



CIVIL SOCIETY DIALOGUE

MEETING ON THE REVIEW OF THE 15-POINT ACTION PLAN FOR TRADE AND SUSTAINABLE DEVELOPMENT AND ON THE TRADE POLICY REVIEW ACTIONS ON FORCED LABOUR

Date: 19 July 2021

Time: 09:30-11:30

Location: Webex

Lead speakers

- Head of Unit, Multilateral Trade and Sustainable Development Policy, Green Deal, Conflict Minerals, DG Trade, European Commission
- Head of Unit, Bilateral relations in Trade and Sustainable Development, Generalised System of Preferences, DG Trade, European Commission

Moderator

Deputy Head of Unit - Transparency, Civil society and Communication Unit, Directorate-General for Trade, European Commission - Civil Society Coordination

Agenda

1. State of play: Legislative and non-legislative initiatives addressing forced labour - **Q&A**
2. State of play: Review of the 15-Point Action Plan - **Q&A**

1. Forced labour

The Commission (**COM**) gave an overview of non-legislative and legislative initiatives addressing the risk of forced labour in European supply chains. As announced in the Trade Policy Review of 18 February 2021, the Commission has committed to 1) adopting a proposal on mandatory due diligence as part of the initiative on Sustainable Corporate Governance (SCG) and - as a bridging action - 2) issuing guidance to assist business in taking appropriate risk management measures in line with existing international due diligence instruments. The Guidance published on 13 July seeks to support companies in exercising due diligence by providing concrete consideration to be used as part of their identification, mitigation and prevention of the risk to forced labour in their supply chain. The Guidance is one example of EU action supporting more sustainable trade, being complemented by the provisions on responsible business conduct under EU trade agreements and General System of Preferences (GSP) as well as by specific projects in partner countries in cooperation with the UN/ILO and the OECD. COM underlined that the Guidance must also be seen

in a wider context of legislative initiatives introducing mandatory due diligence. Such initiatives are either "horizontal" as the proposal put forward in April 2021 for a Corporate Sustainability Reporting Directive (CSRD) and the upcoming SCG initiative, as well as sector or product specific legislation such as the EU Battery Regulation of December 2020, or the upcoming Sustainable Products initiative and legislative proposal on commodities and products associated with deforestation.

The European External Action Service (**EEAS**) added that in addition to serving as a bridging action until legislation is in place, the Guidance could also complement it and be of use of the practical implementation of future legislation.

Discussion Highlights / Questions and Replies

European Economic and Social Committee (EESC) Members asked about indicators to assess the outcome of the COM projects with ILO/OECD and asked how the EESC and Domestic Advisory Group (DAGs) could become better involved. In addition, the COM was asked about measures under Economic Partnership Agreements (EPAs) to address unfair competition against European companies and what the consequences are for partner countries' companies using forced labour when trading with the EU.

Environmental Justice Foundation raised the issue human rights abuses in the fishing sector, referenced US legislation tackling forced labour on distance water fishing vessels and asked if the EU should take similar trade based legislation to address serious human right abuses in the global seafood industry.

COM underlined the two-folded objective of referenced projects with the ILO and OECD: 1) supporting implementation of international guidelines in third countries - also to address issues of unfair competition - as well as to; 2) improve the coordination and cooperation between the international organisations with established standards in the area. COM explained that projects were mainly prepared within COM with strong involvement in EU Delegations, but expressed a willingness to look how to better involve other stakeholders. As for indicators on the implementation, these are included as part of the project and evaluated on a yearly basis.

COM expressed that it shares concerns about human right abuses link to illegal fishing (IUU) and forced labour in shipping. The issue is being followed closely including as part of dialogue with IUU partners. COM noted that US reports on forced labour in the industry are not themselves legislation but more of "risk assessment tools", which is also something being looked at by COM. COM explained that reflections are ongoing as for the legislative action to address forced labour, and - as an immediate step - how this could be covered by the upcoming SCG initiative. COM mentioned that the Economic Partnership Agreements (EPAs) with ACP countries contains safeguards clauses" and that the Cotonou agreement - on which EPAs are based - allow for the suspension of benefits under the Agreement when it's essential elements (mainly democracy, human rights, and rule of law) are breached.

International Confederation of European beet growers (CIBE) said that a lot of obligations are put on business and asked if it is not rather for COM to better enforce implementation of forced labour provisions in FTAs.

Fair Trade Advocacy Office (FTAO) asked for a clarification if child and forced labour would be addressed by a separate initiative on or within the SCG initiative and the plans for an import ban on forced labour.

COM explained that the intention has been to help companies and to provide “a bridge” before the putting in place of mandatory legislation. Regardless if this is done via due diligence or import/marketing restrictions, there will be a need to support business in finding out what happens in their supply chain as issues like forced/child labour as such abuses aren’t physically visible on the product itself. COM repeated that the outcome would depend on the ongoing legislative process, that all options are being evaluated but that the first opportunity would be the SCG.

2. TSD REVIEW

COM gave an overview of the review of the 15-point action plan for trade and sustainable development (TSD). COM recalled that sustainability is at the core of EU trade policy, as made clear in the February 2021 Trade Policy Review Communication. While the TSD chapters (and their binding commitments) play a key role, it is important to say that overall trade agreements contribute to sustainability by for example creating more and better-paid jobs and facilitating exchanges of environmental goods and services. In addition, trade agreements are complemented by actions at the multilateral level and by autonomous policy initiatives to promote sustainability. COM further elaborated on the EU approach to TSD so far, and clarified the scope and objectives of the review highlighting two initiatives that will feed the process: the open public consultation (to be launched very soon and that will be running until the end of October), and a study (done by an external consultant) to analyse what other countries do to include, implement and enforce sustainability provisions in their trade agreements. The study is already ongoing (since early June) and the draft final report is due by end of November. Finally, COM informed that the TSD review should be concluded in the first half of 2022.

Discussion Highlights / Questions and Replies

European Economic and Social Committee (EESC) - asked COM for more detail about the date for the launch of the consultation and noted that the study should also look into how provisions are implemented. For that, it would be important that the consultants get in touch with civil society stakeholders in other countries for interviews. The EESC representative also requested more information on the various stages of the study and on how members of the domestic advisory groups (DAGs) can contribute to this analysis.

Danish Trade Union Confederation - asked for more details on the content of the study and queried in particular if the analysis would look into more ideas on the enforcement side, including sanctions.

Environmental Justice Foundation - noted that while COM puts emphasis on the ratification of the fundamental International Labour Organisation (ILO) Conventions, other ILO Conventions are also important, giving the example of Vietnam that has not yet ratified the ILO convention no 188 on work in fishing. They asked if this would be an area to look into during the review.

COM informed that the consultant working on the study has delivered an inception report that is under review. The plan is to publish it in August for civil society to see and comment upon. COM also clarified that the launch of the consultation would be done very shortly. On the content of the study, as there are many trade agreements the consultant proposed to look into those that are recent, representative and that have explanatory value. The recent USMCA is included. COM recalled the importance of the recent meeting with all the DAGs. On the ILO conventions, COM recalled that our agreements are very expansive. For ratification commitments, we follow what the ILO considers to be fundamental conventions. COM confirmed that the consultant would conduct interviews for the qualitative assessment part of the study.

European Trade Union Confederation (ETUC) - asked if the study would look into the GSP plus related tools and into novel proposals like the one in the Franco-Dutch that suggests linking market access to sustainability criteria. ETUC also enquired about the format of the end-product of the review and whether this will apply on ongoing negotiations. Regarding Korea, the ETUC representative asked when the planned ad-hoc TSD Committee meeting would take place.

Amfori - asked whether the input from the public consultation would feed into the consultants work and when the public consultation would start.

Eurogroup for Animals - argued that addressing sustainability issues (including animal welfare) should go beyond TSD chapters, and stressed the importance of using market access tools to provide incentives to improve standards and meet challenges like biodiversity loss, climate change and anti-microbial resistance. SPS chapters are also of interest and should ensure the right to rely on the precautionary principle when it comes to food safety. They underlined the importance of having sustainable food systems chapters in trade agreements but regretted the proposed tabled for Chile saying that it is not enough. TSD chapters need to be improved, as commitments are too weak and the tools for their enforcement need to be strengthened. They concluded by asking if COM would adopt a holistic approach to the TSD review.

COM clarified that the exact format of the product of the TSD review would be decided later; it will be driven by the outcome of the reflection. COM added that the outcome of the review would determine impact on negotiations. COM clarified that the study would not look into unilateral preference schemes like GSP. In contrast, the review will look into all proposals that have been made on TSD, including the Franco-Dutch paper. COM clarified that issues related to animal welfare, food safety and anti-microbial resistance belong to the SPS chapters of trade agreements. On Korea, COM clarified that the meeting will take place after the summer.

ClientEarth - asked if the terms of reference of the study are going to be published and welcomed the idea that it will look into practical cases adding that it is important to look into disputes that have not happened. They inquired how the open public consultation would feed into the study and welcomed the possibility to send comments on the inception report of the latter.

Both ENDS - reminded COM to their previous requests for COM to make public the texts tabled at the WTO negotiations on investment facilitation and on trade in plastics and environment. In addition, also requested more information on the EU position on the negotiations on the UNCTAD mandate.

International Confederation of European Beet Growers - asked COM to provide more detail about the mechanisms that would be put in place to adopt a more assertive stance on enforcement of TSD commitments.

COM informed that there are no plans to publish the terms of reference of the study. The inception report will provide all the elements that the study will cover. The request to see information on the EU position in certain negotiations would be taken up with the relevant colleagues. To see if additional steps for enforcement are needed, we are also looking into recent developments like for example the outcome of the dispute with Korea. The CTEO and the SEP are also important new initiatives in this regard. COM added that the objective of the TSD review is to see what else could usefully be added to what we do already.

European Federation of Investors and Financial Services Users - argued that different EU policies could be combined to contribute to help developing partners to move to international labour standards.

Deutscher Industrie und Handelskammertag (DIHK) - underlined that some partners claim they need support to deal with all the sustainability issues that the EU puts on the table. It is important to reflect on how we can use our levers in a different way to support sustainability without overburdening trade agreements.

European Economic and Social Committee (EESC) - argued that we continue to work on TSD in silos and that it is important that the different parts come together and talk to each other. This is true also for the TSD review. The EESC representative also pointed out that other EU policy areas can be mobilised in order to adopt a more holistic approach.

COM concluded by saying that the open public consultation will be an opportunity to give inputs on how we can better identify what is the value added of trade policy and TSD given that sustainability is also an objective of other EU policies.