

The Fight Against Child Trafficking

Breaking the Cycle of Structural Violence

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Chapter 6

The road to Anti-Trafficking Inc.

Transformative tipping points for socially
sustainable global value chains

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Transformative tipping points for socially sustainable global value chains

Thinking ceases to be unifying or making a semblance familiar in the guise of a major principle. Thinking is learning all over again to see, directing one's consciousness, making of every image a privileged place.

– Camus, *The myth of Sisyphus*

Introduction

Trafficking takes place on GVCs. MNEs are responsible for oversight of their business operations. Hence MNEs are responsible for ensuring there is no trafficking on their GVCs. Quod erat demonstrandum. The logic seems infallible. Combined with the idea that MNEs are transnational actors, and that anti-trafficking measures require transnational governance measures, currently perceived to be deficient, nation-states and international organizations are reflecting on means to steer the governance of private corporations towards an anti-“modern slavery” agenda. The articulation of public and private action¹ to combat child trafficking on GVCs faces several difficulties. The nature of the issue in itself: the diversity of trafficking situations and the difficulty to locate children on GVCs, since trafficking is situated in a variety of business structures, situations, and geographies. The dynamics of child trafficking on GVCs: the current North-South market structures with severe supplier-squeezes have created in-draughts for child trafficking on GVCs. And even more crucially, the variety of existing governance tools and regulatory environments pertaining to child trafficking: this causes impediments to an analytically and empirically sound analysis of the devices, endeavors and partnerships currently implemented.

Faced with these complexities, public and private actors are forced to “think”, in the sense of “learning all over again to see, directing one’s consciousness” (Camus), to apprehend the novel challenges posed by child trafficking on GVCs and invent new paradigms and new relations between ethics, human rights, and business, between public- and private actors. In an effort to align public and private endeavors to create coherence and fluidity, and to outsource obligations, national governments and regional institutions are increasingly rethinking the governance of private over public actors, and the governance of private actors over their chains of production. Governments and supranational organizations

use increasingly varied tools to encourage businesses to curb child trafficking in their operations by promoting responsible corporate actions. The debates in academia between different governance concepts are complex and cannot be dealt with in the space of this section.² Schematically, the literature on hybrid governance covers the initiatives that blend public and private actors, such as government-sponsored organizations with multistakeholder management, or publicly financed corporations. Public and private actors spoken to for this research have been calling for stronger meta-governance tools that would string constellations of anti-child trafficking initiatives together, to give them more clout, and ensure that stakeholders are working in the same direction. “We need global corporate codes of conduct and laws to catch up and create a level playing field” (Interview 35). Recent literature has theorized the attempts to reel in and organize disparate policy endeavors targeted at the private sector along the lines of public orchestration. Public orchestration occurs when national or transnational public authorities initiate, accompany, expand, and/or reinforce transnational governance by non-state and/or sub-state actors. It can associate diverse sets of mechanisms, some of which are “directive”, seeking to regulate private initiatives concerning child trafficking on GVCs, others of which are “facilitative”, implying that they rely on softer instruments, such as the provision of channels, material, and ideational support to start or accelerate anti-child trafficking initiatives (Ponte 2020).

An interesting cut into the topic, which I will explore in this chapter, is to locate the mechanisms for creating the tipping point at which a public concern over human rights becomes a corporate concern. To do so, the chapter will examine the directive and facilitative orchestration mechanisms envisaged to fill the perceived transnational governance deficit concerning socially sustainable management of MNEs, and unify constellations of initiatives to fight child trafficking on GVCs.

6.1 From nudges to disclose, to MNEs’ obligation to conduct due diligence on their GVCs: a shift to the legal enforcement of MNEs’ anti-trafficking governance?

6.1.1 “It just made the peak a little higher”: the limited effects of nudges and voluntary schemes

The central position of MNEs in trafficking dynamics has been foregrounded by public authorities for over two decades. Voluntary schemes have sought to foster socially responsible business practices, by suggesting that businesses should partake in a collective effort to defend and implement human rights. Such expectations were solidified at an international level through the launch of the United Nations Global Compact in 2000. The UN Global Compact is a principle-based corporate sustainability framework bringing together businesses, labor groups, UN agencies, and civil society. Such initiatives were later developed and promoted in additional international schemes. Chief among them are the “Protect, Respect and Remedy” framework (2008) of former United Nations Secretary-General’s Special Representative on business and human rights John Ruggie, the

UN Guiding Principles on Business and Human Rights (2011) that holds that governments must ensure companies respect human rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (2011), the OECD Guidelines for Multinational Enterprises (2011), the ILO-IOE Child Labour Guidance Tool for Business (2016), the ILO Resolution concerning decent work in global supply chains (2016), and the Council of Europe Committee of Ministers Recommendation on Human Rights and Business (2016). In addition, industry-specific guidances are being created, such as the IFC-EBRD-CDC Good Practice Note on Managing the Risks Associated with Modern Slavery (2019), and some industry bodies and MNEs have developed their own in-house initiatives. In the mining industry, for instance, these were promoted by the International Council on Mining and Metals (2009), Royal Dutch Shell (2010) and Rio Tinto (2012) (Graetz and Franks 2013). On a regional level, interviewees in ASEAN mentioned “attempts to [foster CSR] through multilateral initiatives, such as the ILO Public-private Partnerships for Decent Work or the Bali Process Government and Business Forum, which held its first meeting in August 2018” (Interview 28). The first human rights treaty body to seize the specific obligations of States to protect children from adverse business practices is the United Nations Committee on the Rights of the Child. In its “General comment No.16 on State Obligations Regarding the Impact of the Business Sector on Children’s Rights”, it requested that governments report regularly on their obligations to protect children, reminding States, in its comment 51, that “Children can be affected by violence, including sexual abuse or exploitation, child trafficking and gender-based violence in conflict zones and this must be recognized by States when providing guidance to businesses” (UN 2013).

The nudges and voluntary schemes have, however, produced little effect. “It has made the peak a little higher, but hasn’t dragged up the laggards” (Interview 31). According to business executives, “those who were already doing good are doing better, the others do nothing” (Interview 35). The “limited success” of such measures is partly linked to the fact that they “are generally believed to be in tension with the for-profit purposes of businesses” (Raigrodski 2016, 71). Prompted by an international momentum towards corporate sustainability, public authorities have (unequally) attempted to move beyond voluntary schemes and disclosure agreements to due diligence and conduct-oriented legislation targeting MNEs and their GVCs, under the premise that regional and domestic legal instruments can have profound effects on corporations abusing human rights.

6.1.2 Legal provisions on MNEs' anti-trafficking responsibilities in Southeast Asian countries: insufficient to curb exploitation

In December 2017, ASEAN published Guidelines for Corporate Social Responsibility on Labour, which holds, in its Article 11 on “Forced Labour and Child Labour”, that “Enterprises/establishments should respect the minimum age for admission to employment in order to support abolition of child labour” (Art. 11.2) and that they “should not employ or support the employment of children

under minimum age. They should be vigilant also in reference to young workers especially in the type of work that jeopardizes the health, safety or morals of children” (Art. 11.3). Despite these regional reminders, businesses in the region are considered to be falling behind on human rights disclosure. A 2019 report warns,

The lagging human rights disclosure in ASEAN reflects a lack of specific guidelines and oversight from national and regional authorities. It also shows that, as a collective, companies in the region have been marginally responsive to the global business and human rights (BHR) push.

(Mullen et al. 2019, 6)

Indeed, out of 250 top-listed companies in five ASEAN countries studied (Indonesia, Malaysia, Philippines, Singapore, Thailand), 36% made no mention at all of human rights in their publicly available material. In a comparison of thematic diagnostic disclosures regarding sustainability, the report stated that “child labour”, “forced labour”, and “human trafficking” received the least attention – respectively 48.4%, 46.4%, and 15.6% – among nine subject areas. Compared to “environment” (96%) and “health and safety” (95.6%), it highlights the very low attention child trafficking receives, despite the prevalence of labor and trafficking issues in ASEAN and the international attention on the issue.

In the subject matter that comes up in sustainability reporting, you’ll find that everybody talks about environment, health and safety. But when it comes to the real, hard issues of human trafficking and forced labour, there is little or no mention at all

(Thomas Thomas, chief executive officer of Asean CSR Network during a human rights workshop held by the World Business Council for Sustainable Development in March 2019 (cited in Eco-Business 2019))

In ASEAN, sustainability reporting of businesses is very poor, as is their corporate liability with regard to human rights. National laws do not include such clauses in either Cambodia, Lao PDR, Myanmar or Vietnam (see Table 2.3 for more detail on legislative provisions). Improvements have however been noted in the region, in particular in Thailand, which is the only country studied that has included some provisions on corporate social sustainability in its legal framework. When I asked interviewees in November 2018, during my fieldwork in Thailand, whether they “could think of legal provisions³ currently in place to guarantee the involvement of companies in anti-trafficking initiatives” (See Question 9 of “Research questionnaire, Thailand 2018” in Annex), they almost unanimously answered “no” (Interview 16, Interview 19, Interview 20, Interview 21, Interview 25, Interview 27, Interview 28). Although there is no dedicated Thai law setting corporate sustainability standards on child trafficking for businesses (Interview 16), and although the Thai Anti-Trafficking in Persons Act does not contain specific

language on this issue (Interview 21) beyond obligations to act if they have the knowledge that they are harboring a trafficked victim or a trafficker (Interview 23), interviewees concede that “labour laws are very clear and strong to prevent trafficking” (Interview 27) and that “if deemed that a company has responsibility in the trafficking process, then it would certainly fall under something that is there” (Interview 21). According to Save the Children, “the Child Protection Act in Thailand covers most of this”. They provide an interesting counterpoint story by saying that “the construction industry is fairly well regulated, and the fishing industry is getting there. There are still some parts of the country that are a bit lagging. But the boat registration legislation has hammered it home as well: once they had reinforced the laws around this, it reduced the most disreputable operators” (Interview 27).

These dispositions are still insufficient, however, as the legislative framework does not offer sufficient protection and has little effect in practice. “If a link can be demonstrated between an industry and human trafficking, the factory can be temporarily shut down for approximately 30 days, in order to conduct a fact-finding mission” (Interview 19). In practice, fact-finding missions rarely find anything, as businesses hide proof of child exploitation and even have fact-finding “kits” with material to disrupt evidence (Interview 23, Interview 27, Interview 26). Whereas the law sets “high punishment for business owners who hide illegal migrants, there has never been a case filed for human trafficking in business supply chains” (Interview 29). This is not entirely true, as two cases were filed, concerning adult trafficking victims in the seafood sector. The Ranya Paew case (2006) concerned the discovery by the Thai police of over 200 Myanmar workers forced to work 16-hour daily shifts in the Ranya Paew shrimp processing factory in Samut Sakhon. The case was settled before the criminal court issued a ruling: the defendant paid THB 3.6 million to 66 Myanmar victims,⁴ who were sent back to Myanmar in the framework of the bilateral human trafficking MoU between the two countries. The Arnoma case (2010) concerned the detention and forced labor of Burmese migrant workers who were being held in a prison-like factory, forced to peel shrimp for more than 18 hours a day at Arnora Seafood. This was a

good case from an evidentiary perspective, but ultimately nothing happened after a series of appeals, as it is very difficult to make the case. The bifurcation is problematic between criminal law and labour law; it is hard to establish a trafficker in the business context.

(Interview 26)

These rare occurrences of cases placing responsibility for trafficking and redress onto businesses, however, show the very limited legal space available to impute responsibility to businesses for the trafficking of adults, let alone of children.

Several factors are to blame. First, laws work against each other. While an important share of child trafficking victims for labor in Thailand are undocumented migrants, the Working of Aliens Act 2007 authorizes payment of rewards

to informers that assist authorities to arrest undocumented migrant workers. Instead of assisting already vulnerable trafficking victims to speak out, it deepens the already pervasive fear felt by migrant workers. Second, in theory, there is a notable improvement in the access to industrial spaces: while previously factories were defined as private space not accessible to public inspections, they can now be inspected when there are suspicions of human rights breaches (Interview 19, Interview 29). However, in practice, inspectors rarely manage to enter industrial or agricultural premises, at least not without due prior notice (Interview 22), and inspections are very scarce anyway. Inspectors are outnumbered by the quantity of businesses. The total number of businesses *registered* in Thailand was reported at 1,485,420 in 2007, according to the World Bank collection of development indicators, compiled from officially recognized sources. The ILO mentioned that there are currently 750 labor inspectors in the country (Interview 26), which implies that each inspector is covering *at the very least* 2,000 businesses, which isn't even accounting for the many *unregistered* small businesses. In the Mae Sot province, at the border of Thailand and Myanmar, there are approximately 1,000 small, medium and large factories, some with hundreds of workers, but only one or two labor inspectors (Interview 19, Interview 29).

When I conducted interviews in Thailand in November 2018, eyes were turned to an impending Business and Human Rights National Action Plan (NAP). The Thai Ministry of Justice, prompted by the international agenda on business and human rights, was in the process of drafting a NAP with the collaboration of big corporate players like Thai Union or CP. However, they hadn't been "collecting much input from NGOs or smaller employers" (Interview 16). Thailand is the first country in Asia to adopt such a framework, and anti-trafficking specialists were "interested to see how far it [would] go into the labour rights space" (Interview 26), and in particular if it would include provisions on the responsibility of enterprises for child trafficking and labor exploitation along their supply-chains (Interview 16, Interview 19). Its draft version was published in December 2018, and its final version was adopted in October 2019.⁵ The NAP will be limited in its application: it does not impose legally binding obligations on businesses. It is more akin to guidelines for voluntary good practices, and it was adopted at a Ministerial level by the Justice Minister, which means that it does not apply to other Ministries. In addition, the NAP contains provisions on "human rights" and an "employer-pays principle";⁶ however, overall it grapples with child trafficking indirectly and is watered down.

Although Thailand appears to be the good pupil among ASEAN countries by making notable progress in the past five years, legal provisions imposing anti-trafficking responsibilities on MNEs are almost non-existent and indisputably insufficient to curb child exploitation. It is still early to say if these recent dispositions will have a concrete effect on the ground. Overall, experts contend that "impunity is still on-going" (Interview 26). According to a corporate expert on trafficking in global supply chains, with specialist knowledge of Thailand, none of the current instruments is really effective (Interview 31). Public governance failures and insufficient labor laws render children extremely vulnerable to trafficking

for exploitation and leave them unlikely to have avenues for protection. However, given the (still) predominant North-South dynamics of GVCs, “legislation in major consumer markets can drive change by increasing government awareness and action in producing countries” (OECD et al. 2019, 45).

6.1.3 *Regulating business conducts through constraint: new laws and public governance measures on child exploitation in GVCs in Europe's States and Union*

In the European Union, a marked tendency is starting to gain momentum, to increasingly devolve human rights responsibilities and criminal liability to corporations. The philosophy behind those pieces of legislation is to promote a holistic and transversal approach to complex transborder crimes. Such legal agreements outsourcing responsibility to private companies also delegate the legal responsibilities for events out of their territory to other entities (Basaran 2008). This externalization is by far not accepted by all legal orders, but is nevertheless a notable tendency at the level of European law, and increasingly at the level of national states.

In very recent years, supply chain transparency and due diligence legislation have become an object of public attention. Several countries in the European Union, and the EU as a regional organization, have adopted, or are considering adopting, legislation in this area with a specific focus on child labor and trafficking. New pieces of legislation mark a shift in the conception of private actors as contributing to justice mechanisms. The most striking examples in European Union law concern criminal law requesting private corporations to share information on their operations with public authorities, with regard to the European anti-money laundering (AML) framework (5th AML Directive, 2018/843/EU), and to the use of passenger name record data for detection of terrorist offenses (Directive 2016/681/EU). The nature and scope of supply chain transparency and due diligence legislation vary considerably. Less than a decade ago, mandatory disclosure and transparency legislation started to emerge on non-financial reporting requirements of large companies, with particular attention to social responsibility and respect for human rights. Such types of laws require companies to disclose the child trafficking risks they identify in their operations and outline the potential actions they intend to take to mitigate those risks. Corporations may be incentivized to follow standards and adopt good practices, but are not required to change their line of conduct, beyond the reporting obligations. It is only in the past five years that European laws have started to consider mandatory due diligence and other conduct-related legislation, with a possible eye on fighting human trafficking in business supply chains. This legislation is different due to the obligation it places on companies to adhere to new standards of conduct and market practice in order to address trafficking risks, in addition to reporting on those risks. Table 6.1 summarizes the legislation adopted, or about to be adopted, in the European Union and at the national level in European States, the United States of America and Canada.

No round-up of regulations dealing with child trafficking – and more broadly human rights – in supply chains would be complete without referring to international instruments. Several voluntary instruments and guidelines grapple with these issues and provide definitions of due diligence obligations and mechanisms (see Section 6.1.1). A draft UN Treaty on Business and Human Rights has been in development since 2014, which is considering imposing on States obligations to adopt, in their domestic laws, obligations for enterprises to undertake human rights due diligence, and sanctions for non-compliance with those duties. Interestingly, it also envisages to hold business accountable for human rights breaches in their supply chain, by specifying that domestic law should hold companies accountable for “failure to prevent another legal or natural person with whom it has a business relationship, from causing or contributing to human rights abuses”. The draft is in its third iteration and was last discussed by a dedicated Working Group in Autumn 2021. The road ahead to a fully-fledged international binding instrument is likely to be bumpy. But some breakthroughs occurred during this meeting. An agreement was reached on the introduction of mandatory human rights due diligence obligations for corporations, which is following the momentum occurring in a number of countries around the world.

The trend towards the discussion and adoption of mHRDD laws on supply chains is quite clear. Since 2019–2020, a number of new initiatives have been either passed or drafted. As can be clearly drawn from Table 6.1, at the national level, many countries across the global North started discussing mHRDD laws on supply chains in the past couple of years. Following suit to France, the Netherlands, Norway and Germany all adopted laws that just have, or are about to come into force. Bills are further being discussed in the United Kingdom, Belgium and Switzerland, to name just a few. The French government mentioned that several neighboring countries had solicited information on their Due Diligence Law n°2017-399 (Interview 7), and that other European countries are thought to be considering the implementation of transparency and due diligence laws, modeled on the British and French designs.

A potentially ground-breaking Directive is currently underway at the EU level. In April 2020, EU Justice Commissioner Didier Reynders announced that the European Commission would propose a pan-European law requiring mandatory environmental and human rights due diligence to be performed by corporates across their supply chains and business relationships. After a delayed process, the Commission’s final proposal for a Corporate Sustainability Due Diligence (CSDD) Directive was published on 23 February 2022. Given the far-reaching obligations it could impose on companies, including a Director’s duty of care, possible civil and criminal liabilities, as well as the sanctions it could entail, and the possibility it opens up for victims around the world to seek justice in EU courts, the proposed Directive has been qualified by some commentators as a “watershed moment for human rights and the environment” (Global Witness’ Richard Gardiner quoted in White, Nardelli, and Bodoni 2022). The ambition of the initial draft legislation was, however, substantially lowered. A report by lobby watchdogs considers that the draft “has been severely watered down by

Table 6.1 Draft bills and national laws on corporate accountability and liability for child exploitation in GVCs

	European Union law	National law (Europe, USA, Canada)
Mandated disclosure and transparency legislation	<p>Directive 2014/95/EU Non-financial reporting requirements for large public interest companies to annually report on policies, risks and program outcomes related to human rights, corruption and bribery. <i>Directive soon to be replaced by the Corporate Sustainability Reporting Directive (see infra).</i></p> <p>European Parliament legislative Resolution of 18 April 2019 on disclosures relating to sustainable investments and sustainability risks – amending Directive 2016/2341/EU Aims to create a dedicated and coherent disclosure framework on the integration of environmental, social, and governance risks. Requests that companies disclose information on sustainable investments and sustainability risks to end investors.</p> <p>Sustainable Finance Disclosures Regulation 2019 – applied since 10 March 2021 Aims at raising transparency in the market for sustainable investment products. It intends to prevent greenwashing and to improve the transparency of financial market participants' sustainability claims.</p> <p>Draft Directive on Corporate Sustainability Reporting 2021 – amending Directive 2014/95/EU on non-financial reporting Aims to develop a strong European regulatory framework for sustainable finance, by addressing shortcomings in existing rules on the disclosure of non-financial information. It is the ambition of this instrument to increase company accountability, broaden the scope of companies concerned to SMEs and non-European companies that have at least one subsidiary or branch in the EU, lead the way to a unifying standard and ease the transition to sustainable economic practices.</p> <p>The proposal for the Corporate Sustainability Reporting was adopted on 30 June 2022 by the Council. This new text will amend Directive 2014/95/EU upon its entry into force, putatively set at 1 January 2025 (tbc). The Draft European Sustainability Reporting Standards have been released for comment and were still under discussion in summer 2022.</p>	<p>UK Modern Slavery Act 2015 Law prohibiting slavery, servitude, and forced labor, which requires all commercial organizations with an annual turnover of £36 million or more to prepare a slavery and human trafficking statement for each financial year. The statement must outline the due diligence processes that the company has taken, if any, to ensure that trafficking is not taking place in any part of its own business or in any of its supply chains.</p> <p>UK Criminal Finances Act 2017 Allows the government to freeze assets of human rights abusers, and classify gross human rights abuse as unlawful conduct to which civil recovery powers can be applied.</p> <p>California Transparency in Supply Chains Act 2010 First enactment of its kind to address transparency and reporting obligations for companies to address modern slavery on supply chains.</p> <p>At the federal level, several bills have been proposed: the Draft Business Supply Chain Transparency on Trafficking and Slavery Act did not receive a vote in Congress (March 2020); the draft Corporate Human Rights Assessment, Prevention and Mitigation Act has only slowly progressed since 2019; the draft Slave-Free Business Certification Act failed to receive a vote before Congress (July 2020).</p> <p>Switzerland's Parliamentary initiative for Mandatory Human Rights Due Diligence – counter-proposal to Responsible Business Initiative (see infra) New provisions modifying the Swiss Code of Obligations by introducing supply chain due diligence requirements. Introduced in 2022. These modifications are watered down compared to the initial Responsible Business Initiative. The latter indeed focused on substantive due diligence requirements, whereas the new provisions concentrate on transparency and reporting.</p> <p>Canada's Bill S-211, An Act to enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act and to amend the Customs Tariff The Bill was adopted by the Senate on 28 April 2022. Modeled on the UK Modern Slavery Act. It is estimated to be a first step in imposing responsibility on companies, but lacks the teeth for enforcement in its current reading.</p>

Table 6.1 Continued

	European Union law	National law (Europe, USA, Canada)
Mandated due diligence and other conduct-related legislation	<p>Conflict Minerals Regulation 2017/821/EU In politically unstable areas, the trade of “conflict” minerals can be used to finance armed groups, fuel forced labor and other human rights abuses, and support money laundering. Regulation 2017/821/EU aims to ensure that EU importers of tin, tantalum, tungsten and gold (3TG) meet international responsible sourcing standards. The law also requires EU companies in the supply chain to ensure they import these minerals and metals from responsible and conflict-free sources only. This regulation refers to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict Affected and High-Risk Areas, which requests that companies do not tolerate the worst forms of child labor.</p> <p>Corporate Sustainability Due Diligence Directive – adopted by the Commission in February 2022, due to go through the European Parliament and the Council for approval This piece of legislation could be ground-breaking, by imposing mandatory human rights due diligence on companies’ supply chains. The scope of the Directive, sanctions and enforcement are still under discussion (see below for an analysis of the Directive). In any event, the Directive will likely be precedent-setting and produce a strong impact across the global South.</p>	<p>French Due Diligence Law 2017 – Loi relative au devoir de vigilance des sociétés mères et des entreprises dominiées d’ordre Duty of vigilance imposed on all French joint stock companies employing 5,000 employees or more domestically or 10,000 employees or more internationally, regarding serious human rights and environmental impacts associated with their operations and supply chains. Obligations to prepare, publish, and implement due diligence. Judicial mechanisms allowing third parties to order a company to comply with the law, or to hold it liable for damages caused by a failure to comply with the law.</p> <p>French Commercial Code (Code de Commerce), articles L. 225-102-4, L. 225-102-5 Requires companies to deploy compliance plans on regarding reasonable due diligence measures intended to identify and prevent, with their own operations and those of their suppliers, severe human rights violations, and environmental damages.</p> <p>The Netherlands Child Labour Due Diligence Law 2019 – Wet Zorgplicht Kinderarbeid – envisaged to enter into force in 2022 Requires companies to determine whether child labor occurs in their supply chains and set out a plan of action on how to combat it. According to this law, companies registered in the Netherlands and companies that deliver their products or services to the Dutch market twice or more a year are required to submit a declaration to a supervisory authority declaring that they carry out due diligence relating to child labor across their supply chains. If there is a suspicion of child labor, the company must devise a plan to prevent it, and submit the plan to the government. Details will be specified through administrative orders. It is one of the first jurisdictions to attach criminal sanctions to the breach of human rights due diligence.</p> <p>The Netherlands are also on the verge of introducing mandatory international corporate social responsibility (ICSR) legislation, an important part of which will be supply chain due diligence. The drafting was announced to increase pressure on the EC to regulate ICSR at the pan-European level. Details on the date of introduction have not been published yet.</p> <p>The Dutch government expects 90% of its large companies to explicitly endorse and apply the OECD Guidelines for Multinational Enterprises by 2023, as the basis for their CSR policy.</p>

Swiss Responsible Business Initiative 2016 – approved by National Council and Council of States in June 2020; rejected by referendum in November 2020

Had the law passed, it would have required companies to conduct due diligence to ensure compliance of all companies under their *de facto* control to respect international environmental and human rights standards, and would impose liability where these standards are violated.

Norwegian Transparency Act – entered into force on 1 July 2022

Puts obligation on “larger enterprises” to perform human rights due diligence in their supply chains, both with regard to Norwegian suppliers and suppliers based in other countries. Enterprises also have the obligation to publicly disclose their findings. The due diligence methodology engrafted in the law is based on the OECD’s Guidelines for Multinational Enterprises.

German Act on Corporate Due Diligence in Supply Chains 2021 – will enter into force on 1 January 2023

The law will apply to companies with over 3,000 employees in 2023, but will broaden its scope to include companies with over 1,000 employees from 1 January 2024 onwards. Covered companies will be required to take “appropriate measures” to respect human rights and the environment within their supply chains. Penalties vary depending on the company’s size, but they may be fined up to 2% of annual global turnover. A State authority will be responsible for conducting on-site investigations of reported company violations.

Belgian draft law providing a “duty of care” and a “duty of reparation” – April 2021

UK Modern Slavery (Amendment) Bill proposes changes to the 2015 Modern Slavery Act

This proposal echoes continued calls to impose more stringent human rights due diligence on UK companies, in particular in the face of their continued failure to identify and prevent serious human rights abuses in their supply chains, including child labor, forced labor, and child trafficking. The proposal proposes to put an obligation on companies to investigate their supply chains to detect and remedy child labor in their operations. If taken forward in this format, this would move the Modern Slavery Act from a “mandated disclosure” legislation to a “mandated due diligence” framework.

Although Switzerland, Norway, Canada, and the United States are not within the regional scope of our study, they are nevertheless cited in this table, to show the global momentum on the codification of corporate accountability and liability in the realm of human rights and trafficking.

corporate lobbyists, with assistance from the European Commission's own business-friendly 'Better regulation' agenda which includes the Regulatory Scrutiny Board (RSB)" (Haar and Cann 2022). This draft indeed gives corporations many possibilities to escape liability and makes it challenging for victims to demonstrate a company's wrong-doings. An in-depth analysis of the proposed Directive holds that the current draft has failed to take onboard opinions expressed by the European Parliament's Committee on Foreign Affairs (AFET) and Subcommittee on Human Rights (DROI), that it "falls short of the expectations of the UNGPs, and existing EU legal obligations as well as policy commitments", and that it would need to address a number of shortcomings to warrant its effectiveness and impact (Methven O'Brien and Martin-Ortega 2022, 27). Finally, in an open letter, Fairtrade farmers, workers, and businesses pointed towards the need to put the engagement with rights-holders center-stage in new legislation on mandatory human rights due diligence (Asgharian, Braun, and Miller 2022), whereas the current draft of the Directive is failing to do so.⁷ In the coming months, the Commission's proposal will be discussed by the European Parliament and the Council. Both institutions will have the opportunity to discuss, amend, and eventually adopt the proposed Directive. The Directive will result in new or revised legislation in Member States, thereby harmonizing requirements across the EU. It has the potential to create a strong push towards a level playing field in the realm of mandatory due diligence and to have ripple effects well beyond the EU's borders into the Global South. According to Dorothy Lovell (OECD), "so long as due diligence laws are aligned with voluntary initiatives, it should drive uptake" (Lovell 2021). It will remain to be seen in the debates this fall, whether the final version of the Directive will go far enough to produce a paradigm shift, and whether it has sufficient teeth to have strong effects on the ground.

Beyond the design of legislation, the role of courts in the enforcement of due diligence laws is indeed central to their potential impacts. Human rights-related class action and litigation, although it is still nascent, is becoming increasingly common due to the growing framework on mandatory disclosure and standards of duty of care. Most of the parent companies that have been sued in their home jurisdictions, including when it is one of their suppliers or foreign subsidiaries that is involved in the offense, are so on the ground of allegations of negligence and misrepresentation. Most cases directly involving human trafficking on supply chains up until now have been filed in the United States. The types of litigation that have been filed in recent years, in the EU and beyond, can be categorized into three non-exhaustive categories. The first category is litigation for misrepresentation claims, which include cases such as the Sherpa and Action Aid France against Samsung (France), or the Okpabi v. Royal Dutch Shell Plc. case (United Kingdom). The second category consists of transnational tort claims, examples of which are Ratha v. Phatthana (United States) or Araya v. Nevsun Resources Ltd. (Canada). The third category involves criminal and regulatory actions for domestic instances of modern slavery. Examples of such litigation are cases such as Galdikas v. DJ Houghton Catching Services Ltd. (United Kingdom) and R v. Mohammed Rafiq (United Kingdom). The recentness of

due diligence laws pushes courts to seek out the best procedural regime for such proceedings. French courts are still grappling with the responsibility that injunctive proceedings under the 2017 due diligence law would fall under. The first substantive claim for damages filed on 3 March 2021 against Casino by 11 French and American NGOs proved a test case in that respect. The case was filed in front of the *tribunal judiciaire* of the town in which Casino has its head office – Saint-Étienne. It is only through Law No 2021-1729 of 22 December 2021 that the French legislator specified that all actions pursuant to the 2017 Statute should be brought before the Paris Civil Court (*tribunal judiciaire de Paris*). Beyond the procedural element, the decision of the courts on the alleged breaches of Casino, who allegedly knowingly purchased meat from providers involved in clearing the rainforest, will set a precedent in case law on the matter. It would potentially confirm a trend in disruptive judgments confirming the responsibility of corporations towards, first, the actions of their suppliers, and second, their own duty of care to society and the environment. In June 2021, the Netherlands pronounced a landmark judgment against Royal Dutch Shell. The Court ruled that Shell Plc. must reduce emissions by 45% by 2030 compared to its 2019 across Scopes 1, 2 and 3. In requiring these emissions with action obligation, the Court found that Shell showed an unwritten standard of care to society, in line with the Dutch civil code and human rights obligations, with a particular focus on the right to life. In understanding the standard of care, the Court specifically drew on a number of soft law instruments, including OECD Guidelines and the UNGP, and found that the corporate policy of Shell was not consistent with the global climate target to prevent dangerous climate change for the protection of humankind and nature. This verdict is groundbreaking and precedent-setting from three standpoints at least: it is the first time that a Court obliges a company to reduce its carbon emissions and to align its policies with the Paris climate accord; it affirms Shell's responsibility for its own emissions *and* those of its suppliers; and it highlights the nexus between environment and human rights. The issue of forced child labor or child trafficking hasn't been brought to Courts yet under due diligence laws, but could well surface in the wake of such landmark judgements.

The legislation on mandatory supply chain transparency and due diligence is a recent phenomenon and has in some cases not yet entered into force. It is therefore difficult to say how impactful it will be in driving down child trafficking. Corporate executives agree that it has been effective so far in increasing awareness among businesses (Interview 32, Interview 34, Interview 35) and in pushing them to analyze the child trafficking risks on their GVCs (Interview 32). According to experts on seafood supply chains, the amount of emerging legislation has managed to push the topic a little higher on the agenda of international corporations and to close a few loopholes in the US policy in 2016 by preventing products from forced labor coming into the market. More lawsuits are coming up claiming recognition and compensation for exploited workers, through increased pressure from the ground level claiming accountability (Interview 18).

Reactions are, however, mixed regarding the mandatory disclosure legislation adopted so far. The California Transparency in Supply Chains Act and the UK Modern Slavery Act are mandatory disclosure documents inviting businesses to “say what you do, and if you don’t do anything, then just say it” (Interview 35). Some businesses produce reports in the form of a single sentence (Interview 31).

Pretty candidly, the law requires that the company discloses; it doesn’t require the company to do anything. You can be in full legal compliance and say that you don’t do anything. So yes, we have a law, but it doesn’t really have a stringent level of requirement.

(Interview 34)

This effectively amounts to corporate self-regulation, by imposing simply that the company divulge their action with regard to their own social sustainability standards, and with no penalty for non-compliance. The Australian government, with its Modern Slavery Act 2018, “seems to think that they are miles ahead of the UK” (Interview 35). Yet, while it was applauded for being “the strongest legislation in the world” (Jenn Morris, CEO Walk Free Foundation, cited in Guilbert 2018), it missed the opportunity to set up an independent anti-slavery commission and to impose financial penalties for companies in breach of Australia’s Modern Slavery Act. Governments are still experimenting with these types of laws. The UK government announced a review of its Modern Slavery Act in July 2018. As of July 2022, it was undergoing its first reading in the House of Lords.

Until now, corporate due diligence laws to curb trafficking and exploitation have been believed to rely on the fear of reputational risks to the brands.

But how many customers go wading through websites to check ethical standards?

To those businesses that are not focused on ethics, the UK Modern Slavery Act hasn’t made a jot to how they operate. For more future-focused businesses, it gives them a good direction of travel; it prepares them to invest more in supply chain ethics.

(Former Head of Ethical Trade at a major international retail company (Interview 31))

Across the board, interviewees agree that well-designed legislation with teeth, and the implementation mechanisms to back ambitions, will be instrumental in driving child trafficking – and broader exploitative practices – out of GVCs.

Laws can be very helpful because it galvanises people around legal issues that are less debatable than human rights morality. It helps fight practices that are engrained. For instance, in some places people have always paid to get a job. That, in itself, if done right, is the conversation that we need to have, so we can point to people the [legal] risk of not focusing on this. I would assume

that 99,99% of corporations are trying to follow the law (...) If laws are well written, it will galvanize [entire sectors].

(Interview 31)

A first step to improve the effectiveness of these laws would be for governments “to define what level of due diligence they expect” (Interview 31), to measure and to document outcomes (Phillips 2015). “Then, if standards are not met by companies, apply sanctions” (Interview 31). The executives in MNEs interviewed for this study all argue in favor of a “level playing field”, which would promote the uniform development of an international standard on forced labor applying to businesses globally. “It would be good management, whether at the ILO or UN level, to bring everyone up to standard. Carrefour works with the International Federation of Human Rights to define a shared international standard” (Interview 32). MNEs that take up ethical issues look unfavorably on others that do not have the same requirements as them and are nevertheless their direct competitors. “An international legal standard should be the level playing field. Beyond that, specific problem-sets on child trafficking should be dealt with by corporations or by multistakeholder initiatives involving private, international and public actors” (Interview 32). Recent due diligence legislation and the upcoming Dutch ICSR law and EU CSDD Directive have the potential to move the ball in the right direction by introducing increased coherence between voluntary initiatives and legal standards across the globe.

6.2 Power dynamics in MNEs’ GVCs as vectors of norm transmission: leveraging power structures to achieve the implementation of anti-(child)trafficking policies

A central discussion in the literature on corporate sustainability concerns the coherent management of the multiple international and national governance instruments in the field of anti-child trafficking – and social sustainability more widely – through the use of meta-governance instruments (Zelli and van Asselt 2013; Derkx and Glasbergen 2014). The IPE literature suggests that meta-governance instruments can be usefully approached through the concept of “public orchestration” (Ponte 2020). The implementation of corporate anti-trafficking responsibility mechanisms is promoted, first, through *directive* orchestration instruments, such as international and national laws, codes of conduct and mandating principles (see above); and second, through *facilitative* orchestration instruments, which involve influencing, facilitating and networking with other stakeholders in key initiatives or groups, or providing ideational resources and material (Ponte 2020, 3, 9). These meta-governance tools have been largely studied separately in the literature. Less work has focused on how the combination of orchestration tools and the variation of direct/indirect tools and soft/hard power play out (J. F. Green 2014; Abbott et al. 2015; Ponte 2019). Power in most research on GVCs has been understood to manifest itself in the bargaining relationships between firms, in particular in those between “lead” firms and their

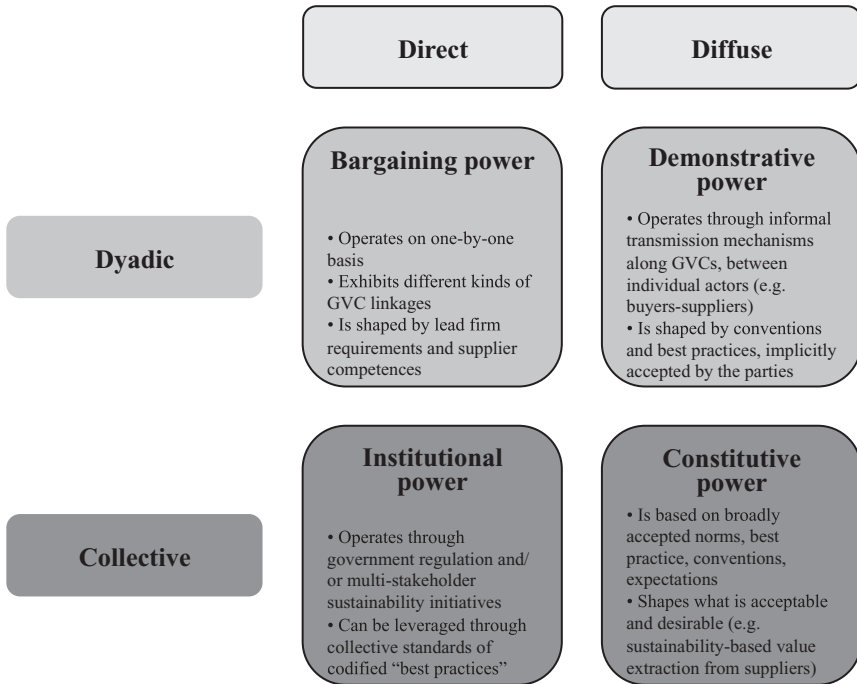


Figure 6.1 Power in global value chains. *Source:* Adapted from Dallas, Ponte, and Sturgeon 2019; Ponte 2020.

suppliers (Gereffi, Humphrey, and Sturgeon 2005). I contend here that, based on field narratives, actors form in dyadic and/or collective arenas, while the transmission of power can be schematically described as being direct and/or diffuse (see Figure 6.1).

We use this framework to examine some of the power dynamics at play in the orchestration of anti-child trafficking policies on GVCs by public and private actors.

6.2.1 *Collective initiatives: multistakeholder partnerships and sectoral agreements*

The landscape of collective initiatives is very varied: impulsed and operated by governments, international organizations, business associations, or operating at a more diffuse level through accepted norms and behavior, they can have a significant effect on the sustainability practices of MNEs partaking in them.

Collective initiatives foster standard-setting and best practices among participants. Institutional power manifests through multistakeholder sustainability initiatives, which bring together varied institutional, corporate and civil society actors,

who reflect upon, share and apply best practices in a shared forum. At the global level, international organizations lead multistakeholder initiatives. The UN Global Compact Labour Working Group has a dedicated Child Labour Platform. It brings together international bodies (e.g. ILO, UNICEF), private sector and NGOs, who “work together about prevention efforts, policy developments, best practice guidance, advocacy” (Interview 34).⁸ In 2016, in Davos (Switzerland), the World Economic Forum established a taskforce on “Public-private partnerships and human trafficking”, with a specific focus on forced labor (Interview 5). This follows a number of other initiatives, led by transnational organizations, to bring together multiple stakeholders on the issue of human trafficking at Davos. The intent of those multi-stakeholder projects at Davos was to reflect on the difficulties to prosecute cases of trafficking for labor exploitation, on the state of the illicit economy, and on the links between illicit trade and organized crime.⁹ Europol, for instance, mentions working with small online partners on the fight against supply-chain trafficking and taking part in the Thomson Reuters Foundation initiative “Bankers against Trafficking” (Interview 5). Indeed, the members of smaller working groups, such as the Centre for Child’s Rights and Corporate Social Responsibility (CCRCRSR), tend to “get a bit more tactical about how to treat issues”, as the contained space and fewer participants can allow for easier sharing of guidance to identify child exploitation, and share best practices (Interview 34). In Southeast Asia, the Bali Process has set up a “Government and Business Forum”, led by the Australian Walkthrough Foundation, the objective of which is to clean up supply chains (Interview 11). The representative of a mass-retail corporation explained:

most of our engagement happens with public sector players and NGOs. It differs by countries, but most NGOs are very well versed on the issue [of child trafficking on GVCs] and a lot of them – UNICEF (*sic*) and others – are well aware of the mechanisms and work very hard to counter them.

(Interview 34)

At a sectoral level, stakeholders seem to increasingly come together around shared initiatives concerning social sustainability practices. These fora serve to share challenges and best practices regarding child trafficking on GVCs among professionals facing similar problem-sets. While these relationships are based on initial common norms and expectations, they partake in a dynamic process that further redefines, refines, and produces the prevailing norms and anti-trafficking practices in their specific business sector. Voluntary and non-binding, sectorial initiatives can be classified as constitutive power. They contribute to creating a level playing field by fostering buy-in on jointly defined standards, which are then largely applied by participating members (Interview 32), incentivized through a combination of logics of arguing, appropriateness and consequences (March and Olsen 2011; 1989; Risse 2000). Large collective initiatives most mentioned by interviewees, and which seem to be dynamic, driving forces in the area of anti-trafficking on GVCs, are The Code in the tourism sector (Interview 21, Interview 26, Interview 31), in electronics (Interview 31, Interview 35), and the ITA base

code, the NINE base code, and the Initiative for Compliance and Sustainability (France) in the textile and apparel industry (Interview 31). Although child trafficking as a single issue “doesn’t rise to the top of the agenda” unless it is coupled with broader concerns such as forced labor (Interview 34), “some forward thinking brands, retailers and sectoral collaborative associations are focusing on child trafficking. Through the Responsible Business Alliance (RBA), companies in the electronics industry set standards amongst themselves” (Interview 31). The functioning of such initiatives varies. At the RBA, corporations

are working to see auditors are clear on [MNEs social sustainability] expectations. Up to 2013, there was quite a heavy focus on child labour and hazardous work, to make sure it didn’t just mean working in a mine. We expanded it to include night shifts, long hours... we defined things back there [at the RBA] and got the [electronics] industry aligned on that. Since 2014–2015, our focus is on general forced labour: to prohibit fee charging (whether it is allowed in local culture or not), the holding of passports, contract substitution, ... The industry code of conduct went to “no fees” in 2016.

(Interview 35)

The latter decision occurred early on in the international discussion process on the charging of recruitment fees to employees, ahead of the examination of the implications of such measures by expert committees. It highlights the leadership role and dynamic nature of these initiatives, which serve as laboratories for testing new initiatives, as well as their common limit: a shared lack of expertise. Anti-trafficking policies on GVCs are “new for all businesses. If they have no experience of doing it before, how are they going to set standards and operationalize them?” (Interview 31).

Collective initiatives play a decisive role in driving social sustainability standards up. They are essential in finding creative avenues to implement them. Business executives acknowledge the beneficial effects of such transversal multistakeholder initiatives, contending that they are of good support to galvanize corporations in their due diligence efforts by creating emulation. Referring to the rapid adhesion of hotel chains and airline companies to The Code alliance, my interlocutor at the IOM mentioned: “Competition amongst peers is something that motivates companies: if competitors have made significant strides in this area, it pushes others to comply” (Interview 21). This can be seen from a regulatory standpoint, in particular in contexts where new anti-trafficking legislation is applied. The President of RSE et Développement advises businesses to identify the collective initiatives that correspond to the needs of the corporation, as they can provide assistance to help them check whether they cover anti-trafficking risks and abide by due diligence standards (Interview 33; Brohier-Meuter 2017). It is also evident in practice. Verifik8 for instance works on aquaculture improvement projects in Vietnam with the World Wide Fund for Nature (WWF) and with the Aquaculture Stewardship Council (ASC), which has recently developed strict certification standards for shrimp farming. It was in particular approached by a Danish buyer looking to purchase shrimp directly from small producers that apply strict social and environmental

sustainability standards (Interview 22). Trustworthy intermediaries such as the small-scale initiative of WWF-ASC-Verifik8 offers avenues to navigate complex markets for international buyers. To obtain concrete results, “the best method is to avoid coalitions in the countries where prime contractors are based, but to build coalitions that resolve precise sets of issues” regarding child exploitation on GVCs, across contracting and subcontracting locations (Interview 32).

The dynamics of institutional power and constitutive power play out at different levels and are multi-directional. MNEs feel that government involvement is particularly important in countries hosting the final subcontractors of GVCs (Interview 31, Interview 32). “What’s very effective to fight a battle is to round up. When the whole sector focused on Bangladesh 4–5 years ago on the issues of workshop fires and safety, there was a sharp increase in the level of factory safety. When stakeholders came together on the fishing and shrimp sector in Thailand, geomonitoring systems were put in place”. The approach Carrefour declares to adopt is to seek collaboration with governments. “If the government doesn’t cooperate, we stop the relationship with the supplier – we’ve done it with fisheries [in Thailand], and with paper and pulp suppliers [in Indonesia]” (Interview 32).

Collective initiatives are playing a crucial role in setting standards and reshaping the practices, norms and operations pertaining to anti-child trafficking measures on GVCs. While at the moment multistakeholder initiatives are in large part at the initiative of big players, interviewees stressed the importance, in their view, of suppliers taking ownership of these processes. A former corporate executive working with NGOs vividly reacted about suppliers:

What are they doing? Why are they not coming together and demanding change to their customers’ way of working? They don’t collaborate with their peers. If suppliers are interested in the human rights of their employees, why are they not coming together? It has to be done on a global base, not country by country. We should start at the top, organize a supplier-borne initiative across Asia or across the sourcing world.

(Interview 31)

There is no one single explanation for the apparent silent compliance to difficult working conditions for suppliers, that then are reverberated onto their employees. The blame can be attributed to a lesser concern over human rights, in particular those of foreign workers (see previous chapters on this matter), to a culture of acceptance rather than protest, and predominantly perhaps, to a very competitive and price-sensitive market in which the power balance is not in the favor of downstream GVC suppliers.

6.2.2 Dyadic relations of buyers-suppliers and consumer-MNE: regulative ripple effects

Dyadic relations in GVCs indeed seem to indicate that the power balance tilts primarily towards MNEs. Although there is an assumption that consumer sensitivity

to human rights concerns plays a significant role in encouraging MNEs to curb child exploitation in their GVCs, it is only limited in practice. The power balance is thus not so clear. In the relation between buyers and suppliers, the mostly top-down relation solidifies in the form of direct bargaining power and more diffuse demonstrative power.

When asked about the mechanisms that would guarantee the involvement of companies in anti-trafficking initiatives, interviewees broadly responded that drivers for change are primarily impact on brand value and bottom-line impact. The impact on brand value can be either positive, such as Fair Trade branding, or negative, linked to bad reports on human rights abuses. “Branding, and the reputation of the logo, is something companies are worried about” (Interview 25). “I believe business cannot run if people do not buy them” (Interview 25). There are a few examples of the exertion of consumer-MNE power struggles concerning social sustainability. When child trafficking was discovered in the supply chains of Starbucks and Nike, the brands were boycotted in Thailand, which led to campaigns on the part of the international brands to clean up their reputation and build back customer trust (Interview 20). This would be linked to a growing consumer economy in Thailand, in which green items “are becoming a selling point. Ethical stuff could be a thing in the future” (Interview 27). At present, however, the backlash of media reports on brand value is not as important as generally believed to be, as exemplified by the several examples cited in Section 5.3.1). Interviewees indicate that the impact of reputation on changes in consumer choice might not be as spectacular as policy-makers seem to think. “I don’t think the consumer side has done a lot. Certainly there are groups out there like Humanity United¹⁰ that work on chain products and who try to get institutional investors to care” (Interview 35), but the impact at the level of consumers is scarce, for two main reasons. First, there is an appetite to buy responsibly in some markets but the price of a product remains the prime consideration of the majority of buyers over social sustainability practices. Even in the wake of international scandals such as the deaths in late 2012 of workers in garment factories in Dhaka, Bangladesh, and the discovery of exploitation on the GVCs of popular retailers such as Walmart and Primark, consumers in the United States (Mayerowitz 2012) and the United Kingdom (Fishwick 2014) declared that the evidence of human exploitation would not deter them from buying the products they wanted at the price they wanted. The second limit to consumer-driven change is cultural. The idea that consumers hold sway over MNEs and care about social responsibility of businesses is anchored in the assumption of South-North GVCs with Western consumer markets. However, GVCs are no longer predominantly South-North, but are increasingly regional (Kaplinsky and Farooki 2010; Gereffi and Sturgeon 2013; Guarín and Knorringer 2014; Phillips 2015). This has a significant impact on the potential power of consumers in swaying MNEs’ business models. “I don’t know how effective it is, because in Asia people think differently. I’m not sure if naming-and-shaming would work in this region” (Interview 28). In addition, “concerns about social and environmental ethics in production and

trade have far less of a foothold in the ‘newer’ consumer markets of Asia and Africa, for instance, than they do in Europe”. Consumer markets in Asia are concerned with *product* standards, but rarely with *social* standards (Phillips 2015, 21). Therefore, while reputational risk is a concern for MNEs, as established earlier in this chapter, it is not a real driver, because the risk doesn’t rise to a significant level of materiality, and therefore doesn’t hold sway in the consumer-MNE relationship.

Power dynamics in the dyadic buyer-supplier relation is much less equivocal. As the contracting authority, the buyer – whether an MNE or smaller corporations further in the supply chain – holds the reins of power, be it direct or diffuse. However, this power is ambivalent and cuts both ways. “Buyers play an important role [in driving child exploitation] by putting pressure on their suppliers”, while at the same time requesting from their subcontractors that they apply ethical social practices, and “expecting the cost of ethical work to be included in the price” (Interview 12). The price crushes conduce to vicious circles of excessive bargaining power: the demands emanating from a majority of MNEs push subcontractors to pass the price-squeezes down into the supply chain, while at the same time MNEs demand from them that they respect sustainability standards – which necessitates to drive up the costs of production – without accepting to reduce their margins or change the GVC model. In some markets, price crushes are untenable. The question of the price of seafood products, for instance, is particularly sensitive in the American market (Interview 12). If the suppliers don’t follow the price requests, MNEs don’t purchase. If the attitude is flipped around, the dyadic power relation between buyers and their suppliers has the traction to change the playing field, according to Mark Lagon, former US Ambassador-at-Large of the Office to monitor and combat human trafficking. “Likewise, if they say, ‘abide by the rules, otherwise we won’t purchase’, it sends a very powerful message” (Hodal and Kelly 2014) – provided that MNEs implement means to check the adherence to the social sustainability rules they demand, that they provide sufficient financial and logistical breathing room to do so. Beyond bargaining power dynamics, buyer-supplier relations also display substance demonstrative power. MNEs increasingly request that their suppliers comply with their own codes of conduct, phrased in ideational language under the “shared value” business school mantra (Porter and Kramer 2011). “The ILO definitions of Worst Forms Of Child Labour and Forced Labour are written into our Supplier Code of Conduct” (Interview 34). The imposition of standards on suppliers is sometimes accompanied by soft power measures to educate suppliers about possible changes in their business models to achieve anti-trafficking effects.

We proceed through light touch for the Tier 1 suppliers, through a monthly newsletter, webinars and annual reminder letters on what training is out there, NGO stories, new legislation, ... The objective is to keep people learning and keep the topic of CSR top of mind, because often there’s a peek in interest and then it goes away.

(Interview 35)

MNEs that take on the topic of CSR broadly, child exploitation more specifically, can display substantial demonstrative power through such practices, by educating and accompanying their suppliers in their process changes, searching for reliable partners and imposing standards. Their influence does not extend far below the Tier 1 suppliers, however.

Our Tier 1 suppliers are very sophisticated, they know not to engage in illegal or immoral activities. It is very infrequent that we come around child labour or child trafficking. We do understand that if there were a higher likelihood or presence of abuses, it would be in the informal economy, outside of traditional factories. We have developed programmes on that.

(Interview 34)

The difficulty is to ensure that anti-child trafficking measures are cascaded down into the supply chain, without creating further sustainability-driven supplier-squeezes. It's the story of the snake biting its own tail, where MNEs have a strong responsibility in initially instituting the vicious circle of child trafficking, yet declare being powerless in stopping it.

Despite the unidirectional power that seems to be binding the buyer-supplier dyad, MNEs are faced with a limited control over the entirety of their GVCs. It explains the previously mentioned request emanating from most of the MNEs spoken to, to have stronger regulatory levers to push their suppliers in the social sustainability direction by their admission that “we have no choice, we must abide by the law” (Interview 35). MNEs hold the purse strings, but suppliers hold the production power. The change doesn't only have to come from the top, it can – and perhaps should, as Interview 31 mentioned above – come from the bottom-up. There are indications that the power balance is shifting slightly. In the cocoa market, in Ghana, producers have come together to establish a minimum price, which buyers have to accept, “take it or leave it”. Such practices are moving the table around. Similar attitudes were demonstrated at state level in Mongolia in the 2000s–2010s. In the (fierce and lengthy) negotiations with international mining, oil and gas exploration corporations, the government imposed minimum prices that were higher than the international market, and minimum quotas of national staff on the exploration and extraction sites.¹¹ Such initiatives are not possible everywhere at the moment, but there are good signs that they are starting to make a difference in the Global South.

The display of one type of power alone doesn't have sway over engrained child exploitation practices and models. When pursued in combination and supported consistently across the board by powerful (state or private) actors, the socialization of actors into social sustainability models can be significant. This has been documented to lead in turn to changes in business models of GVCs, especially when combined with financial imperatives.

6.2.3 “It has to come down to the bottom-line”: economic sanctions for States, the cases of the EU Yellow Card and US TIP downgrading in Thailand

“It has to come down to the bottom-line”, insisted a senior corporate executive (Interview 31). The one consequence that prompts rapid changes in business model with regard to child trafficking in corporations at all levels of the GVCs, from the top MNE management to small producers, is bottom-line impact, whether through incentives (Interview 20) or sanctions (Interview 21, Interview 23, Interview 29, Interview 30). When supported by financial injunctions, the combination of dyadic and collective, direct and diffuse power relations has rapid traction. The “yellow card” issued to Thailand by the EU, and the simultaneous downgrading of the country in the US TIP report, is a prime case study in that respect, as it prompted a significant overhaul of anti-trafficking measures on Thailand’s supply chains. This section will provide a short summary of the case, its implications for Thailand, the measures adopted in consequence, and their immediate and putative long-term effects on child trafficking.

In June 2014, newspaper *The Guardian* published an exposé denouncing trafficking of migrants, mainly from Myanmar and Cambodia, working on Thai fishing boats. A few days later, the US Department of State downgraded Thailand to Tier 3, its lowest classification, in its annual TIP report, thereby putting it on a par with North Korea and Iran, and putting the country at risk of a downgrade in its trading status with the US. In April 2015, the European Commission issued a “yellow card” to the Thai government, prompting it to seriously tackle illegal, unreported and unregulated (IUU) fishing, as well as human rights abuses in the fisheries sector within six months. In the absence of sufficient reaction, Thailand would be issued a “red card” with corresponding trade sanctions banning Thai imports into the EU, which could have cost Thailand’s seafood industry up to USD 500 million (Arkkarayut 2015). “Trafficking and illegal fishing are related problems in fishing in any case” (Interview 12). As a joint response to both problem-sets, the Royal Thai Government initiated a series of reforms, aided by international projects such as the European Union-funded ILO Ship-to-Shore Rights Project,¹² launched in 2016, which galvanized the efforts of the Thai government, employers’ and workers’ organizations, and civil society around the same objectives:

- (i) strengthen the legal, policy, and regulatory framework;
- (ii) improve the labour inspectorate’s ability to move against forced labour and other rights abuses;
- (iii) improve compliance with ILO core labour standards and establish a complaints mechanism across the supply chain; and
- (iv) increase access to support services for workers, especially victims of labour abuses.

(ILO 2020a)

The legal framework has changed the most rapidly, with discussions starting as early as 2014. Thailand ratified the ILO Protocol of 2014 to the Forced Labour

Convention 1930, and the Work in Fishing Convention 2007 (No. 188) in 2018 and 2019. It also developed a more comprehensive domestic legal framework, through the adoption of the Royal Ordinance Concerning the Management of Employment of Foreign Workers (2017), and amendments brought to the Prevention and Suppression of Human Trafficking Act 2008 and the Labour Protection of Work in Fishing Act. In relation to child trafficking specifically, the new legislation bans all minors under 18 from working in the fisheries and seafood sector, apart from the possibility of a few apprenticeships from the age of 16 at quay (Interview 12). While these regulations theoretically protect children from being trafficked on vessels, it displaces the risk for minors to be exploited on land, to the ports (Interview 12). Monitoring of the sector is thus of crucial importance. The Director of Sustainability of an international seafood business operating in Thailand testifies that buyers and producers were placed under the obligation to solve the problems of trafficking and IUU fishing. The government set up a seafood taskforce to this end. Thailand's Department of Fisheries, in cooperation with the private sector, set out to improve its capacities to control fishing boats through electronic surveillance, monitoring of fish landing stations, and checking the situation of workers on fishing vessels. Boat owners now have the obligation to declare the composition of vessel crews, supported by work permits and identity papers. The Department of Fisheries, the maritime police and coast guards inspect boats at-sea and in-port based on these declarations (Interview 12). Inspections are overseen by multidisciplinary teams coordinated by the Royal Thai Navy's Command Center for Combating Illegal Fishing (CCCIF), via the Port-in, Port-out (PIPO) system. Thailand's progress was recognized internationally (Interview 12). The EU yellow card was lifted in January 2019, and Thailand's ranking on the US TIP report climbed back up to Tier 2 Watchlist in 2016 and 2017, and improved to Tier 2 in 2018 and 2019.¹³

The EU yellow card and TIP report have been applauded for managing to whip the Thai state into line on IUU and trafficking. Conditionality "had positive effects" because there were "lots of consequences for trade" and "no one likes to be at the bottom of the scale" (Interview 23). "Conditionality seems to work: there's a desire (to be seen) to be doing something. What other option do they have? (...) The Ship-to-Shore project is great. Thailand doesn't love it, but it has impact" (Interview 26).¹⁴ These conditionality mechanisms seem to have had a particular influence, compared to other attempts to promote anti-child trafficking policies in Thailand. "The current government showed great sensitivity towards slavery in the fisheries, that they have not shown towards other areas where the international community has shown great concerns (for instance, the democratic process). Therefore, yes, it has relevance" (Interview 27). Touching on economics and business interest has a lot of influence and can be directly linked to the government's efforts to tackle trafficking in the fisheries. Industries drive the national agenda, whereas directly touching upon social issues may be too sensitive (Interview 25, Interview 26, Interview 27). Some professionals warn that because the changes were "undoubtedly politically driven, we should take them with a pinch of salt" (Interview 23), while the political nature of the

process “doesn’t bother [others] too much” (Interview 26). The progress in the Thai anti-trafficking framework is indisputable, but its effects on children vulnerable to trafficking are less clear in practice, raising the question of whether the transformations are deep, or mainly cosmetic. Reports have shown the inefficiency of controls currently in place, with boat owners bragging about how they managed to get unauthorized workers through PIPO inspections (Murphy 2018, 106). Some actors question the long-term sustainability of those practices, which focus mainly on a single sector and haven’t sufficiently mobilized local communities and provincial authorities (Interview 19, Interview 29). Others insist on the unintended consequences that the rapid overhaul of the fishing sector and renewed anti-trafficking policies and legislation have caused on (potential) child trafficking victims. New regulations have a knock-on effect on migration movements, making it more difficult for Rohingya refugees to reach Thailand (UNHCR) and therefore increasing their likelihood of being trafficked. According to the head of an anti-trafficking NGO in Thailand, the economic pressure fragilizes companies in the fisheries and encourages them to exploit their workers even more to make ends meet. It would make more sense, according to him, to keep a precise list of corporations accused of exploiting workers and maintaining the pressure on them (Interview 17). Overall, anti-trafficking measures in Thailand suffer from consistency, which renders already fragile workers, including children, even more vulnerable to exploitation. “Every time they change their policy, it’s a case of one step forward, two steps back. They don’t have expertise in understanding the issue, and are hugely swayed by business interests” (Interview 31). In 2020, just a year after the withdrawal of the EU yellow card, a new piece of legislation is threatening to undo many of the legal and policy improvements consolidated in the five preceding years.

A new Thai legislation, “Chapter 83”, is about to be brought out. It will allow the fishing industry to approve demand applications from migrant workers, thus by-passing the centralised process. The government is trying to make it easier for businesses in the fishing industry to employ migrant workers, but it’s hugely risky (...) it allows businesses to get around many of the agreement terms [on child trafficking defined in the legislation]

(Interview 31)

What the case study shows, first and foremost, is that bottom-line impact, whether at the level of a country or of corporations, drives rapid change, but that these changes are questioned in their effectiveness of driving child trafficking out of GVCs, not least by their effective implementation.

Section 6.2 has demonstrated the beginning of a paradigm shift regarding child trafficking in MNEs’ GVCs. Increasingly, new regulations attempt to bridge the divide between GVCs that are global in their scope, and the responsibility of MNEs. This is partly underway through more stringent national laws that impose a responsibility on MNEs towards human rights breaches – including child trafficking – in their downstream operations. The elements

of extra-territoriality contained in the recent UK Modern Slavery and French Due Diligence laws enable due diligence to cut across borders. The increasing amount and reach of international legal instruments tighten the noose around child exploitation in GVCs (Interview 22). The EU's upcoming CSDD Directive could play a crucial element in this realm, if it comes with sufficient teeth. There is still some way to go to create a systematic and coherent global canvas of laws that would ensure a level playing field for MNEs and efficient anti-trafficking measures throughout their GVCs, however. The role of regulation is limited if laws have no teeth, while consumer and supplier education can only go so far in tackling child trafficking in GVCs if buyers do not make room for pricing to go up. In a competitive global market, the driver for the survival of small businesses, and further up the supply chain, for exports, is indeed the price. It is therefore essential that regulation and collective action are combined and coherent, for the sake of efficient and effective implementation of anti-child trafficking measures on GVCs.

A key element that is not sufficiently acknowledged in the literature to date is the articulation between ethical consideration and business imperatives. In line with Milton Friedman's obsolete theory that "The Social Responsibility of Business is to Increase Its Profits", many of the public stakeholders interviewed tend to view corporations as being solely motivated by profit. While there is an element of functional truth to this assertion at a structural level, at the level of individuals, ethos plays an important role. The balancing act therefore plays out at the level of articulation between business viability and ethical considerations. "People try to do the right thing and are concerned by humanitarian norms (...) but it is also important to make economic sense. They need to be able to do the right thing, for their benefit as well" (Interview 25). Indeed, an increasing number of reputable researchers argue that the distinction between economic and social goals is a false dichotomy (Porter and Kramer 2002; 2011) and that corporate executives view their engagement with human rights as a moral imperative (*The Economist* Intelligence Unit 2015). Interviewees insist that the moral imperative is a driver in the decision-making process, even if it needs to be at a minimal level articulated with business proceedings (Interview 34). The IOM even reports that corporations "have done work with the IOM that doesn't benefit them financially, and from which they do not gain any publicity-boost, because it is quite clear for reasons of victim-protection that these cooperations shouldn't be made publicly available" (Interview 21).

The question of implementation of anti-trafficking mechanisms on GVCs cannot be limited to a lack of incentives. It goes beyond the degree of authority that public authorities exert over MNEs to whip them into line, but touches upon the authority that corporations exert over their own GVCs in a globalized economy, and their actions to fight child trafficking at all levels of their operations. Combining those understandings of the intersection of private and public governance is necessary to multiply the tipping points at which the transnational public concern over child trafficking in GVCs can become a corporate interest.

6.3 Anti-Trafficking Inc.: taking control over (the deep tiers of) GVCs

It doesn't do us great benefit to know that trafficking is going on, that people are disadvantaged in that way. The more we find out, the more uncomfortable we become. We want to sort the problem out in Thailand, because there's no doubt that commercial interests have created much of this problem, and it will be to the commercial aspects of the industry that the solutions will have to come,

acknowledges Bob Miller, the UK Managing Director of Charoen Pokphand (CP) Foods, to *The Guardian* (Hodal and Kelly 2014). CP Foods is Thailand's largest private company and one of the world's largest conglomerates. It is the country's main shrimp sourcing company, and was at the center of *The Guardian's* 2014 investigations on slave labor in Thailand's fisheries and seafood sectors. The clear acknowledgment of the role of large corporations in actively supporting exploitation and slavery-like practices by not paying the correct price, comes with the opposite correlation: MNEs, supermarkets, and generally large corporations have the power to actively fight child trafficking if they put their mind to it. What is more, major changes must come from within the private sector for anti-trafficking policies to be effective on a larger scale.

There is a good awareness of the issue of child trafficking on the part of leading actors, but many companies haven't started to work on the issue. The private sector contends that most do not know how to take the next step, and have no clear vision on what solution is adapted to the size and model of their business. The capacity to take action therefore seems constrained in the solutions offered (Interview 18). The anti-trafficking field is burgeoning. Anti-trafficking policies on GVCs are recent, as has been noted previously in this chapter, and new solutions are regularly being proposed and implemented. These solutions come from all stakeholders involved in anti-trafficking – public authorities, civil society, or the corporate world. This section explores two types of current practices envisaged and tested by MNEs on their GVCs: practices to conduct due diligence over GVCs and gain oversight of the full production cycle (6.3.1), and policies that are meant to remedy the risk of child trafficking in GVCs (6.3.2).

MNEs rarely have knowledge of – let alone influence over – suppliers beyond the first tier. GVCs are lengthy and complex. A key challenge to efficient anti-child trafficking on GVCs therefore starts with gaining oversight over the full chain of suppliers. A variety of models have been tested in the past years, largely relying on third parties to map supply chains and find adequate partners. With the exponential growth of green labels and the associated increase in bluewashing practices, MNEs are increasingly testing new technologies to gain control over their GVCs.

6.3.1 The reliance on NGOs as investigators and upholders of justice: hybrid governance 3.0

Public authorities in general lack oversight over GVCs. For regulatory, human resources, or technical reasons, government audits are deficient – or, at minima,

insufficient to detect child trafficking systematically – in all the countries analyzed for this study. Where public authorities exert insufficient oversight over GVCs, private mechanisms must take precedence. “Very few actors know how to do the work” (Interview 31), which in practice limits the reach of investigations from most MNEs and public authorities to the official workers, but leaves unofficial, underage trafficked children far out of sight of auditing mechanisms. To fight trafficking in GVCs, it is essential to gain access to the children that are exploited. As a consequence, States, first and foremost, but also MNEs, heavily rely on NGOs and investigative journalists to find child trafficking loopholes in GVCs. Several interviewees acknowledged the importance of whistle-blowing from journalists and civil society (e.g. Interview 18, Interview 19, Interview 31). The International Justice Mission was one of the actors most cited by corporate actors and civil society organizations. “They do a lot of work with locals, prosecutors and enforcement teams”. The work produced to detect and prosecute violators is

changing incentives for trafficking into disincentives. What they’re seeing is that, once people are held to account, the illicit activity stops because it is no longer worth the risk; and if the money is not there, people will divert their attention elsewhere.

(Interview 34)

MNEs are relying on such sources of information to clean their supply chain. Because “it is difficult to identify links between small suppliers and bigger suppliers”, “big suppliers like Tesco or CP, [who] are careful to include anyone in supply-chain, (...) rely on NGO or other reports” to make their decisions “to correct problem or cut a supply chain” (Interview 16).

The capacity to elicit trust from exploited workers is a key driver in an organization’s chance to identify important proportions of trafficked children. As demonstrated in Chapter 3, being identified as a trafficking victim can do more harm than good. Trafficked children need therefore an incentive to come forward as victims, and trust that they won’t be harmed more by the process than by staying in an exploitative situation. Representatives from Cambodian and Myanmar workers’ associations indeed insisted during our conversations at a three-day conference in Bangkok, Thailand, in November 2018,¹⁵ that if workers don’t know for sure that they’ll have remediation, they will not speak out. One organization in ASEAN that has been pinpointed by several interviewees as being capable of delivering such services is the Issara Institute, an NGO based in Southeast Asia that creates alliances between workers, civil societies, private sector and government actors to tackle human trafficking and forced labor on GVCs.

I did a lot of work regarding migrant workers at Pentland. One of the reasons I wanted to work with Issara, is because it is the only agency I know of globally that can actually facilitate and deliver ethical migrant recruitment on supply chains, thanks to their relationships with job seekers and recruits. It is only through direct lines of communication with job seekers,

from the moment they decide they need to find a job, that you can deliver ethical recruitment. Because as soon as they decide to find a job, they will contact a recruitment agency. From that moment on, they're at high risk of debt and exploitation. They need channels to report debt and exploitation. Due to Issara's network of civil society partners throughout Myanmar and Cambodia, and through the active distribution of communication channels (smartphone apps and multilingual hotlines), they're the only organisation I know who can provide a constant link to job seekers, so that they can report the minute they are under pressure.

(Interview 31)

The Issara Institute has contractual relationships with the buyers and the suppliers, allowing them to have constant access to workers and to be able to report abuses in the recruitment process or in the workplace directly to both the buyer and the supplier. In the event of trafficking, exploitation, or abuse, the buyer can help leverage supplier change, and Issara can work on remedy with them. If the supplier is reticent or slow, the buyer is brought into the discussion. Issara asserts that its practical, political, linguistic, and legal expertise, as well as its deep relationships with corporate actors, workers' voices, and with government departments in sending and host countries in Southeast Asia, are essential to deliver efficient anti-trafficking monitoring for migrant workers in the region.

The increasing reliance on intermediaries between MNEs and their suppliers, who are contracted and funded by private entities to ascertain the good practices on their operations, raises possible questions of conflicts of interest. While it is necessary to recognize that it is often the connection to all the actors in the chain of action that enables them to detect trafficking situations, these actors walk a fine line to maintain their independence and continue to be trustworthy actors for trafficked children. The expert from the ILO whom I spoke to mentioned that she is becoming more and more concerned about organizations

not dissimilar to Issara, that are both being funded by the Foundation of big corporations, and meant to conduct Compliance and Research on their GVCs. How does this not collide? Walmart Foundation is funding the research and Walmart is then using the findings for their supply chains. It's like long-line shipping. Nothing is done to bring standards across entire countries up.

(Interview 26)

The perspective of MNEs to ensure that their operations do not collide with child trafficking practices, although a good first step, corresponds to a tunnel vision. To be efficient and durable, these measures should interact with national legislation and national audits. Public authorities have an essential role to play in that area, in cooperation with private actors, to tackle anti-trafficking governance across GVCs. The ILO was trying to have a conversation with the Myanmar government when we last spoke, mentioning the difficulty of bringing a political government to have an open discussion with big corporations on these issues. "It

is a very strange discussion to be having” (Interview 26), insisted my contact, thereby stressing the cultural upheaval that the governance of such transnational human rights concerns in the corporate sector are implying for all stakeholders concerned.

6.3.2 *Borrowing reliability and power-purchase: the temptation of green labels, the risk of bluwashing*

In a context of increasing public concern over human rights breaches in GVCs, MNEs are seeking to preempt problems on their GVCs by purchasing the image of reliability given by green labels. Corporations have gone from a space where they could claim anything they wanted about their practices, because there was next to no control, to a very sophisticated environment with various models of certification and accreditation. This started approximately 30 years ago with certifications in the environmental and social sectors that were easy to identify for consumers.

At the time, the improvement in the conservation of produce and the increasingly rapid and affordable global transportation networks led to an exponential growth in international trade volumes, which prompted the certification methods that are still largely used today. The postulate was that it would be impossible to verify all products at the borders, and that therefore, the only method to have oversight over the products was to check whether certain steps in the manufacturing process had been followed. Verifications would be conducted through internal audits, peer-to-peer review and annual external audits. If all controls came back clear, this meant that the manufacturing process was being followed satisfactorily and that the product was “99% safe” (Interview 22). This initial concern over product safety and consumer protection extended into ecolabeling. At the same time, the perceived failure of international and national law to control unsustainable practices in the various tiers of GVCs prompted some MNEs to rely on certifications to ensure the standards that they were seeking. “Starting from 1978, with the Blauer Engel, the 1980s were marked by the flourishing of a multitude of labels, brands and any other symbols or claims that could be exploited to highlight the presumed environmental quality of the products” (Iraldo, Griesshammer, and Kahlenborn 2020, 833). Labels such as Good Manufacturing Practices (GMP) and Hazard Analysis Critical Control Point (HACCP) take their origin in this reasoning. In coffee production, for instance, efforts on social standards, environmental and forest management questions were distributed quite clearly between certifications, in this instance the FairTrade, Birds Friendly, and Rainforest labels. In the past few years there has however been a proliferation of green labels, with new standards, varied sets of indicators and diverse degrees of auditing, leading to a separate market of verification and trust (Fouilleux and Loconto 2017; Ponte 2019). What leads MNEs to resort to scoring agencies or green labels, with what practical implications depending on the standards they chose?

Euronext is one of continental Europe’s largest stock exchanges. It is present in the regulated markets of Amsterdam, Brussels, Dublin, Lisbon, and Paris, and has

over 1,450 listed companies.¹⁶ An executive at Euronext explained to me that the challenge for corporations is to access reliable extra-financial data. The difficulty is in finding a standardized scoring to evaluate whether a company is Empowering Sustainable Growth or not. However, he stressed that in absolute terms, environmental, social, and governance (ESG) standards don't mean anything, as the issue is to define what is considered to be a green or a socially sustainable (blue) practice. There is for instance an accountancy treatment standard, but the financial sector hasn't found a reliable and standardized way of replicating this across issue areas. Having independent, standardized ESG rating agencies would be an interesting additional tool to incentivize corporations to comply, as a bad scoring would translate into increased financing costs for non-complying companies (Interview 36). There are a few rating agencies that deal with ESG on supply chains, such as Ecovadis in France. But as mentioned above, stakeholders are at present deploring insufficiently standardized, transparent, and comparable data in the area of ESG. Furthermore, it should be noted that ESG is a risk assessment of the potential impact of external factors on the enterprise. Conversely, responsible business conduct and sustainable corporate practices attempt to evaluate and mitigate the impact of enterprises on society and the environment.

On the one hand, some very strict standards are driving a race to the top. There are few examples still in the relatively new field of social sustainability, but in environmental sustainability, Stefano Ponte cites the Forest Stewardship Council (FSC) label in forestry. These strict certifications provide points of references with sets of indicators. On the other hand, a host of labels and certification agencies have emerged, offering the lowest possible standards to allow corporations to obtain some sort of certification rapidly. The main issues with many of those standards, whether targeting environmental sustainability or social sustainability in GVCs, is that it is originally aimed at the improvement of practices in those areas, yet that their impact is not measured; that they do not take into account the full life cycle of production; that they often collude on the lowest common denominator; and that the issuance of many labels, such as the ISO 14001 certification, rely solely on the declaration made by companies themselves. All these caveats cast a serious shadow on both the rigor and the usefulness of standards, labels and certifications. Some attempt to “classify” them. In France, the government Agency for ecological transition's Ademe OPTIGEDE website categorizes labels according to their reliability. For a label to be robust, its rating pends upon the following requirements: the label must be based on a standard with quantified indicators, it must be certified by an independent third party, it must provide guarantees on the main environmental and social impacts of the product category, it must take into account the product's full life cycle.¹⁷

For many brands, certifications have market value, since they offer reassurance to consumers – and customs services. Labels are increasingly at the heart of businesses' marketing strategies, in a drive towards “purpose-driven” corporate communication strategies (Moorman et al. 2019; Fitzsimmons et al. 2022). But they do not necessarily guarantee that the products are produced sustainably, let alone that they haven't been produced through the forced labor of children. Even

when specific environmental impacts are rigorously checked for, such as toxicity or water use in the upstream life cycle phases of textiles, they do not take stock of the entire lifecycle of the product (Diekel et al. 2021). As child trafficking is more difficult to trace, the cases that spring up regarding malpractice in the certification domain are linked to product quality. Examples abound of products that have been certified by a seemingly trustworthy label, yet are not consistent with the norms of this label. In shrimp production, in the past few years, entire containers of shrimps were rejected at EU border controls, because the produce contained pesticide residue levels above the authorized thresholds, despite the fact that buyers had commissioned a label to check the quality of production. Verifik8 cited in particular the example of a Danish buyer it was working with at the time of the interview, which had had repeat experiences of the like with premium AMC-certified shrimps. Despite the higher production cost of shrimps that were supposed to be of high quality, his containers were rejected by the EU due to high levels of pesticides (Interview 22). In addition to malpractices, there are also overt degrees of quality in certification. Traceability can represent a significant cost for buyers, in particular in products with low profit margins and long supply chains. Some labels therefore offer different levels of standardization. The Roundtable on Sustainable Palm Oil (RSPO) offers four types of standards for palm oil certification: “identity preserved”, “segregated” (mixed origin, but all certified still), and “mixed” (contains certified sustainable palm oil in addition to non-certified oil). The fourth possibility is that the buyer pays credits to support the financing of certified sustainable palm oil, but will not necessarily be delivered certified oil (Brohier-Meuter 2017). Such practices raise the question of what is reliable, firstly, but also what is acceptable from a legal standpoint. Palm oil production, even in environmentally sustainable plants, has been pointed out to rest on models of production that heavily rely on forced labor and child labor, including trafficking (see e.g. Kiezebrink 2017; Liberty Shared 2018b; Liberty Asia 2018a), and that continue to practice gross deforestation, despite public pledges to ensure sustainability (see e.g. Greenpeace 2018 on Wilmar, which represents half of global palm oil production).

“The process is distorted, because the majority of certifiers have been bought out, especially in regions such as [Southeast Asia], where you need only pay to receive a certification” (Interview 22). While labels and certifications were a promise to externalize controls over sustainability when they emerged in the 1990s, a number of challenges have emerged over the years. First, the market of labels is difficult to navigate and is not always reliable, raising the question of how to improve these initiatives, should it be a model to keep pursuing for the purpose of fighting child trafficking in GVCs. Second, the certification process hinges on an unreliable audit system.

The annual visit of an auditor is very well organised. Some companies have audit “kits”. For instance, at Thai Union, the company pulls out helmets for the workers and safety nets. They’re not stupid; they know that market shares are up for grabs. The bar to get into the market is to be perceived to fulfil

some of those conditions, and therefore to implement some of the practices. Between two audits, exactly the opposite happens, because the practices are not really implemented, but are used to fudge the audit. Auditors know it, but no certification organisation will say it clearly, because it is at the core of their business. (Interview 22)

Third, from the perspective of buyers who are unaware of faults in the certification, it can cost them a lot. In the case cited previously of containers of shrimp rejected at the EU borders, it creates a net loss for the buyers, and possible repercussions on credibility with their customers. Fourth, from the perspective of customers and buyers higher up the supply chain, many labels are used to greenwash, or bluewash in the case of child trafficking, products that are not manufactured or produced under the standards claimed by the labels. This has led to claims that, save a few exceptions, the presence of a label on a product is difficult to relate to a positive social or environmental sustainability impact. According to environmental sustainability experts, we are, however, slowly moving towards the measurement of labels' impact (Ponte 2020). Fifth, the issue of redistribution between small and large corporate actors is acute: certification is easier to achieve for bigger players at the cost of smaller players, due to its cost and procedures. Monopolies of MNEs in labels has been studied for instance with regard to the Marine Stewardship Council (MSC): 10 to 15 years after the implementation of the label, capture fishers of the global North represented all certified enterprise, with the exception of two firms in the Global South, and despite the fact that over half of the global production of fish comes from the Global South (Ponte 2012).

For all these reasons, the reliance on labels and certifications is increasingly questioned. The basic functioning of certification is changing at the moment (Interview 22). In France, the February 2022 Orpea scandal has further shown the disconnect between an excellent ESG rating and the systemic mistreatment of residents occurring in the group's care homes. This scandal shines a light on the limits of current rating methods to assess ESG risks, especially where human rights are concerned. It pushes us to reflect on better methodologies and more stringent frameworks that could guarantee the quality of social and environmental sustainability assessments, be it in the realm of labels, certifications, or that of non-financial ratings. One possibility is to set up supervision mechanisms for labels and non-financial rating agencies. In the EU, this mechanism already applies to credit rating agencies, which are under the direct supervision of the European Securities and Markets Authority (ESMA). In April 2022, the European Commission proposed a draft Directive on corporate sustainability reporting, that would amend Directive 2014/95/EU on non-financial reporting. At the instigation of the French presidency, the proposal aims to be a stepping stone towards the development of a strong European regulatory framework for sustainable finance, by addressing shortcomings in existing rules on the disclosure of non-financial information. It is the ambition of this instrument to increase company accountability, to broaden the scope of companies concerned to SMEs and non-European

companies that have at least one subsidiary or branch in the EU, to lead the way to a unifying standard and to ease the transition to sustainable economic practices.

In the meantime, while regulatory frameworks are under discussion, an increasing number of lead firms are moving back to hands-on engagement with the suppliers on their GVC to ensure that child trafficking is fought and that other social and environmental sustainability measures are met.

6.3.3 Conducting due diligence: new models, new apps

One of the ways in which MNEs are coming back to a more hands-on engagement with their GVCs is by taking ownership of the due diligence processes. It is incidentally one of the actions recommended by the Guiding Principles of the OECD, by the UN Global Compact, and it is a lawful obligation embedded in France 2017 Due Diligence law, to name just a few. Due diligence is conducted mostly through social audits. These techniques, however, do not allow the detection of child trafficking and other human rights breaches on GVCs. Due diligence is increasingly conducted through technological tools, which have their own sets of limits in exposing child trafficking in supply chains.

Traditional social audits are still the most widespread technique through which MNEs conduct due diligence. The process is similar in the MNEs interviewed. In countries where national labor inspection doesn't operate, or doesn't operate effectively, most Western companies do their own form of oversight. This can be in the form of audits, assessments, or other forms of on-site or desk reports. From there, if issues are identified, MNEs work with the facility to try to remediate them. Remediation can imply anything from a desk review to on-site capacity-building. It consists in replacing a fire extinguisher, to reducing working hours, to getting people out of forced labor situations. Remedies would take different approaches depending on the issue: it's much easier to replace a fire extinguisher and prove that it has been replaced, than it is to get working hours from 90 hours a week to 60, and prove that this has actually happened (Interview 31, Interview 34, Interview 35). The number of suppliers audited during such processes is necessarily limited. As previously mentioned, Intel has several hundreds of Tier 1 suppliers, and over 11,000 suppliers overall in 2019. In the months preceding our conversation, my interlocutor explained that the company "drilled down 50 of [their] critical suppliers and asked them to look at forced labour in a number of *their* suppliers" through surveys and assessments (Interview 35). Based upon the results, the supplier or the lead company might request an audit. These audits or corrective actions can take the form of several processes, yet generally they involve the following steps, as indicated by the processes described for Intel, H&M, Decathlon and Pentland Brands (Interview 31, Interview 33, Interview 34, Interview 35):

- 1) Risk-based assessments, based on knowledge of the context of production – "in Cambodia, on non-food products, for instance, we apply controls through measurements of perimeters and lengths of tools and chairs" (Interview 32);

- 2) Internal auditors from the lead firm can be sent to the supplier's premises. This is mainly reserved to subsidiaries and Tier 1 suppliers, in a logic of cooperation and capacity-building;
- 3) External auditors' controls, used mainly for conformity audits, or to assist a supplier in a transformative process;
- 4) Closure audits to establish repeat findings, confirm the progress made, and grant credibility to the work.

Carrefour, for instance, asserts that it conducts "substantial controls in 100% of [their] at-risk countries" Interview 32). Other corporate stakeholders explain:

If all this doesn't work, we either send our own people or ourselves from the corporate team to suppliers that are important, yet struggling. We did a lot of it last year: we paid for third party consultants to deal with issues of excessive working hours.

(Interview 35).

Yet, even when the entire process is rolled out, due diligence is faced with three main challenges in locating child trafficking on GVCs. The first is the litmus test of working down into the levels of the GVC. A GVC can consist of only a few suppliers, or count hundreds, even thousands of them. Depending on the length and structure of a supply chain, it might be impractical to audit them all. In large GVCs, it could require thousands of people and is therefore considered to be unsustainable. In practice, auditing efforts are limited to the first, sometimes the second tier of the GVC, but rarely further than that, whereas child trafficking tends to be concentrated in the areas that are beyond the direct control of lead firms and therefore difficult to audit. Public authorities rarely fill this auditing gap. As previously noted, even though "monitoring and inspection is getting tighter" (Interview 25), there are only one or two labor inspectors per province in Thailand, which implies they have over a thousand factories each under their jurisdiction (Interview 29). To close this gap, lead firms tend to push the responsibility down to their suppliers. Our contact from Intel explains that Apple imposes the responsibility for due diligence on Intel, which further pushes it down the chain. "We are eventually trying to teach our Tier 1 suppliers how to fan it out to their suppliers, because for us, it is not scalable to audit all our suppliers. We can't keep it up" (Interview 35). As demonstrated in Section 6.2, sectoral or multistakeholder initiatives are used by some lead firms to offset the risk of due diligence gaps, by encouraging suppliers to join consortia and share similar practices. However, even if social audit practices are adopted by suppliers all the way down the GVC, there's "not a lot of transparency. Social audits will not pick [child trafficking] up properly, and hardly any brand is auditing it properly. They might pick up child labour, but factories can hide most things" (Interview 31). The second challenge noted by MNEs is that "forced labour and child labour is seen as being alright in a lot of corporations". High recruitment fees and holding passports are seen as "perfectly legal (*sic*)" in Malaysia, Vietnam, and Taiwan. "Even in Japan and

South Korea, we're swimming upstream and talking to the wall" (Interview 35). The third challenge, which is less readily acknowledged by corporate actors, is the limited reach of the audits that are routinely conducted by MNEs.

Social audits are limited in what they can see: health and safety, documentation (which is often counterfeit anyway). Workers voices can fill the gaps on how workers are treated. Only by connecting with workers through trusted relationship can we find out their circumstances, and see whether they are abused on the shop floor or in their accommodation, if they are subjected to mistreatment, trafficking, ... But workers will only tell you the truth if they know that they won't be at risk if they tell you, and that they know that you will put their grievance right. Commercial companies offering a hotline for brands is a complete waste of money and time, because workers will not report serious risk to themselves to somebody they don't know at the other end of the line.

(Interview 31)

Taking stock of these inefficiencies, an increasing number of sectoral organizations and individual corporations are changing their processes of control, to render them more sophisticated. Some of my interlocutors are arguing in favor of "wild" or "surprise" – i.e. unannounced – audits (i.e. Interview 22, Interview 31). While this would undoubtedly help to detect forced labor more readily, it doesn't sit well with most national labor law provisions. They propound that surprise audits, combined with a regular monitoring system, would be the "ideal form of control, but [...] is difficult to implement" for lack of inclination to buy into such a system on the part of "companies, who would all fail the standards", and the "monumental volume" of companies. "We're reaching the limits of a system" (Interview 22). The need to verify compliance with social and environmental standards has thus awoken a genuine craze for the use of technologies of measurement, trust and control.

The development of sustainability-driven tech tools and mobile apps is consolidating into a solid trend. A lot of work is currently underway to increase digitalization to track phenomena such as migration flows and production cycles in companies of all shapes and sizes, with the aim of combating trafficking in supply chains (Interview 26, Interview 30). These initiatives are listed by an NGO, Tech Against Trafficking (see Figure 6.2).

The agro-food industry was repeatedly cited in interviews for its experimentation with digitalization techniques, not least because traceability has been compulsory in the EU for nearly two decades, and that the fisheries have been the object of much attention in the past five years, in Thailand and globally. Since the entry into force, in 2002, of the General Food Law (Regulation 178/2002), traceability is compulsory for all food and feed businesses in the EU. In the agro-food industry, some corporations are seeking to go beyond the legal traceability requirements, to offer increased visibility to the consumer. Carrefour is using a block-chain technology to allow the consumer to know the exact origin of some of the produce it buys. By scanning a QR code, the consumer can see, in the case

TECH AGAINST TRAFFICKING

INTERACTIVE MAP OF ANTI-TRAFFICKING TECH TOOLS

HOME CLEAR

300 Tools Selected

Search

TOOL CATEGORY

- Victim/Trafficker Identific...
- Supply Chain Management
- Worker Engagement & E...
- Awareness-raising, Educ...
- Data Trends & Mapping

TARGET SECTOR

- Cross-sector
- Public Sector
- Informal Sector
- Aquaculture & Fishing
- Garment & Textile Industry

TECHNOLOGY

- Web-/Cloud-Based
- Mobile Platform
- Network Platform/Search...
- Blockchain
- Big Data

TRAFFICKING TYPE

- Labor Trafficking
- Sex Trafficking
- Other
- Unclear

TARGET USERS

- NGOs
- Community/Family
- Businesses
- Potential victims
- Government/GOs

KEY PHRASES

- information
- platform
- trafficking
- app
- supply

TOOL LIST

<p>(Un)trafficked Software</p> <p>(Un)trafficked is an interactive digital story about child trafficking in India. In the interactive story, users explore the life of a 12-year-old girl from a poor family that decides to send her away with a stranger to find work in the city. As the</p>	<p>1343 Actionline Hotline Hotline</p> <p>The 1343 Actionline is a 24/7 hotline facility that responds to emergency or crisis calls from victims of human trafficking. The hotline is public to be engaged in the fight against trafficking in persons. The actionline is a</p>	<p>24-hour Migrant Worker Hotline in Thailand Hotline Hotline</p> <p>24-hour Migrant Worker addresses forced labor in export industries and global supply chains. The callers set up an account that receives a text message that provides a voice to migrant workers who are often isolated from</p>
<p>ACTI App Mobile application</p> <p>ACTI is an educational gaming app for junior high and high school students, aiming to help them identify cues or "Red flags" that could signify a situation where trafficking may be occurring.</p>	<p>Aangan mobile child safety App Mobile application</p> <p>The Aangan app is used by Indian NGO Aangan to support its hotspot model to select priority locations in districts linked to trafficking, such as schools, bus stops, work and harm. A way for community leaders to report</p>	<p>AgriDigital Software</p> <p>AgriDigital is an Australian cloud-based commodity management platform that transforms the way to buy, sell and export grain. AgriDigital is using blockchain to provide payment security and transparency in the food supply chain.</p>
<p>Amader Koitha Hotline Hotline</p> <p>Amader Koitha is a technology-driven helpline that receives calls from workers on over 500 issues a month, including complaints on safety, health, wages, and fire danger inside and outside factories.</p>	<p>Ambrosus Multi-platform</p> <p>Ambrosus is a blockchain Internet of Things (IoT) platform dedicated to bringing transparency to the food and pharmaceutical supply chains. The platform's IoT tracing mechanism, its food tracing mechanism, Ambrosus has also launched a P2P marketplace where</p>	<p>Analyze Software</p> <p>Analyze is a full suite for digital investigations into hashtags (unique identifiers) or known child sexual abuse material (CSAM) found on the internet. The platform's techniques can detect skin tones — even in low light or poor-quality video — then</p>
<p>Apprise App Mobile application</p>	<p>Artemis' Umbrella App Mobile application</p>	<p>Automatic Identification System</p>

Figure 6.2 Tech Against Trafficking. Interactive map of anti-trafficking tech tools. Source: screenshot of the homepage of techagainstrafficking.org/interactive-map/.

of eggs, by whom it was produced, when, and in which hatchery. The technology is being fanned out to other products: to the banana sector since March 2020, and it will soon be available for cotton (Interview 32). According to a senior expert in food trade, who is currently working mainly in agriculture and aquaculture, the trend started approximately 15 years ago, when smartphones started to arrive on farms due to a decrease in prices and an increase of connectivity. Digitalization of rural areas has made the tracking of production possible. By correlating a detailed knowledge of the capacities of the farms with the volumes of production, algorithms are able to detect anomalies, which then trigger controls that allow to adjust work rhythms, or detect hidden work of adults or children, for instance. Large MNEs are showing great interest in such tracking tools to curb the risk of trafficking and exploitation in the lower tiers of their supply chains. Pepsi Co and Nestlé are for instance cooperating with the company of my interviewee to deploy these tools in their cane sugar supply chain (Interview 22).

The fisheries present a prime example of the rapid development of new techs and apps. “I guess that if somebody is so desperate to resort to child exploitation, it is a case for automation, or helping companies develop and revolutionise a little bit, to not to be so desperate to find workers” (Interview 35). Where automation is possible, corporate actors are considering that option to cut the reliance on low-skilled workers. However, a lot of the manual production processes cannot be replaced through automation (Interview 12). To check the standards of work of fishers and in-port workers, new tools have been developed by stakeholders to diffuse information on trafficking, provide referral networks, trace value chains, and track production activities through metrics and compliance assessment instruments.

The real challenge is to be able to conduct audits at sea, to understand where the products are coming from, and whose hands they are moving through. It’s the Wild West out there, it’s very difficult to trace anything because of the slow access to permits, the assessment conditions, and the international lines running through the water.

(Interview 18)

This complicates the task of coast guards, who have to contend with the Law of the Sea. Coalitions of actors are developing apps that could bridge the gap. Digitalization on boats through apps has been pushed, with the objective that people on boats can speak to people on land, for instance, or that migrant workers in the fisheries can have easy access to information on their legal rights through an app, Fishtop, accessible in English, Thai, and Burmese. The reliance on mobile phones is illusory, however, for fishers, as the maximum range of a phone is of four kilometers from its base. Through its Fishery Labour Improvement Program (FLIP), Issara has worked with multiple stakeholders on supplying fishing vessels with special equipment, allowing to track the location of the boats, their production, and providing access for fishers to hotlines.¹⁸ The objective of the program is to improve the safety of workers, while also making workers voices heard through communication channels. The fully integrated system cost between USD 3,000

and 8,000 in 2018, which is an enormous sum compared to the average yield of shrimp, at USD 0,2–0,6 per kilogram (Interview 12).

The frenzy around tech tools to combat child trafficking on GVCs comes with several caveats that are currently blocking many of the positive results envisaged. The first is the significance of the metrics and the indicators used, which are targeted at measuring the social impact on GVCs. In agriculture and aquaculture, such evaluations are very difficult to deploy. Many payments in Southeast Asia are done in cash or in kind. Stakeholders are therefore working on adjusting the proprieties of the metrics and of the tools of measurement (Interview 22). The second caveat is that the view of the chain is relatively partial, as these digital solutions are concentrated in sectors, in countries, and on activities where such connectivity is possible. By essence, it therefore concerns only a small part of the GVC. The third caveat is the cost of due diligence techniques up to date. Whether it is the cost of advanced technological equipment, such as the ones deployed in FLIP, or fair trade systems, in which it is very expensive to trace all transactions and ultimately redistribute the adequate sums to farmers, such methods are not within the financial reach of all companies. Especially in the lower tiers of the GVCs, where price squeezes can be responsible for the resort to exploitative, forced and trafficked child labor, costly tech tools risk exacerbating the problem, instead of solving it. The labels and certification system, which tech tools are becoming an integral part of, have been documented to create massive redistribution dynamics. They are used by lead firms to consolidate their power position in the GVC, when the funds injected in those systems could have been used to give a better deal to farmers and reverse those power dynamics somewhat (see the example of MSC labels cited above). It is therefore an area that must be approached with caution. Due to the previous two caveats, some organizations are pushing for block-chain techniques, as the ones used by Carrefour, whereby digital currency is transferred to the supplier once the transaction is validated by the next link in the supply chain. This system is said to be economical and efficient in tracing all operations in a supply chain. Yet it seems unrealistic in Southeast Asia for two reasons: the limited resort to contract farming and the defiance towards the use of data. The fourth caveat, therefore, is that GVCs are dispersed, especially at the level of production. Many actors in the chain would benefit from knowing more about how it works in detail, but in Southeast Asia,

contrary to the buyers of the products, farmers are not contracted, they function very much like serfs, and have no contract to sell to anyone in particular, because the processing plants don't want to make any commitments. There is a lack of policy on contract farming.

(Interview 22)

If they are not contracted, it is very difficult to associate small producers to the links higher up in the supply chain, let alone track their production and work techniques. The fifth caveat concerns the use of data. Companies in general are wary to register their data because they are concerned that they will have to pay taxes (Interview 22), and there is a risk of data being misappropriated and leveraged to

further squeeze lower prices or more work out of suppliers. “The solution would rather lay in participatory systems, with data crowdsourcing, for instance, and good, valid incentives for all farmers to participate” (Interview 22).

Although there has been a substantial increase in the amount of literature on social risk and social risk management in the past few years, it is still underdeveloped. As a result, “there is limited corporate or academic understanding about how to identify social risks and, subsequently, how to engage with stakeholders to mitigate risks if and when they are identified” (Graetz and Franks 2013, 104). Digitalization has been often presented in interviews as a miracle tool to combat child trafficking on GVCs, and curb forced labor in general. However, as noted above, the social impact is unsure, and requires more maturing and testing, as well as detailed research into the potential side effects and reverse consequences it could have on the social and environmental impacts it is aiming to have. The difficulty resides in connecting all the links of the chain, when 80% of farmers in Southeast Asia are small growers reliant on informal and exploitative child labor because of their exposure to fierce market competition (Interview 22). At present, all solutions proposed are “so difficult to implement, that in the end small producers circumvent the methods designed to ensure social sustainability” (Interview 22). The private sector is therefore gently mocked at times for floating the idea of developing an app each time a problem arises (Interview 30). Dubbed the “tech-will-save-us-all approach” (Interview 26) by the actors skeptical of the possibility of finding solace for anti-child trafficking in technology alone, the development of tech tools and mobile apps has nevertheless consolidated into a solid trend. The Thai government is suspected of choosing the easy route (Interview 30) by supporting the development of digital tools, whose positive effects are far from certain, and need to be carefully balanced against human rights, personal freedoms, competitiveness of small companies, and many more holistic considerations.

Finding adequate ways of conducting due diligence can resemble a Sisyphean task. However, the effervescence of MNEs around the creation of solutions – be they digital or other – to take back control over their GVCs, is good news in itself. The convergence of interests in finding environmental and social data collection avenues on GVCs (Interview 18), as well as the supposed genuine anti-child trafficking commitments of certain lead firms such as Pepsi Co, Nestlé (Interview 22), and others cited in this study, contribute to pulling social and environmental sustainability out of niches and into a changing market paradigm. These changes of paradigm can be observed in the due diligence efforts on the full production cycles of GVCs, but also play out in practical measures that are being implemented to avoid the risk of child trafficking on GVCs.

6.4 Deterrence and remediation in practice: routes to fair, free and safe employment for exploited children

The practical measures that are being prioritized by MNEs to deter child trafficking on GVCs differ by industry and company. At a global level, three trends emerge more forcefully, ranging from simple reparation to active attempts to transform the recruitment of migrant workers and the functioning of GVCs.

6.4.1 Child trafficking remediation processes: much ado about nothing?

For some years now, companies have had remediation programs targeted at repairing the harm done to trafficked children, provided they are identified on GVCs. This first proviso is of importance, as the definitions in risk assessment plans often divide issues of forced labor, child labor, trafficking and other abuses of human rights and labor rights. A norm-cluster approach would here provide a stronger ground to conduct due diligence, as it would avoid dividing up initiatives in constellations of issue areas, which are rarely covered concurrently. The lack of due diligence and flimsy remediation procedures is greatly linked to the fact that the responsibility for the remediation process is not regulated. Interviewed by the French National Contact Point for the OECD in the wake of the accidents in Bangladesh's textile sector, NGOs viewed lead companies as bearing responsibility for remediation, as they are making the main profit and rely on subcontracting to do so (PCN France OCDE 2013, 10). Despite a growing regulatory body attempting to address the void between commercial law and the structures of production on GVCs, laws are silent on the responsibility of companies to remediate trafficking victims, and if they remediate, which company in the GVC bears responsibility. Often private sector companies have their own remediation guidelines and frameworks in place (Interview 21). At Intel, top executives are said to "care about remedy", which is defined by the company as corrective action, namely returning passports, repaying visa fees, repaying recruitment fees. "We've worked with suppliers to build a strong system to detect and address forced and bonded labour in our supply chain. Our policies require no employee passports to be withheld and no fees charged to workers to obtain or keep their employment" (Interview 31). Other companies go a little further in their conception of remediation and include the payment of damages. Pentland Brands' framework offers a good case study of an MNE with a specific remediation plan for child labor, provided a case is identified. The former Head of Ethical Trade explains:

Companies that have buyers, have standard remediation plans based on standard well-known best practice. I designed one but never implemented it. If child labour is discovered, it needs to be reported immediately. Those said children have to be removed from the work, but retained within their current environment. In practice, this means that the factory is not immediately warned, but the Principal is warned, visits the factory, and then advises the buyer. The buyer will go to the site in the world that is concerned by the case with an NGO. The child will be taken by the NGO and returned to their family. The factory must continue to pay the child's wage to the family, and the child should be returned to schooling. The NGO will continue to monitor that the child is continuing in schooling. The theory is that the factory must continue to provide the family with the income until the child has completed their schooling. The factory must then offer said child employment back at the factory.

(Interview 31)

The philosophy behind this is to ensure that the family is not penalized for the child being out of work and that the child doesn't become a burden on the family,

which would risk fragilizing the family further and making its members more prone to repeat exploitation or trafficking. The MNE in this case offers several guarantees for the mechanism to be enforced properly. If the supplier ceases to pay the income, the buyer can threaten to terminate the contract and remove him from the supply chain. In that case, the brand will take on the duty of continuing the payment to the child's family. It is challenging to implement such remediation plans, because of the necessity to find a trusted partner that can deliver the follow-up with the family and the supplier. MNEs tend to rely on an independent agent or, preferably, on a charity or an NGO, who are paid by the brand to deliver that service. The reason for preferring an NGO is to offset the risk of corruption: brands are wary of agents or NGOs adding to the burden of the family by requesting a cut from the salary (Interview 31).

Pentland Brands' remediation plan is relatively sophisticated, and is not dissimilar to the practices of competitors. From an implementation point of view, there are, however, several loopholes in its logic: it caters to conventional child labor cases, where the child lives with their family. It doesn't take stock of more complex patterns of forced child labor and trafficking. This relates to another loophole: "the family sometimes sends the child to another job, even if the factory continues to pay his salary" (Interview 31), thereby furthering exploitation and diminishing the long-term benefits of the remediation. The third caveat is that the exploitation of a child needs to be identified for remediation to be activated. Even where remediation is implemented correctly, it is still a rare feat. As previously demonstrated in this chapter, identification of trafficked children – or simply working children – on GVCs is still extremely rare, despite the acknowledged pervasiveness of the practice. Over the seven years that my interviewee worked at Pentland Brands, no cases were identified (Interview 31). At Intel, remediation was deemed to be very difficult to achieve, and requiring persistency. Over the course of five years (2014–2018), USD 14 million in fees were returned by suppliers to workers. Decisive progress, that my interlocutor admitted was at times gently laughed off by some of his fellow corporate actors at the Responsible Business Alliance as being "not that much" (Interview 35). Other MNEs are said to "have paid huge amounts in remediation to persons whom they believed were unethically recruited or treated" (Interview 21), but little detail is available. Interestingly, coalitions such as the RBA seem to create positive emulation between members, whether through the sharing of best practices, reflections on challenges, or the comparison of remediation results.

6.4.2 The push for the "Employer Pays (recruitment fees)" Principle

Unethical recruitment practices have become a strong focus of multistakeholder initiatives seeking to promote a fair and socially responsible labor environment. The recruitment business is indeed an industry in its own right. It cuts directly across the topic of interest here – the exploitation of trafficked children in GVCs – as the recruitment stage in the migration journey of children has been found to be one of the key nodes of vulnerability of children to trafficking. Stakeholders

that were heard during this study contend that recruitment is a diverse industry, the dysfunctions of which are sustaining exploitation of low-skilled workers. Trafficking for the purpose of exploitation is facilitated through corruption. Bribery of local police and border guards during the transportation and delivery of children for labor expedites the movement of people and covers up the violence exerted by business owners and intermediaries on those children. In Southeast Asia, the recruitment industry bears a significant cost for low-skilled workers. This can further create the conditions for trafficking and exploitation by rendering individuals financially fragile. In Chapter 4, I have indeed demonstrated that the migration costs for low-skilled workers in Southeast Asia amount on average to two months of wages, and can be as high as a third of a worker's earnings over a period of two or three years abroad. Borrowing to finance migration is prevalent in the region, with moneylenders extorting exorbitant rates from workers, at a median of 20%. Children are among the most fragile migrants, and more prone to resorting to a moneylender, which places them prominently at risk of debt-bondage and associated trafficking (see Section 4.3).

Those elements combined have generated a growing international consensus around the principle that workers should not be charged direct or indirect fees related to their recruitment. The international community is striving to reduce recruitment costs of migrant workers through regulation, monitoring and cross-country cooperation. The principle was enshrined in Article 7(1) of ILO's Private Employment Agencies Convention no. 181 (1997), and has since been reinforced through the launch of the ILO Fair Recruitment Initiative (2014), and the publication of its General Principles and Operational Guidelines for Fair Recruitment (2016). The importance of reducing the cost of placement and recruitment is also recognized in other international fora: the indicator for Sustainable Development Goal 10.7.1. measures the "recruitment cost borne by employee as a proportion of monthly income earned in country of destination", and the IOM, supported by EU-funding, recently launched a certification addressing ethical international recruitment, through its International Recruitment Integrity System (IRIS). A government-to-government pilot project was launched in 2018 between Canada and the Philippines, and IRIS is planned to be rolled out to other locations, in cooperation with similar initiatives such as ILO's Fair Recruitment Initiatives and the RBA's Responsible Labour Initiative.

Fair and ethical recruitment is a composite topic. There are different ways of approaching it from an anti-child trafficking perspective. The central focus of the international community in the past couple of years has turned to "zero recruitment fee" policies, as they were called when I conducted fieldwork in Bangkok in 2018, and which are now developed under the heading "Employer Pays Principle" (EPP). The philosophy behind these policy proposals, is that the cost of recruitment should be borne by employers, and not by employees, as is the current widespread practice in Southeast Asia. At the national level, there have been attempts to promote more ethical recruitment. In Thailand, the Royal Ordinance on the Management of Employment of Migrant Workers, B.E.2560 (2017), adopts the EPP for migrant workers. The principle is mentioned again in Thailand's National

Action Plan on Business and Human Rights (2019–2022).¹⁹ Neither text defines “recruitment costs”. The 2017 law indicates that this needs to be further elaborated under a secondary legislation, which had not yet been drafted, as of July 2022. Since 2014–2015, an increasing number of companies are adopting a “no fees” policy, such as the RBA member companies (Interview 35). MNEs from various sectors are hiring or opening recruitment centers directly in source countries. “It’s a positive start, that’s very small scale for the moment, but could be scaled up. Practicalities and coordination across borders are quite complicated to make it work” (Interview 23).

The recruitment mechanisms that should be adopted in supply chains to ensure the ethical recruitment of migrant workers are unclear. The landscape is even more complicated when the question of children is raised. Many of the children recruited through brokers and unofficial recruitment agencies could not go through a more official system, or they could but with forged documents. Therefore they risk once again being fragilized further if such initiatives push their migration routes further underground. Options must therefore be carefully examined, bearing possible unintended consequences in mind. At the end of 2018, the ILO was looking at ethical supply-chain mechanisms and how they speak to national frameworks for recruitment of migrant workers, and codes of conduct of businesses and recruitment agencies on this matter. They were trying to design a program to bring recruitment agency associations together with industry initiatives and allow them to learn from each other. Common issues identified were, for instance, the business opportunities that would open up in the event that they would reach the standards, or the codes of conduct that would make companies trust recruitment agencies. The intersection between regulation and practices was deemed complex,

but the bottom-line is that they are not interacting at all. Manufacturing brands in electronics, textile and others, are telling me that they are recruiting from ethical agencies in Myanmar. However this is just rhetoric, because such agencies simply do not exist. And even if these agencies do say they only recruit zero fee workers, it is impossible, because these companies don’t have zero fee models.

(Interview 26)

Changes need to occur at a systemic level for all the pieces of the puzzle to fall into place. At present, the new pattern of the puzzle remains vague. The change in rhetoric mentioned previously, from the initial denomination of “zero fee recruitment” – which interestingly obliterates the fact that recruitment necessarily has a cost, the question is for whom – to its rebranding less than a year later as “employer pays”, is symptomatic of the trial and error process, in a rapidly evolving field. Given the fast spread of the “employer pays” jargon in the language of epistemic anti-trafficking communities, policies and regulations, the overall impression might be that stakeholders agree on the fundamental policy changes at hand and are working jointly in the same direction. The prioritization of a “zero

fee” model is, however, the object of hesitation, debates, and negotiation. Amidst the tumult of voices repeating a similar mantra, a few voices are inviting stakeholders to err on the side of caution.

All the initiatives I keep coming across, be it at the Consumer Goods Forum, International Human Rights and Business, the International Tourism Foundation, ... all seem to have adopted “zero fees” as one of their top three initiatives. It feels like it’s a rash catching every organisation working on those issues.

However, at present, experts haven’t consistently assessed the landscape of fees. “ILO is finishing today [16 November 2018] an international experts’ meeting on determining costs and fees.²⁰ I’m interested to see what will come out of it and to understand what is payable under the ILO Convention and what is not” (Interview 26). There is indeed a general dearth of knowledge around recruitment fees and costs, which could increase the volatility of the policy environment. Corporate actors indeed stress the vulnerability caused to potential trafficked children, as well as small businesses, by changing policy hobbyhorses.

Periodically, bilateral agreements are concluded between countries, for instance between Bangladesh and Malaysia or Indonesia and Singapore. One week it’s no passport charge, the other it’s no [recruitment] agent, and next month it’s off again. We need consistency in addressing it.

(Interview 35)

“What worries me is that all these private sector initiatives have latched onto the idea of recruitment fees being a key to this issue”, when the implications of such policies are not clear yet. “My concern is that whatever comes out of the Geneva expert meeting on costs and fees, all those other initiatives have gone so far down that rabbit hole that “zero fees” will steer the initiatives for the 10–15 years ahead” (Interview 26).

Is the objective of EPP achievable in the current economic, sociopolitical and cultural environment? And is it desirable? What will be the economic impact, as well as the incidence on human rights in general, and on trafficking victims in particular, if the EPP is implemented at large? The issue is broached differently in the EU and in ASEAN because of the different cultural, regulatory, sociopolitical and economic environment. From a cultural perspective, in ASEAN it is broadly accepted that workers have to pay to get a good job. In contexts of transnational migration, it becomes a key issue of trust. Parents and their children are wary of “free” jobs, as they fear this could be a scam or, indeed, a trap into trafficking and exploitation (Interview 17, Interview 26). There are prudent meditations on whether the Employer Pays Principle might not be derived from the “Western colonial idea of not having to pay for job” (Interview 26). The best interest of the child is not the only element taken into account in those decisions. From that perspective, indeed, one might question the impact it will have on children to migrate

for labor safely, or if it will have one of two vulnerabilizing effects: pushing their migration trajectories further underground, or impeding their possibility to find work through relatively safe channels. There is no clear steer on these issues, which are nevertheless of crucial importance. The complex cultural context around recruitment fees, as well as the uncertainties on the effects of such policies, makes the Employer Pays Principle “the hardest place to push” (Interview 26).

The ethical motivation of most actors involved is undeniable, as is their conviction that tackling recruitment fees will make a stark difference to the vulnerability of low-skilled workers, including children, to debt-bondage and trafficking. The frenzy around this policy direction however in part obliterates – deliberately or unwittingly – the current hurdles of official migration channels, which push workers in Southeast Asia to predominantly choose the unofficial routes into their final destination.

Despite the overall trend towards the Employer Pays Principle, which removes the recruitment cost burden from workers, the MoU process remains costly for workers, in addition to being complicated and lengthy (which contributes to indirect costs). It also does not afford workers with flexibility in employment arrangements or choice of employer, nor the ability to terminate employment and return home without penalty. In contrast, irregular “repeat migrants” reported relatively low costs, no waiting time, flexibility to depart for Thailand as soon as they were able to travel, and the freedom to return home when desired.

(Verité 2019, 6)²¹

For migrating children, this assessment rings even more true. The hidden financial costs, but also the social costs associated to child migration are not addressed in the current EPP policies. Yet, decent work deficits imposed through poor, exploitative employment has strong implications for the future prospects of children. There are easier places to create change, and to end – or at least reduce – the risk of child trafficking, labor exploitation, and forced labor, and thereby better serve the best interest of the child. “The priority should be on avenues for more control over whether exploitation is taking place or not, and on having a legislative environment where we can tackle these issues, rather than selecting the hardest piece of the puzzle” (Interview 26).

This section provided a brief overview on the focus of multistakeholder initiatives on the Employer Pays Principle, the debates surrounding this current policy priority, and the implications thereof for child trafficking in the short and medium term.

6.4.3 The search for increased control over sourcing: insourcing and supply chain shortening

The attention to recruitment practices proceeds from the drive to diminish child trafficking, among other ESG risks, in the supply chain. According to a senior

supply chain sustainability specialist at Intel, if employers paid the recruitment fees of debt-bonded workers to lift them out of exploitation, it would amount to a 10–20% increase in the overall cost of their wages. The increment for enabling workers to live free of debt-bondage *and* in decent conditions would hover around the 30–40% mark. Because labor cost is only a small part of the total product price, these adjustments for fair working conditions would inflate the price of the product by a couple of per cent, in any case well less than five per cent, depending on the reliance of different supply chains on precarious debt-bonded migrant workers (Interview 35).²² The emerging new initiatives on recruitment fees are trying to curb the debt-bondage of pauper migrants, that render them fragile to trafficking, as well the “I’m-not-paying-for-that cycle” (Interview 35) that MNEs and customers engage in. A growing number of companies are resorting to insourcing and supply chain shortening in an attempt to exert more control over their GVCs, cut costs and promote fairer employment practices. This section explores the challenges of controlling sourcing and implementing end-to-end traceability on GVCs through the business model of fast fashion in the apparel sector. By further analyzing successful examples of insourcing and supply chain shortening from the agro-food sector, this section discusses models conducive to the protection of children from trafficking, and overall social benefits for low-skilled workers.

As analyzed in Section 5.1.2, the apparel sector has two main sourcing models: “fully factored product” and “cut and made” (CMT) operations. “Fully factored products” represent the bulk of orders in the sector, and the exclusive model of the mass distribution fast fashion industry. This leads to a stark increase in the risk of suppliers resorting to informal work and hidden subcontracting, as demonstrated earlier in this chapter. As a result, it increases the role of intermediaries and buying offices in the different production regions, and thereby opens the GVC to trafficking entries in an increased number of nodes. CMT operations are more commonly used in sectors with high added value. The model simplifies the traceability of products, as it involves shorter, and often geographically condensed, GVCs. This allows for a more thorough knowledge of suppliers and a better management of risks (Interview 31). CMT has many advantages from a quality and sustainability perspective, but requires in-house industrial competences on the part of the lead company and is more expensive. It is therefore difficult to generalize given the compression of prices in fashion and the high competition in a sector with low market entry costs. There are attempts in the fashion industry to curb the risk of child trafficking and produce along more sustainable models. Some apparel brands are part of the Fair Labor Association (FLA), such as Adidas, Esprit, Hugo Boss or Gore Wear (Interview 37). However, at present it seems to be in large part circumscribed to green and blue labels, the limits of which have been demonstrated above, and higher-end fashion.

MNEs that are exploring the best ways of having increased visibility over their suppliers mainly choose one of two possibilities: shortening their GVCs and insourcing production. A common interrogation for MNEs is whether to cut out small suppliers, given their perceived lesser capacity to eliminate human rights

risks (Interview 33). Increasingly the practice is to avoid cutting them out of the supply chain, but helping them to transform. Seafresh Group, for instance, works with supermarket chains that seek out durable, long-term partnerships with suppliers, which they then support in improving their social and environmental sustainability practices (Interview 12). This type of approach implies to know the production sites well. Verifk8 works with agricultural production tracking mechanisms to gather detailed knowledge of the farms they work with. Do these farms have an intensive or extensive business model? Is it a family business? How many acres do they have. Are their children present on the farm? These parameters are deemed to be key in order to track farms' activities and added value with precision, and to be able to detect poor working conditions and possible child exploitation (Interview 26). Precise tracking of suppliers is made more manageable by cutting out intermediaries to be closer to the raw material production. On food products, mass retailer Carrefour is increasingly seeking out direct relationships with producers to offset risks linked to quality, and environmental and social sustainability. Carrefour does so by developing its own branded products, or shortening relationship chains. Its most advanced system of traceability concerns bananas, which generate the highest profits in the fruit and vegetables sector and allow for short relationships chains due to the mode of production. Carrefour sources biological and sustainable bananas, guaranteed through a system of production control and the financing of community activities outside of production (i.e. building schools). The chains are more difficult to control in cocoa or coffee production, but the company is looking into options to replicate the model used with bananas in other sectors (Interview 32). Smaller companies, for whom sustainability is often said to be more difficult to achieve due to the speculated costs of shorter supply chains, have also successfully changed their sourcing models to seek out direct relationships with their raw material producers. A decade ago, following the delivery of a defective batch of pepper, French company Hénaff discovered that they weren't able to trace their supply-chain beyond the port of Hamburg. This led them to overhaul their model by establishing an exclusive, direct, organic, and fair trade pepper supply chain between Brittany and São Tomé. By working with an NGO, which helped them put into practice their sustainable development idea, they changed their business model from a lengthy GVC to a direct relationship with a cooperative of small producers. The company, in the process, appears to have gained a better control over the quality of its products and has made significant cost cuts, which has enabled them to pay the cooperative 50% above market price and to prefinance harvests by contractually guaranteeing purchase prices over five years (Bras 2017; Brohier-Meuter 2017). By guaranteeing the livelihoods of the workers on the pepper plantation, this new model significantly reduces the risk for the children of those families to be exposed to trafficking and labor exploitation. Indeed, the benefits of rationalizing and shortening supply chains, if accompanied by ethical and sustainable measures, can lead to increased earnings for workers. This cuts the drivers of child trafficking, by rendering it less necessary for families to send their children to work.²³

These cases are proof that models promoting the holistic economic, social, and environmental conditions to cut child trafficking out of global supply chains exist. The structural violence conveyed by the current model of lengthy GVCs beyond the control of MNEs, fraught with supplier-squeezes that drive up the risks of child exploitation, is not unalterable. To fight child trafficking on GVCs, and promote just and green models more generally, the geographies of production are bound to change. Although it seems daunting for many businesses still, these changes are not only possible, but, beyond the moral case of doing what's right, often make economic sense. The Covid-19 pandemic has provided a case in point, with several observers arguing that socially and environmentally sustainable businesses had also better resilience to shocks (Joshi 2021).

Conclusion. Talking the talk, loitering the walk?

This chapter has examined the mechanisms for creating the tipping point at which a public concern over human rights becomes a corporate concern, and at which GVCs can move from high-risk patterns of child trafficking to low risk through better oversight and control. It has also provided a space for testing the child trafficking norm-cluster hypothesis, developed in Chapter 2, in the context of corporate anti-trafficking actions, and found that some of the most promising corporate and public-private initiatives reside in the coupling and decoupling of child trafficking and correlate norms in their search for more efficient shielding of children from exploitative labor practices. In so doing, it opens up a new field of enquiry, which promises to bring rich perspectives. Regulations and business practices are being overhauled – and need to be overhauled drastically – for significant change to come about. It remains to be seen what the effects of the transformations sought out by businesses, public authorities and the public will be on socially responsible and sustainable practices in general, and on child trafficking in particular.

Notes

- 1 On the governance of the corporate sector by the State, and on the independent governance of corporate actors, see Susan Strange. For a discussion on governance, see the General Introduction's literature review.
- 2 See the General introduction of the book for a discussion of the theoretical and empirical discussions around hybrid governance, meta-governance, public orchestration, and public-private partnerships.
- 3 The language has evolved between my interviews in Thailand end 2018 and my interviews with corporate actors in 2019–2020. Speaking to corporate actors, I realized that for CSR specialists in MNEs, the word “remedy”, which was initially used instead of “provisions”, has a narrow definition, that of “compensation for harm caused”. In the context of these first interviews, however, interviewees, like me, understood “remedies” in the broader sense of “provisions”. The language was corrected orally in the interviews immediately, and in writing shortly thereafter.

- 4 The amounts received by trafficking victims *in lieu* of wages and compensation was on average THB 55,000 per victim, equating to eight to nine months of minimum wages (see Footnotes 43 in Chapter 3, 20 in Chapter 5 and 21 in Chapter 5).
- 5 Thailand's "1st National Action Plan on Business and Human Rights (2019-2022)" is available, in its unofficial English translation, at [https://www.undp.org/content/dam/rbap/docs/business-and-human-rights/NAP%20Thailand%20\(EN\).pdf](https://www.undp.org/content/dam/rbap/docs/business-and-human-rights/NAP%20Thailand%20(EN).pdf) [last accessed on 04/07/2020].
- 6 The "Employer Pays Principle" will be examined in more detail in Section 6.4.2.
- 7 A coherent Directive would indeed need to grapple with rightsholders' engagement utmost seriously. Indeed, according to the United Nations Human Rights Office of the High Commissioner, "Human rights due diligence is about people. (...) Hence, the key to human rights due diligence is the need to understand the perspective of potentially affected individuals and groups" (OHCHR 2012, 33).
- 8 The work of multistakeholder initiatives of the kind focuses on "anything that can be used at industry- or policy-level", but "is limited to what falls outside the competitive space" (Interview 34). For instance, banning a supplier in breach of anti-trafficking guidelines would not fall into their scope because it would not adhere to anti-trust guidelines (Interview 34).
- 9 Information on the projects referenced above can be found here [last accessed 06 June 2020]:
- Prosecution, project led by Eurojust in 2015: http://www.eurojust.europa.eu/press/News/News/Pages/2016/2016-01-27_World-Economic-Forum-in-Davos.aspx
 - State of the illicit economy, 2015 project: http://www3.weforum.org/docs/WEF_State_of_the_Illicit_Economy_2015_2.pdf
 - Organized crime and the illicit economy, 2012–2014 project: https://www.oas.org/en/sms/downloads/BROCHURE_GAC14.pdf
- 10 *The Guardian*'s series "Modern-day slavery in focus" is supported by Humanity United, e.g. <https://www.theguardian.com/sustainable-business/2015/dec/14/modern-slavery-act-explained-business-responsibility-supply-chain> [last accessed 26/06/2022].
- 11 This information was collected in July 2013, during an informal conversation with a senior executive working for a Northern European gas and oil company in Mongolia's Gobi region. Given the nature and the context of the conversation, it did not lead to interview notes. Therefore, the information has been checked for accuracy with the other people present at the time.
- 12 Further analysis of forced labor in Thailand's fishing industry can be found in a Human Rights Watch report, *Hidden Chains*. It contains a comprehensive description of the policy changes introduced by Thailand after the EU yellow card (Murphy 2018, 27+, 101+).
- 13 Evolution of Thailand's rankings in the US Tip Report:

Year	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Ranking in TIP report	Tier 2 watch list	Tier 2 watch list	Tier 2 watch list	Tier 3*	Tier 3	Tier 2 watch list	Tier 2 watch list	Tier 2	Tier 2	Tier 2	Tier 2 watch list

* *Year of the EU's issuance of a yellow card.*

- 14 It would be interesting, in another study, to measure the political and diplomatic impacts of the EU conditionality mechanisms, and the associated long-term snowball effects on anti-trafficking actions. A senior representative of an international organization specializing in trafficking testified off the record that "the EU's threat of closing access to their market of 500 million consumers for the fishing sector was a pretty significant economic measure. There has been a lot of resentment about it. In Thailand's Southern provinces, people throw eggs at logos of the EU because of it. But it has had a sizeable impact in bringing about some of the change in this sector". Other inter-

- viewees expressed the personal opinion that EU trade bans would be detrimental in the long run because of the comparison with other less demanding trade partners. “If the UE implements trade bans that negatively impact Thailand to the point where the country needs to change policies, migrant workers will be the first hit and will lose their jobs. Businesses will cut their losses and deal with trade partners that don’t have such demands”, such as China, which is a “trade partner that demands nothing in return” (Interview 30). Reverse types of conditionalities are emerging in other trade contexts, for instance Malaysia and Indonesia threatening to stop buying planes from EU trade partners if they do not continue to buy (non sustainable) palm oil (Interview 22).
- 15 The agenda of the 2018 Issara Global Forum is available at <https://www.issarainstitute.org/2018-issara-global-forum-agenda> [last accessed 9/7/2020].
 - 16 Information retrieved from <https://www.euronext.com/fr/about> [accessed July 2020].
 - 17 Detailed studies on social sustainability and child trafficking impacts on generic or sector-specific supply chains are scarce. Some interesting studies have been published in the realm of environmental sustainability. See for instance Deconinck’s paper for the OECD’s Trade and Development Directorate, which presents a deep dive on what is known and what is not known regarding environmental impacts along food supply chains. The paper reviews different methodologies (downscaled estimates, life cycle assessments, and various trade-based approaches) as well as the role of traceability and transparency (Deconinck 2022, 41–42).
 - 18 The limited usage of hotlines due to fears of adverse effects has been outlined earlier in this book. Organizations such as Issara claim to mitigate those limitations by creating networks of trust. Comparative data on usage of hotlines could not be found at the time of research.
 - 19 Pillar 2 “*Responsibilities of the business sector in respecting of human rights*”, section 2.2¶3: “State enterprises and the business sector that use migrant workers should be responsible for the costs of recruiting labor and other expenses in accordance with the “Employer Pays Principle”.
 - 20 The experts’ meeting was a first step in a process that led, amongst others, to the publication in April 2020 of a report mapping the recruitment fees and related costs incurred by workers from Cambodia, Lao PDR, and Myanmar to migrate for work to Thailand (ILO 2020b).
 - 21 See Chapter 4 for a discussion of differences in migration through informal or formal channels.
 - 22 Intel Corporation is a tech company specialized in semiconductors and microprocessors. The nature of the business has two consequences on the composition of the labor force. First, wages only represent a small percentage of production costs, compared to other more labor-intensive industries (e.g. textile, agro-food). Second, it requires mostly high-skilled workers and is therefore not very prone to child trafficking. The interviewee’s response needs therefore to be put in context and taken with slight caution.
 - 23 Some public-private partnerships such as “One Tambon One Product” seemingly have concrete positive effects, by favoring consumption of local products, the quality of which is guaranteed by labels, and the price of which allows for decent remuneration of the producers (Interview 22).