EU supermarket policies for decent work and fair trading practices

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April to December 2013

Consumers International (CI) and seven of its members.

7 EU countries: Belgium, Portugal, Spain, Italy, Netherlands, Denmark and Sweden

5 leading supermarket formulas (national market shares)
In 11 EU countries 7 or fewer large retail chains control more than 70 percent of food retail.
Focus on “private label” or “no brand” food products from developing country producers.

Emphasis on supermarket policies for the first supply chain link/actor.

Labour standards & commercial practices in the purchasing.

Fresh Fruit and Vegetables (pineapple).
EU Action Needed for Fair Supermarket Supply Chains

SOMO Paper | June 2014
Survey shows that the policies on labour conditions and purchasing practices of leading EU retailers often lack credibility.

purchasing practice policies of 25 leading food retail chains in seven EU countries. 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. 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.
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 family\textsuperscript{12}, this means that the labour standards of most supermarkets are not aiming to guarantee living workers in developing countries.

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.
Outsourcing, no living wage and poor working conditions in the Indian cashew processing industry
result from EU retailers’ price pressure and competitors’ sourcing from third-party 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.

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 initiative\textsuperscript{13} 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 joining it\textsuperscript{14}. 
<table>
<thead>
<tr>
<th></th>
<th>Overall</th>
<th>Quality</th>
<th>Validation</th>
<th>Policy</th>
<th>Implementation</th>
<th>Labour standards</th>
<th>F&amp;V Purchasing</th>
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<tbody>
<tr>
<td>Average N (n=16)</td>
<td>38%</td>
<td>45%</td>
<td>31%</td>
<td>54%</td>
<td>23%</td>
<td>55%</td>
<td>19%</td>
</tr>
<tr>
<td>Average S (n=9)</td>
<td>30%</td>
<td>35%</td>
<td>24%</td>
<td>24%</td>
<td>15%</td>
<td>34%</td>
<td>27%</td>
</tr>
<tr>
<td>Difference</td>
<td>8%</td>
<td>10%</td>
<td>7%</td>
<td>30%</td>
<td>8%</td>
<td>21%</td>
<td>-8%</td>
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Recommendations

- EU measures that set the same minimum standards and liability provisions for all food retailers.

- Unfair trading practices: independent member state enforcement bodies with EU coordination: anonymous complaints; mandate for sanctions & investigative

- EU legislative framework for UN Guiding Principles on Business and Human Rights: all leading to conduct human rights and decent work due diligence throughout all their operations and supply chains
**UTPs: what is the problem?**

- 96% of all companies exposed to on average 6 different UTPs (2009, AIM)

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<thead>
<tr>
<th>Non-respect of Contractual Terms</th>
<th>EU</th>
<th>NED</th>
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<tr>
<td></td>
<td>84%</td>
<td>88%</td>
</tr>
<tr>
<td>De-listing threats to obtain unjustified advantages</td>
<td>77%</td>
<td>86%</td>
</tr>
<tr>
<td>Unilateral deduction on your invoices without sound business reasons</td>
<td>63%</td>
<td>63%</td>
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<tr>
<td>Your company paying for no service (e.g.: pay to compensate for customers' lower profit)</td>
<td>60%</td>
<td>52%</td>
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UTPs are highly profitable > off-loading risks and costs

- Already with 8% market share (M&S UK)
- In 11 EU countries at most 7 large retail chains control more than 70 percent of food retail.
Losses to food suppliers in the EU as a result of Unfair Trading Practices amount to at least 10.9 billion Euros every year (Copa-Cogeca)

Consumer detriment: prices and product variety

Negatively affects conditions for workers and farmers in the developing world.
Why measures against UTPs?

- Broadly acknowledged problem now (written declaration European Parliament 19 February 2008)
- ‘Climate of fear’ prevents using any mechanisms in place (e.g. ‘contract law’)
- Self regulation cannot solve the problem > because it is not natural to voluntary commit to reduce profit
Anti-UTP measures in NL and EU

- NL: EU supply chain initiative > voluntary and educational: no enforcement (penalties), no investigative power, no anonymity…

- Apparent parliamentary support for regulation if NL pilot fails (e.g. Geurts) also EP calls for investigating regulatory measures should SCI fail

- UK experience: voluntary UTP measures led to more UTPs, 3 inquiries were costly and it took many years for there to be Grocery Code Adjudicator with power to fine only in April 2015
France, Hungary, Ireland, Portugal, Slovakia, Spain, UK & others have or are already setting up enforcement bodies to stop UTPs > no-level playing field

Divide: North-Western (opposing EU wide regulation) VS South-Eastern-European countries (for regulation)

No access in practice for non-EU suppliers in EU, NL and UK
How to evaluate the Dutch UTP pilot?

- No complaints received but UTPs are still practiced
- NAV 2014: 70% of 139 respondents claimed being subjected to UTPs, 19% and 10% were familiar with respectively the code and complaints facility NAV 2014
- How proponents will evaluate pilot is not clear but seems uncoordinated.
What next?

- Independent enforcement body: handles anonymous complaints; power and means to initiate investigations; mandate to apply effective sanctions

- Coordinated enforcement across the EU is necessary e.g. (BIICL) EU directive establishes the objectives of Member State enforcement and rules for their coordination with the EU institutions and other Member States.

- Adaption of regulation for it to be effective to non-EU suppliers
Contents of this presentation

- What are UTPs?
- UTPs: what is the problem?
- Why measures against UTPs?
- Anti-UTP measures in NL and EU
- How to evaluate the Dutch UTP pilot?
- What next?