

**EUROPEAN CENTER FOR
CONSTITUTIONAL AND
HUMAN RIGHTS**



foodwatch 
deutschland

Reply to Naturaceites

Berlin, April 2024

ECCHR and foodwatch appreciate the fact that all concerned companies and additional stakeholders such as the RSPO have reacted to the complaints filed in January 2024. Since the complaint under the German Supply Chain Act, filed by communities and individuals from Guatemala and supported by ECCHR and foodwatch, is pending at Edeka's internal complaint mechanism, complainants prefer to continue communication with Edeka through this channel. However, complainants like to critically reflect upon the content of Naturaceites' reply.

The following remarks are not a comprehensive analysis of all the points raised in Naturaceites' statement. Instead, they highlight topics of central importance, where the assumptions made require a correction. Most importantly, the content of the complaint and therefore the situation of affected communities in Guatemala is poorly addressed in Naturaceites' statement. If the company's engagement continues in this manner, Naturaceites will not be able to contribute to constructive solutions in good faith.

1. Accusations differ from prior accusations of the Christliche Initiative Romero

Naturaceites claims in its reply that the allegations "pertain to a previous statement mentioned in a blog by the Romero Initiative". While there have been past allegations against Naturaceites - of which foodwatch and ECCHR are aware - the complaint submitted under the German Supply Chain Act against Edeka focuses on particular communities and new information related to their situation and gathered throughout the year 2023, including through several interviews.

ECCHR and foodwatch take note of the fact that Naturaceites has reacted to Edeka's request for a review of the complaints in the form of a questionnaire. It is unclear, whether the table included at the end of its statement is this completed questionnaire. Complainants respectfully request clarification in this regard and access to the completed questionnaire in case it is different from the table.

2. RSPO Audits are a big part of the problem and not sufficient as proof of respect for human rights and the environment

Naturaceites refers in large parts to the Roundtable on Sustainable Palmoil (RSPO) and how events mentioned by the Romero initiative have been dealt with under this mechanism in the past. As said before, these events are different from the ones raised in the complaint by ECCHR and foodwatch.

In addition, RSPO certification based on audits is part of the problem identified in the complaint. Affected communities and their members raise doubt about the robustness of the methodology used by auditors and the results obtained. The complaint specifies detailed shortcomings regarding the two latest audit reports of 2022 and 2023 respectively. Naturaceites' response does not react meaningfully to these particular allegations. However, they should be at the core of its reply.

In addition, based on the German Unfair Competition Law, foodwatch submitted a second lawsuit challenging the use of the RSPO label, exactly because the organisation does not believe the label can keep the promises made by the multistakeholder mechanism. This assessment includes, among other points of critique, information on how the RSPO's internal grievance mechanisms are too slow and ineffective to respond meaningfully to allegations by affected stakeholders and achieve effective change. Hence, the non-existence of a formal complaint under the RSPO multistakeholder scheme is not a sign that the company respects human rights but instead evidence of the fact that complainants lack trust in the mechanism.

3. Respect for land rights and non-occurrence of other violations cannot be proven by mere assertions and a paper trail

As was pointed out several times in the complaint, the land rights of indigenous communities in Guatemala are at best fragile. Formal registers do not necessarily reflect the claims of the communities based on traditional possession of the land. The limits of their lands have been contested for many years. Land rights defenders are vulnerable, criminalized, and exposed to violence, which makes it impossible for them to freely travel to and from their community to submit complaints to administrative authorities in which they have no trust, given the poor record of handling past complaints. Therefore, the absence of formal complaints against land rights Naturaceites allegedly possesses is no sign of respect for the rights of indigenous communities in the area. On the contrary, it is the very reason, why local indigenous communities have to make recourse to international mechanisms to assert and protect their rights.

Furthermore, consultations with Community Development Councils (COCODES) are no guarantee that complaints related to land tenure are properly addressed. Contrary to Naturaceites' assertions, these COCODES do not represent the local indigenous communities. While they may have been elected, such elections do not follow internally agreed processes to determine representatives and do not include traditional leaders. As such, they do not comply with the right of indigenous peoples to freely determine their leaders, who will speak on their behalf. Hence, consultations with COCODES are by their nature insufficient to respect the rights of local indigenous communities. The complaint provided information on the non-representative character of the COCODES for the specific case of the indigenous communities, who submitted the complaint.

4. Suggested measures to achieve improvement are fully inadequate to respond to the accusations made

Proposed measures for improvement mainly consist of promising additional efforts in communicating certain topics and pieces of information to the public. Such communication will not address the root problems raised by the complainants and is therefore inadequate as a reply to all the allegations made.