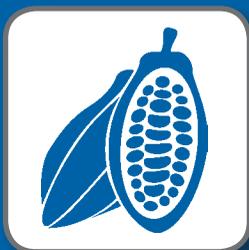




SUPPLY CHA!NGE

Addressing Environmental and Human Rights Violations in Supermarket Supply Chains





Do European retailers eat up their competitors and abuse their market power to squeeze out the farmers in the Global South?

Photo: »Ananasfresser« by Josef Hinterleitner (<https://is.gd/v8vnKV>), CC BY-NC-SA 2.0 (<https://is.gd/24wMe6>); FOOD VISION (Photo Contest)

The power of supermarkets

The power of European retailers over suppliers in the Global South has raised many concerns over the past decades. The increasing concentration of power on a handful of retailers at a global level, however, does raise doubts as to whether these concerns have been taken seriously by policy-makers. Agricultural supply chains constitute a flagrant example of the growing asymmetries in market power. The expansion of supermarket chains, the higher demand for processed food products and the consolidation of retail, processing and logistics' chains have led to a restructuring of supply chains in favour of large buyers like Aldi, Lidl and Carrefour. As a result of tight coordination and the pressure for lower prices, only large producers and exporters can satisfy the demands and thus get a share of the benefits. Value is increasingly allocated not primarily to those who supply a physical product but to those who dominate global food chains successfully. Therefore, the strengthening of the existing dependency on large buyers increases economic pressure on producers due to profit squeezing and exacerbates the violation of human rights and environmental standards.

Environmental and human rights violations

In fact, the structural concentration of buyer power in agricultural chains may lead to situations of abuse of this power and can be associated with unfair trading practices (UTP) in producing countries and at all levels of agricultural chains. For example, investigations show that there are recurrent practices undertaken by dominant buyers to foreclose small banana farmers from the market in the Dominican Republic. Because of the perishable nature of bananas, small farmers' cooperatives don't have the capacity to export by themselves, or aren't willing to take that risk. For this reason, small farmers end up exporting their fruit through private exporters who are often owners of large banana plantations. They tend to sell their volumes first to their clients, using small farmers' cooperatives only as 'buffer' volume providers of bananas. Having no direct access to importers or to market information, small holders' cooperatives are often kept dependent on the exporter who can impose very low terms, and therefore they have very little chance of more autonomy in the chain.

Rank	Retailer	Food banner sales in EU in 2014 (bil. EUR)	Number of Outlets as of 2014
1	Schwarz Group	72.9	11,270
2	Carrefour	54.4	9,687
3	Tesco	52.2	4,760
4	Aldi	48.3	8,166
	Aldi Süd	27.4	3,305
	Aldi Nord	20.8	4,861
5	Edeka	45.9	13,299
6	Rewe Group	40.1	10,183
7	Auchan	34.5	3,430
8	Leclerc	30.2	758
9	ITM	28.8	2,716
10	Metro group	26	1,015

Table 1. Ranking of European retailers

Moreover, power concentration in agricultural chains coupled with the liberalisation of world markets has led to more intensified and mechanised farming systems. This transformation has resulted in many cases of environmental degradation such as soil erosion, deforestation, loss of flora and fauna diversity. Indeed, world agriculture is facing a growing scarcity of land and water in many regions. Nearly 25% of the land surface is now cultivated. Agriculture and food processing represent more than 70% of world water consumption and account for more than 30% of world CO2 emissions. Meeting the growing global demand for food and agricultural products therefore requires more sustainable production methods.

European food retailers: powerful, but unfair

On the other end of the supply chain, big retailers are not concerned as much with the social and environmental consequences of their strategies as they are with the further consolidation of their market power. This tendency is observed particularly among European retailers, who benefit most from these changes. Store brands in European supermarket chains have the world's highest market penetration levels and are often popular because they are relatively cheap. By 2015, the share of supermarket store brand products was estimated to reach 40% of all EU food retail sales. The biggest store brand retailers in Europe are Schwarz Group (Lidl and Kaufland), Carrefour, Tesco and Aldi (see Table 1). The market

share of store brands is correlated to the concentration level in (food) retail and has been identified as a key driver in price competition between retailer chains.

The competition between large retailers results often in unfair trading practices. In 2011, an EU-wide survey among suppliers in the food chain revealed that 96% of respondents said that they had already been subject to at least one form of UTP. Even the European Commission acknowledges that UTPs are quite common and may have harmful effects, especially on small and medium enterprises (SMEs) in food supply chains. However, most of the UTPs stem from the EU's Competition Policy. European regulation focuses on protecting the consumers from monopolies and risks of price collusion, not taking into account the interest of farmers and workers, and even playing against it. By stopping suppliers of goods and services from gaining control over markets, it indirectly strengthens the position of European retailers and strengthens the concentration of power. In practice, European competition law is therefore not in a position to address the issues related to buyer power.



Time for a SUPPLY CHANGE

Although the agricultural supply chain as a whole is quite profitable, the position of smaller producers has declined, in the Global South as well as in Europe. The following sections provide short summaries of the studies conducted in different countries and sectors by the member organisations of the SUPPLY CHANGE Campaign. The focus is put on the variety of challenges that are encountered in the orange juice, sugar cane, cocoa, palm oil, and poultry supply chains. In all of these cases, severe environmental and human rights violations are documented. They provide convincing proof for the fact that supermarkets today are neither socially nor environmentally sustainable. This is why we advocate for a binding international instrument to address human rights abuses committed by business. More information on such a binding treaty can be found in the last section of this brochure.



Join us in calling for a
SUPPLY CHANGE amongst
European retailers.



Photo: CIR

"Everything is made to look OK before the labour inspectors come" says a worker from the Brazilian Orange juice industry.

Squeeze out: The truth behind our orange juice

Orange juice is the most important variety of fruit juice worldwide. In 2013 the global annual consumption reached an average of 7.8 litres per capita. A third of all oranges are grown in Brazil, and more than half of all orange juice is produced there. Almost 98% of Brazilian juice is produced for export. The largest importer is the European Union, which receives roughly two-thirds of exports.

In Europe, 66% of orange juice is sold by store brands. Store brand products are sold at a lower price than most branded competitors, because their marketing costs are minimal and they profit from large purchase volumes. Whereas previously, store brand products were mostly inexpensive everyday items, today most supermarkets offer store brands at all price levels, including orange juice. For example, orange juice is sold as an Aldi own

Oranges require the most pesticides of all export-crops grown in Brazil. Between 2007 and 2013 the annual number of deaths linked to pesticide poisoning climbed from 132 to 206.

brand: “Rio d’oro” (Aldi Süd) and “Sonninger” (Aldi Nord). However, when it comes to assuming responsibility, these retailers stress that they are under no legal obligation. In fact, when questioned, Aldi mentioned a number of Corporate Social Responsibility initiatives that do not concern orange juice, but other product categories.

These negligence has direct environmental consequences. For instance, oranges are one of the most pesticide intensive fruit crops, and require the most pesticides per hectare of all export-crops grown in Brazil. This is confirmed by the fact that between 2007 and 2013, the number of reported cases of human intoxication by pesticides has more than doubled, from 2178 to 4537. In the same period, the annual number of deaths linked to pesticide poisoning climbed from 132 to 206. Public health

specialists say the actual figures are higher because tracking is incomplete.

Moreover, most pickers work in precarious conditions for wages too low to allow them to live with dignity. Their work is physically demanding, poorly paid, and often

lacks the protection of fundamental worker’s rights, like freedom of association or collective bargaining. In particular, women are often subject of constant psychological, physical and sexual attacks. The long working hours hamper family life, so female workers with children suffer particularly from this state of affairs. The general rule both in the factories and out in the fields is that if you don’t work, you don’t get paid. For mothers, this means that they cannot go to the doctor with their children.

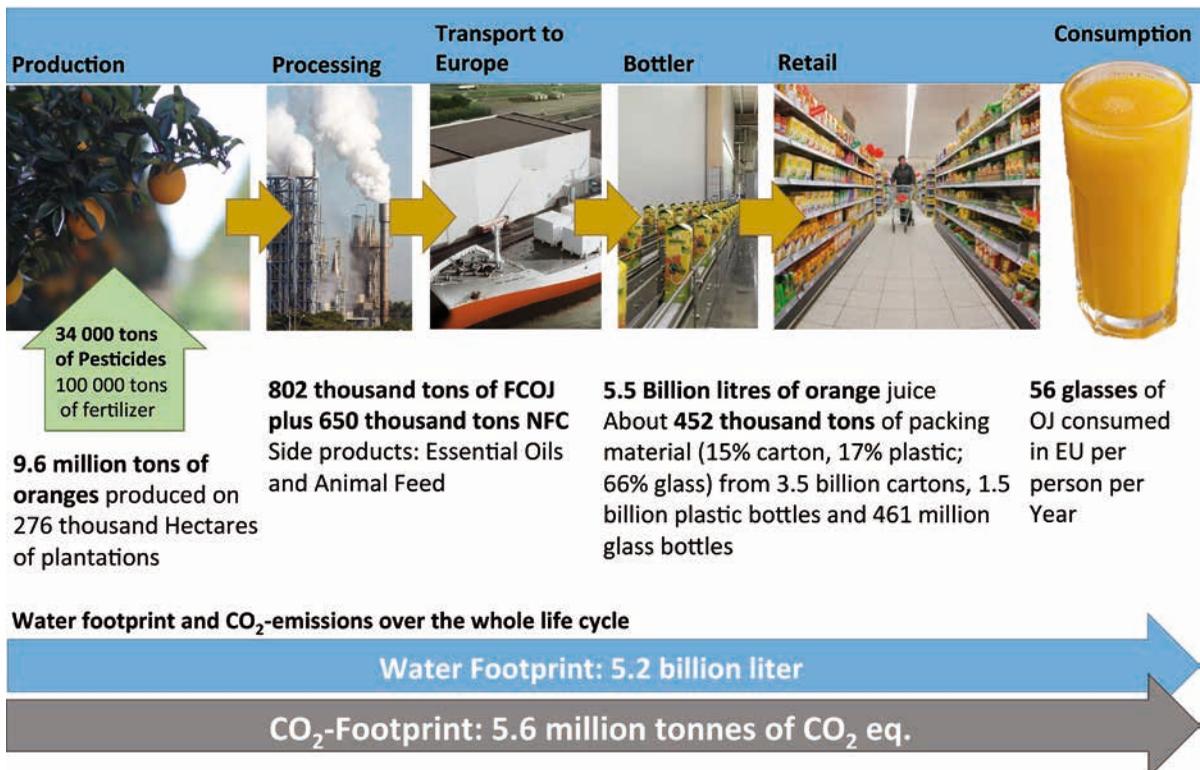


Figure 1. The relevant stages of the orange juice production



Photo: 'caña de azúcar' by Rufino Uribe (<https://is.gd/01LqFW>), CC BY-SA 2.0 (<https://is.gd/wmTgWa>)

The sugar cane industry has been linked to a range of harmful environmental impacts, including loss of animal habitats and biodiversity, excessive water use in production and processing of sugar cane, soil erosion, and agrochemical pollution of land and water.

Sweet profits with bitter consequences

Sugar production and consumption is increasing globally. Awareness of health concerns linked to excessive sugar consumption is rising as well. However, there is less awareness of the often problematic socio-economic and environmental conditions associated with sugar cane production. Reports indicate that working conditions in sugar cane producing countries are often unacceptable: forced labour, child labour, lack of job security, low wages, and health and safety problems are rampant. The sugar cane industry is also linked to a range of harmful environmental impacts, including loss of animal habitats and biodiversity and pollution of land and water. Additionally, cases of land grabbing are reported in a number of production countries.

The EU is of the large importers of sugar cane globally (see Table 2). Most of

the sugar cane imported into the EU is from lower and lower middle income countries for which income from EU trade in sugar is an important source of revenue. Important sugar using companies in the EU include Barilla, Orkla Foods, Ferrero, Refresco Gerber, Lactalis, Lotus Bakeries, Müller Einkauf & Service and United Biscuits. Despite not being referred to as sugar-using companies, retailers, in their role of producers of store brands, are

perhaps the most important company group of sugar users. The largest supermarkets globally include Walmart, Costco, Carrefour, Tesco, Lidl and Aldi. An unknown but likely substantial share of this sugar cane finds its way to the EU market anonymously as refined (white) sugar. Meanwhile industry sources report that buyers are seldom interested in knowing the source of the sugar they source.

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Refined this sugar cane crystals might enter the European market anonymously.

Importing Country	Import Value (mil. EUR)	Share of total global imports (%)
USA	3.637	9,8
Germany	1.966	5,3
United Kingdom	1.846	5
China	1.640	4,4
Indonesia	1.442	3,9
Italy	1.297	3,5
Rep. of Korea	1.147	3,1
Netherlands	1.129	3
Spain	1.088	2,9
France	1.068	2,9
Grand Total	37.145	100

Table 2. Sugar imports and exports by globally leading countries in 2014/2015.

A case study of sugar production in Malawi reveals many of the labour rights violations as well as dispossession of lands. For instance, at Illovo Sugar Malawi, the only sugar producing company in Malawi, there is evidence of increasing casualisation of the workforce. This means that, compared to workers that are on Illovo’s pay roll, agency workers have lower wages (often below the minimum wage), no job security, are more exposed to unsafe situations, are generally not represented by trade unions and are not entitled to a range of benefits such as free medical care and accommodation.

The company is also accused of population displacement by a community neighbouring one of its two plantations in the country.

Moreover, the sugar cane industry has been linked to a range of harmful environmental impacts, including loss of animal habitats and biodiversity, excessive water use in production and processing of sugar cane, soil erosion, and agrochemical pollution of land and water. As an illustration of this, in the Brazilian state of Pernambuco the use of pesticides on the new sugar cane plantation led to the pollution of water sources. This in turn harmed local fishermen, because fish and shellfish were killed on a large scale. In addition, the members of the extorted indigenous community in Mato Grosso do Sul in Brazil have suffered health problems like vomiting and diarrhoea following exposure to pesticides used on nearby sugar cane plantations

However, the sourcing policies of leading European retailers and their role of producers of store brands is not reflected in any meaningful action to end the documented violations. For instance, Dutch supermarkets’ policies are not specific and ambitious enough to address the range and complexity of the sustainability issues affecting the production of sugar cane in their supply chains. In addition, compared to other commodities that are predominantly produced in lower and middle income countries such as coffee, tea, cocoa, bananas and palm oil, the share of sustainability certified sugar cane production is relatively low.



Photo: Südwind

About two million children are involved in hazardous work on cocoa farms in Ghana and Ivory Coast.

Chocolate at any cost?

Chocolate is a by-product of cocoa beans. Up to 2012, the global chocolate confectionery market had generated net sales of approximately 80 billion dollars and was predicted to grow to 100 billion dollars in 2016. European supermarket chains account for more than 47% of global sales. The average European consumes 5.2 kilograms of chocolate per year. More than two thirds of the market share is held by only five producing companies: Mars, Mondelez, Nestle, Hershey and Ferrero. However, the main resources of cocoa are located in West African exporting countries such as Ghana, Ivory Coast and Cameroon.

In 2015 cocoa farmers in the Global South accounted only for 6.6% in the value chain of chocolate. This is compared to 16% in the late 1980s (see Figure 1). For example, farmers in Ivory Coast and Ghana received 40-50% and 70% of the world market price respectively. Furthermore, the small scale of the farms and relatively low yields mean that the annual income remains very low. In contrast, the share for processors and grinders, chocolate manufacturers and retailers has increased to 87%. The growing production of store and private brands combined with the growing market concentration, is leading to an increasing dependency of producers on

retailers. The chocolate industry is therefore responsible for the social and environmental challenges that cocoa producers are facing in these countries.

Low and fluctuating prices for cocoa make it difficult for farmers to pay minimum wage, not to mention a living wage. In many cases workers are forced to work overtime and face dangerous conditions when handling chemicals and dangerous tools. In addition, many children abandon school and work on the cocoa farms due to a high demand for cheap labour. For example, up to 2 million children are currently working on cocoa farms in Ghana and Ivory Coast. More than 500.000 of them are involved in hazardous child labour.

Moreover, negative environmental impacts are increasingly a real danger. In poorly managed cocoa planta-

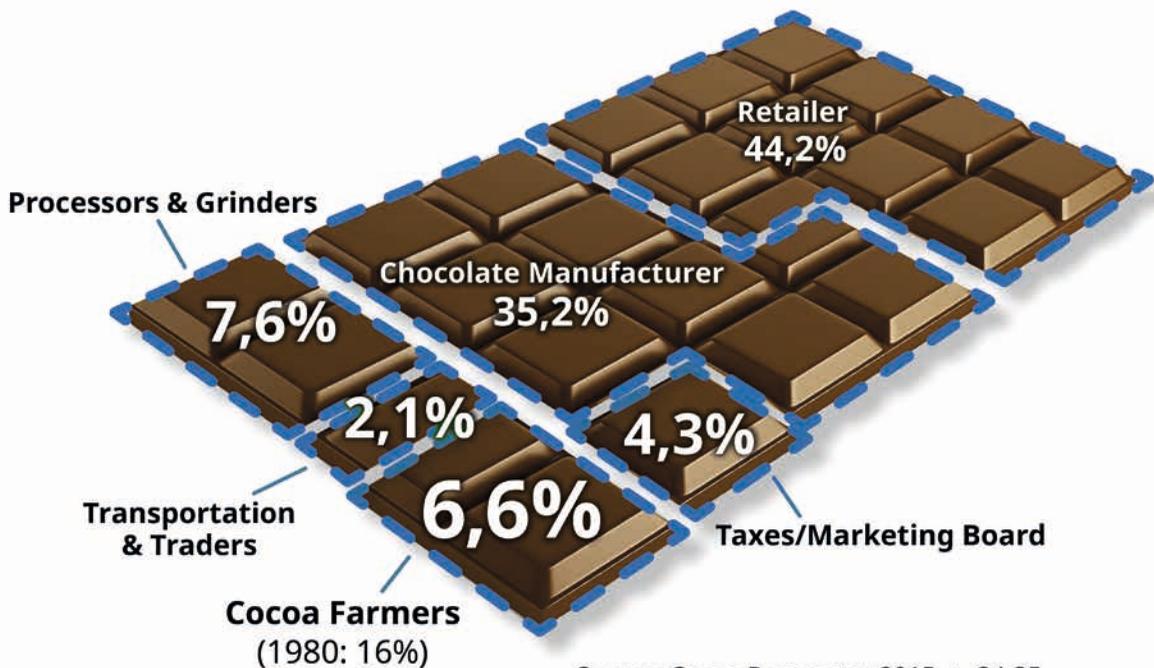
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tions, soil degradation can lead to poor soils and as a consequence to lower productivity. This, and the fact that it is easier to establish a new plantation than to replant an old one, drives cocoa farmers to cut down forests to create new plantations. Cocoa plantations risk to be replaced by other cash crops like palm oil or by mining activities. This is increasingly happening

in Ghana in the context of small-scale gold mining activities and has also caused severe water pollution problems. Due to their economic situation, cocoa farmers are easily coerced into giving away their land to mining companies or large agro-businesses. Losing cocoa plantations to more intensive forms of land use poses a threat to biodiversity and to a sound and resilient agro-environmental system.



Share in the value chain of chocolate production (100g, price of sale 0,79 €)



Source: Cocoa Barometer 2015, p. 34-35

Figure 2. Share in the value chain of chocolate production



Photo: Global 2000

This palm oil plantation was planted in the middle of the forest. Downstream, it has led to water shortages during the dry season and floods during the rainy season.

Palm oil: Environmental destruction, stolen land

The situation in the oil palm plantations is becoming progressively aggravated. Palm oil's main areas of cultivation are located in Indonesia and Malaysia, which together produce roughly 85% of the world's supply. Increasingly, however, large commercial plantations are also being developed in West Africa and South America. The high oil yield per hectare is one of the reasons why oil palm is not only an attractive cash crop for large commercial plantations, but also for small-scale farmers. The latter, however, lack the experience and the capital to establish a

plantation and acquire the necessary operational inputs. Nearly 70 % of palm oil is grown in huge plantations, which can often cover thousands of hectares. These plantations are operated by national and international companies, and are often owned by or under contract to big palm oil distributors such as Wilmar, Golden Agri-Resources, Sime Darby, Bunge or Cargill.



Photo: Finnwatch

In Europe, palm oil is imported and exported not only as a raw material, but also in processed form, as ready-made products or components. In an average supermarket, there

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is palm oil in over half of all products sold such as margarine, baked goods, frozen potatoes and pizza, soups and stocks, sauces etc. For instance, a detailed study estimates the average per capita consumption of palm oil used in foodstuffs at over 7 kg per year. With the addition of palm oil used in consumer items (food, cosmetics, detergents and cleaning products) the value increases to 13 kg. In 2014, according to the Food and Agriculture Organisation (FAO), over 342 million tonnes were produced worldwide. The increase in production has impacted many communities at the base of the supply chain.

The environmental problems reported by locals are the clearing of rainforests, the drainage of peatlands, fires, massive water consumption by the palms and pollution of rivers by oil mills. For instance, the inhabitants of a village in the Bengkulu province (Seluma district) of Indonesia have witnessed the extinction of forests where they grew maize, rice, mangos. Rice, a vital crop, can no longer be grown, even next to the plantations, because

the oil palms use up so much water that the plants on the fields dry up. Thus the villagers are now in a hopeless situation: the yields from their own crop cultivation are becoming smaller and smaller, more and more basic foodstuffs have to be bought, and at the same time the compa-

nies in the palm oil business provide no jobs or income for the local population.

Moreover, the social problems that are often encountered include the displacement of smallholder farming, discriminatory employment practices of the plantations towards the local population, precarious working conditions, and poor wages for very strenuous work. It has been reported that at one of the largest oil palm estates in Malaysia owned by the IOI Group, a third of interviewed workers received performance-based wages. These wages were below the level of the Malaysian statutory minimum wage of 900 Malaysian ringgits (198 euros) a month or 34.63 ringgits (7.6 euros) a day – and were thus insufficient for the livelihood of workers.

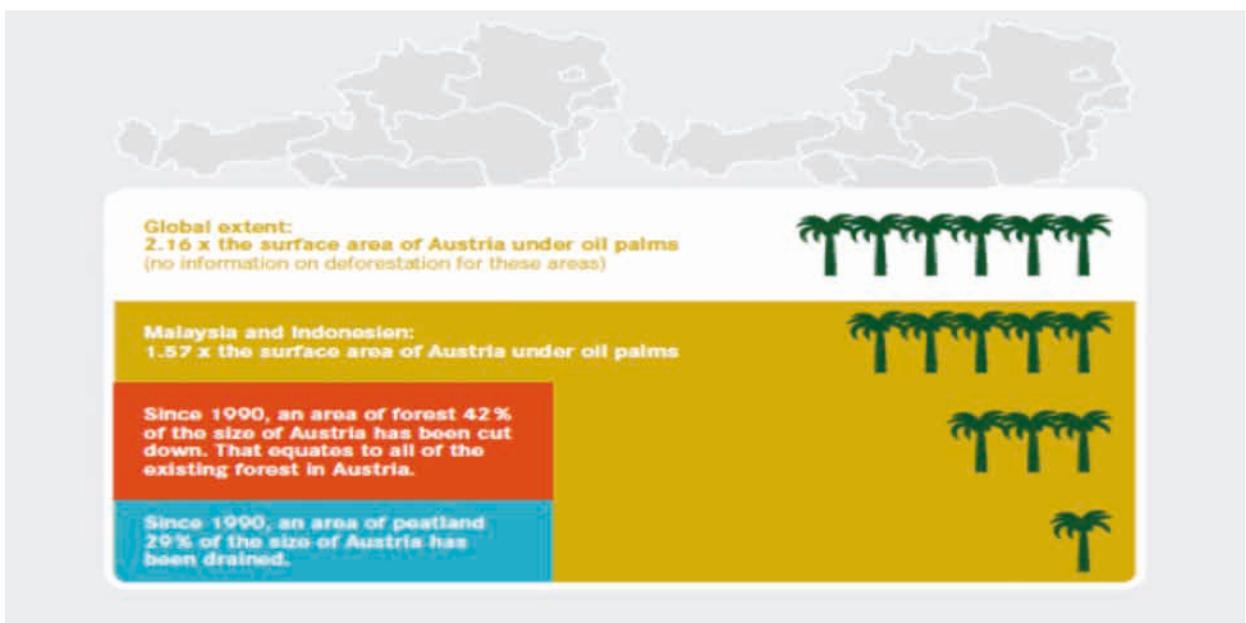


Figure 3. Expansion of the palm oil plantations in Indonesia and Malaysia and proportion of the land area deforested for oil palm plantations since 1990.

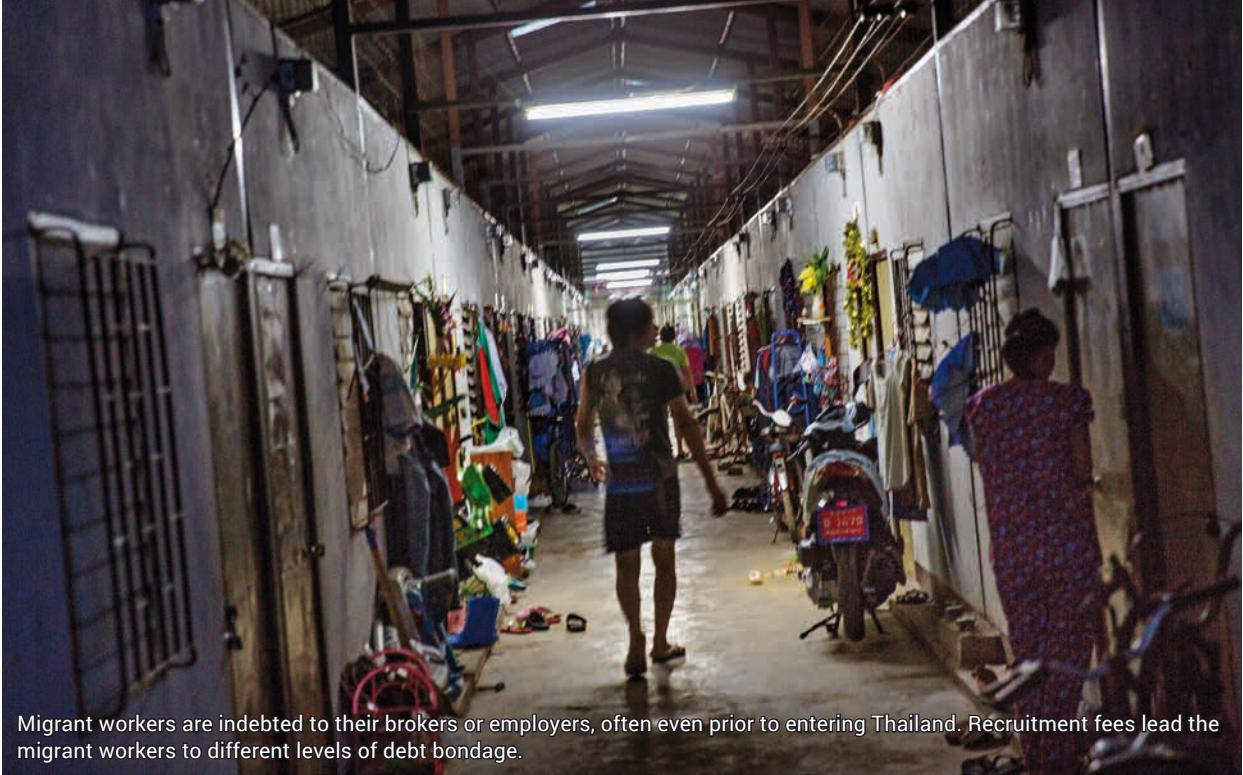


Photo: Swedwatch

Migrant workers are indebted to their brokers or employers, often even prior to entering Thailand. Recruitment fees lead the migrant workers to different levels of debt bondage.

Trapped in the kitchen of the world

Poultry meat consumption is growing at an exceptional rate. According to FAO, it will overtake pork meat before 2020. Thailand is a prominent world supplier of poultry meat products. During the last couple of decades, the nation’s domestic production has experienced several booms, as the poultry industry has evolved into a main ingredient of Thailand’s objective of becoming “the kitchen of the world”.

Since 1980 the poultry industry has transformed from rural production primarily for domestic consumption to

industrial scale production mainly for export to international markets. The EU has become its biggest market for export. About 270.000 tonnes of poultry meat products were shipped from Thailand to the EU in 2014 (see Figure 4).

Due to the high demand the Thai poultry industry is coping with a shortage of domestic labour. In search for better salaries and the possibility to send money back home, millions of migrant workers from mainly Cambodia and Myanmar have formed the lowest level of Thai-

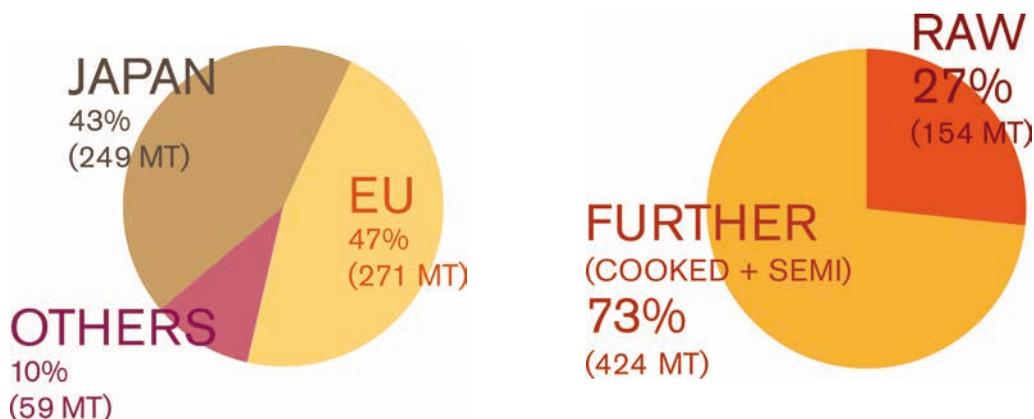


Figure 4. Thailand’s total export of chicken meat. Jan-Dec 2014: 578 886 tonnes

Migrant workers state that passports or work permits have been confiscated by their employers or recruitment agencies. Workers are in debt bondage due to recruitment fees and other costs.

land's labour pyramid. Many of these people have also become victims of unscrupulous employers and recruiters as well as corrupt officials. For example, interviewed migrant workers state that personal documents such as passports or work permits have been confiscated by their employers or recruitment agencies. Interviews reveal that workers in the Thai poultry industry are in different levels of debt bondage due to excessive recruitment fees and other costs at all selected factories. Unfortunately, similarly to the documented case of the Golden Line Business factory, companies exempt themselves from ensuring that recruitment agencies act responsibly.

Furthermore, extensive shortcomings of social responsibility have been identified in the public procurement of

food in European countries. For example, Swedish import of processed food for the public sector in 2013 was approximately €21 million. This means that Sweden's public institutions such as schools, retirement homes and hospitals

may end up serving poultry products produced by exploited migrant workers.

Moreover, the results of a survey of supermarket chains on the Swedish market show that one out of five food companies included in the survey use Thai poultry in their house brands. The Swedish stakeholders involved in the import of poultry products from Thailand conduct no meaningful due diligence on potential adverse human rights impacts in the industry.



Photo: Swedwatch

According to the global labour rights organization Solidarity Center, migrant workers in Thailand experience some of the worst abuse in the world.

How to make transnational companies accountable?

As the aforementioned cases show, the business activities of food retailers and other companies are often linked to human rights violations and environmental degradation all over the planet. Many of these companies are registered in Europe. It is thus imperative for policy makers in the European Union to commit to the effective safeguarding of fundamental rights. There are multiple recommendations and guidelines such as the:

- OECD Guidelines for Multinational Enterprises
- UN Global Compact
- UN Guiding Principles on business and human rights

However, the compliance with all of these initiatives is in large part voluntary. To date, there is no binding treaty to hold companies responsible for their activities and to protect human rights and the environment effectively. Soon, this could change with a UN binding treaty.

Why should the treaty be binding and international?

» Currently, companies have far-reaching rights as investors. These rights are guaranteed in various multi- and bilateral free-trade and investment agreements. Based on these investor rights, business enterprises can sue governments over millions of dollars through private arbitration courts. Contrarily, victims of human rights violations face big difficulties when trying to get access to remedy. Therefore, an international treaty regulating transnational business activities is necessary to truly protect human rights.

» Only an international treaty will establish an adequate legal framework to hold corporations re-

sponsible for the violations of fundamental rights caused by transnational business activities. The latter are not yet sufficiently regulated, because national legislations hardly ever deal with extraterritorial human rights. Well-defined obligations for companies need to be determined internationally, irrespective of the state's obligations to protect their rights on a national level.

» An international treaty could set the legal obligations and establish mechanisms for monitoring and implementing, beyond mere voluntary guidelines. It could thus serve as an international set of standards, while further regulatory initiatives on a national level could still be implemented in order to complement the international treaty.

Will an international binding treaty ever become reality?

Since 2014, a UN Treaty is being negotiated. It was initiated by Ecuador and South Africa within the UN Human Rights Council (UNHRC). The treaty's goal is to propose a legally binding instrument that regulates the activities of transnational corporations and other businesses enterprises regarding fundamental rights. The UN Treaty would implement the UN Guiding Principles on Business and Human Rights as well as standards set by the International Labour Organization (ILO) and the World Health Organization (WHO), in order to prevent, investigate, and address human rights violations caused by or linked to business activities, and to provide access to remedy for victims. Ecuador will present elements of the UN Treaty at the next working group meeting, which will take place from 23. to 27. October 2017 in Geneva, Switzerland.



A binding treaty is possible:
France is the first European country to introduce a law, which obliges companies to respect fundamental rights throughout their supply chains.

What can the EU do?

So far, the European Union and its Member States have not proactively engaged in the process to create an internationally binding treaty for business and human rights. They did not support the initial setup of the working group and have only participated reluctantly in the last meeting in October 2016. Nonetheless, the EU has started to implement other measures to protect fundamental rights: in 2016, it passed a regulation on “conflict minerals” that aims to stop the financing of armed groups and human rights abuses through trade in minerals from conflict areas. Despite its limits, the regulation obliges certain companies to implement human rights due diligence throughout their supply chains. This regulation shows the EU’s potential to promote human rights internationally, if sufficient political will is invested.

It is a legally binding obligation for parent companies to identify and prevent adverse human rights and environmental impacts resulting from their own activities, the ones of companies they control or their subcontractors.

» The French example shows that a binding implementation of the UN Guiding Principles on business and human rights is possible on a national level. Therefore, it might become an example for other European countries who envision similar laws, like Belgium, Spain, and Switzerland.

This brief overview of policy initiatives shows that stopping corporate impunity and making (transnational) corporations accountable for adverse impacts caused by their business activities are both possible and necessary on various political levels. However, real change remains a matter of political priority setting.

What can EU Member States do?

» All EU Member States should participate constructively in the international negotiations for an effective and binding UN Treaty that regulates transnational corporations and other business enterprises regarding fundamental rights.

» Moreover, Member States can develop national regulations that complement the international framework. France is the first European country to introduce a law, which obliges companies to respect fundamental rights throughout their supply chains. The so-called “vigilance law” was approved in February 2017 as a response to the catastrophe of Rana Plaza, where 1,134 textile workers died due to the collapse of a factory.



Find out more about the UN Treaty and our advocacy work at: www.supplychange.org

Stay updated & follow the process at [#bindingtreaty](https://twitter.com/bindingtreaty) and [#stopcorporateabuse](https://twitter.com/stopcorporateabuse)

Sources & More Information

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