



2018/0082(COD)

3.9.2018

AMENDMENTS

9 - 57

Draft opinion

Linda McAvan

(PE626.670v01-00)

on the proposal for a directive of the European Parliament and of the Council
on unfair trading practices in business-to-business relationships in the food
supply chain

Proposal for a directive

(COM(2018)0173 – C8-0139/2018 – 2018/0082(COD))

Amendment 9
Jean-Luc Schaffhauser

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The single market, the single currency, deregulation of financial markets and generalised free trade lead to a concentration of the means of production, trade and distribution which makes small actors, whether producers or processors, vulnerable to the pressures applied by retailing oligopolies. This structural situation leads to a suffocation of local agriculture on a human scale, craft industry and small local industry. Unfair commercial practices are only a minor aspect of this vast economic war being waged against small market participants by large ones in the free competition of a single market.

Or. fr

Amendment 10
Mireille D'Ornano

Proposal for a directive
Recital 3

Text proposed by the Commission

Amendment

(3) Different operators are active in the food supply chain at the stages of production, processing, marketing, distribution and retail of food products. The chain is by far the most important channel for bringing food products from “farm to fork”. Those operators trade food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty for use as food, and other food products not

(3) Different operators are active in the food supply chain at the stages of production, processing, marketing, distribution and retail of food products. The chain is by far the most important channel for bringing food products from “farm to fork”. ***These chains promote long channels, which are harmful to the environment and the quality of products distributed to consumers, and encourage consumption of processed foods.*** Those

listed in that Annex but processed from agricultural products for use as food.

operators trade food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty for use as food, and other food products not listed in that Annex but processed from agricultural products for use as food.

Or. fr

Amendment 11

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Different operators are active in the food supply chain at the stages of production, processing, marketing, distribution *and* retail *of food* products. The chain is by far the most important channel for bringing *food* products from “farm to fork”. Those operators trade food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty for use as food, and other food products not listed in that Annex but processed from agricultural products for use as food.

Amendment

(3) Different operators are active in the *agricultural and* food supply chain at the stages of production, processing, *importing, exporting,* marketing, distribution, retail *and sale to final consumers of agri-food* products. The chain is by far the most important channel for bringing *agri-food* products from “farm to fork”. Those operators trade *agricultural and* food products, that is to say primary agricultural products, including fishery and aquaculture products, as listed in Annex I to the Treaty for use as food, and other food products not listed in that Annex but processed from agricultural products for use as food.

Or. en

Amendment 12

Mireille D'Ornano

Proposal for a directive

Recital 4

Text proposed by the Commission

(4) While business risk is inherent in all economic activity, agricultural production is particularly fraught with uncertainty due to its reliance on biological processes, since agricultural products are to a greater or lesser extent perishable and seasonable, and its exposure to weather conditions. In *an* agricultural policy environment that is distinctly more market-oriented than in the past, protection against unfair trading practices has become more important for operators active in the food supply chain and in particular for agricultural producers and their organisations.

Amendment

(4) While business risk is inherent in all economic activity, agricultural production is particularly fraught with uncertainty due to its reliance on biological processes, since agricultural products are to a greater or lesser extent perishable and seasonable, and its exposure to weather conditions. In *a production-driven* agricultural policy environment that is distinctly more market-oriented than in the past, protection against unfair trading practices has become more important for operators active in the food supply chain and in particular for agricultural producers and their organisations.

Or. fr

Amendment 13

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are *largely* small and medium-sized.

Amendment

(5) The number and size of operators vary across the different stages of the *agricultural and* food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain, *both inside and outside of the Union*. Agricultural producers, who supply primary agricultural products, are *often* small and medium-sized *actors in the agricultural and food supply chain*.

Or. en

Justification

Small-scale food producers and workers in developing countries suffer directly or indirectly from unfair trading practices imposed by the most powerful actors in the food supply chain.

Amendment 14 **Mireille D'Ornano**

Proposal for a directive **Recital 5**

Text proposed by the Commission

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized.

Amendment

(5) The number and size of operators vary across the different stages of the food supply chain. Differences in bargaining power relate to the different levels of concentration of operators and can enable the unfair exercise of bargaining power by using unfair trading practices. Unfair trading practices are in particular harmful for small and medium-sized operators in the food supply chain. Agricultural producers, who supply primary agricultural products, are largely small and medium-sized, ***and are those which suffer most from this situation, particularly as regards the purchase price of their products.***

Or. fr

Amendment 15 **Maria Heubuch** on behalf of the Verts/ALE Group

Proposal for a directive **Recital 7**

Text proposed by the Commission

(7) A minimum Union standard of protection against ***certain manifestly*** unfair trading practices should be introduced to reduce the occurrence of such practices ***and*** to contribute to ensuring a fair

Amendment

(7) A minimum Union standard of protection against unfair trading practices should be introduced to reduce the occurrence of such practices, to contribute to ensuring a fair standard of living for

standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, ***provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹²***. Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on ***small and medium-sized*** enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect ***small and medium-sized*** intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

agricultural producers ***inside and outside the Union, to prevent unsafe and unsustainable practices, precarious working conditions, and to reduce food safety risks and food waste along the food supply chain***. It should benefit all agricultural producers or any natural or legal person that supplies ***agricultural and*** food products, including producer organisations and associations of producer organisations, ***without raising their administrative burden***. Micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers ***inside and outside the Union*** should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

¹² OJ L 124, 20.5.2003, p. 36.

Or. en

Justification

Unfair trading practices are a driver of food waste, unsafe and unsustainable practices, precarious working conditions and a threat to the income of small-scale food producers and workers all along the food supply chain both in the European Union and around the world. Further, as protection is to be extended further downstream, it can be extended to suppliers in general.

Amendment 16
Mireille D'Ornano

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers. It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹². Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

¹² OJ L 124, 20.5.2003, p. 36.

Amendment

(7) A minimum Union standard of protection against certain manifestly unfair trading practices should be introduced to reduce the occurrence of such practices and to contribute to ensuring a fair standard of living for agricultural producers, ***while leaving Member States the possibility of setting standards that are higher than this minimum threshold.*** It should benefit all agricultural producers or any natural or legal person that supplies food products, including producer organisations and associations of producer organisations, provided that all those persons meet the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹². Those micro, small or medium suppliers are particularly vulnerable to unfair trading practices and least able to weather them without negative effects on their economic viability. As the financial pressure on small and medium-sized enterprises caused by unfair trading practices often passes through the chain and reaches agricultural producers, rules on unfair trading practices should also protect small and medium-sized intermediary suppliers at the stages downstream of primary production. Protection of intermediary suppliers should also avoid unintended consequences (notably in terms of unduly raising prices) of trade diversion away from agricultural producers and their associations, who produce processed products, to non-protected suppliers.

¹² OJ L 124, 20.5.2003, p. 36.

Or. fr

Amendment 17

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) Suppliers established outside the Union should be able to rely on the Union minimum standard when they sell food products to buyers ***established in the Union*** to avoid unintended distorting effects resulting from the protection of suppliers in the Union.

Amendment

(8) ***To ensure the EU meets its Treaty obligation of Policy Coherence for Development and its commitments under the Sustainable Development Goals, suppliers established outside the Union should be able to rely on the Union minimum standard when they sell agricultural and food products to buyers marketing and placing those products on the EU market to avoid unintended distorting effects resulting from the protection of suppliers in the Union.***

Or. en

Justification

The diminishing share of revenues reaching small-scale food producers and workers in developing countries and the working conditions they face as a consequence of unfair trading practices undermine the Union's development policy and its objectives under the 2030 Agenda for Sustainable Development.

Amendment 18

Ignazio Corrao

Proposal for a directive

Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) ***The imbalance of power in the supply chain and unfair trading practices of supermarkets come at a high price, this generates and amplifies significant negative social and environmental impacts in most agriculture producing and poor countries, including the denial***

of basic human rights, gender discrimination, a failure to earn living wages, and long working hours.

Or. en

Amendment 19
Ignazio Corrao

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) Unfair trading practices contribute to increased pressure on workers and a sacrifice of their rights in the name of competition.

Or. it

Amendment 20
Ignazio Corrao

Proposal for a directive
Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) The power concentration and the liberalisation of world food markets has created the conditions in which the accumulation of buyer power results in unlimited price pressure on suppliers in the name of pretended consumer interest, while increasing the risks of unfair trading practices at the expense of the least powerful actors in the chain.

Or. en

Amendment 21
Ignazio Corrao

Proposal for a directive
Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) Pressure on prices and an increase in unfair trading practices contribute to increased job insecurity, piecework remuneration and exploitation of the labour of illegal migrants.

Or. it

Amendment 22
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 14

Text proposed by the Commission

Amendment

(14) Complaints by producer organisations or associations of such organisations can serve to protect the identity of individual members of the organisation who are small and medium-sized suppliers and consider themselves exposed to unfair trading practices. Enforcement authorities of the Member States should therefore be able to accept and act upon complaints by such entities while protecting the procedural rights of the defendant.

(14) Complaints by producer organisations or associations of such organisations, **as well as by organisations working with producers or with a proven expertise on trading practices in food supply chains, including non-governmental and civil society organisations**, can serve to protect the identity of individual members of the organisation who are small and medium-sized suppliers and consider themselves exposed to unfair trading practices. Enforcement authorities of the Member States should therefore be able to accept and act upon complaints by such entities while protecting the procedural rights of the defendant.

Or. en

Justification

The amendment aims at extending to representative associations the right to lodge a

complaint on behalf of one or more of their members, as most of the individual suppliers do not have the means to proceed autonomously.

Amendment 23
Mireille D'Ornano

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) *The* rules laid down in this Directive *should* not impair the possibility for the Member States to maintain existing rules that are further-reaching or to adopt such rules in the future, subject to the limits of Union law applicable to the functioning of the internal market. The rules would apply alongside voluntary governance measures.

Amendment

(17) *It is essential that the* rules laid down in this Directive *do* not impair the possibility for the Member States to maintain existing rules that are further-reaching or to adopt such rules in the future, subject to the limits of Union law applicable to the functioning of the internal market. The rules would apply alongside voluntary governance measures.

Or. fr

Amendment 24
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier *that is a small and medium-sized enterprise* to a buyer *that is not a small and medium-sized enterprise*.

Amendment

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of *agricultural and* food products by a supplier to a buyer, *including transactions between producer organisations or cooperatives and their members*.

Or. en

Justification

Extending the scope to all buyers is essential to prevent UTPs being passed on along the supply chain without any access to complaint mechanisms for affected producers and suppliers (“domino effect”). Including the relations between cooperatives and their members is necessary especially in the dairy sector, where cooperatives often have acquired substantial bargaining power vis-à-vis their members.

Amendment 25

Patrizia Toia

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier that is a small and medium-sized enterprise ***to a buyer that is not a small and medium-sized enterprise.***

Amendment

2. This Directive applies to certain unfair trading practices which occur in relation to the sales of food products by a supplier that is a small and medium-sized enterprise.

Or. it

Amendment 26

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) “buyer” means any natural or legal person ***established in the Union*** who buys food products by way of trade. The term “buyer” may include a group of such natural and legal persons;

Amendment

(a) “buyer” means any natural or legal person, ***irrespective of their place of establishment,*** who buys ***agricultural or*** food products by way of trade ***to place them on the EU market.*** The term “buyer” may include a group of such natural and legal persons;

Or. en

Amendment 27

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) "unfair trading practices" means practices that - grossly deviate from good and fair commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by buyer to supplier, or - impose or attempt to impose an unjustified and disproportionate transfer of a buyer's economic risk to the supplier; or a significant imbalance of rights and obligations on the supplier in the commercial relationship before, during or after the contract;

Or. en

Amendment 28

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) a "supply agreement" is a written agreement between a supplier and a buyer that clearly and transparently covers the relevant elements of the commercial agreement, including the names of the parties, their rights and obligations, price, duration, terms of delivery, terms of payment, as well as the cause, the execution of the contract and the effect of terminating the contract.

Or. en

Justification

This definition serves to develop and monitor the other elements proposed in the directive. To ensure transparency, it is necessary to have a written contract that allows to monitor and resolve abusive practices that are regulated and forbidden in the directive itself.

Amendment 29

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) “*small and medium-sized enterprise*” means an enterprise within the meaning of the definition of micro, small and medium-sized enterprises set out in the Annex to Commission Recommendation 2003/361/EC¹⁴ ;

deleted

¹⁴ Commission Recommendation 2003/361/EC of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5/2003, p. 36).

Or. en

Amendment 30

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Member States shall ensure that *the following* trading practices are prohibited:

1. Member States shall ensure that *all unfair* trading practices are prohibited, *including at least the following trading practices*:

Amendment 31

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

(b) a buyer cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products;

Amendment

(b) a buyer cancels orders of perishable food products at such short notice that a supplier cannot reasonably be expected to find an alternative to commercialise or use these products *at the same value*;

Or. en

Amendment 32

Ignazio Corrao

Proposal for a directive

Article 3 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) a buyer uses reverse electronic auctions, or two-stage auctions, to drive down prices; these are not regulated and are such as to fail to ensure the transparency of negotiations, pricing and bidders in the purchasing of agricultural and agri-food products of EU-certified quality and origin as well as non-certified products;

Or. it

Justification

L'asta elettronica inversa, o al doppio ribasso, utilizzato inizialmente dai grandi gruppi del discount, oggi è una pratica comune di gran parte delle catene distributive. Ai fornitori, le centrali d'acquisto della GDO chiedono tramite e-mail di avanzare un'offerta per la vendita

di uno stock di prodotto. Raccolte le proposte, lanciano una seconda asta, nuovamente al ribasso, partendo dal prezzo inferiore spuntato nella prima. In pochi minuti, su un portale web, il fornitore è chiamato a competere selvaggiamente con altri per aggiudicarsi la commessa. Chi si aggiudica la fornitura, spesso si è spinto talmente al limite da doversi rivalere nei confronti dei produttori da cui acquista la merce. A loro volta, questi ultimi si possono trovare in difficoltà nel garantire i diritti fondamentali ai lavoratori agricoli. In tal modo, il meccanismo delle aste al doppio ribasso contribuisce a rendere più difficile l'eradicazione dello sfruttamento e del caporalato, dei lavoratori in nero e dei migranti irregolari, all'interno e all'esterno dell'Unione.

Amendment 33

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 1 – point c

Text proposed by the Commission

(c) a buyer unilaterally **and retroactively** changes the terms of the supply agreement concerning the frequency, timing or volume of the supply or delivery, the quality standards or the prices of the food products;

Amendment

(c) a buyer unilaterally changes the terms of the supply agreement concerning the frequency, timing or volume of the supply or delivery, the quality standards, or the prices of the food products, **or the terms of payment**;

Or. en

Amendment 34

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 1 – point d

Text proposed by the Commission

(d) a supplier pays for the wastage of food products that occurs **on** the buyer's **premises** and that is not caused by the negligence or fault of the supplier.

Amendment

(d) a supplier pays for the wastage of food products that occurs **once the product has passed into** the buyer's **ownership** and that is not caused by the negligence or fault of the supplier.

Or. en

Amendment 35
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) a buyer sells an agri-food product below the cost at which it was purchased, to stimulate sales of other products (“loss leader”);

Or. en

Amendment 36
Jean-Luc Schaffhauser

Proposal for a directive
Article 3 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) a buyer requiring a supplier to accept less than the cost price;

Or. fr

Amendment 37
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Article 3 – paragraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) a buyer claims, in an inconsistent manner, that products do not meet cosmetic specifications, in order to cancel or reduce the terms of the supply agreement;

Amendment 38
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Article 3 – paragraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) a buyer uses overly strict 'minimum life on receipt criteria' in order to reject a previously agreed order, or to reject an order that, for reasons unrelated to the supplier, has not been processed quickly enough;

Or. en

Amendment 39
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Article 3 – paragraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(dd) a buyer requires suppliers to bear the financial costs of inaccurate forecasting provided by the buyer in order for the supplier to plan their production to meet forecasted orders.

Or. en

Amendment 40
Jean-Luc Schaffhauser

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

3. If a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, the buyer shall, if requested by the supplier, provide the supplier with an estimate of the payments per unit or overall, whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned also an estimate of the costs and the basis for such estimate.

Amendment

3. If a payment is requested by the buyer for the situations described in points (b), (c) and (d) of paragraph 2, the buyer shall, if requested by the supplier, provide the supplier with an estimate of the payments per unit or overall, whichever is appropriate, and insofar as the situations described in points (b) and (d) of paragraph 2 are concerned also an estimate of the costs, ***which must be economically justified***, and the basis for such estimate.

Or. fr

Amendment 41

Ignazio Corrao

Proposal for a directive

Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

Each trade agreement concluded between the European Union and a third country shall provide for the designation of a public authority to enforce the prohibitions referred to in Article 3 at the national level in that specific country. It shall also include the provisions referred to in Article 7(3) below.

Or. it

Amendment 42

Patrizia Toia

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

1. A supplier shall address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Amendment

1. A supplier shall address a complaint to the enforcement authority of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established, ***without bearing the relevant administrative and procedural costs.***

Or. it

Amendment 43

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. A supplier established outside the EU shall address a complaint to the enforcement authority of any Member State. Upon receipt of the complaint, the enforcement authority shall forward it to the enforcement authority (if different) of the Member State in which the buyer suspected to have engaged in a prohibited trading practice is established.

Or. en

Justification

The directive also applies to suppliers outside the EU, and so this amendment provides them with their mechanism to lodge a complaint. This is essential to avoid discrimination between EU- and non-EU suppliers and to avoid distortion of competition and trade diversion. This is important in contributing to the treaty obligation of Policy Coherence for Development and EU commitments under the Sustainable Development Goals.

Amendment 44

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive
Article 5 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. Where the buyer is established outside of the Union, the supplier shall address a complaint to the enforcement authority of the Member State in which it is established. For cases where the supplier is established outside of the Union, the supplier can address a complaint to any designated enforcement authority.

Or. en

Amendment 45

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice, ***as well as organisations working with producers or with a proven expertise on trading practices in food supply chains, including non-governmental organisations and civil society organisations,*** shall have the right to submit a complaint.

Or. en

Justification

To overcome the fear factor and ensure effective access of vulnerable actors, it is essential to extend the right to submit a complaint to organisations that work to promote fairness in

supply chains and support vulnerable actors such as small-scale food producers and women. This is particularly the case in countries with a low level of governance and a high level of inequality.

Amendment 46
Jean-Luc Schaffhauser

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Amendment

2. Producer organisations or associations of producer organisations ***or trade unions representing the employees of producer undertakings*** whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Or. fr

Amendment 47
Ignazio Corrao

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. Producer organisations or associations of producer organisations whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice shall have the right to submit a complaint.

Amendment

2. Producer organisations or associations of producer organisations ***inside and outside the Union*** whose member(s) or member(s) of their members consider(s) that they are affected by a prohibited trading practice ***implemented in the Union*** shall have the right to submit a complaint.

Or. it

Amendment 48
Jean-Luc Schaffhauser

Proposal for a directive
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) to require buyers and suppliers to provide all necessary information in order to carry out investigations on the prohibited trading practices;

Amendment

(b) to require buyers and suppliers to provide, ***within the stipulated deadlines and subject to pecuniary penalties for non-compliance***, all necessary information in order to carry out investigations on the prohibited trading practices;

Or. fr

Amendment 49
Jean-Luc Schaffhauser

Proposal for a directive
Article 6 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) to dissolve a purchasing undertaking by judicial or administrative means, in accordance with the legal framework of the Member State, in the event of serious and repeated violations of the prohibitions laid down in Article 3;

Or. fr

Amendment 50
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

The Commission is empowered to adopt delegated acts setting out criteria and a methodology to be taken into account by enforcement authorities when imposing pecuniary fines, having regard to at least the following elements: the turnover of the infringer, the benefits accrued by the infringer from the unfair trading practice, the number and status of the victims of the infringement, the repeated use of unfair trading practices by a buyer.

Or. en

Amendment 51
Ignazio Corrao

Proposal for a directive
Article 7 – paragraph 3

Text proposed by the Commission

3. The Commission shall establish and manage a website that provides for the possibility of information exchange between the enforcement authorities and the Commission, in particular in relation to the annual meetings.

Amendment

3. The Commission shall establish and manage a website that provides for the possibility of information exchange between the enforcement authorities *inside and outside the Union* and the Commission, in particular in relation to the annual meetings.

Or. it

Amendment 52
Rainer Wieland

Proposal for a directive
Article 7 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall ensure that DG AGRI has a functional mailbox available on its website to support small and medium-sized enterprises (SMEs) both inside and outside of the Union to protect and enforce their rights against

unfair trading practices^{1a}, by providing information about the procedures. All relevant information shall be provided in all EU languages.

1a

<http://ec.europa.eu/trade/policy/accessing-markets/trade-defence/actions-against-imports-into-the-eu/>

Or. en

Amendment 53
Rainer Wieland

Proposal for a directive
Article 7 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

3b. *The Commission and the enforcement authorities of the Member States shall apply the terms of this Directive in close cooperation. Further modalities for cooperation amongst the public authorities, including arrangements for information, consultation and allocation of cases of cross-border unfair trading practices, shall be laid down and revised by the Commission, in close cooperation with the Member States.*

Or. en

Amendment 54
Jean-Luc Schaffhauser

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

Amendment

Member States may provide for rules

Member States may provide for rules

designed to combat unfair trading practices going beyond those set out in Articles 3, 5, 6 and 7, *provided that such national rules are compatible with the rules on the functioning of the internal market.*

designed to combat unfair trading practices going beyond those set out in Articles 3, 5, 6 and 7.

Or. fr

Amendment 55
Jean-Luc Schaffhauser

Proposal for a directive
Article 8 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The Member States may decide to limit the margins applied by each actor in the food supply chain in order to prevent supply crises and to safeguard their food security and food sovereignty.

Or. fr

Amendment 56
Maria Heubuch
on behalf of the Verts/ALE Group

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. By 15 March of each year, Member States shall send to the Commission a report on unfair trading practices in business-to-business relationships in the food supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year.

1. By 15 March of each year, Member States shall send to the Commission a report on unfair trading practices in business-to-business relationships in the food supply chain. That report shall contain, in particular, all relevant data on the application and enforcement of the rules under this Directive in the Member State concerned in the previous year, *with a particular attention to cross-border unfair trading practices and their direct and indirect impacts on suppliers, including suppliers based outside the*

Union. Member States shall also report on the impact of the implementation of the current Directive on reducing food waste, increasing food safety and promoting sustainable practices in the food supply chain.

Or. en

Amendment 57

Maria Heubuch

on behalf of the Verts/ALE Group

Proposal for a directive

Article 11 – paragraph 1

Text proposed by the Commission

1. No *sooner* than three years after the date of application of this Directive, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions.

Amendment

1. No *later* than three years after the date of application of this Directive *and every two years thereafter*, the Commission shall carry out an evaluation of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee and the Committee of the Regions. *The report shall pay particular attention to the effectiveness of the Directive in protecting the most vulnerable actors against unfair trading practices throughout the food supply chain, both inside and outside the Union. It shall also evaluate the contribution of the Directive to reducing food waste, increasing food quality and promoting sustainable practices in the food supply chain. The report shall consider the need to review the Directive, in particular to include new forms of UTPs, and to make use of data on input costs and price transmission through the agricultural food supply chain, to establish criteria for determining fair prices within a supply agreement. On the basis of this report, the Commission may present appropriate legislative proposals.*

