

4 March 2025

## The FTAO calls for greater recognition of non-EU suppliers in proposed UTP Directive revision

The FTAO welcomes the European Commission's proposal to boost cross-border enforcement of the [EU Directive on unfair trading practices in the agricultural and food supply chain](#) via a regulation that shall complement the Directive in question. However, we are dismayed to see that a measure established to facilitate cross-border complaints makes no reference to complaints from suppliers outside the EU.

This omission contradicts paragraph 12 of the UTP Directive's preamble, which states that "*suppliers established outside the Union should also enjoy protection against unfair trading practices when they sell agri-food products into the Union*",<sup>1</sup> allowing non-EU actors - primarily exporters- who have direct contractual relations with EU-based buyers to file a complaint under the Directive, just as EU-based sellers are.

We acknowledge that efforts are being made to address both the concerns of protesting farmers, as well as the Commission's commitment to act on the recommendations of the strategic dialogue, which mentions "*the effective enforcement of UTPs, the cooperation among enforcement authorities in cross-border cases...*".<sup>2</sup> Nevertheless, we urge policymakers to ensure that the most vulnerable actors, including non-EU suppliers covered by the directive, are duly considered in proposed amendments. Doing so would also align with the commitments made in the Political Guidelines to strengthen farmers' position in the food chain.

The improvement of cross-border collaboration is a crucial step, considering that approximately 20% of trade in agri-food products within the EU involves cross-border transactions. Additionally, agri-food products from trade flows between the EU and non-EU countries make up a sizeable share of the food consumed in the EU market: non-EU smallholder farmers contribute to around 90% of global cocoa production, much of which

---

<sup>1</sup> [Directive \(EU\) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain](#). (12) "*Suppliers in the Union should be protected not only against unfair trading practices by buyers that are established in the same Member State as the supplier or in a different Member State than the supplier, but also against unfair trading practices by buyers established outside the Union. Such protection would avoid possible unintended consequences, such as choosing the place of establishment on the basis of applicable rules. Suppliers established outside the Union should also enjoy protection against unfair trading practices when they sell agricultural and food products into the Union. Not only are such suppliers liable to be equally vulnerable to unfair trading practices, but a broader scope could also avoid the unintended diversion of trade towards non-protected suppliers, which would undermine the protection of suppliers in the Union*".

<sup>2</sup> European Commission (2024). [Main initiatives: Strategic Dialogue on the future of EU agriculture](#).

is imported by the EU, as well as 70% of the coffee supply chain. Bananas, typically grown in Latin America, the Caribbean and West Africa, also form a substantial part of EU imports.<sup>3</sup>

According to the findings of recent research commissioned by the FTAO on the implementation of the UTP Directive by suppliers in third countries, particularly in [Ecuador](#) and [Rwanda](#), three important findings were uncovered:<sup>4</sup>

- i. **The Directive’s implementation beyond the EU remains largely unexplored.** Most exporters who were consulted in the studies had no knowledge of the Directive itself, nor of the enforcement authorities in EU Member States and complaint mechanisms. Those who did know about the Directive were not given sufficient information and guidance to be able to lodge a complaint, which meant implementation was ineffective.
- ii. **Unfair Trading Practices continue to occur in commercial relations between non-EU suppliers and EU buyers.** Among the most common practices were last-minute cancellations, unilateral changes in contracts from the buyer, sellers taking over the risk of loss and deterioration from buyers, sellers being victims of commercial retaliation [black practice], and a list of unsold products [grey practice].
- iii. Despite the Directive protecting confidentiality, **the “fear factor” still prevents many exporters from potentially filing a complaint** as suppliers do not want to jeopardise their long-term and future relationships with their EU buyers.

Taking into account the above findings, the FTAO therefore recommends explicitly including a reference to cross-border collaboration with third countries in at least the following Articles of the text:

- Article 2, Scope: “This Regulation applies to the enforcement of the prohibition of unfair trading practices in business-to-business relationships in the agricultural and food supply chain laid down in Article 3(1) and (2) of Directive (EU) 2019/633 with a cross-border dimension, **i.e. cases both within the Union or between the Union and third countries.**
- Article 3, (d): ‘Unfair trading practice with a cross-border dimension’ means any unfair trading practice within the meaning of Directive (EU) 2019/633 involving one

---

<sup>3</sup> Fair Trade Advocacy Office. (2025). [The cost of exclusion: How leaving smallholder farmers behind could disrupt global and EU markets.](#)

<sup>4</sup> For summary of this research, see: [UTPs Beyond the EU Research on unfair trading practices faced by non-EU actors supplying the EU market: Two case studies, Cocoa in Ecuador and Horticulture in Rwanda.](#)

supplier and one buyer that are located in different Member States [or between a Member State and third country actor](#).

- Article 3, (e): Widespread unfair trading practice with a cross-border dimension' means any unfair trading practice within the meaning of Directive (EU) 2019/633 involving at least three Member States [or in cases involving a Member State and third country actor](#).
- Article 4: Member States shall ensure that enforcement authorities have the necessary resources and expertise for the application of this Regulation. [For cases involving third country actors, enforcement authorities should raise awareness on the complaint process via regulatory bodies, national export boards and embassies in third countries](#).
- Article 5: When an applicant enforcement authority makes use of the possibility provided in subparagraph 1, the requested enforcement authority may refuse to provide information, indicating the reasons for the refusal. [We believe that allowing an authority to refuse providing information would undermine the very objectives of the proposal, which is to facilitate cross-border collaboration. Should a situation arise when an enforcement authority refuses to provide information, the Commission should intervene and decide whether the reason for not providing information is legitimate](#).

Moreover, the FTAO urges a [more comprehensive revision of the UTP Directive](#), including adding the ban on purchasing below production costs as a black unfair trading practice, as requested by several farmers' organisations and the UTP Coalition. This measure should be adopted at the EU level by the end of 2025 to close legislative gaps and ensure fair implementation across Member States. Spain, France, and Belgium have already implemented such bans through national legislation, demonstrating its feasibility.

---

### **Get in touch:**

For more information, please contact Isabel Garland, Policy and Project Officer at the FTAO, at [garland@fairtrade-advocacy.org](mailto:garland@fairtrade-advocacy.org).