anti-slavery

ECCHR EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS

Anti-Slavery International and European Center for Constitutional and Human Rights' position on import controls to address forced labour in supply chains

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Introduction

In recent months, the European Commission has begun to assess how to introduce "*effective action and enforcement mechanisms to ensure that forced labour does not find a place in the value chains of EU companies.*" This is a response to the growing momentum in the EU towards the introduction of import controls on forced labour and the European Parliament's consistent call for "import bans" to prevent the entry into the EU of products made with forced labour.[1]

Welcoming these recent developments, Anti-Slavery International and the European Center for Constitutional and Human Rights (ECCHR) call upon the EU and all governments to introduce import controls to block or seize the imports of goods made or transported in-whole or in-part with forced labour, including forced labour of children. The introduction of import controls would be a tangible step to begin to fulfil the G7 commitment to remove forced labour from global supply chains through the identification of areas for strengthened cooperation and collective efforts.

In 2016, the International Labour Organization (ILO) estimated that 24.8 million people are in forced labour at any given time, of which 16 million are in forced labour within the private sector. Forced labour often occurs in the value chains of international businesses based, operating in, or providing goods to the EU. A high number of sectors are extremely high risk for forced labour, including agriculture, construction, manufacturing (for example, garments, PPE and electronics), mining and metals, hospitality and cleaning, as well as industries crucial to value chains such as shipping, delivery services and warehousing, among many others. Forced labour of children requires special attention. According to the 2016 estimates, there were about 4.3 million children aged below 18 years in forced labour, representing 18 per cent of the 24.8 million forced labour victims worldwide.

The EU considers human rights as a key value, and human rights are part of its objectives and principles underpinning internal and external action.[2] As the world's largest single market and biggest human rights donor the EU has considerable potential to take meaningful action to address forced labour in EU supply chains. The EU should introduce a strong legislative, trade and development framework which holds companies accountable for abuses in their supply chains, and addresses the root causes of forced labour.

Anti-Slavery International and ECCHR call for the introduction of EU mandatory human rights and environmental due diligence legislation (EU mHREDD) which would introduce a standard of conduct for companies and financial institutions to respect human rights and the environment in their value chains, and enable greater access to remedy and justice for (potential) victims. **In 2021, the European Commission is expected to put forward its proposal for EU mHREDD.** The proposal is expected to be applicable to EU and non-EU companies operating in the EU.

We believe that the two approaches – mHREDD and import controls – are complementary. The purpose of this position paper is to provide proposals as to when and where import controls could be a meaningful tool to efficiently address forced labour. It focusses, in particular, on the complementarity between mHREDD and the use of import controls. Although this position paper is specific to the EU, our position is equally relevant to other government Customs Authorities considering the introduction of import controls.

The paper builds on an analysis of the lessons learnt from existing import control measures in the USA, and consultation with partners based in producing countries with a high prevalence of forced labour linked to EU supply chains. We believe that import controls should be designed and enforced considering factors on remedy, 'unintended consequences', transparency and enforcement. These points are further elaborated here.

1 See, for example: https://www.europarl.europa.eu/doceo/document/RC-9-2020-0432_EN.html; https://www.europarl.europa.eu/doceo/document/TA-9-2021-0073_EN.html; https://www.europarl.europa.eu/doceo/document/TA-9-2020-0337_EN.html

2 See especially articles 2, 3, 6 and 21 of the TEU and article 205 TFEU.

Definitions

Forced labour: According to the ILO Forced Labour Convention, 1930 (No. 29), forced or compulsory labour is: "all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily."

State-imposed forced labour: The Abolition of Forced Labour Convention No. 105 adopted by the ILO in 1957 primarily concerns forced labour imposed by state authorities. It prohibits specifically the use of forced labour:

- as punishment for the expression of political views,
- for the purposes of economic development,
- as a means of labour discipline,
- as punishment for participation in strikes,
- as a means of racial, religious or other discrimination.

A. What are import controls on forced labour?

Import control measures already exist in the USA and Canada, and are anticipated to be introduced in Mexico.

In the USA, section 307 of the Tariff Act (19 U.S.C. § 1307) has banned the import of goods linked to forced labour since 1930. Specifically, it prohibits the import of "*all goods and merchandise mined, produced, or manufactured wholly or in part in any foreign country by forced labour, convict labour, or/and indentured labour under penal sanctions, including forced child labour.*"

This law was essentially ineffective until 2016, when the U.S. Congress voted to close the "consumptive demand loophole" in the law which allowed goods made with forced labour into the USA if domestic production of the goods was not sufficient to meet domestic demand. Since this amendment through the Trade Facilitation and Enforcement Act, the U.S. Customs and Border Protection (CBP) has introduced a number of enforcement actions (Withhold Release Orders – WROs) under the Act. In 2020 alone, the USA introduced nine WROs in response to the ongoing abuses of Uyghurs in the Xinjiang Uyghur Autonomous Region, two WROs relating to palm oil production in Malaysia, and one relating to disposable gloves from Malaysia.

Under the 2018 United States–Mexico–Canada Agreement, each country is required to put measures in place to prohibit the importation of goods manufactured wholly or in part by forced or compulsory labour. Canada introduced such measures in July 2020, covering forced and compulsory labour. At this stage, it is unclear when Mexico will introduce similar legislation, however a relevant bill is currently being considered in the Mexican Senate.

In the UK, the Foreign Prison-Made Goods Act 1897 prohibits the importation of goods produced in foreign prisons.[3] However, to our knowledge, the UK Government has never enforced this Act, despite a recent petition by civil society to use the Act to request the suspension of imports of cotton goods produced with forced labour in China.

The EU has not yet put in place similar horizontal instruments banning goods linked to forced labour, despite various calls from the European Parliament. While the EU has established some specific sectoral legislative frameworks, such as the Conflicts Mineral Regulation (2017) or the Timber Regulation (2010), which include mechanisms that make it possible to ban the import of specific goods not conforming to a specific standard, these measures are not comparable to the U.S. Tariff Act to respond to the prevalence of forced labour among goods placed in the EU internal market.[4]

Import controls to withhold the release of goods made or transported in-whole or in-part with forced labour will allow Customs Authorities of EU Member States to immediately stop goods entering the EU single market when there is reasonable suspicion of the use of forced labour, including forced labour of children. The onus would then be on the company in question to prove that this is not the case, or to take action to remedy the situation on the ground before these products are allowed to be imported into the EU.

3 Not all prison labour is forced labour. As outlined by Freedom United, the setting involves unique forced labour risks because of its inherent power imbalance and because those incarcerated have few avenues to challenge abuses behind bars. Free prison labour, or work that is performed voluntarily, can be a valuable activity but it becomes exploitative when there are elements of coercion, force, and threat of punishment against detainees.

4 See also Vanpeperstraete, B. (2021). Towards an EU import ban on forced labour and modern slavery-February https://www.annacavazzini.eu/wp-content/uploads/Towards_an_EU_import_ban_on_forced_labour_and_modern_slavery_February.pdf

B. Using import controls within the EU legislative and policy framework

The EU must ensure that its policy and legal frameworks lead to effective actions to address the root causes of forced labour in supply chains.

The root causes of forced labour in global supply chains include factors such as weak governance and a closed or limited enabling environment for civil society and civic space, limited labour protections, poverty and lack of access to other available livelihood options, and discrimination and marginalisation. **Business models and strategies are also a root cause of forced labour**, whereby those models built on low-priced goods at quick turnaround rates, extensive outsourcing and long, globalised supply chains, and governance gaps – including a reliance on weak social auditing and certification schemes – create conditions which enable and drive forced labour.

As a standalone mechanism, import controls can be a blunt enforcement measure (see Section C),[5] **which alone cannot drive the change required to address these root causes of forced labour. Import controls should therefore be viewed as part of an EU regime to address forced labour, which includes:**

- **Mandatory human rights and environmental due diligence legislation** which includes a robust enforcement strategy including civil liability to hold companies accountable both when they cause harms and when they breach the due diligence standard of conduct, and to enable effective access to judicial remedy for victims of corporate harm.
- **Supportive development policies to governments in producer countries** to guarantee, protect and fulfil their international human rights obligations to implement decent labour conditions and address the root causes of forced (and child) labour. For example: development policies focused on an enabling environment to strengthen and remove barriers to freedom of expression and association, access to education, discrimination, and increased recognition of land rights. Government budget support should also be directed to improve implementation, monitoring and enforcement of human rights and environmental and good governance standards, for example, funding for labour and environmental inspectorates.
- **Ensure EU human rights protection, monitoring and enforcement in EU trade policy**, including free trade agreements (FTAs), investment protection agreements (IPAs), Economic Partnership Agreements (EPAs) and the review of the Generalised Scheme of Preferences (GSP) including GSP+ and Everything But Arms (EBAs). Trade policy should be utilised to support producer government countries to ratify and implement labour rights protections, and to ensure that enforcement, access to remedy and justice is introduced in third countries. Workers, their credible representatives, and affected communities must be consulted in the negotiation of trade agreements and the review of FTAs, EPAs and GSP.
- **Support and protect human rights defenders, trade unions, civil society and local communities working 'on-the-ground' in producing countries**, including through capacity strengthening and funding to support communities and workers to address the root causes of abuses, to better understand and claim their rights, and to support access to justice for victims of corporate abuses.

Crucially, we believe that the use of import controls should be designed to complement the proposed mHREDD framework.

The mHREDD framework – if effectively designed and implemented – will require EU companies to undertake due diligence to identify, assess, prevent, mitigate and remedy human rights and environmental risks and impacts across their entire value chains, including through the use of leverage over business partners, in line with the United Nations Guiding Principles for Business and Human Rights (UNGPs) and Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises. If effectively designed, this standard of conduct should require companies to undertake meaningful stakeholder consultation, focus efforts on the prevention of adverse impacts, including by examining the impact of their business models and strategies on the ability of suppliers and sub-suppliers to meet labour, health and safety standards, and to ensure the provision of effective remedy.

5 https://corpaccountabilitylab.org/calblog/2020/8/28/using-the-masters-tools-to-dismantle-the-masters-house-307-petitions-as-a-human-rights-tool

In this essence, we view the use of import controls as appropriate for when human rights due diligence efforts on the ground, to address forced labour, are impossible (as in cases of state-imposed forced labour), or as an enforcement option to compel companies whose products are intended/destined for the EU market to undertake meaningful preventative and remedial actions on forced labour where current actions are insufficient, unlikely to produce results or wholly lacking.

Import controls should be used in instances where they could, for example:

- Dissuade and prevent companies from importing goods made in-whole or in-part with state-imposed forced labour, where due diligence on-the-ground is impossible (see Section C);
- Guarantee urgent access to remedy for victims of forced labour, and compel effective corrective and preventive action by companies to prevent further instances of forced labour, where current actions are insufficient or wholly lacking;
- Act as an enforcement measure to those attached to mHREDD to compel non-EU companies importing to the EU market to ensure the provision of remedy to victims of forced labour and undertake preventative actions, thereby further levelling the playing field between EU and non-EU companies operating in the EU market.

We underline that import controls **should not be conceived or used as a trade protection tool. The objective of import controls must be to *incentivise positive outcomes on the ground for actual or potential victims of forced labour***.

C. Considering the use of import controls in response to different scenarios

We envisage the following types of import controls:

1. Blocking imports from a particular site of production: **a particular factory, farm, vessel, etc, or from a group of particular sites of production: factories, farms, vessels/fleet** etc.
2. Blocking imports from **a particular importer or company, or a significant group of importers or companies**.
3. Blocking imports of **an entire industry, likely manufactured in-whole or in-part, through state-imposed forced labour from a particular country or region**.
4. Blocking imports of **an entire industry, likely manufactured in-whole or in-part, through other (non-state-imposed) forms of forced labour from a particular country or region**.

We note that the use of an enforcement measure such as import controls can carry the risk of "unintended consequences". For example, import controls, if not designed and used effectively, could encourage full disengagement by EU companies from 'risky' contexts – instead of supporting efforts to address the root causes of forced labour and improve the situation. It can also have consequences for individual workers. As the Corporate Accountability Lab has explained:

> *"[..] A WRO, if issued without accompanying efforts that push companies to make changes that benefit their workers, can have devastating consequences for workers and local economies. For instance, instead of dealing with the underlying forced labor issues, companies may shut down and lay off their workers, leaving workers in a worse situation – in some cases stranded in foreign countries with no work and no way to pay off debts or return home. Depending on the breadth of the WRO, it can also lead to real economic consequences for local economies, especially in the case of a country-wide WRO. These unintended consequences mean that, if not applied carefully, there can be a big risk inherent in using a protectionist statute that is meant to protect US companies, not workers."*

Such unintended consequences must be considered. However, this will **vary across the type of import controls, and each specific scenario. This therefore underlines the need for impact assessments, including through consultation with affected stakeholders/their credible representatives, prior to issuing import controls (see Section D)**.

However, **considerations on unintended consequences have no validity in relation to contexts with state-imposed forced labour, where forced labour is a widespread or systematic violation committed in furtherance of a state policy** – see below. For such scenarios, import controls are urgently needed.

In other contexts, mitigation of negative impacts is possible when considering import controls against particular site(s) of production, or particular importer(s). In such instances, potential unintended consequences may affect a singular group of workers, and mitigating strategies will be possible if designed and implemented effectively, including through consultation with legitimate representatives of affected workers – i.e. where possible trade unions. For example, this could include measures to ensure immediate provision of remedy to workers.

Arguably, unintended consequences will be more difficult to mitigate in the case of blocking imports from an entire industry from a particular country or region not linked to state-imposed forced labour, as import controls could lead to wide economic consequences. This will be context-specific, for example depending on the extent to which the local economy relies on exports to the EU. This further highlights the need to undertake analysis of the potential consequences per product prior to issuing import controls, to consider the necessary mitigative response.

The use of "grace periods"

In scenarios where a perceived high risk of unintended consequences is identified, for example due to a high reliance on the EU market, we propose that Customs Authorities could consider employing a grace period prior to issuing import controls, in particular when considering regional-level controls on non-state imposed forced labour.

A grace period could be used in select scenarios by Customs to compel prevention, mitigation and remediation of forced labour by companies importing into the EU, or the manufacturing entity itself. A grace period would impose a specific timeframe (for example, weeks or months) in which such measures must be taken, including the provision of remedy, and if adequate and credible evidence is not provided by the end of the grace period that remedy has been provided and corrective measures introduced to prevent future instances of forced labour, the import controls would be issued. Sole reliance on audits and certification schemes must not be considered reasonable evidence due to the inadequacy of such approaches to provide credible verification on an absence of forced labour. Monitoring of the effectiveness of actions within the grace period must be public, allowing third parties - including trade unions and civil society organisations – to track progress, as well as the submission of additional observations. Essentially, this will enable Customs Authorities to use the proposal for import controls as a "stick" to compel corrective action and remedy and promote transparency by companies whose products are intended/destined for the EU market, in line with their responsibilities under mHREDD. The use of a grace period should be under continuous review, not precluding the possibility for the *immediate* issuing of import controls.

For example, in the USA, civil society groups petitioning for a WRO on cocoa and cocoa products from Côte d'Ivoire, produced with trafficked child labour for Nestlé, Mars, Hershey, Barry Callebaut, World's Finest Chocolate, Inc., Blommer Chocolate Co., Cargill, Mondelēz, and Olam requested that the U.S. CBP order U.S. cocoa importers to produce the following within 180 days:

> *"satisfactory evidence that [any shipment of cocoa from CDI to the US] was not … manufactured in any part with the use of a class of labor specified in the finding." 19 C.F.R. § 12.42 (g). This evidence shall include a transparent map of companies' supply chains down to the farm level, public reports on how each company is utilizing an acceptable independent third-party monitoring and certification system to implement its own Code of Conduct banning illegal child labor and overseeing its Supplier Codes of Conduct related to the issue of child and forced labor, and an externally-run grievance mechanism related to the company's commitments on cocoa that is in line with the UN Guiding Principles on Business and Human Rights and is in place as of the date produced. Any shipment of cocoa from CDI that does not meet this standard will be subject to a Withhold Release Order (WRO) and held at the port of entry"*

Such a grace period compels urgent remedy and corrective actions, while alleviating the risk of potential negative consequences of immediately issued import controls on workers. It would also contribute to creating a level playing field – for example, imposing controls on specific entities and companies that fail to provide remedy and introduce corrective action within the grace period, while allowing imports from entities and companies that introduce credible corrective measures and ensure the provision of remedy. This would therefore secure the sustainability of jobs and livelihoods for affected workers.

State-imposed forced labour

There is an **urgent introduction for import controls in response to state-imposed forced labour**, such as the ongoing situations in Turkmenistan and the Xinjiang Uyghur Autonomous Region (Uyghur Region). Import controls here should cover all raw materials and finished products made in-whole and in-part with state-imposed forced labour, and be issued against particular site(s) of production, importer(s), and at a regional level.

These are contexts and scenarios where it is impossible for companies to prevent, mitigate or remedy abuses through HREDD on the ground due to the scale of abuses, the restrictions on freedoms and the role of the state, which restricts all possibilities for companies to exert leverage over the situation. These are also scenarios where civil society groups representative of the population have called for such measures.

EU measures in this regard would follow the U.S. regional WROs on products made in-whole or in-part from cotton from Turkmenistan and the Uyghur Region already in place, and U.S. WROs imposed on specific manufacturers in the Uyghur Region.

The use of import controls in response to state-imposed forced labour, as a complement to mHREDD, would be a powerful dissuasive tool to prevent both EU and non-EU companies from importing such products into the EU market and to put pressure on the perpetrating governments to end such practices. Tangibly, for example in the case of the Uyghur Region, it would compel companies importing products to the EU market to undertake meaningful supply chain mapping and traceability to identify and eliminate the sourcing of raw materials/inputs from the Uyghur Region in their products, and to end relationships with suppliers using Uyghur forced labour in their facilities.

The EU should couple import controls in response to state-imposed forced labour with the use of other trade, diplomatic and foreign policy measures to put pressure on the perpetrating governments to end the use of state-imposed forced labour. This should include the use of sanctions on the trade, export or provision of products or services with these contexts, which could be used to support the state-imposed forced labour system or other human rights abuses.

If/when a country/region begins to transition away from the use of state-imposed forced labour, ongoing monitoring, including through support for an enabling environment for civil society and trade unions, should then be required.

Distinguishing between forced labour of children and child labour

There will be scenarios of the forced labour of children where the use of import controls should be considered, for example to target the operations of a specific company, farm or vessel, or group of companies, farms or a fleet. In such scenarios, import controls could be a powerful enforcement mechanism to compel corrective action and provide remedy.

However, we **generally caution against the use of import controls to respond to situations of child labour, in particular at a regional level** (as an example, all vanilla produced in Madagascar with child labour).

It is important to note here that **child labour is not forced labour of children/child slavery**.[6] Child labour nevertheless hinders children's education and development. Child labour tends to take place within a familial setting (for example, parents bringing children for farm work), and is driven by systemic issues relating to poverty, land ownership, discrimination, lack of access to education, as well as the purchasing practices of large multinationals and a reliance on certification schemes.

The introduction of import controls to respond to child labour, particularly at a regional level, is likely to have short-term, far-reaching devastating impacts on the economy of the country in question, and consequently on families. Businesses should be compelled to prevent child labour through their due diligence processes, including by addressing the root causes of child labour. Development and trade policies, as described in Section B, should also be used to address child labour.

6 The following definitions are useful: i) **child work**. Some types of work make useful, positive contributions to a child's development, helping them learn useful skills. Often, work is also a vital source of income for their families. ii) **child labour**, as defined in the main text and iii) **the worst forms of child labour** under ILO Convention 182 (https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182) which includes a number of different scenarios, including **all forms of slavery or practices similar to slavery** and **hazardous work**. Hazardous work (https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312528:NO) is work likely to harm the health, safety or morals of children (for example, exposure to dangerous machinery or toxic substances) and may even endanger their lives. In relation to corporate supply chains, it is common, for example, in agriculture. However, national laws and authorities determine which work is categorised as hazardous work per jurisdiction. Hazardous work is not, necessarily, forced labour of children.

D. Further considerations for the design and enforcement of import controls

- **Customs Authorities in EU Member States should be given the mandate to investigate (either ex officio or as a result of a petition), make determinations and enforce import controls. In addition, a Coordination System should be created at EU level to support Customs Authorities in Member States**. This will require adequate resources and capacity in Member States' Customs Authorities to undertake investigations, for example through the creation of dedicated forced labour divisions.
- **Workers, communities or their representative groups (trade unions or other credible representatives, and CSOs/NGOs) should have the right to make complaints through a formalised procedure** to Customs Authorities regarding the existence of forced labour in the value chain of products intended/destined for the EU market.
- **The EU and national Member States should liaise with authorities in other jurisdictions – i.e. Canada, Mexico and the USA (see Section A) – to share evidence and align procedures**. Customs Authorities of EU Member States should automatically investigate products/importers implicated in the determinations by Customs Authorities from third countries to identify the import of potentially tainted products to the EU market, and consider the need to introduce parallel import controls.
- **Forced labour determinations should be qualified against the ILO forced labour indicators**, including the "Hard to see, harder to count – Survey guidelines to estimate forced labour of adults and children", which present an operational definition of what constitutes forced labour, and indicators with which to identify it.
- **Upon being alerted, Customs Authorities must consult with credible, independent and legitimate representatives of potentially affected stakeholders, as well as allow additional observations of stakeholders, prior to the issuing of any import controls, as part of an impact assessment**. Should import controls (a WRO) be issued, the impact assessment should be used to determine, as much as possible, the appropriate prevention, mitigation and remediation measures needed to lift import controls, including to define the actions required to be implemented during a "grace period" if applicable (see Section C).
- **Stakeholders who alert Customs Authorities should be able to do so anonymously should they wish, and have their identity protected**. There must be full confidentiality of all information and evidence submitted by workers, communities, NGOs and trade unions to Customs Authorities, and any information shared externally must fully protect the identity of any concerned workers/stakeholders from the context in question.
- **The results of investigations and the rationale for decisions to issue a WRO must be disclosed publicly**, while protecting the anonymity of affected workers/stakeholders.
- **Once a determination has been made that forced labour produced goods have been imported, the burden of proof must shift to the named importers** to provide evidence refuting the indicators of forced labour, refuting that the good is not made or transported (wholly or partially) by the entity where indicators of forced labour were found, or that remediation took place and indicators of forced labour are no longer present. The evidence required to credibly and verifiably show compliance with the regulation will vary based on the type of import control, the industry, country of origin and other factors. Evidence to prove an absence of forced labour, where applicable, must be based on ILO standards and must involve verification/independent monitoring by trade unions and civil society. The use of audits or certification schemes must and cannot be relied on as sufficient evidence. Petitioners should be able to provide proposals for this evidence.
- **A clear objective of the issuing of WROs must be to ensure the provision of effective remedy** to affected stakeholders as efficiently and quickly as possible prior to lifting import controls. Remediation processes and payments should also be based on and closely follow international standards of best practice, including through consultation with trade unions. Remedy may include apologies, restitution, rehabilitation (for example, provision of treatment, counselling) and financial or non-financial compensation, for example.
- **A public list of WROs** should be created. Such a list should be updated to include any new allegations/abuses against the same entity/relating to the same WRO, as well as to be transparent about defined criteria for lifting import controls. Customs Authorities should also publicly disclose details of the enforcement of WROs – i.e. all cases where imports have been withheld, including the name of the importer/supplier/manufacturer/vessel.

- **Additional sanctions should be foreseen in the case of attempted (repeated) circumvention of a specific WRO decision**, or in the case of a lack of cooperation with Customs Authorities, including a failure to provide needed documents to assess the situation.
- **Monitoring of corrective actions/improvement should be undertaken in cooperation with the authorities of the home country of the sanctioned entity, where credible. This will not be feasible in scenarios of state-imposed forced labour where the authorities are the perpetrator of forced labour**. Monitoring should consider improvements and corrective actions made, including changes to operations/business models to prevent repetition and future abuses, the appropriateness of mitigation measures and the effectiveness of provided remedy.
- **Import controls should be lifted, in consultation with affected stakeholders, when abuses have been mitigated, effective remedy provided and corrective preventative action plans set in place**, to ensure compliance with ILO standards, with a period of ongoing monitoring.
- To align the functioning of any future import controls with the forthcoming HREDD obligation, **the European Commission could actively explore import controls on products made in violation of other human rights or the result of environmental harm**.

E. Necessary complementary measures for the effective functioning of import controls

- To facilitate the identification and monitoring of the importation of products made from forced labour, **it is crucial to ensure improved public access to Customs data**. This is why the European Commission should amend the Union Customs Code to clarify that customs data is not confidential and should be disclosed publicly, as well as requiring companies that import goods into the EU to disclose the name and address of the manufacturer to the relevant Customs Authorities.
- **Companies must be required to map and disclose suppliers, sub-suppliers and business partners in their whole value chains, as Anti-Slavery International and ECCHR are proposing within the EU mHREDD framework**. Unless mapping and disclosure of supply chains is ensured, the presence of entities implicated in forced labour within an EU company's value chain will likely be extremely difficult to identify for enforcement and accountability purposes.[7]
- **The EU, and all governments, should work to ensure a global aligned approach on import controls**. This will serve to mitigate the risk of "dumping of goods", whereby importers can simply import goods made with forced labour onto selected markets that have failed to introduce stringent measures, and thereby failing to address the overall objective to remedy and prevent forced labour in third contexts.

Next steps

For the EU to move forward on developing a proposal for import controls, **we strongly recommend that the relevant policymakers consult with workers and communities, or their credible representatives, who have been involved in, or impacted by existing, 'import ban' approaches**, namely workers and communities who have been impacted by the use of WROs introduced by the U.S. CBP.

This is a 'live' position which is subject to change. For any questions or comments, please contact Chloe Cranston, Business and Human Rights Manager, Anti-Slavery International c.cranston@antislavery.org and Ben Vanpeperstraete, Senior Legal Adviser, ECCHR vanpeperstraete@ecchr.eu

7 See p5-6 on the pitfalls of the current U.S. approach, https://laborrights.org/sites/default/files/publications/Tariff_Act_Briefing_Paper.pdf See also https://en.frankbold.org/sites/default/files/publikace/statement_civil_society_organisation_supply_chain_reporting_requirements_final.pdf