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From:	General Secretariat of the Council
To:	Delegations
Subject:	UTP Directive 633/2019: Member States' experience in tackling unfair trading practices in the food supply chain - <i>Summary of the debate held at the SCA on 16 June</i>

Member States' experience in tackling unfair trading practices in the food supply chain

- Summary of the Presidency of the discussion and recommendations made by the delegations at the Special Committee on Agriculture meeting held on 16 June 2025

– Introduction

On 17 April 2019, the European Parliament and the Council adopted Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (UTP Directive). Member States were required to implement it by 1 May 2021.

Since the implementation of the UTP Directive, Member States have gathered experience in enforcing its provisions with regard to the occurrence of unfair trading practices in business-to-business relationships in the supply chain of agricultural and food products.

The Polish Presidency held a discussion at the meeting of Special Committee on Agriculture on 16 June 2025 in order to assess the functioning of the UTP Directive in the light of Member States' experience and to diagnose the needs and possible directions for further work on its provisions.

The Presidency focused the discussion on questions concerning the possible need for amendments in relation to the catalogue of unfair practices and the potential risks stemming from the functioning of purchasing alliances.

- 1) Do you see the need for amending the catalogue of unfair trading practices, for example to create the same catalogue of unfair practices in all EU Member States, make the single catalogue of unfair practices without dividing them into ‘black’ and ‘grey’ practices or add new prohibited practices to the catalogue?
- 2) The dynamic development and concentration of trade has led to the creation and operation of so-called purchasing alliances. Do you perceive such alliances as a potential threat likely to lead to unfair trading practices and therefore a need to adjust the scope of the directive to better cover their practices? And, if so, how?

Taking into account the course of this discussion, the Presidency makes the following summary of Member States’ experience in implementing the UTP Directive and recommendations for possible amendments to the legislation and invites the Commission to take them into account when carrying out the first evaluation of the functioning of the Directive to be presented by 1 November 2025 and its further work on the UTP Directive.

– Observations

The directive is a key tool in eliminating unfair trading practices.

Most Member States consider UTP Directive as an essential tool to strengthen the position of producers and improve relationships in the food supply chain. Delegations confirmed the significant impact of the provisions of the Directive in eliminating unfair trading practices.

Ensuring flexibility and subsidiarity makes it possible to take into account the specificities of Member States

Most delegations stressed that the minimum harmonisation introduced by the Directive was a good and balanced solution that allowed Member States to take into account their specificities and market structures when implementing it. Although many delegations pointed out that harmonisation and a uniform approach across Member States could make the rules more understandable for EU market participants and less problematic to apply, the different market conditions in individual Member States argued for maintaining flexibility.

Maintaining the current division into “black” and “grey” practices

Most delegations did not see a need to change the division of the list of prohibited trade practices into “black” and “grey” practices. This ensured proportionality and gave Member States the flexibility to adapt to different needs.

Extension of the list of prohibited practices

Some delegations expressed the need to regulate at EU level the problem of selling below the production cost. These delegations highlighted the need to ensure a fair distribution of margins in the food supply chain, so that farmers are not forced to sell below cost. Delegations welcomed the fact that the issue of fair revenues was included in *the Communication from the European Commission on a vision for agriculture and food*. Some delegations expressed the need to introduce a general provision prohibiting unfair practices, as it was not always possible to identify a specific practice. This would make it possible to eliminate new, as yet unspecified, unfair practices.

Suggestions for amendments to the Directive

Some delegations were in favour of extending the protection resulting from the Directive also to buyers, pointing to the changes taking place in the market and the functioning of the increasing number of large suppliers. Such an amendment would ensure equal treatment of both suppliers and buyers in relation to their larger trading partners.

Some delegations expressed the need to change the level of turnover and thresholds so that all actors in the food supply chain were covered by the provisions of the Directive.

Some Member States drew attention to the developing problem of private label brands. Low price was the main advantage of private label products, and currently price played a key role in everyday consumer purchases. The dominant position of many retail chains had allowed them to impose delivery conditions and standards, imposing the need to deliver products under the chain's own brand. The increasing share of private labels was a danger to producers producing under their own brand and may distort competition on the market.

Purchasing Alliances

Some delegations indicated that, while they had not identified in their Member States problems resulting from the functioning of purchasing alliances, they saw the added value of analysis and practical assessment of how the development of such forms of purchasing affected the market and whether it distorted competition. At the same time, some Member States experienced problems due to the dynamic development of purchasing alliances. In their opinion uniform EU regulations would be useful to balance the power of alliances with market players.
