



anti-slavery



European Coalition for Corporate Justice



Brussels, April 23, 2018

- Members of the European Parliament’s Committee for the Internal Market and Consumer Protection (IMCO)
- Members of the European Parliament’s Subcommittee on Human Rights (DROI)
- Members of the European Parliament’s Trade Committee (INTA)
- Members of the European Parliament’s Development Committee (DEVE)
- Members of the European Parliament’s Responsible Business Conduct Group

Re: EU customs regulations and human rights due diligence of companies

Dear Honorable Members:

We are writing to urge you to press the European Commission to introduce amendments to ensure that EU customs data regulations supplement efforts to create mandatory human rights due diligence regulations for companies operating in the EU.

There is growing momentum and support for binding regulations in addressing transparency and due diligence in corporate supply chains, including public access to customs data. In April 2017, the Development Committee of the European Parliament’s EU Flagship Initiative on Garments recommended binding regulations on companies’ human rights due diligence responsibilities in their global supply chains. In April

2017, about 80 human rights and workers' rights organizations collectively wrote to the European Commission calling for the development of a smart mix of rules that would include such binding regulations.¹ Subsequently, on September 12, 2017 the European Parliament adopted a resolution calling on the European Commission and encouraging Member States to enable parties having a public interest to access customs data.²

Transparency in global supply chains—especially in the manufacturing phase—plays an important role in building consumer confidence and helping workers pursue redress for labor rights abuses. If workers and their advocates know precisely which factories are involved in manufacturing a company's products, then they can alert the company's corporate social responsibility or ethical sourcing teams to alleged human rights violations. Expanding the range of customs data collected and promoting its public access is an important avenue to improving transparency and ensuring redress for workers.

For example, US law requires companies that import products to disclose information to US customs authorities. US Customs collects information on each shipping container that enters a US port, including the shipper and the consignee.³ In the garment industry, the shipper is typically the overseas supplier and the consignee is usually the apparel company or its agent. Online subscription databases purchase this trade data and market it in searchable formats, allowing users, including workers' rights organizations, to access the information. While this system could use strengthening, it allows workers' rights organizations to subscribe to such databases and try and find out which factories a brand manufactures in, when the brand itself does not make this data public.

Under the EU's harmonized customs data framework, Member States' customs authorities collect information about the consignor and consignee, the country of origin, and a description of the goods. For the time being, the data requirements are governed by a transitional legislative framework; once the permanent provisions come into force, the data requirements will be further extended to include details about buyer, seller, importer, exporter, and country of destination. While this data may be helpful, it may not contain information about the manufacturer. Furthermore, Member States have the power to waive some of these data requirements, making it more difficult for advocates and consumers to trace companies' supply chains where companies themselves do not volunteer this information publicly.

In the apparel sector, for example, while several European companies publicize the name and street addresses of the factories that produce their goods, the vast majority of European companies do not provide this information, making it more difficult for workers to realize their rights, and ensuring collection and access to customs data can help dent opaque supply chains.

Furthermore, data on imports is not accessible at the EU level. It is almost impossible to access EU-wide import data, which requires going to each of the EU Member States separately to gather information. In the

¹ Joint Letter to the European Commission: High Time to Impose Transparency in the Garment Supply Chain, <https://www.hrw.org/news/2017/04/27/joint-letter-european-commission-high-time-impose-transparency-garment-supply-chain> (accessed April 12, 2018).

² European Parliament resolution of 12 September 2017 on the impact of international trade and the EU's trade policies on global value chains (2016/2301(INI)), <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2017-0330+0+DOC+PDF+V0//EN> (accessed April 12, 2018).

³ 19 CFR 4.7(a), Form 1302, <https://www.cbp.gov/sites/default/files/assets/documents/2016-Mar/CBP%20Form%201302.pdf> (accessed April 12, 2018)

past, EU Member States have considered company-specific import data as confidential and hence not been made available to the public.⁴

In order to ensure that the EU adopts robust practices to promote transparency and human rights due diligence of companies importing goods into the EU, we urge you to take the following measures in the near term:

1. Press the European Commission to amend customs-related regulations to ensure that all companies that import goods into the EU are required to disclose the name and address of the manufacturer to the relevant customs authorities.
2. Initiate amendments to the Union Customs Code to clarify that customs data is not confidential and can be disclosed publicly.

In the long term, we hope that EU wide customs data will be available to the European Commission, and public access to the data will be covered by the right to information of the EU institutions.

Please do not hesitate to contact us for additional information. We look forward to working with you to ensure that EU customs data regulation, and public access to such data, supports other regulations on human rights abuses in the global supply chains of companies operating in the European Union.

Sincerely,

Lotte Leicht, EU Director and Aruna Kashyap, Senior Counsel, Women's Rights Division, Human Rights Watch

Claire Ivers, Senior EU Advisor, Anti-Slavery International

Ben Vanpeperstraete, Lobby and Advocacy Coordinator, Clean Clothes Campaign International Office

Claudia Saller, Coordinator, European Coalition for Corporate Justice

Sonja Vartiala, Executive Director, Finnwatch

Amol Mehra, Executive Director, International Corporate Accountability Roundtable

Sharan Burrow, General Secretary, International Trade Union Confederation

Liina Carr, Confederal Secretary, European Trade Union Confederation

Luc Triangle, General Secretary, IndustriALL European Trade Union

Sergi Corbalan, Executive Director, Fair Trade Advocacy Office

Francesco Giubilo, Regional Coordinator, World Fair Trade Organization Europe

Sarah Ditty, Head of Policy, Fashion Revolution

⁴ At the national level, customs authorities in different EU Member States have thus far refused to release company-specific data on identified products based on data requests that Finnwatch and its NGO partners made in 2016. For more information, Finnwatch, "Transparency Now: Legal Briefing on the Disclosure of EU Customs Data," 2017, https://www.finnwatch.org/images/pdf/FW_Transparency_of_customs_data_legal_briefing.pdf (accessed April 13, 2018), Chapter 3.2.