

## STATEMENT

# EU INSTRUMENT TO PROHIBIT PRODUCTS MADE WITH FORCED LABOUR RELEASED: *HUMAN RIGHTS, REALLY NOT FOR SALE?*

**Brussels, 14 September 2022** – A year after the announcement of an upcoming instrument to prohibit products made with forced labour in the EU market, President Von der Leyen has unveiled the Commission’s proposal. The Fair Trade movement welcomes this long awaited action but sees room for improvement to achieve an instrument that effectively contributes to the global eradication of forced labour, addressing the root causes of forced labour and working hand in hand with third countries.

Today, the European Commission has presented its regulatory proposal to prohibit the use of forced labour in the extraction, harvesting, production or manufacturing of products. The proposal outlines how the EU intends to prohibit the placement of products made with the use of forced labour on the EU market and as a result, push for the trading of products made with respect for and protection of human rights and labour rights.

The FTAO welcomes the proposal but highlights that it will require significant improvement for it to deliver positive results for those suffering from forced labour. It is estimated that 28 million people worldwide are victims of forced labour practices, with the majority of them concentrated in the private sector, including agriculture<sup>1</sup>. President Von der Leyen stated in her State of the Union Speech in 2021 that “*human rights are not for sale – at any price*”. However, under the current design of this instrument, products made with forced labour will remain available in the market and available to EU consumers, even after authorities have determined that those products are made with forced labour.

One of the most important shortcomings of the proposal, according to Virginia Enssle, policy officer at the FTAO, is that it fails to provide remedy for victims. “*Those suffering from forced labour require an instrument which includes remedies, including action by economic operators, and that addresses the root causes of forced labour*” regrets Virginia Enssle. According to the FTAO, the remedial action toolbox shall include, among other, the public disclosure of information on supply chains all the way down to the farm level; requiring companies to ensure payment of living incomes and living wages; and requiring companies to establish long-term contracts with cooperatives and farmers in high risk areas for forced labour. The implementation and compliance with these remedial actions should be *conditio sine qua non* for the authorities’ decisions to be withdrawn, involving, when relevant, civil society.

In addition, this instrument should include elements to prohibit the transfer of compliance costs (meaning compliance with the prohibition of placing products on the market and/or of withdrawing products, inter alia) to actors in the value chain who are in a weaker position than big operators.

<sup>1</sup> <https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>  
<https://www.ohchr.org/en/press-releases/2022/06/un-expert-denounces-worrying-prevalence-trafficking-agricultural-sector>

The FTAO regrets that the lack of public consultations in this legislative process might have conducted to disregarding some important impacts. “A *thought evaluation of the impacts of this proposal is still missing, in particular a gender impact assessment given that over one-third of the victims of forced labour are women and girls, who face additional challenges escaping this situation due to society’s gendered structure*<sup>2</sup>”, stresses Virginia Enssle.

Another relevant shortcoming of the current proposal is that it could allow economic operators trading products made with forced labour to bypass the enforcement of the regulation. This for example, through the fact that economic operators can suspend the enforcement of prohibition to place in market or order the withdrawal of the products, simply by asking the authorities to revise their decision.

Similarly, the proposal raises concerns about the effectiveness of the instrument at both ends of the global value chains. On the one hand, risks of forced labour at the start of the supply chain could remain unaddressed. On the other hand, under the current proposal, the products under investigation of forced labour will remain available for purchase by EU consumers. Therefore, lowering the effectiveness of the instrument and leading to human rights still being for sale in the EU market.

### A market instrument is not enough to eradicate forced labour

This instrument must be supported with accompanying measures as well as permanent dialogue and cooperation with third countries, and relevant stakeholders, especially rights holders and their representatives, with the ultimate goal of global eradication of forced labour at the heart of the proposal.

In that sense, we welcome the EU’s commitment to engage with third countries to facilitate the regulation’s implementation and enforcement. Nevertheless, it should not be limited to that, it should also include support for governments (for cases not pertaining to state-imposed forced labour) and national stakeholders in order to comply with new EU regulations banning products involving forced labour while also addressing the root causes of the problem.

The EU should also use its trade leverage and partnership potential more effectively, and recognise the importance of eradicating forced labour as part of the obligations to promote and respect human rights, as well as the commitments made in Trade and Sustainable Development Chapters (‘TSD’). As a result, serious violations of ILO principles should effectively lead to sanctions or suspension of the agreements. In addition, the findings obtained through implementation of this regulation shall be linked to the country-by-country priorities set out in TSD chapters. To that end, as well, the role of EU delegations and the Domestic Advisory Groups should be further detailed.

### Human rights really not for sale?

Overall, we expect the EU to work on and support efforts to eradicate forced labour within and outside EU borders; working hand in hand with all actors involved in its supply and value chains. The EU has a strong trade leverage in this regard but a market instrument alone will not achieve this goal. The EU instrument must be based on the reality on the ground and be part of continuous engagement, dialogue and cooperation with partner and third countries in order to address the root causes that lead to forced labour.

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<sup>2</sup> <https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm>

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