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## TEXTS ADOPTED

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### **P9\_TA(2022)0245**

#### **A new trade instrument to ban products made by forced labour**

#### **European Parliament resolution of 9 June 2022 on a new trade instrument to ban products made by forced labour (2022/2611(RSP))**

*The European Parliament,*

- having regard to the State of the Union address of 15 September 2021 by the President of the Commission Ursula von der Leyen,
- having regard to the Commission proposal of 23 February 2022 for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM(2022)0071),
- having regard to the Commission communication of 23 February 2022 on decent work worldwide for a global just transition and a sustainable recovery (COM(2022)0066),
- having regard to the Commission and the European External Action Service guidance of 12 July 2021 on due diligence for EU businesses to address the risk of forced labour in their operations and supply chains,
- having regard to its resolution of 17 December 2020 on forced labour and the situation of the Uyghurs in the Xinjiang Uyghur Autonomous Region<sup>1</sup>,
- having regard to its resolution of 16 December 2021 on forced labour in the Linglong factory and environmental protests in Serbia<sup>2</sup>,
- having regard to its resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability<sup>3</sup>,
- having regard to International Labour Organization (ILO) Forced Labour Convention of 1930 and to its Protocol of 2014,
- having regard to the 1999 ILO Convention on Worst Forms of Child Labour,
- having regard to the Universal Declaration of Human Rights of 1948,

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<sup>1</sup> OJ C 445, 29.10.2021, p. 114.

<sup>2</sup> Texts adopted, P9\_TA(2021)0511.

<sup>3</sup> OJ C 474, 24.11.2021, p. 11.

- having regard to the UN Guiding Principles on Business and Human Rights,
  - having regard to the OECD Guidelines for Multinational Enterprises,
  - having regard to the question to the Commission on a new trade instrument to ban products made by forced labour (O-000018/2022 – B9-0015/2022),
  - having regard to Rules 136(5) and 132(2) of its Rules of Procedure,
  - having regard to the motion for a resolution of the Committee on International Trade,
- A. whereas the ILO Forced Labour Convention, 1930 (No. 29) defines forced labour as ‘all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily’; whereas the ILO uses 11 indicators to identify the existence of forced labour; whereas these indicators are: abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions and excessive overtime; whereas sometimes the presence of more than one of the listed indicators is needed to determine the presence of forced labour;
  - B. whereas according to ILO estimates, 25 million people worldwide are currently in a situation of forced labour and, of these, 20,8 million are in privately imposed forced labour and 4,1 million in state-imposed forced labour; whereas women and girls comprise 61 % of those in forced labour; whereas migrant workers are especially vulnerable to forced labour; whereas the COVID-19 pandemic has exacerbated the situation;
  - C. whereas the latest ILO global estimates indicate that 160 million children were in child labour globally at the beginning of 2020, accounting for almost 1 in 10 of all children worldwide; whereas 79 million children – nearly half of all those in child labour – are victims of the worst forms of child labour, in hazardous work that directly endangers their health, safety and moral development;
  - D. whereas research has shown that forced labour impedes sustainable development and has a negative impact on inter-generational poverty, inequality and governance, and fuels corruption and illicit financial flows;
  - E. whereas the EU economy is connected to millions of workers around the world through global supply chains; whereas EU consumers want to be certain that the goods they buy are produced in a sustainable and fair way that ensures decent work for those who produce them;
  - F. whereas forced labour is an unpriced external factor which stifles innovation and productivity, and gives an unfair competitive advantage to the businesses and governments that support it;
  - G. whereas Commission President Ursula von der Leyen affirmed in her 2021 State of the Union speech that the Commission will propose a ban on products in the EU market that have been made by forced labour;

- H. whereas in its proposal for a Corporate Sustainability Due Diligence Directive, the Commission sets out due diligence obligations for large companies over a certain threshold and for certain other companies in particularly sensitive sectors, to identify, prevent, mitigate and account for actual and potential adverse impacts on human rights, including labour rights, and on the environment along global supply chains;
- I. whereas the Commission communication of 23 February 2022 on decent work worldwide for a global just transition and a sustainable recovery (COM(2022)0066) sets out the Commission's plans to prepare a new legislative initiative, which will prohibit the placing on the EU market of products made by forced labour, including forced child labour; whereas this initiative will cover both domestic and imported products, and combine a ban with a robust, risk-based enforcement framework;
- J. whereas forced labour is a complex phenomenon and a ban on forced labour products will not be sufficient to eradicate forced labour and tackle the issue at its roots; whereas in order to deal with this global issue, the EU should also focus on dialogue with non-EU countries, technical assistance, capacity building and awareness raising; whereas the EU should also actively work at multilateral level to find collective solutions in order to eradicate forced labour;
- K. whereas a number of EU companies follow several voluntary and overlapping sets of guidelines on responsible business conduct, but the uptake thereof still needs improvement; whereas in order to address this, the EU already has mandatory due diligence rules in place in specific sectors such as timber and the sourcing of so-called conflict minerals;
- L. whereas the effectiveness of forced labour product exclusions will depend on several factors such as the percentage of global sectoral demand that participates in the boycott; the costs and viability for exporting firms of trade diversion, trade reallocation or product transformation; suppliers' market power; and how the host government responds to external pressure;
- M. whereas several tools need to be combined to resolve different forced labour-related problems;
- N. whereas in order to be WTO compatible, any product exclusion needs to be structured so as to avoid violating free trade commitments not to discriminate against goods by geographical origin; whereas Article XX of the General Agreement on Tariffs and Trade provides the legal grounds to justify product exclusion decisions; whereas any such exclusion needs to be evidence-based and must follow consultation with the affected parties;
- O. whereas introducing a ban on products made by forced labour is a political priority of both Parliament and the EU as a whole;
- 1. Calls for a new WTO-compatible trade instrument to complement the corporate sustainability due diligence rules, banning the import and export of products made or transported by forced labour and which should be complemented with measures for intra-EU trade; stresses that any future EU framework needs to be proportionate, non-discriminatory and effective, respecting the commitment to an open and rules-based

trading system; underlines that the new proposal could be based on the best practices of countries with similar legislation in place such as the US and Canada;

2. Stresses that the determination of whether forced labour has been used should be based on the ILO forced labour indicators, including its 'Hard to see, harder to count – Survey guidelines to estimate forced labour of adults and children';
3. Considers that the new instrument should allow for bans on forced labour products from a particular site of production, a particular importer or company, those from a particular region in the case of state-sponsored forced labour and those from a particular transport vessel or fleet;
4. Considers that, under the new EU instrument, public authorities, on their own initiative or acting on information they have received, should detain goods at the EU border when they consider that there is sufficient evidence that these goods were made or transported with forced labour; notes that the importer whose goods have been detained should then be given the opportunity to refute this accusation by proving that the goods were not made or transported with forced labour, which may then lead to the release of the goods; underlines that the evidence to prove an absence of forced labour must be based on ILO standards;
5. Notes that products should be seized following findings by public authorities on the basis of sufficient evidence that forced labour has been used to produce or transport the goods, or if the goods have come from a particular region where state-imposed forced labour is prevalent; stresses that the seized cargo would be released if the company can prove that no forced labour had been used or that remediation had taken place and that indicators of forced labour are no longer present;
6. Acknowledges that a number of EU companies are already making efforts to ensure that practices that breach human rights and labour rights do not take place in their supply chains; calls on the Commission to offer companies, specifically SMEs, technical and other appropriate support to comply with the new rules in order to avoid unnecessary burdens for SMEs; further calls on the Commission to assess the implementation of the instrument and its impact on EU companies;
7. Believes that the Commission, particularly the Chief Trade Enforcement Officer, as well as national authorities, must be empowered to launch investigations; notes that public authorities should be able to act on the basis of information provided by stakeholders, NGOs or affected workers and through a formalised and secure complaints procedure such as through the Single Entry Point;
8. Calls on the Commission to ensure that the new EU instrument requires the responsible companies to provide remediation to the affected workers prior to import restrictions being lifted; calls for the monitoring of remediation and corrective actions to be undertaken in cooperation with relevant stakeholders, including civil society organisations and trade unions;
9. Believes that the coordination system should be created at EU level to support the customs authorities of the Member States and ensure the transparency of all procedures launched;

10. Stresses that companies may be requested by public authorities to disclose relevant information concerning subsidiaries, suppliers, sub-suppliers, contractors and business partners in the supply chain, with due regard for commercial confidentiality; to this end, invites the Commission to create guidelines to assist companies in the setting up of a supply chain mapping process in order to identify what constitutes relevant information; underlines that a public database containing information on individual suppliers, the risk they pose or, on the contrary, evidence of decent work, could reduce the administrative burden on companies;
11. Calls for a public list of sanctioned entities, regions and products to be created and maintained;
12. Stresses the importance of cooperating with like-minded partners to put an end to forced labour globally and to ensure that goods made by forced labour are not traded; notes that joint efforts are needed to ensure that the ban is not circumvented and that goods suspected of having been produced by forced labour cannot be re-routed;
13. Believes that in order to effect change globally, the EU should work closely with its partners through joint action and investigations; calls for an active role for the EU Delegations to engage with non-EU countries and stakeholders on issues related to the new legislation;
14. Notes that the new trade instrument to ban products made by forced labour should be coherent and complementary to other due diligence initiatives and human rights and sustainability provisions in force; notes that this should be taken into account in the review of the 15-point action plan on Trade and Sustainable Development (TSD) chapters and in the subsequent TSD chapters in EU Free Trade Agreements;
15. Calls for the use of public and private investment to develop additional forced labour-free production capacity in affected supply-chains;
16. Instructs its President to forward this resolution to Commission, Council and the Member States.