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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Regulation on cross-border enforcement of rules against unfair trading practices (UTPs) - *Mandate for negotiations with the European Parliament*

Delegations will find in the Annex a Presidency note containing the main changes as compared to the Council mandate as a result of the trilogue of 16 October and the explanations for these changes with a view to inviting the SCA to exchange views and to agree to modify the negotiating mandate.

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UTP Regulation - Most significant changes provisionally agreed compared to Council mandate by 24/10/2025

Row	Provision	Council Mandate	Draft agreement	Comment
15	Recital 3 and Article 2(1) (Retail alliances)	(3) Due to the principle of territoriality, enforcement authorities may face difficulties gathering information, finding an infringement and imposing and enforcing fines and other equally effective penalties where a buyer is established in another Member State. Such difficulties affect the system of enforcement established by Directive (EU) 2019/633, which depends on cooperation between enforcement authorities, and may lead to an uneven enforcement of unfair trading practices, undermining the protection for suppliers of agricultural and food products intended by that Directive. It is therefore appropriate to establish certain rules strengthening cooperation between enforcement authorities in cross-border cases. Strengthening that cooperation leads to a more effective	(3) Due to the principle of territoriality, enforcement authorities may face difficulties gathering information, finding an infringement and imposing and enforcing fines and other equally effective penalties where a buyer is established in another Member State*, for example when operators of the food supply chain or their alliances have a cross-border purchasing strategy*. Such difficulties affect the system of enforcement established by Directive (EU) 2019/633, which depends on cooperation between enforcement authorities, and may lead to an uneven enforcement of unfair trading practices, undermining the protection for suppliers of agricultural and food products intended by that Directive. It is therefore appropriate to establish	The discussion revolved around the EP wanting to have a clear reference to the role played by retail alliances in generating UTPs due to the inherent cross-border dimension of their operations in Art. 2(1) (row 39). As a result of technical discussions and of the trilogue held on 16 October, the EP agreed to drop the reference to "retail alliances" as such in article 2(1) and to refer instead to operators of the food supply chain or their alliances having a cross-border purchasing strategy in Recital 3 (row 15) instead.

		protection against unfair trading practices with cross-border dimension and contributes to strengthening farmers' position in the supply chain and thus ensuring a fair standard of living for the agricultural community.	*certain, uniform* rules strengthening cooperation between enforcement authorities in cross-border cases. *Strengthening that cooperation leads to a more effective protection against unfair trading practices with cross-border dimension and contributes to strengthening farmers' position in the supply chain and thus ensuring a fair standard of living for the agricultural community.* Text Origin: Council and EP Mandate	

50b	Article 3(a)	N/A	*Article 3a* *General principle* Text Origin: EP Mandate	The ex-officio approach is the rationale for adding Art. 3(a), as it has been done in other Regulations as well (e.g. Geographical Indications).
50c	Article 3(a)(1)	N/A	*1 The enforcement authorities shall cooperate with each other in order to prevent or stop unfair trading practices with a cross-border dimension on their territories.*	

			Text Origin: EP Mandate	
53	Article 4	Member States shall ensure that enforcement authorities have the necessary resources and expertise for the application of this Regulation.	Member States shall ensure that enforcement authorities have the necessary resources ~~and expertise~~ for the application of this Regulation *and for promoting awareness among buyers and suppliers of the provisions it lays down*. Text origin: Council and EP mandate	As stressed during the inter-institutional negotiations, the EP attaches particular importance to MSs' enforcement authorities having sufficient resources for promoting awareness of this Regulation among buyers and suppliers. The draft agreement reflects the Council mandate and the EP views on this issue.
53a	Article 4(a)	Article 4a Confidentiality of information	*Article 4a* *Confidentiality of information* Text Origin: Council Mandate	EP's amendment on row 53b is now included in Art. 7(a)(2) on imposing fees on suppliers (row 69d).
53b	Article 4(a)(1)		Text origin: Council mandate/Commission proposal	

55	Article 5	Article 5 Requests for information	Article 5 Requests for information Text Origin: Commission Proposal	As stated in the Council mandate, a requested enforcement authority has 90 days to provide the applicant EA with the information requested.
56	Article 5(1)	1. At the request of an applicant enforcement authority, a requested enforcement authority shall, without delay, and within ~~60~~90 days unless otherwise agreed, provide the applicant enforcement authority with the information requested to establish whether an unfair trading practice with a cross-border dimension has occurred or is occuring in the Member State of the applicant enforcement authority ~~with a cross-border dimension has occurred or is occurring~~.	1. At the request of an applicant enforcement authority, a requested enforcement authority shall, without delay, and within ~~*60 days unless otherwise agreed*~~*90 days*, provide the applicant enforcement authority with the information requested to establish whether an unfair trading practice ~~*in the Member State of the applicant enforcement authority*~~ with a cross-border dimension has occurred or is occurring *in the Member State of the applicant enforcement authority. Where the applicant enforcement authority and the requested enforcement authority agree to an extension of that period of 90 days, it may be extended by an additional period of 30 days.*	The EP mandate provided for a time limit of only 45 days for providing the information requested by the applicant enforcement authority. In the negotiations, the Council managed to keep its original mandate of 90 days for providing the information. In exchange, the possible extension of this period, which was open-ended, has been limited to 30 days.

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			Text Origin: Council and EP Mandate	
61	Article 6	Article 6 Requests for ~~enforcement~~ investigative measures	Article 6 Requests for ~~*enforcement*~~ *investigative* measures Text Origin: Council Mandate	EP gave up its demand to allow a requested enforcement authority to take decisions on infringements of the prohibitions on UTPs. The scope of the requests under this article was further clarified during the negotiations.
62	Article 6(1)	1. At the request and on behalf of an applicant enforcement authority, the requested enforcement authority shall ~~exercise~~conduct investigative measures, in accordance with ~~the national rules of its Member State,~~ the powers set out in Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633 and with its national law.	1. At the request and on behalf of an applicant enforcement authority, the requested enforcement authority shall ~~*exercise*~~*conduct investigative measures*, in accordance with ~~*the national rules of its Member State,*~~ the powers set out in Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633 *and with its national law, in order to determine whether an unfair trading practice with a cross-border dimension has occurred or is occurring*. Text Origin: Council mandate	

69b	Article 7a	Article 7a Costs	*Article 7a* *Costs* Text Origin: Council and EP Mandate	The form of the Council mandate changed here, but the content didn't. The main principle remains that the reasonable additional costs incurred by requested enforcement authorities for work done under Articles 5, 6 and 7 of this proposed regulation will be borne by the applicant enforcement authority, if asked to do so by the requested enforcement authority. On an EP request, the Council added that enforcement authorities shall not impose any fees on suppliers to recover costs related to the cross-border dimension of an UTP. Other elements regarding costs are still under discussion (rows 69e, 69g and 69h).
69c	Article 7a(1)	1. In relation to measures taken pursuant to Article 5 or 6, when requested by the requested enforcement authority, the applicant enforcement authority shall bear all reasonable additional costs in full, including translation, labour and administrative costs, arising from the request.	*The enforcement authorities shall waive all claims between them for the reimbursement of costs incurred in applying this Regulation, with the exception of the costs they incur as requested enforcement authority for measures taken pursuant to Articles 5, 6, or 7, as referred to in paragraphs 2 and 3 of this Article.*	
69d	Article 7a(1)	N/A	*1a. Enforcement authorities shall not impose any fees on suppliers to recover costs related to the cross-border dimension of an unfair trading practice.* Text origin: EP mandate (row 53b)	
69e	Article 7a(2)	2. In relation to measures taken pursuant to Article 5 or 6, when requested by the requested enforcement authority, the applicant enforcement authority	*N/A*	

		shall bear all reasonable additional costs in full, including translation, labour and administrative costs, arising from the request.		
69f	Article 7a(3)	3. The requested enforcement authority shall recover the amounts due in the currency of its Member State, in accordance with its national law.	*3. The requested enforcement authority shall recover the amounts due in the currency of its Member State, in accordance with its national law.* Text Origin: Council and EP Mandate	
69g	Article 7a(4)	The requested enforcement authority may recover the full costs incurred in relation to measures taken pursuant to Article 7 from the fine payments collected on behalf of the applicant enforcement authority, including translation, labour and administrative costs. If the requested enforcement authority is unsuccessful in collecting the fines, it may request the applicant authority to bear the costs incurred.	*N/A*	

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69h	Article 7a(5)	4. The requested enforcement authority shall, if necessary, in accordance with its national law, convert the fines into the currency of its Member State at the rate of exchange applying on the date on which the fines were imposed.	*N/A*	

78	Article 10(1)(b)	(b) criminal investigations or judicial proceedings have already been initiated against the same buyer in respect of the same unfair trading practice before the authorities in the Member State of the requested enforcement authority or of the applicant enforcement authority.	(b) criminal investigations or judicial proceedings have already been initiated against the same buyer in respect of the same unfair trading practice *towards the same supplier and during the same period of the unfair trading practice covered by these criminal investigations or judicial proceedings,* before the authorities in the Member State of the requested enforcement authority or of the applicant enforcement authority. Text Origin: EP Mandate	During the negotiations, the Council mandate was further clarified in terms of grounds for refusal to comply to a request for mutual assistance by incorporating parts of the EP mandate. In the same vein, the Council mandate on the reasons for refusal to take part in a coordinated action in Art. 14 (rows 102 and 103) was adapted
80	Article 10(2)(a)	(a) criminal investigations or judicial proceedings have already been initiated~~,~~ or a judgment has been given against the same	(a) criminal investigations or judicial proceedings have already been initiated, *or* a judgment has been given *against*	

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		buyer in respect of the same unfair trading practice, or a court settlement has been reached with the same buyer in respect of the same unfair ~~trade~~trading practice before the judicial authorities in the Member State of the requested enforcement authority;	*the same buyer in respect of the same unfair trading practice towards the same supplier, and during the same period of the unfair trading practice covered by these criminal investigations or judicial proceedings*, or a court settlement has been reached *with the same buyer* in respect of the same unfair ~~*trade*~~*trading* practice before the judicial authorities in the Member State of the requested enforcement authority; Text Origin: EP Mandate	
81	Article 10(2)(b)	(b) the exercise of the necessary enforcement powers including administrative proceedings has already been initiated, or an administrative decision has already been adopted against the same buyer in respect of the same ~~intra-Union infringement and against the same trader~~unfair trading practice in the Member State of the requested authority in order to bring about the swift and	(b) the exercise of the necessary enforcement powers *including administrative proceedings* has already been initiated, or an administrative decision has already been adopted *against the same buyer* in respect of the same ~~*intra-Union infringement and against*~~*unfair trading practice towards* the same ~~*trader*~~*supplier, and during the same period of the unfair*	

		effective cessation of the same unfair ~~trade~~trading practice;	*trading practice covered by the investigations or the administrative decision* in the Member State of the requested *enforcement* authority in order to bring about the swift and effective cessation of the same unfair ~~*trade*~~*trading* practice; Text Origin: EP Mandate	
82a	Article 10(2), point (ca)	(ca) the requested enforcement authority issues reasonable doubts whether the requested enforcement measures are in compliance with Directive (EU) 2019/633 or can show that the request concerns national rules adopted on the basis of Article 3(1), point (b), third sentence of Directive (EU) 2019/633 or maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633;	*(ca) the requested enforcement authority can demonstrate that the requested enforcement measures are not provided in Article 6 (1) points (a), (b), (c) of Directive (EU) 2019/633, or can show that the request concerns national rules adopted on the basis of Article 3(1), point (b), third sentence of Directive (EU) 2019/633 or maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633 ;* Text origin: Council mandate	On the basis of the Council mandate an addition was made to specify under which conditions a requested enforcement authority can refuse to cooperate under Article 6 of this regulation.
83e	Article 10(2a), fifth subparagraph	(d) the requested enforcement authority issues reasonable doubts whether the	*(d) the requested enforcement authority can demonstrate that the final*	On the basis of the Council mandate an addition was made to specify under which

		final decision is in compliance with Directive (EU) 2019/633 or can show that the final decision concerns national rules adopted on the basis of Article 3(1), point (b), third sentence of Directive (EU) 2019/633 or maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633, or could not have been taken or cannot be enforced in compliance with its national law;	*decision concerns national rules adopted on the basis of Article 3(1), point (b), third sentence of Directive (EU) 2019/633 or maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633, or could not have been taken or cannot be enforced in compliance with its national law;* Text Origin: Council Mandate	conditions a requested enforcement authority can refuse to cooperate under Article 7 of this regulation.
87	Article 11(2)	2. If no agreement can be reached between the enforcement authorities concerned, requests for mutual assistance shall be sent in the official language, or one of the official languages, of the Member State of the applicant enforcement authority and replies in the official language, or one of the official languages, of the Member State of the requested enforcement authority.	2. If no agreement can be reached between the enforcement authorities concerned, requests for mutual assistance shall be sent in the official language, or one of the official languages, of the Member State of the applicant enforcement authority, *accompanied by a courtesy translation in English, if requested* and replies in the official language, or one of the official languages, of the Member State of the requested enforcement authority, *accompanied by a courtesy*	Regarding the language regime for requests for mutual assistance, to the Council mandate it was added that an English courtesy translation would have to be provided, if this was requested. This provision was part of the EP mandate . The same principle concerning the language regime was reproduced under Art. 20 (row 139).

			translation in English, if requested. Text Origin: EP Mandate	
94	Article 13(2)	2. The enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension shall designate an enforcement authority to be the coordinator. If those enforcement authorities are unable to reach an agreement on that designation, the enforcement authority that has issued the alert pursuant to Article 19 shall be the coordinator.	2. The enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension shall designate an enforcement authority to be the coordinator *In order to reach an agreement in the designation of the coordinator, the Commission may, when necessary, facilitate the discussions among the enforcement authorities*. *If those enforcement authorities are unable to reach an agreement on that designation, the enforcement authority that has issued the alert pursuant to Article 19 shall be the coordinator.*	The Council mandate has been kept with the addition that, when necessary, the Commission may facilitate the discussions on the designation of the coordinator of a coordinated action (part of the EP mandate).

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			Text origin: EP and Council mandate	

124a	Article 18(1a)	N/A	*The coordinator shall be assisted in the exercise of the tasks set out in paragraph 1, points b), c),e),f) and g) by the other enforcement authorities concerned* text origin: EP mandate (moved from row 94)	Related to row 94, it was clarified that the coordinator of a coordinated action shall be assisted in the exercise of certain of its tasks by the other enforcement authorities concerned.
139b		Article 20a Cooperation in relation to buyers established outside the Union	*Article 20a* *Cooperation in relation to suppliers or buyers established outside the Union* Text Origin: EP Mandate	Council mandate as regards cooperation between enforcement authorities on operators in third countries has, by EP request, been supplemented with references to suppliers in third countries. This does not add any new obligations to the MS or other enforcement authorities. This addition has also been made in rows 40 and 139c and 139e.
139c	Article 20a, paragraph 1	In relation to unfair trading practices laid down in Article 3(1) and (2) of Directive	*In relation to unfair trading practices laid down in Article 3(1) and (2) of Directive (EU)*	

		(EU) 2019/633 with a cross-border dimension which occur in relation to sales of agricultural and food products between buyers and suppliers referred to in Article 1(2) of Directive (EU) 2019/633 where the buyers are established outside the Union an enforcement authority may:	*2019/633 which occur in relation to sales of agricultural and food products between buyers and suppliers referred to in Article 1(2) of Directive (EU) 2019/633 where the suppliers or buyers are established outside the Union, an enforcement authority may:* Text Origin: Council Mandate	
139e	Article 20a(b)	(b) alert the Commission and other enforcement authorities concerned when it suspects that an unfair trading practice by a buyer established outside the Union takes place and that that unfair trading practice may concern suppliers established in at least three Member States. For such alerts, Articles 4a, 19 (2) and (3) and 20 shall apply mutatis mutandis.	*(b) alert the Commission and other enforcement authorities concerned when it suspects that an unfair trading practice towards a supplier established outside the Union or by a buyer established outside the Union takes place and that that unfair trading practice may concern buyers or suppliers established in at least three Member States. For such alerts, Articles 4a, 19 (2) and (3) and 20 shall apply mutatis mutandis.* Text Origin: Council Mandate	
139f	Article 20(b), title	N/A	*Article 20b* *Reporting*	

			Text Origin: EP Mandate	Following technical discussions, and with a goal to increase transparency regarding cross-border UTPs it was agreed to add an article according to which MSs' annual reports under Art. 10(1) of the UTP Directive would have to include details of the activities falling under the Regulation. Discussions also commenced on a reporting obligation for the Commission, on which work will have to continue in the coming weeks.
139g	Article 20(b)(1)	N/A	*1 The annual report referred to in Article 10(1) of Directive (EU) 2019/633 shall include details of any of the activities falling within the scope of this Regulation. Those details shall, inter alia, include the number of requests received by applicant enforcement authorities, in accordance with Articles 5, 6, 7 and 9 of this Regulation, as well as the number of coordinated actions for widespread unfair trading practices with a cross-border dimension, in accordance with Article 13 of this Regulation, opened or closed during the previous year. For each request or action that has been concluded, the report shall contain a summary description of the matter and of the steps and measures taken.* Text Origin: EP Mandate	