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REPORT

of the Committee on Foreign Affairs and Security

on respect for human rights and the economic exploitation of
prisoners and children worldwide

Rapporteur: Mr Ken COATES

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PE 207.304/fin.
Or. EN - FR/EN

- * Consultation procedure
simple majority
- **I Cooperation procedure (first reading)
simple majority
- **II Cooperation procedure (second reading)
simple majority to approve the common position
absolute majority of Parliament's component Members to reject or amend the common position
- *** Assent procedure
absolute majority of Parliament's component Members to give assent
except for simple majority under Articles 8a, 105, 106, 130d and 228 EC

- ***I Codecision procedure (first reading)
simple majority
- ***II Codecision procedure (second reading)
simple majority to approve the common position
absolute majority of Parliament's component Members either to adopt a declaration of intent
to reject the common position, or to amend or confirm the rejection of the common position
- ***III Codecision procedure (third reading)
simple majority to approve the joint text
absolute majority of Parliament's component Members to reject the Council text

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At the sitting of 23 April 1993 the President of the European Parliament announced that he had forwarded the motion for a resolution by Mr Coates on forced labour, pursuant to Rule 45 (formerly Rule 63) of the Rules of Procedure, to the Committee on Foreign Affairs and Security as the committee responsible and to the Committee on Social Affairs, Employment and the Working Environment for their opinion.

At its meeting of 20 July 1993 the Committee on Foreign Affairs and Security decided to draw up a report and appointed Mr Coates rapporteur.

At its meeting of 5 January and 26 January 1994 it considered the draft report.

At the latter meeting it adopted the motion for a resolution by 20 votes to 0, with 1 abstention.

The following were present for the vote: Baron Crespo, chairman; Cassanmagnago Cerretti, vice-chairman; Coates, rapporteur; Aglietta, Avgerinos, Bertens, Canavaro, Cheysson, Dillen, Ephremidis, Fernandez Albor, Gaibisso, Günther, Jepsen, Langer, Llorca Vilaplana, Newens, Oostlander (for Lacaze), Pasmazoglou, Robles Piquer (for Lenz) and Roth (for Onesta).

The Committee on Social Affairs, Employment and the Working Environment decided not to deliver an opinion.

The report was tabled on 27 January 1994.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A
MOTION FOR A RESOLUTION
**Resolution on respect for human rights and the
economic exploitation of prisoners and children worldwide**

The European Parliament,

- having regard to the motion for a resolution by Mr Coates on forced labour (B3-0434/93),
 - having regard to the resolution adopted on 28 November 1991 by the Council and the Member States meeting within the Council on human rights, democracy and development¹,
 - having regard to Articles 130 u, J and J1 of the Treaty on European Union,
 - having regard to the preamble to the Single European Act,
 - having regard to Articles 30, 36 and 234 of the Treaty establishing the European Community,
 - having regard to the Universal Declaration of Human Rights and the international covenants relating thereto,
 - having regard to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
 - having regard to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, drawn up by the Council of Europe,
 - having regard to the European Social Charter,
 - having regard to the ILO Conventions on forced labour (No. 29, 1930) and the abolition of forced labour (No. 105, 1957) and the report of the Committee of Experts on the Application of Conventions and Recommendations²,
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs and Security (A3-0044/94),
- A. whereas respect for human rights is the key element in all the Union's relations of whatever kind with third countries,
- B. convinced that combatting the economic and social exploitation of prisoners, children and the most disadvantaged members of society is

¹ BUL.EC 12-1991.

² Report III (Part 4A). International Labour Conference. Eightieth session. 1993.

therefore an integral part of the basic principles governing the establishment of a common foreign and security policy,

- C. whereas the conditions in certain countries could be described as forced labour, peonage and even slavery,
 - D. recognizing that the forced labour in Chinese prisons is the result of official policy, whereas the exploitation of children and others in Brazil and India, Nepal and Pakistan is not;
 - E. recognizing that in India efforts, both official and voluntary, are being made to combat the exploitation of child labour;
 - F. whereas it is essential, in addition to restating fundamental principles, to set up control and supervisory mechanisms,
1. Condemns all practices leading to the exploitation of prisoners' and children's capacity to work and, more generally, all forms of modern slavery;
 2. Calls on the Council and the Commission to set up systems to monitor and control these practices in the Union's relations with third countries;
 3. Considers that the Council should systematically include in negotiating briefs to the Commission, clauses providing for independent and mutual inspections to be carried out on a regular basis in prisons, factories and all other potential production sites in countries in respect of which reliable and corroborated reports have been received of violations of social and economic rights;
 4. Encourages the drawing up of agreements between industrial undertakings established in third countries and European importing companies, aimed at guaranteeing or indicating the origin of the products in question;
 5. Expresses the wish that the Union will accede to international agreements aimed at combatting slavery and abolishing forced labour;
 6. Affirms that it is not opposed to prison labour as such, considering it to be a possible means of social reintegration, provided that it is properly supervised and regulated;
 7. Believes that economic and social development aid should be used to combat particularly harmful forms of social dumping, which consist in the exploitation of the work capacity of individuals to the detriment of their most basic rights, resulting in unfair competition;
 8. Calls on the Commission to consider and, if appropriate, propose adjusting trade legislation at Community level, possibly on the basis of laws currently in force in certain Member States;
 9. Instructs its president to forward this resolution to the Council, the Commission, the governments of the Member States and of the states negotiating their accession to the Union, and the governments of Brazil, China, India, Nepal and Pakistan.

B
EXPLANATORY STATEMENT

I - INTRODUCTION

The problem of the destination of goods produced in prisons or under conditions of forced labour (exploitation of children, debt bondage, etc.) has been examined on numerous occasions during the current parliamentary term by Subcommittee on Human Rights.

Its attention was drawn in particular, after hearing Mr Harry Wu, to the situation of the Chinese Laogai. It is interesting to note that they were the subject of a presentation to the US Congress during its hearings on the possibility of granting most-favoured-nation status to China.

The situation in China is particularly prominent at a time when the International Committee of the Red Cross (ICRC) is expecting to be allowed to visit Chinese prisons¹.

The objective of this report is not only to affirm some fundamental moral principles but also to seek practical ways of combatting the importation into the Community of goods produced under inhumane and degrading conditions.

1. The lack of relevant Community legislation does not mean that the Community bears no responsibility in this area.

- Importing goods manufactured in prisons or camps or by children subjected to ill-treatment is akin to the exploitation of slavery, a practice in which the European Union can have no part. Whilst there is, clearly, no Community legislation in this field, we are entitled to expect a firm attitude worthy of the future Union at a time when the entry into force of the Treaty on Union is about to introduce a common European foreign and security policy (CFSP). It would be intolerable if such a policy failed to introduce mechanisms to monitor and safeguard respect for fundamental human rights, and in particular those of the most vulnerable (children or prisoners). In this regard, consideration should be given to initiatives coordinated with governments sharing the same concerns.
- An exchange of letters² with the Commission has drawn attention to the central role of respect for human rights in relations between the European Union and third countries. Community responsibility in this area is rooted in the very principles underpinning the future Union, and we are all aware of the link, already introduced by the 'policy of positive measures and conditionality', between democratization - which term we shall use here in the sense of effective implementation of civil and social liberties - and development aid.

¹ However, the ICRC remains very cautious and points out that negotiations are still at an early stage.

² PE 204.371 (25 March 1993) and PE 204.366 (12 March 1993).

- It should be stressed, finally, that objection to the economic exploitation of prisoners must not be confused with rejection of the principle of prisoners performing work with an objective (reintegration into society) which may be of the most legitimate kind in so far as it is limited and regulated.

2. There are, however, difficulties.

- Carrying out the necessary customs controls is clearly an extremely complicated affair. Such difficulties should not, however, under any circumstances absolve the European Union from exercising its moral, legal and trade responsibilities.

- In view of the current trade debate on the adverse effects of 'social dumping', moreover, it seems timely to take up a clear stance which would be all the better understood by our partners. Condemning a particularly reprehensible form of 'social dumping' and calling for monitoring measures should not be seen as a new form of protectionism, but as the affirmation of a political will to protect the individual, whether directly involved - if I may express it thus - as the victim of these odious practices - or subject to the economic, and, ultimately, the social consequences of 'unfair competition'. 'Prisons' or 'camps' must also be broadly defined so as to include all systems which exploit situations of distress or objective weakness for financial gain and which employ methods contrary to human dignity.

II - OVERVIEW OF THE CURRENT STATE OF AFFAIRS

Examination of the cases of China, Brazil and India, documented in the sources listed below¹, raises a number of issues:

1. The Chinese case: a system pursuing certain political and economic aims, which poses the problem of working conditions in prisons

(a) The 'Laogai': producers of goods exported worldwide

- We refer below to Mr Harry Wu's² submission to the Subcommittee on Human Rights.³ It reveals a system of prison camps for ideological re-education, including 'reform camps' and 're-education camps'. 'The laogai camps are also profit centres, providing cheap labour to produce goods for the domestic and international market.'³ Mr Wu, who gave an overview of the Chinese prison system to the Subcommittee on Human Rights, calculates on the basis of personal research that there are at least 1000 camps. 50 million people have been sent to such camps over the past 40 years - and this is a highly conservative estimate, as the current number of prisoners is estimated to be 10 million. Whilst most prisoners were from the political opposition in the 1950s, the proportion has been reversed since the early 1980s.

¹ Sources: Mr Harry Wu's Foundation; Asia Watch; Anti-Slavery International for the Protection of Human rights.

² Author of Laogai - the Chinese Gulag, imprisoned for 19 years in China.

³ PE 202.607 (10 November 1992) and PE 202.998 (10 December 1992).

'Never before has there been a nation with a prison system so extensive that it pervades all aspects of national production, has had such careful planning and organization and composes such an integral part of a nation's economic and productive system.'³

Mr Harry Wu denounces the claims made by the Chinese Government to the effect that products manufactured in prison are produced on the basis of a system of re-education through labour and that a small proportion only enters the national market through the usual channels. A third of all tea produced comes from these 'institutions'. 200 types of products are manufactured there, and the Chinese authorities deny that export licences have ever been granted. However, some claim that the system exports 60 types of products via 140 enterprises to over 70 countries and that the total value of such exports exceeds US\$ 400 million (August 1990).

The Chinese penal system also provides for the detention (juliú) by public security forces of persons regarded as delinquents or suspects by the police, who may be detained for several months - before being officially arrested - in detention centres and, in particular, in camps for re-education through labour.

The procedures used are more than questionable by our standards (particularly in the judicial area); moreover, this system of administrative detention, like the prison system, produces goods whose destination is difficult to monitor.

- At all events, whilst the authorities condemn the export of such goods, they do not exclude the possibility as such, since they take so much trouble to deny any possible involvement on their part. The agreement signed with the United States in June 1992 aims to bring the provisions banning the import into the United States of products manufactured using forced labour into line with Chinese reality, theoretically enabling the Americans to undertake investigations where suspicions exist.

(b) Working conditions in prisons

- Whilst forced or compulsory labour for the purposes of production or the provision of services should be clearly distinguished from forced or compulsory labour as a sanction or punishment in international conventions, it must be acknowledged that such conventions do provide a degree of authorization for prisoners' labour. However, this authorization is extremely limited; the main rules provide that where prison labour is not dependent on the consent of the persons concerned, it must be imposed only under certain conditions (irrespective of whether the work concerned is performed inside or outside the place of imprisonment.)
- The Forced Labour Convention (No. 29, 1930) seeks to suppress forced or compulsory labour in general, subject to the exceptions listed in Article 2. Thus, for the purposes of the Convention, the term 'forced labour' does not include 'any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations'.

The Abolition of Forced Labour Convention (No. 105, 1957) fits into the general framework of the above-mentioned convention. However, it makes

express reference to fact that the 1926 Slavery Convention provided that all necessary measures should be taken to prevent compulsory or forced labour from developing into conditions analogous to slavery. Moreover, it lays down specific cases in which forced or compulsory labour is to be abolished, in particular:

- as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
 - as a means of racial, social, national or religious discrimination.
- It will therefore be accepted that prison work is certainly not, in itself, treated in the same way as forced or compulsory labour. Although some people might question whether it is legitimate to require prisoners to work, there are many who see it as a particularly welcome and effective way of reintegrating prisoners into society. However, the above international conventions strongly condemn the imposition of work on detainees who have not been convicted and the imposition by administrative authorities of penalties involving forced labour. 'The European Prison Rules' adopted in the form of a recommendation by the Council of Europe in 1987 provide a bench-mark which is usefully supplemented by the European Convention.

2. India and Brazil as examples of governments powerless to stop the exploitation of children and violation of the freedom to leave one's job

(a) Exploitation of forced child labour

India, Nepal and Pakistan are countries where the export of products manufactured under inhuman conditions is particularly prevalent. It is estimated that between 200 000 and 300 000 children in India are working in carpet factories under conditions akin to slavery. Similar numbers are doubtless involved in Pakistan. Some 150 000 children are involved in Nepal.¹

- A number of Indian associations linked to certain Western importers and manufacturers (apparently rather few) have set up a 'Carpet Manufacturers' Association without Child Labour', which has raised the real issue, the alliance between producer and importer. The association 'Anti-Slavery International for the Protection of Human Rights' has produced a document setting out a strategy for labelling products (subject to inspections) to encourage consumers to buy products guaranteed free of child exploitation. It should also be pointed out that the ILO Forced Labour (Regulation) Recommendation (No. 36) calls for all measures to be taken to ensure that the performance of forced or compulsory labour never has as its indirect consequence the unlawful use of the forced or compulsory labour of women and children.

(b) Forced labour in Brazil and the freedom to leave one's job

- Parliament's Subcommittee on Human Rights has already examined the issue of debt slavery. Ms Alison Sutton, responsible for Amnesty International's research in this area, describes the powerlessness of the Brazilian

¹ Anti-Slavery sources; text reproduced in annex.

authorities, which invoke as an excuse the specific nature of the cases taken up. Although the Brazilian Government has launched a programme to combat slavery, the scale of the phenomenon, in view of the economic problems of the Brazilian people, calls for more vigorous monitoring and inspection.

- Whilst international conventions recognize individuals' freedom to leave their jobs as a fundamental freedom, debt slavery in Brazil denies this fundamental right, although it is constitutionally recognized through the combination of the right to freedom of movement and the ban on sending debtors to prison.² At this point mention should be made of an ILO recommendation on indirect constraint to work, which calls for avoidance of the various indirect methods which have the effect of artificially increasing the economic pressure which is already forcing some people into paid work.

III - PROPOSALS FOR ACTION

1. Upholding foreign policies which affirm human dignity by placing the policy of protection for human rights in perspective

(a) Compliance with the conventions in force first and foremost

- The 12 Member States of the European Union are parties to the conventions drawn up by the General Conference of the ILO on forced labour (Convention No. 29, dating from 1930) and the abolition of forced labour (Convention No. 105, dating from 1957). They thus have at their disposal a most substantial body of law, including control mechanisms, as the degree of stringency with which the conventions are implemented is monitored by experts from the International Labour Office.

China, however, has not signed the labour conventions which also include human rights aspects.

- Just as the Community should sign the European Convention on Human Rights and Fundamental Freedoms, it would be appropriate for it to be a party to the above-mentioned conventions, to affirm its concerns in this area and to place its action on a moral and legal footing.

The same applies to the Council of Europe's Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1984).

The European Union's position would certainly be strengthened if it were to transpose this document at international level and adopt the mechanisms required for its application.

(b) Respect for human rights at the heart of the new common foreign and security policy

The combination of Articles J.1 (paragraph 2.4) and J.3 of the Treaty on European Union should result in joint actions based on a call for respect for human rights, which should enable control, inquiry and monitoring mechanisms

¹ Forced labour in Brazil (PE 202.995, 23 November 1992) and Debt slavery and other forms of slavery in Brazil (PE 202.994, 13 November 1992).

² Anti-slavery campaign in Brazil (PE 202.994, 13 November 1992).

to be established with respect to the Union's trading partners whose respect for human rights is seriously in doubt. The Commission should be able to report to Parliament and the Council on sensitive matters of this type and to draw up proposals which, while remaining realistic (i.e. not making systematic use of boycotts), would be extremely stringent.

2. Adoption of appropriate commercial policies

(a) For a single trade position at external frontiers

- British legislation in this field should certainly be subjected to cost/benefit analysis before anyone calls for it to be simply transposed to Community level. Infringement of the law - which is effectively supplemented by the Customs and Excise Management Act of 1979, sections 49 and 50 - is punishable by up to seven years' imprisonment. However, an amendment of the original 1988 Act provides that the provisions of the Act are not infringed where goods produced in prisons are imported when they are in free circulation in the European Union. This raises the specific problem of the means of access to the other Member States as well as that of the transposition of a legislative prohibition at Community level.

However, such legislation could form a basis for missions for the inspection and labelling of offending products if it became the law of a Union committed to educating importers and consumers. At a time when the European Union is considering the redeployment of its customs officials (in budgetary terms, for example), new opportunities will open up for them as soon as the necessary political will emerges.

- The Commission should be asked to draw up an inventory of European laws on the importation of products made under conditions which run counter to public morality, public health and public policy. The Commission's reply to the question whether or not European legislation precludes the application of the British Act would, moreover, throw light on the work directed towards seeking practical and humanitarian solutions.

(b) For the implementation of Articles 30, 36 and 234 of the Treaty of Rome, which provide for exceptions to free trade within the internal market and compliance with international commitments

In the event of failure to establish an effective common policy, the application of articles enabling certain Member States to take measures to prevent the movement of goods imported under conditions raising doubts about their origins, in view of the conditions under which they were manufactured, would provide for a final barrier, as a last resort. It is still possible to rely on the damage caused to morality and public health in order to oppose the free movement of goods¹.

3. Development, the campaign against social dumping and protection for European industries

¹ Subject both to technical feasibility and to careful monitoring by the European Court of Justice which will ensure that goods are not produced in such conditions in the importing country, thus extending its monitoring of compliance with human rights in the Community.

(a) The difficulty of reconciling the above with GATT's concerns

- Social dumping - which may be defined as seeking to sell goods more cheaply by taking advantage of the absence or virtual inexistence of social security rules involving costs entered as expenditure in the trading accounts of undertakings which do provide social security - is not one of the items on the agenda of the Uruguay Round. The United States met with rejection from many developing countries a few years ago when it sought to include in the programme of a working party the issue of the impact on trade of the absence of social security in certain countries.
- Some people, however, take the view that exploitation as an economic system directly harms the citizens of the developed countries and constitutes a shameful form of unfair competition. Others take the view that this argument is raised with the aim of slowing down economic development in the poorest countries. The issue is, in fact, a much broader one.

(b) A broader issue which should lead to aid for social development

It is absolutely vital to integrate social development in the aid or monitoring mechanisms of 'positive measures and conditionality' policy, which links all development aid to respect for human rights, and a new common foreign policy rooted in such concerns. Clearly - without wishing to hold up Community social security systems as the ideal model - it may seem pointless to demand that poor countries maintain a similar degree of social security cover unless such a demand goes hand-in-hand with balanced development aid policies. However, support for moral principles forms the very cornerstone of such policies.

4. For efficient control mechanisms

Our approach aims at stringency on matters of principle and realism as regards the action to be taken. To summarize, it comprises the establishment of monitoring structures by the Union; aid, training and information mechanisms to be applied to states whose economic problems render them powerless; and promotion of the development of regional structures able to apply the international law which already maps out much of the field.

The establishment of monitoring structures merits further elaboration. The negotiating mandates given by the Council to the Commission should systematically provide for the establishment, for trade or other agreements with states in which there are human rights problems, of systems enabling information to be gathered and made use of rapidly. Clauses suspending the agreements in the event of non-compliance with international rules providing minimum protection should take effect when the alarm is clearly raised by monitors' and experts' reports on the state of prisons, industries and the labelled origin of manufactured products.

CONCLUSION

The new administrative and diplomatic system which the entry into force of the Maastricht Treaty (particularly its second pillar, CFSP) entails cannot be set up without vigilant monitoring of respect for human rights, as defined by society in our twelve countries. It is of vital importance that the Commission present a report on such matters at regular intervals, bearing in mind the state of our trade and diplomatic relations, so that the mechanisms referred to above can be set up and realistic progress can be made.

In addition, Parliament will ensure that the Commission also monitors the situation of prisoners and children in the European Union itself.

MOTION FOR A RESOLUTION B3-0434/93
by Mr COATES
on forced labour

The European Parliament,

- A. concerned at the continued existence of various forms of forced labour, including prison labour, in a number of countries,
- B. noting the ILO Convention No. 29 of 1930 concerning Forced or Compulsory Labour, which has been ratified by 128 countries, as well as ILO Convention No. 105 of 1957, concerning the Abolition of Forced Labour, which has been ratified by 111 countries,
- C. aware that goods manufactured by such labour are being imported into the European Community,
- D. noting that Member State legislation, such as the British Foreign Prison Made Goods Act of 1897, has long since outlawed the importation of prison-made goods,
 - 1. Considers that the EC has a moral duty to discourage trade in the products of such labour;
 - 2. Considers that international trade in goods produced by forced labour constitutes a breach of the norms of fair competition;
 - 3. Considers that, in cases where prison labour is said to be performed under socially acceptable conditions by free choice of prisoners, international instruments are needed to allow verification with relevant trade unions and humanitarian organizations, that the labour regime in question is truly in conformity with acceptable standards;
 - 4. Calls for a European Community ban on any imports of goods produced by forced and prison labour, unless they can be justified under 3. above, and requests the Commission to draw up legislative proposals to this effect.