

UNFAIR TRADING PRACTICES (UTP)

COM defines UTPs as business-to-business practices that deviate from good commercial conduct and are contrary to good faith and fair dealing. The food supply chain is vulnerable to UTPs due to stark imbalances between small and large operators. National regimes on UTPs vary, with little coordination between MS. This leaves operators in some MS under-protected, translates into different business conditions across MS, and creates uncertainty for cross-border trade, translates into different business conditions across MS, and creates uncertainty for cross-border trade.

On 12 April COM published a Directive on unfair trading practices in business-to-business relationships in the food supply chain which covers 'food products', that is to say agricultural products as listed Annex I TFEU for the use as food, including **fishery and aquaculture** and processed agricultural products for food use. The choice of a Directive leaves Member States a discretionary margin how to implement this transposition.

The unfair trading practices to be banned with this new Directive are¹ late payments for perishable food products, last minute order cancellations, unilateral or retroactive changes to contracts and forcing the supplier to pay for wasted products. Other practices will only be permitted if subject to a clear and unambiguous upfront agreement between the parties: a buyer returning unsold food products to a supplier; a buyer charging a supplier payment to secure or maintain a supply agreement on food products; a supplier paying for the promotion or the marketing of food products sold by the buyer.

The proposed measures are complementary to measures existing in Member States and the code of conduct of the voluntary Supply Chain Initiative. Member States can take further measures as they see fit.

Questions addressed to MAC stakeholders on the basis of the public consultation launched by DG AGRI:

- Do you agree that UTP exists in the seafood supply chain?
- If so, how frequently UTPs occurred in the food supply chain?
- Can you identify which 3 practices you considered to be UTPs and to have the most serious impact?

Useful information:

<https://ec.europa.eu/info/sites/info/files/food-farming-fisheries/key-policies/cap/draft-proposal-unfair-trade-practices-com2018-173.pdf>

¹ Article 3 UTP Directive.

