



EU Action Needed for Fair Supermarket Supply Chains

SOMO Paper | June 2014

Policy and case study research by a European coalition of civil society organisations shows EU policy action is needed to secure decent work and prevent unfair trading in supermarket supply chains from developing countries.

In 11 EU countries 7 large retail chains control more than 70 percent of food retail in each of these countries.¹ These supermarkets have immense influence on what consumers buy and how food is produced. Their high market shares give them the power to engage in abusive purchasing practices, called 'unfair trading practices'.² Evidence has exposed how such practices impact consumer prices and variety³, suppliers' profitability and competitiveness⁴, and working conditions in the developing world⁵.

Since 2011 a coalition of European civil society organizations (CSOs)⁶ has been addressing the unfair trading practices (UTPs)⁷ of European supermarkets and bad working conditions in retail supply chains. The coalition conducts case study research, proposes policies to safeguard decent work⁸ and advocates for the elimination of UTPs.

This paper highlights new research by the CSO coalition, which shows that policies of European retailers fail to safeguard decent work and fair trade in their food supply

chains originating in developing countries. The paper suggests that European policy makers should propose efficient EU policy actions to secure decent work as well as prevent unfair trading practices as these can contribute to exploitative practices towards workers in food supply chains.

Survey shows that the policies on labour conditions and purchasing practices of leading EU retailers often lack credibility

In 2013 a group consisting of two members from the European coalition consortium plus seven European consumer organisations⁹ surveyed the labour standards and purchasing practice policies of 25 leading food retail chains in seven EU countries.¹⁰ Overall the results showed that the policies of roughly three quarters of all supermarkets surveyed in this area can be categorised as poor or very poor (see figure below). All of the retail chains surveyed have at least some policies for suppliers on labour standards.¹¹ However, on closer analysis only half of the supermarkets explicitly extend these norms to the producers of their own 'private/no brand' food products in developing countries. Furthermore, only a third of the retailers surveyed could

provide evidence of verification of compliance with policies for labour standards and purchasing practices in independent audits. However, it should be noted that, even for this minority, good verification practices do not necessarily mean good working conditions at their suppliers. For instance, only three of all supermarkets surveyed took measures beyond the industry standard ensuring their suppliers were paying a minimum wage in accordance with local laws. As minimum wages in developing countries often are not sufficient to cover basic needs of a worker and his family¹², this means that the labour standards of most supermarkets are not aiming to guarantee living wages for workers in developing countries.

There were a number of other findings from the survey which illustrate that supermarkets rarely deliver on their promises of good labour conditions and fair trading with suppliers. For instance staff education is always an important pillar of policy implementation and the majority of retailers indeed claims to train their buyers in applying policies on labour standards. However, supermarkets could rarely show actual evidence of such trainings. Only four out of 25 supermarkets have policies for fair purchasing practices of fresh fruits and vegetables from developing countries. In turn for only three supermarkets it was clear that they verify that the purchasing practices of their suppliers comply with their policies in this area. Similarly, only three supermarkets surveyed are clear on their targets for compliance with labour standards or progress towards them, which means that the vast majority of supermarkets are not transparent and not accountable in this area.

Impact of affiliation with voluntary corporate social responsibility initiatives hardly visible

Besides their own corporate policies, many supermarkets also use or affiliate with other corporate social responsibility (CSR) initiatives to live up to their commitments to good working conditions and fair trading relations. For instance more than three quarter of the retailers surveyed are affiliated with at least one voluntary industry initiative¹³ to make production more ethical/sustainable, such as Business Social Compliance Initiative (BSCI), Ethical Trade Initiative (ETI) and Dutch Ethical trade initiative (IDH). However, like the implementation of their own policies, it is mostly unclear how the social commitments from these initiatives translate into implementation and actual changes at suppliers. For instance 11 out of 25 retailers surveyed had affiliations with the BSCI. Members of this popular initiative may choose to have compliance verified with the BSCI norms at two thirds of their general suppliers or 15 percent of their food suppliers from high risk countries through audits within three years after joining it.¹⁴



Figure 1: Scores and ratings of 25 leading EU supermarkets. Scores were composed of a weighted average of company performance on policy quality and validation (i.e. evidence of policy implementation and cooperation with the survey) against a benchmark designed to this end. Ratings are shown in colour and in the flags on the shopping trolleys. The horizontal position of the supermarkets along the scale in each trolley indicates the percentage of the total number of points supermarkets could receive in the benchmark.

This means that verification of compliance with social standards through the whole food supply chain and to all foods from developing countries is already restricted to a limited share of their suppliers in theory. In practice however it is not clear whether BSCI members are actually living up to these limited BSCI requirements. For most BSCI member supermarkets surveyed, there was only evidence of very small numbers of their fresh fruit and vegetable suppliers being audited, if at all.

Application of sustainability certification schemes such as Fairtrade or Rainforest Alliance are another way for supermarkets to guarantee good working conditions at suppliers. These schemes often have more elaborate norms for labour standards and more stringent verifications mechanisms than codes of conducts or above mentioned industry initiatives. However, the survey found that in practice, only a small portion of the fresh fruits and vegetable products from the developing world that supermarkets sell are certified by such schemes. The research also shows that retailers erroneously believe that certification schemes categorically remedy their general CSR issues including UTPs and low wages of workers.

Case studies show that EU supermarkets fail to properly address bad working conditions and unfair trading practices in their supply chains

The previously mentioned coalition of European civil society organisations, which has been addressing UTPs, conducted research on food products imported from developing countries to validate claims of supermarkets' labour standards and purchasing practice policies. The case studies below indicate that often there is a significant gap between the supermarkets' policies and the reality for workers at their suppliers on the ground in the developing world. The studies shed light on how supermarket policies fail to properly address bad working conditions and UTPs. All of these products are mainly sold through EU supermarket chains.

Case studies on Peruvian mango and Moroccan green beans suppliers of EU supermarkets found discrepancies between supermarket policies and reality on the ground for workers and suppliers, similar to those described in the above case studies. For instance, four of the five largest German supermarket chains, Edeka (including Netto), Aldi Nord, Schwarz Gruppe (Kaufland and Lidl) and Metro

Cheap orange juice in supermarkets squeezes orange pickers

Leading European retail chains such as Lidl (ranked 5th globally) and Aldi (ranked 8th globally) made commitments to improve social standards and work with sustainability certifications (e.g. UTZ certified and the GlobalGAP GRASP module) and they are members of the BSCI. Nevertheless research focusing on their orange juice supply chain from Brazil found evidence of bad working conditions.

For instance outsourcing and illegal application of seasonal contracts for fruit pickers is common. During the peak harvesting season they work with extended working days, and are often expected to work during the weekends. Work safety is not adequate: often chemicals are sprayed on the fields while fruit pickers are still there, workers are not educated about the usage of chemicals, potential health damages or risks they should pay attention to. Protective gear is often not available or not appropriate. Women workers are subject to discrimination and sometimes are victims of physical, mental and sexual assaults. The living condi-

tions of those who live in temporary barracks far from their home and close to the plantation are humiliating. Workers who engage in union activities risk losing their jobs. In the processing factories, workers are working 14 hours and extra hours are not always compensated.

A striking example of the inefficiency of labour code of conducts is that while Aldi Nord has a supplementary agreement on social standards for procurement and endorses the sustainability agenda of the Fischer Group, in 2011 the Fischer Group subsidiary juice producer, Citrosuco in Brazil, was fined for the violations of employment law: failing to respect rest periods between shifts, extending daily working hours over the legal limit, and forcing employees work without a break for six hours and more, even at the weekend.

Source: *Christliche Initiative Romero, Focus: Orange Juice from Aldi, Lidl, Kaufland & Co. No Regard for Labour Rights?, 2013, <http://www.ci-romero.de/fileadmin/media/informieren-themen/studien/CIR_Orange_juice_study_low_sp.pdf>*

Outsourcing, no living wage and poor working conditions in the Indian cashew processing industry resulting from EU retailers' price pressure

EU countries account for about one quarter of the volume of cashew export trade from the port of Cochin, in the Indian state Kerala. While European retailers make at least gross margins of 30-35% on cashew nuts imported from Kerala, their unfair bargaining practices lead to insecurity among their cashew suppliers which directly impacts vulnerable processing workers.

Labour-related cost (wages and social security) account for 80% of cashew processing costs. Continuous and hard price pressure on suppliers by EU retailers and other buyers leads to outsourcing, which in practice has means lower labour standards and wages under the minimum or living wage. Home working is common, however home-workers earn less than the minimum wage and their social security is either not paid at all or paid incorrectly. Workers are left without adequate medical insurance or pension funds. Lack of protective gear and bad hygienic conditions, poor factory design,

e.g. workers crouched on the floor, lead to various chronic illnesses among workers: respiratory illness, dermatitis, eye problems, reproductive issues, physical deformation etc. Employing migrant workers also became a form of cost reduction. These workers sometimes live at factory premises, exposed to exploitative working conditions and the total control by the owners of the processing companies of their working hours and lives.

While some UK retailers claim that their own-brand/private label sales will meet the requirements of Ethical Trading Initiative's code, Traidcraft researchers found that only few of their cashew supplying factories heard of labour standards' codes of conduct.

Source: Traidcraft Exchange, Cashing in on cashews – How EU supermarkets drive exploitation of cashew workers in India, November 2013, <<http://www.traidcraft.co.uk/Resources/Traidcraft/Documents/Cashew%20Nut%20Report.pdf>>

Pineapple workers hardly benefit from supposedly beneficial (supermarket) policies

Costa Rica's market share of the world fresh pineapple market has increased to 84 percent in 2013 from 75 since 2010, and its most important clients are European supermarkets. Whereas their situation has improved somewhat since 2010, plantation workers of European supermarket suppliers continued in 2013 to suffer from exposure to toxic agrochemicals, inadequate protective equipment, anti-union pressure, and discrimination in the workplace and in hiring policies. Nominal wages have risen slightly, but have decreased significantly in comparison to the cost of living.

Even though European supermarkets and their major fruit suppliers participated in tripartite dialogues that were initiated by non-governmental organizations in

the slipstream of earlier reports on bad working conditions in the industry in this country, so far such dialogues created more expectations than tangible results. The 2013 study highlights that exporters and producers prefer to maintain voluntary and 'self-applied' systems of good production practices, which are, in fact, incompatible with international labour standards, and therefore, international law.

Source: Consumers International and Bananalink, The story behind the pineapples sold on our supermarket shelves: A case study of Costa Rica, 2010, <<http://www.consumersinternational.org/media/485589/the%20story%20behind%20the%20pineapples%20sold%20on%20our%20supermarket%20shelves%20final.pdf>>
An update of the research was done in 2013 (unpublished).

(Galeria Kaufhof, Real) all make public social commitments and joined the BSCI. Despite these commitments, wages in the Peruvian mango sector are still appallingly low and union rights are obstructed.¹⁵ Suppliers in Peru also indicated UTPs being applied by EU supermarkets, for example, inappropriate demands for discounts or for contributions to the advertising costs of supermarket chains. Similarly, while leading supermarkets in the Netherlands such as Albert Heijn (Ahold), Jumbo (C1000) and Lidl require their suppliers to uphold key international labour rights such as trade union rights, prohibit of forced labour, provide living wages, healthy and safe working conditions, field research about their green beans suppliers reveals that in reality these are either violated or in danger of compromise at their suppliers.¹⁶

Current EU approach to address unfair trading practices bound to fail

There has been an ongoing debate and consultation processes in the EU about how to eliminate unfair trading practices throughout the food supply chains supplying European consumers.^{17, 18, 19} In 2011 the High Level Forum for a Better Functioning Food Supply Chain of the European Commission endorsed the 'Vertical relationships in the Food Supply Chain: Principles of Good Practices'²⁰, and the European Parliament welcomed its framework for implementation²¹ which operates as the voluntary Supply Chain Initiative (SCI) since 2013. Civil society and the previously mentioned coalition of CSOs in particular point out that the SCI will not effectively deal with UTPs and its consequences throughout the supply chain as it has many structural weaknesses. In 2013, more than 40,000 European and developing country supporters addressed EU Commissioner Barnier, responsible for the EU's retail market, to call for stronger and enforceable rules at the EU level to stop unfair trading practices between supermarkets and their suppliers.²²

For non-EU suppliers the SCI does not guarantee dispute resolution mechanisms in cases where the Principles of Good Practices are not applied. The SCI requires complainants to first exhaust the national dispute resolution mechanisms in EU member states, hardly beyond what already existed. The SCI system is focused on education and communication with its participants and has a weak dispute settlement system for UTP complaints, which are not resolved at national level. The Initiative has been criticized for not guaranteeing the anonymity of complainants and for lacking sanctions for companies in violation; a significant stakeholder, the European farmers' organization Copa-Cogeca, resisted signing the Initiative for these reasons.²³ The SCI does not have verified monitoring systems, nor does it have a mandate to make ex-officio investigations.

Also the implementation of the system in practice has been problematic so far. The SCI framework itself remarks that a critical mass of companies is necessary throughout the whole supply chain for it to be successful.²⁴ Yet by June 2014, 55 percent of the leading European food retailers have not registered nor submitted a letter of intent to the SCI.²⁵ Also, as just noted, EU farmers refused to be involved. Many food retailers who dominate national markets, yet who may not be significant at the European level, have not yet signed either. Thus the potential positive contributions of the SCI to fair trading practices and to decent work are at least doubtful. The SCI cannot be regarded in any case as an effective and efficient enforcement mechanism.

Recommendations for EU policy makers

- Based on the evidence from research, supermarkets are failing to implement voluntary initiatives that would properly prevent abusive social and trading practices; enforcement mechanisms should guarantee fair trading and decent work all along food retailers' supply chains, regardless of the geographical scope of their business relations. The EU should therefore take European level legislative measures that set the same minimum standards and liability provisions for all food retailers. The following recommendations, which all take different, recent EU policy initiatives into account, can be the building blocks of such regulation.
- To tackle *unfair trading practices*, the EU should have an enforcement body that is able to receive anonymous complaints, keep information confidential and has the power and means to initiate investigations on the basis of information gathered that abusive trading practices have been applied. That body should also have the mandate to apply effective sanctions (including fines) to stop retailers from continuing to apply abusive purchasing practices and all other UTPs. Coordinated enforcement across the EU is necessary, for example an ombudsman structure with pan-European coordination capabilities, to stop big retailers from relocating to countries where regulation is weaker.²⁶
- To safeguarding *decent work*, in addition to dealing with UTPs that can result in harmful social practices, the EU should introduce a robust legislative framework for delivering its commitment to instituting the UN Guiding Principles on Business and Human Rights.²⁷ Within this framework the EU should *require* all leading retailers in the EU to conduct human rights and decent work due diligence throughout all their operations and supply chains, including by operators that supply them indirectly. This would mean that European retailers would have to identify, prevent, mitigate and account

for how they address bad working conditions in all these areas. The EU should also provide strict and mandatory guidance to measure and monitor progress to this end. New EU legislation on non-financial reporting can be a regulatory building block to do this as it is more comprehensive and specific in its requirements for transparency than current UNGP frameworks.²⁸ However, with reforms and/or complementary guidance, the non-financial reporting regulation should be enforced by the EU in order to ensure that all the EU's leading large retailers fall under its scope and have to be transparent about their human rights and decent work due diligence.

- *Voluntary* industrial and corporate measures, for example the SCI, the BSCI or codes of conduct, *cannot substitute* the above mentioned *legislative enforcement* mechanisms to tackle precarious work and UTPs because of the lack of their transparency, verifiability and ineffectiveness. However, their popularity necessitates close monitoring and evaluation of their effectiveness by the EU, especially because these measures are often proposed by the industry as a means to avoid mandatory legislation.

Endnotes

- 1 Market share data from Mintel, 2011, calculations SOMO.
- 2 European Commission, Green Paper On Unfair Trading Practices In The Business-To-Business Food And Non-Food Supply Chain In Europe, January 2013, <<http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013DC0037>> (19 June 2014)
- 3 Consumers International, The relationship between supermarkets and suppliers: What are the implications for consumers?, July 2012 <<http://www.consumersinternational.org/media/1035301/consumer%20detriment%20briefing%20paper%20sept2012.pdf>>, (19 June 2014)
- 4 Dedicated research, AIM CIIA survey, Unfair commercial practices in Europe', March 2011, <<http://www.dlf.no/filestore/CIAAIMSurveyonUCP-Europe.pdf>> (26 June 2014)
- 5 Traidcraft Exchange, Cashing in on cashews – How EU supermarkets drive exploitation of cashew workers in India, November 2013, <<http://www.traidcraft.co.uk/Resources/Traidcraft/Documents/Cashew%20Nut%20Report.pdf>> (26 June 2014)
- 6 The members of the coalition are Traidcraft (UK), Consumers International (Worldwide), Oxfam Germany (DE), Christliche Initiative Romero (CIR, DE), the Association of Conscious Consumers (ACC, HU) and Stichting Onderzoek Multinationale Ondernemingen (SOMO, NL)
- 7 For example late payments, unilateral changes of contracts, unjustified payments or intensive price squeezes.
- 8 The concept of decent work was enshrined by the ILO Declaration on Social Justice for a Fair Globalization, and it is endorsed by the European Union. According to the ILO, decent work includes the strategic, inseparable and mutually supporting objectives of job creation, rights at work, social protection and social dialogue, with gender equality as a crosscutting objective.
- 9 Consumers International, Test-Achats (BE), Altroconsumo (IT), Deco Proteste (PT), Organisation of Consumers and Users (OCU, Spain), Radron (SE), Tænk Forbrugerrådet (DK), Consumentenbond (NL) and Centre for research on Multinational Companies (SOMO, NL).
- 10 European Supermarkets: Labour Standards and Purchasing Practises for Developing World Producers. Technical report of the survey of European Supermarket Policies. Consumers International - SOMO, 2013. Unpublished.
- 11 In a similar survey from 2010 this was not the case: Consumers International, Checked out: Are European Supermarkets living up to their responsibilities for labour conditions in the developing world?, 19 March 2010, <<http://www.consumersinternational.org/media/394236/checkedout-english-02.pdf>> (26 June 2014).
- 12 Cf. Berenschot, Living wage, Wages in international supply chains, <http://www.berenschot.com/publish/pages/2787/brochure_living_wage_en.pdf> (26 June 2014).
- 13 Whereas none of these initiatives is legally binding supermarket suppliers, need to comply with them.
- 14 BSCI website, 'Bsci-commitment-formula', <<http://www.bsci-intl.org/our-work/bsci-code-conduct/bsci-commitment-formula/bsci-commitment-formula>> (23 June 2014)
- 15 Oxfam Germany, Mangos with blemishes, the market power of German supermarket chains and unfair working conditions in Peru, 4 June 2013, <http://www.oxfam.de/sites/www.oxfam.de/files/130705_oxfam_mangostudie_englisch_web.pdf> (23 June 2014).
- 16 SOMO, Spilling the Beans: Precarious work in Morocco's green beans production for Dutch supermarkets, February 2013, <http://www.somo.nl/publications-en/Publication_3928> (23 June 2014)
- 17 European Parliament website, 'European Parliament resolution of 5 July 2011 on a more efficient and fairer retail market resolution of 5 July 2011 on a more efficient and fairer retail market', 5 July 2011, <<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2011-307>> (11 June 2014)
- 18 European Parliament website, 'European Parliament resolution of 11 December 2013 on the European Retail Action Plan for the benefit of all actors', 11 December 2013, <<http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2013-0580>> (11 June 2014)
- 19 European Commission, Green Paper On Unfair Trading Practices In The Business-To-Business Food And Non-Food Supply Chain In Europe
- 20 High Level Forum for a Better Functioning Food Supply Chain, Expert platform on business to business contractual Practices in the food supply chain, Mid-term report, <http://ec.europa.eu/enterprise/sectors/food/files/competitiveness/b2bmidterm_report_en.pdf> (11 June 2014)
- 21 European Parliament website, 'European Parliament resolution of 11 December 2013 on the European Retail Action Plan for the benefit of all actors'
- 22 European Commission website, Commissioner Barnier replies to emails calling for stronger rules to stop unfair trading practices between supermarkets and their suppliers, 28 November 2013, <http://ec.europa.eu/commission_2010-2014/barnier/headlines/news/2013/11/20131128-2_en.htm> (11 June 2014)
- 23 Copa-Cogeca, 'Copa-Cogeca urges EU Commission to take clear steps towards introducing EU'
- 24 European Commission website, 'Non-Financial Reporting', <http://ec.europa.eu/internal_market/accounting/non-financial_reporting/index_en.htm> (23 June 2014) legislation to combat unfair and abusive practices in food chain, in wake of launch of voluntary initiative', <<http://www.copa-cogeca.be/Download.ashx?ID=1100663&fmt=pdf>> (8 June 2014)
- 24 Supply chain initiative, 'Framework for the implementation and enforcement of the principles of good practice in vertical relations in the food supply chain', <http://www.supplychaininitiative.eu/sites/default/files/b2b_voluntary_initiative_framework.pdf> (28 May 2014)
- 25 Figure includes companies that have signed the British Grocery Supply Code of Practice which is considered by SCI as equivalent.
- 26 See the recommendations of the British Institute of International and Comparative Law on the set up of such an European Enforcement mechanism: BIICL, How EU can establish enforcement mechanism to stop Unfair Trading Practices, April 2014, <http://www.biicl.org/files/6952_biicl_enforcement_mechanisms_report_-_final.pdf> (23 June 2014)
- 27 European Commission website, 'Business and Human Rights', <<http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/human-rights/>> (23 June 2014)

Colophon

By: Emese Gulyás & Sanne van der Wal

Layout: Frans Schupp

Photo: Jim McDougall

ISBN: 978-94-6207-044-8

This publication is made possible with the financial assistance from the European Union. The content of this publication is the sole responsibility of SOMO and can in no way be taken to reflect the views of the European Union.



Stichting Onderzoek Multinationale Ondernemingen
Centre for Research on Multinational Corporations

Sarphatistraat 30
1018 GL Amsterdam
The Netherlands
T: +31 (0)20 639 12 91
F: +31 (0)20 639 13 21
info@somo.nl
www.somo.nl

The Centre for Research on Multinational Corporations (SOMO) is an independent, not-for-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation investigates multinational corporations and the consequences of their activities for people and the environment around the world.

