

Summary report of the fourth meeting of the Agricultural Markets Task Force on 24 May 2016 – Contractualisation and contractual relations

1. INTRODUCTION INTO THE TOPIC

The day started with an exchange of views on the use of contracts and how unfair trading practices should be dealt with in the food supply chain.

The legal certainty created by the use of written contract was highlighted. It was underlined that positive effects can result from the use of contracts for agricultural producers, who are the weak link in the food supply chain due to their fragmentation when compared to downstream operators. The discussion then focused on unfair trading practices, which were acknowledged to be an issue that can occur at all levels and sectors of the food supply chain, although with varying degrees.

2. HEARING OF EXPERTS

Several experts were invited to the meeting.

Representatives of the European Commission gave an overview of the Commission [report](#) on unfair trading practices (UTPs) of 29 January 2016, as well as on the activities of the [High Level Forum for a Better Functioning Food Supply Chain](#).

The report on UTPs examines regulatory frameworks adopted by a majority of Member States to deal with UTPs. It also analyses voluntary initiatives, in particular the European Supply Chain Initiative (SCI) and national codes on unfair trading practices. The Commission will continue to monitor such regulatory and voluntary initiatives. The High Level Forum will conduct talks with operators, Member States and other stakeholders, to ensure that good practices are followed, national platforms created and, in particular, that the SCI is implemented.

In his presentation on unfair trading practices, **Mr Šarmír**, member of the Agricultural Markets Task Force, highlighted shortcomings of voluntary initiatives. **Ms Valverde**, member of the TF, shared with the Task Force the experience by Spain in dealing with unfair trading practices. Spain follows a regulatory approach with an enforcement mechanism as well as a voluntary initiative with a supply chain observatory.

On the topic of contractualisation, **Ms Del Cont** (University of Nantes) gave a presentation on the French law of 2010 and the experiences of the French food supply chain. She focused, in particular, on the difference between individual contract relation between a buyer and seller and 'contrat de type' which are negotiated collectively as well as limits to collective agreements due to competition law. **Mr. Tregaro** (FranceAgriMer) highlighted the renewed interest in the topic of contractualisation following food price volatility. He illustrated the different needs in a contractual relation depending on the characteristics of the product.

3. DISCUSSION

The subsequent discussion highlighted that dealing with unfair trading practices is challenging. It was underlined that some unfair trading practices might be more relevant and occur in practice more often than others. Also certain agricultural sectors might be more prone to experiencing problems with unfair trading practices than others.

For the use of contracts, the Task Force also discussed the question of enforcement which is a concern. It was underlined that while contractualisation can be a very useful tool for producers, written contracts will not be able to solve all problems in the contractual relations. Even where price risks are shared, contracts would not be able to adequately address significant price fluctuations in high price volatile markets.