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EU to Ban Forced Labour Products

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The European Commission (the "EC") is expected to announce a proposal shortly that will ban products made using forced labour. The move follows a public consultation earlier this year by the EC seeking public opinion on an initiative "*to keep the EU market free from products made, extracted or harvested with forced labour, whether they are made in the EU or elsewhere in the world*."[1] The proposal could have a significant impact on corporates' supply chain management and approach to human rights due diligence; areas which are already under close scrutiny by the EU.

While the EU's proposal has not yet been released, several media outlets report to have seen an EU document which states that a ban should apply to products (including their components) for which forced labour has been used at any stage of production, manufacture, harvest or extraction, including working or processing.

The proposed prohibition is also expected to apply regardless of the origin of the products, whether they are domestic or imported, or placed or made available on the EU market or exported outside of the EU.

It is understood that each EU member state will be responsible for detection and enforcement and that national authorities will be tasked with proving that relevant products were made or processed using forced labour. At least one report suggests that a database of forced labour risk in specific geographic areas or specific products made with forced labour imposed by state authorities will be set up and made available to the public as part of implementation.

A step further than the U.S.

The enactment of the Uyghur Forced Labor Prevention Act (the "UFLPA") on 21 June, 2022, introduced a presumptive ban on all imports to the U.S. from China's Xinjiang Uyghur Autonomous Region (the "XUAR") and from certain entities designated by the U.S. Department Homeland Security Customs and Border Protection. The UFLPA's presumptive ban modified Section 307 of the U.S. Tariff Act of 1930, which generally bans the importation of any products mined, produced or manufactured wholly or in part by forced or indentured child labour.

While the EU will follow the U.S. in legislating to end forced labour practices, it appears that the geographic scope of the EU proposal will be broader than current U.S. law, because it also applies internally to products made within the EU.

Next steps

Details of the proposal will need to be addressed with lawmakers and EU countries, but the intended prohibition looks set to be sweeping and significant. We will monitor these developments and provide further details as the draft law evolves.

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[1] https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13480-Effectively-banning-products-produced-extracted-or-harvested-with-forced-labour_en

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Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding these developments. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or the following members and leaders of the firm's Environmental, Social and Governance (ESG) or International Trade practice groups:

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