



ORAL STATEMENT at the European Parliament Working Group on Responsible Business Conduct event 'Access to Remedy for victims of human rights abuses - Role of the EU' on 11th April 2018

[Check against delivery]

Thank you to the organisers for the invitation to provide remarks on the panel on European Companies' Responsibility to Respect Human Rights - Duty of Care; thank you also to all the panellists for the excellent contributions and for sharing your insights on this issue.

I represent Finnwatch, a Finnish NGO focussed on labour rights in global supply chains. I will comment on the panel discussion from the point of view of supply chain transparency.

Companies have the responsibility to prevent and mitigate human rights risks in their operations. This, among other things, requires companies to map their supply chains and to identify their human rights impacts. To do so, companies often engage in consultations with stakeholders, conduct audits and commission research. In practice, such efforts are led by companies which define who their stakeholder are and which operations are to be included, thereby pulling the information from their supply chains. But companies also need to create channels for information to be pushed to their attention by those who have been left out or forgotten, and this requires supply chains transparency. In high risk environments, the need for such transparency is even greater.

As we have heard today, human rights due diligence is no substitute for remedy. Victims of corporate abuse by French companies can now, following the adoption of the Duty of Vigilance law, seek remedy through courts in France. The law is a major achievement that deserves to be applauded. However, there are many barriers that in practice make it difficult for the victims to access justice despite the law. One of these is the lack of supply chain transparency.

For the victims, it is of course only possible to seek justice through courts in France if they can make a connection between a French company and their situation. In our experience, however, it is quite rare that for victims to be able to make that connection. It is much more common that for example, workers in the upstream of global supply chains have no idea what the downstream companies are, or indeed, that a brand companies have a responsibility that extends their full value chains.

Transparency in supply chains therefore not only makes it possible to assign responsibility for possible human rights violations; it can also empower workers in the global supply chains to claim their rights. Non-disclosure of supply chain information on the contrary, hinders access to effective remedy for example by creating delays in workers or other stakeholders accessing grievance mechanisms.

We should also not forget that supply chain transparency also benefits consumers who have the right to know in what kind of conditions the goods they are considering buying have been made.

Competitive reasons are perhaps one of the most often cited reasons not to disclose supply chain data that practitioners in this field hear. However, several companies already voluntarily publish detailed, up-to-date information on their supply chains – such as Neste, or several textile and garment brands – thereby also demonstrating that competitiveness and transparency can go hand in hand.

In fact in 2014, Finnwatch exposed serious labour rights violations in Neste's supply chains. This was only possible because Neste first shared information about its supply chains with Finnwatch, and Finnwatch then went on and interviewed workers at oil palm estates in its supply chains in Malaysia. Since then, Finnwatch and Neste have engaged in extensive dialogue, and worked hard to address the labour rights issues in Neste's supply chains. Earlier this month, Neste implemented Finnwatch's recommendations on transparency, becoming the first company in the world to publish data on its palm oil residue supply chains.

However, not all companies operate like Nestle. Many in this room would already be familiar with the case example of Natural Fruit, a Thai pineapple producer, which is currently waging a prolonged campaign of judicial harassment against a human rights defender Andy Hall.

A Finnwatch report 'Cheap has a high price', published in 2013, alleged serious labour rights violations at a Natural Fruit factory. It was later revealed that as a result of the public outcry that followed the publication of that Finnwatch report, Natural Fruit had increased its sales in volume – although the buyers were now paying less for their produce than before the poor labour conditions had been exposed. This means that someone, possibly even in Europe, bought more from Natural Fruit than before but with a cheaper price – and got away with it.

The case of Natural Fruit demonstrates that at the moment, companies that are voluntarily transparent about their supply chains, may have to carry more than their fair share compared to those companies that choose to not be transparent. And as I described earlier, this may even mean that companies that choose not to be transparent may gain competitive advantage when they purchase goods or producer at a cheaper price that in the worst-case scenario has been achieved through the abuse of workers' rights.

Why should the companies that are not transparent be rewarded in this way?

Mandatory human rights due diligence is undoubtedly one part of the solution here that would help level the playing field and prevent human rights violations from occurring in the first place. In addition to introducing such legislation, governments could also take similar regulatory action on transparency instead of relying on companies' voluntary measures.

Here, I am referring to transparency of customs information which could be another, complementary part to the solution. Because of the import data that they collect, customs in the EU Member States already have a lot of data on companies' supply chains. Currently and as a general rule, this data is not being made public. This needs to change. Customs data could be made available to the public by introducing an amendment to the Union Customs Code Article 12 that would harmonise law within the EU so that certain data on companies importing goods to Europe would not be considered confidential by any of the Member States.

The European Union often represents itself as a frontrunner on transparency and on human rights. However, in terms of transparency of customs data, countries such as the US and India are already ahead of the EU as in both these countries, customs data is already publicly available, and made searchable by commercial service providers.

The European Parliament has already called on the Commission and Member States to seek ways to enable access to the customs data collected from parties trading in products or goods imported into the EU. It is now time for the Commission and Member States to heed that call.

Thank you.