**Follow-up to the European Parliament non-legislative resolution on
“A new Trade instrument to ban products made by forced labour”**

1. **Resolution tabled pursuant to Rules 136(1) and 136(5) of the European Parliament's Rules of Procedure**
2. **Reference number:** 2022/2611 (RSP) / B9-091/2022 / P9\_TA(2022)0245
3. **Date of adoption of the resolution:** 9 June 2022
4. **Competent Parliamentary Committee:** Committee on International Trade (INTA)
5. **Brief analysis/ assessment of the resolution and requests made in it:**

The Commission President announced in the State of the Union address on 15 September 2021 that the Commission “*will propose a ban on products in our market that have been made by forced labour*”.

General elements of the future legislative proposal were laid down on
23 February 2022 in the Commission *Communication on Decent Work Worldwide* and in the proposal for a Corporate Sustainability Due Diligence Directive.

The Committee on International Trade (INTA) of the European Parliament voted, on 16 May 2022, on the Oral Question O-000018/2022 “A new trade instrument to ban products made by forced labour” and on a motion for a resolution on “A new trade instrument to ban products made by forced labour”. The oral question was debated and the draft resolution was adopted in the European Parliament plenary on 9 June 2022. The resolution calls on the Commission to propose a trade instrument that would ban the import and export of products made or transported by forced labour and which should be complemented with measures for intra-EU trade **(paragraph 1)**. Other specific elements of the resolution refer to:

* The need to base the determination of whether forced labour has been used on indicators of the International Labour Organisation (ILO) **(paragraph 2)**;
* Targeted bans on forced labour products, e.g. those from a particular company or region **(paragraph 3)**;
* Detaining goods at the EU border when there is sufficient evidence that forced labour has been used, while providing the relevant businesses an opportunity to refute this accusation **(paragraphs 4 and 5)**;
* EU companies’ efforts to avoid breaches of labour rights in their supply chains and the need to take into account the situation of small and medium sized enterprises (SMEs) **(paragraph 6)**;
* Investigations by the Commission and the national authorities on the basis of information provided by stakeholders **(paragraph 7)**;
* Remediation to be provided by companies to the affected workers **(paragraph 8)**;
* A coordination system among the national customs authorities **(paragraph 9)**;
* Disclosure of commercial information to public authorities, with the Commission providing implementation guidelines and other tools (e.g. a public database of relevant information and a list of sanctioned entities) **(paragraphs 10 and 11)**;
* The need to cooperate with like-minded partners, including through joint investigations **(paragraphs 12 and 13)**;
* Complementarity of the forced labour ban with due diligence initiatives and other efforts in the area of sustainability **(paragraph 14)**;
* Public and private investment to develop additional forced labour free capacity in supply chains **(paragraph 15)**.
1. **Response to requests and overview of action taken, or intended to be taken, by the Commission:**

The Commission shares with the European Parliament the objective of combatting forced labour and promoting due diligence standards that are priorities of the EU’s agenda on business and human rights.

The Commission is addressing forced labour in global value chains as a priority. This is a complex issue given that the physical characteristics of a product do not reveal whether forced labour has been used. Forced labour also often takes place at early stages of a supply chain. To address it efficiently, the focus should be on tackling the root causes, which are often related to economic, social, political or cultural circumstances. Other root causes include legislative gaps and a lack of effective enforcement. Therefore, finding effective solutions requires a long-term effort, combined with short- and mid-term EU action, and pulling together a number of relevant policy tools, at EU level and internationally.

In its Communication “Trade Policy Review – An Open, Sustainable and Assertive Trade Policy” published on 18 February 2021, the Commission pledged to promote sustainable and responsible value chains through a proposal on mandatory due diligence, including effective action and enforcement mechanisms to ensure that forced labour does not find a place in the value chains of EU companies. Since its publication, the Commission has taken both legislative and non-legislative action on forced labour.

On 13 July 2021, the Commission and the European External Action Service published a Guidance on due diligence to help EU companies to identify, prevent, mitigate and account for the risk of forced labour in their operations and supply chains.

The EU’s Generalised Scheme of Preferences (GSP) Regulation includes among the relevant international conventions the International Labour Organization (ILO) Convention No. 29 concerning Forced or Compulsory Labour, and ILO Convention No. 105 concerning the Abolition of Forced Labour. The EU can withdraw preferences from any GSP beneficiary country in cases of serious and systematic violations of the principles of those conventions. GSP+ beneficiary countries have to ratify and effectively implement those conventions to benefit from the more generous preferences. The Commission’s proposal for a new GSP Regulation was adopted on 22 September 2021. It adds export of goods made by internationally prohibited child labour and by forced labour, including slavery and prison labour, as a ground to withdraw the preferences.

On 23 February 2022, the Commission proposed a Corporate Sustainability Due Diligence Directive, which seeks to introduce mandatory and horizontal due diligence requiring EU companies to identify, prevent, mitigate and account for adverse human rights and environmental impacts in their operations and value chains.

As noted, the Commission President announced the ban on forced labour in her State of the Union speech on 15 September 2021. The preparatory work for the proposed regulation included targeted stakeholder consultations and the publication of the Call for Evidence[[1]](#footnote-1). The guidelines for the content of the future legislation were outlined in the Commission Communication on Decent Work Worldwide published on 23 February 2022.

The Commission adopted a proposal for a regulation on forced labour on 14 September 2022. The new instrument will effectively prohibit the placing on the EU market of products made wholly or in part by forced labour (*marketing prohibition*); cover both domestic (EU) and imported products and combine a ban with a robust, risk-based enforcement framework; build on international standards and complement existing horizontal and sectoral EU initiatives, in particular due diligence, as well as transparency obligations; underscore the importance of cooperation with third country governments and international organisations.

The proposed regulation largely addresses the elements of the resolution.

The proposed ban, which will prohibit the placing and making available on the EU market of both domestic (EU) and imported products, is non-discriminatory, proportionate, and refers to the need to base indicators of forced labour risks on ILO information, among other information sources. It is compatible with World Trade Organization rules and complementary with other relevant EU initiatives (e.g. the proposed Corporate Sustainability Due Diligence Directive).

As regards best practices, the Commission has good and long-standing cooperation with the United States and Canada on labour issues, both in multilateral settings and bilaterally, and is in contact with them to learn further from their experiences. The proposed regulation underscores the importance of cooperation with third country governments and international organisations.

Concerning the call to include products transported by forced labour, the focus of the proposed regulation is on products. Services that are related to any processing of a product are covered, if they are provided with forced labour **(paragraphs 1 and 2)**.

The aim of the proposed regulation is not to target specific companies or industries, but rather to effectively prohibit the marketing of forced labour products. Consequently, the scope includes all products made available on the EU market **(paragraphs 3 and 11)**.

Enforcement will be critical, with both Member States authorities and the Commission having a role to play. National authorities in the Member States will implement the prohibition through a robust, risk-based enforcement approach. The Member States' customs authorities will be in charge of enforcement at the EU borders. Companies will have the opportunity to provide relevant information and explanations before any conclusion is reached by competent authorities on the presence of forced labour in their products. When a competent authority takes a decision that a product was made with forced labour, that particular product will be banned from the EU market and the economic operators concerned will have to withdraw the product concerned from the market. If an economic operator does not comply with the decision of the competent authority to withdraw those products from the market and not to put any of those products on the market, the competent authority may impose penalties.

The Commission will support consistent enforcement across all Member States, through the creation of a network of competent authorities, the issuance of implementation guidelines, and the creation of a database of forced labour risks. The decision taken by a competent authority in one Member State will be communicated to the competent authorities of the other Member States, and they will need to recognise and enforce it.

As regards the call that public authorities should be able to act on the basis of information provided by stakeholders through a formalised and secure complaints procedure, the proposed regulation sets out that national competent authorities will be able to receive submissions from all sources, including non-governmental organisations (NGOs) and workers **(paragraphs 4, 5, 7, 8 and 9)**.

The Commission considered the specific situation of SMEs, which has been addressed in several ways in the proposal and economic resources of companies will be taken into account during investigations, in particular when deciding on the time limits for submission of information, to account for the fewer resources at the disposal of the SMEs. The competent authorities will also consider the size and resources of the economic operators concerned and the scale of the risk of forced labour before initiating a formal investigation. The Commission, within 18 months from the entry into force of the regulation, will issue guidelines to companies to help them comply with the prohibition. The guidelines should be tailored for different types of economic operators **(paragraphs 6 and 10)**.

The Commission agrees that forced labour is a very complex issue, and the international dimension and engagement with non-EU countries is important, including through active involvement of EU Delegations. The Commission is cooperating with partners, including the United States and Canada, who have their own systems and with international organisations, notably the ILO, the Organisation for Economic Cooperation and Development (OECD), and the UN, including the UN Working Group on Business and Human Rights. Specific provisions for international cooperation are included in the proposal for a regulation. Hence, as a result of the regulation, international cooperation will continue and intensify **(paragraphs 12 and 13)**.

The Commission recognises the role of due diligence in identifying, preventing, mitigating and accounting for the use of forced labour in value chains, and the legislative proposal will be fully consistent with the due diligence obligations established in existing and proposed initiatives. Due diligence practices of companies are to be taken into account by the competent authorities in their risk assessment **(paragraph 14)**.

In response to the call for the use of public and private investment to develop additional forced labour-free production capacity in affected supply-chains, the EU has already several programmes in place, assisting developing countries in the ratification and implementation of the ILO fundamental conventions, including forced labour conventions. This helps countries set the right regulatory framework within which business operates. In addition, the EU has several programmes helping companies to adjust their operations and business practices in order to be able to respect human rights. This is part of the Commission’s overall efforts to assist third countries and companies to comply with due diligence and responsible business conduct requirements outlined in OECD, ILO and UN standards **(paragraph 15)**.

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> [↑](#footnote-ref-1)