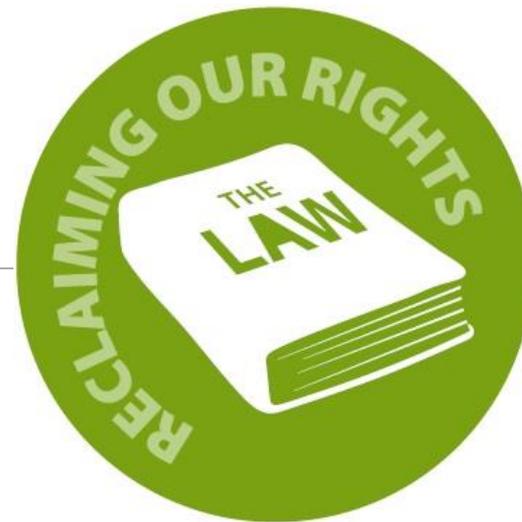


Regulating supply chains

RECLAIMING OUR RIGHTS

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Global Supply Chains and regulatory fragmentation

Links between the structuring of Global Supply Chains (GSCs) and worker exploitation

BUT so far...

- Limits of voluntary initiatives
- Labour standards in GSCs traditionally excluded from trade agreements
- No mandatory schemes for regulating GSCs for employment policy purposes
- Absence of binding international treaty on the issue

An integrative approach to regulating GSCs

Scope for complementary forms of public policy mechanisms

Nature of interaction between public and private governance strategies

Links between different regulatory instruments:

- Domestic legislation: reporting requirements and beyond
- International economic law: unilateral initiatives and trade agreements
- International legal instruments: UN and ILO architecture
- Private initiatives: Codes of Conduct and International Framework Agreements

Regulatory options at domestic level (1)

Enhance existing legislation to increase transparency in GVCs (Section 54 Modern Slavery Act 2015):

- Specify in more detail the information required at each stage of the subcontracting process; and
- Require disclosure of measures taken to address slavery, forced labour, child labour and trafficking in supply chains.

New domestic legislation model involving mandatory requirements and commercial sanctions

- a) Pro-active collection and disclosure of information by lead firms to an industrial inspectorate
- b) Publication of that information
- c) Targeted triggering of commercial sanctions

Regulatory options at domestic level (2)

2017 French law on vigilance: historic step towards making due diligence in GSCs

Scope of application: companies that employ at least 5,000 employees itself or through subsidiaries in France or at least 10,000 employees in France or abroad

Nature of obligations:

- Duty to establish a vigilance plan
- Plan and report on implementation to be publicly available
- Effective implementation of the vigilance plan

Sanctions: civil liability for a company's failure to act with vigilance or due diligence

Regulatory options at domestic level (3)

Regulatory developments in illegal logging and minerals (e.g. Australia, the USA, Europe)

Goods ‘illegally produced’ if they have been produced in breach of the laws in the place where they was produced:

- Wide-ranging liability with no subject-matter limitation
- Scope for prosecution of downstream activities ancillary to goods produced through GSCs (i.e. importation and processing)
- Penalties for criminal offences ranging from fines to imprisonment and forfeiture of products

Regulatory options at international level (1)

Making trade agreements with third countries conditional on human rights and labour standards

- Human rights assessments before trade agreements
- Incorporation of a variety of policy mechanisms in trade agreements:
 - Mainstreaming of labour issues through different policy mechanisms
 - Mechanisms to cover ‘systemically important’ companies
- Trade agreements should protect the discretion of the UK to impose higher environmental and social standards:
 - Right to regulate, exception clauses and temporary suspension of agreements

Regulatory options at international level (2)

2014 UN Human Rights resolution on an international legally binding instrument on Transnational Corporations and Other Business Enterprises with respect to human rights”

- Significant regulatory innovations in the draft instrument: e.g. primacy of human rights over trade agreements

ILO Maritime Convention 2006 as a possible blueprint for regulatory innovation in GVCs

- Promoting international collaboration between stakeholders to establish a level playing field

Concluding remarks

Labour standards in GSCs:

- As a productive factor vis-à-vis human development, socio-economic cohesion and business growth
- Instrumental role in shaping business growth but also constitutive role in a stable, cohesive and prosperous society

Complementary policy mechanisms:

- Domestic regulation going beyond transparency requirements
- Mainstreaming of labour issues to all aspects of trade agreements
- Promotion of international solutions to the governance gaps in Global Supply Chains