion or belief**.

The guidelines should acknowledge and differentiate between contexts where responsible disengagement might require different actions, such as situations of state-imposed forced labour. In state-imposed forced labour situations, companies cannot typically prevent, mitigate, or remedy abuses through credible on the ground due diligence due to the scale of the abuses, restrictions on freedoms, and the role of the state. In these situations, companies cannot use or increase their leverage to improve conditions, and direct remediation to affected individuals is almost impossible. A company's only recourse to make sure it is not using or benefiting from state-imposed forced labour programmes is to end all ties with exposed industries and, where necessary, regions. In situations involving directly implicated entities, swift disengagement is essential. The guidelines should therefore clarify that **urgent and full disengagement** from implicated programmes, entities, or regions is required to avoid causing or contributing forced labour.

As direct remediation to victims is not feasible under the state-imposed forced labour situations, because of repression or the absence of safe contact channels, the guidelines should encourage companies to provide **indirect remediation by engaging with affected community**, such as displaced workers, trade unions, migrants, refugees or organisations representing them through trusted intermediaries. In particular in the context of state-imposed forced labour, competent authorities should also be instructed to verify information submitted by companies through triangulation with reports from credible independent sources – including workers' organisations, civil-society actors, and international organisations – particularly before lifting or reviewing product bans.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned analysis.
2. Kindly also provide information on the next steps of the process and how our suggestions and analysis could contribute to such a process.

Please be informed that we remain available to engage further and provide technical advice in the development of the guidelines.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

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