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From: General Secretariat of the Council

To: Delegations

Subject: Common position of the Ministers of Agriculture of the Visegrad group (Czech Republic, Hungary, Poland and Slovakia), Bulgaria, Croatia, Romania and Slovenia on the Commission's proposal for a Directive of the European Parliament and of the Council on UTPs in business-to-business relationships in the food supply chain

- Information from the Slovak delegation on behalf of Czech Republic, Hungary, Poland, Slovakia, Bulgaria, Croatia, Romania and Slovenia

Delegations will find in the Annex the Common position mentioned above, which was signed at a meeting on the 15th August 2018 in Slovakia.



Common position of the Ministers of Agriculture of the Visegrad group (Czech Republic, Hungary, Poland and Slovakia), Bulgaria, Croatia, Romania and Slovenia on the Commission's proposal for a Directive of the European Parliament and of the Council on UTPs in business-to-business relationships in the food supply chain

The Agriculture Ministers of the Visegrad group (Czech Republic, Hungary, Poland and Slovakia) have met with their counterparts from Bulgaria, Croatia, Romania and Slovenia, under the Slovak Presidency of the Visegrad group, to discuss recent developments in the long-running discussions on unfair trading practices. Based on the Commission's proposal to curb unfair trading practices (UTPs) from the 12th April 2018 and the progress achieved under the BG PRES and AT PRES, the ministers have agreed on the following joint position:

1. THEY SUPPORT the outcomes of the Commission's impact assessment on the initiative to improve the functioning of the food supply chain and THEY UNDERLINE the results of the public consultation, which clearly state that UTPs have a detrimental effect on the functioning of the food supply chain and on the farmers' position within the supply chain.
2. THEY WELCOME the Commission's proposal for a Directive of the European Parliament and of the Council on UTPs in business-to-business relationships in the food supply chain. THEY BELIEVE that the Directive will allow Member States enough flexibility to maintain national legislation, whilst supporting and strengthening it and presenting a solution to tackle UTPs at the EU level.
3. THEY RECOGNISE the importance of a well-balanced and well-functioning food supply chain in both socio-economic terms and as a vital part of the EU internal market. In this context, THEY POINT OUT that there is a significant difference in the bargaining power of the business operators involved, which leads to disproportions in the chain and to the application of UTPs.
4. THEY EXPRESS CONCERN that the Directives proposal only offers limited protection to agri-food suppliers, that are SMEs, against buyers, that are large companies, which might lead to further disproportions within the food supply chain.
5. THEY EMPHASIZE that the protection of all agricultural producers, no matter their size and legal entity, needs to remain a priority. Agricultural producers are the first and most important part of the food supply chain and due to their often-weaker economic position have a lower bargaining power which is why they suffer the most due to the application of UTPs by economically larger operators.
6. THEY UNDERSTAND that the Directive should offer only minimal harmonisation at the EU level and THEY STRESS that maintaining the agricultural legal basis, article 43 TFEU, is of utmost importance. THEY PERCEIVE that agri-food producers as suppliers of all sizes should be protected, but the limitations of the legal basis need to be taken into account. This is why

THEY ONLY STRESS THE NEED to fully enlarge the scope of buyers, in order to offer full protection to micro, small and medium agri-food producers at all levels.

7. THEY AGREE with the fact that, there is a need of a closer cooperation between competent authorities, especially when it comes to sharing best practices and mainly when it comes to tackling cross-border UTPs. In this sense however, THEY INSIST that the Member State in which the buyer is suspected of having applied a UTP, is where it should be inspected by the competent authority. Nevertheless, when it comes to cross-border UTPs, THEY DEEM IT NECESSARY to provide the complainant with the option to file a complaint in their national language to their national competent authority.
8. When it comes to the scope of the products, THEY HIGHLIGHT that all agricultural products and all processed agricultural products have to be covered by the current scope of the proposal.
9. THEY POINT OUT that the so-called "grey" UTPs set a dangerous precedence for the future and should be fully banned.
10. THEY SUPPORT the development of an EU-wide network, which would include an overview of not only the Directive and contacts on each of the national competent authorities in each Member State, but also of their national UTPs legislations, that could go beyond the Directives competences.
11. THEY APPRECIATE the Commissions continued effort in tackling the issue of UTPs and activities aimed at improving the functioning of the food supply chain. THEY RECOGNISE the important role that DG AGRI and Commissioner Hogan played in achieving this legislative outcome and AIM to strengthen and improve the initial proposal.
12. THEY WELCOME the progress achieved in the discussion so far and HOPE to reach a balanced agreement at the Council level during the AT PRES, with a view to reaching a timely political agreement. THEY UNDERLINE the importance of a prompt implementation of the Directive to start tackling the issue of UTPs in the food supply chain on an EU level.

Oponice (Slovakia), 15th August 2018

On behalf of:

Czech Republic 


Bulgaria 

Hungary 

Croatia 

Poland 

Romania 

Slovakia 

Slovenia 