

NEW FREE TRADE AGREEMENTS:

normalising brutal transnational supply chains



The global banana trade is controlled by a few vertically integrated transnational companies that dominate the whole supply chain, from production to packing, shipping, and marketing. Photo: Lupita Aguila Arteaga, STITCH

The new wave of free trade agreements, written by and for corporate interests, provides little or no benefits for workers, communities, or the environment. Provisions being laid in these new trade deals turn most developing countries into sources of cheap and unprotected labour for transnational companies. Labour rights are being redefined in a way that allows transnational companies to impose brutal working conditions. Once these agreements are signed and ratified, the only legal protection that will fully stand is the abolition of slavery. All other labour rights will be disposable at the companies' discretion under a wide range of circumstances.

Transnational supply chains have been an expanding economic actor since transnational corporations began outsourcing manufacturing to places where extremely low wages, low or non-existing labour safety standards and even slave labour prevailed or were tolerated. While they have existed since colonial times, supply chains have emerged forcefully in their modern fashion as a consequence of free trade agreements. According to different sources, transnational supply chains currently account for 30 to 60 per cent of all global trade, and depend on the work of over 100 million workers globally.¹

Transnational supply chains are highly and critically dependent on trade rules. Therefore, they have become central in the latest trade agreements and negotiations. Some of the contents of the Trans-Pacific Partnership (TPP) are quite telling on what can be expected if TPP and other similar trade agreements are implemented: while transnational supply chains will expand, labour conditions will continue worsening. Tax cuts for corporations,

increased corporate concentration and vertical integration, and a new era of corporate privileges will also be part of the menu.

This report focuses on the foreseeable impacts of the TPP provisions on labour conditions.

What is a transnational supply chain?

Transnational supply chains are networks of locally-based enterprises that supply the demands of transnational corporations, mostly for raw materials and parts of manufactured goods. To a lesser degree, they can also provide services. Call centres are perhaps the best-known example, but other services, such as postal services, retail sales, post-market services, and transport management, have become increasingly important. Transnational corporations set the terms of exchange: quality, prices, quantities and deadlines, leaving the supplying enterprises to determine working conditions, safety and environmental management.

One defining aspect of transnational supply chains is the breaking down of the production and marketing processes in as many and as small parts as necessary to maximise profits. Each component is outsourced to different enterprises based offshore, and bought back to obtain and market the final product. In order

1. International Trade Union Confederation (ITUC), "Frontlines report 2016 - Scandal: inside the global supply chain of 50 top companies", 2016, https://www.ituc-csi.org/IMG/pdf/pdffrontlines_scandal_en-2.pdf



Roughly 1,300 people lost their lives when a nine-story factory building known as Rana Plaza collapsed in Dakha, Bangladesh. The majority of those killed or injured were garment workers. Photo: Munir Uz Zaman/AFP/Getty Images

to maximise their profits, companies will outsource to countries where labour is the cheapest, taxes are the lowest, regulations are the most lax, and the possibilities of litigation or complaints against them are minimal. One single transnational corporation may have hundreds or thousands of suppliers.

The TPP agreement defines transnational supply chains as follows:

“A cross-border network of enterprises operating together as an integrated system to design, develop,

produce, market, distribute, transport, and deliver products and services to customers.”

Trans-Pacific Partnership Agreement, Chapter 22, Competition and Business Facilitation, Article 22.1

and turns them into a central component of the chapter on competition and business facilitation policies. Signatory countries become committed to promote them. But the fact that transnational supply chains are defined in this chapter is a paradox: highly concentrated as they are, global chains hinder fair competition.

Which companies use transnational supply chains?

While not all national companies rely on transnational supply chains, almost every major transnational company does. Here are the names of some of the most notorious: Coca-Cola, Pepsi Co, Nestlé, Procter and Gamble, Unilever, Kraft, Bayer, BASF, Eli Lilly, Bristol-Myers Squibb, Kimberly-Clark, Novartis, Danone, Starbucks, Walmart, Philip Morris, British American Tobacco, Carrefour, Astra Zeneca, Apple, Samsung, HP, Lenovo, 3M, Amazon, Ford, Hyundai, Toyota, Zara, H&M, Benetton, GAP, Nike, Adidas, Walt Disney Company, Sony, Panasonic, Ikea, Sodexo, Fedex and UPS.

On average, these companies directly hire only 6 per cent of the labour force they actually employ. The rest is “outsourced”, often scattered across several countries and amongst thousands of suppliers.²

2. International Trade Union Confederation (ITUC), “Frontlines report 2016 - Scandal: inside the global supply chain of 50 top companies”, 2016, https://www.ituc-csi.org/IMG/pdf/pdffrontlines_scandal_en-2.pdf

Benetton and Walmart were supplied by the sweatshops of Rana Plaza in Bangladesh, when it collapsed and killed over 1,300 workers. Nestlé has admitted that its suppliers from Thailand have used forced labour.³ Amnesty International has reported that Wilmar, a giant palm oil producer involved in several cases of land grabbing, produces palm oil using forced and child labour to supply companies such as Nestlé, Dove, Pantene, Colgate, Knorr, Kellogg's.⁴ Coca-Cola has been accused by the Brazilian government of using slave labour.⁵ Tomatoes exported from Mexico to supermarkets such as Walmart have been produced by slave labour.⁶ Cobalt suppliers for Apple and Samsung use child labour in their mines.⁷ The list could go on and on.

3. Annie Kelly, "Nestlé admits slavery in Thailand while fighting child labour lawsuit in Ivory Coast", The Guardian, 1 February 2016, <https://www.theguardian.com/sustainable-business/2016/feb/01/nestle-slavery-thailand-fighting-child-labour-lawsuit-ivory-coast>

4. Amnesty International, "Palm Oil: Global brands profiting from child and forced labour", 30 November 2016, <https://www.amnesty.org/en/latest/news/2016/11/palm-oil-global-brands-profiting-from-child-and-forced-labour/>

5. "Brazilian Coca-Cola Manufacturer Accused of Slave Labor", TeleSur, 26 August 2016, <https://www.telesurtv.net/english/news/Brazilian-Coca-Cola-Manufacturer-Accused-of-Slave-Labor-20160826-0007.html>

6. Richard Marosi, "Desperate workers on a Mexican mega-farm: 'They treated us like slaves'", Los Angeles Times, 10 December 2014, <http://graphics.latimes.com/product-of-mexico-labor/>

7. Roel Nieuwenkamp, "Tackling modern slavery in global supply chains", OECD Insights, 11 March 2016, <http://oecdinsights.org/2016/03/11/tackling-modern-slavery-in-global-supply-chains/>

Labour, the most abused

Cheap, exploited and unprotected labour is the key to the success of transnational supply chains, and the main reason for outsourcing it. As stated in numerous scholarly papers, information technology made them possible, wage gaps made them profitable.⁸ But outsourcing provides other important advantages to transnational companies: they become absentee or ghost employers, invisible and unreachable for workers, and thereof get rid of any legal obligation as employers. In case of accidents or human rights abuses, any litigation against them is very difficult or plainly impossible. They do not pay any kind of insurance or severance. They are minimally affected by workers' strikes – the worse case scenario for transnational corporations is that shippings are simply delayed. Any additional labour cost arising from a strike – such as hiring new workers to replace those on strike – is covered by the supplier, and not by the transnational company.

Absenteeism is so important for them, that transnational corporations have managed to introduce new language in the latest trade agreements that allows them not to be physically present in the countries where they operate. So far, these provisions have applied to trade in services alone. But it is only a matter

of time before they apply to all forms of transnational trade.⁹

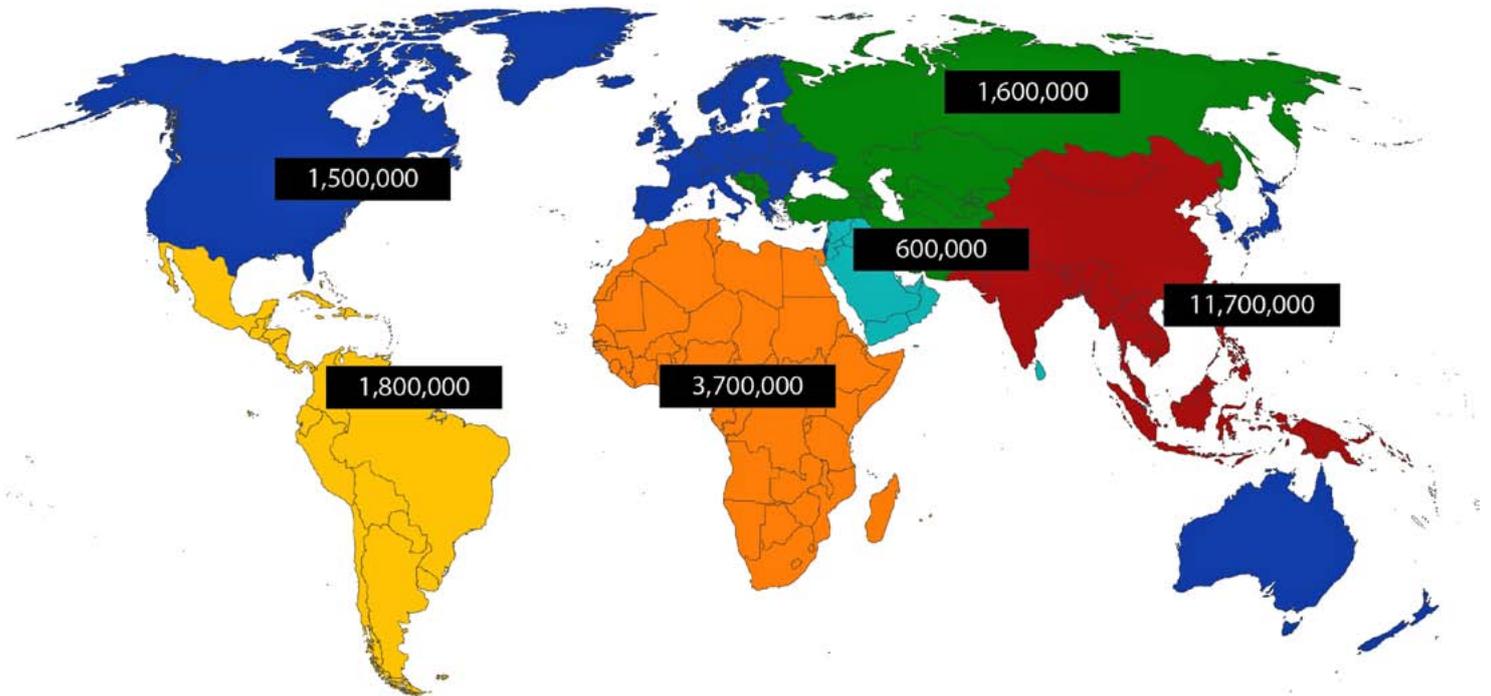
Another actor in this formula is the supplier, the local individual or enterprise that acts as legal employer. Suppliers are not stable, but disposable. Product or service orders are auctioned among them, as described in the box below. Demand is usually for the lowest bids. Discarding one supplier in favour of another more profitable one, is a central and recurring practice which instates permanent competition among suppliers and even among supplying countries to provide the most advantageous deals for transnational corporations. For example, many of Mexico's *maquilas* moved to China and Bangladesh when salaries in Mexico could not be lowered any further.

For suppliers, labour costs are critical when securing a deal. Hence, it is not surprising that transnational supply chains often rely on infamous labour conditions and salaries in order to cheapen labour costs as much as possible. Nor that they use trafficked children and slave workers provided by organised crime networks. Other human rights abuses, like unpaid extra working hours, unattainable mandatory daily or hourly output quotas, forbidding the use of toilets, locking in workers,

8. Richard Baldwin, "Global supply chains: why they emerged, why they matter, and where they are going", CEPR Discussion Papers 9103, 2012, <https://ideas.repec.org/p/cpr/ceprdp/9103.html>

9. See: Article 10.6 of the TPP agreement, available at <https://ustr.gov/sites/default/files/TPP-Final-Text-Cross-Border-Trade-in-Services.pdf> and Article 20.11 of RCEP, available at <http://www.bilaterals.org/?rcep-draft-chapter-on-trade-in>

Victims of forced labour by region



Adapted from the ILO 2012 Global estimate of forced labour, available at http://www.ilo.org/global/topics/forced-labour/publications/WCMS_181953/lang--en/index.htm

physical punishment, sexual abuse, anti-union measures and threats, are routine. Workers' exercise of their right to strike seems so menacing to transnational supply chains, that so-called labour disquiet is now mentioned among the biggest threats to transnational supply chains, along with terrorism and war.¹⁰

What is true for urban workers is usually worse for rural workers. Rural labor is often more scattered and less organised than workers in cities. Paramilitary forces and other repressive instances act more freely in the countryside. Illiteracy rates are often higher in rural areas, reducing even more the workers' possibilities to use legal tools to defend themselves. Politicians and policy-makers are usually uninterested in protecting rural areas or small farmers' rights. In addition, the general population is less informed about abuses

in the countryside than in the cities, making solidarity and political awareness less common. As a result, rural areas are fertile ground for slavery, and even more so in large-scale plantations. Cases of slavery reported in oil palm plantations in Southeast Asia, sugar cane in Brazil or horticultural produce grown in greenhouses in Mexico confirm this.

“Transnational corporations have managed to introduce new language in the latest trade agreements that allows them not to be physically present in the countries where they operate.”

10. “The British Standards Institute (BSI) has identified the most significant challenges the global supply chain network is likely to face this year in a recent report. Seven key concerns have been highlighted, which could pose the greatest disruption for companies resulting in financial losses and blights on reputations. These threats include global health issues like the Zika virus, theft, terrorism and conflicts, and labour disquiet.” “Seven biggest threats to global supply chain”, MDA, 22 April 2016, <http://www.mdams.com/biggest-threats-to-global-supply-chain/>

Bondage conditions: an Italian textile case

The production of clothing taking place in Naples and its surroundings entails a crude competition among the sweatshops involved,¹¹ as depicted in Roberto Saviano's *Gomorra*.¹² The book describes the Italian Camorra involvement in the garment industry and its grip on the port of Naples, where 2,6 million tonnes of Chinese merchandise are unloaded each year, of which one million are undeclared.

According to Saviano, a group of corporate operators puts forward a proposition to various sweatshop "overseers" over whom they exert an almost complete control: they need to compete for the contract covering the manufacture of a series of garments.

The logic is that of an auction (taking place in a local school) and will set the conditions for the number of solicited garments, say 800 pieces. Someone shouts 800 garments at 48 euros each in 40 days. A man answers he can deliver 800 garments at 35 euros each in 30 days. Another goes further and offers 800 garments at 25 euros in 20 days.

If no one else lowers the bid, the conditions are set. But then the operators ask the overseers (all of them owners or partners of these semi-clandestine sweatshops) how many of them will accept those conditions. Let's say that eight overseers accept. The operators give cloth and materials to all eight, specifying that they will only hire one of them - the overseer that delivers first or with the best quality. The rest may keep the garments made.

The operators have full knowledge that the remaining seven overseers will pour their production through "falsification" or "pirate" circuits, but they don't care: they make such a big profit that they can afford maintaining their sources while benefitting from the presence their garments will acquire everywhere —even if they are counterfeit.¹³

These harsh control conditions are only possible through precariousness. The overseers have to bear long weeks without pay, so they are forced to appeal to loans or mortgages that no bank will agree upon; only organised crime lends them the money for barely paying their workers, who are mostly women: people in bondage with their semi-proletariat overseers working more than 12-15 hours a day with low wages but high-quality standards (these are haute couture garments), high prices, and extremely high profit obtained.

Michel Peraldi contributes to the story narrated by Saviano when he affirms that, through these arrangements, corporations "expose themselves to the pleasures of personalised interaction and negotiation, [...] "niches" in which corporations have negotiated their right not to be interfered with by local or national bureaucracies and institutions in their productive and organisational processes".¹⁴

Acknowledgment: Verónica Villa

11. Douglas Bulloch, "Textile wars: 'Will made in Italy' replace 'Made in China'?", *Forbes*, 16 February 2017, <https://www.forbes.com/sites/douglasbulloch/2017/02/16/textile-wars-will-made-in-italy-replace-made-in-china/#5bd925c975b5>; Duncan Kennedy, "Coming into fashion: a Chinese mark on Italian clothes", *BBC News, Italy*, October, 2010.

12. Roberto Saviano, *Gomorra*, Oscar Mondadori, Milano, 2006

13. Duncan Kennedy, "Golpe a las falsificaciones en Italia", *BBC News, Rome*, 13 February 2010

14. Michel Peraldi, "La central de autobuses de Alicante es el centro del mundo. Guerras en las fronteras y paz en el mercado a lo largo de las rutas norteafricanas hacia Europa", in Víctor Zúñiga, compilador, *Identidad y diversidad: dilemas de la diversidad cultural*, Fórum Universal de las culturas, Monterrey, Nuevo León, México, 2007. pp. 87-89.

Transnational supply chains ensure human trafficking stays profitable

The labour record of global supply chains is so bad that a few countries have moved to pass legislation requiring that products that reach their territories do not involve slave labour. The United Kingdom's Modern Slavery Act is one such example. Large businesses are legally required to release an annual slavery and human trafficking statement

to the British government. Around 50 other countries and the International Labour Organization (ILO) have developed voluntary protocols and standards.¹⁵ These attempted protections are far from effective,

15. International Labour Organisation (ILO), "ILO standards on forced labour: the new protocol and recommendation at a glance", 2016, http://www.ilo.org/global/topics/forced-labour/publications/WCMS_508317/lang--en/index.htm

and companies have shown little interest in actually complying.¹⁶

“The estimated illicit profit generated by trafficked labourers is placed at approximately US\$ 32 billion annually, while the cost of coercion to workers in the form of lost wages, deductions, excessive fees and/or overcharges is estimated at almost US\$ 21 billion. Some argue that this makes human trafficking the third most profitable global business for organised crime, following illicit drugs and the arms trade.”

Philip Hunter and Quinn Kepes, “Human trafficking & global supply chains: A background paper”, Office of the United Nations High Commissioner for Human Rights (OHCHR), November 2012, <http://www.ohchr.org/EN/Issues/Trafficking/Pages/GlobalSupplyChains.aspx>

“One important feature of a Global Value Chains world is the search for a “just right fit”: doing the right slice of the chain in the correct place. Because transportation and telecommunications costs are comparatively low, companies can source slices anywhere in the world. One result is that labour costs, especially for manufacturing chains, continue to fall.”

Deborah Kay Elms, “Asia-Pacific megaregional free trade agreements: fostering global supply chains?”, Asian Trade Center, September 2014, <https://deborah-elms.squarespace.com/s/ElmsGVCsAPEC.pdf>

“Traidcraft has collated examples of allegations against UK-linked companies covering forced evictions, unacceptable labour standards, pollution which damages both livelihoods and health, and even beatings and deaths. The Business and Human Rights Resource Centre has documented allegations against 127 UK companies, the majority relating to harm caused in developing countries. But despite these allegations, no UK company has ever been prosecuted in the UK for an offence related to serious harm abroad.”

“Above the Law? Time to hold irresponsible companies to account” Traidcraft, November 2015, <http://www.traidcraft.co.uk/media.ashx/above-the-law-nov-15-final.pdf>

16. See: Doireann Clobby, “UK Modern Slavery Act: the first 100 fail to make a statement”, LexisNexis, March 2016, <http://bis.lexisnexis.co.uk/blog/posts/human-trafficking-awareness/uk-modern-slavery-act-the-first-100-fail-to-make-a-statement>, and Ryan J. Turner, “Transnational supply chain regulation: Extraterritorial regulation as corporate law’s new frontier”, *MelbJlntLaw* 188, Melbourne Journal of International Law, Melbourne, 2016, <http://www.austlii.edu.au/au/journals/MelbJIL/2016/8.html>

The false promise of more jobs

Transnational supply chains are promoted through the promise of more available jobs. Concrete experiences tell a different story. According to ILO statistics, unemployment is growing faster in “emerging” and “developing” countries (the suppliers of global supply chains) than in “developed” countries. Statistics also show that most new employments in non-developed countries are generated within the informal economy.

Other trends, such as trade in automation technology, indicate that a decreasing number of jobs is a likely scenario. Ten out of the 20 top markets for US automation technology are countries in the supplying end of global chains. China is one of the fastest-growing markets for automated manufacturing.¹⁷ Industry reports indicate that around 60 per cent of all jobs can be automated in at least 30 per cent of their activities with current technology.¹⁸ And no mistakes should be made: the core purpose of automation is reducing labour costs by reducing the number of workers, lowering their wages and/or increasing working hours without increasing wages.

More abuse is being legalised

Since abuses and violence against workers in transnational supply chains have been widespread and well documented, one could expect a serious global effort to control, ban and punish these practices.

But what is being imposed through the latest trade agreements is exactly the opposite. Trade agreements and negotiations are being used to institutionalise abuse and to facilitate it in countries where some labour protections still stand.

The TPP agreement is no exception. It includes the following definition as part of its chapter on labour:

“Labour laws means statutes and regulations, or provisions of statutes and regulations, of a Party that are directly related to the following internationally recognised labour rights:

- (a) freedom of association and the effective recognition of the right to collective bargaining;*
- (b) the elimination of all forms of forced or compulsory labour;*

17. “2016 Industrial manufacturing trends”, Strategy &, PWC, 2016, <https://www.strategyand.pwc.com/media/file/2016-Industrial-Manufacturing-Trends.pdf>

18. “Automation Market”, Whitepaper, HW&Co., 2017, http://www.harriswilliams.com/system/files/white-paper/intelligent_automation_whitepaper_vfinal_4.12.2017.pdf

(c) the effective abolition of child labour, a prohibition on the worst forms of child labour and other labour protections for children and minors;

(d) the elimination of discrimination in respect of employment and occupation; and

(e) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.”

Trans-Pacific Partnership Agreement, Chapter 19, Labour. Definitions

Although these provisions are repeatedly presented as a breakthrough for trade agreements, since the TPP is the only text that includes explicit and mandatory labour rights,¹⁹ it is in fact a serious and dangerous slide

19. The US Trade representative, for example, has stated that “TPP includes the strongest labor provisions of any trade agreement in history.” United States Ministry of Trade, “Factsheet: Protecting workers”, 2015, <https://ustr.gov/sites/default/files/TPP-Protecting-Workers-Fact-Sheet.pdf>

back.²⁰ First, what is implicit in this text is that any other existing labour legislation will not be considered as such under this agreement, and hence fundamental principles and rights can be questioned, deleted, scrapped and given away in exchange for promises of foreign investment. Among these, the right to strike, health care, paid holidays, retirement, paid sick or maternity leave, and protection against harassment, just to mention some. And if any country still upholds them, it can be sued by transnational corporations through the infamous Investor-State Dispute Settlement system (ISDS).

Second, two of the four promises made in the chapter relate to the elimination of slavery and forced labour, something that the vast majority of countries abolished at least 50 years ago. The rest of the rights mentioned in this “breakthrough” are just part of the ILO Declaration on Fundamental Principles and Rights at Work, signed almost 20 years ago as the very minimum that all countries should respect, and can be waived or derogated under certain circumstances.

20. Trans-Pacific Partnership text available at <https://wikileaks.org/tpp-final/>

Concerns from organised workers

Since inception of the negotiation process for the TPP, workers’ organisations and trade unions have been consistently expressing their reasons to reject the trade deal, and have proposed specific alterations to the TPP chapter on labour.

As explained in a report of the International Trade Union Confederation (ITUC), a global coalition of labour and trade unions, none of the issues raised as harmful to workers were addressed in the final version of the text.²¹ In fact, the chapter on labour is a false guarantee which rolls back hard-won fundamental labour rights and workplace standards.

Below are some of the most glaring shortcomings of the TPP chapter on labour, flagged in 2012 by ITUC.²²

1. The chapter on labour does not refer to any ILO Convention but just to an ILO Declaration, hence setting no international obligations for signatory countries.
2. The definition of “acceptable conditions of work” does not include wages (but just minimum wages), workers’ representatives, termination of employment, compensation in cases of occupational injuries and illnesses, and social security and retirement.
3. The definition of “acceptable conditions of work” is not based on any ILO convention, and will be determined by each party.
4. Parties will be allowed to waive a wide range of labour laws not included in the narrow definition of labour rights, as well as those related to acceptable conditions of work.

21. International Trade Union Confederation (ITUC), “Trans-Pacific Partnership labour chapter scorecard: fundamental issues remain unaddressed”, 2015, https://www.ituc-csi.org/IMG/pdf/trans_pacific.pdf

22. The Trans-Pacific Partnership agreement model labour & dispute resolution chapter, available at: http://www.ituc-csi.org/IMG/pdf/full_ituc_transpacific_partnership_labor_chapter.pdf

5. A country can be sanctioned only if it incurs in “a sustained or recurring course of action or inaction” regarding labour laws and only if such action or inaction affects trade.
6. There is no prohibition of importing goods made from forced or child labour.
7. There is no obligation to protect migrant workers against discrimination and bad recruitment practices.

Universal Declaration of Human Rights? The Universe might not include workers.

Of course, the chapter on labour is not the only one in the TPP agreement that threatens basic rights and protections. The chapter on Intellectual Property Rights (IPR) calls for the abolition of fundamental rights, such as the right to be considered innocent until proven guilty. Other chapters facilitate hazardous waste trade between member countries, making the dumping of such substances legal. Several chapters force countries to consult with transnational corporations the drafting and passing of bills, and so on.

Some of these threats are branded by the involved governments as ungrounded fears,²³ arguing that either national laws or other international agreements will prevail, with or without the new trade agreements. However, TPP, for example, includes the following convoluted article:

“If a Party considers that a provision of this Agreement is inconsistent with a provision of another agreement to which it and at least one other Party are party, on request, the relevant Parties to the other agreement shall consult with a view to reaching a mutually satisfactory solution. This paragraph is without prejudice to a Party’s rights and obligations under Chapter 28 (Dispute Settlement).”

Trans-Pacific Partnership Agreement, Chapter 1, Relation to Other Agreements, Article 1.2.2

In other words, if any international agreement becomes a roadblock for transnational trade or

23. See: “TPP Acuerdo Transpacífico, 50 respuestas”, Ministerio de Relaciones Exteriores, Chile, 2016, <https://www.direcon.gob.cl/tpp/>

investment, it can be set aside, and countries that refuse to do so can be sued through the dispute-settlement system.

Human rights conventions may be rendered inapplicable. In this scenario, the advancement of workers’ fundamental rights will depend much more on the power dynamics behind the ISDS system, which clearly favours investors, rather than any judgement delivered by international human rights courts.

The legal framework agreed in TPP will not only institutionalise abuse of workers, it will make wider abuses possible in countries that still maintain certain legal protections. An obvious goal is to expand sweatshops and out-grower schemes to countries where the work force is neither sufficiently cheap nor sufficiently unprotected. This does not mean that more jobs will be available; it means that competition amongst countries to provide cheap and unprotected labour will increase, and one of the most powerful bargaining chips countries will use is to give away labour rights that are not included in the narrow and regressive definition provided by TPP. The final result will be lower wages and less legal protection for workers everywhere.

Poor or inhumane working conditions are just one more reason to reject the new wave of trade agreements. A lot is being said about the United States’ withdrawing from the agreements they have signed or negotiated, as if policies on trade would improve. It is quite the opposite: the Trump government is after even more abusive regulations, and other industrialised countries are using Trump’s rhetoric to push for the same. Only wide and active information sharing and mobilisation campaigns will stop this menace. Our rights, our freedom, our dignity and our future are at stake.

Annex: The exploitation of small farmers and rural workers is at the core of transnational supply chains

Small farmers are not doing better than rural workers. The setup of the supply chain varies according to the type of product farmers provide.²⁴ More and more transnational corporations are increasingly supplied through direct contracts with small farmers. Nestlé, for example, claims that it is directly supplied with raw materials by 760,000 farmers.²⁵ Although this is presented as an excellent opportunity for small farmers around the world,²⁶ a growing number of case studies indicate that the real winners are once again the global corporations at the other end of supply chains.

Why outsource manufacturing but not farming? Legally, farmers are not workers but contracting parties, thus relieving corporations of having to comply with any labour or environmental regulation. As seen in the case of Nestlé, the intermediary is no longer necessary and its elimination is an important way of saving costs for companies. Contract farming is expanding globally, and there are many reasons for corporations to do so.

First, companies make additional profit from direct contracts with farmers, as they sell them seeds, fertilisers and even tools, and farmers are forced to buy if they do not want to lose the contract. Also, outgrower schemes transfer costs from companies to farmers. For example, companies request farmers to supply packaged products, or impose so-called “good agricultural practices” - which include measures such as paved

store rooms, banning of animals in farms and strict record-keeping.²⁷ While these measures increase production costs and do not add any real value to the farm product, they do facilitate and cheapen processing or marketing by the contracting company. For the same reasons, corporations often impose their own private regulations and quality standards, many of which are just cosmetic, on top of legal ones, again increasing costs for farmers.²⁸

Contract farming has wider implications for food security and sovereignty. Small farmers are often forced to grow less food crops for their own consumption or for local markets, if they are to reach minimum requested quantities of the contracted product in their limited farmland. As a result, farmers use less local seeds, endangering the native seeds’ continuity and diversity. Along with the imposition of modern varieties, greater dependence on fertilisers and pesticides comes about.²⁹ Food access becomes limited because of decreased availability and/or increased prices. Dependence on external, more expensive and often less nutrient food sources poses a serious threat to food security.

Second, the purchasing side becomes more and more concentrated, as supermarkets and mega food companies keep on merging, integrating and wiping out smaller competitors. This way, farmers face less options for where to sell and have to deal with buyers that have

24. Safdar Hussain et al., “Integration and effective supply chain management: A review of agriculture in Pakistan and China”, *Journal of Economics and Sustainable Development*, Vol.6, No.21, 2015, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2796787

25. “Nestlé in society - Creating Shared Value and meeting our commitments”, Nestlé, 2015. Available at <http://www.nestle.com/aboutus/mediadocuments>

26. Pradeepa Jayaratne, Lee Styger, Nelson Perera. “Sustainable supply chain management: using the Sri Lankan tea industry as a pilot study”, 25th Annual Australia New Zealand Academy of Management (ANZAM) Conference, pg. 1-22, <http://ro.uow.edu.au/gsbpapers/179/>

27. Normansyah Syahrudin, “Sustainable supply chain management: a case study on cocoa industry in Indonesia”, *Università degli studi di Bergamo, Bergamo*, 2012, <https://aisberg.unibg.it/handle/10446/27514?mode=simple.1875#.Wa-mEJMjHfY>

28. Stephen W. Maina, “Relevance of sustainable agricultural network standards and rainforest alliance certification in promoting governance and achieving national policy recommendations in Kenya’s tea sector”, *The international journal of science & technology*, Vol. 3(4) 2016, pg. 80-87, <http://www.theijst.com/wp-content/uploads/2016/05/32.-ST1604-127.pdf>

29. Dorcas Nuertey, “Sustainable supply chain management for Cocoa in Ghana”, *Kwame Nkrumah University of Science and Technology, Kumasi, Ghana*, 2015 <http://ir.knust.edu.gh/bitstream/123456789/7505/1/Dorcas%20Nuertey.pdf>

more muscle to impose their conditions, including lower prices.^{30,31}

“As demand for agricultural products rises around the world, partnering with the smallholder farming sector offers agribusiness companies significant opportunities to grow their own businesses.”

GIZ, “Growing Business with Smallholders – a Guide to Inclusive Agribusiness”, Bonn and Eschborn, 2012.

Indebtedness is another liability of contract farming, as farmers acquire the contractual obligation of buying seeds and other inputs,³² and often need to request loans to buy them, or to implement the requested infrastructure, irrigation systems and record-keeping. Lack of cash is often worsened by long payment delays. The same corporations that set up the transnational supply chains, sell the inputs and delay the payments, often act as loan banks for small farmers, charging high interest rates with the excuse of servicing people that would not be covered by any other bank, making no reference to the fact that they profit twice. Such a scheme is not significantly different to the company stores in mines and colonial plantations up to the 1950s, and often creates endless indebtedness circles that lead to farmers losing their land.³³

An important factor for imposing these conditions is the disruption and weakening of farmers organisations. Transnational corporations select the farmers they will work with, often leaving out the weakest and smallest, and creating different categories within organisations and communities, and/or creating parallel organisations.

30. Jack G.A.J. van der Vorst & Joost Snels, “Developments and needs for sustainable agro-logistics in developing countries”, Wageningen University and Research Centre, World Bank Position Note, January 2014, <http://documents.worldbank.org/curated/en/518411468060560130/text/858250WP0Posit00Box382162B00PUBLIC0.txt>

31. Olivier de Schutter, “Addressing concentration in food supply chains. The role of competition law in tackling the abuse of buyer power”, Briefing note by the Special Rapporteur on the right to food, December 2010, <http://www.srfood.org/en/briefing-note-addressing-concentration-in-food-supply-chains>

32. Jack G.A.J. van der Vorst & Joost Snels, “Developments and needs for sustainable agro-logistics in developing countries”, Wageningen University and Research Centre, World Bank Position Note, January 2014, *op.cit.*

33. Olivier de Schutter, “Addressing concentration in food supply chains. The role of competition law in tackling the abuse of buyer power”, Briefing note by the Special Rapporteur on the right to food, December 2010, *op.cit.*

In contrast, corporations that rely on supply chains are more and more concentrated, growing in power and market control capacity, while farmers lose sale options and become more and more dependent.

Contract farming is also linked with land grabbing by transnational corporations for plantation of huge monocultures. This is especially but not exclusively the case of palm oil and tropical fruits. Cases of local communities being expelled to give way to big plantations are known in Asia, Africa and Latin America.^{34,35}

Finally, there is no guarantee that small farmers will continue to be significant providers for transnational supply chains, as buying directly from them poses important administration and logistic challenges for corporations. If other setups prove to be more efficient for the corporate side, small farmers will be left out.³⁶ Conversely, debts, polluted soils and water, lack of seeds, less access to food, will remain.³⁷

34. Mark Vicol, “Corporatisation of rural spaces: Contract farming as local scale land grabs in Maharashtra, India”, Land grabbing, conflict and agrarian-environmental transformations: perspectives from East and Southeast Asia, Netherlands, BRICS Initiatives for Critical Agrarian Studies (BICAS), 2015, https://www.iss.nl/file-admin/ASSETS/iss/Research_and_projects/Research_networks/LDPI/CMCP_38-Vicol.pdf

35. See: Réseau des acteurs du Développement Durable (RADD), Struggle to Economise Future Environment (SEFE), YETHIO, Synergie Nationale des Paysans et Riverains du Cameroun (Synaparcam), GRAIN and the World Rainforest Movement (WRM), “The seed of despair: communities lose their land and water sources due to OLAM’s agribusiness in Gabon”, 10 July 2017, <https://www.grain.org/e/5755>

36. Shivani Agarwal, “Issues in supply chain planning of fruits and vegetables in agri-food supply chain: A review of certain aspects”, IMS Business School, Kolkata, India, 2017, <http://www.managejournal.com/up/conference/20170210154426.pdf>

37. Olivier de Schutter, “Addressing concentration in food supply chains. The role of competition law in tackling the abuse of buyer power”, Briefing note by the Special Rapporteur on the right to food, December 2010, *op.cit.*



GRAIN is a small international non-profit organisation that works to support small farmers and social movements in their struggles for community-controlled and biodiversity-based food systems. GRAIN produces several reports each year. They are substantial research documents providing in-depth background information and analysis on a given topic.

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GRAIN

Girona 25 pral., 08010 Barcelona, Spain

Tel: +34 93 301 1381, Fax: +34 93 301 16 27

Email: grain@grain.org

www.grain.org