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CASE STUDY ON THE PERUVIAN MANGO SUPPLY CHAIN



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COLOPHON

Case study on the Peruvian mango supply chain

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SOMO is an independent research organisation. In 1973, SOMO was founded to provide civil society organisations with knowledge on the structure and organisation of multinationals by conducting independent research. SOMO has built up considerable expertise in among others the following areas: corporate accountability, financial and trade regulation and the position of developing countries regarding the financial industry and trade agreements. Furthermore, SOMO has built up knowledge of many different business fields by conducting sector studies.

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1. Introduction

Globalisation has enabled businesses to source products from overseas with far more ease and speed than ever before. Products containing ingredients or components from all over the world are now available in practically every shop, something an average household couldn't dream of fifty years ago. We all enjoy the benefits of the increase of available merchandise, but tracing these products to their origins is easier said than done. Parallel to the expansion of available products, the supply chains of these products have also expanded. Very few products are made exclusively in Europe anymore. Many commodities, raw materials and components for instance are sourced from developing countries, regularly under substandard labour conditions compared to the ones in Europe.

The majority of EU multinational enterprises (MNEs) claims to have policies to address and prevent unsustainable practices in their supply chains. However, multinational enterprises registered in Europe are continually and increasingly being associated with environmental and human rights violations committed by companies themselves or occurring within their supply chains. This briefing aims to add to the evidence that there are still gaps between the theory and practice of doing sustainable business by European multinationals throughout their supply chain.

The European Coalition for Corporate Justice (ECCJ), a coalition of over 250 European civil society organisations, is convinced that to achieve a sustainable world in which corporations' drive for profit is balanced by respect for human, social and environmental rights, the regulatory framework for European businesses should be strengthened. Three legal proposals have been formulated by the ECCJ to help bridge the current regulatory gap and create a level playing field for sustainability among companies. This briefing

will highlight the need for specifically one of these proposals: the company's duty of care. This concept requires companies to take reasonable steps to identify and prevent human rights or environmental abuses in their supply chains.

This briefing intends to inform policy makers and organisations working on supply chain issues how a duty of care can contribute to preventing human rights and environmental violations in international supply chains. To illustrate a recent and representative example of the need to counteract deficient supply chain responsibility, the case study of the Peruvian mango supply chain is presented. This is not an isolated case. There are many other examples of human rights abuses by EU companies reported by ECCJ and its members that highlight the need for better corporate accountability regulation.ⁱ

The conditions under which the mangos in the case study are produced and harvested are below par. Nevertheless, the leading Dutch supermarket Albert Heijn is sourcing them. The company's conduct is therefore not in line with its own Corporate Social Responsibility (CSR) policies which refer to core ILO labour rights. Moreover, being one of the most influential links in the supply chain and according to its own ambition to contribute to a healthy and sustainable societyⁱⁱ, it could use its leverage to positively influence these socio-economic conditions. To allow for a better understanding of the context and the conditions in which producers, suppliers and retailers of fresh fruit and vegetables (FFV) operate an overview of the sector and some of the CSR issues that affect it are presented. The duty of care principle is then applied to the specific case study of the Peruvian mango supply chain.

2. Legal proposals for corporate accountability

The case study about mangos sourced from Peru presented in this briefing demonstrates the need for establishing a parental company's duty of care. Before going in-depth into this case study and subsequently the need and advantage of establishing a company's duty of care, this principle is first introduced within a wider corporate accountability agenda of the ECCJ.

Endorsing and implementing European and international environmental and human rights standards and principles are a first step in combating corporate misconduct of European multinationals. Additionally, the ECCJ believes that corporate accountability and also CSR mechanisms should be based on international legal frameworks and principles as the foundation for corporate justice. The European Union should establish legal measures to be able to hold EU-based companies accountable for the adverse impacts their operations have on human rights and the environment worldwide. Such legal standards would provide the potential to ensure global social justice, poverty alleviation and environmental conservation more effectively.

The range of legislative reforms that the ECCJ recommends are the followingⁱⁱⁱ:

Improved liability of parent companies:

Responsibility for oversight and control of compliance with human rights and environmental standards by subsidiary companies should be allocated to the parent company as it has authority to control the entity that actually violates the standards.

Establishing a parental company duty of care:

A European parent company should have the duty of care to ensure that human rights and the environment are respected not only in situations directly impacted by the company, but also within its sphere of responsibility through its supply chain.

Establishing mandatory environmental and social reporting:

Companies should have the obligation to conduct environmental and social reporting to improve the transparency and accountability of multinational enterprises.

Expand directors' duties:

Directors should also be held legally accountable to ensure effective observance of human rights and environmental standards.

Access to remedy for victims of corporate misconduct:

The reform of parent company liability should include private enforcement of public liability, providing victims of corporate abuses outside the EU access to European courts to obtain remedy.

These legal proposals have been developed to start discussions about reforming EU law in such a way that it will support responsible business conduct. ECCJ carefully follows international developments in the corporate accountability arena in order to further develop its legal proposals and take advantage of political momentum to gain support for implementation of these proposals.

3. Problems in FFV supply chains

Before illustrating the ECCJ duty of care proposal through the concrete example of the Peruvian mango supply chain, it is important to understand fresh fruit and vegetable (FFV) supply chains and highlight which general labour rights violations are most common within these chains.

Global trade in food has been growing rapidly and consumers in developed countries are now able to buy a wide variety of products all year round. This is especially true for higher value food products like fish, fresh fruit and vegetables, and processed food and drinks. For tropical fruits, among others, this has resulted in increased trade between producing countries in the South and consuming countries in the North.^{iv} On the one hand, workers and smallholder families cite several positive benefits: incomes in the export market for fruits and vegetables are often higher than local alternatives and for some women carrying out waged work has had an empowering effect.^v On the other hand, there are several key labour rights issues at stake in the production of fruit and vegetables. These include the following^{vi}:

- In many countries fruits and vegetables are often only harvested, processed and exported during a few months of the year. These **peak seasons** only provide an income for limited parts of the year, leaving workers with no stable year-round incomes. Workers often only have temporary contracts without year-round insurance or social benefits.
- Fruit and vegetable harvest and processing involves **hard physical and repetitive work** that can cause health problems if executed in an inappropriate manner or under inappropriate circumstances. An ILO estimation states that worldwide almost half of all fatal workplace accidents occur in the agricultural sector.^{vii}

- Being exposed to or working with **high levels of agrochemicals** can lead to serious health hazards. For example in the case of pineapple workers in Costa Rica^{viii} skin problems, eye irritation and damage, respiratory and bronchial disorders, problems associated with the nervous system, birth defects and male sterility and psychological problems have been reported.
- Work in the sector is often done by **migrant workers**, both in developed and developing countries. Migrants are frequently employed as informal or illegal workers and as a consequence their core labour rights are not respected by production companies.^{ix}
- **Child labour** is prevalent in fruit and vegetable production in many countries, including products which are traded in high volumes globally, like bananas, melons and grapes.^x Child labour is a sensitive issue, as on the one hand children who work for their family provide a substantial part of the household income, but on the other hand these children often miss out on part of their education and are subject to the same harsh conditions as their parents are. As a fundamental labour right, child labour must be abolished.
- **Wages** are generally low, even though they may be higher than alternative income sources and be slightly above government set minimum wages. For instance, in Guatemala, women working as day labourers on vegetable farms earn more than they would in artisanal work.^{xi} Low income has a marginalising effect on workers, causing hunger, poor health, a lack of appropriate living conditions and insufficient resources or capabilities to engage politically or defend their rights.
- Levels of **unionisation and collective bargaining** in FFV production are typically low. For workers, this creates a significant representational gap and as a result they

lack the space, resources and influence to protect and advance their needs and rights at work. One of the main causes is employer opposition to unionisation, due to the constant pressure on labour costs

caused by severe competition in the market. An example is Ecuador's banana industry: only 1% of the country's 120-140,000 banana workers are unionised.

4. The Peruvian mango supply chain

After describing several general problems in fresh fruit and vegetable chains, this chapter illustrates in more detail which labour rights violations have been found in the Peruvian mango supply chain of a large Dutch supermarket chain.

Mangos sold in Dutch supermarkets such as Albert Heijn, the biggest consumer retail channel for fresh fruits in the Netherlands, come from all over the world. Depending on the season, Albert Heijn imports its mangos from different continents. In the months January and February, the mangos on the shelves come from Peru and South Africa.^{xii} In 2010, SOMO carried out a study on the working conditions of workers in the mango supply chain from Peru and the procurement policies of EU retailers that might influence these conditions.^{xiii} In order to do this, three leading Peruvian agro-exporting companies were surveyed operating in Piura, Peru's most important mango producing region.^{xiv} One of these companies was Camposol AS, which besides mangos also supplies Albert Heijn with asparagus.^{xv}

Peruvian Mango Export

Peru is an important mango producer and in the past ten years export values have more than tripled. The country currently exports around 300,000 tonnes of mangos annually. Mangos are exported as fresh fruit, frozen, as a canned product or as juice. Fresh mangos represent the biggest share of Peru's mango exports by far, with 80-90% of all export values. The two most important destinations for Peruvian mangos are the United States and the Netherlands. The export market for mangos is extremely fragmented; Camposol, the second largest mango exporter, has a 7% share of the Peruvian fresh mango export market. Almost 60% of all the exporting companies have a smaller share than 0.1% of the total market.

Most of the work in this industry involves farm work: harvesting and the maintenance of the crop and factory work: packing activities. Peru's main mango producing region is Piura in the northern part of the country where 70% of all mangos are produced. As mango is a seasonal product, the majority of the workers are only hired for 3-5 months per year, between November and March.

The simplified export supply chain in Peru consists of production, collection, processing and export:

Production is either done by small individual producers or by big agro-exporting companies.

- Collecting/harvesting of the fruit is done by independent collectors, collectors of traders or collectors of the agro-exporters themselves.
- Processing of fresh mangos mainly constitutes of selection and packing.
- Exporting is done by agro-exporters.

Camposol, one of the companies Albert Heijn sources its mangos from, is an agro-exporting firm which is present in all functional stages of the export supply chain, from production to export. The company exports its mangos mainly through the port of Paita in Piura. For Albert Heijn's shipments, the mangos arrive at the port of Rotterdam in the Netherlands. Here Bakker Barendrecht, the Dutch importer and Albert Heijn's exclusive supplier of fresh fruit and vegetables, imports the mangos. Bakker Barendrecht then sells and transports the fruit to Albert Heijn's distribution centres across the Netherlands.^{xvi}

Albert Heijn (Ahold)

Ahold is an international group of branded supermarkets based in Europe and the United States, the company is headquartered in Amsterdam, the Netherlands. With revenues of EUR 27.9 billion, at the end of 2009 Ahold operated 2,902 retail locations in the United States and Europe and employed over 200,000 people (118,121 FTEs).¹

Albert Heijn, Ahold's founding supermarket, is the leading food retailer in the Netherlands and one of the country's best-known brands. In 2009 this supermarket operated 835 stores and employed 76,000 people with sales of EUR 9,843 million.² With a market share of 32.8% of the total Dutch retail market and 36% of the fresh fruit and vegetable market, Albert Heijn is by far the biggest channel for mangos for consumers in the Netherlands.³

Bakker Barendrecht

Bakker Barendrecht, part of the Univeg Group headquartered in Belgium, is one of the biggest fresh fruit and vegetable trading companies in the Netherlands and the exclusive FFV supplier of Albert Heijn. The company employs 450 people in its three production facilities in the Netherlands and handles around 1,750 tonnes of fresh produce every day.

Bakker sources FFV from the Netherlands and abroad through procurement and contract growing. The company also offers logistic services, which include warehousing, sorting, ripening, packing, and transportation, as well as R&D activities such as research on food safety and environmental and health issues.⁴

Camposol

Camposol is Peru's leading agri-business exporter. It is Peru's largest exporter of asparagus and peppers and the second largest exporter of mangos and avocados. Camposol is listed at the Oslo Stock Exchange (OSE) in Norway and the holding (Camposol Holding PLC) is incorporated in Cyprus. Camposol employs 8,497 workers (including, but not exclusively, mango workers) of whom 70% are female.⁵

In the mango harvesting activities, the majority of workers is male. For all production the company possesses 25,000 ha of land of which 499 ha are available for the mango production. Total sales in 2009 amounted to USD 122.8 million of which USD 5.6 million consisted of fresh mango sales only.⁶ The company has six processing plants, but none of them in Piura.

The mangos from the Piura region are processed at the factory of Empafrut, also in Piura and at the company's own plant in La Libertad. Camposol exports its fresh, frozen and canned mangos to the US, Canada, China, Japan and the European Union. Besides Albert Heijn, multiple retailers Tesco, Asda, and Sainsbury are among Camposol's clients.

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⁶ Ibid.

Socio-economic issues

Field research done for SOMO at Camposol has yielded the following results:

- **Wages** at Camposol are poverty wages based on the inadequate daily minimum wage determined by Peruvian law. To reach a monthly income at the national poverty line level, which represents about 60% of an income that would provide for the basic needs of a family (living wage), two parents would have to work 8 hours per day, 6 days a week or one parent would have to work 12 hours a day 7 days a week (including the more highly paid overtime hours).
- **Working hours** are long and excessive during peak harvest time. Workers on the fields of Camposol officially have 8-hour working days, but this working day only ends after a specific production target is met. Even if it takes more than 8 hours of work to reach this target, which is almost standard, only 8 hours of wage are paid for. Only the work done on top of the production target is considered as overtime, with higher pay.
- Agro-industrial workers are legally allowed to work **overtime** as long as the average working hours during the whole contract period do not exceed 48 hours per week. In practice working hours are excessive in January and February with workers working more than 11 hours per day, 6 to 7 days a week. With the contracts covering 3 to 5 months, these legal conditions of overtime work are very likely to be violated.
- At Camposol **overtime work** is voluntary, but if workers refuse to work overtime, they become known as 'problematic workers', which results in an increased workload and the risk of not being contracted again for the next season. Practically no cases are known of refusal to work overtime, as very little other work is available as the agro-industrial sector is the main employer in the region of Piura.
- Another problem is that hours worked in overtime are often not registered properly, which leads to even less pay for the workers. The **production target** at Camposol is twice as high as that of other leading mango exporters in the country.^{xvii}
- Reports have been made that Camposol only lets its workers sign **contracts** for a part of the actual working period, which means that for certain periods workers are employed without a contract. Additionally, contrary to national law, none of the interviewees had received a copy of their signed contracts.
- The **freedom of association** is clearly hampered at Camposol. The company does not have a trade union in Piura, the most important mango production region, and it is reported that it prevents any union formation. Camposol does have a union in its other mango producing region, La Libertad, but the company is still actively opposing its operations: unionised workers are dismissed on the grounds of false allegations, are threatened with non-renewal of their contracts and new workers are not hired at all if it is known that they are union members. Camposol's trade union in La Libertad was created in August 2007. However, in December of that same year 385 people were unjustly fired by the company and 80% of these workers were union members.^{xviii} By actively discouraging and opposing trade union activity, Camposol clearly breaches its own code of conduct, which states that the company 'recognizes in theory and practice the right of all employees to establish working organisations under their own criteria and to collectively negotiate their conditions of work'.^{xix}
- **Health and safety conditions** on the plantations are far from being satisfactory, food serving areas are rudimentary and the sanitary services often lack drinking water. The lack of appropriate equipment creates insufficiently safe working conditions for the mango workers.
- Pregnant women are **discriminated** against as they are dismissed or not even contracted when pregnant and women are often subjected to a pregnancy test when hired.

- The only **social responsibility** initiative that Camposol has signed up with is Global Compact, of which Ahold is now also a member. In addition to supplying mangos to Albert Heijn, the company also has to comply with the code of BSCI (Business Social Compliance Initiative). Both BSCI and Global Compact seek to uphold and refer to fundamental ILO

workers' rights, such as the freedom of association, non-discrimination and overtime regulations. However, these rights are being violated, which means that these (retailer) standards are violated as well and thus that their implementation systems have not resulted in good working conditions for mango workers so far.

5. How a duty of care can make a difference

The case of the Peruvian mango supply chain exemplifies labour rights violations that are not uncommon in FFV supply chains. Although improving these substandard labour conditions involves action by employers, also retailers have a responsibility to prevent and respond to labour rights violations in their supply chains. This chapter explains how the implementation of a duty of care principle can help make a positive difference for workers at the bottom of supply chains.

The legal proposal to establish a parental duty of care has been advocated by ECCJ because in the current complex business world many situations are thinkable where multinational enterprises can still have influence over the operations of other commercial partners that are not formally part of the corporation. Joint venture partners or suppliers are, for example, not part of an MNE but can be economically dependent on this MNE. According to ECCJ a company should become liable for if it cannot adequately demonstrate that it has adhered to this duty of care by taking all reasonable steps to prevent or end violations of corporate accountability standards within its sphere of responsibility.^{xx}

In contrast, under current European law it has been determined that companies have a duty of care only in very limited situations, for example when the company is directly involved in operations or is clearly driving the supplier's decisions.^{xxi} Yet the ECCJ's proposal to require companies to exercise a duty of care and expand companies responsibilities may significantly improve the accountability of supermarkets regarding human rights and environmental violations taking place in their supply chain outside the EU. This legal duty of care is necessary because the strong bargaining power of large MNEs allows them to negotiate arrangements with their suppliers which result in downward pressures on prices and delivery times that contribute to higher sustainability risks in supply chains.

According to ECCJ, duty of care should be extended to all situations where a company is able to exercise significant influence or control over the operations of another entity that may have an adverse impact upon human rights or the environment. Thus, duty of care is not limited to subsidiaries or companies a parent company has ownership in. Control could also arise from purely contractual business relationships with no (or limited) ownership of another company.^{xxii} This position is supported by Professor John Ruggie, former United Nations Special Representative on Business and Human Rights, who underlines the importance of a duty of care and its applicability beyond ownership structures:

"A European parent company should have a duty of care to take all reasonable steps to ensure that human rights and the environment are respected not only in situations directly impacted by the company, but also where the impacts are linked to its business operations, products or services by a business relationship".^{xxiii}

ECCJ articulates that as part of their duty of care companies should fulfil the following obligations:

1. To investigate the risks of human rights and environmental abuses within the company's sphere of responsibility
2. To take all reasonable steps to prevent and mitigate human rights or environmental abuses where such risks have been or should have been identified.^{xxiv}

Combining the establishment of the duty of care principle with the expansion of director's duties to take reasonable care for ensuring that the company and all of its subsidiaries and affiliates respond adequately to risks of human rights and environmental abuses, through e.g. establishing appropriate systems within the company to assess and address human rights and environmental risks, would further

enhance responsible business conduct outside the EU.^{xxv}

As a first step companies should identify persons or organisations that they exercise control over based on financial, contractual or similar relationships and, in particular, companies should describe their supply chain and identify their suppliers to ensure traceability of their products. A parent company should be considered liable if it cannot demonstrate it has complied with the duty to take reasonable steps to prevent abuse. This duty would vary depending on the degree of influence a particular company had over the person or entity committing the abuse.^{xxvi}

There is no silver bullet that can solve all of the issues raised in the case study. However, if the duty of care proposal by the ECCJ would be implemented into law, European companies such as Albert Heijn would have to take reasonable care to ensure that human rights and environmental violations do not take place at any level of their supply chain. The ECCJ's proposals would require Albert Heijn to exercise a duty of care through initiating ongoing processes to identify risks of violations in the supply chain and, most importantly, to take steps to avoid these violations.

Duty of care could be enforced through civil claims brought by victims of corporate abuse.^{xxvii} If implemented, sanctions could be imposed on Albert Heijn and its directors by Dutch courts if the company violates its duty of care. Moreover, workers would then also be in a better position to hold Albert Heijn accountable for its lack of action and to seek compensation in European courts.

Specifically, within its duty of care Albert Heijn should carry out thorough due diligence by investigating the workplace related problems in its mango supply chains rigorously and independently. This would include among others addressing working hours, remuneration, freedom of association and health and safety conditions with suppliers such as Camposol and find solutions to compensate affected workers. Albert Heijn should make sure that its buying practices are not preventing improvements to working conditions in its supply chains. Additionally Albert Heijn should adopt the most ambitious CSR/global standard systems (certification) for all their FFV from developing countries and not just for niche products.

6. Conclusion

This case study on the mango supply chain of Dutch supermarket Albert Heijn presented in this briefing shows that Europe is currently failing to ensure that responsible standards are being met by its multinationals. The complex chain of companies, partners and suppliers leads to profits being made by European MNEs under often unknown and frequently ethically dubious working conditions. This briefing shows that the buyer-supplier relationship in the FFV sector is heavily skewed. It shows that workers at the beginning of the Peruvian mango supply chain work long days for poverty wages and under substandard circumstances.

Albert Heijn certainly is not the only supermarket that is failing to ensure decent working conditions at suppliers from developing countries. Many would even argue that Albert Heijn is actually one of the front-runners in offering sustainable products on its shelves in the Netherlands. However, the case illustrates a bad supply chain situation that is sadly not uncommon in the sector. Through its supplier Bakker Barendrecht, Albert Heijn is among the most important clients of the Peruvian mango industry and

thus potentially can greatly influence the socio-economic conditions in the mango supply chain. If Albert Heijn would exercise its legal duty of care obligation to investigate, prevent and mitigate the risks of human rights and environmental abuses within its supply chain properly, labour conditions for Peruvian workers are very likely to improve.

This briefing shows that companies do not automatically behave responsibly throughout its supply chain, nor impose upon themselves a duty of care. It is therefore key that this responsibility becomes entrenched in European legislation. Support for these proposals from companies and their stakeholders, including civil society organisations, policy makers and legislators, is necessary to create the political momentum conducive to initiate such legal reform.

The legal proposals put forward by the ECCJ are not the whole solution to stopping corporate misconduct overseas, but will certainly make a great contribution to overcoming some of the fundamental accountability gaps found in MNEs within Europe today.

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