

Legal analysis of trade measures to combat forced labour in the fishing industry



Recommendations
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RECOMMENDATIONS

on Regulation on prohibiting products made with forced labour on the Union market

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IMPLEMENTATION

will be key for measuring the effectiveness of the Regulation

Keep track on the implementation.

2

STAKEHOLDERS

must be closely involved in all stages

of the value chain of the application of the future Regulation. Check whether the system to provide information is easily accessible for stakeholders and whether the informants' personal details are protected to prevent that they suffer from reprisals.

3

Social Dialogue and Advisory Councils

Include the monitoring of the implementation of the future Regulation in the agenda of the SOCIAL DIALOGUE and ADVISORY COUNCILS such as the LDAC and MAC. This allows the social partners to (1) call on the Commission to act if necessary, and to (2) discuss

the interrelation between IUU fishing and violations of human rights (forced labour included) and to advocate for a comprehensive approach. The IUU inspection scheme should work hand in hand with the processes established under this regulation.

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Urge the COMMISSION

Urge the COMMISSION to establish a specific **communication channel exclusively for social partners** to provide directly analysis and data. The Commission would be the manager of this platform and

be responsible to send the information to the competent authority – i.e. the Member State concerned or to DG Trade, DG EMPL and DG Mare, depending on where the alleged situation occurs.

5

Urge the COMMISSION

Urge the **COMMISSION to invite social partners to attend meetings of “the Network” on a regular basis** and not only be invited at the Commission’s discretion (as provided for now in art. 6.8)



6

EVALUATION BY THE COMMISSION after 2 years

Consider whether to request the Commission to broaden the definition of the value chain including also *packaging, storing, transportation or distribution*

of the products as well as more information on the original suppliers who is performing harvesting, catching, extraction.

7

FUTURE REVIEWS BY THE COMMISSION

As the Commission is obliged to carry out an evaluation after 2 years and later every 5 years, **consider whether**

the control mechanism should be strengthened or even replaced by one of the following possible mechanisms:

- ✓ **Non-cooperating third countries. Establishing a carding system** as applied in the IUU regulation and as requested by the Committee on Fisheries of the European Parliament in its Amendment 53 for non-cooperating third countries. The proposal of the PECH is balanced as it combines the formal dialogue approach that would help affected countries to tackle forced labour with the prohibition of imports from non-cooperating countries.
- ✓ **Products or group of products with a higher risk** to be made with forced labour. Instead of only providing additional information to customs

authorities for risk product/group of products on a list of the Commission (article 27), request a **“rebuttable presumption”** approach for the product(s) on this list., i.e. that all economic operators who want to place these products must proof that they are free from forced labour.

- ✓ Insist that the European **Commission must be given more human resources** and the whole process should be overseen by committees composed of representatives of the Member States, trade unions, fisheries companies/associations, resellers, NGOs and human resource firms.

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IN PRACTICE

IN PRACTICE, urge Member States and the COMMISSION to adopt a stronger compromise addressing root causes by referring to EU's Development and Assistance Cooperation, and more specifically to the EU Global Human Rights Sanctions Regime (*Council Regulation (EU) 2020/1998*).

9

Assure appropriate administrative, civil and criminal remedies

Assure that the VICTIMS are given the possibility to EFFECTIVELY get appropriate administrative, civil and criminal remedies irrespective of the nationality of the victim and its presence or legal status.

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RECOMMENDATIONS

on Directive on Corporate Sustainability Due Diligence

10

EASY AND SECURE ACCESS TO COMPLAINT MECHANISMS

Keep evaluating whether these mechanisms (“substantiated concern”, art. 29) for natural and legal person are effectively provided for.

11

MEANINGFUL ENGAGEMENT WITH STAKEHOLDERS

Keep track on whether Member States do ensure that companies take appropriate measures to carry out effective meaningful engagement with stakeholders as laid down in art. 13.

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SCOPE OF APPLICATION

Consider continuing deliberating whether the scope of application should be amended to cover **impacts on good governance, including corruption.**

3



ADDITIONAL RECOMMENDATIONS

13

We suggest elaborating a detailed study

We suggest elaborating a detailed study on the possibility of how competition law can contribute to the effective implementation of prohibiting the placing of products on forced labour on the EU market.

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A further study

A further study should be taken into consideration about how taxation can serve as a tool in the fight against forced labour to achieve SDG 8.

These **RECOMMENDATIONS** on the Regulation on prohibiting products made with forced labour on the Union market has been developed by FUNDACIÓN – CENTRO DE INNOVACIÓN DE ESTUDIOS JURÍDICOS MARÍTIMOS Y PESQUEROS (MarInnLeg) with the support of the European Transport Workers' Federation (ETF) and the Association of National Organizations of Fishing Enterprises in the European Union (Europêche) as a pillar of the EU co-funded project called '**Pillars of the Sea 3: Project implementing part of the SSDC Work Programme roadmap towards socially sustainable fishing.**

