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CONTRIBUTION

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Preliminary comments of the Czech Republic on the Proposal for a Regulation on Cooperation Among Enforcement Authorities Responsible for the Enforcement of the UTP Directive

First and foremost, we would like to thank the European Commission for the Proposal for a Regulation on cooperation among enforcement authorities responsible for the enforcement of the UTP Directive, and the Polish Presidency for its evident efforts to advance the legislative process.

We welcome the introduction of this proposal, which establishes a legal framework for cooperation between designated enforcement authorities, particularly in cases with cross-border dimensions, a matter we have advocated for. In the Czech Republic, the competence to enforce UTP Directive has been vested in the Office for the Protection of Competition. The Office also acts as a national competition authority which, among other things, applies EU competition law (Articles 101 and 102 TFEU) and collaborates with authorities from other Member States and the European Commission, based on Regulation (EU) 1/2003 and Directive (EU) 2019/1. In light of this fact, we believe it could be useful to benefit from this legal framework and the insights gained from its practical application.

Having conducted a preliminary analysis of the proposal, we generally view it as balanced and capable of serving as a suitable legal ground for future cooperation, subject to certain clarifications and improvements. While we are still in the process of forming an official position, we would like to share some initial comments. We expect that more specific issues will be discussed during negotiations at the Working Party on Agricultural Products, where the text will be thoroughly examined. At this stage, we would like to highlight the following:

- **Definition of "final decisions" (Article 3(f)):** We suggest providing a more detailed definition of this term in the text or discussing and clarifying it during the Working Party meetings to accommodate the diversity of legal systems across Member States.
- **Possible extension of Article 4 on resources and expertise:** In order to give practical meaning to this provision, we propose including more detailed provisions to ensure adequate resources and expertise, drawing possible inspiration from Article 5 of Directive 2019/1, which addresses resources of competition authorities.
- **Clarification of Articles 5 and 6:** We recommend distinguishing more clearly between these articles. Article 5 should, as we interpret it, address requests for information already in the possession of the requested authority (with the term "collected" in paragraph 3 replaced accordingly). Requests for information from buyers and suppliers, however, should be made exclusively under Article 6, in line with Article 6(1)(b) of the UTP Directive.
- **Understanding the exercise of investigatory powers (Article 6(1)(a) of UTP Directive):** While we support the provisions for requesting information (Article 6(1)(b)) and conducting on-site inspections (Article 6(1)(c)), we do not understand how the power

to initiate and conduct investigations under Article 6(1)(a) of the UTP Directive on basis of a request of other authority would be implemented.

- **Adjustments to Article 7:** In the Czech Republic, the enforcement of fines under the UTP Directive falls within the competence of the Czech Customs Authority, not the Office for the Protection of Competition. Therefore, we would like to clarify Article 7 to avoid potential confusion when requesting the enforcement of decisions.
- **Clarification of wording of Article 10(2)(b):** Specifically, terms “trader” and “intra-Union infringement are not clear, as they are not used in any other provision. We would like to propose changes to these terms, or at least explain them in the recitals.
- **Designation of a coordinator (Article 13):** We propose including a procedure for designating a coordinator in cases where consensus cannot be reached among the concerned enforcement authorities.
- **Performing coordinated actions in line with national law (Articles 13 and 15):** We would like to add to these Articles provisions, which would ensure that coordinated actions performed under Chapter IV would be in accordance with national law.
- **Role of the coordinator (Article 18):** We suggest that the role and responsibilities of the coordinator, as outlined in this article, be further discussed during the Working Party meetings.

The above-listed are the most important issues, which require discussions during the further negotiations, but we are open to discuss other possible changes or clarifications as we. We look forward to future constructive debates on the text of the proposed regulation.