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Proposal for a regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union market.

FEDIOL position paper

Introduction

[FEDIOL](#), the voice of the European Vegetable Oil and Protein meal industry, welcomes the European Commission's proposal for a regulation to prohibit products made using forced labour on the internal market of the European Union (EU). FEDIOL opposes forced labour in all its forms and supports the ambition to effectively address human rights abuses along supply chains. This document outlines FEDIOL's reflections on the proposed Regulation and recommendations on areas in which it could be further clarified to ensure its effective implementation.

The proposal is a unique opportunity to combat forced labour. To get this instrument right the EU should provide clear sector-specific guidance on best practices, partner with third countries by advancing international standards to tackle the root causes of forced labour and empower companies to engage with supply chain partners rather than promoting disengagement.

Tackling forced labour requires targeted measures that may differ depending on the region or the sector in question. While the proposal is a very good starting point and contains many positive elements, there are certain open questions and gaps that need to be addressed to ensure a framework that functions in practice and contributes to tackling forced labour worldwide.

In this regard, FEDIOL is of the view that the proposed Regulation could be strengthened along the following lines, while maintaining its positive elements:

1. Providing a clearer legal framework by refining certain key provisions in the draft text.

Agricultural supply chains are complex, often involving multiple small-hold farmers in remote rural areas selling products through intermediaries. These intricacies should be kept in mind when considering the definitions and scope contained in this proposal. Well-designed legislation should combat the root causes of the problem and not lead to mass bans or widespread product withdrawals, which are not effective in preventing the underlying conditions of forced labour. Instead, it should precisely target products as close as possible to the source of forced labour before such products enter into the wider supply chain and thereby minimise its retroactive effect. In this regard, it is important to clearly define, among others, what is meant by "withdrawal", "end user" and "product". Additionally, the proposed regulation does not specify how competent

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authorities will determine whether a concern is substantiated or a source is credible. The evidentiary standard and threshold should be clearly defined by the legislation to avoid inconsistent interpretation by Member State authorities.

2. Providing workable timeframes to ensure efficient implementation and enforcement of the proposal.

Overall, longer timeframes are needed considering the major impact of competent authorities' decisions (Article 6). The current 15-day response timeframes for economic operators during the investigative process (Articles 4 and 5) are too short, especially when suppliers are located in different countries. A response time of 30 days would allow economic operators to reply effectively to the 'substantiated concern' and precise request of competent authorities.

Additionally, transparency and open access to information for economic operators and competent authorities are essential and provide economic operators with enhanced legal certainty. Therefore, the database of Article 11 should be accessible and fully functional at the latest 6 months after the entry into force of the proposed Regulation. In the same context, the guidelines of Article 23 should also be published no later than 6 months after the entry into force of the proposal. Economic operators need guidance to properly address the issues identified in the Regulation by the time the measures begin to apply.

3. Complementing and aligning with existing and upcoming legislation and international frameworks to avoid fragmenting enforcement.

To ensure coherence with current and upcoming legislation, it is crucial that EU legislators ensure alignment with EU legislation, existing guidelines, and recommendations of international organisations. In this context, the UN/OECD guidelines on Human Rights and the EU Corporate Sustainability Due Diligence Directive (CSDDD) and its risk-based approach will be an integral part of supply chain policies. Therefore, policymakers should ensure the CSDDD and the Forced Labour Regulation will work together in practice. In particular, the timings of the entry into force of the two regulations and the definitions of "due diligence in relation to forced labour" should be aligned.

4. Ensuring the specificities of different supply chains are taken into account in designing and implementing the legislation.

Given the complexity and large number of intermediaries that can exist in agricultural supply chains, the proposal should provide agriculture-specific guidelines, building on OECD-FAO Guidance for Responsible Agricultural Supply Chains, to provide a framework for proportionate risk-based due diligence and a step-by-step approach for companies to integrate a due diligence approach in their operations and supply chains. The development of such guidelines would also be an opportunity for the Commission and supply chain actors to jointly identify risks, find solutions, establish best practices, and identify engagement opportunities with third countries.

5. Encouraging EU and Member State authorities, in addition to economic operators, to partner with third countries to find effective solutions to address forced labour.

A ban on goods made using forced labour will not necessarily solve the core problem on its own. At worst, it risks leading to disengagement from certain markets, cutting

European businesses out of the global supply chains without improving working conditions. To address forced labour and avoid disengagement of the EU companies from suppliers in high-risk areas, the proposal should encourage the Commission to proactively engage with third countries to achieve actual improvement in global working conditions.

6. Clear guidance from competent authorities and open dialogue with companies to support compliance and combat forced labour.

FEDIOL welcomes the current mechanism of establishing that forced labor has been used, which lays the burden of proof on the competent authorities. FEDIOL would be concerned if the current mechanism were reversed as has been discussed in the European Parliament. In naming European Member States and their competent authorities as responsible for determining if forced labor has been used to produce a product, the European Commission has importantly maintained long-standing and well-established principles of due process and the presumption of innocence until proven guilty. Company implementation will be greatly enhanced with the development and publication of clear guidance on areas such as evidentiary requirements for allegation, on what defines a credible allegation, criteria for how that allegation will be investigated, and what the evidentiary standards are for companies seeking to disprove allegations. Additionally, it would help to avoid unintended consequences of actions related to insufficient evidence. Therefore, FEDIOL appreciates that such a reversal of the burden of proof has not been proposed by the European Commission and urges the co-legislators to maintain this aspect of the Regulation's design.