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NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Tackling Unfair Trading Practices with a view to achieving a more balanced Food Supply Chain and strengthening farmers' position
- Information from the Slovak delegation, supported by the Croatian, Cypriot, Czech, Greek, Hungarian, Lithuanian, Polish, Portuguese, Romanian and Slovenian delegations

Delegations will find in Annex an information note received from the Slovak delegation, supported by the Croatian, Cypriot, Czech, Greek, Hungarian, Lithuanian, Polish, Portuguese, Romanian and Slovenian delegations on the above-mentioned subject to be dealt with under "Any other business" at the "Agriculture and Fisheries" Council on 11 and 12 December 2017.

**Common note of Croatia, Cyprus, Czech Republic, Greece, Hungary, Lithuania, Poland,
Portugal, Romania, Slovakia and Slovenia**

**on tackling Unfair Trading Practices with a view to achieving a more balanced Food Supply
Chain and strengthening farmers' position**

The year 2016 can be seen as a breakthrough in the long running discussions on tackling unfair trading practices (UTPs), with the EP adopting its report on UTPs stressing the need of a legislative framework, the Agricultural Market Task Force report highlighting the issue of UTPs and the need to address these with targeted measures and the Council Conclusions from the 12th December 2016 on “Strengthening of the farmers' position in the food supply chain and tackling unfair trading practices” pointing out the farmer as the weakest link of the food supply chain.

Following the end of the Commission's public consultation on the “Initiative to Improve the Food Supply Chain” and taking into account the Council Conclusions, Croatia, Cyprus, Czech Republic, Greece, Hungary, Lithuania, Poland, Portugal, Romania, Slovakia and Slovenia believe that the time has come to continue the discussion on the issue of strengthening the farmers' position and achieving a better balanced food supply chain within the internal market at the Council level. Therefore Croatia, Cyprus, Czech Republic, Greece, Hungary, Lithuania, Poland, Portugal, Romania, Slovakia and Slovenia call on the Commission to present the outcome of the impact assessment on the Food Supply Chain with a view to UTPs in a timely manner, not later than February 2018.

UTPs are recognised as some of the main causes of imbalances in the food supply chain and are targeted against farmers and processors. As such they represent the root issue affecting the farmers' position within the supply chain. EU MS have stressed on numerous occasions that there is a need to strengthen the farmers' position, as the first link in the food supply chain, which currently represent also its weakest link in terms of negotiating power whilst carrying the biggest risk production wise.

In order for the agricultural sector to thrive, it is necessary to have a balanced food supply chain beneficial to all parts from farmers, through processors, retail chains and up to the consumers. The market distortions caused by the constant application of UTPs in national markets and within the EU are clearly visible. The widespread nature of the phenomenon is also supported by the fact that more than 20 MS already have national legislation tackling UTPs and some MS are taking preventive measures. Nevertheless, because of issues with enforcement, compliance with existing EU laws and setting of the competent control authority, UTPs still represent a global issue affecting the entire food supply chain, which is why they cannot be tackled solely by national legislations.

The issue of UTPs is very persistent, which is why there is a need for a strong legal backbone to tackle the phenomenon in a more effective way in order to prevent market distortions affecting the EU single market. In this sense a European legislative framework presents itself as the most logical solution.

The legislative framework needs to:

1. clearly define and prohibit UTPs,
2. set measures for their prevention,
3. offer guidance,
4. include a voluntary set of rules to be applied on the national level,
5. and allow for enough flexibility to maintain and enforce current national legislations.

Maintaining a strong basic set of rules, which can be tailored according to national prerequisites by additional voluntary measures will assist countries in targeting the exact forms of UTPs that are affecting their food supply chain. National legislation tackling UTPs implemented in numerous MS has to be considered in the preparation of the EU legislative proposal. The aim of the EU legislative framework should be to incorporate and support national provisions and not change them. A common European legislative framework tackling UTPs would offer possible harmonization, level the playing field in MS and prevent further distortions to the single market.

Croatia, Cyprus, Czech Republic, Greece, Hungary, Lithuania, Poland, Portugal, Romania, Slovakia and Slovenia perceive that, for the sake of a well-functioning and balanced food supply chain, the EU needs to officially acknowledge the issue of UTPs in the food supply chain and show a unified position by effectively addressing these at the EU level. Therefore, it is crucial to pinpoint the commonalities of UTP practices in MS and based on these set a basic act, which could include an annex of voluntary measures for MS in order to apply a targeted approach against the most common UTPs in their national market.

Croatia, Cyprus, Czech Republic, Greece, Hungary, Lithuania, Poland, Portugal, Romania, Slovakia and Slovenia hereby call on the Commission to take into consideration the suggestions outlined in this common note, to keep in mind the importance of a balanced food supply chain also in relation to the gradual liberalization of the EU single market towards third countries and the need to strengthen our sector's competitiveness. In order for a future legislation to tackle UTPs as efficiently as possible and to prevent distortions to the food supply chain, it is crucial for the discussions on this framework to be held primarily under the responsibility of agricultural fora, such as the Agriculture and Fisheries Council and the Agriculture and Rural Development Committee of the EP.