

**To: Commissioner for Economy Paolo Gentiloni**

CC:

*Executive Vice-President European Green Deal Frans Timmermans;*

*Executive Vice-President A Europe Fit for the Digital Age Margrethe Vestager;*

*Commissioner for Internal Market Thierry Breton;*

*Commissioner for Justice Didier Reynders;*

*Commissioner for the Environment, Oceans and Fisheries Virginijus Sinkevičius;*

*Commissioner for Trade Valdis Dombrovskis;*

*Member of the European Parliament Anna Cavazzini, chair of the Committee on the Internal Market and Consumer Protection (IMCO);*

*Member of the European Parliament Monika Hohlmeier, chair of the Committee on Budgetary Control;*

*Member of the European Parliament Bernd Lange, chair of the Committee on International Trade;*

*Member of the European Parliament Maria Arena, chair of the Subcommittee on Human Rights;*

*Member of the European Parliament Adrián Vázquez Lázara, chair of the Committee on Legal Affairs;*

*Director General Taxation and Customs Union (TAXUD) Gerassimos Thomas.*

16th November, 2022

**Subject: Reforming the Union customs legislation to allow non-state actors to access customs trade information**

Dear Commissioner Gentiloni,

Our organisations welcome the Commission's plan to revise the Union Customs legislation and are looking forward to this legislative proposal.

With this joint open letter, **the undersigned organisations want to urge you to ensure that this upcoming reform will enable non-state actors, such as Civil Society Organisations (CSOs), trade unions, academics, journalists and companies to access trade information with customs that is currently considered confidential by Member States.**

Existing EU legislation, such as the Timber regulation and the Conflict minerals regulation, and upcoming legislation, such as the Deforestation-free products regulation, Batteries and batteries waste regulation, Forced labour regulation and Corporate sustainability due diligence directive, aim to ensure that human rights and the environment are respected in company value chains. Stakeholder involvement plays an important role in the functioning of all these legal instruments: they can, and will, play a role in informing, developing and/or scrutinising risk-based due diligence approaches by companies, but they also support public authorities in carrying out enforcement, including through submitting substantiated concerns and raising complaints. For effective engagement however, stakeholders need detailed supply chain and trade flow information, which currently, is largely unavailable. Greater public access to trade information with customs would therefore improve the way stakeholders can engage with companies and authorities to address human rights and environmental risks in the company value chains. Thus, increased public access to custom information would contribute towards more effective implementation of these initiatives and the achievement of the related policy goals.

More companies now share information about their supply chains than ever before. Nonetheless, the number of companies that publicly disclose detailed information about their business relations such

as suppliers and corporate clients, remains very limited. For major economic powers such as the United States of America (USA) or India, customs information on trade transactions between companies is accessible, however, overall this is only the case for one out of four countries worldwide.<sup>1</sup> In the world's largest trading bloc, the EU, Member States customs authorities still deny non-state actors access to company specific information because it is considered confidential on the basis of Member States laws and practices or the Union Customs Code (UCC) article 12.

In its public consultation on Reforms of the Union Customs legislation<sup>2</sup>, the European Commission asked whether customs rules and processes can contribute to combatting forced labour, child labour and working conditions in international supply chains, as well as ensuring supply chain due diligence and promoting EU values internationally. The role of accessible customs information in addressing the tragic situation with Uyghur forced labour in the Xinjiang Uyghur Autonomous Region, China, is a good illustration of how customs information can contribute to addressing human rights violations. It is partly through access to customs data that researchers and civil society organisations were able to provide evidence of the importance of the trade flows from that region,<sup>3</sup> inform companies active in the garment, energy and food sector of their potential complicity with forced labour<sup>4</sup> and provide support to competent authorities responsible for the enforcement of relevant regulatory requirements, in particular in the USA.

This is why **we urge you to include in your reform the necessary requirements that will allow non-state actors access to detailed trade information held by customs authorities.** Civil society<sup>5</sup> is pleading for this cause and the European Parliament joined this call through a parliamentary resolution in 2017.<sup>6</sup> The example of the USA, and many other countries, shows that custom level trade information access is possible and compatible with competition and privacy concerns. The reform of the Union Customs legislation now provides a historic opportunity for the Commission to finally make this happen.

To close customs information quality gaps, **we also propose mandatory disclosure of product manufacturer/producer name and address in custom declarations, and intra-EU trade information collection by customs in line with extra-EU declarations.** We noted with interest that the Commission's proposal for a regulation on prohibiting products made with forced labour on the Union market already includes provisions that require data on manufacturer/producer to be provided

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<sup>1</sup> SOMO, based on Globalwits trade information system, <https://g4.globalwits.cn>

<sup>2</sup>

[https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13316-Revision-of-the-Union-Customs-Code/public-consultation\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13316-Revision-of-the-Union-Customs-Code/public-consultation_en)

<sup>3</sup> Laura T. Murphy, et al. (2021). "Laundering Cotton: How Xinjiang Cotton is Obscured in International Supply Chains." Sheffield, United Kingdom: Sheffield Hallam University Helena Kennedy Centre.

<https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/laundered-cotton>

<sup>4</sup> <https://enduyghurforcedlabour.org/call-to-action/>

<sup>5</sup> See Finnwatch, "Transparency now: legal briefing on the disclosure of EU customs data", 2017

[https://finnwatch.org/images/pdf/FW\\_Transparency\\_of\\_customs\\_data\\_legal\\_briefing.pdf](https://finnwatch.org/images/pdf/FW_Transparency_of_customs_data_legal_briefing.pdf);

"Joint letter to MEPS concerning EU customs regulations", April 2018;

<https://cleanclothes.org/file-repository/joint-letter-to-meps-concerning-eu-customs-regulations.pdf/view>

Anti-Slavery International and European Center for Constitutional and Human Rights' "position on import controls to address forced labour in supply chains", June 2021;

<https://www.antislavery.org/wp-content/uploads/2021/06/Anti-Slavery-International-ECCHR-Import-Controls-Position-Paper-1.pdf>

<sup>6</sup> 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))

<https://op.europa.eu/en/publication-detail/-/publication/afeb5d94-bcaa-11e8-99ee-01aa75ed71a1>

to the Customs authorities in certain cases. In the context of revision of the Union Customs Code, we urge you to consider expanding this requirement also to other goods.

Finally, **we also propose that disclosure of customs trade information be streamlined. This way, customs authorities will not be burdened with having to respond to stakeholders' individual requests for access.** Such streamlining could take the form of a monthly online release of a comprehensive standard set of detailed trade information from all Member States customs, or preferably, through access to the new EU customs information environment the Commission is considering.

We call on you to consider these recommendations in your ongoing legislative work and ensure that this upcoming reform is ambitious enough to contribute to the respect and protection of human rights and the environment globally.

Sincerely,

The following signatories:

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| 1. AidEnvironment   | 29. Human Rights Watch                               |
| 2. Anti-Slavery International                             | 30. Human Trafficking Legal Center                   |
| 3. Australian Uyghur Tangritagh Women's Association       | 31. INKOTA network                                   |
| 4. Arise  | 32. International Federation for Human Rights (FIDH) |
| 5. Association of Ethical Shareholders Germany            | 33. International Service for Human Rights           |
| 6. Bruno Manser Fonds                                     | 34. International Peace Information Service          |
| 7. Campaign for Uyghurs                                   | 35. Jewish Movement for Uyghur Freedom               |
| 8. Changemaker Finland                                    | 36. Jewish World Watch                               |
| 9. Clean Clothes Campaign                                 | 37. KIOS Foundation                                  |
| 10. CorA network for corporate accountability             | 38. La Strada International                          |
| 11. Corporate Accountability Lab                          | 39. PowerShift                                       |
| 12. Earthqualizer Foundation                              | 40. Profundo   |
| 13. Dalit Solidarity Network in Finland                   | 41. Programa Laboral de Desarrollo                   |
| 14. ECOS – Environmental Coalition on Standards           | 42. Pro Ethical Trade Finland                        |
| 15. European Coalition for Corporate Justice              | 43. Public Eye                                       |
| 16. European Trade Union Confederation                    | 44. Rainforest Alliance                              |
| 17. EU-LAT Network  | 45. Rainforest Foundation Norway                     |
| 18. Fair Trade Advocacy Office                            | 46. René Cassin, the Jewish voice for human rights   |
| 19. Fairfood  | 47. SOMO   |
| 20. FEMNET  | 48. Stichting Terre des Hommes                       |
| 21. Finnish Development NGOs Fingo                        | 49. Stop Uyghur Genocide                             |
| 22. Finnwatch   | 50. SÜDWIND-Institut                                 |
| 23. Freedom Collaborative                                 | 51. Transparency International Finland               |
| 24. Freedom Fund  | 52. Uyghur American Association                      |
| 25. Fundación Alboan                                      | 53. Uyghur Rights Advocacy Project                   |
| 26. Global Labor Justice-International Labor Rights Forum | 54. Uyghur Human Rights Project                      |
| 27. Global Legal Action Network                           | 55. Vredesactie                                      |
| 28. Global Witness  | 56. World Uyghur Congress                            |



PowerShift

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Research & advice

PLADES  
PROGRAMA LABORAL  
DE DESARROLLO

EETi

Public Eye

RAINFOREST  
ALLIANCE

Rainforest Foundation  
Norway

rené  
cassin  
the jewish voice for human rights

SOMO

terre des hommes  
stopt kinderuitbuiting

STOP  
UYGHUR  
GENOCIDE

süd  
INSTITUT FÜR ÖKONOMIE  
UND ÖKUMENE

TRANSPARENCY  
INTERNATIONAL  
SUOMI FINLAND

UYGHUR AMERICAN  
ASSOCIATION  
Est. 1998

URAP  
UYGHUR  
RIGHTS  
ADVOCACY  
PROJECT  
PROJET DE DEFENSE DES  
DROITS DES OUIGHOURS

UHRP  
UYGHUR HUMAN RIGHTS PROJECT  
ئۇيغۇر كىشىلىك ھوقۇق قۇرۇلۇشى

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