



Strengthening the EU Unfair Trading Practices Directive (EU) 2019/633

**Recommendations to support farmers' incomes and fair
commercial relations in the agri-food supply chain**

February 2026



Signatures



Agroecology in Action, Arbeitsgemeinschaft bäuerliche Landwirtschaft e.V., ARGE Weltläden Österreich, Banana Link, COLEAD, Commerce Équitable France, Elvang Denmark A/S, Equo Garantito, Essen mit Zukunft, Esperanza Café, Ethiquable Benelux, European Institute for Animal Law & Policy, European Milk Board, Fair Trade Advocacy Office (FTAO), Fairtrade Belgium, Fairtrade Germany, Fairtrade International, Fern, Fédération Artisans du Monde, Forum Fairer Handel, Greater Goods UK, Girolomoni, IFOAM Organics Europe, Institute for Agriculture and Trade Policy, Misereor, Oxfam, Polish Fair Trade Association, Producentenorganisatie Consumptieaardappelen (POC), Producentenorganisatie Eiwitboeren van Nederland, Rifò, U-landsforeninger Svalerne, World Fair Trade Organization-Europe, Zotter Schokolade Austria.



This publication was coordinated by Francesca Monteverdi (Oxfam) and Jorge Conesa (Fair Trade Advocacy Office).

Design by Víctor Guérin Sanz

Published in February 2026

With the support of [Sustainable Agricultural Supply Chains Initiative \(SASI\)](#) and [Deutsche Gesellschaft für Internationale Zusammenarbeit \(GIZ\)](#).



Content



➤	Problem Definition: Why EU action is (still) needed	6
➤	1. Enhancing enforcement and addressing suppliers' fear factor	8
	1.1 Counteract the fear factor	8
	1.2 Enhancing enforcement	9
	1.3 Deterrence effect	9
	1.4 Improving access to the complaints procedure	10
	Box 1. The importance of non-EU country suppliers being covered by the UTP Directive	11
	1.5 Role of cost observatories	13
➤	2. Strengthen the economic viability of farmers and small suppliers.	15
	2.1 Buying below the cost of sustainable production	15
	2.2 The need for flexibility among Member States	16
	2.3 Expand the scope of the Directive, covering all suppliers regardless of relative sizes	18
	2.4 The need for flexibility among Member States	19
	Box 2. The concept of economic dependence	20



Summary of policy recommendations



I. Enhancing enforcement and addressing suppliers' fear factor



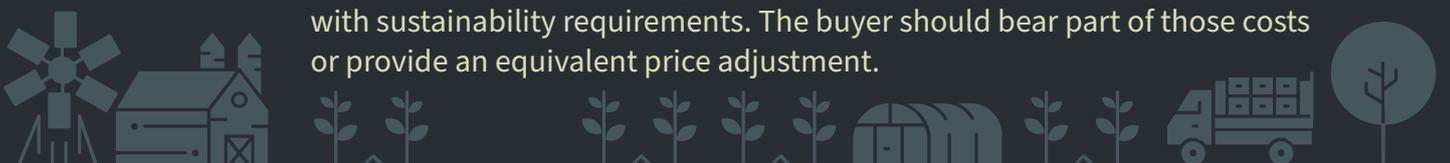
- **Counteract the fear factor.** Enhance protection against retaliatory actions, ensure accessible complaint channels through reinforced anonymity safeguards and low-threshold legal, advisory, and financial support. Expand the framework for triggering investigations by facilitating that third parties can submit substantiated concerns to enforcement authorities, who may then launch ex officio investigations.
- Require enforcement authorities to make **the annual reports** they already submit to the European Commission public, to foster cooperation between authorities and stakeholders.
- **Strengthen the deterrence effect.** This can be achieved through effective, proportionate and dissuasive fines. Member States of the European Union (EU) should set minimum fines for banned unfair trading practices (UTPs), calculate penalties based on companies' global turnover to deter large offenders, and implement compensatory measures for victims.
- **Improve access to the complaints procedure.** Awareness of the UTP Directive is the first step to improve access to the procedure. The European Commission must engage in awareness-raising activities, collaborate with food supply chain regulators in non-EU countries, make a reference to the compulsory legislation in relevant contracts and instruct enforcement authorities to publish segregated data on the country of residence of the complainant. In addition to this, the Member States must ensure that the complaint forms and the websites where they are located are translated to the most spoken languages.
- **Strengthen the role of the Agri Food Chain Observatory (AFCO).** The AFCO should be reinforced with adequate resources, expanded powers, and a broader scope. This includes systematic monitoring of prices, costs, and margins based on contract data, and other available data. All stakeholders must be required to deliver the relevant data to the AFCO.



Strengthen the economic viability of farmers and small suppliers



- **Ban buying and (re)selling below the cost of sustainable production of agricultural products.** We call for a ban on buyers from purchasing primary agricultural and food products from the supplier at a price lower than the supplier's sustainable cost of production. We recommend that this ban applies to first buyers from farmers, their cooperatives or organisations, including those located outside the EU. To ensure a correct price transmission and an equitable distribution of value throughout the value chain, selling agricultural products (including processed) to intermediaries or end-consumers below the purchase price of said product or composite product should also be banned. Both bans should fall under the list of black listed practices.
- **The need for flexibility among Member States.** EU Member States must keep the flexibility to address diverse agricultural structures, market conditions, and evolving unfair trading practices through higher levels of protection where needed. Rather than moving towards full harmonisation, the EU action should focus on strengthening coordination and cooperation between national enforcement authorities, particularly in cross-border cases.
- **Protect all actors against UTPs, regardless of their size.** The scope of the UTP Directive should be expanded beyond size-based thresholds. This will avoid unnecessary legal uncertainty for smaller operators. It will also avoid unintended consequences where larger actors which are not protected against UTPs pass on the negative impacts up the chain, or where buyers delist smaller suppliers to favour larger ones on whom they can impose UTPs.
- **Expand the black-list of UTPs to cover also:**
 - Retaliatory de-listing of products by buyers;
 - The use of 'double-race auctions';
 - Blacklist grey unfair trading practices that arise due to economic dependence;
 - Prohibition of imposing compensations and fines automatically and without justification;
 - The ban of the refusal to renegotiate a contract when the supplier of agricultural products or their cooperative is the victim of unforeseeable circumstances;
 - Prohibition that buyers bypass producers' organisations and negotiate prices directly with individual members;
 - Prevent buyers from passing on to suppliers the entire cost of compliance with sustainability requirements. The buyer should bear part of those costs or provide an equivalent price adjustment.



Problem Definition: Why EU action is (still) needed



The European Union (EU) Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (UTP Directive) was designed to mitigate the harmful consequences of the imbalances of power within the agri-food supply chain, which enables larger actors to impose abusive practices upon smaller ones.

The problem remains relevant in 2026: economic dependence and structural imbalance allow buyers to impose unfair conditions, undermining farmers' income stability and investment capacity^[1]. Across the EU, many small and family farms earn less than average non-farm wages, with gender inequality deepening these gaps, for example, female farmers in France earn around 29% less than men^[2].

These income gaps undermine economic sustainability for rural producers and are incompatible with the right to a decent livelihood under Article 16 of the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP). Low incomes remain a key factor in farm exits: contributing to the continued decline in farm numbers^[3], an ageing farming population, and weak generational renewal.

Farmers' position is even more precarious in many supplying countries globally. In Côte d'Ivoire and Ghana most cocoa-producing households do not earn a living income^[4], with women doing the majority of the work but receiving only a small share of the income^[5]. Despite recent price increases, farmers in major West African producer countries often do not fully capture the



[1] Eurostat (2025). Performance of the agricultural sector. https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Performance_of_the_agricultural_sector

[2] Oxfam France (2023). Agriculture : les inégalités sont dans le pré. [Oxfam mediabrief agriculture Vdef.pdf](https://oxfamfrance.org/mediabrief-agriculture-vdef.pdf)

[3] Millions of small farms disappear as structural change and economic pressures intensify.

Boccaletti, S., Maranzano, P., & Viegas, M. (2024). Inequality and concentration in farmland production and size: regional analysis for the European Union from 2010 to 2020. <https://arxiv.org/abs/2409.00111>

[4] van Vliet, J., Slingerland, M., Waarts, Y., & Giller, K. (2021). A living income for cocoa producers in Côte d'Ivoire and Ghana? *Frontiers in Sustainable Food Systems*, 5, Article 732831. <https://doi.org/10.3389/fsufs.2021.732831>

[5] In Côte d'Ivoire, women carry out around 70% of the work on cocoa farms but receive only about 20% of the income. African Development Bank (AfDB) (2015). Economic empowerment of African women through equitable participation in agricultural value chains. ReliefWeb. <https://reliefweb.int/report/world/economic-empowerment-african-women-through-equitable-participation-agricultural-value>

benefits. In Côte d'Ivoire and Ghana farm-gate prices typically amount to only around 60–70% of international prices, reflecting weak price transmission and structural bottlenecks in supply chains^[6]. Furthermore, low prices lead to a lack of investment in people and farms, increasing vulnerability to climate change and limiting sustainability and productivity. In turn, this leads to diminishing supply and therefore higher prices for consumers in the future.

We acknowledge that steps have been taken to improve the UTP Directive's enforcement, notably through strengthened cross-border cooperation between EU enforcement authorities, and to enhance farmers' position in the value chain, including the proposal to introduce mandatory written contracts under the reform of Regulation 1308/2013 establishing a common organisation of the markets in agricultural products (CMO Regulation). However, these measures must be complemented by a substantive revision of the UTP Directive to effectively ensure UTPs are banned. **The revision should include a ban on buying below sustainable production cost to ensure farmers worldwide are “not forced to systematically sell their products below their production costs”.**

This position paper will offer evidence-based proposals for the two areas: (A) enhancing enforcement and addressing suppliers' fear factor, and (B) addressing the uneven performance of the UTP Directive to strengthen the economic viability of farmers and small suppliers.

“

The revision should include a ban on buying below sustainable production cost to ensure farmers worldwide are “not forced to systematically sell their products below their production costs.

”



[6] Farmforce (2025). 2025-2026 Cocoa Season Outlook: Challenges and Sustainability in Focus. <https://farmforce.com/articles/2025-2026-cocoa-season-outlook-challenges-and-sustainability-in-focus/>

1. Enhancing enforcement and addressing suppliers' fear factor,



Despite the Directive's enforcement framework, **fear of retaliation remains a central barrier** to complaints. The evaluation confirms that suppliers often refrain from reporting UTPs due to concerns over delisting or commercial retaliation. As a result, complaint numbers remain disproportionately low compared to the prevalence of UTPs.

1.1 Counteract the fear factor

The principal obstacle to the effective use of the complaints mechanism is the fear of retaliation by buyers, reported by 29% of respondents in the latest wave of the survey by the Joint Research Centre. Both the fear of retaliation and concerns regarding the effective anonymity of complainants throughout the entire infringement procedure were identified by the UTP evaluation as critical factors for the development of credible and effective enforcement systems.



Suppliers often doubt that anonymity can be fully preserved throughout the procedure, as a certain degree of disclosure is required to safeguard the right of defence, and consequently fear commercial retaliation or the loss of business relationships. This tension highlights the need for robust procedural safeguards that balance effective enforcement with the protection of complainants.

Policy recommendations:

- » Add UTPs on retaliatory delisting, unjustified fines or compensatory measures (see page 20).
- » Require Member States to provide online anonymous complaints forms that are accessible to all.
- » Require Member States to provide low-threshold legal and advisory services to actors in the food and agricultural supply chain wishing to file a complaint, similar to the Fairness-Büro in Austria^[7].



[7] Fairness-Büro in Austria. <https://www.fairness-buero.gv.at/>

- » Member States should provide targeted support and financial resources to enable suppliers to lodge and pursue complaints. As evidenced by the research on UTPs in Ecuador^[8], suppliers often lack the financial and logistical capacity to defend their interests in the EU or to collect the additional evidence required, which can entail significant costs.
- » Require national enforcement authorities to observe the parts of the chain in which the power imbalances are most acute and carry out ex officio (own initiative investigations). According to the evaluation, ex officio investigations are considered key to overcoming the limitations that the fear effect causes on the effectiveness of the complaints system.
- » Expand the framework for triggering investigations, by facilitating the ability of third parties to submit substantiated concerns to enforcement authorities, who may then launch ex officio investigations. These third parties may include journalists, civil society organisations, trade unions or other informed actors. In the absence of EU intervention, it is unlikely that these frameworks will be set by all enforcement authorities, which hampers the impact of the Directive.

1.2 Enhancing enforcement

The reports submitted annually by enforcement authorities to the European Commission have proven to be a valuable source of information for the Joint Research Center (JRC) and the European Commission. However, since they are not public, civil society and national economic actors have not been able to cooperate with their national enforcement authorities on the basis of these reports, . This creates a missed opportunity to enhance the enforcement of the Directive.

Policy recommendations:

- » Requiring enforcement authorities to make the annual reports they already submit to the European Commission public. This would allow civil society at national level to better understand the authority's activity and foster cooperation between authorities and stakeholders.

1.3 Deterrence effect

As detecting all the UTPs in supply chains is most likely not possible, the European Commission should ensure that the UTP Directive has a deterrence effect towards perpetrators.

Policy recommendations:

- » Require Member States to explicitly include the principles of effective, proportionate and dissuasive penalties. Greece, Finland, Lithuania and Luxembourg have already done so (to an extent).



[8] Helguero, M.L. (2025). Report on the implementation of the EU Unfair Trading Practices Directive beyond the EU: Ecuador. Fair Trade Advocacy Office (FTAO), Oxfam Belgium. <https://fairtrade-advocacy.org/posts/34>

- » Require Member States to set a minimum fine when a banned UTP takes place. Eleven Member States^[9] already do so.
- » Require Member States to calculate fines on the basis of annual global turnover of companies to ensure that big actors, who are most susceptible to commit UTPs because of their market power, are also deterred by the potential punishment.
- » Require Member States to put in place restitutionary or compensatory measures to compensate victims of their loss. This would imply: a) providing enforcement authorities with the power to seek compensation for victims of unfair practices they identify. This is the case in France, Poland and the Netherlands b) requiring Member States to assume the costs of mediation or public court proceedings when disputes are referred to these mechanisms. As infringements currently result only in administrative fines imposed on buyers, with no compensation awarded to complainants, there is limited incentive for suppliers to lodge complaints. Furthermore, in cases of mediation or legal action, the costs of pursuing a complaint are currently covered by the parties involved. Without compensation, enforcement remains asymmetrical and supplier reporting irrational.

1.4 Improving access to the complaints procedure

The evaluation^[10] confirms a persistent lack of awareness of the Directive, particularly among smaller suppliers and farmers. According to the Joint Research Centre, nearly 30% of respondents in 2024 (fifth wave survey) were not aware of the Directive. This share rises to almost 40% among farmers, highlighting a significant information gap within the very group the Directive is intended to protect^[11]. In addition, only 51 % of all respondents knew to which authority they should turn to to file a UTP-related complaint.

Awareness among suppliers in third countries is even lower. According to two case studies conducted by the Fair Trade Advocacy Office and

Oxfam, suppliers in the cocoa and coffee sectors in Ecuador^[12] and Rwanda^[13] were largely unaware of the UTP Directive. Most exporters consulted in these studies had no knowledge of the Directive itself, nor of the existence of enforcement authorities in EU Member States or available complaint mechanisms. Even among those who were aware of the Directive, insufficient information and guidance on how to lodge a complaint significantly limited its effective implementation^[14].

The European Commission should improve access to information and increase awareness among the most vulnerable groups, such as farmers and non-EU suppliers.

[9] BE, BG, ES, IT, LV, LT, LU, HU, PT, RO, SI.

European Commission (2024). Unfair Trading Practices (UTP) – Overview tables on Member States' transposition choices and enforcement activities. SWD(2024) 106 final. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52024SC0106>

[10] European Commission (2025). Evaluation of the Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain 2025. SWD(2025) 405 final. [EUR-Lex - 52025SC0405 - EN - EUR-Lex](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52025SC0405)

[11] Areté, European Commission (2025). Evaluation support study of the EU Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain.

<https://op.europa.eu/en/publication-detail/-/publication/e1044a53-cc06-11f0-8da2-01aa75ed71a1/language-en>

[12] Helguero, M.L. (2025). Report on the implementation of the EU Unfair Trading Practices Directive beyond the EU: Ecuador. Fair Trade Advocacy Office (FTAO), Oxfam Belgium. <https://fairtrade-advocacy.org/posts/34>

[13] Motz M., Fair & Sustainable Consulting (2025). Report on the implementation of the EU Unfair Trading Practices Directive beyond the EU: Rwanda. Fair Trade Advocacy Office (FTAO), Oxfam Belgium. <https://fairtrade-advocacy.org/posts/35>

[14] Helguero, M.L. (2025). Report on the implementation of the EU Unfair Trading Practices Directive beyond the EU: Ecuador. Fair Trade Advocacy Office (FTAO), Oxfam Belgium. <https://fairtrade-advocacy.org/posts/34>

Policy recommendations:

- » Promote and facilitate awareness-raising activities such as being present at national and inter-national food trade and agricultural fairs.
- » Leverage the network of EU Delegations in non-EU countries, Member State embassies, and team Europe initiatives to conduct awareness raising activities targeted at exporters selling to the EU and trade associations.
- » Explore ways to collaborate with public food supply chain regulators in third countries.
- » At the national level, promote the translation of materials to international languages such as French, English, and Spanish.
- » Oblige EU buyers of agricultural and food products to include a reference to the legislation in all contracts in the agri-food sector.
- » Instruct enforcement authorities through Article 10 of the Directive to publish segregated data on the country of residence of the complainant. This way, the awareness of farmers in third countries can be monitored.



Box 1. The importance of non-EU country suppliers being covered by the UTP Directive



A. Fair competition perspective



As recognised in the Commission's 2018 Impact Assessment, excluding non-EU country suppliers would undermine the effectiveness of the UTP Directive and distort competition within the internal EU market. Where EU buyers can impose UTPs on non-EU suppliers but not on EU suppliers, this creates incentives to shift sourcing and circumvents the minimum protection framework, contrary to the objective of ensuring a level playing field.

Coverage of non-EU suppliers is therefore necessary to safeguard the proper functioning of the internal market and to prevent circumvention, in line with Article 43(2) TFEU and the common agricultural policy (CAP) objective under Article 39 TFEU to ensure a fair standard of living for the agricultural community.



B. Development perspective



Maintaining the application of the UTP Directive to non-EU suppliers is essential to ensure policy coherence with EU's development and sustainability objectives. Under Article 208 TFEU, the EU is legally required to ensure that all EU policies take development cooperation objectives into account. Allowing EU buyers to impose UTPs on third-country suppliers would directly contradict this obligation, as it perpetuates income instability, poverty and lack of resilience among smallholder producers supplying the EU market.

Excluding non-EU suppliers would undermine the EU's commitment under Article 21 TEU to promote sustainable development, fair trade and the eradication of poverty in its external action.

C. Need to improve the implementation



While non-EU actors are formally covered by the UTP Directive, the European Commission's evaluation report indicates that virtually no complaints have been filed from non-EU country actors. This gap could result in negative consequences for both, EU suppliers who would face unfair competition and non-EU ones who keep on suffering UTPs. Enhancing the enforcement in cross-border cases and raising awareness among non-EU actors is essential for the UTP Directive to deliver its intended effects.



1.5 Role of cost observatories

Market observatories play a crucial role in monitoring agri-food markets and ensuring an adequate level of transparency. The EU Coalition Against Unfair Trading Practices welcomes the establishment of the EU Agriculture and Food Chain Observatory (AFCO); however, its mandate should be strengthened to enable it to effectively deliver price transparency, inform the decisions and contribute to the identification and prevention of UTPs.



Building on the market transparency objectives underpinning Articles 222a and 222b of the CMO Regulation, market observatories should be empowered to fulfil a robust market surveillance function, including the monitoring of prices, costs, and margins along the food supply chain. This information should be made public and regularly reported to the European Parliament and the Council, as provided for under Article 222b of the Regulation.

Policy recommendations

- » The AFCO must be provided with the necessary means, budgetary or other, to fulfil the tasks that it has been trusted on. At current levels, it means substantially expanding the available human and financial resources.
- » Price data should be collected based on contract data and other available data. All stakeholders must be required to deliver the relevant data to the AFCO. Therefore, the AFCO must establish a database to which contracts on the selling and purchasing of agricultural and food products must be uploaded (potentially above a certain price threshold). Other prices (e.g. prices paid by cooperatives to producers) that are not paid via a contract should also be included in the database. This would allow for the AFCO to monitor power imbalances in supply chains and take specific action, for example by defining benchmark prices. The Spanish law already foresees such a mechanism.
- » The AFCO should be given investigative powers and be instructed to collaborate with the European Competition Network (ECN) and national competition authorities to monitor market power. Alongside investigative powers are prudential powers, which are related to foreseeing and mitigating potential future problems, necessary in the form of advisory reports on abusive practices that should be added to the list of UTPs.
- » Given the differences between organic and conventional markets, the AFCO should support that data for conventional and organic products is collected separately to be able to draw tailored findings about these two markets. Also, an “organic expert group” should be set up within the AFCO so as to discuss agri-food chain particularities and data that are specific to organic within that group.



- » The scope of the AFCO should not be limited to agricultural products produced in the EU but must also observe prices and production costs of key agricultural products imported into the EU, including but not limited to bananas, cocoa, coffee, sugar cane, tea, rice, wine, herbs and spices, nuts, and other fruits. For this purpose, the AFCO could rely on data provided by national institutions of non-EU countries, data of international organisations, United Nations organisations, or non-governmental organisations such as Fairtrade International. The review of the UTP Directive should require EU Member States to not only set up enforcement authorities, as is already the case, but also national or regional price observatories. This way, the European Commission ensures that the AFCO will be able to compile the necessary data on an EU level, based on the data provided by the national price observatories. The AFCO should therefore also develop guidelines and methodology on how to calculate and acquire certain data to ensure coherence.
- » Discussions within AFCO should be transparent and subject to public scrutiny by providing regular reporting on the main issues discussed to the European Parliament's Committee on Agriculture and Rural Development. In line with Article 222b of the CMO Regulation, which already requires agricultural market observatories to report to the European Parliament, AFCO should be subject to the same reporting obligation.



2. Strengthen the economic viability of farmers and small suppliers.



2.1 Buying below the cost of sustainable production

One of the most severe UTPs that remains outside the scope of the UTP Directive is the buying of products below the cost of production. Farmers' vulnerable position in the food value chain often forces them to accept unfair payment terms, as they risk losing clients, have limited alternative buyers, or must sell perishable products. Prohibiting buyers from buying primary agricultural and food products at prices below the supplier's sustainable production costs is a powerful measure to prevent this practice and safeguard farmers' livelihoods.

Buying below production costs reflects a systemic market failure and a severe imbalance of power in the food supply chain that cannot be effectively addressed exclusively through voluntary measures. The support study for the evaluation of the Directive has found a positive correlation between farmer income and fair remuneration and fair trade schemes. This positive correlation is also confirmed by evidence from studies focusing

on the impact of fair trade schemes in small-holder farmers^[15]. Voluntary schemes are however not designed to tackle the structural issue of low farm-gate prices across the whole chain, hence the need to support the development of these schemes while ensuring a level playing field in which systematically buying below the cost of production is not tolerated.

Beyond protecting incomes, such a prohibition is also essential to support the transition towards more sustainable farming practices. Under current market conditions, many farmers are locked into a logic of high volumes sold at low prices, often at the expense of farmers' livelihoods, environmental protection, biodiversity, and the long-term viability of farming itself. Ensuring cost coverage for sustainable production practices would allow farmers to secure a decent living while investing in more environmentally and socially sustainable, less industrialised forms of production.



[15] See, among others, Effects of Fairtrade on farm household food security and living standards: Insights from Côte d'Ivoire in <https://www.sciencedirect.com/science/article/pii/S2211912421000456>, and The Impact of Fair Trade Certification for Coffee Farmers in Peru in <https://www.sciencedirect.com/science/article/abs/pii/S0305750X11002051>

To ensure a correct price transmission and an equitable distribution of value throughout the value chain, selling agricultural products (including processed) to intermediaries or end-consumers below the purchase price of said product or composite product should also be banned. **Both buying and reselling below sustainable production costs should be banned under the list of black listed practices. The ban should be accompanied by mandatory written contracts mentioning the cost of production and registered in a database (managed by AFCO). It is up to producers to define their own production costs.**

 **Calculation of cost of sustainable production.** The production cost includes all costs incurred in relation to the production of the primary product. Production costs shall be calculated using an adapted version of the methodology of the Farm Sustainability Data Network (FSDN)^[16].

» The production costs should include costs for bought-in feed, fodder, crop cultivation (seeds, fertilisers, plant protection products), animal husbandry (housing systems, space requirements, enrichment, access to outside, etc.), maintenance of machinery and buildings, contract work, paid wages and social security, as well as remuneration for farm managers and other farm workers (including family workers), overheads, rent, depreciation, interest and taxes. Only production support measures must be deducted from costs as subsidies.

» In relation to the ‘sustainable production’ aspects, at least the following elements should be taken into account: (1) paid wages and social security, as well as remuneration for farm managers and other farm workers (including family workers), should be calculated based on existing collective agreements in countries, actual wages, the applicable minimum wages or living wage benchmarks, whichever is highest; (2) costs incurred following sustainable farming practices that generate ecosystem services (for example organic farming, agro-ecological practices, biodiversity protection or restoration, or carbon capture) should be taken up accordingly; and (3) costs related to certification of sustainable and fair farming practices as well as costs associated with meeting environmental requirements.

Both buying and reselling below sustainable production costs should be banned under the list of black listed practices. The ban should be accompanied by mandatory written contracts mentioning the cost of production and registered in a database (managed by AFCO). It is up to producers to define their own production costs.



[16] As determined by delegated acts of the Commission as per Article 1 of the Regulation (EU) 2023/2675. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202302674

- » Cost calculation should be based on averages of data points of predetermined time frames per product type and production systems, to average out cost fluctuations throughout production cycles.
- » An accompanying UTP should be added that allows farmers and cooperatives to renegotiate contracts in cases of input shocks that significantly alter the cost of sustainable production (see below page 22).
- » Given that cost structures in low-income countries in the Global South are different to those within the European Union and might be more difficult to calculate, the FSDN should provide simplified and contextualised methodologies - potentially relying on existing living income benchmarks for key imported products from the Global South as applicable.



Calculation of purchase price. The purchase price includes the actual incurred costs of the purchase of the material product (in case of resale) or the sum of the actual incurred costs of the composite material products (in case of processing), including packaging but excluding non-material inputs.



Enforcement. We strongly recommend the ban on buying and (re)selling products below the cost of sustainable production to be added to the list of blacklisted practices (forbidden in all cases) to ensure full protection against market pressure.

- » The legislation should foresee an exhaustive list of exceptions under which cases of buying and (re)selling below the cost of sustainable production would be allowed, including but not necessarily limited to goods that are close to their expiration date.
- » **Based on country experiences, effective enforcement of the ban on below-cost buying largely depends on how production costs are defined and applied in practice.** Experience shows that farm-level production cost calculations, as used in Spain and supported by sectoral benchmarks, provide farmers with a credible and practical basis for negotiation. By contrast, France's broadly defined cost concept and Belgium's weaker enforcement framework—characterised by the absence of written contracts and the placement of the ban on the grey list—allow buyers to maintain dominant positions and compel farmers to accept unfavourable terms.



Application. We recommend that this specific ban apply to first buyers from farmers, their cooperatives or organisations, including those located outside the EU, as is already the case for the UTP Directive.



2.2 The need for flexibility among Member States

The current UTP Directive provides a minimum harmonisation framework allowing Member States to go beyond the 16 UTPs practices if they require it. Differences in agricultural structures, market conditions, and the economic vulnerability of farmers across Member States make it necessary to preserve the current minimum-harmonisation approach. This flexibility allows national authorities to respond effectively to emerging practices and to tailor enforcement to local realities, while ensuring coordination at EU level where cross-border conduct is involved. It is essential to maintain flexibility for Member States to introduce higher levels of protection, while at the same time strengthening cooperation in cross-border cases. Unfair trading practices are continuously evolving, and issues that initially emerge in one Member State often subsequently spread to others.

A full harmonisation approach could weaken rather than strengthen the protection against UTPs. The rationale of the Directive's original impact assessment to favour a partial harmonisation remains valid: a common minimum standard is needed, while Member States must be allowed to introduce further rules where necessary, and subsidiarity considerations favour a less intrusive approach. While stakeholders have highlighted concerns about legal uncertainty and lack of harmonisation across Member States, this can be addressed through a stronger coordination mechanism between competent authorities to improve cooperation among enforcement authorities.

2.3 Expand the scope of the Directive, covering all suppliers regardless of relative sizes

The Directive is based on the assumption that firm size is an adequate proxy for market power, which is not always the case. Most importantly, even when size does entail market power, limiting the protection of some of the actors may produce unintended negative consequences for smaller suppliers.

The turnover-based thresholds create a structural incentive for buyers to reorganise their sourcing strategies in ways that undermine the Directive's objectives. Buyers may deliberately favour larger suppliers that fall outside the Directive's protection, precisely because UTPs can be imposed on them without legal constraint. Conversely, smaller suppliers that are protected by the Directive may be delisted or marginalised, not because they are less efficient or competitive, but because they are legally more costly to deal with.

There is evidence that in some cases, small buyers are more prone to informal arrangements that may result in UTPs if they have market power over their suppliers. For example, in the case of trade between small suppliers from Rwanda and EU buyers, last minute cancellation of orders have been observed more often when the buyer is relatively small^[17]. Additionally, small suppliers often lack access to reliable information about their buyer's annual turnover, making it difficult to assess whether a given practice is unlawful under the Directive.



[17] Motz M., Fair & Sustainable Consulting (2025). Report on the implementation of the EU Unfair Trading Practices Directive beyond the EU: Rwanda. Fair Trade Advocacy Office (FTAO), Oxfam Belgium. <https://fairtrade-advocacy.org/posts/35>

Finally, the size-based criteria overlooks the indirect effects of UTPs within the supply chain. A large manufacturer subjected to UTPs may pass the resulting costs upstream to smaller suppliers.

Policy recommendation:

- » A UTP is unfair regardless of the sizes of the companies involved, and the clear solution is to extend the scope of the Directive so that it applies to all business-to-business relationships.

2.4 Other unfair trading practices to be added to the list

- » **Protect suppliers against retaliatory de-listing.** Strengthen the provision of Article 3.1h) of the UTP Directive which prohibits ‘acts of commercial retaliation’ by requiring a buyer to communicate all delisting decisions with reasonable notice and to motivate such decisions with genuine commercial reasons.
- » **Ban the use of ‘double-race auctions’.** ‘Double-race auctions’ are mechanisms used by buyers to place suppliers against each other in short-notice online auctions, in which they are incentivised to offer their produce at the lowest possible price. Suppliers will often offer at a price below the cost of production, with inevitably negative effects on the farmers and workers in the grocery supply chain. The use of these auctions has been linked to widespread human rights abuses in the Italian tomato sector^[18]. Although suppliers are not technically obliged to take part in such auctions, when it is their only way of securing a market for their produce they are left with little choice.
- » **Blacklist grey unfair trading practices that arise due to economic dependence, regardless of the content of a supply agreement.** A comparatively weaker supplier might feel compelled to sign an agreement with a more powerful buyer, regardless of whether that agreement is truly in the supplier’s interest. Therefore, these grey UTPs should be banned outright if any supply agreement is reached where a supplier is economically dependent on a buyer.



[18] Oxfam (2018). Human Suffering in Italy’s Agricultural Value Chain. <https://policy-practice.oxfam.org.uk/publications/human-suffering-in-italys-agricultural-value-chain-620479>

Box 2. The concept of economic dependence



The concept of economic dependence is used in multiple EU Member States within economic law to complement the concept of ‘(abusive conduct by) dominant undertakings’ (cf. Art. 102 TFEU). While abusive conduct by dominant undertakings refers to actions by companies holding a dominant position in a specific market that exploit or harm competition, the notion of economic dependence focuses on situations where a company is in a position of strength relative to a specific counterparty in a transaction. Unlike market dominance, the key factor in economic dependence is the imbalance in bargaining power, which can lead to the abuse of this position to exploit the weaker party, even if the company is not dominant in the relevant market^[19]. Some relevant examples are the following.

In Belgian law, economic dependence is defined as “a position of subjection of an undertaking to one or more other undertakings characterised by the absence of a reasonable and equivalent alternative, available within a reasonable time and on reasonable terms and at a reasonable cost, which would allow it or any such undertaking to impose conditions which could not be obtained under normal market conditions.”

In German law (Act against Restraints of Competition), economic dependence is defined as a situation in which 20% of a supplier’s sales go to a single buyer. In France (Commercial Code, Art. L. 420-2), abuse of a situation of economic dependence is prohibited as long as it is likely to affect the function or structure of competition^[20]. This could be for example a refusal to sell, tie-in sales or other discriminatory practices. Italian law (Law no 192 of 18 June 1998, Art. 9) states that a state of economic dependence is in place when a business is in a situation where it can bring about excessive imbalances in the rights and obligations pertaining to its commercial relations with another business^[21].



[19] Vassili M., Atsushi Y., Abuse of Economic Dependence, Global Dictionary of Competition Law, Concurrences, Art. N° 86372. <https://www.concurrences.com/en/dictionary/abuse-of-economic-dependence#:~:text=The%20law%20provides%20that%20a.any%20real%20possibility%20for%20the>

[20] Ibid

[21] Ibid

» **Prohibit imposing compensations and fines automatically and without justification.** To prevent a player from incurring automatic penalties without an opportunity to justify or defend itself, all compensatory costs or fines should not be applied automatically or without justification.

» **Ban the refusal to renegotiate a contract when the supplier of agricultural products or their cooperative is the victim of unforeseeable circumstances which are unattributable to the parties and were unforeseeable at the time the contract was concluded and which makes execution of the contract excessively onerous.** This measure will provide better protection for farmers who are victims of unforeseen events such as natural disasters. In such cases, production costs could increase dramatically and would require a new negotiation to ensure the ban on purchasing below the cost of sustainable production is upheld. Recently, a trend has emerged with buyers increasingly delay contract negotiations, especially for products containing raw materials whose prices have risen sharply (e.g. coffee and cocoa). This forces suppliers to absorb higher input costs while still operating under outdated contract terms, creating financial burden. In France, commercial law requires contracts to be finalized by March 1 of the following year. A similar deadline under the EU UTP Directive would improve predictability and better protect smaller suppliers.

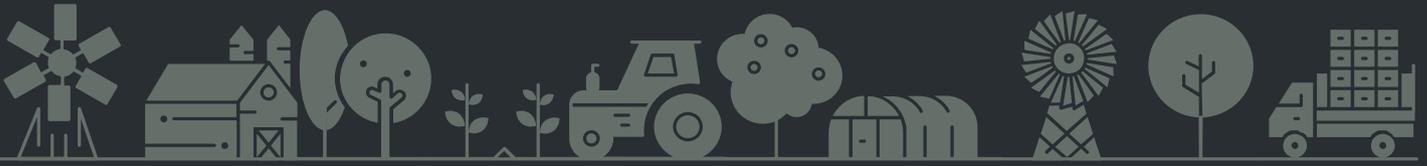
» **Buyers should be prevented from bypassing producers' organisations and negotiating prices directly with individual farmers.** As highlighted in the evaluation of the UTP Directive, farmers are significantly more exposed to unfair trading practices when they operate individually, without the collective protection provided by producers' organisations. Buyers can leverage their economic power and market dominance to circumvent producers' organisations and engage directly with individual farmers in order to secure more favourable terms, including lower prices. UTP legislation should therefore explicitly prohibit such practices and prevent the abuse of buyer power in price setting.

» **Prevent buyers from imposing upon suppliers the cost of compliance with sustainability standards.** As the EU progressively raises sustainability requirements (including traceability, food-safety, environmental and due-diligence obligations), there is a growing risk that powerful buyers externalise the full cost of compliance onto weaker suppliers. This practice grossly "deviates from good commercial conduct" and is imposed in a context



[22] Henson, S. & Humphrey, J. (2009). The impacts of private food safety standards on the food chain and on public standard-setting processes. Food and Agriculture Organization of the United Nations (FAO) , World Health Organization (WHO). <https://www.fao.org/4/i1132e/i1132e00.pdf>

of economic dependence, even if formally “agreed”. The Food and Agriculture Organization of the United Nations (FAO) has long warned that in global agri-food value chains “the costs of processes of compliance and conformity assessment tend to be pushed down... towards their suppliers, notably developing country exporters and producers”.^[22] Consequently the EU must add a specific UTP prohibiting buyers from unilaterally imposing on suppliers the costs of compliance with sustainability requirements (mandatory or voluntary) that are requested by the buyer or necessary to access/maintain a commercial relationship. For example, costs for certification/audits, traceability systems, data collection and verification, testing, segregation, and due-diligence documentation. The buyer must be able to demonstrate that it bears part of those costs or provides an equivalent price adjustment. This provision can be enforced by requiring that sustainability-related cost-allocation clauses be explicitly itemised in written contracts and be made available (upon request) to enforcement authorities to enable targeted checks and ex officio investigations, notably in high-risk import supply chains where suppliers report limited capacity to challenge buyer demands.



Strengthening the EU Unfair Trading Practices Directive (EU) 2019/633

