

FAIRER TRADING PRACTICES, FOOD INTEGRITY AND SUSTAINABILITY COLLABORATION IN EUROPEAN FOOD VALUE CHAINS: POLICIES, REGULATIONS AND GOVERNANCE

PROJECT
REPORT
D3.3

VALUMICS - UNDERSTANDING FOOD VALUE
CHAINS AND NETWORK DYNAMICS

MARCH 2019



Food Systems Dynamics



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ABOUT

VALUMICS stands for value chain dynamics and is a research project funded by the EU H2020 programme. VALUMICS will enable decision makers to evaluate policy impact on food value chains

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**Characterisation framework
of key policy, regulatory and governance
dynamics and impacts upon
European food value chains:
Fairer trading practices, food integrity, and
sustainability collaborations.**



Food Systems Dynamics

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RE	Restricted to a group specified by the consortium (including the Commission Services)	
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CONTENTS

EXECUTIVE SUMMARY	4
Abbreviations	7
1. INTRODUCTION	8
2. POLICY IMPACTS UPON FOOD VALUE CHAINS: A CHARACTERISATION FRAMEWORK.....	9
2.1 Context	9
2.2 The characterisation framework: overview	9
2.3 European Union level policies, regulations and governance activities relating to fairer trading practices in food value chains.....	24
2.4 European Union level policies, regulations and governance activities relating to food integrity in food value chains.....	28
2.5 European Union level policies, regulations and governance activities relating to collaborative sustainability initiatives in food value chains.....	29
2.6 Reflections on EU policy dynamics and food value chains	31
2.7. National level policies, regulations and governance activities relating to fairer trading practices, food integrity and sustainability collaborations in food value chains.....	33
3. REPORT OF THE SURVEY OF THE STAKEHOLDER PLATFORM.....	35
3.1. Introduction.....	35
3.2. Methods.....	35
3.3. Findings.....	39
3.4. Survey Conclusions.....	53
4. CONCLUSIONS, REFLECTIONS AND NEXT STEPS	54
APPENDIX : QUESTIONNAIRES	56
A.1 Fairer Trading Practices.....	56
A.2 Integrity (Safety and Authenticity).....	60
A.3 Collaborative Sustainability.....	63
ANNEX 1. DELIVERABLE: D3.1. Map of EU policy, regulation and governance initiatives that identify fairer trading practices, integrity, and sustainability collaborations in food value chains.....	69
ANNEX 2. DELIVERABLE: D3.2. Collation of key findings from national (and regional/local) level reports that identify fairer trading practices, integrity and sustainable collaborations in food value chains.....	222

EXECUTIVE SUMMARY

1. The report provides a framework that categorises the different European Union (EU) policies, laws and governance actions identified as impacting upon food value chains in the defined areas of: fairer trading practices, food integrity (food safety and authenticity), and sustainability collaborations along food value chains.

2. A four-stage framework is presented and illustrated with examples. The four interrelated stages of policy activity in the framework are: i) EU Treaty led policy competencies as a basis for strategic policy direction; leading to ii) more specific laws in the form of regulations and directives; and iii) European Commission led governance activities to reach desired policy goals enrolling stakeholders and national governmental actors at the European, national, and regional-local levels, iv) supplemented by multi-level governance through national level laws and/or state led governance actions down to regional-local levels. The framework is derived from evidence gained through a comprehensive mapping of EU led policy activities in these areas, supplemented by a set of national mappings of significant actions that are occurring within this framework across a number of European countries – both EU and European Economic Area (EEA) Member States¹.

3. The evidence shows that European Union policy activity impacting upon food value chain dynamics is increasing, both in terms of the impacts of policies upon the chains, and, in terms of addressing some of the more contentious outcomes of these dynamics. A number of policy priorities are at play in addressing the outcomes of food value chain dynamics. Innovation and enterprise as determinants of economic growth are one element, which was an early focus of the Commission's work on the competitiveness of the Agro-Food Industry, where there are high numbers of SMEs in the food processing and manufacturing sectors but where most profit is generated by a small number of large multinational corporations. The asymmetries of power within food value chain relationships came to the fore in this work, also, leading to a focus on how this impacts adversely upon on a better functioning food supply. From this the problem of unfair trading practices (UTPs) became more clearly defined, as well as being identified through the levels of food prices and the unevenness of the distribution of profit within food value chains, notably to farmers. The Agricultural Markets Task Force identified that with the reduction of market intervention via the CAP, there is a need to regulate UTPs in food value chains, either at Member State or EU market-wide levels. Here, the Commission is clear that regulatory intervention, in the form of the proposed Directive on unfair trading practices in business-to-business relationships in the food supply chain, are on behalf of SMEs, in order to ensure that they can gain a fair economic share from the value

¹ More detailed evidence is presented in the earlier deliverable reports, Deliverable 3.1 and Deliverable 3.2, which are reproduced as Annexes to this report.

chain. This is because UTPs may lead SMEs to a misallocation of resources, or to go out of business altogether². In addition, the proposed Directive voiced the need to contribute “to a fair standard of living for the agricultural community”.

Regulation of food safety and aspects of authenticity has been a key focus for two decades to ensure a functioning single market while ensuring consumer health and wellbeing. A food chain length perspective has been attempted, notably through regulations such as the General Food Law, and the rationalisation of the Official Controls on food and feed safety. However, there are still gaps in the effective monitoring and transparency of food safety and of food integrity along value chains, as exemplified by misleading claims and criminal fraud. This has led to renewed policy actions over food fraud, in particular. Environmental sustainability, and to a lesser or more peripheral extent, social sustainability, have attracted extensive regulation and policy activity. Within this activity, collaborative sustainability initiatives along food value chains have come mainly in the form of establishing more common LCA (and food waste) methodologies and metrics, embracing food and drink products, or through encouraging and mobilising CSR actions.

EU regulations, policies and related governance initiatives provide an important framework for national-level actions for EU member states and for EEA members. The more tightly EU-regulated areas, such as food safety, see fewer extra initiatives, but where there is a more general strategic policy and governance push, such as food waste reduction or food fraud, there is greater independent state-level activity. Likewise, there is much more variation in the application of both national and European (Competition) law to govern unfair trading practices impacting upon food value chains.

4. This report presents the findings of a survey of members from the VALUMICS stakeholder platform, that were policy facing food value chain stakeholders across selected European countries, including both EU and EEA Member States. The survey was conducted to check the significance of the main policies identified in the mapping exercise at EU and national levels and so to incorporate the views of stakeholders in the research. The responses suggest the policy concerns identified in EU and national-level research resonate with food value chain stakeholders in participating nations. On fairer trading practices, the support for EU-level measures that complement national-level action is reflected in the proposed Directive on Unfair Trading Practices (COM(2018) 173 final)³, announced in April 2018. However, the survey also revealed support for nationally set Minimum Wage levels and special laws to protect seasonal or other precarious food chain workers – aspects of supply chain fairness not captured in the impending EU law. On food integrity, food fraud regulation was found to be a bigger concern than food safety, perhaps reflecting the fact that food safety

² COM(2018) 173 final: *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.* <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0173&from=EN>

³ COM(2018) 173 final: *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.* <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0173&from=EN>

legislation has been in place much longer – and was broadly seen to be effective. On sustainability, collaboration was seen to be vital if the issues were to be tackled effectively, and EU Competition policy (to the extent that it inhibits collaboration) was seen as a barrier to progress. Voluntary measures (including Corporate Social Responsibility or Sustainability practices) were not seen to be very effective, but there was strong support for a combination of ‘hard’ and ‘soft’ approaches (i.e., regulations coupled with voluntary measures such as Codes of Conduct).

5. The report concludes by exploring in more detail how the themes of fairness and of transparency are being handled in the policy activities presented. Highlighted are the ways that both fairness and transparency can be extended within the existing frameworks of EU policy activity. The findings in this report provide an important context for further and detailed research analysis of the workings and dynamics of European food value chains under the *VALUMICS* project.

ABBREVIATIONS

AAC	Aquaculture Advisory Council	LCA	Life Cycle Assessment
AIJN	European Fruit Juice Association	MS	Member State(s)
AMTF	Agricultural Markets Task Force	NAND	Neither agree nor disagree
B2B	Business to Business	NGO	Non-Governmental Organisation
CAP	Common Agricultural Policy	NO	Norway
COPA-COGECA	European Federation of Farmers and Farming Cooperatives	OEF	Organisation Environmental Footprint
CSR	Corporate Social Responsibility	OEF SR	Organisation Environmental Footprint Sector Rules
CZ	Czech Republic	PCRs	Product category rules
DE	Germany	PEF	Product Environmental Footprint
DG	Directorate General	PEFCR	Product Environmental Footprint Category Rules
EC	European Commission	PGP	Principles of Good Practice
EEA	European Economic Area	RASFF	Rapid Alert System for Food and Feed
EP	European Parliament	REAP	Retailers Environmental Action Programme
ES	Spain	REFIT	Regulatory Fitness and Performance Programme
EU	European Union	SCI	Supply Chain Initiative
FPMT	Food Price Monitoring Tool	SCP	Sustainable Consumption and Production
FR	France	SDG	Sustainable Development Goals
FVC	Food Value Chain	SME	Small and Medium Sized Enterprise
GHG	Greenhouse gases	SWD	Staff Working Document
HLF	High Level Forum for a Better Functioning Food Supply	TFEU	Treaty on the Functioning of the European Union
HLG	High Level Group on the Competitiveness of the Agro-Food Industry	UK	United Kingdom
IS	Iceland	UTP	Unfair Trading Practices
IT	Italy		
JRC	Joint Research Centre		

1. INTRODUCTION

This report provides an overview framework that characterises the different regulations and policies that are identified as impacting upon food value chains in the defined areas of:

- Fairer trading practices along food value chains,
- Food integrity (defined as food safety and authenticity) as governed along food value chains
- Sustainability collaborations along food value chains.

The framework draws upon the findings of the deliverables 3.1 & 3.2 for its evidence. The dynamics of this policy framework are elaborated in section 2 below.

The report is in 3 main sections:

- The elaboration of the characterisation framework for food value chains as applied to the three main policy areas of: fairer trading practices, food integrity, and collaborative sustainability initiatives⁴.
- The confirmation of the main policy, regulatory and governance impacts gained through a survey of members of the *VALUMICS* food value chain stakeholder platform from across a range of European countries. The findings of the survey are presented.
- A short reflection on some key themes that stand out for the European policy makers, concerning policies to improve the workings food value chains, notably fairness and transparency.

⁴ The evidence in this section is drawn from that presented in Deliverables 3.1 & 3.2. and reproduced in Annexes to this report.

2. POLICY IMPACTS UPON FOOD VALUE CHAINS: A CHARACTERISATION FRAMEWORK

2.1 CONTEXT

The European Union (EU) derives its policies from the treaties and the competencies laid out therein. To achieve the aims of the treaties the European Commission (EC) deploys different types of policy action. There are broader strategic policies or programmes that set overall objectives. Within these policy programmes there are more specific laws in the forms of regulations, directives and agreements. Then, there are also non-legislative policy instruments: this is the area of so-called ‘soft law’ that allows the Commission to seek to have policy influence beyond the direct scope of its competencies. It embraces modes of governance such as voluntary agreements with key stakeholders and pilot activities designed to influence stakeholders in a policy area to change their actions as a result of shared learning based upon the dissemination of evidence and ‘good practice’ generated.

2.2 THE CHARACTERISATION FRAMEWORK: OVERVIEW

The framework characterises policies as a set **inter-related levels** of regulation and policy activity. The main framework can be elaborated in simple terms as follows:

1. Treaty competencies as rationale for strategic policy direction. The Treaties that form the constitutional basis of the European Union provide a starting point for EU policy initiatives, which are usually led by the Commission. The treaty provisions provide a rationale for the development of broader strategic policies being pursued by the Commission, and provide a rationale and reference point for the introduction of specific regulations or for governance actions. For example the Treaty for the Functioning of the European Union’s Article 39, in the case of the proposed Directive on unfair trading practices in business-to-business relationships in the food supply chain:

“The protection covers small and medium-sized suppliers in the food supply chain insofar as they sell food products to buyers who are not small and medium-sized. This scope aims at contributing to a fair standard of living for the agricultural community, an objective of the common agricultural policy under Article 39 TFEU.”⁵

⁵ COM(2018) 173 final: *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.* <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0173&from=EN>

2. **Specific laws** through either more prescriptive Regulations, or more flexible Directives.

3. **Governance actions** agreed and conducted at EU level, often involving voluntary actions by public authorities and food value chain (FVC) stakeholders, or reporting on national level actions as part of the European Commission's information-gathering role.

4. The **multi-level governance** operation of the EU policies at the interrelated national and regional-local levels. Examples were presented in Deliverable 3.2. These include national-level approaches to regulating unfair trading practices, such as the use of elements of existing contract or competition law, or the creation of specific laws to tackle nationally defined unfair practices in food supply chains. For example, the UK has created the statutory role of a Groceries Code Adjudicator to enforce a previously voluntary Code of Practice in one section of the food supply chain (i.e. large retailers and their first-tier suppliers). In another example, and adding another governance layer, Italy has both a national law regulating the sale of farming and food products and outlawing certain unfair practices, and (in Emilia Romagna) regional laws to strengthen food enterprises' bargaining power and shield them from unfair contractual practices (table 2.1).

The data summarised in this report and in the characterization framework are drawn from the evidence provided in Deliverable 3.1 and Deliverable 3.2. Deliverable 3.1 covers the mapping of EU policy, regulation and governance for each of the three policy areas investigated: fairer trading practices, food integrity and collaborative sustainability. (see Annex 2 below where Deliverable 3.1 is reproduced). Deliverable 3.2 covers the national (and in some cases regional-local) policy, regulation and governance actions in each of the three policy areas across a range of European countries and China (see Annex 3 below where Deliverable 3.2 is reproduced). The data was generated through desk-based research, supported with some informal communication with policy officials and other stakeholders. Desk based research included in depth analysis of policy documents, regulations, public record testimonies, and grey literature reports at EU and national levels.

Tables 2.1-2.3 summarise the main policy, regulation and governance measures discovered during the research, showing the level at which they operate, for each of the three areas (fairer trading practices, food integrity and collaborative sustainability) investigated.

Table 2.1. Fairer Trading Practices (Source: The authors)

EU Treaty competencies and strategic policy direction	Examples of (EU) Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
Part 1: GOVERNANCE AROUND THE CONCEPT OF ‘UNFAIR TRADING PRACTICES’ (UTPs)				
<p>1. Fairness as underpinning administrative principle of EU law</p> <p>2. Strengthening internal market → improve supply chain efficiency → correct power imbalances in food value chains (FVC)</p> <p>TFEU Art 26 (Internal Market): to establish and maintain an area without internal frontiers, in which the free movement of goods, persons, services and capital is ensured</p> <p>3. Protection of farm livelihoods:</p> <p>TFEU Art 39 (Common Agricultural Policy): to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in</p>	<p>Regulation (EU) No 1308/2013: (Common Market Organisation): to provide a ‘safety net’ to agricultural markets and encourage cooperation through producer and inter-branch organisations</p> <p>COM (2018) 173 final: (Proposed) Directive on unfair trading practices in business-to-business relationships in the food supply chain</p>	<p>2006: Competitiveness of the European Food Industry: An economic and legal assessment (Policy paper)</p> <p>2008: High Level Group on the Competitiveness of the Agro-Food Industry (Stakeholder Group)</p> <p>2009: Sectoral Social Dialogue Committee for food sector (Stakeholder group)</p> <p>2009: Food Price Monitoring Tool (Tool)</p> <p>2009: Communication on a Better Functioning Food Supply Chain in Europe (Policy paper)</p> <p>2010: High Level Forum for a Better Functioning Food Supply (Stakeholder group)</p>	<p>Some states use existing laws to tackle some UTPs in FVCs:</p> <p>CZ Competition law; DE: Act against Unfair Competition, Act against Restraints of Competition, German Civil Code. The latter assumes contracting parties will deal in honesty, fairness and good faith: UTPs can be found to violate this principle. IT: Contract law. NO: Competition law. UK: Competition law; Contract law.</p> <p>Some states have specific laws targeting some unfair practices in food supply chains:</p> <p>CZ: Act on significant market power in the sale of agricultural and food products: regulates the supplier-retailer relationship in the food market.</p> <p>FR: Interbranch Organisations (IOs) (vertically Integrated organisations comprising producers</p>	<p>FR: Observatory of Price and Margins Formation for Food Products established in 2010 to improve transparency in price transmission. Mediator for contracts in agri-food chains at ministerial level. Move to introduce ‘sector plans’ to help balance negotiating power in food supply chains.</p> <p>IT: At regional level, Emilia Romagna’s Regional Rural Development Plan includes measures that strengthen food producers’ bargaining power and shield them from unfair contractual practices. Emilia Romagna also promotes good commercial practices through a voluntary code of conduct for retailers.</p> <p>ES: Code of Good Business Practice in Food Procurement Contracting, with dispute resolution system, overseen by a Food</p>

EU Treaty competencies and strategic policy direction	Examples of (EU) Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
<p>agriculture; (Art 39).</p>		<p>2011: Principles of Good Practice (Policy paper)</p> <p>2013: Supply Chain Initiative (SCI) (Voluntary initiative to discourage unfair practices in supply chain by upholding Principles of Good Practice.)</p> <p>2013: Green Paper on Unfair Trading Practices in the business-to-business food and non-food supply chain in Europe (Policy paper)</p> <p>2014: COM (2014) 472 Final on Tackling unfair trading practices in the business-to-business food supply chain (Policy paper)</p> <p>2016: Agricultural Markets Task Force (Stakeholder group)</p> <p>2016: European Parliament resolution on unfair trading practices in the food supply chain (Policy paper)</p> <p>2016: COM (2016) 32 Final on</p>	<p>and at least one processor or trader) used to determine how value is distributed along chains.</p> <p>IT: A law specifically addresses the sale of farming and food products: regulates abuse of bargaining power, lack of written contracts, lack of contractual clarity, risk transfer, unfair breaking of negotiations, and unfair contract termination.</p> <p>Another law sets out provisions for 'Supply Chain Agreements' and 'Framework Contracts' for agro-food chains. These involve national-level FVC sectoral organisations. They address <i>inter alia</i> market transparency and contractual terms. They are regulated by the statutory Agri-Food Board.</p> <p>Italian law also provides for 'Supply Chain Contracts' and 'District Contracts', to protect against market volatility and unfair contractual behaviour, e.g. Barilla signed three-year supply agreement with 50 suppliers worth approx. €240m. Italy also has enacted laws at regional level to prevent unfair practices in food supply chains. In Emilia Romagna, a law has established criteria for Interprofessional Organisations that aim <i>inter alia</i> to redress inequalities</p>	<p>Supply Chain Observatory.</p>

EU Treaty competencies and strategic policy direction	Examples of (EU) Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
		<p>unfair business-to-business trading practices in the food supply chain (Policy paper)</p> <p>2017: Consultation: ‘Initiative to improve the food supply chain’ (Public consultation)</p> <p>2018: Impact Assessment of proposed law (Policy paper)</p>	<p>in value distribution along food supply chains.</p> <p>ES: Food Chain Law mandates written contracts and outlaws specific ‘unfair business practices’, with penalty system and enforcement body, the Information and Food Control Agency (AICA).</p> <p>UK: Groceries Code Adjudicator (GCA) appointed 2013 to enforce the Groceries Supply Code of Practice, a previously voluntary code outlawing specified practices in food supply chains. GCA has powers to initiate inquiries, follow up complaints, guarantee anonymity and impose fines, but remit applies only to 10 biggest multiple retailers and first-tier suppliers.</p>	
<p>PART 2: WIDER GOVERNANCE ACTIVITY AROUND FAIRNESS IN FOOD VALUE CHAINS (ALSO IDENTIFIABLE AS SOCIAL ASPECTS OF SUSTAINABILITY)</p>				
<p>1. Fairness as an underpinning administrative principle of EU law</p> <p>2. Promotion of territorial, economic and social cohesion</p>	<p>A body of law protects workers from exploitative or precarious work, including in food supply chains, e.g.:</p> <p>Directive 96/71/EC concerning the posting of workers;</p>	<p>COM (2008) 394 final: Think Small First: ‘A small Business Act’ for Europe, reviewed 2011 and integrated into <i>Europe 2020</i> strategy: policy to boost small and medium enterprises (SMEs) (policy paper and strategy document)</p>	<p>CZ: Labour law has provisions specifying the required rest period of agricultural workers, and regulates non-regular work, often used in agriculture for seasonal work.</p> <p>IT: The use of exploitative or illegal labour in agriculture has been made a specific offence in</p>	<p>CZ: ‘Social Agriculture’ is supported by government subsidy and a state-industry-civil-society Commission. Aims to help farmers employ disabled workers.</p> <p>DE: Fair Mobility initiative, funded by the German</p>

EU Treaty competencies and strategic policy direction	Examples of (EU) Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
<p>(TFEU Art. 174)</p> <p>3. Protection of farm livelihoods:</p> <p>TFEU Art 39 (as above)</p> <p>EU Pillar of Social Rights: 20 principles in three categories: Equal opportunities and access to the labour market; Fair working conditions; Social protection and inclusion</p>	<p>Directive 97/81/EC on part-time work;</p> <p>Directive 99/70/EC on fixed-term work;</p> <p>Directive 2003/88/EC on working time;</p> <p>Directive 2008/104/EC on temporary agency work;</p> <p>Directive 2014/36/EU on seasonal workers. The EU currently has no law on minimum wages, but in 2017 Commissioner Juncker stated that the EU should have such a policy.</p> <p>Regulation (EU) No 1305/2013 boosts competitiveness of primary producers by supporting quality schemes, promotion in local markets and short supply circuits, producer groups and organisations and inter-branch organisations.</p> <p>Directive 2011/7/EU on late payments generally requires public bodies to</p>	<p><i>2015: Social Life Cycle Assessment: State of the art and challenges for supporting product policies</i> – report on feasibility of including social elements such as worker protection in life cycle assessment (Technical Report)</p>	<p>Italian law. A law on the ‘Network of Quality Agricultural Work’ provides a quality certification for farmers who meet criteria demonstrating they do not use illegal or undeclared work. At regional level, Emilia-Romagna law sets out ‘Norms for promotion and support of a solidarity economy’, which aims <i>inter alia</i> to support small-scale farms and short supply chains.</p> <p>NO: The fish processing and agricultural sectors have statutory minimum wages for temporary harvest workers, shift workers and permanently employed workers. A law protects workers subject to long working hours, insufficient rest period or irregular working hours. Temporary labour such as seasonal workers on farms, fruit and berry pickers have legal protection in relation to employment contract, right to permanent employment, and termination of temporary employment.</p> <p>UK: A statutory National Minimum Wage applies. To tackle the problem of abuse of temporary (often migrant) workers in agri-food sector, the UK Government established a non-departmental public body, the Gangmasters Licensing Authority, to enforce employment law. The 2015 Modern Slavery Act places a</p>	<p>Federal Ministry of Labour and Social Affairs together with the European Social Fund and the German Trade Union Confederation, deals with labour exploitation of regular and irregular migrants.</p>

EU Treaty competencies and strategic policy direction	Examples of (EU) Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
	settle invoices within 30 days and private enterprises within 60 days		duty of transparency on major businesses regarding possible slavery in their supply chains.	

Table 2.2. Food Integrity (safety and authenticity) (Source: The authors)

EU Treaty Competencies and related strategic policy direction	Examples of EU Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
PART 1: FOOD SAFETY				
<p>Underpinning administrative principles in the EU constitutional treaty:</p> <p>1. The functioning of the internal market and related health, safety, environmental and concerns</p> <p>2. Consumer protection as it specifically applies to health, safety and economic interests</p>	<p>General Food Law 178/2002/EC establishes key principles and procedures for approach to food safety</p> <p>Official controls regulation for food law, animal health and animal welfare, plant health 2017/625/EU (from 2019)</p> <p>Provision of food information to the consumer 1169/2011/EC assisting safe storage and</p>	<p>European Food Safety Authority; provision of scientific advice for food safety legislation and policies</p> <p>Rapid Alert System for Food and Feed; notification network for direct and indirect human health risks</p> <p>Standing Committee on the Food Chain and Animal Health; supports decision making and delivery of food</p>	<p>National regulation on direct supply by the producer to the final consumer of small quantities of primary products or to the supply by the producer to local retail establishments that then supply the final consumers e.g.</p> <p>CZ: waivers for slaughterhouses that handle small quantities of animals</p> <p>IS: special provisions on the processing of certain traditional foods, i.e. smoked foods, fish dried</p>	<p>UK: Red Tractor Assurance scheme (government endorsed but operated independently).</p> <p>The scheme aims to ensure consumers can trust food quality, to promote clearer labelling and ensure that food originates from a trustworthy source which can be traced back to the original farm. This includes food safety, traceability, animal welfare and environmental protection. Verified production is</p>

<p>EU Treaty Competencies and related strategic policy direction</p>	<p>Examples of EU Laws (Regulation / Directive)</p>	<p>Examples of EU level governance activity</p>	<p>Examples of national level laws</p>	<p>Examples of national level governance activity</p>
<p>EU Food safety policy specifies the importance of risk analysis, traceability and effective control systems in ensuring high standards of food safety and human health, as well as animal welfare and plant health</p>	<p>use</p> <p>Foodstuffs hygiene regulations 852/2004/EC, rules for food of animal origin 853/2004/EC, implementation of HACCP principles, adherence to WTO Sanitary and Phytosanitary Agreement, Codex Alimentarius</p> <p>1. New Plant Health Law 2016/2031/EU (From 2019) determines the phytosanitary risks, introduces risk reduction measures 2. New Animal Health Law 2016/429/EU (from 2021) Regulates prevention and control of animal diseases, management of animal health, reporting and monitoring.</p> <p>Common Agricultural Policy:</p> <p>1.Rural Development 1305/2013/EU includes</p>	<p>safety, animal health and welfare, plant health policies</p> <p>European Innovation Partnership (EIP) network; works in support of the EIP for agricultural productivity and sustainability enables advisory services, researchers, operational groups in relation to the setting up of initiatives on pilot projects on issues such as food quality, food safety and healthy diet</p> <p>REFIT; Regulatory Fitness and Performance (REFIT) programme designed to simplify existing legislation to avoid duplication and lighten the regulatory load on businesses including General Food Law and food safety.</p>	<p>outdoors and processing of shark meat</p> <p>NO: national provisions on marginal, local and limited retail activity, where marginal activity is up to 600 kg of food sale in a week, local activity is 100 km distance, limited activity is when goods are sold solely to the retailer.</p>	<p>labelled with a tractor logo.</p>

EU Treaty Competencies and related strategic policy direction	Examples of EU Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
	provision of advisory services on farm safety standards, health aspects of animal husbandry 2. Financing and management regulation 1306/2013/EU links CAP payments to compliance with human and animal health, and food safety policies			
PART 2: AUTHENTICITY				
Underpinning administrative principles in the EU constitutional treaty: 1. The functioning of the internal market and related health, safety, environmental and concerns 2. Consumer protection as it specifically applies to health, safety and economic interests	General Food Law 178/2002/EC Prevents fraudulent or deceptive practices including adulteration. Requires correct labelling, packaging and advertising of food. Official controls regulation for food law, animal health and animal welfare, plant health 2017/625/EU (from 2019) Provision of food information to the consumer 1169/2011/EU	EU Food Fraud Network + Administrative Assistance and Cooperation System (AAC); communication network for assistance and cooperation, information exchange related to tackling food fraud EU Reference Centres for animal welfare and Centres for the authenticity and integrity of the agri-food chain. Providing specialist knowledge and methods for detecting violations Specialised training (in the framework of the Better Training	MS maintain national rules on optional quality terms not covered by the regulation e.g. CZ: additional mandatory labelling for specific types or categories of foods with the aim to improve consumer awareness and prevent fraudulent misrepresentation for example for the labelling of meat. National quality labels for domestic products with specific compositional requirements DE: Nationally regulated additional labelling for privately certified foods (e.g. organic) and extra information (e.g. country of origin, list of ingredients) for non-certified foods	IT: Emilia-Romagna regional government approved a voluntary code of conduct for retailers and suppliers. Based on 4 principles: quality of products, environmental protection, food safety and rights of the workers, written contracts. NO: NYT Norge, a collaborative labelling scheme by the Norwegian Food Safety Authority and private association Matmerk for foods produced in Norway.

EU Treaty Competencies and related strategic policy direction	Examples of EU Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
	<p>Prevents consumers being misled about composition, quantity, durability, provenance, production method of food</p> <p>Quality schemes for agricultural products and foodstuffs</p> <p>1151/2012/EU provides rules for designation of origin, traditional specialties geographical indications and registered names. 110/2008/EC designates similar provisions for spirit drinks</p> <p>Labelling regulation</p> <p>1169/2011/EC ensures label information is correct and does not mislead consumers</p> <p>Common Agricultural Policy:</p> <p>1.Rural Development</p> <p>1305/2013/EU provides support for farmers in quality or farm certification schemes</p>	<p>for Safer Food Initiative) for food inspectors, police and customs officers and judicial authorities of the MS, on new investigation and control techniques related to food fraud (including eCommerce)</p> <p>Coordinated Control Plans to gather information on malpractices or fraud in a sector e.g. horsemeat in livestock sector</p>		<p>UK: Red Tractor Assurance scheme (see table above)</p> <p>UK: National Food Crime Unit works to protect consumers and food industry from criminal activity that impacts on the safety or authenticity of food and drink. Additionally, the Food Crime Confidential reporting facility allows the reporting of food crime</p> <p>IS: Use of Icelandic national flag for marketing purposes, monitored by the national consumer agency.</p>

EU Treaty Competencies and related strategic policy direction	Examples of EU Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
	2. 1308/2013/EU The common organisation of the markets in agricultural products includes support and promotion measures for EU products e.g. wine with protected designation origin or geographical indication			

Table 2.3. Collaborative Sustainability (Source: The authors)

EU Treaty Competencies and related strategic policy direction	Examples of EU Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
<p>Promoting Sustainable Development:</p> <p>TFEU Art. 11: Integrate environmental sustainability into all EU policies</p> <p>'Mainstreaming' Sustainable Development across policy sectors</p> <p>Supporting global Sustainable Development Goals</p> <p>Sustainable Growth / Sustainable Consumption and Production (SCP)</p> <p>Resource Efficiency / Circular economy</p> <p>Development of common methodologies for measurement of sustainability impacts</p>		<p>COM (2003) 302 final: <i>Integrated Product Policy Building on Environmental Life-Cycle Thinking</i> (Policy paper)</p> <p>2005-2008: European Platform on Life Cycle Assessment (Stakeholder group)</p> <p>2009: Retailers Environmental Action Plan (REAP) (Voluntary initiative)</p> <p>2009: COM (2009) 162 final: <i>Building a sustainable future for aquaculture: A new impetus for the Strategy for the Sustainable Development of European Aquaculture</i> (Building on 2002 Strategy) (Strategy document)</p> <p>2010: COM (2010) 2020 final: <i>Europe 2020: A strategy for smart, sustainable and inclusive growth</i> (Strategy document)</p>	<p>IT: In Italy, a law governs the donation and distribution of food products for the purpose of social solidarity and to reduce food waste; and defines how to donate surplus foodstuffs to public or private bodies, which in return must distribute these products to people in need, or if inedible for use as animal feed or compost.</p> <p>At regional level in Emilia Romagna, a regional law supports an information and education program on sustainability, including initiatives related to biodiversity and short food value chains.</p>	<p>CZ: The Environmental Information Agency (CENIA) supports a sustainability initiative, the Association of Local Food Initiatives, which helps develop interconnections in local food systems that are both environmentally and socially responsible.</p> <p>DE: In 2016 a multi-stakeholder Council for Sustainable Development adopted a National Programme for Sustainable Consumption. Sustainable Development Goals. The food sector is one of the six priority areas.</p> <p>ES: The Spanish Food and Drink Federation, FIAB, organises the Envifood Meeting Point congress, the main event for the sector on environmental sustainability, co-financed by the government.</p>

EU Treaty Competencies and related strategic policy direction	Examples of EU Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
<p>and progress</p> <p>2016: COM (2016) 739 final: <i>Next steps for a sustainable European future: European action for sustainability</i> (building on strategies and reviews in 2001, 2006 and 2009)</p>		<p>2013 (2013/179/EU) <i>Recommendations on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations</i> (Recommendations, including criteria for Product Environmental Footprint tool)</p> <p>EU Sustainable Consumption and Production (SCP) Roundtable (Stakeholder Group)</p> <p>2013 EU SCP Roundtable: Envifood Protocol for environmental assessment of food and drink (Tool)</p> <p>2014 JuiceCSR, the European fruit juice CSR Platform</p> <p>2015: COM (2015) 614 final: <i>Closing the loop - An EU action plan for the Circular Economy (Policy paper)</i></p>		<p>FIAB in collaboration with Ministry of Agriculture and Fisheries, Food and Environment (MAPAMA) co-developed the Consumer Sustainability Guide.</p> <p>FR: Discussions are ongoing towards the idea of developing three main forms of agriculture: organic farming, a certified sustainable agriculture for export and an agroecological model based on High Environmental Value specifications.</p> <p>IS: A Working Group on food waste was set up in 2014 by the Ministry for the Environment and Natural Resources, to formulate proposals for reducing food waste. It published a report on what food waste is and compiled a list of projects that have already been</p>

EU Treaty Competencies and related strategic policy direction	Examples of EU Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
		<p>2016 EU Platform on food losses and food waste (Stakeholder group)</p> <p>2017 EU Circular Economy Stakeholder Platform (Stakeholder group)</p> <p>2018: EU SCP Roundtable: <i>Enhancing the contribution of the agri-food value chain to the circular economy</i> (Policy paper)</p>		<p>implemented in this area.</p> <p>IT: National Technology CL.A.N. – CL.uster A.grifood Nazionale is a multi-stakeholder agri-food network which <i>inter alia</i> supports research to improve the sustainability of food supply chains, e.g. on recovery and reuse of by-products and waste.</p> <p>At regional level, in Emilia Romagna there is a Quality Mark for an integrated agricultural production system covering reduced application of chemical products safeguarding the environment as well as health of agricultural workers and consumers.</p> <p>UK: The Product Sustainability Forum led to the Courtauld Commitment, now in its 4th phase, a government-funded, voluntary scheme for food industry stakeholders, focused on cutting waste and GHG emissions and improving water</p>



EU Treaty Competencies and related strategic policy direction	Examples of EU Laws (Regulation / Directive)	Examples of EU level governance activity	Examples of national level laws	Examples of national level governance activity
				<p>stewardship.</p> <p>The Federation House Commitment, a voluntary, food-industry agreement, ran from 2008-2014 to encourage and monitor food businesses' efforts to meet the water-use reduction target set in the UK Government's 2006 Food Industry Sustainably Strategy.</p>

The following sections provide a more detailed explanation of the rationales behind the development of these policies, regulations and governance actions in relation to food value chains, with respect to each of the attributes.

2.3 EUROPEAN UNION LEVEL POLICIES, REGULATIONS AND GOVERNANCE ACTIVITIES RELATING TO FAIRER TRADING PRACTICES IN FOOD VALUE CHAINS.

Food value chains are an area of increasing policy scrutiny and activity from the European Commission. The Commission's process for evaluating the dynamics of food value chains is exemplified by the processes and iterations that are now under the *High Level Forum (HLF) for a Better Functioning Food Supply*, set up in 2010 from a Communication of the same title the previous year. The Communication was a result of the findings of the 2008 *High Level Group (HLG) on the Competitiveness of the Agro-Food Industry*,⁶ which itself was a follow-up to the 2006 study *Competitiveness of the European Food Industry: An economic and legal assessment*. This study had found the European food sector to be less competitive than equivalent sectors in other major countries, with diminishing capacity to generate enough profit to foster innovation or even maintain capacity⁷. One of the key concerns raised was how to support and promote the SMEs who make up 99.1% of the EU's 287,000 food and drink companies. Concern was heightened by the impacts of the 2008-9 agricultural commodity price volatility: "*the overall competitiveness of the chain and its economic growth have underperformed the overall EU economy since 1995, sectors of the food supply chain are facing increased competition from international actors and recent food price developments have pointed out a lack of resilience to shocks in agricultural prices*"⁸.

The HLF was interdepartmental, led by the DG Enterprise Commissioner, together with the Commissioners of DGs Internal Market, SANCO, and Agriculture. Three key areas identified as "*cross-cutting priorities relevant to the whole chain*" and being the basis for further policy work were: business-to-business trading relationships along supply chains, and the monitoring of food prices across the EU market and its Member States (including the use of financial mechanisms in commodity trading), as well as improving competitiveness in the agri-food industry⁹. The HLF was renewed in 2015, and its membership comprises member state (MS) national competent authorities responsible for the food sector and representatives of the private (non-state) sector, including food companies, umbrella associations and federations in food-related sectors, and NGOs.

To date, key outputs include the *Vertical relationships in the supply chain: Principles of Good Practice*¹⁰ report, which formally acknowledged the existence of problematic

⁶ High Level Group on the Competitiveness of the Agro-Food Industry (2009) *Report on the Competitiveness of the European Agro-Food Industry*. https://ec.europa.eu/growth/content/high-level-group-competitiveness-agro-food-industry-0_en

⁷ Wijnands, J.H.M., van der Meulen, B.M.J. and Poppe, K.J. (eds) (2006) *Competitiveness of the European Food Industry: An economic and legal assessment 2007*, pp 3-7
<http://ec.europa.eu/DocsRoom/documents/3389/attachments/1/translations/en/renditions/pdf>

⁸ COM(2009) 591 *A better functioning food supply chain in Europe*.
http://ec.europa.eu/economy_finance/publications/pages/publication16061_en.pdf accessed 16 July 2018, pp 4-5.

⁹ *Ibid*, p 5.

¹⁰ Core members of the B2B subgroup of the HLF (2011) *Vertical relationships in the supply chain: Principles of good practice* https://www.supplychaininitiative.eu/sites/default/files/b2b_principles_of_good_practice_in_the_food_supply_chain.pdf

unfair trading practices (UTPs) in food supply chains, itemised examples, and laid out a set of *Principles of Good Practice* (PGP). The unfairness was identified as impacting negatively upon smaller businesses as suppliers in food value chains, such as food processing and manufacturing SMEs. It was followed by the Commission-led voluntary initiative to implement the PGP, the *Supply Chain Initiative* (SCI), which aims to eliminate unfair business-to-business trading practices in the food supply chain through collaboration, by promoting a ‘genuine culture change’¹¹ in the food supply chain, without recourse to regulation. The SCI is being implemented in some Member States. In addition, another forum established was the *Social Dialogue Committee* for the food and drink industry, and the enhancement of the existing *European Food Price Monitoring Tool* through the work of an Expert Platform. The Food Price Monitoring Tool is seen as a means of enhancing market transparency along the food chain and ensuring fair competition. By these means, the Commission has created a number of policy spaces or forums within which its deliberative style of policy making and governance, involving a wide range of stakeholders from along and around the food chain, can be pursued.

The policy momentum to address unfair trading practices along food supply chains was increased with the intervention of DG Agri from the Commission and the setting up of the *Agricultural Markets Task Force (AMTF)*. Key stakeholder groups from the agricultural sector, such as COPA-COGECA, had refused to join the Supply Chain Initiative. The asymmetries of power within food value chain relationships are recognised in these policy deliberations, notably the problem of the lack of bargaining power for smaller farmers and growers in relation to bigger and better resourced enterprises downstream in the value chain. In its comprehensive final report, the AMTF explained that this imbalance was worsening because of the increased market orientation of farming and less management (by governments) of agricultural markets. As a result, farmers – numerous, fragmented and less supported than in the past by the Common Agricultural Policy (CAP) – were becoming ‘the main shock absorber in the supply chain’, lacking the resilience to withstand price volatility or long periods of low prices¹². This was reinforced by concerns about rural development and livelihoods and the need to integrate vast numbers of small farmers into the European market from newer accession states; as illustrated by the so called non paper in 2017, put forward by the Bulgarian, Czech, Hungarian, Latvian, Lithuanian, Slovak and Slovenian delegations, calling for regulation of UTPs to improve the position of farmers¹³. Subsequently, the proposal for a Directive on unfair trading practices in business-to-business relationships in the food supply chain, invoked Article 39 of the TFEU: ‘contributing to a fair standard of living for the agricultural community’.

Within these policy deliberations was the recognition that competition law was not the key area for policy focus, rather it was commercial law and contracts. This has led to the definition of unfair trading practices as: ‘*Practices that grossly deviate from good*

¹¹ Supply Chain Initiative, <http://www.supplychaininitiative.eu/>, accessed 5th September 2017.

¹² Report of the Agricultural Markets Task Force (2016) *Improving Market Outcomes: Enhancing the position of farmers in the supply chain* https://ec.europa.eu/agriculture/sites/agriculture/files/agri-markets-task-force/improving-markets-outcomes_en.pdf pg. 6

¹³ Council of the European Union Note 6808/17, *Better functioning of the food supply chains: addressing unfair trade practices (UTPs) and improving the position of farmers -Information from the Bulgarian, Czech, Hungarian, Latvian, Lithuanian, Slovak and Slovenian delegations*. <http://data.consilium.europa.eu/doc/document/ST-6808-2017-INIT/en/pdf>

commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on its counterparty'.¹⁴

This definition resulted from a sequence of policy deliberations and internal reports from the European Commission and the European Parliament along with a more comprehensive mapping of what constitutes UTPs.¹⁵ More than twenty Member States have introduced, or are planning, national-level legislation to govern trading practices in food value chains, in some cases spanning the entire value chain. In 2017, the Commission launched a consultation on whether EU-wide regulation of UTPs should be considered under the heading '*Towards a fairer food supply*' (prompted by the AMTF report)¹⁶. In April 2018, the Commission announced that it had decided to regulate certain UTPs, on the grounds that this would correct power imbalances in the supply chain, help small and medium sized enterprises (a persistent site of supply-chain intervention at EU-level¹⁷), and also support farmers.¹⁸ The proposed Directive¹⁹ explicitly addresses supply chain dynamics by restricting the proposal to small and medium sized suppliers insofar as they sell products to enterprises that are not small and medium sized. Suppliers outside the EU will be able to invoke the proposed protections if they supply to customers in the EU.

The proposal specifies the four practices that will be outlawed:

- Late payments for perishable food products;
- Last-minute cancellation of orders of perishable goods;
- Unilateral or retroactive changes to contracts;
- 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 Commission's proposal requires Member States to designate a public authority in charge of enforcing the new rules. In case of proven infringement, the responsible body will be competent to impose a proportionate sanction strong enough to have a deterrent

¹⁴ COM (2016) 32 *Final Report from the Commission to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain*. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:32:FIN>

¹⁵ See Deliverable 3.1, section 2.2.

¹⁶ EC (2017) Consultation: *Initiative to improve the food supply chain*. https://ec.europa.eu/info/consultations/food-supply-chain_en, accessed 31st August 2017.

¹⁷ EC Growth (n.d.) https://ec.europa.eu/growth/smes_en, accessed 17th July 2018

¹⁸ EC Press Release (12th April 2018) *European Commission acts to ban unfair trade practices in the food supply chain* http://europa.eu/rapid/press-release_IP-18-2702_en.htm accessed 20th July 2018

¹⁹ COM(2018) 173 final: *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* <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0173&from=EN>

effect. This enforcement authority will be able to initiate investigations or follow up complaints, in which case the parties filing a complaint will be allowed to request confidentiality and anonymity, in an effort to overcome the ‘fear factor’ that can prevent relatively less powerful actors from speaking up. The Commission will set up a coordination mechanism between enforcement authorities to enable the exchange best practices. The proposed measures are intended to complement 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. The Directive proposal was accompanied by a detailed Impact Assessment setting out the scope of the preparatory work done by the Commission and Parliament^{20, 21}.

There is a range of other policy actions that emanate from the European Union that promote the operation of fairer value chains, and some of these go beyond the B2B relationships²². More closely linked to the Commission’s B2B focus upon on UTPs are the Late Payments Directive, and the sector-specific Milk Package for 2012, to support dairy producers with more transparent contracts with processors, complementing other supportive provisions for producer organisations under the CAP. The Rural Development Policy promotes food chain organisations under one of its priority themes, supporting short food supply chains with their more accessible market transparency. The Unfair Commercial Practices Directive has been stretched by some member states to encompass the regulation of UTPs in food chains at the national level²³.

The role of labour in food value chains is a crucial one that is addressed under more general policies and governance actions as well. For example, the European Pillar of Social Rights²⁴ sets out 20 key principles and rights to support ‘fair and well-functioning labour markets and welfare systems’. Fair work and fair pay are (self-evidently) aspects of fair practice in food supply chains. They also underpin fair trading practices (in that worker protections add cost, so that illegal and / or abusive treatment of workers can enable enterprises to undercut their competitors unfairly), and contribute to the resilience and social sustainability of food supply chains. A 2016 report found that precarious work (widely defined to include many forms of employment) has increased since the 2008 financial crisis, as employers seek to reduce their risk and employees have to take work on new terms²⁵. Jobs in food-related sectors (e.g. food preparation and hospitality) were mentioned as being linked to precarity in various ways. The report found a comprehensive framework of EU legislation in place to curb the risk of precariousness in certain contexts, in the form of Directives in areas such as working time²⁶, temporary agency work²⁷, part-time work²⁸, fixed-term contracts²⁹ and ‘posted’

²⁰ SWD(2018) 92 final: *Commission Staff Working Document Impact Assessment: Initiative to improve the food supply chain (unfair trading practices)*. <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=SWD:2018:092:FIN>

²¹ The Impact was initially presented by DG Agri in early March 2018 but was rejected by the Regulatory Scrutiny Board. A revised version was accepted with reservations later in March 2018 (source: COM(2018) 173 final, pg.10).

²² See Deliverable 3.1, section 2.3.

²³ Ibid.

²⁴ EC Priority Policy Area: *European Pillar of Social Rights*

https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en, accessed 11th September 2017

²⁵ EC Directorate-General for Internal Policies, Policy Department A: Economic and scientific policy (2016) *Precarious Employment in Europe Part 1: Patterns, Trends and Policy Strategies* (PE 587.285)

[http://www.europarl.europa.eu/RegData/etudes/STUD/2016/587285/IPOL_STU\(2016\)587285_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/587285/IPOL_STU(2016)587285_EN.pdf)

²⁶ Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32003L0088>

workers³⁰. However, it also lists concerns about derogations, avoidance of the law, and forms of work not captured by regulation³¹. There is also an EU Directive regulating the entry and stay of third-country nationals for the purpose of employment as seasonal workers (2014/36/EU). The Directive aims to ensure decent working and living conditions for seasonal workers from outside the EU, by setting out fair and transparent rules for admission and stay and by defining the rights of seasonal workers while at the same time providing for incentives and safeguards to prevent overstaying. There is currently no EU-wide regulation on minimum wages, although in early 2017 EC President Jean-Claude Juncker stated that each country in the EU should set a minimum wage (and that all those seeking work should have a guaranteed minimum level of income)³².

2.4 EUROPEAN UNION LEVEL POLICIES, REGULATIONS AND GOVERNANCE ACTIVITIES RELATING TO FOOD INTEGRITY IN FOOD VALUE CHAINS.

In the area of food integrity, a priority since the turn of the century has been to introduce food safety controls and monitoring. Food Integrity, in contrast to UTPs, is a highly regulated aspect of food value chains³³. Two main regulations cover the full food chain: *The General Food Law (Reg. (EC) No 178/2002)* and *the Regulation on Official Controls to ensure the application of food and feed law (Regulation (EU) No 2017/625)*. In addition, the importance of food safety to the correct functioning of the single market was reflected in the establishment of the *European Food Safety Agency* under the General Food Law and the revamping of the *Rapid Alert System for Food and Feed (RASFF)* across the Member States. *The Advisory Group on the Food Chain, Animal and Plant Health* was established by the Commission to provide a food chain stakeholder presence in this new food safety policy framework. A number of regulations and directives cover more specific aspects of food safety that are more relevant to some stages of the food value chain than to others. For example, these safety laws range from activities more focused on the agricultural production stage, such as plant protection product uses, feed ingredients and contaminants, and veterinary medical products, through to the food manufacturing and retail stages such as food additives, vitamins and minerals, food contact materials (packaging) and food information to consumers. The European Commission is currently reviewing the General Food Law for its effectiveness and efficiency and costs to EU businesses and citizens under the *Regulatory Fitness and Performance (REFIT)* Programme.

²⁷ Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work. <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32008L0104>

²⁸ Directive 97/81/EC of the European Parliament and of the Council concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC. <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=celex:31997L0081>

²⁹ Directive 99/70/EC of the European Parliament and of the Council concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31999L0070>

³⁰ Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:31996L0071>

³¹ EC Directorate-General for Internal Policies, Policy Department A: Economic and scientific policy (2016) *Precarious Employment in Europe Part 1: Patterns, Trends and Policy Strategy*. [http://www.europarl.europa.eu/RegData/etudes/STUD/2016/587285/IPOL_STU\(2016\)587285_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2016/587285/IPOL_STU(2016)587285_EN.pdf)

³² Eurofound website: *Statutory minimum wages in the EU 2017*. <https://www.eurofound.europa.eu/observatories/eurwork/articles/statutory-minimum-wages-in-the-eu-2017> accessed 24th October 2017.

³³ See Deliverable 3.1, section 3.

The introduction of traceability as key principle of EU food law has a food chain length perspective. However, as traceability is based upon a 'one step back and one step forward' principle it can be understood to act more as a 'hyphenated' as opposed to integrated food chain process. The elevation of food safety and the General Food Law has had a clear impact upon framing the dynamics of food value chains. All actors at the different stages of the value chain have responsibility for safety at their stage in the chain. However, the end sellers to the public, such as the retailers, manufacturers and food service companies, have sought greater assurance from their suppliers regarding the safety of food products and ingredients. These demands have been augmented by private standards being imposed by these retail buyers on their suppliers, often beyond the publicly monitored processes. However, the systems of traceability that have been put in place still rely upon the honesty of the food operators and suppliers concerned in the processes of recording accurate information, and so traceability remains susceptible to fraudulent activity.

In terms of the authenticity aspect of food integrity, there are two main areas of policy action. Firstly, to ensure that food and drink products do not mislead the consumer (while ensuring safety), where mislead means giving the wrong idea or impression. Secondly, on preventing food fraud, where fraud means wrongful or criminal deception intended to result in financial or personal gain. In the case of prevention of misleading the consumer, both the *General Food Law* and the *Official Controls Regulation* play important roles along with the *Food Information to Consumers Regulation*. The Food Information to Consumers Regulation also has a key role in ensuring authenticity, and dovetails with the *Regulation on Quality schemes for agricultural products and foodstuffs*, which lays out the names that can be registered as designations of origin, geographical indications, homonymous names or traditional specialities guaranteed, as well as on the protection of registered names to prevent misleading the consumer. The fraudulent activity that carries on along the food chain, notwithstanding these regulations, has become of increased concern to European lawmakers since 2013. In addition to the Regulations iterated above, notably the Official Controls and Food Information to the Consumer, an *EU Food Fraud Network* has been created with representatives from the European Commission and all Member States plus Switzerland, Norway and Iceland, with the aim of establishing more efficient cross-border administrative assistance and cooperation supported by tools for improved information exchange, training of inspectors, and national control plans. The food value chain remains a location for criminal activity seeking to extract value dishonestly and the policy responses are evolving to address this

2.5 EUROPEAN UNION LEVEL POLICIES, REGULATIONS AND GOVERNANCE ACTIVITIES RELATING TO COLLABORATIVE SUSTAINABILITY INITIATIVES IN FOOD VALUE CHAINS.

For the purposes of this mapping, collaborative sustainability initiatives are defined as: '*policy initiatives from the European Commission that involve collaborations by different actors along the value chain to achieve specified sustainability outcomes or, in the case of Member States, either initiated by the European Commission or by public authorities within the Member States*'.

Sustainable development features as an explicit goal of EU policy under the Treaty of the Functioning of the European Union³⁴. To help achieve it, the Treaty emphasises

³⁴ Consolidated Version of The Treaty of the Functioning of the European Union (2012)
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

both the key policy principles for, and the importance of, integrating environmental protection into all EU policies and activities. The Treaty also provides the foundations for the EU's extensive social policies that contribute to sustainable development's social pillar, and collaborative food value chain actions can cover social as well as environmental sustainability. There is a large number of environmental policy regulations and policy actions that impact upon food value chains³⁵. Food value chain sustainability collaborations fall within broader EU policy strategies. For example, they have come under the Roadmap to a Resource Efficient Europe and its Sustainable Consumption-Production initiatives, and the more recent Circular Economy Action Plan. In addition, the EU has its own Sustainable Development policy framework, embracing the *Sustainable Growth* and *Sustainable Consumption and Production (SCP)* plans; as well as implementing the *United Nations Sustainable Development Goals* to which the EU is a signatory³⁶. A key platform for developing food value chain collaboration on sustainability is the *EU Food Sustainable Consumption and Production Round Table* which was set up and is chaired by the European Commission to include all of the main peak European agriculture and food trade and consumer associations. A key part of their initial work was to coordinate the methodologies for assessing the life cycle impact of food products in the form of the *Envifood protocol*. This work was parallel to the studies coordinating Life Cycle Assessment (LCA) methodologies across a number of industrial sectors carried out by the Commission's Joint Research Centre (JRC) that led to the establishment of the *Product Environmental Footprint (PEF)* and the *Organisational Environmental Footprint (OEF)*. Pilot projects were conducted by the Commission to test the application of these methodological approaches across a range of industrial sectors including food and drink. To be able to make independent comparisons between the results of separate assessments within a given product category or sector, the PEF and OEF methods require that *Category Rules (PEFCR)* and *Sector Rules (OEF SR)* be developed respectively. The Food SCP Round Table has been tasked with coordinating the development of such product category rules (PCRs) for food and drink related products. Hence, we can see a continual interaction and iteration of these sustainability metrics and their application for food products involving both organisations from across the value chain and the Commission. In addition, the *European Platform on Life Cycle Assessment* acts as a coordinating mechanism to facilitate communication and exchanges to promote the application of life-cycle thinking³⁷.

Under the Circular Economy initiative and UN Sustainable Development Goal 12, a key target is to reduce food waste. The *EU Platform on Food Losses and Food Waste* was set up in 2016 to support all actors (Commission, Member States, actors in the food value chain) in defining measures needed to prevent food waste, in sharing best practice and in evaluating progress made over time. Sub-Groups set up under the platform are the sub-group on food waste measurement and the sub-group on food donation, with the latter's roles overlapping with aspects of social policy³⁸. The powerful role of the retail sector in value chains is reflected in the Commission's creation of the *Retailers Environmental Action Platform (REAP)* and the *Retail Forum for Sustainability*, which are voluntary collaborations to improve the environmental footprint of the retail sector and its supply chains, promote more sustainable products and provide better

³⁵ A review of these policies is presented in the Annex I to the Deliverable 3.1 report.

³⁶ Ibid.

³⁷ See Deliverable 3.1, sections 4.4 and 4.5.

³⁸ See Deliverable 3.1, section 4.3.

information to consumers. Some, but not all, of the largest European food retailers are members.

The role of retailers as key buyers and also as a gateway to the majority of food consumers is well understood. Another gateway is through food catering. The European Commission has promoted Green Public Procurement (GPP) guidance where public sector procurement can provide markets for more environmentally friendly and sustainable products and still operate within existing Competition Law. The GPP initiative seeks to disseminate advice and good practice amongst Member States and link it to the LCA methodologies discussed above. In addition, public sector catering procurement has the potential to deliver more sustainable food value chains, both in terms of product and as a more direct or short supply chain and market for food suppliers. This potential for food chains is being pursued in the Rural Development Policies under the CAP, and at national and regional-local levels in parts of the EU, so linking sustainability goals with fairer trading practices³⁹.

In the private sector such guidance can help companies fulfil Corporate Social Responsibility (CSR) aims. *JuiceCSR, the European fruit juice Corporate Social Responsibility platform* is a rare example of a European Commission supported, collaborative sustainability initiative in a specified food sub sector. It grew from policymakers' and the sector's awareness of sustainability-related risks and vulnerabilities in its global supply chains, and acknowledges that the industry 'needs to work with stakeholders to continuously improve its social, environmental, ethical and human rights performance'⁴⁰. The Platform was jointly initiated by the EU-level trade association for the juice sector, the European Fruit Juice Association (AIJN), and a Danish CSR consultancy, and was 'endorsed and co-funded' by the European Commission for the first 18 months of its operation. Here, there is a clear link to CSR as a guiding motivation. In 2016, the *Aquaculture Advisory Council (AAC)* was established with the main objective to provide European institutions and MS with recommendations and advice on issues related to the sustainable development of this sector, although smart and sustainable growth was the main focus.

2.6 REFLECTIONS ON EU POLICY DYNAMICS AND FOOD VALUE CHAINS

European Union policy activity impacting upon food value chain dynamics is increasing, both in terms of the impacts of policies upon the chains, and, in terms of addressing some of the more contentious outcomes of these dynamics. A number of policy priorities are at play in addressing the outcomes of food value chain dynamics. Innovation and enterprise as determinants of economic growth are one element, which was an early focus of the Commission's work on the Competitiveness of the Agro-Food Industry, where there are high numbers of SMEs in the food processing and manufacturing sectors but where most profit is generated by a small number of large multinational corporations. The asymmetries of power within food value chain relationships came to the fore in this work, also, leading to a focus on how this impacts

³⁹ See Deliverable 3.1, sections 2.3.1 and 2.3.9

⁴⁰ JuiceCSR (2014) *Fruit Juice CSR Platform Sector Roadmap*, p6. http://juicecsr.eu/wp-content/uploads/2014/12/JuiceCSR_RoadmapV5B-FINAL.pdf

adversely upon on a better functioning food supply. From this the problem of unfair trading practices became more clearly defined, as well as being identified through the levels of food prices and the unevenness of the distribution of profit within food value chains, notably to farmers. The Agricultural Markets Task Force has identified that with the reduction of market intervention via the CAP, there may be a need to regulate UTPs in food value chains, either at Member State or EU market-wide levels. Here, the Commission is clear that regulatory intervention, in the form of the proposed Directive on unfair trading practices in business-to-business relationships in the food supply chain, are on behalf of SMEs, in order to ensure that they can gain a fair economic share from the value chain. This is because UTPs may lead SMEs to a misallocation of resources, or to go out of business altogether⁴¹. In addition, the proposed Directive voiced the need to contribute “to a fair standard of living for the agricultural community”.

Regulation of food safety and aspects of authenticity have been a key regulatory focus for almost two decades to ensure a functioning single market while ensuring consumer health and wellbeing. A food chain length perspective has been attempted, notably through regulations such as the General Food Law, and the rationalisation of the Official Controls on food and feed safety. However, there are still gaps in the effective monitoring and transparency of food safety and of food integrity along value chains, as exemplified by misleading claims and criminal fraud. This has led to renewed policy actions over food fraud, in particular. Environmental sustainability, and to a lesser or more peripheral extent, social sustainability, have attracted extensive regulation and policy activity. Within this activity, collaborative sustainability initiatives along food value chains have come mainly in the form of establishing more common LCA (and food waste) methodologies and metrics, embracing food and drink products, or through encouraging and mobilising CSR actions. However, the dynamics of food value chain relationships will strongly affect the effectiveness of sustainability collaborations. Power relationships and their exercise remain key to achieving better functioning food value chains.

EU policies have not addressed European food value chain resilience explicitly⁴², so for this study, resilience in food value chains was taken to be dependent upon a composite of the three areas of policy covered in this work: fairer trading practices, food integrity (safety and authenticity) and sustainability, notably collaborative sustainability initiatives along food value chains. In these policy areas resilience emerges in a number of forms. One form is businesses’ resilience, especially SMEs, to market shocks or disturbances, such as with commodity price volatility in the case of food manufacturing businesses. Another form is the diversity of the agricultural producer base, and the food industry. The final dimension, and the overriding one at present, is the need to enhance the environmental and social sustainability of food value chains.

⁴¹ COM(2018) 173 final: *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*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0173&from=EN>

⁴² The EU has approached resilience for agri-food in terms of food and nutrition security under its International Development policy, where it is defined as follows: “Resilience is the ability of an individual, a household, a community, a country or a region to withstand, adapt, and quickly recover from stresses and shocks such as drought, violence, conflict or natural disaster”. From: https://ec.europa.eu/europeaid/sectors/food-and-agriculture/food-and-nutrition-security/resilience_en Date accessed: 20th July, 2018.

These observations arise from the study of EU-level policy and governance. The next section summarises some of the expressions and iterations of this governance found at member-state or sub-national level.

2.7. NATIONAL LEVEL POLICIES, REGULATIONS AND GOVERNANCE ACTIVITIES RELATING TO FAIRER TRADING PRACTICES, FOOD INTEGRITY AND SUSTAINABILITY COLLABORATIONS IN FOOD VALUE CHAINS.

Some key national, and where relevant regional and/or local, policy interventions and governance initiatives were identified that promote the operation and better functioning of food supply chains, in terms of fair trading practices, chain integrity, and collaborative sustainability. The focus on national and sub-national levels allows for more specific interventions within the framework of EU regulations and policies to be identified and mapped. Public documents and investigations were researched for the evidence base, and, where further information was needed, food value chain stakeholders/policy-makers were consulted. In addition, relevant policy interventions and governance in China were researched⁴³. National reports were collated from a selection of national partners on the VALUMICS project. They do not present a comprehensive audit of national action across the EU or the wider European Economic Area (EEA). The next paragraphs present a synopsis and synthesis of key findings from national (and regional/local) level reports on fairer trading practices, integrity, and sustainability collaborations in food value chains⁴⁴.

On fairer trading practices, it emerged that national governments have used their domestic legal frameworks to address perceived unfair trading practices. Where national measures address unfair business-to-business (B2B) practices, they tend to cover the same issues as have been identified in EU policy, suggesting that they are both widely prevalent and seen to be remediable through policy intervention. However, national governments (and regional authorities) have reacted differently to the policy problem, using both hard and soft law – for example, some have used national competition law (e.g. the Czech Republic, Germany, Iceland); some have used elements of contract law (e.g. Germany, Italy); some have ‘stretched’ consumer law to apply it to B2B relationships (e.g. Germany); some have introduced independent adjudicators for certain categories of transactions (e.g. the UK); and at least one national state (the UK) has gone on record as saying that EU-level regulation of UTPs would be unhelpful. Several authorities have introduced laws specifically designed to regulate trading practices in food value chains (e.g. Czech Republic, Italy, Spain). And several have attempted to define exactly what is meant by unbalanced relationships or weak negotiating partners (e.g. Czech Republic, Italy and Spain). Some have introduced voluntary Codes of Practice for food chain operators (e.g. Spain and the Italian region of Emilia-Romagna).

Within the area of food integrity, food safety regulation is EU-led. For very small-scale production and direct supply, there are some national laws that cover these activities (e.g. Norway, Iceland, Czech Republic), or waive the application of EU law (e.g. to small

⁴³ For the findings of the report from China see Deliverable 3.2, Annex – Country Reports.

⁴⁴ The individual national reports are in the Deliverable 3.2, Annex – Country Reports.

slaughterhouses in Czech Republic). All of the national studies found examples of national-local food authenticity initiatives and policies, some coming under the EU Geographical Indications rules, others focused upon national (as opposed to regional-local) identification (e.g. UK, Iceland). The more recent EU regulation obliging member states to carry out more regular investigation of food fraud (Reg. EU 2017/65) has seen allocation of responsibilities in each of the member states surveyed. One caveat is that there are some indications that efficient food fraud inspection lacks the necessary budgetary support from the national authorities at present (UK, Czech Republic). Action is being reviewed by Iceland, but Norway has made the decision not to take any further action, to date.

Environmental sustainability policy and interventions are widespread but there are fewer examples of collaborative food value chain sustainability initiatives, in particular with government involvement. Where these collaborations are identified they include sharing of metrics and good practice to assess environmental impacts and to reduce them along the value chains. In particular the collaborative actions focus on reduction of greenhouse gas emissions (GHGs) (UK, Italy, Spain), or adaptations to climate change (Italy), or more efficient use of water resources (UK; Iceland). Broader strategic policies are often the rationale for more specific actions. The Circular Economy (e.g. Germany, Spain) or the Sustainable Development Goals, (e.g. Iceland; UK), also inform policy actions in the food sector, notably around food waste. For example, Germany has a National Programme for Sustainable Consumption that is directly linked to the UN Sustainable Development Goals and Agenda 2030. Food waste reduction strategies are being state-led or promoted in a number of countries (e.g. UK, Spain, Italy, Norway, Iceland, Germany). In some cases, there are national-level initiatives that bundle together different environmental sustainability goals. The main focus of policy interventions on social sustainability are on working conditions and worker protections, including for short-term and seasonal labour conditions and practices, often using immigrant workers with relatively low pay (e.g. Norway, UK, Germany, Italy). Italy has a quality certification for farmers who only use declared labour. In the case of Emilia-Romagna (Italy) quality certification of produce based on sustainability criteria includes health impacts upon agricultural workers through reduced use of pesticides.

EU regulations, policies and related governance initiatives provide an important framework for national-level actions for EU member states and for EEA members. The more tightly EU-regulated areas such as food safety see fewer extra initiatives, but where there is a more general strategic policy and governance push, such as food waste reduction or food fraud, there is greater independent state-level activity. Likewise, there is much more variation on the application of both national and European (Competition) law to govern unfair trading practices impacting upon food value chains.

The research involving partners in EU and EEA Member States concluded with a survey of food value chain stakeholders, to check and validate the findings from desk research and include stakeholder views in the findings. The conduct and results of this survey are presented in the next section.

3. REPORT OF THE SURVEY OF THE STAKEHOLDER PLATFORM

3.1. INTRODUCTION

The Survey of members from the VALUMICS Stakeholder Platform was designed to check that the main findings of the predominantly desk based research from Tasks 3.1 and 3.2, regarding the impacts of the policy and governance activities, that formed the basis for the characterisation framework, resonated with policy facing actors in the food value chain. The questions in the survey were derived from the findings generated by tasks and subsequent Deliverables 3.1 and 3.2. As described in previous sections, University of Hertfordshire (UH) had investigated EU-level policy interventions influencing or targeting food value chains in relation to the three identified priority areas. UH then coordinated work by project partners in eight EU or EEA countries and UH itself (with input from the China partner) to investigate national-level policy measures on the same three topics.⁴⁵ The task 3.3 concluded with the survey of members of the VALUMICS Stakeholder Platform, that was designed to check the findings of the desk based policy research. The findings of the stakeholder platform survey were presented at the Dublin plenary project meeting in June 2018⁴⁶.

3.2. METHODS

3.2.1 Survey Objectives

The purpose of the stakeholder survey was to check and validate previous research on the policies that affect the selected attributes (Fairer Trading Practices, Integrity and Collaborative Sustainability) in EU food value chains. Respondents were drawn from the project's Stakeholder Platform which drew on existing networks of stakeholders contacted by the partner researchers contracted to task 3.3, from across food supply chains. The respondents were asked for their views on the effectiveness of a selection of the policies found during earlier research. A Likert scale was used to allow respondents to rate the effectiveness of interventions on a scale ranging from 'Strongly agree' to 'Strongly disagree'. The objective of the survey was not to make comparisons between nations. Nor was the objective to elicit additional, qualitative information, and no provision was made for this.⁴⁷

3.2.2 The Respondents

Respondents were stakeholders recruited by project partners in seven countries who were already signed up to the platform or were invited to join the platform as part of their participation in the survey. The countries covered were based on the partner institutions

⁴⁵ Participating partners were: Czech University of Life Sciences, Prague (CZU); Federation Espanola de Industrias de la Alimentacion Y Bebidas, Spain (FIAB); Institute for Sustainable Development and International Relations, France (IDDRI); Leibniz Institute of Agricultural Development in Transition Economies (IAMO); Regional Development Agency of Emilia-Romagna (ERVET); SINTEF Fisheries and Aquaculture, Norway; Universita di Bologna (Unibo); University of Iceland (Uoi), MarkMar (MM); and, the China Agricultural University (CAU).

⁴⁶ The report of the survey met the Milestone 4 of the VALUMICS project. Survey respondents were invited to join the VALUMICS project stakeholder platform, having completed the survey.

⁴⁷ Ethics clearance was granted via UH protocol number LMS/SF/UH/03400.

allocated to this task in the project work plan: the Czech Republic, France, Germany, Iceland, Italy, Norway and the UK⁴⁸. The survey was coordinated by University of Hertfordshire (UK). Respondents were sought who were 'policy-literate', i.e., had some experience or understanding of the policies that affect European food value chains (e.g. chain participants, trade associations). The sampling method was opportunistic as described above. The respondents were not chosen as a representative sample, but they were chosen to cover the length of supply chains, with respondents targeted to cover three categories: (1) producers (farmers and primary processors); (2) manufacturers and secondary processors; and (3) retailers (retail and catering). In total, 58 respondents were recruited (Table 3.1). Partners were asked to recruit respondents in each of the three categories. However, when the surveys were returned, some respondents claimed to speak for more than one category of stakeholder (e.g. production and manufacturing). The UK coordinators accepted that this was a confounding factor; however, as all partners had been recruiting respondents on the same basis, it was judged to be inappropriate to alter the survey protocol retrospectively. Therefore, every respondent was assigned by the relevant national partner to a single stakeholder category. Responses were anonymised on receipt. Each returned questionnaire was marked with an identifier (partner, stakeholder category and number), which was keyed to actual identities in a separately stored spreadsheet.

Table 3.1. Respondents recruited by partners, total and by stakeholder category

Partner	Number of respondents	Respondents by category		
		<i>P</i>	<i>M</i>	<i>R</i>
Czech Republic	6	1	4	1
France	3	1	1	1
Germany	3	1	2	
Iceland	14	4	6	4
Italy	14	5	7	2
Norway	9	5	3	1
UK	9	3	3	3
Total	58	20	26	12

P = Producers; M = Manufacturers; R = Retail

3.2.3 The Questionnaires

The survey comprised three questionnaires, each covering one of the three policy areas: Fairer Trading Practices; Food Integrity (safety and authenticity); and (state-led) Collaborative Sustainability. The questionnaires were reviewed and tested by partners in Iceland (UoI) and Spain (FIAB) and refined based on their comments. (The questionnaires are provided in the Appendix) Respondents did not always fill in all three questionnaires: this depended on their own sense of the relevance of their expertise. Consequently, a single respondent could fill in one, two or three questionnaires. The 58 respondents submitted 130 (out of a possible 174) responses. The questionnaires asked a total of 31 questions: Fair Practices – 12; Integrity – 10; and Collaborative

⁴⁸ In addition, the draft questionnaires were reviewed by the Spanish partners in VALUMICS.

Sustainability – 9. Respondents did not always answer all of the questions on a questionnaire. The survey led to the return of 130 wholly or partially completed questionnaires. Table 3.2 provides a breakdown of responses by questionnaire topic and stakeholder category. Table 3.3 provides a more detailed breakdown of the survey responses.

Table 3.2. Responses by questionnaire topic and stakeholder category (n=130)

	Producer / processors	Manufacturers / secondary processors	Retail / food service	TOTAL
Fairer Trading Practices	15	17	10	42
Integrity (safety and authenticity)	14	20	8	42
Collaborative Sustainability	15	21	10	46
TOTAL	44	58	28	130

Table 3.3. Breakdown of responses by nation, questionnaire topic and stakeholder category (n=130)

	Fair Trading Practices				Integrity (safety and authenticity)				Sustainability collaboration				TOTAL
	P	M	R	T	P	M	R	T	P	M	R	T	
Czech Republic	1	4	1	6	1	4	1	6	1	4	1	6	18
France	1	1	0	2	0	1	0	1	0	1	1	2	5
Germany	1	2	0	3	1	2	0	3	1	2	0	3	9
Iceland	2	1	2	5	2	4	2	8	2	3	2	7	20
Italy	3	4	2	9	3	3	1	7	4	6	1	11	27
Norway	4	3	2	9	4	3	2	9	4	3	2	9	27
UK	3	2	3	8	3	3	2	8	3	2	3	8	24
TOTAL	15	17	10	42	14	20	8	42	15	21	10	46	130

P = Producers; M = Manufacturers; R = Retailers; T = Total

3.3. FINDINGS

In the following sections, the responses are presented in tabular form, followed by a question-by-question summary and a brief analysis of the responses.

3.3.1 Fairer trading practices

This questionnaire had 12 questions. There were 42 responses (15 from producers, 17 from manufacturers and 10 from the retail sector), though respondents did not always answer all questions.

Table 3.4. survey responses: Fairer Trading Practices

1. Food chains in Europe are currently effectively regulated to prevent unfair trading practices.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	1	1	4	6	3	
M		5	5	5	2	
R		3	3	2	2	
T	1	9	12	13	7	

Total responses to this question: **42**

2. The most effective way to prevent unfair trading practices in food supply chains would be through EU-level regulation.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	4	6	4	1		
M	4	7		4	2	
R	3	5	1		1	
T	11	18	5	5	3	

Total responses to this question: **42**

3. The most effective way to prevent unfair trading practices in food supply chains is by adapting national-level regulation.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	2	6	4	3		
M	2	5	3	6	1	
R	1	5	2	1	1	

T	5	16	9	10	2	
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Total responses to this question: 42

4. Voluntary initiatives, such as Codes of Conduct, are an effective way to prevent unfair trading practices along food chains.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P		4	4	5	1	11
M	1	4	7	4	1	
R	1	2	4	3		
T	2	10	15	12	2	11

Total responses to this question: 41

5. The Supply Chain Initiative (i.e., the voluntary EU scheme based on Principles of Good Practice, which encourages companies to avoid unfair practices and provides a dispute settlement procedure), is a useful tool in preventing and resolving unfair practices along food supply chains.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P		5	7	2	1	
M	1	5	7	2	1	11
R	1	2	6	1		
T	2	12	20	5	2	11

Total responses to this question: 41

6. An effective way to prevent unfair trading practices in food supply chains is to use an independent adjudicator (such as an ombudsman or mediator).

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	3	3	7	2		
M	1	9	4	3		
R		4	4	1		11
T	4	16	15	6		11

Total responses to this question: 41

7. Independent adjudicators can only be effective in reducing unfair supply chain practices if they have powers of sanction (e.g., the power to impose fines).

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	5	7	2	1		
M	5	10	1	1		
R		8		1		11
T	10	25	3	3		11

Total responses to this question: 41

8. An effective way to prevent unfair trading practices in food supply chains is through a combination of hard and soft law (i.e., regulations and Codes of Conduct).

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	1	12	2			
M	3	12		1		11
R		9	1			
T	4	33	3	1		11

Total responses to this question: 41

9. Good quality, publicly available information on how prices are set at different stages along food value chains helps to reduce unfair trading practices.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	3	9	3			
M	5	3	5	2	2	
R		7	3			
T	8	19	11	2	2	

Total responses to this question: 42

10. National Minimum Wage rates set by government are an effective way to raise the living standards of low-paid food workers.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	3	5	4	1	1	11
M	3	4	5	3	2	
R	2	7	1			
T	8	16	10	4	3	11

Total responses to this question: 41

11. The use of temporary and / or seasonal workers in food supply chains requires specific legal protections in addition to general labour laws.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	4	6	2	2		11
M	1	4	8	2	1	11
R	1	7	1	1		
T	6	17	11	5	1	22

Total responses to this question: 40

12. Voluntary Codes of Conduct are an effective way to prevent abuses of temporary and / or seasonal workers in food supply chains.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	2	3	5	3	1	11
M	1	6	4	3	1	12
R		2	3	4		11
T	3	11	12	10	2	14

Total responses to this question: 38

Discussion: Fairer Trading Practices

Q1. Respondents did not think that European food chains are currently effectively regulated to prevent unfair trading practices (UTPs), with producers expressing strongest disagreement.

Q2. There was strong agreement in all categories of stakeholder that the most effective way to prevent UTPs would be through EU level regulation, with most resistance from manufacturers.

Q3. However, there was also significant support, again in all categories, for adapting national-level regulation, with manufacturers most resistant to the idea.

Q4. Respondents did not express strong support for voluntary Codes of Conduct as an effective policy lever, with more against than for, somewhat stronger disagreement from producers, and a high number of non-committal responses.

Q5. When it came to the EU voluntary scheme the Supply Chain Initiative, however, more people agreed that it was useful tool than disagreed, but again with a high number of non-committal responses.

Q6. There was strong agreement, especially from manufacturers, that independent adjudicators are an effective measure to prevent UTPs.

Q7. There was very strong agreement, in all categories, that where independent adjudicators exist, they can only be effective if they have powers of sanction.

Q8. There was very strong agreement in all categories that a combination of hard and soft law (i.e., both Voluntary Codes and regulations) was an effective way to prevent UTPs.

Q9. There was strong agreement, in all categories, that good quality public information on pricing can help to reduce UTPs.

Q10. There was strong agreement that National Minimum Wage rates set by government can be effective in raising the living standards of low-paid workers, with most dissent or uncertainty from manufacturers.

Q11. There was strong agreement that the use of temporary or seasonal workers in food supply chains required specific protections beyond general labour laws (though again with a relatively high level of undecided respondents).

Q12. There was no conclusive finding on whether voluntary codes of conduct could effectively prevent abuses of temporary and / or seasonal workers in food supply chains.

Taking these responses together, the clearest indications are that European food supply chains are not currently effectively regulated to prevent UTPs, and that there is support for both EU-level regulation and existing adaptations of national law. Voluntary Codes of Conduct were not seen to be very effective, but there was support for the idea of independent adjudicators. To be effective, it was found that these must have the power of sanction. The most strongly supported proposition was that a combination of Codes and regulations was the most effective way to tackle UTPs. National Minimum Wages were seen to be an effective way to improve the living standards of low-paid food workers, and temporary and seasonal food workers were seen to be in need of specific legal protection.

On Fairer Trading Practices, the number of responses from the three stakeholder categories varied, with 15 from the production sector, 17 from manufacturing and 10 from retail. The data has not been adjusted to compensate for this variation. Based on numbers of responses, however, there were a few cases where one category of stakeholder seemed to hold views either more strongly, or at odds with, the overall position for the statement.

For example, discounting the 'Neither Agree Nor Disagree' (NAND) category, on the question of whether food chains in Europe are currently effectively regulated to prevent UTPs, 9 respondents in the Production sector disagreed or strongly disagreed, whereas only two agreed or strongly agreed. In the other categories, the responses were more evenly spread.

For the proposition that the most effective way to prevent UTPs would be through EU-level regulation (again discounting NANDs), 6 respondents from the manufacturing sector disagreed or strongly disagreed, compared with just one each in the other two categories. (And a higher number of manufacturers (11) agreed or strongly agreed with the statement).

Responding to the statement that the most effective way to prevent UTPs is through national-level regulation, again (discounting NANDS) 7 manufacturing-sector respondents disagreed or strongly disagreed, compared with 3 and 2 respectively from the other categories. (And an equal number of manufacturers (7) agreed with the statement).

On the question of whether reliable information about pricing practices could help reduce UTPs, the only disagreement (discounting NANDs) came from the manufacturing sector, with 2 respondents disagreeing and 2 strongly disagreeing.

Finally, on the question of whether National Minimum Wages could help raise living standards, the strongest disagreement (discounting NANDs) came from the manufacturing sector, with 5 respondents disagreeing or strongly disagreeing, compared with 2 producers and 0 retailers.

Summarising these findings (again with the caveat that the data has not been adjusted to correct for varying numbers across categories), it might be said that the greatest dissatisfaction with current EU position on UTPs was in the production sector, and the greatest resistance to regulation (at EU or national level) came from the manufacturing stage of the chain. The manufacturing sector disagreed that more transparency around pricing would help reduce UTPs, and was also most resistant to the use of Minimum Wages.

3.3.2 Integrity (safety and authenticity)

This questionnaire had 10 questions. There were 42 responses (14 from producers, 20 from manufacturers and 8 from the retail sector), though respondents did not always answer all questions.

Table 3.5 survey responses: Integrity

1. Traceability requirements in the food chain are effective in promoting food safety.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	8	5		1		
M	6	12	1	1		
R	2	2	3			1
T	16	19	4	2		1

Total responses to this question: 41

2. The Rapid Alert System for Food and Feed (RASFF) is effective in ensuring the flow of information that enables swift reaction when risks to public health are detected.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	5	4	5			
M	9	5	5	1		
R		5	2			1
T	14	14	12	1		1

Total responses to this question: **41**

3. Private standards imposed by food business operators (e.g. food manufacturers and retailers) on their suppliers promote food safety.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	2	6	5	1		
M	5	11	4			
R	1	5	1			1
T	8	22	10	1		1

Total responses to this question: **41**

4. Private assurance schemes promote food safety more effectively when they are government endorsed.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	2	6	5	1		
M	1	8	7	4		
R		2	5			1
T	3	16	17	5		1

Total responses to this question: **41**

5. National food hygiene measures for the direct supply of small quantities of primary products (short supply chains) are important in promoting food safety.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P		11	3			
M	1	10	7	2		
R		5	2			1
T	1	26	12	2		1

Total responses to this question: 41

6. Official controls must be applied more frequently to protect the consumer from being misled as of the true nature and properties of food.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	1	7	5	1		
M	2	8	5	4	1	
R	2	5				1
T	5	20	10	5	1	1

Total responses to this question: 41

7. The action taken by national/local authorities to monitor, report and seek to prevent food fraud is satisfactory.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P		9	2	3		
M		5	7	7	1	
R		1	3	3		1
T		15	12	13	1	1

Total responses to this question: 41

8. The funding/budget available to the national authorities tackling food fraud is not sufficient to enable them to perform all relevant tasks.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	1	8	5			
M	2	11	5	2		
R	2	2	3			1
T	5	21	13	2		1

Total responses to this question: 41

9. The EU Food Information to Consumers Regulation (food labelling Regulation 1169/2011), has achieved its aim to ensure consumers are not misled regarding the country of origin of food and drink products.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P		4	7	2	1	
M	1	5	10	2	2	
R		1	5	2		
T	1	10	22	6	3	

Total responses to this question: 42

10. National labelling schemes for locally produced food (i.e. not PDO, PGI) promote authenticity in the food chain.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	1	8	4	1		
M	1	9	6	4		
R		2	4	1		1
T	2	19	14	6		1

Total responses to this question: 42

Discussion: Integrity

Q1. Respondents from all categories believed that traceability requirements in food chains were effective in promoting food safety, although retailers gave a higher number of non-committal responses compared to producers and manufacturers.

Q2. The RASFF system was seen as effective in reacting swiftly to risks to public health, but there was a relatively large portion of non-committal answers, especially from producers.

Q3. The role of private standards in promoting food safety was seen by all stakeholders to be important, with only producers voicing disagreement.

Q4. However, despite support for private schemes, there was less certainty among respondents about the importance of government endorsement of such schemes.

Q5. Overall, respondents agreed that national food hygiene measures played an important role in promoting food safety in short supply chains, with only a minority of manufacturers in disagreement.

Q6. There was strong agreement that official controls should be applied more frequently to protect consumers from being misled about the true nature and properties of food, with 100% agreement from the retailer category.

Q7. Asked about action taken by national/local authorities to tackle food fraud, respondents were split. Producers agreed the action was satisfactory, whereas manufacturers and retailers were less certain.

Q8. Most respondents agreed that the funding available to national authorities tackling food fraud was insufficient.

Q9. There was a mixed response about how well EU labelling regulation prevented consumers from being misled over the country of origin of the food. Overall, this is the only question where most of the answers were non-committal.

Q10. Lastly, however, there was agreement that national labelling schemes were effective in promoting authenticity in the food chain.

Taken together, the results showed the majority of stakeholders were in agreement that current traceability requirements promoted food safety in value chains. Similarly, it was clearly indicated that the Rapid Alert System for Food and Feed (RASFF) was seen as effective in reacting to public health risks. There was also strong support for the role of private standards in promoting food safety, with only respondents in the producer category indicating disagreement. It was less clear from the results whether government endorsement of such standards was felt to improve their effectiveness.

Respondents were divided over the adequacy of action taken by national and local authorities to monitor and prevent food fraud. Most producers were satisfied with the response level, while most manufacturers and retailers were less confident. There was strong agreement, however, that public funding for tackling food fraud was not sufficient. Related to this, there was concern amongst all stakeholders that consumers were at risk of being misled about the true nature and properties of food, and that official controls to prevent this needed to be applied more frequently. This was a particular concern in the retail category where 100% of respondents agreed that more action was needed. There was ambivalence about the ability of the EU's food labelling regulation (1169/2011) to tackle this issue, but general agreement that national labelling schemes for locally produced food were helping to promote authenticity.

Overall, the results of the survey showed concerns about food safety were reasonably low amongst respondents in all categories, while food fraud was a more serious consideration, especially for manufacturers and retailers.

3.3.3. Collaborative sustainability

This questionnaire had 9 questions. There were 46 responses (15 from producers, 21 from manufacturers and 10 from the retail sector), though respondents did not always answer all questions. The following section tabulates the responses, by question. Section 3.3.2 presents a discussion of the findings.

Table 3.6 survey responses: Collaborative sustainability

1. Food value chain actors have taken sufficient action to measure the environmental performance of food products at national level.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P		4	5	6		
M	3	2	4	11	1	
R		3	2	4	1	
T	3	9	11	21	2	

Total responses for this question: 46

2. There are adequate methodologies (e.g. life cycle analysis) in place for the measurement of the environmental impacts of food value chains.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	1	3	4	7		
M		11	9	1		
R			6	3	1	
T	1	14	19	11	1	

Total responses for this question: 46

3. Collaborative initiatives promoting responsible water stewardship are essential for promoting sustainability along food value chains.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	4	7	4			
M	2	12	4	3		
R	2	6	1	1		
T	8	25	9	4		

Total responses for this question: 46

4. Waste and losses in the food chain are adequately addressed at national level.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	2	4	2	6	1	
M	1	4	5	8	2	11
R		1	4	3	2	
T	3	9	11	17	5	11

Total responses for this question: 45

5. Making “use by/best before” dates on food products more understandable is essential for reducing food waste at consumer level.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	3	10	1	1		
M	7	9	2	3		
R	3	5	1		1	
T	13	24	4	4	1	

Total responses for this question:

6. Collaboration along food value chains is important to reduce food waste.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	8	7				
M	5	14	1	1		
R	6	4				
T	19	25	1	1		

Total responses for this question: 46

7. Corporate Responsibility and/or Corporate Sustainability programmes managed at firm and/or trade association level are adequate to tackle sustainability issues in food supply chains.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P		5	7	3		
M	1	6	6	8		
R		2	5	3		
T	1	13	18	14		

Total responses for this question: 46

8. Reform of EU competition law is needed to make it easier for enterprises to collaborate on sustainability improvements in food value chains.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P	1	7	7			
M		10	11			
R	1	7	2			
T	2	24	20			

Total responses for this question: 46

9. Public authorities, through their procurement processes, are improving the sustainability impacts of food value chains and their products.

Stakeholder category	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree	No Answer
P		5	6	2	2	
M		5	8	8		
R		2	6	1		11
T		12	20	11	2	11

Total responses for this question: 45

Discussion: Collaborative Sustainability

Q1. There was general agreement from all categories of stakeholder that FVC actors have taken insufficient action to measure the environmental performance of food products at national level.

Q2. However, there was more ambivalence from respondents about the adequacy of the methodologies in place to measure environmental impacts, with most answers being

non-committal. Looking at individual categories, there was disagreement between producers (where a majority did not feel the methodologies were adequate) and manufacturers (where a majority were satisfied).

Q3. There was clear agreement among all respondents that the collaborative initiatives promoting water stewardship were essential for promoting sustainable FVCs. This was especially felt by producers.

Q4. More stakeholders in all categories disagreed than agreed that waste and losses are being adequately addressed at the national level. Producers were most evenly balanced between the two views.

Q5. Linked to this, there was strong agreement that 'Use By' and 'Best Before' dates on food products needed to be more understandable to reduce food waste amongst consumers.

Q6. Following on from Q3, there was strong agreement that collaboration along FVCs is important to reduce food waste.

Q7. While collaboration was seen as key, most respondents were non-committal about the adequacy of CSR undertaken at firm level to tackle sustainability issues, with manufacturers expressing somewhat stronger disagreement.

Q8. Linked to Q6, there was strong agreement on reforming EU competition law to make it easier for collaboration to take place. No respondent disagreed with this statement, although there were a sizable minority of NAND answers.

Q9. Finally, there was also a mixed response to the idea that public procurement policies were improving sustainability impacts of FVCs, with most answers falling into the disagree or NAND columns.

Looking at the results together, respondents were non-committal on the effectiveness of corporate responsibility/sustainability programmes managed at firm or trade association level, whereas there was clear agreement that collaboration among firms was key to managing water stewardship and preventing food waste. Correspondingly, there was strong agreement that EU competition law needed to be reformed to make collaboration easier along food chains.

There was concern from stakeholders that waste and losses were not being adequately addressed at the national level, and ambivalence about whether policies like public procurement helped to improve sustainability impacts. Linked to this, most respondents agreed that actors were not taking sufficient action to measure environmental performance in their chains, and there was uncertainty over the adequacy of methodologies to measure environmental impacts; retailers, in particular, were unconvinced of this. At the consumer level, there was agreement that 'Use By' and 'Best Before' dates need to be more understandable to help prevent food waste.

Most respondents were keen to improve levels of collaboration, which they saw as important for the successful implementation of sustainability practices. Food waste along chains was a significant concern for respondents in all categories.

3.4 SURVEY CONCLUSIONS

The responses suggest the policy concerns identified in EU- and national-level research resonate with food value chain stakeholders in participating nations.

On fairer trading practices, the support for EU-level measures that complement national-level action is reflected in the proposed Directive (as distinct from a mandatory Regulation) on Unfair Trading Practices (COM (2018) 173 final)⁴⁹, announced in April 2018. However, the survey also revealed support for nationally set Minimum Wage levels and special laws to protect seasonal or other precarious food chain workers – aspects of supply chain fairness not captured in the impending EU law.

On food integrity, food fraud regulation was found to be a bigger concern than food safety, perhaps reflecting the fact that food safety legislation has been in place much longer – and was broadly seen to be effective.

On sustainability, collaboration was seen to be vital if the issues were to be tackled effectively, and EU Competition policy (to the extent that it inhibits collaboration) was seen as a barrier to progress. Voluntary measures (including Corporate Social Responsibility or Sustainability practices) were not seen to be very effective, but there was strong support for a combination of ‘hard’ and ‘soft’ approaches (i.e., regulations coupled with voluntary measures such as Codes of Conduct).

⁴⁹ COM(2018) 173 final: *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*. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0173&from=EN>

4. CONCLUSIONS, REFLECTIONS AND NEXT STEPS

In the policy and governance impetus to achieve better functioning food value chains, two themes that stand out are fairness and transparency. 'Fairness' is a general principle of EU administrative law, *'connoting the equal treatment of all people or parties, irrespective of differences in status, power or other social, physical or cultural differences'*⁵⁰. In terms of fairness, the policy focus regarding food value chains has been to try to eliminate market distorting unfair trading practices in B2B relationships. However, there are associated regulatory interventions, which are important to the maintenance of fair and effective food value chains, that go beyond B2B relationships, in particular in their embrace of the work conditions and health of the labour force upon which such chains depend. Fairness would be enhanced with a more explicit recognition of how policy ensures fairness along food value chains to include the role of the workforce. The European Pillar of Social Rights spells out key principles, and there are numerous pieces of EU legislation in place. In particular, these laws address those in precarious work, although there are a large number of national derogations. Precarious work is a feature of food value chains, as is work often reliant upon temporary workers from outside of the European Union particularly in terms of seasonal harvesting and packing of crops and fresh produce, and animal slaughter and rendering. Transparency and the monitoring of working conditions, pay levels and so on are becoming increasingly necessary, as abusive working practices and modern slavery practices come under the public and regulatory spotlight, notably in food supply chains. Consequently, national governments are introducing laws to ban and police such practices, including addressing the rights of the temporary work force⁵¹. At the regional level, there are innovative policies such as a scheme in Emilia-Romagna (Italy) for quality certification of produce based on sustainability criteria that include health impacts upon agricultural workers through reduced use of pesticides. The scheme makes the health of the agricultural work force more transparent along the value chain to the final consumer.

EU policy on food value chain transparency in more recent years has focused upon market transparency, both in terms of making B2B contacts more visible, and monitoring price setting along chains. Earlier, the application of traceability offered a food safety and authenticity related form of transparency, albeit with flaws, as the continued fraudulent activity in food value chains attests. A developing form of food value chain transparency relates to identifying and measuring the environmental and natural resource impacts of these chains as measured, primarily, through the final product's overall environmental impact through its life cycle, as with the Product Environmental Footprint (PEF) initiative. This form of transparency has not transferred into any market-based system of costing and pricing, yet. However, it has important implications for the sustainability of the EU agri-food sector and ultimately for its resilience in an era of environmental change. The move towards a true costing of food products based upon their impacts will allow for a more sustainable future for European food chains, where the true costs are reflected in the value and pricing of food products. As the example of the certification scheme in Emilia-Romagna shows, this transparency can include aspects of working conditions, or social sustainability, as well.

⁵⁰ Directorate-General for Internal Policies, Policy Department C: Citizens' Rights and Constitutional Affairs (2015) *The General Principles of EU Administrative Procedural Law* (PE 519.224) [http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519224/IPOL_IDA\(2015\)519224_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/519224/IPOL_IDA(2015)519224_EN.pdf)

⁵¹ See deliverable 3.2, section 4.3. <http://valumics.eu/publications/>

The foregoing analysis of policies that impact upon and address the dynamics of food value chains provides an important contextualisation for the operation of these chains. It provides key reference points for more detailed case studies of the value chains for specific food products, both for their general causality dynamics and for their governance. Placing the evidence of these case studies alongside the policy mapping and analysis will then contribute to the development of agent-based models and to scenario building and the subsequent recommendations for further policy development to promote better functioning food value chains.

APPENDIX: QUESTIONNAIRES

A.1 FAIRER TRADING PRACTICES



Insert stakeholder identifier:



SURVEY QUESTIONNAIRE

UH Protocol Number LMS/SF/UH/03400

PROJECT NAME: VALUMICS STAKEHOLDER SURVEY

Introduction

Thank you for agreeing to participate in our stakeholder survey. We very much appreciate your input. **Please do not insert your name or email on this form** – we will assign it a number when you return it to us, and your answers will be used anonymously. For more information, please refer to the Participant Information Sheet which you have been sent.

The statements below cover a selection of issues and policy measures in food value chains. Some may be more relevant to your work than others, but please answer as many as you can, in your professional capacity.

Please read each of the statements, then place an X in the box that most accurately reflects your views, on the scale from **Strongly agree; Agree; Neither agree nor disagree; Disagree; Strongly disagree**.

Please read through all the statements of the questionnaire before answering.

PLEASE RETURN THE COMPLETED FORM to the researcher who conducted the survey; or to Dr Kalliopi Mylona: k.mylona@herts.ac.uk

Topic: Fair supply chain practices

- 1. Food chains in Europe are currently effectively regulated to prevent unfair trading practices.**

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

2. The most effective way to prevent unfair trading practices in food supply chains would be through EU-level regulation.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

3. The most effective way to prevent unfair trading practices in food supply chains is by adapting national-level regulation.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

4. Voluntary initiatives, such as Codes of Conduct, are an effective way to prevent unfair trading practices along food chains.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

5. The Supply Chain Initiative (i.e., the voluntary EU scheme based on Principles of Good Practice, which encourages companies to avoid unfair practices and provides a dispute settlement procedure), is a useful tool in preventing and resolving unfair practices along food supply chains.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

6. An effective way to prevent unfair trading practices in food supply chains is to use an independent adjudicator (such as an ombudsman or mediator).

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

7. Independent adjudicators can only be effective in reducing unfair supply chain practices if they have powers of sanction (e.g., the power to impose fines).

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

8. An effective way to prevent unfair trading practices in food supply chains is through a combination of hard and soft law (i.e., regulations and Codes of Conduct).

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

9. Good quality, publicly available information on how prices are set at different stages along food value chains helps to reduce unfair trading practices.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

10. National Minimum Wage rates set by government are an effective way to raise the living standards of low-paid food workers.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

11. The use of temporary and / or seasonal workers in food supply chains requires specific legal protections in addition to general labour laws.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

12. Voluntary Codes of Conduct are an effective way to prevent abuses of temporary and / or seasonal workers in food supply chains.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

A.2 INTEGRITY (SAFETY AND AUTHENTICITY)



Insert stakeholder identifier:



SURVEY QUESTIONNAIRE

UH Protocol Number LMS/SF/UH/03400

PROJECT NAME: VALUMICS STAKEHOLDER SURVEY

Introduction

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The statements below cover a selection of issues and policy measures in food value chains. Some may be more relevant to your work than others, but please answer as many as you can, in your professional capacity.

Please read each of the statements, then place an X in the box that most accurately reflects your views, on the scale from **Strongly agree; Agree; Neither agree nor disagree; Disagree; Strongly disagree**.

Please read through all the statements of the questionnaire before answering.

PLEASE RETURN THE COMPLETED FORM TO the researcher who conducted the survey; or to Dr Kalliopi Mylona: k.mylona@herts.ac.uk

Topic: Food integrity (safety, authenticity and fraud)

- 1. Traceability requirements in the food chain are effective in promoting food safety.**

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

2. The Rapid Alert System for Food and Feed (RASFF) is effective in ensuring the flow of information that enables swift reaction when risks to public health are detected.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

3. Private standards imposed by food business operators (e.g. food manufacturers and retailers) on their suppliers promote food safety.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

4. Private assurance schemes promote food safety more effectively when they are government endorsed.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

5. National food hygiene measures for the direct supply of small quantities of primary products (short supply chains) are important in promoting food safety.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

6. Official controls must be applied more frequently to protect the consumer from being misled as of the true nature and properties of food.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

7. The action taken by national/local authorities to monitor, report and seek to prevent food fraud is satisfactory.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

8. The funding/budget available to the national authorities tackling food fraud is not sufficient to enable them to perform all relevant tasks.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

9. The EU Food Information to Consumers Regulation (food labelling Regulation 1169/2011), has achieved its aim to ensure consumers are not misled regarding the country of origin of food and drink products.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

10. National labelling schemes for locally produced food (i.e. not PDO, PGI) promote authenticity in the food chain.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

A.3 COLLABORATIVE SUSTAINABILITY



Insert stakeholder identifier:



SURVEY QUESTIONNAIRE

UH Protocol Number LMS/SF/UH/03400

PROJECT NAME: VALUMICS STAKEHOLDER SURVEY

Introduction

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The statements below cover a selection of issues and policy measures in food value chains. Some may be more relevant to your work than others, but please answer as many as you can, in your professional capacity.

Please read each of the statements, then place an X in the box that most accurately reflects your views, on the scale from **Strongly agree; Agree; Neither agree nor disagree; Disagree; Strongly disagree**.

Please read through all the statements of the questionnaire before answering.

PLEASE RETURN THE COMPLETED FORM TO the researcher who conducted the survey; or to Dr Kalliopi Mylona: k.mylona@herts.ac.uk

Topic: Food sustainability

1. Food value chain actors have taken sufficient action to measure the environmental performance of food products at national level.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

2. There are adequate methodologies (e.g. life cycle analysis) in place for the measurement of the environmental impacts of food value chains.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

3. Collaborative initiatives promoting responsible water stewardship are essential for promoting sustainability along food value chains.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

4. Waste and losses in the food chain are adequately addressed at national level.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

5. Making “use by/best before” dates on food products more understandable is essential for reducing food waste at consumer level.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

6. Collaboration along food value chains is important to reduce food waste.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

7. Corporate Responsibility and/or Corporate Sustainability programmes managed at firm and/or trade association level are adequate to tackle sustainability issues in food supply chains.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

8. Reform of EU competition law is needed to make it easier for enterprises to collaborate on sustainability improvements in food value chains.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

9. Public authorities, through their procurement processes, are improving the sustainability impacts of food value chains and their products.

Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree

ANNEX 1

Grant Agreement number: 727243

VALUMICS

Understanding food value chains and network dynamics

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Map of EU policy, regulation and governance initiatives that identify fairer trading practices, integrity, and sustainability collaborations in food value chains



Food Systems Dynamics

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Contents

EXECUTIVE SUMMARY	70
Abbreviations	76
1 INTRODUCTION.....	77
1.1 The purpose of this report	77
1.2 The scope of the VALUMICS policy review.....	78
1.3 Structure of the report.....	79
2 FAIRER TRADING PRACTICES.....	80
2.1 Introduction.....	80
2.2 Key interventions promoting fairer trading practices in food value chains.....	80
2.2.1 The High Level Forum for a Better Functioning Food Supply	82
2.2.2 The 2009 Communication on a Better Functioning Food Supply Chain in Europe.....	83
2.2.3 The Principles of Good Practice.....	84
2.2.4 The Supply Chain Initiative.....	86
2.2.5 Social Dialogue	87
2.2.6 The Food Price Monitoring Tool and price dashboards	88
2.2.7 The Agricultural Markets Task Force	89
2.2.8 Policy activity around Unfair Trading Practices	90
2.3 Wider interventions for fairer trading practices in food value chains	93
2.3.1 The CAP & the CFP	95
2.3.2 Competition policy	98
2.3.3 Unfair Commercial Practices.....	99
2.3.4 CSR policy.....	100
2.3.5 EU Pillar on Social Rights	100
2.3.6 Minimum Wages.....	100
2.3.7 Precarious and / or seasonal work	101
2.3.8 SME policy	102
2.3.9 Short Food Supply Chains policy	103
2.3.10 Social Life Cycle Assessment	104
2.3.11 Late Payments Directive	104
2.3.12 Milk Package.....	105
3 FOOD CHAIN INTEGRITY: FOOD SAFETY AND FOOD AUTHENTICITY	106
3.1 Food Safety	106
3.1.1 Regulations promoting food safety in food value chains.....	106
3.1.2 REFIT, the Regulatory Fitness and Performance programme.....	125
3.2 Food Authenticity.....	125
3.2.1 Products are not misleading.....	128
3.2.2 Preventing fraud.....	133
4 COLLABORATIVE INITIATIVES PROMOTING SUSTAINABILITY IN EU FOOD VALUE CHAINS.....	137
4.1 EU Food Sustainable Consumption and Production Round Table.....	142
4.2 European Circular Economy Stakeholder Platform.....	145
4.3 EU Platform on Food Losses and Food Waste (2016).....	145
4.4 European Platform on Life Cycle Assessment	147
4.5 Methods to measure and communicate the life cycle environmental performance of products and organisations	148
4.5.1 Product Environmental Footprint (PEF)	148
4.5.2 Organisational Environmental Footprint (OEF)	149
4.6 High-Level Forum for a Better Functioning Food Supply Chain	150
4.6.1 Retailers Environmental Action Programme	151
4.7 Advisory Councils under the Common Fisheries Policy	153
4.7.1 A Strategy for the sustainable development of European Aquaculture.....	153
4.8 JuiceCSR, the European fruit juice CSR platform	154
5 CONCLUSIONS	156
ANNEX I.....	157
I.1 EU Sustainable Development Strategy	157
I.1.1 2001 Strategy.....	157

I.1.2	Renewed EU Sustainable Development Strategy 2006.....	157
I.1.3	2009 Review of the EU Sustainable Development Strategy	157
	1.2 Sustainable Growth – Sustainable Consumption and Production	157
I.2.1	Sustainable Consumption and Production (SCP) and Sustainable Industrial Policy (SIP) Action Plan 2008	158
I.2.2	EU Food Sustainable Consumption and Production Round Table	158
I.2.3	EU Ecolabel.....	161
I.2.4	EMAS – EU Eco-Management and Audit Schemes.....	162
I.2.5	Green Public Procurement.....	167
	1.3 Europe 2020 Strategy.....	170
I.3.1	Roadmap to a Resource Efficient Europe.....	171
	1.4 European action for sustainability.....	172
I.4.1	European Parliament Report on EU action for sustainability	173
	1.5 2015 Action Plan for a Circular Economy	174
	1.6 Collaboration on food waste	178
I.6.1	EU Platform on Food Losses and Food Waste (2016).....	179
	1.7 2003 Environment Policy Review	181
	1.8 Environment Action Programme.....	181
	1.9 Integrated Product Policy.....	183
I.9.1	Green Paper on Integrated Product Policy.....	183
I.9.2	Communication from the Commission on Integrated Product Policy	183
I.9.3	Opinion of the European Economic and Social Committee (EESC) on the Communication on Integrated Product Policy	185
I.9.4	Reporting on the implementation of Integrated Product Policy	185
	1.10 Building the Single Market for Green Products	185
I.10.1	Product Environmental Footprint (PEF)	186
I.10.2	Organisational Environmental Footprint (OEF)	187
	1.11 High-Level Forum for a Better Functioning Food Supply Chain	188
I.11.1	The Supply Chain Initiative.....	190
I.11.2	European Retail Round Table	190
I.11.3	Retailers Environmental Action Programme	190
I.11.4	Retail Agreement on Waste	192
	1.12 Expert Group for Processed Agricultural Products and Management Committee for Processed Agricultural Products.....	193
	1.13 The Common Agricultural Policy	193
I.13.1	Voluntary agri-environment-climate measures/payments	194
	1.14 Water policies	195
I.14.1	The water framework Directive.....	195
I.14.2	The Nitrates Directive	196
I.14.3	Sustainable use of pesticides.....	196
I.14.4	Water reuse.....	196
	1.15 Marine Policies	198
I.15.1	The Integrated Maritime Policy.....	198
I.15.2	The Common Fisheries Policy	199
I.15.3	Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the Common Fisheries Policy	203
I.15.4	A Strategy for the sustainable development of European Aquaculture.....	204
I.15.5	Guidelines on sustainable development of EU aquaculture.....	205
I.15.6	EU rules on illegal, unreported and unregulated fishing	206
I.15.7	The Marine Strategy Framework.....	208
	1.16 The Industrial Emissions Directive	209
	1.17 Climate action.....	210
I.17.1	Paris Agreement.....	211

EXECUTIVE SUMMARY

1. The European Union derives its policies from the treaties and the competences laid out therein. To achieve the aims of the treaties the European Commission deploys different types of policy action. There are broader strategic policies or programmes that set overall objectives. Within these policy programmes there are more specific laws in the forms of regulations, directives and agreements. Then, there are also non-legislative policy instruments: this is the area of so-called 'soft law' that allows the Commission to seek to have policy influence beyond the direct scope of its competencies. It embraces modes of governance such as voluntary agreements with key stakeholders and pilot activities designed to influence stakeholders in a policy area to change their actions as a result of shared learning based upon the dissemination of evidence and 'good practice' generated.

This report maps the more overarching and strategic policy programmes and actions; the relevant EU legislation; and the modes of softer law and governance led by the actions of the European Commission, as they address and seek to impact upon three key areas of food value chains and their dynamics:

- Fairer trading practices along food value chains,
- Food integrity (defined as food safety and authenticity) as governed along food value chains
- Sustainability collaborations along food value chains⁵².

2. In this report we can see that **food value chains** are an area of **increasing policy scrutiny and activity** from the Commission. The Commission's process for evaluating the dynamics of food value chains is exemplified by the processes and iterations that are now under the *High-Level Forum (HLF) for a Better Functioning Food Supply*, set up in 2010 from a Communication of the same title the previous year. The Communication was a result of the findings of the 2008 *High Level Group (HLG) on the Competitiveness of the Agro-Food Industry*⁵³, which itself was a follow-up to the 2006 study *Competitiveness of the European Food Industry: An economic and legal assessment*. This study had found the European food sector to be less competitive than equivalent sectors in other countries, with diminishing capacity to generate enough profit to foster innovation or even maintain capacity⁵⁴. The HLF broadened the remit to include not just the profitability of the food supply chain, but also how profits were distributed, and issues around employment. The HLF for a Better Functioning Food Supply has been renewed, and its membership comprises MS national competent authorities responsible for the food sector and representatives of the private (non-state) sector, including food companies, umbrella associations and federations in food-related sectors, and NGOs. To date, key outputs include the *Vertical relationships in the supply chain: Principles of Good Practice*⁵⁵ report, which formally acknowledged the existence of problematic **unfair trading practices (UTPs)** in food supply chains, itemised examples, and laid out

⁵² VALUMICS Annex 1, Part A (p.17)

⁵³ High Level Group on the Competitiveness of the AgroFood Industry (2009) *Report on the Competitiveness of the European Agro-Food Industry*.

⁵⁴ Wijnands, J.H.M., van der Meulen, B.M.J. and Poppe, K.J. (eds) (2006) *Competitiveness of the European Food Industry: An economic and legal assessment 2007*, pp 3-7.

⁵⁵ Core members of the B2B subgroup of the HLF (2011) *Vertical relationships in the supply chain: Principles of good practice*.

a set of *Principles of Good Practice* (PGP). The unfairness was identified as impacting negatively upon smaller businesses as suppliers in food value chains, such as food processing and manufacturing SMEs. It was followed by the Commission-led voluntary initiative to implement the PGP, the *Supply Chain Initiative* (SCI), which aims to eliminate unfair business-to-business trading practices in the food supply chain through collaboration, by promoting a 'genuine culture change'⁵⁶ in the food supply chain, without recourse to regulation. The SCI is being implemented in some Member States. In addition, another forum established was the *Social Dialogue Committee* for the food and drink industry, and the enhancement of the existing *European Food Price Monitoring Tool* through the work of an Expert Platform. In this way the Commission has created a number of policy spaces or forums within which its deliberative style of policy making and governance, involving a wide range of stakeholders from along and around the food chain, can be pursued.

The policy momentum to address unfair trading practices along food supply chains was increased with the intervention of DG Agri from the Commission and the setting up of the *Agri-Markets Task Force* (AMTF). Key stakeholder groups from the agricultural sector, such as COPA-COGECA, had refused to join the Supply Chain Initiative. The asymmetries of power within food value chain relationships are recognised in these policy deliberations, notably the problem of the lack of bargaining power for smaller farmers and growers in relation to bigger and better resourced enterprises downstream in the value chain. In its comprehensive final report, the AMTF explained that this imbalance was worsening because of the increased market orientation of farming and less management (by governments) of agricultural markets. As a result, farmers – numerous, fragmented and less supported than in the past by the Common Agricultural Policy (CAP) – were becoming 'the main shock absorber in the supply chain', lacking the resilience to withstand price volatility or long periods of low prices⁵⁷.

Within these policy deliberations was the recognition that competition law was not the key area for policy focus, rather it was commercial law and contracts. This has led to the definition of unfair trading practices as: '*Practices that grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on its counterparty*'⁵⁸.

This definition resulted from a sequence of policy deliberations and internal reports from the European Commission and the European Parliament along with a more comprehensive mapping of what constitutes UTPs, presented in more detail below in Section 2.2. In particular, the Commission has stated that there are four key categories of UTPs that an effective regulatory framework should target: no unfair transfer of cost or risk; no request for advantage not attached to service; no unilateral and/or retroactive changes to a contract; and, no unfair termination or threat of termination of contract. More than twenty Member States have introduced, or are planning, national-level legislation to govern food value chains, in some case spanning the entire value chain. In 2017, the Commission launched a consultation on whether EU-wide regulation of UTPs should be considered under the heading '*Towards a fairer food supply*' (prompted by the AMTF report)⁵⁹. The consultation and its conclusions are due to be completed in 2018, after the delivery of this VALUMICS report as presented below.

⁵⁶ Supply Chain Initiative, <http://www.supplychaininitiative.eu/>, viewed 5.9.17.

⁵⁷ Agricultural Markets Task Force (2016) *Enhancing the position of farmers in the supply chain: Report of the Agricultural Markets Task Force*.

⁵⁸ COM (2016) 32 Final Report from the commission to the European parliament and the council on unfair business-to-business trading practices in the food supply chain.

⁵⁹ EC (2017) Consultation: 'Initiative to improve the food supply chain', https://ec.europa.eu/info/consultations/food-supply-chain_en, viewed 31.08.17.

In terms of achieving a **fairer food supply in food value chains** there are a number of other related EU policies of relevance. Some of these are broader areas of policy activity with more particular related activities with these areas. These range from the marketing support provisions for food and fishery producers under the current CAP, to elements of Competition Law, to policies for SMEs and the Late Payments Directive. More details are presented in Section 2.3 below. Policy attention is being paid to the nature of work and the position of the labour force in food value chains, also, that includes the current discussions around possible regulation of precarious work and the Commission's monitoring of national minimum wages. Both precarious (and seasonal) work and low wages are found in parts of food value chains. These broader policy areas clearly relate to social sustainability as is highlighted below in Section 4.

3. In the area of **food integrity**, a priority since the turn of the century has been to introduce **food safety** controls and monitoring. Food Integrity, in contrast to UTPs, is a highly regulated aspect of food value chains as Section 3 below illustrates. Two main regulations cover the full food chain: *The General Food Law (Reg. (EC) No 178/2002)* and *the Regulation on Official Controls to ensure the application of food and feed law (Regulation (EU) No 2017/625)*. In addition, the importance of food safety to the correct functioning of the single market was reflected in the established of the *European Food Safety Agency* under the General Food Law and the revamping of the *Rapid Alert System for Food and Feed (RASFF)* across the Member States. *The Advisory Group on the Food Chain, Animal and Plant Health* was established by the Commission to provide a food chain stakeholder presence in this new food safety policy framework. A number of regulations and directives cover more specific aspects of food safety that are more relevant to some stages of the food value chain than to others. For example, these safety laws range from activities more focused on the agricultural production stage such as plant protection product uses, feed ingredients and contaminants, and veterinary medical products through to the food manufacturing and retail stages such as: food additives, vitamins and minerals, and food contact materials (packaging) and food information to consumers. More details are given in Section 3 below. The European Commission is currently reviewing the General Food Law for its effectiveness and efficiency and costs to EU businesses and citizens under the *Regulatory Fitness and Performance (REFIT)* Programme.

The introduction of traceability as key principle of EU food law has a food chain length perspective. However, as traceability is based upon a 'one step back and one step forward' principle it can be understood to act more as a 'hyphenated' as opposed to integrated food chain process. The elevation of food safety and the General Food Law has had a clear impact upon framing the dynamics of food value chains. All actors at the different stages of the value chain have responsibility for safety at their stage in the chain. However, the end sellers to the public, such as the retailers, manufacturers and food service companies, have sought greater assurance from their suppliers regarding the safety of food products and ingredients. These demands have been augmented by private standards being imposed by these retail buyers from suppliers above the publicly monitored processes. However, the systems of traceability that have been put in place still rely upon the honesty of the food operators and suppliers concerned in the processes of recording accurate information, and so traceability remains susceptible to fraudulent activity.

In terms of the **authenticity** aspect of food integrity, there are two main areas of policy action. Firstly, to ensure that food and drink products do not mislead the consumer (while ensuring safety), where mislead means giving the wrong idea or impression. Secondly, on preventing food fraud, where fraud means wrongful or criminal deception

intended to result in financial or personal gain. In the case of prevention of misleading the consumer, both the *General Food Law* and the *Official Controls Regulation* play important roles along with the *Food Information to Consumers Regulation*. The Food Information to Consumers also has a key role in ensuring authenticity, and dovetails with the *Regulation on Quality schemes for agricultural products and foodstuffs*, which lays out the names that can be registered as designations of origin, geographical indications, homonymous names or traditional specialities guaranteed as well as on the protection of registered names to prevent misleading the consumer. The fraudulent activity that carries on along the food chain, notwithstanding these regulations, has become of increased concern to European lawmakers since 2013. In addition to the Regulations iterated above, notably the Official Controls, and Food Information to the Consumer, an *EU Food Fraud Network* has been created with representatives from the European Commission and all Member States including Switzerland, Norway and Iceland, with the aim to establish more efficient cross-border administrative assistance and cooperation supported by tools for improved information exchange, training of inspectors, and national control plans. The food value chain remains a location for criminal activity seeking to extract value dishonestly and the policy responses are evolving to address this.

4. For the purposes of this mapping, **collaborative sustainability initiatives** are defined as: '*policy initiatives from the European Commission that involve collaborations by different actors along the value chain to achieve specified sustainability outcomes or, in the case of Member States, either initiated by the European Commission or by public authorities within the Member States*'. Sustainable development features as key goal of EU policy under the Treaty of the Functioning of the European Union⁶⁰. The Treaty emphasises both the key policy principles for, and the importance, of ensuring environmental protection and its integration into all EU policies and activities particularly with a view to promoting sustainable development. The Treaty also provides the foundations for the EU's extensive social policies that contribute to the sustainable development's social pillar. Collaborative food value chain actions can cover social as well as environmental sustainability. There are a large number of environmental policy regulations and policy actions that impact upon food value chains. A review of these policies is presented in the Annex I at the end of the report. Food value chain sustainability collaborations fall within broader EU policy strategies. For example, they have come under the Roadmap to a Resource Efficient Europe and the more recent Circular Economy Action Plan. In addition, the EU has its own Sustainable Development policy framework, embracing the *Sustainable Growth* and *Sustainable Consumption and Production (SCP)* plans; as well as, implementing the *United Nations Sustainable Development Goals* to which the EU are signatories. Again, more details are in Section 4 and Annex I below.

A key platform for developing food value chain collaboration on sustainability is the *EU Food Sustainable Consumption and Production Round Table* which was set up and is chaired by the European Commission to include all of the main peak European agriculture and food trade and consumer associations. A key part of their initial work was to coordinate the methodologies for assessing the life cycle impact of food products in the form of the *Envifood protocol*. This work was parallel to the studies coordinating LCA methodologies across a number of industrial sectors carried out the Commission's Joint Research Centre (JRC) and led to the establishment of the *Product Environmental Footprint (PEF)* and the *Organisational Environmental Footprint (PEF)*. Pilot projects

⁶⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

were conducted from the Commission to test the application of these methodological approaches across a range of industrial sectors including food and drink. To be able to make independent comparisons between the results of separate assessments within a given product category or sector, the PEF and OEF methods require that *Category Rules (PEFCR)* and *Sector Rules (OEFSR)* be developed respectively. The Food SCP Round Table has been tasked with coordinating the development of such product category rules (PCRs) for food and drink related products. Hence, we can see a continual interaction and iteration of these sustainability metrics and their application for food products involving both organisations from across the value chain and the Commission. In addition, the European Platform on Life Cycle Assessment acts as a coordinating mechanism to facilitate communication and exchanges to promote the application of life-cycle thinking. These developments are elaborated more fully in section 4.4 and 4.5 below.

Under the Circular Economy initiative and UN Sustainable Development Goal 12, a key target is to reduce food waste. The *EU Platform on Food Losses and Food Waste* was set up in 2016 to support all actors (Commission, Member States, actors in the food value chain) in defining measures needed to prevent food waste, in sharing best practice and in evaluating progress made over time. Sub-Groups set up under the platform are: the sub-group on food waste measurement, and sub-group on food donation, with the latter's roles overlapping with aspects of social policy (see section 4.3). The powerful role of the retail sector in value chains is reflected in the Commission's creation of *the Retailers Environmental Action Platform (REAP)* and the *Retail Forum for Sustainability* which are voluntary collaborations to improve the environmental footprint of the retail sector and its supply chains, promote more sustainable products and provide better information to consumers. Some, but not all, of the largest European Food retailers are members impacting upon food value chains. The role of retailers as key buyers and gateway to the majority of food consumers is well understood. Another gateway is through food catering. The European Commission has promoted Green Public Procurement (GPP) where public sector procurement can provide markets for more environmentally friendly and sustainable products and operate within existing Competition Law (more detail in Annex Section I.2.5). The GPP initiative seeks to disseminate advice and good practice amongst Member States and link it to the LCA methodologies discussed above. In addition, public sector catering procurement has the potential to deliver more sustainable food value chains, both in terms of product and as a more direct or short supply chain and market for food suppliers. This potential for food chains is being pursued in the Rural Development Policies under the CAP, and at national and regional-local levels in parts of the EU, and so linking sustainability goals with fairer trading practices (see Sections 2.3.1 and 2.3.9 below). In the private sector such guidance can help companies fulfil Corporate Social Responsibility (CSR) aims. *JuiceCSR, the European fruit juice Corporate Social Responsibility platform* is a rare example of a European Commission supported, collaborative sustainability initiative in a specified food sub sector. It grew from policymakers' and the sector's awareness of sustainability-related risks and vulnerabilities in its global supply chains, and acknowledges that the industry 'needs to work with stakeholders to continuously improve its social, environmental, ethical and human rights performance'⁶¹. The Platform was jointly initiated by the EU-level trade association for the juice sector, the European Fruit Juice Association (AIJN), and a Danish CSR consultancy, and was 'endorsed and co-funded' by the European Commission for the first 18 months of its operation. Here, there is a clear link to CSR as a guiding motivation. In 2016, the *Aquaculture Advisory Council (AAC)* was established

⁶¹ JuiceCSR (2014) *Fruit Juice CSR Platform Sector Roadmap*, p6.

with the main objective to provide European institutions and MS with recommendations and advice on issues related to the sustainable development of this sector, however smart and sustainable growth was the main focus.

5. The role of European Union policy on food value chain dynamics is increasing, both in terms of the impacts of policies upon them and in **terms of addressing** some of the more contentious **outcomes of these dynamics**. A number of policy priorities are at play in addressing the outcomes of food value chain dynamics. Innovation and enterprise as determinants of economic growth are one element, which was an early focus of the Commission's work on the Competitiveness of the Agro-Food Industry, where there are high numbers of SMEs in the food processing and manufacturing sectors but where most profit is generated by a small number of large multinational corporations. The **asymmetries of power** with food value chain relationships came to the fore in this work, also, leading to a focus on how this impacts adversely upon on a better functioning food supply. From this the problem of unfair trading practices became more clearly defined, as well as being identified through the levels of food prices and the unevenness of the distribution of profit within food value chains notably upon farmers. The AgriMarkets Task Force has identified that with the withdrawal of market intervention via the CAP, there may be a need to regulate UTPs in food value chains, either at Member State or EU market wide levels. Concerns about rural development and livelihoods and the successful integration of the vast numbers of small farmers into the European market from newer accession states is a key policy consideration, also. Regulation of food safety and aspects of authenticity have been a key regulatory focus to ensure a functioning single market while ensuring consumer health and wellbeing for almost two decades. A food chain length perspective has been attempted, notably through regulations such as the General Food Law, and the rationalisation of the Official Controls on food and feed safety. However, there are still gaps in the effective monitoring and transparency of food safety and of food integrity along value chains, as exemplified by misleading claims and criminal fraud. This has led to renewed policy actions over fraud, in particular. Environmental sustainability, and to a lesser or more peripheral extent, social sustainability, have attracted extensive regulation and policy activity. Within this activity, collaborative sustainability initiatives along food value chains have come mainly in the form of establishing more common LCA (and food waste) methodologies and metrics, embracing food and drink products, or through encouraging and mobilising CSR actions. However, the dynamics of food value chain relationships are a key to delivering effective sustainability through collaborations. The **power relationships and their exercise** remain a key to achieving **better functioning food value chains**.

ABBREVIATIONS

AMTF	Agricultural Markets Task Force	LCA	Life Cycle Assessment
ANC	Areas with natural or other specific constraints	MAP	Matrix of Action Points
B2B	Business to Business	MMO	Milk Market Observatory
BPS	Basic Payment Scheme	MS	Member State(s)
CAP	Common Agricultural Policy	NCA	National Competition Authorities
CFP	Common Fisheries Policy	NGO	Non Governmental Organisation
CMO	Common Market Organisation	OEF	Organisation Environmental Footprint
CIS	Common Implementation Strategy (for Water Framework Directive)	PAPs	Processed agricultural products
CSR	Corporate Social Responsibility	PCRs	Product category rules
DG	Directorate General	PEF	Product Environmental Footprint
EAFRD	European Agricultural Fund for Rural Development	PEFCR	Product Environmental Footprint Category Rules
EC	European Commission	PGP	Principles of Good Practice
EESC	European Economic and Social Committee	REAP	Retailers Environmental Action Programme
EF	Environmental Footprint	SCI	Supply Chain Initiative
EFFAT	European Federation of Food, Agriculture and Tourism Unions	SCP RT	Sustainable Consumption and Production Round Table
EFSA	European Food Safety Authority	SCP/SIP	Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan
EIPRO	Environmental Impact of Products	SDG	Sustainable Development Goals
EMAS	EU Eco-Management and Audit Scheme	SFSC	Short Food Supply Chains
EP	European Parliament	S-LCA	Social Life Cycle Assessment
ERRT	European Retail Round Table	SME	Small and Medium Sized Enterprise
EU	European Union	SDDC	Sectoral Social Dialogue Committees
FAO	Food and Agricultural Organisation	SWD	Staff Working Document
FDE	FoodDrinkEurope	TFEU	Treaty on the Functioning of the European Union
FEAP	Federation of European Aquaculture Producers	UCP	Unfair Commercial Practices
FEFAC	European Federation of Feed Manufacturers	UCPD	Unfair Commercial Practices Directive
FHL	Norwegian Seafood Federation	UTP	Unfair Trading Practices
FPMT	Food Price Monitoring Tool	WFD	Water Framework Directive
HLF	High Level Forum for a Better Functioning Food Supply		
HLG	High Level Group on the Competitiveness of the Agro-Food Industry		
IPP	Integrated Product Protocol		
IUU	Illegal, Unreported and Unregulated (Fishing)		
JRC	Joint Research Centre		
JRC-IES	Joint Research Centre, Institute for Environment and Sustainability		

1. INTRODUCTION

1.1. THE PURPOSE OF THIS REPORT

The European Union's policies are derived from its treaties and the competences laid out therein. To achieve the aims of the treaties the European Commission deploys different types of policy action. There are broader strategic policies or programmes that set overall objectives. Within these policy programmes there are more specific laws in the forms of regulations, directives and agreements. Then, there are also non-legislative policy instruments: this is the area of so-called 'soft law' that allows the Commission to seek to have policy influence beyond the direct scope of its competencies. It embraces modes of governance such as voluntary agreements with key stakeholders and pilot activities designed to influence stakeholders in a policy area to change their actions as a result of shared learning based upon the dissemination of evidence and 'good practice' generated. The EU has defined governance as: 'rules, processes and behaviour that affect the way in which powers are exercised at European level, particularly as regards openness, participation, accountability, effectiveness and coherence' such as to offer to the Union 'a less top-down approach and complement its policy tools more effectively with non-legislative instruments'⁶².

This report maps the more overarching and strategic policy programmes and actions; the relevant EU legislation; and the modes of softer law and governance led by the actions of the European Commission, as they address and seek to impact upon three key areas of food value chains and their dynamics:

- Fairer trading practices along food value chains,
- Food integrity (defined as food safety and authenticity) as governed along food value chains
- Sustainability collaborations along food value chains⁶³.

It is implicit that '*better* functioning food value chains' would involve fairer trading practices, a high level of value chain integrity, and high levels of collaboration to improve sustainability and resilience⁶⁴.

The mapping serves the purpose of identifying the policy and governance activity by the EU, led by the European Commission in these areas of food value chain activity. From this point the process of classifying the main characteristics, the ways and means, of these policy actions and interventions addressing food value chains, in the three important areas above, can begin. This collation of existing data, and the initial analysis of the data, is presented below in this report. Subsequently, it will be supplemented by further examples of Member State (MS) good practice policy

⁶² https://ec.europa.eu/europeaid/sites/devco/files/communication-white-paper-governance-com2001428-20010725_en.pdf

⁶³ VALUMICS Annex 1, Part A (p.17)

⁶⁴ All three concerns are open to interpretation. We have used definitions from the VALUMICS Description of Works, or made our definitions clear, but there is still some overlap in policy terms. Policies may support more than one of the concerns.

interventions in these areas at the national and regional levels in a second internal report (Deliverable 3.2). The collation of the data and the initial analysis from these two reports will then inform a survey of food value chain stakeholders for their opinions on the most significant policy interventions. From the results of the survey, the framework characterisation of the policy interventions will be presented in an externally disseminated report (Deliverable 3.3) which will serve as a policy guide for the next work packages in the VALUMICS project as more detailed examination and gathering of data on specific food value chain dynamics is undertaken.

1.2. THE SCOPE OF THE VALUMICS POLICY REVIEW

Very broadly, the European Union is a political union with a strongly economic orientation. Its founding principles are to create an area of peace, freedom and justice for its people, where they can prosper by living within a smoothly running internal shared or 'common' market⁶⁵. Its social and economic policies are therefore interlinked. Buonanno and Nugent (2013) comment that its socioeconomic policies are often 'by products' of the internal market: they address externalities or market failures caused by ongoing deepening of the single market⁶⁶. Thus, a significant body of EU policy and regulation can be seen to impact the value chains that link enterprises in the market, including food value chains. These policies – from financial regulation and competition law to safety regulation, environmental regulation or consumer and worker protections – intervene in the market to uphold or further EU policy objectives (such as environmental protection or social cohesion). They can affect company conduct (and hence value-adding activities) at any stage in the chain, from primary production through manufacture and retail to consumption and disposal.

Many of these policies do not apply exclusively to food, but they apply to food among other things. Some policy interventions do apply specifically to food or have special relevance to food. In fact, the food supply has always been an important site for EU policymaking, with the Common Agricultural Policy (1962) one of its first policies⁶⁷. More recently, the operation of the food supply has been seen to be less than optimally efficient⁶⁸, which has given rise to some of the policy streams reviewed here.

From this potentially extremely wide array of policy that impacts food value chains, the VALUMICS project has chosen to focus on measures that deal with three of the EU's key policy concerns, as identified in Section 1.1 above⁶⁹.

⁶⁵ OJ 2012 C326, *Consolidated Version of the Treaty on European Union and the Treaty on the Functioning of the European Union*.

⁶⁶ Buonanno, L. and Nugent, N. (2013): *European policies and processes*, Macmillan Education (p. 168).

⁶⁷ https://ec.europa.eu/agriculture/cap-overview/history_en, viewed 31.08.17.

⁶⁸ Wijnands, J.H.M., van der Meulen, B.M.J. and Poppe, K.J. (eds) (2006) *Competitiveness of the European Food Industry: An economic and legal assessment 2007*. European Commission.

⁶⁹ It should be noted that the approach is not exhaustive. Many policy interventions in food value chains do not address the selected VALUMICS concerns (for example those tackling some negative health impacts of the food supply); and the VALUMICS concerns may be affected by policies not included within the specified scope of this review.

The three policy concerns that fall within the VALUMICS remit have been subject to very different degrees of regulation by the EU. Whereas some aspects of food safety are subject to dense, harmonised regulation, fairer trading practices are not as yet formally regulated. This report looks at both regulation and policy, to identify sites in the value chain where the EU exerts policy impact.

1.3. STRUCTURE OF THE REPORT

The report proceeds by considering the policy interventions that have been identified, under the headings listed in Section 1.1. Thus, Section 2 looks at policies promoting fairer trading practices, Section 3 at policies promoting food value chain integrity and Section 4 at collaborative initiatives for sustainability. At the beginning of each Section a short introduction explains the aim of the specific section of the report and, where relevant, the methodology used to collect the information presented. Additionally, the Annex I to this report presents some general sustainability and environmental policies that frame the collaborative initiatives presented in the report. Finally, Section 5 draws some main conclusions from the mapping to take forward to the next stages of the project.

2. FAIRER TRADING PRACTICES

2.1. INTRODUCTION

The VALUMICS project defines food value chains as ‘the stages of the path of food products starting with inputs, primary production, manufacturing, logistics and transportation, grocery and retail sectors until consumers. The viewpoint of economic value addition is emphasised’⁷⁰. Food value chains form part of the food system, which also involves waste management and all the supporting and interacting activities along the chains, such as administration and policies (governance), education, research, financing activities, etc. In sum, ‘the food system can be viewed as a social-ecological system’⁷¹, to capture the breadth of concerns relevant to sustainability and resilience.

Trading practices (which are not defined in the project) may be taken to refer to the commercial transactions that take place between trading partners at any stage in these chains. ‘Fairness’ is a general principle of EU administrative law⁷², connoting the equal treatment of all people or parties, irrespective of differences in status, power or other social, physical or cultural differences.

The subject of trading practices along value chains, especially food value chains, has attracted the attention of policy makers at EU level and in MS for several years, and activity is ongoing. This section proceeds by looking at the key interventions to date (as specified in the VALUMICS Description of Work) (Section 2.2), then looks more widely at a range of other policies that promote fairer trading practices in food value chains (Section 2.3)

2.2. KEY INTERVENTIONS PROMOTING FAIRER TRADING PRACTICES IN FOOD VALUE CHAINS

Key interventions promoting fairer trading practices in food value chains are summarised in Table 1 and looked at in more detail in the following sections.

Table 1: Selected EU policy activities promoting fairer trading practices

⁷⁰ VALUMICS Annex 1, Part B (p.6)

⁷¹ VALUMICS Annex 1, Part B (p.5)

⁷² Directorate-General for Internal Policies, Policy Department C, Citizens’ Rights and Constitutional Affairs (2015) The general principles of EU administrative procedural law (PE 519.224), European Parliament.

Date	Policy activity	Type	Key points
2006	'Competitiveness of the European Food Industry: An economic and legal assessment'	Report	Raised concerns about competitiveness of EU food sector.
2008	High Level Group (HLG) on the Competitiveness of the Agro-Food Industry	Group	Identified factors detrimental to competitiveness, including imbalance of power and information along food value chains (FVC).
2009	Sectoral Social Dialogue Committee for food sector	Group	Set up to improve quality of employment in in FVC.
2009	Food Price Monitoring Tool	Online tool	Addressed concerns over price dispersion and lack of transparency along FVC.
2009	Communication on a Better Functioning Food Supply Chain in Europe	Policy paper	Identified tensions in contractual relations along FVC, stemming from diversity of actors and differences in bargaining power.
2010	High Level Forum for a Better Functioning Food Supply	Group	Set up to oversee implementation of HLG's recommendations on B2B practices.
2011	Principles of Good Practice	Code of Conduct	Principles outlining good practice in vertical FVC relationships, produced by B2B subgroup of HLF, based on multistakeholder dialogue.
2013	Supply Chain Initiative (SCI)	Group	EU-prompted voluntary initiative encouraging food businesses to commit to uphold Principles of Good Practice.
2013	Green Paper on Unfair Trading Practices in the business-to-business food and non-food supply chain in Europe	Policy paper	Drew together preceding policy work on UTPs, with definitions and examples, and solicited comments and suggestions.
2014	COM (2014) 472 Final on Tackling unfair trading practices in the business-to-business food supply chain	Policy paper	Based on results of Green Paper responses and other research, advocated a 'mixed approach' to tackling UTPs, consisting of strengthened voluntary initiative (SCI or national equivalents) alongside MS initiatives using existing national laws.
2016	Agricultural Markets Task Force	Group	Set up to suggest ways to improve financial position of farmers in FVC. Recommended EU-level regulation of

			UTPs with national enforcement, alongside strengthening of SCI.
2016	European Parliament resolution on unfair trading practices in the food supply chain	Policy paper	Called on Commission to introduce framework legislation on UTPs at EU level.
2016	COM (2016) 32 Final on unfair business-to-business trading practices in the food supply chain	Policy paper	Reviewed effectiveness of EU-wide voluntary SCI and national equivalents, and diverse national mechanisms to tackle UTP.
2017	Consultation: 'Initiative to improve the food supply chain'	Public consultation	To investigate public views on 3 topics relating to farmers' position in FVCs: UTPs, market transparency and producer cooperation.
2018?	Impact Assessment leading to legal proposal?	Policy paper	Signalled in Strategy document accompanying Consultation announcement

2.2.1. THE HIGH LEVEL FORUM FOR A BETTER FUNCTIONING FOOD SUPPLY

The High Level Forum (HLF)⁷³ is the latest iteration of a policy stream initiated in 2006 to investigate the functioning of food supply chains, with an increasing focus on how prices are distributed along food value chains and what mechanisms could both aid the transparency of this process and tackle any unfairness that might be discovered.

The HLF was set up in 2010 to implement the recommendations of its precursor, the 2008 High Level Group (HLG) on the Competitiveness of the Agro-Food Industry⁷⁴, which itself was a follow-up to the 2006 study *Competitiveness of the European Food Industry: An economic and legal assessment*. This study had found the European food sector to be less competitive than equivalent sectors in other countries, with diminishing capacity to generate enough profit to foster innovation or even maintain capacity⁷⁵. However, the HLF broadened the gaze to include not just the profitability of the food supply chain, but also how profits were distributed, and issues around employment.

Policy initiatives arising from the HLF from 2010-2015 included:

⁷³Directorate-General for Growth, 'Forum for a better functioning food supply chain', https://ec.europa.eu/growth/sectors/food/competitiveness/supply-chain-forum_en, viewed 09.10.17.

⁷⁴ High Level Group on the Competitiveness of the AgroFood Industry (2009) *Report on the Competitiveness of the European Agro-Food Industry*.

⁷⁵ Wijnands, J.H.M., van der Meulen, B.M.J. and Poppe, K.J. (eds) (2006) *Competitiveness of the European Food Industry: An economic and legal assessment 2007*, pp 3-7.

- The publication, by its business-to-business (B2B) subgroup, of the 2011 report *Vertical relationships in the supply chain: Principles of Good Practice*⁷⁶, which formally acknowledged the existence of problematic ‘unfair’ trading relationships in food supply chains, itemised examples, and laid out a set of **Principles of Good Practice** (PGP); it led to:
 - the launch of a voluntary initiative to implement the PGP, the **Supply Chain Initiative**, which aims to eliminate unfair business-to-business trading practice in the food supply chain through collaboration, without recourse to regulation;
 - the establishment of the **Social Dialogue Committee** for the food and drink industry;
 - the improvement of the **European Food Price Monitoring Tool** through the work of an Expert Platform.

These initiatives are discussed in more detail below.

The HLF itself was renewed 2015⁷⁷. Membership comprises MS national authorities responsible for the food sector at ministerial level and representatives of the private (non-state) sector, including food companies, umbrella associations and federations in food-related sectors, and NGOs. It has a wide-ranging remit to consider matters affecting the food sector.

2.2.2. THE 2009 COMMUNICATION ON A BETTER FUNCTIONING FOOD SUPPLY CHAIN IN EUROPE

Concern about the functioning of food supply chains intensified when agricultural commodity prices became unusually volatile during 2007-8, spiking in 2008, after which some food prices failed to decline. In 2009, the Commission produced a Communication⁷⁸ detailing its analysis of the spike, which identified ‘tensions’ in contractual relations between actors in food supply chains, stemming from the diversity of actors and their differences in bargaining power. In response, the Commission promised measures to improve trading relationships by strengthening the use of contracts and improving transparency so that all parties had more equal access to information.

The Communication was accompanied by a set of Staff Working Documents (SWD) which provide insight into the Commission’s evolving understanding of problems in

⁷⁶ Core members of the B2B subgroup of the HLF (2011) *Vertical relationships in the supply chain: Principles of good practice*.

⁷⁷ Commission Decision 2015/C 179/03 establishing the High Level Forum for a better functioning food supply chain.

⁷⁸ Comm (2009) 591 *A better functioning food supply chain in Europe*

food supply chains. For example, the SWD on price transmission⁷⁹ stated how difficult it was to investigate the phenomenon because of the complexity and heterogeneity of food supply chains and also the unavailability of data (which at wholesale level was found to be virtually non-existent). It concluded that there is very little connection between producer prices and consumer prices.

The SWD on competition⁸⁰ found ‘a number of specific practices’ that were detrimental to competition, mainly joint purchasing agreements (‘buying alliances’); joint selling agreements; and coercive arrangements about what could be sold, and in what combinations. However, the SWD observed that in many cases it was borderline whether these practices outweighed possible benefits – e.g. group-buying by small producers may increase their market power to their advantage.

The SWD also made the important point that some of the trading problems encountered were not strictly anti-competitive (and therefore remediable through competition law) but were unfair – a less well-defined term, calling for other policy instruments. It noted that:

‘contractual imbalances associated with unequal bargaining power are tackled through policy tools other than competition law instruments, such as, for example, contract law, the Common Agricultural Policy, SME policy, or Unfair Commercial Practices laws ... It is not the aim of EC competition rules, as currently devised, to interfere in the bargain struck between contractual parties, in the absence of proven competitive harm’⁸¹.

This reinforces the point that a range of policy or regulatory tools may be used to promote fairer trading practices along food value chains. Indeed, a separate SWD on markets in agricultural commodity derivatives extended the scope to finance and financial regulation⁸².

2.2.3. THE PRINCIPLES OF GOOD PRACTICE

At the request of the Commission, in 2011 the B2B subgroup of the HLF initiated a ‘multistakeholder dialogue’ to examine trading practices and power imbalances in food supply chains⁸³. The report it produced clearly specified the policy problem:

‘A core of the discussion has been to find a solution to the asymmetry and possible misuses of bargaining power by actors operating in the food chain’⁸⁴.

The report represents an acknowledgment both that unfair practices occurred, and that there was stakeholder willingness to address them ‘in a consensual and effective way’⁸⁵. The output was a set of ‘Principles of Good Practice’ (PGP) for

⁷⁹ SEC(2009) 1450, Commission Staff Working Document *Analysis of price transmission along the food supply chain in the EU*.

⁸⁰ SEC(2009) 1449 Commission Staff Working Document *Competition in the food supply chain*.

⁸¹ SEC(2009) 1449 Commission Staff Working Document *Competition in the food supply chain*, P 18.

⁸² SEC (2009) 1447 Commission Staff Working Document *Agricultural commodity derivative markets: the way ahead*.

⁸³ Core members of the B2B subgroup of the HLF (2011) *Vertical relationships in the supply chain: Principles of good practice*

⁸⁴ Core members of the B2B subgroup of the HLF (2011) *Vertical relationships in the supply chain: Principles of good practice*

⁸⁵ Core members of the B2B subgroup of the HLF (2011) *Vertical relationships in the supply chain: Principles of good practice*

dealings between businesses along food supply chains, and a list of examples of the kind of unfair trading practices that had been brought up during the dialogue process.

The PGP provide a framework intended to eliminate opportunities for unfair practices.

Three general principles address:

- *Consumers & sustainability:* Contracting parties should always take into account consumer interests and the overall sustainability of the supply chain.
- *Freedom of contract:* Contracting parties are independent economic entities, respecting each other's rights to set their own strategy and management policy.
- *Fair dealing:* Contracting parties should deal with each other responsibly, in good faith and with professional diligence.

Seven specific principles cover:

- *Written agreements:* Agreements should be in writing, clear and transparent, and cover as many relevant and foreseeable elements as possible, including procedures of termination.
- *Predictability:* Unilateral change to contract terms should not take place without advance agreement.
- *Compliance:* Agreements must be complied with.
- *Information:* Where information is exchanged, this should be done in strict compliance with competition and other applicable laws, and should be accurate and not misleading.
- *Confidentiality:* Confidentiality of information must be respected.
- *Responsibility for risk:* All contracting parties in the supply chain should bear their own appropriate entrepreneurial risks.
- *Justifiable request:* A contracting party should not apply threats in order to obtain an unjustified advantage or to transfer an unjustified cost⁸⁶.

The examples of common violations include: refusing to provide written agreements; imposing unfair terms in contracts; unilaterally terminating or varying contracts; applying unreasonable or arbitrary sanctions for alleged contractual failings; retroactive unilateral changes to terms of contract; withholding essential information; sharing confidential information; transferring disproportionate risk to contacting partner, e.g. requiring partner to fund a promotion; imposing listing fees; threatening to disrupt business or terminate a contract; tying one type of purchase to another

⁸⁶ Core members of the B2B subgroup of the HLF (2011) *Vertical relationships in the supply chain: Principles of good practice*.

type of purchase; and disrupting delivery schedules to obtain unfair advantage. These principles and examples still form the basis of what the EU has come to define as 'unfair trading practices' (UTPs).

2.2.4. THE SUPPLY CHAIN INITIATIVE

In January 2013, the Supply Chain Initiative (SCI) was launched to implement the PGP. Established through the auspices of the Commission, the SCI is a voluntary scheme, run by group of eight EU-level food-sector trade associations⁸⁷. It represents another step in the iterative process of developing policy around unfair dealings in food supply chains – at this stage by promoting what the SCI describes as a 'genuine culture change'⁸⁸ in the food supply chain, without the use of regulation.

The aim of the SCI is:

*'To promote fair business practices in the food supply chain as a basis for commercial dealings [and] ensure that companies address disputes in a fair and transparent manner whilst reassuring the complainant that they will not be subject to retaliation'*⁸⁹.

Despite this assurance that complainants would be protected, three of the 11 groups that had signed up to the Principles did not join the SCI. All three represented producer interests⁹⁰, so from the outset the SCI did not encompass the whole supply chain, with some of the main groups complaining of unfair practices under-represented.

The SCI procedure consists of a registration system in which food businesses voluntarily commit to implement the principles and accept different options for the resolution of disputes, to avoid recourse to legal action. No special external body was set up for enforcement, with the highest level of arbitration consisting of the governance group, comprising the constituent trade associations⁹¹. By April 2017, 389 companies had registered. Taking into account the subsidiaries of international groups, 1,179 this meant operating companies were signed up⁹².

In 2016, an EC-commissioned review of the SCI and related national initiatives⁹³ found that whereas 58% of member organisations were manufacturers and 38%

⁸⁷ Named on the website as representing the food and drink industry (FoodDrinkEurope), the branded goods manufacturers (AIM), the retail sector (the European Retail Round Table (ERRT), EuroCommerce, EuroCoop and Independent Retail Europe), SMEs (UEAPME), and agricultural traders (CELCAA), <http://www.supplychaininitiative.eu/>, viewed 5.9.17.

⁸⁸ Supply Chain Initiative, <http://www.supplychaininitiative.eu/>, viewed 5.9.17.

⁸⁹ Supply Chain Initiative website <http://www.supplychaininitiative.eu/>, viewed 5.9.17

⁹⁰ These were CEJA (young farmers), Copa-Cogeca) farmers and farmers' co-ops) and Clitravi (meat processors): Supply Chain' website <http://www.supplychaininitiative.eu/about-initiative/principles-good-practice-vertical-relationships-food-supply-chain>, viewed 5.9.17.

⁹¹ Framework for the implementation and enforcement of the principles of good practice in vertical relations in the food supply chain, http://www.supplychaininitiative.eu/sites/default/files/b2b_voluntary_initiative_framework.pdf, viewed 10.4.17.

⁹² Supply Chain Initiative website, 'Registry', <http://www.supplychaininitiative.eu/de/node/7>, viewed 31.10.17.

⁹³ Areté (2016) *Monitoring the implementation of Principles of Good Practice in vertical relationships in the food supply chain*. European Commission.

retailers or wholesalers, just 4% were farmers. This under-representation, and the absence of the farmers' EU-level organisation (COPA-COGECA) from the governance group, was found to compromise the initiative, as did the relative under-representation of SMEs (just 69% of SCI members). Another problem was the lack of an independent, external party in an oversight role (the dual role of the trade associations as governance group members and arbitrators was referred to as the 'two hats problem'). Another concern was the 'fear factor' – the lack of trust in confidentiality that prevented aggrieved actors from complaining. The ability of arbitration authorities to receive aggregate, as opposed to individual, complaints is important here, as these are deemed more likely to remain anonymous; and if the authority can initiate *ex officio* proceedings, in the absence of a specific complaint, this also increases trust and effectiveness. Overall, the SCI was found to have played a positive part in raising awareness of UTPs and encouraging dialogue, but the lack of specific deterrents or enforcement powers, the 'two hats' problem and the fear factor meant that the practical benefits remained unclear⁹⁴.

Part of the approach of the SCI is to encourage collaborative implementation of the PGP at national level, and the review considered examples from Belgium, Finland, the Netherlands and Germany. The German case was too new at the time of the review to yield much information. Of the others, the Belgian initiative pre-dated both the PGP and the SCI, and was considered effective and to have improved the trading environment, although awareness of the scheme remained fairly low among food businesses. The Finnish model involved an independent figure with economic and legal expertise, to address the 'two hats' issue – but the lack of practical results had led to the withdrawal of the farmers' association. The Dutch platform, which was heavily influenced by the SCI, had succeeded in promoting dialogue and thereby averting potentially serious disputes. The review found that the platform had produced a change of attitude towards UTPs on the part of food businesses, and better cooperation. But farmer participation was again relatively low, and an absence of submitted complaints suggested the fear factor was at work⁹⁵.

Finally, the Review found a clear preference among stakeholders for two approaches to addressing UTPs: specific legislation at EU level, and a combination of regulatory initiatives and public enforcement. EU-level legislation was preferred over national, and 'soft' tools and public enforcement over a purely voluntary approach (although retailers referred the voluntary approach)⁹⁶.

2.2.5. SOCIAL DIALOGUE

'Social Dialogue' is a formal part of the EU policy development process, legally based in Articles 151-156 of the Treaty on the Functioning of the European Union⁹⁷. It requires the 'Social Partners', i.e. representatives of management and labour, to be jointly consulted on social policy (e.g. on matters relating to employment, equality, workers' rights and protections, training and the impact of EU policies on work and

⁹⁴ Areté (2016) *Monitoring the implementation of Principles of Good Practice in vertical relationships in the food supply chain*. European Commission.

⁹⁵ Areté (2016) *Monitoring the implementation of Principles of Good Practice in vertical relationships in the food supply chain*. European Commission.

⁹⁶ Areté (2016) *Monitoring the implementation of Principles of Good Practice in vertical relationships in the food supply chain*. European Commission.

⁹⁷ Consolidated Version of the Treaty on European Union, OJ C326, 26.10.12

livelihoods) and provides a forum for discussion and negotiation⁹⁸. Social Dialogue takes place at various levels, including high level 'tripartite' Social Dialogue (which involves government), cross-industry and sectoral. Social Dialogue is relevant to VALUMICS because it is seen as a way of enhancing competitiveness and fairness in businesses practices⁹⁹. For example, businesses using abusive labour practices might gain an unfair advantage in the market over firms adhering to higher standards. Social Dialogue aims to counteract this possibility.

Sectoral Social Dialogue Committees (SSDC) are specific to economic sectors¹⁰⁰. There are several SSDCs related to food supply chains, dating from 1999, covering agriculture and sea fisheries (in the natural resources sector); sugar (in the manufacturing sector); and hotel and restaurant catering (in the service sector)¹⁰¹,¹⁰². A SSDC for the catering sector was created in 2007.

A new SSDC for the food and drink manufacturing industry was initiated in 2009 by the HLG, then taken forward after 2010 by the HLF. The social partners are the European Federation of Food, Agriculture and Tourism Unions (EFFAT), representing employees, and FoodDrinkEurope (FDE), representing employers. The committee is currently focusing on employment (recognising that the food and drink sector has difficulty attracting appropriately skilled workers, and has an aging workforce), as well as the CAP and food taxes¹⁰³.

2.2.6. THE FOOD PRICE MONITORING TOOL AND PRICE DASHBOARDS

Prices illuminate how value is distributed along value chains, thus highlighting potentially unfair appropriation. DG AGRI's website states that it closely monitors and reports on prices for agricultural commodities and food: 'Improving price transparency represents a key issue for the functioning of the food supply chain'¹⁰⁴. Similarly, one of the outputs of the HLF (in 2014) was a report on food prices and food price monitoring¹⁰⁵.

The Food Price Monitoring Tool (FPMT)¹⁰⁶, developed since 2009 and now monitored by the HLF, is a policy response to concerns, noted above, that falling commodity prices did not always lead to lower consumer prices, or conversely that high consumer prices did not necessarily reflect higher prices to producers. The aim of

⁹⁸ EC Directorate General for Employment, Social Affairs and Equal Opportunities (2010) *European Sectoral Social Dialogue Recent developments*, 2010 edition.

⁹⁹ EC Directorate General for Employment, Social Affairs and Inclusion (2016) *A new start for social dialogue*.

¹⁰⁰ EU Employment, Social Affairs and Inclusion website, 'Sectoral social dialogue', <http://ec.europa.eu/social/main.jsp?catId=480&langId=en>, viewed 6.9.17.

¹⁰¹ EC Directorate General for Employment, Social Affairs and Inclusion (2016) *A new start for social dialogue*.

¹⁰² EC Directorate General for Employment, Social Affairs and Equal Opportunities (2010) *European Sectoral Social Dialogue Recent developments*, 2010 edition.

¹⁰³ Directorate General for Employment, Social Affairs and Inclusion website, 'Sectoral social dialogue – food and drink industry', <http://ec.europa.eu/social/main.jsp?catId=480&langId=en&intPageId=1820>, viewed 6.9.17.

¹⁰⁴ Directorate General for Agriculture and Rural development website 'Agricultural markets and prices', https://ec.europa.eu/agriculture/markets-and-prices_en, viewed 30.08.17

¹⁰⁵ High Level Forum for a Better Functioning Food Supply (2014) *The state of food prices and food price monitoring in Europe*.

¹⁰⁶ Available at <http://ec.europa.eu/eurostat/cache/infographs/foodprice/>

the online tool is to increase transparency of ‘price dispersion’, making it easier for enterprises and policy actors to see and compare statistical data on indexed food prices at successive stages in the chain (from agricultural commodities through food industry products to consumer goods) and between MS. The tool was developed by Eurostat¹⁰⁷.

Alongside the FPMT, the Commission publishes a monthly Commodity Price Dashboard¹⁰⁸ showing price developments for the most representative agricultural commodities (cereals, meats, milk and dairy products, rice, sugar and oilseeds) at EU level, as compared with consumer prices and world quotations. Monthly market prices for representative products are also collected from Member States and published¹⁰⁹. Since April 2014, the European Milk Market Observatory (MMO) has provided the EU dairy sector with more transparency by disseminating market data and short-term analysis¹¹⁰.

It is recognised that the price indices give a limited picture of prices and dispersion. For example, labour and energy costs are part of the cost structure of foodstuffs but are not currently reported in the FPMT, although they are published by Eurostat in other databases. It may therefore be possible in future to map them into food price changes¹¹¹.

2.2.7. THE AGRICULTURAL MARKETS TASK FORCE

The Agricultural Markets Task Force (AMTF) was an Expert Group set up in January 2016 by DG Agri with the specific mandate to examine and suggest ways of improving the financial position of farmers in supply chains. Relevant issues for discussion included market transparency, access for farmers to financial instruments and futures markets to hedge price risks, options for arranging contractual relations within the chain, and legal possibilities for organising farmers’ collective actions. It represented another step in the Commission’s effort to understand and resolve the problem of farmers’ lack of bargaining power in relation to bigger, better resourced enterprises downstream in the value chain. In its comprehensive final report, the AMTF explained that this imbalance was worsening because of the increased market orientation of farming and less management (by governments) of agricultural markets. As a result, farmers – numerous, fragmented and less supported than in the past by the CAP – were becoming ‘the main shock absorber in the supply chain’, lacking the resilience to withstand price volatility or long periods of low prices¹¹².

A key recommendation of the AMTF was that the EU should introduce regulation of UTPs, with appropriate enforcement regimes in MS, such as the use of an adjudicator. It also recommended the continuation and improvement of the SCI.

¹⁰⁷ Website for European Food Price Monitoring Tool, https://ec.europa.eu/growth/sectors/food/competitiveness/prices-monitoring_en, viewed 6.9.17.

¹⁰⁸ Accessible at https://ec.europa.eu/agriculture/markets-and-prices/price-monitoring_en

¹⁰⁹ High Level Forum for a Better Functioning Food Supply Chain (2014) *The state of food prices and food price monitoring in Europe*.

¹¹⁰ EU Milk Market Observatory website http://ec.europa.eu/agriculture/milk-market-observatory/index_en.htm, viewed 6.9.17.

¹¹¹ High Level Forum for a Better Functioning Food Supply Chain (2014) *The state of food prices and food price monitoring in Europe*.

¹¹² Agricultural Markets Task Force (2016) *Enhancing the position of farmers in the supply chain: Report of the Agricultural Markets Task Force*.

Other recommendations included:

- Mandatory price reporting and the provision of more timely, more standardised data, to improve **market transparency**;
- The mandatory use of **written contracts**;
- **Clarification of the rules of collective organisation and competition law**, to enhance the opportunities for farmers to cooperate;
- **Access to innovative financial Instruments** for farmers, possibly via the European Investment Bank;
- **Improvement of existing tools for risk management**. Futures markets are a possible tool, but work needs to be undertaken to raise awareness and provide training;
- Commission to facilitate **cooperation via ‘contractualisation’**, which can allow ‘non-antagonistic’ commercial relationships to develop, e.g. dedicated supply chains.
- Commission should look into the feasibility of possibly mandatory ‘**ex-ante value-sharing** mechanisms’ (as currently happens in the sugar sector¹¹³) to establish a firmer and possibly fairer link between producer prices and the added value accruing in the chain¹¹⁴.

2.2.8. POLICY ACTIVITY AROUND UNFAIR TRADING PRACTICES

There is currently no EU-level regulation targeting unfair trading practices between businesses in supply chains. Much of the activity described above has addressed this gap, aiming to understand and redress power imbalances in food value chains, especially between farmers or SMEs and the bigger concerns they sell to. Some of this policy activity has coalesced around the issue of what have been designated as Unfair Trading Practices (UTPs). This issue has moved forward even during the VALUMICS project’s development, with a public consultation, ‘Towards a fairer food supply’ (prompted by the AMTF report) launched in August 2017¹¹⁵, and an Impact Assessment of all evidence and available remedies expected in the first half of 2018¹¹⁶. The fact that the issue is still live suggests that the successive policy measures described above are perceived not to have solved the problems they addressed.

¹¹³ Commission Delegated Regulation (EU) 2016/1166 of 17 May 2016, amending Annex X to Regulation (EU) No 1308/2013 of the European Parliament and of th.

¹¹⁴ Agricultural Markets Task Force (2016) *Enhancing the position of farmers in the supply chain: Report of the Agricultural Markets Task Force*.

¹¹⁵ EC (2017) Consultation: ‘Initiative to improve the food supply chain’, https://ec.europa.eu/info/consultations/food-supply-chain_en, viewed 31.08.17.

¹¹⁶ EC (2017) Consultation: ‘Initiative to Improve the Food Supply Chain’, *Consultation Strategy*, https://ec.europa.eu/info/sites/info/files/2017_07_31_consultation_strategy_en.pdf

The documents accompanying the launch of the consultation explain that it has come about because there is now ‘widespread recognition that due to the weaker bargaining position of different actors in the [EU] food supply chain, these can be subject to unfair trading practices’¹¹⁷. However, this settled conclusion is the result of an iterative policy process involving many actors. The Strategy Document accompanying the consultation announcement lists 13 policy initiatives, dating back to 2009, which contributed to the understanding of UTPs and the possible scope of intervention¹¹⁸ (and the list does not include a 2017 ‘non-paper’, which also called for legislation and included a detailed list of ‘the most significant detected UTPs’¹¹⁹. Milestones included the 2013 Green Paper¹²⁰, which drew together previous policy work and solicited views on definitions and proposed responses, and a 2014 Communication¹²¹, based on the results of the Green Paper and other work, which advocated a ‘mixed approach’ to tackling UTPs, consisting of strengthened voluntary initiatives (SCI or national equivalents) alongside MS initiatives using existing national laws. A 2016 Resolution from the European Parliament was more strongly worded – it endorsed the Commission’s previous work and the SCI, but called (as the AMTF had done) for EU-level regulation¹²².

On the basis of this lengthy process, the Commission has reached a definition of what it considers to be unfair trading practices, which it set out in a 2016 Communication¹²³. In sum, they are defined as:

‘practices that grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on its counterparty’¹²⁴.

This definition still leaves room for argument over what, for example, constitutes ‘good commercial conduct’.

Meanwhile, in the absence of EU-level regulation, more than 20 MS have introduced or are planning national-level legislation. The 2016 Communication reviewed these measures and identified the key elements of effective regulation as follows:

1. It is important that measures cover **entire supply chain**.

¹¹⁷ EC (2017) Consultation: ‘Initiative to Improve the Food Supply Chain’, *Consultation Strategy*, https://ec.europa.eu/info/sites/info/files/2017_07_31_consultation_strategy_en.pdf, par 1.

¹¹⁸ EC (2017) Consultation: ‘Initiative to Improve the Food Supply Chain’, *Consultation Strategy*, https://ec.europa.eu/info/sites/info/files/2017_07_31_consultation_strategy_en.pdf, Annex 1.

¹¹⁹ Council of the European Union Note 6808/17, *Information from the Bulgarian, Czech, Hungarian, Latvian, Lithuanian, Slovak and Slovenian delegations on the Better functioning of the food supply chains: addressing unfair trade practices (UTPs) and improving the position of farmers*.

¹²⁰ COM(2013) 37 Final Green Paper on Unfair Trading Practices in the business-to-business food and non-food supply chain in Europe.

¹²¹ COM(2014) 472 Final Communication on Tackling Unfair Trading Practices in the business-to-business food supply chain.

¹²² European Parliament resolution (2015/2065(INI) of 7 June 2016 on unfair trading practices in the food supply chain, available at <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P8-TA-2016-0250>, viewed 7/11/17

¹²³ COM (2016) 32 Final Report from the commission to the European parliament and the council on unfair business-to-business trading practices in the food supply chain.

¹²⁴ EC (2017) Consultation: ‘Initiative to Improve the Food Supply Chain’, *Consultation Strategy*, https://ec.europa.eu/info/sites/info/files/2017_07_31_consultation_strategy_en.pdf, par 1.

2. There are four key categories of UTP that an effective regulatory framework should target:
 - a. **one party should not unduly or unfairly shift its own costs or entrepreneurial risks to the other party;**
 - b. **one party should not ask the other party for advantages or benefits of any kind without performing a service related to the advantage or benefit asked;**
 - c. **one party should not make unilateral and/or retroactive changes to a contract, unless the contract specifically allows for it under fair conditions;**
 - d. **there should be no unfair termination of a contractual relationship or unjustified threat of termination of a contractual relationship.**
3. Approaches can vary between flexibility and rigidity in defining UTPs. Some MS favour general legal provisions requiring assessment on a case-by-case basis of whether there is a significant economic imbalance between two operators, and whether the stronger operator abused its position; others have come up with long lists of specific examples of practices which are illegal.
4. An **effective enforcement system needs to enshrine confidentiality**, to address the weaker party's fear of compromising its commercial relationship when complaining openly to authorities about UTPs: the 'fear factor'.
5. **Enforcement must have a meaningful deterrent effect**¹²⁵.

The four types of UTPs specified in Point 2 are the practices the Commission sees as most in need of intervention.

An EC-commissioned review of UTPs in retail (and especially food) supply chains in 2014 had found a very fragmented landscape in terms of the measures MS have adopted or adapted to address the problem of UTPs. For example, they vary in terms of the existing laws used or 'stretched', the trading practices covered, the stages of the chain to which the measures apply, the penalties and enforcement methods used, whether the measures use existing courts or specially constituted bodies, and whether these bodies can guarantee confidentiality or raise ex officio procedures¹²⁶. The Commission's 2016 Communication attempted to bring clarity and some guidance to this terrain, but it remains contested and dynamic.

It is also notable that as the policy initiative around UTPs gains momentum, various actors are extending its scope by linking UTPs to other food-supply-chain

¹²⁵ COM (2016) 32 *Final Report from the commission to the European parliament and the council on unfair business-to-business trading practices in the food supply chain*.

¹²⁶ Renda, A. Cafaggi, F., Pelkmans, J., Iamacelli, P. et al (2014) *Study on the legal framework covering business-to-business Unfair Trading Practices in the retail supply chain*. Final report prepared for DG Internal Market. European Commission.

problems¹²⁷, such as food waste or sustainability concerns. For example, the European food and allied trades' union EFFAT's submission to the 2013 Commission Green Paper on UTPs¹²⁸ links them firmly to poor pay and working conditions:

'One critical aspect and consequence of unfair trading practices in business-to-business relations among actors of the food supply chain is that they entail a tangible, direct effect on employment as well as on the social and working conditions of workers in sectors such as agriculture and food and drink production. Whenever UTPs take place, food growers and processors are under pressure, profit margins are squeezed, and operators are placed in asymmetric market power relations¹²⁹.'

2.3. WIDER INTERVENTIONS FOR FAIRER TRADING

PRACTICES IN FOOD VALUE CHAINS

The term 'Unfair Trading Practices' has now become a formula that applies to certain contractual practices between firms operating in food supply chains, in particular primary producers supplying larger, more powerful downstream entities. However, this relatively narrow focus does not encompass everything that can be construed as unfair in trading practices in food supply chains. This section briefly looks at other EU-level policy initiatives that can promote fairness among food supply chain partners. It also looks at some of the EU-level instruments that have been 'stretched' to tackle unfair practices in supply chains. (Beyond the measures discussed here, a number of the Regulations and policy initiatives discussed in later sections in the context of food integrity or sustainability overlap with fairness and promote fairer trading practices. Examples include the Regulation on providing accurate information to consumers (EU No 1169/2011) or the overarching food safety regulation (EU) No 2017/625, on official controls in all aspects of food law.)

The interventions are summarised in the following Table.

Table 2: Selected wider policy interventions for fairer trading practices

Policy activity	Key points
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¹²⁷ And to all supply chains, not just food: see evidence from another union, IndustriALL, http://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-3735471/feedback/F2484_en, viewed 12.09.17

¹²⁸ COM(2013) 37 final, *Green paper on unfair trading practices in the business-to-business food and non-food supply chain in Europe*.

¹²⁹ EFFAT (2013) *EFFAT Contribution to the European Commission's Green Paper on Unfair Trading Practices in the Business-to-Business Food and non-Food Supply Chain in Europe* COM(2013) 37 final

Common Agricultural Policy	<p>General aims: to protect farm livelihoods and provide affordable food supplies.</p> <p>Provides a basic payment to qualifying farmers to support income and cushion against price volatility or other adversity;</p> <p>Allows MS to require compulsory written contracts;</p> <p>Compensates farmers in areas where 'natural constraints' raise production costs;</p> <p>Provides payments to supplement market returns for young farmers;</p> <p>Provides additional subsidy to small and medium sized farms;</p> <p>Provides support coupled to production in sectors undergoing market disruption;</p> <p>Allows EU to intervene to buy and store produce when price falls below specified threshold;</p> <p>Encourages producer groups to strengthen bargaining power (otherwise contentions under competition regulation);</p> <p>The Common Market Organisation allows the EU to monitor and manage markets in agricultural products, to cushion against oversupply or volatility.</p>
Common Fisheries Policy	<p>General aim to contribute to a fair standard of living for the fisheries sector (capture and aquaculture), and to foster direct and indirect job creation and economic development in coastal areas.</p> <p>National inshore fishing restrictions give preferential access to small-scale, artisanal or coastal fishermen;</p> <p>Allocation of fishing rights aims to mitigate dominance by some MS over others, and takes account of dependence of some coastal communities on fishing;</p> <p>The Common Market Organisation allows the EU to monitor and manage markets in fisheries products.</p>
Competition law	<p>Aims to ensure fair competition. Some UTPs, such as resale price maintenance (whereby a manufacturer sets the minimum price at which a retailer must sell its products) violate competition regulation. However, investigations by Competition authorities into FVC established that UTPs were occurring that were outside the scope of competition law.</p>
Unfair Commercial Practices policy	<p>Regulations aim to prevent provision of misleading information to consumers – but it is recognised that this may indirectly create unfair competition among businesses. Some MS have 'stretched' this law to tackle B2B UTPs.</p>
Corporate Social Responsibility (CSR) policy	<p>Encourages businesses to integrate social, environmental, ethical, consumer and human rights concerns into their operations. This can encompass trading relationships and practices.</p>
European Pillar on Social Rights	<p>Sets out 20 key principles and rights to support 'fair and well-functioning labour markets and welfare systems', arranged in three categories: equal opportunities and access to the labour market; fair working conditions; and</p>

	social protections and inclusion.
Minimum Wage levels	Currently no EU-wide regulation, but EC President stated in 2017 that every MS should set one. EU monitors levels and methods for setting them.
Precarious / Seasonal Work	No specific regulation, but the EU monitors this issue, and recognises that abusive employers may undercut compliant rivals, distorting competition. A framework of relevant regulation exists around working time, agency work, part-time work, fixed-term work and 'posted' work. A Directive regulates the entry and stay of third-country nationals for the purpose of employment as seasonal workers.
SME policy	While the reduced bargaining power of farmers in FVC has been the main focus of UTP policy, the EU recognises that SMEs may also be the victims of UTPs. A body of policy exists to help them gain access to markets, meet safety and quality standards, access finance and knowledge, and share learning.
Short Food Supply Chains (SFSC) policy	SFSC are seen to offer small-scale food operators a way to avoid engaging with much better resourced and more powerful supply chain participants. They are supported by several measures under the European Agricultural Fund for Rural Development.
Social Life-Cycle Assessment (S-LCA)	Not a policy but a tool, S-LCA adapts the methods of Life-Cycle Assessment to calculate the social impacts of products along supply chains. Still an emerging methodology, it nevertheless highlights the importance of products' social impacts, which could include the fairness of supply chain transactions.
Late Payments Directive	A Directive in 2011 required all invoices to be settled within 30 days for Public Authorities and 60 days for private enterprises. SMEs had been found to be especially vulnerable to late payments.
Milk Package	Example of a sector-specific set of interventions designed to help a sector perceived to be at a temporary disadvantage. It includes measures to strengthen producer bargaining power and increase market transparency.

2.3.1. THE CAP & THE CFP

The CAP is a complex suite of policies of which an important goal has been to secure a decent standard of living for farmers and agricultural workers, with interventions designed (for example) to protect them from low prices or price volatility and to counterbalance territorial disadvantage, as well as aspiring to assure fair treatment of animals. Recent reforms have replaced the focus on underwriting farm incomes with the need for farmers to succeed in competitive markets while respecting EU policies on the environment, climate change, animal welfare and territorial cohesion¹³⁰. This increased exposure to the market has, in turn, been

¹³⁰ EC (2013) *Overview of CAP reform 2014-2020*, Agricultural Policy Perspectives Brief No 5.

identified as a contributory factor to the need for UTP regulation¹³¹. Likewise, the Common Fisheries Policy is complex set of rules for managing European fishing fleets and conserving fish stocks, with the aims (among other things) of allowing fishermen to compete fairly and ensuring a fair standard of living for fishing communities¹³². As far as VALUMICS is concerned, it is difficult (and debatable) to extrapolate which of the myriad CAP and CFP provisions support the VALUMICS attributes. It is clear, though that an intention and effect of the CAP and CFP is to intervene in markets and value chains to shield primary producers from unfair disadvantage resulting from natural or economic factors.

On fairer trading practices, the 2016 Communication already cited noted that some of the concerns raised in the discourse around Unfair Trading Practices were also addressed by provisions of the CAP and the CFP. For example, the CAP allows MS to require compulsory written contracts between farmers and processors or distributors, with a possible obligation for first purchasers to offer farmers minimum contract duration. The reformed CAP and Common Fisheries Policy also strengthen the position of producers in relation to downstream operators by supporting the development of producer organisations. The new single Common Market Organisation also includes elements which aim to reduce the gap in bargaining power between farmers and other parties in the food supply chain in selected sectors (milk, olive oil, beef and veal, arable crops)¹³³.

Some other measures within the CAP / CFP / CMO family of policies which may be said to promote fairer trading practices along supply chains (or prevent farmers, or certain groups of farmers, from being at an unfair disadvantage) include:

- *Areas with natural or other specific constraints (ANCs)* (Prior to 2013, known as Less Favoured Areas.): In these areas, farmers face higher costs of production and are eligible for compensatory payments calculated on the basis of the additional costs incurred and income forgone¹³⁴.
- *Basic Payments*: A direct payment to farmers, intended to support farm incomes and reward farmers for producing public goods. The Basic Payments Scheme offers a basic layer of income support, to be topped-up by other direct payments targeting specific issues or specific types of beneficiaries¹³⁵.

These include:

- a 'young farmers' payment, to farmers starting out under the age of 40;

¹³¹ EC (2017) Consultation: 'Initiative to improve the food supply chain', https://ec.europa.eu/info/consultations/food-supply-chain_en, viewed 31.08.17.

¹³² EC Directorate General Fisheries, 'The Common Fisheries Policy', https://ec.europa.eu/fisheries/cfp_en, viewed 11.06.17

¹³³ COM (2016) 32 *Final Report from the Commission to the European parliament and the Council on unfair business-to-business trading practices in the food supply chain.*

¹³⁴ EC Directorate General Agriculture and Rural development, 'ANCs (Areas facing natural or other specific constraints)', https://ec.europa.eu/agriculture/rural-development/areas-facing-natural-or-other-specific-constraints_en, viewed 11.09.17

¹³⁵ EC (2016) *Direct Payments: Basic Payments Scheme*, https://ec.europa.eu/agriculture/sites/agriculture/files/direct-support/direct-payments/docs/basic-payment-scheme_en.pdf, viewed 09.10.17

- a redistributive payment to provide improved support to small and middle-size farms
 - payments for areas with natural constraints, where farming conditions are particularly difficult, such as mountain areas;
 - a small farmers scheme -- a simplified scheme for small farmers replacing the other schemes;
 - voluntary support coupled to production to help certain sectors undergoing difficulties¹³⁶.
- *Intervention buying and storage aid*: When the market price of a product reaches the reference threshold, the European Union can decide to buy a quantity of the product from the market and place it temporarily in storage. Later, when prices are recovering, the product may be sold in the internal market, sold in special destinations or exported¹³⁷.
 - *Producer organisations*¹³⁸: Legally constituted groups of producers have special exemptions from Competition regulation, and are encouraged in agricultural sectors, to increase bargaining power in the sector.
 - *Single Common Market Organisation (sCMO)* (replacing multiple common market organisations): The Single Common Market organisation is a set of measures that enables the European Union to monitor and manage markets in agricultural products. The rules are laid down in Regulation (EU) 1308/2013. The purpose is to stabilise markets (in terms of quantity offered and purchased and the price at which transactions take place) and thus to ensure, on the one hand, that farmers do not suffer from excessively low prices and, on the other, that consumers have a secure supply of food at reasonable prices¹³⁹. The regulation provides for general and specific derogations from competition law, allowing EU farmers to cooperate in joint selling and other activities that might otherwise be prohibited.

¹³⁶ EC Directorate General Agriculture and Rural development, 'Direct Payments', https://ec.europa.eu/agriculture/direct-support/direct-payments_en, viewed 11.09.17

¹³⁷ EC Directorate General Agriculture and Rural development, 'Glossary of terms related to the Common Agricultural Policy', https://ec.europa.eu/agriculture/glossary/I_en, viewed 11.09.17

¹³⁸ EC Directorate General Agriculture and Rural development, 'Glossary of terms related to the Common Agricultural Policy', https://ec.europa.eu/agriculture/glossary/P_en, viewed 11.09.17

¹³⁹ EC Directorate General Agriculture and Rural development, 'Single Common Market Organisation (sCMO)', https://ec.europa.eu/agriculture/glossary/single-common-market-organisation_en_en, viewed 11.09.17

2.3.2. COMPETITION POLICY

Competition policy is intended to guarantee fairness among economic operators¹⁴⁰. DG Competition's website states that 'Competition policy plays a key role in maintaining a level playing field in the food supply chain', and that EU and national competition authorities have been 'very active' in food markets over the last decade¹⁴¹.

EU competition rules apply to the whole food supply chain, from agricultural production to grocery retail, and for all levels except the agricultural level (discussed below), the same rules apply as for any other sector. In the period 2004-2011, European and national competition authorities undertook more than 180 antitrust investigations and almost 1300 merger control proceedings relating to food companies. Processing and manufacturing enterprises accounted for close to half of cases. Price-fixing and illegal sharing of data were found at all stages of the chain, and sanctions were imposed in relation to more than 50 cartels¹⁴².

Besides using Competition law to restrain unfair practices, EU and national competition authorities (NCAs) have conducted numerous monitoring exercises to probe problems in the operation of food supply chains. These investigations substantiated the argument that unfair practices were occurring which could not be effectively tackled through Competition law¹⁴³.

A European Competition Network report of 2012 found 'the existence of certain practices linked to imbalances of bargaining power between market players that are deemed unfair by many stakeholders', particularly though not exclusively between suppliers and retailers. The report adds:

'However, the NCAs have found that most of these practices do not fall within the scope of competition rules at the EU level or in most of the Member States. Consequently, a few NCAs have proposed alternative solutions to tackle them, such as the application of national laws against unfair trading practices or the adoption of codes of conduct or good practices with effective enforcement mechanisms¹⁴⁴.'

However, some UTPs, such as resale price maintenance (whereby a manufacturer sets the minimum price at which a retailer has to sell its products), and exclusive purchasing agreements that restrict the freedom of the immediate customer to deal with other suppliers, are both in breach of competition regulation. Illustrating a tension between the objectives and methods of different policy streams, the report

¹⁴⁰ EC Directorate General Competition, 'What is competition policy?', http://ec.europa.eu/competition/consumers/index_en.html, viewed 11.09.17

¹⁴¹ EC Directorate General Competition, 'Agriculture and food: Overview', http://ec.europa.eu/competition/sectors/agriculture/overview_en.html), viewed 10.08.17.

¹⁴² ECN Food Subgroup (2012) *ECN activities in the food sector: Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector.*

¹⁴³ ECN Food Subgroup (2012) *ECN activities in the food sector Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector.*

¹⁴⁴ ECN Food Subgroup (2012) *ECN activities in the food sector Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector*, p28.

also notes that some NCAs had expressed concerns about the potential anti-competitive effects of some of these practices¹⁴⁵.

The agriculture sector is not subject to the same competition rules as other economic sectors, to enable CAP policy objectives such as ensuring a fair standard of living to be met¹⁴⁶. The fisheries sector also has some specific derogations from Competition law^{147, 148}. In the case of the CAP, the provisions mainly allow producers to jointly set prices, sell together or withdraw product from the market to balance supply and stabilise prices¹⁴⁹.

2.3.3. UNFAIR COMMERCIAL PRACTICES

It is often noted that whereas there is currently no EU-level regulation on unfair trading practices within supply chains, legislation does exist in relation to 'unfair commercial practices' (specifically the provision of misleading or misrepresentative information) that disadvantage consumers (Directive 2005/29/EC). Consumer protection policy can in fact be extended to apply to supply-chain behaviour, because the Directive recognises that while providing misleading information directly harms consumers, it may thereby also 'indirectly harm the economic interests of legitimate competitors'. Thus, the Directive states that it 'indirectly protects legitimate businesses from their competitors who do not play by the rules in this Directive and thus guarantees fair competition in fields coordinated by it'¹⁵⁰.

The Staff Working Document accompanying the Directive notes that while B2B commercial practices do not fall within the scope of the Directive, MS may use national laws to extent the protection granted under the Directive to B2B commercial practices. Seven MS have done so, either partially or entirely: Austria, Sweden, Denmark, Germany, Belgium, France, Italy¹⁵¹.

Unfair B2B practices involving the use of misleading information are also partly regulated under the Misleading and Comparative Advertising Directive (Directive 2006/114/EC), which acknowledges that the use of misleading advertising can be detrimental to both consumers and competitors¹⁵².

¹⁴⁵ ECN Food Subgroup (2012) *ECN activities in the food sector Report on competition law enforcement and market monitoring activities by European competition authorities in the food sector*.

¹⁴⁶ Set out in Regulation 1308/2013, establishing a common organisation of the markets in agricultural products etc..

¹⁴⁷ Set out in Regulation 1379/2013 on the common organisation of the markets in fishery and aquaculture products, etc.

¹⁴⁸ For a legal discussion of the conflict between CAP and Competition policy, see Modrall, J.(2016) 'The battle between the European Union's competition and agricultural policies' in *Cultivate*, Issue 11, pp 27-29, Norton Rose Fulbright.

¹⁴⁹ EC Directorate General Competition, 'Agriculture and food: Overview', http://ec.europa.eu/competition/sectors/agriculture/overview_en.html, viewed 11.09.17

¹⁵⁰ Directive 2005/29/EC, concerning unfair business-to-consumer commercial practices in the internal market etc., par. 8

¹⁵¹ SWD(2016) 163 final, *Guidance on the implementation/application of Directive 2005/29/EC on unfair commercial practices*.

¹⁵² Directive 2006/114 of the European Parliament and of the Council concerning misleading and comparative advertising.

2.3.4. CSR POLICY

Corporate Social Responsibility, under the EU definition, refers to ‘companies taking responsibility for their impact on society’, and is seen as a way in which businesses can contribute to the sustainability agenda¹⁵³. Companies demonstrate their social responsibility by following the law, and integrating social, environmental, ethical, consumer, and human rights concerns into their business strategy and operation¹⁵⁴. Fair employment and fair trading practices are clearly an ethical aspect of business conduct – but they are not included in the EU’s outline of its CSR strategy¹⁵⁵, which is more concerned with asserting the value of CSR generally and linking it to other high-level frameworks than with specifying its remit. However, the European fruit juice CSR platform, JuiceCSR, provides a good example of an EU-prompted collaborative initiative for sustainability, described in Section 4.8 below.

2.3.5. EU PILLAR ON SOCIAL RIGHTS

The European Pillar of Social Rights¹⁵⁶ sets out 20 key principles and rights to support ‘fair and well-functioning labour markets and welfare systems’. The principles are arranged in three categories: equal opportunities and access to the labour market; fair working conditions; and social protections and inclusion. Topics covered include training opportunities, equality at work, the working environment, the right to fair, transparently agreed wages, protection in the case of dismissal, and the right to flexible working arrangements to accommodate caring responsibilities. The EU acknowledges that much of the implementation of the Social Pillar aspirations would be in the hands of Member States, private companies and trade unions. However, it refers to several other policy initiatives, for example an emerging package of legislative and non-legislative measures on the work-life balance¹⁵⁷, and the 2003 Working Time Directive¹⁵⁸, which together comprise a framework supporting decent work.

2.3.6. MINIMUM WAGES

There is currently no EU-wide regulation on minimum wages, although on 18 January 2017 EC President Jean-Claude Juncker stated that each country in the EU

¹⁵³ EC Directorate General Growth, ‘Corporate Social Responsibility’, http://ec.europa.eu/growth/industry/corporate-social-responsibility_en, viewed 08.05.17

¹⁵⁴ EC Directorate General Growth, ‘Corporate Social Responsibility’, http://ec.europa.eu/growth/industry/corporate-social-responsibility_en, viewed 08.05.17

¹⁵⁵ EC Directorate General Growth, ‘Corporate Social Responsibility’ http://ec.europa.eu/growth/industry/corporate-social-responsibility_en, viewed 11.09.17

¹⁵⁶ EC Priority Policy Area ‘European Pillar of Social Rights’, https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en, viewed 11.09.17

¹⁵⁷ EC Directorate General Employment, Social Affairs and Inclusion, ‘Work Life Balance’, <http://ec.europa.eu/social/main.jsp?catId=1311&langId=en>, viewed 11.09.17.

¹⁵⁸ Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time.

should set a minimum wage (and that all those seeking work should have a guaranteed minimum level of income)¹⁵⁹.

The EU currently monitors minimum wage levels across MS, with the information collated by Eurostat¹⁶⁰ and Eurofound, the European Foundation for the Improvement of Living and Working Conditions¹⁶¹. The term 'minimum wages' refers to various legal restrictions of the lowest rate payable by employers to workers. Statutory minimum wages are regulated by formal laws or statutes¹⁶².

According to Eurofound, 22 out of 28 MS currently have a generally applicable minimum wage, but with a wide variation between levels paid in different countries. As of 1 January 2017, the lowest minimum wages (usually less than €500 per month) were found in the new Member States, with Bulgaria the lowest (€235). A majority of the EU15 had the highest minimum wages, exceeding €1,000 per month, with the highest in Luxembourg (€1,999 per month), 8.5 times the Bulgarian minimum. There is also variation in minimum wages within MS, with different rates allocated to different groups (e.g., in the UK, a higher minimum is available to workers aged 25 and over)¹⁶³.

There is currently no general statutory minimum wage in Austria, Cyprus, Denmark, Finland, Italy or Sweden. In most of these, the minimum wage level is *de facto* set in (sectoral) collective agreements – but these may not cover all workers¹⁶⁴.

According to a 2017 Eurofound report, mechanisms for setting minimum wage levels vary, including using social partner negotiation, unilateral government decision, independent expert groups, or automatic indexation against other measures such as price increases¹⁶⁵.

The availability of low-wage jobs (ie, low or no minimum wage levels) are sometimes presented as providing an MS with competitive advantage, reflected in discussions around 'posting' of employees from high-wage to lower-wage areas. In higher-wage countries, low-wage jobs have been discussed as a way of smoothing the path of migrants, especially refugees, into the workforce¹⁶⁶.

2.3.7. PRECARIOUS AND / OR SEASONAL WORK

Fair work and fair pay are (self-evidently) aspects of fair practice in food supply chains. They also underpin fair trading practices (in that worker protections add cost,

¹⁵⁹ Eurofound website, 'Statutory minimum wages in the EU 2017', <https://www.eurofound.europa.eu/observatories/eurwork/articles/statutory-minimum-wages-in-the-eu-2017>, viewed 24.10.17.

¹⁶⁰ Eurostat Statistics Explained, 'Minimum Wage Statistics', http://ec.europa.eu/eurostat/statistics-explained/index.php/Minimum_wage_statistics, viewed 24.10.17.

¹⁶¹ Eurofound is a tripartite European Union Agency, founded 1975, whose role is to provide knowledge in the area of social, employment and work-related policies.

¹⁶² Eurofound website, 'Statutory minimum wages in the EU 2017', <https://www.eurofound.europa.eu/observatories/eurwork/articles/statutory-minimum-wages-in-the-eu-2017>, viewed 24.10.17.

¹⁶³ Eurofound (2017), *Statutory minimum wages in the EU 2017*, Dublin.

¹⁶⁴ Eurofound website, 'Statutory minimum wages in the EU 2017', <https://www.eurofound.europa.eu/observatories/eurwork/articles/statutory-minimum-wages-in-the-eu-2017>, viewed 24.10.17.

¹⁶⁵ Eurofound (2017), *Statutory minimum wages in the EU 2017*, Dublin.

¹⁶⁶ Eurofound (2017), *Statutory minimum wages in the EU 2017*, Dublin.

so that illegal and / or abusive treatment of workers can enable enterprises to undercut their competitors unfairly) and contribute to the resilience and social sustainability of food supply chains. A 2016 report found that precarious work (widely defined to include many forms of employment) has increased since the 2008 financial crisis, as employers seek to reduce their risk and employees have to take work on new terms; at the same time, there has been a decline in funding for employment inspectorates, etc¹⁶⁷. Jobs in food-related sectors (e.g. food preparation and hospitality) were mentioned as being linked to precarity in various ways. The report found a comprehensive framework of EU legislation in place to curb the risk of precariousness in certain contexts, in the form of Directives in areas such as working time¹⁶⁸, temporary agency work¹⁶⁹, part-time work¹⁷⁰, fixed-term contracts¹⁷¹ and 'posted' workers¹⁷². However, it also lists concerns about derogations, avoidance of the law, and forms of work not captured by regulation¹⁷³.

There is also an EU directive regulating the entry and stay of third-country nationals for the purpose of employment as seasonal workers (2014/36/EU). The Directive aims to ensure decent working and living conditions for seasonal workers from outside the EU, by setting out fair and transparent rules for admission and stay and by defining the rights of seasonal workers while at the same time providing for incentives and safeguards to prevent overstaying.

2.3.8. SME POLICY

UTP policy has focused on farmers, as the victims of UTPs, but EU policy has also long noted that small and medium-sized enterprises (SMEs) which form the huge majority of EU enterprises in numerical terms, including in the food sector, are also subject to a lack of bargaining power in relation to larger, better-resources competitors and supply-chain partners¹⁷⁴. SMEs are defined as those employing fewer than 250 people, with an annual turnover of less than EUR 50 million and/or an annual balance sheet total not exceeding EUR 43 million¹⁷⁵. In 2008 the Commission produced a Communication on small businesses which it symbolically termed the 'Small Business Act'¹⁷⁶ (COM (2008) 394), which it reviewed in 2011¹⁷⁷,

¹⁶⁷ EC Directorate General Internal Policies, Policy Department A: Economic and scientific policy (2016) *Precarious Employment in Europe: Patterns, Trends and Policy Strategies*.

¹⁶⁸ Directive 2003/88/EC of the European Parliament and of the Council concerning certain aspects of the organisation of working time.

¹⁶⁹ Directive 2008/104/EC of the European Parliament and of the Council concerning temporary agency work.

¹⁷⁰ Directive 97/81/EC of the European Parliament and of the Council concerning **the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC**.

¹⁷¹ Directive 99/70/EC of the European Parliament and of the Council concerning **the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP**.

¹⁷² Directive 96/71/EC of the European Parliament and of the Council concerning **the posting of workers in the framework of the provision of services**.

¹⁷³ EC Directorate General Internal Policies, Policy Department A: Economic and scientific policy (2016) *Precarious Employment in Europe: Patterns, Trends and Policy Strategies*.

¹⁷⁴ E.G COM(2008) 394 final, *Think Small First: 'A small Business Act' for Europe*.

¹⁷⁵ Commission Recommendation 2003/361/EC, concerning the definition of micro, small and medium-sized enterprises, Annex 1, Article 2.

¹⁷⁶ COM(2008) 394 final, *Think Small First: 'A small Business Act' for Europe*

¹⁷⁷ COM(2011) 78 final, *Review of the 'Small Business Act' for Europe*

with a 2014 public consultation on policy renewal¹⁷⁸. Europe 2020, the EU's current 10-year plan, stresses the importance of including SMEs in programmes to boost growth, jobs and sustainability¹⁷⁹.

To redress the power imbalance, EU-level policy measures include:

- Promoting a 'friendly environment' for SMEs through the Small Business Act, including, for example, easing access to standards and certification processes¹⁸⁰;
- Facilitating access to European and international markets¹⁸¹;
- Facilitating access to finance¹⁸²;
- Helping SMEs stay competitive and innovative¹⁸³;
- Maintaining platforms and portals (such as the Enterprise Europe Network¹⁸⁴) to allow SMEs to network, find opportunities and share learning¹⁸⁵.

2.3.9. SHORT FOOD SUPPLY CHAINS POLICY

IF UTPs are a negative feature of (otherwise beneficial) supply relations with large food companies, using short food supply chains (SFSC) presents a way for small-scale food producers or processors to avoid them. The EU defines short food supply chains as 'involving a limited number of economic operators, committed to cooperation, local economic development, and close geographical and social relations between producers, processors and consumers¹⁸⁶', so these chains are not just short but also have aspirations to localness and cooperation. According to a 2016 EP Briefing, the diverse short food supply chains and local food systems in the EU offer 'a fairer price for farmers, access to fresh and seasonal produce for consumers, a reduced environmental impact and greater social cohesion at local level¹⁸⁷'. Although in terms of the volumes of produce involved SFSC remain

¹⁷⁸ EC Directorate General Growth, 'A strong European policy to support SMEs and entrepreneurs 2015-2020: Public consultation on the Small Business Act (SBA)', http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=7744, viewed 12.09.17

¹⁷⁹ COM(2010) 2020 final, *Europe 2020: A strategy for smart, sustainable and inclusive growth*

¹⁸⁰ COM(2008) 394 final, *Think Small First: 'A small Business Act' for Europe*.

¹⁸¹ EC Directorate General Growth, 'SMEs' Access to Markets', https://ec.europa.eu/growth/smes/access-to-markets_en, viewed 12.09.17

¹⁸² EC Directorate General Growth, 'Access to Finance for SMEs', https://ec.europa.eu/growth/access-to-finance_en, viewed 12.09.17

¹⁸³ EC Directorate General Growth, 'Entrepreneurship and Small and medium-sized enterprises (SMEs)', https://ec.europa.eu/growth/smes_en, viewed 10.10.17.

¹⁸⁴ EC Enterprise Europe Network, <http://een.ec.europa.eu/>, viewed 12.09.17

¹⁸⁵ EC Directorate General Growth, 'Entrepreneurship and Small and medium-sized enterprises (SMEs)', https://ec.europa.eu/growth/smes_en, viewed 11.09.17

¹⁸⁶ Regulation (EU) No 1305/2013, on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) etc., Article 2

¹⁸⁷ European Parliament (2016) Briefing: *Short food supply chains and local food systems in the EU*.

marginal, around 15% of EU farms sell more than half of their production directly to consumers¹⁸⁸.

Under the EU rural development policy 2014-2020, producers wishing to join local food systems can benefit from several measures co-financed by the European Agricultural Fund for Rural Development¹⁸⁹. Of the six main EU priorities for rural development, set out in Regulation (EU) No 1305/2013, Priority 3 relates to the promotion of food chain organisation; within this, priority 3(a) looks at 'Improving competitiveness of primary producers by better integrating them into the agri-food chain through quality schemes, adding value to agricultural products, promotion in local markets and short supply circuits, producer groups and organisations and inter-branch organisations.' Several provisions in the Regulation are relevant to the establishment of SFSC and local markets, including on knowledge transfer, advisory services, investment in physical assets, and setting up producer groups¹⁹⁰.

2.3.10. SOCIAL LIFE CYCLE ASSESSMENT

The EU has contributed to the development of Social Life Cycle Assessment methodology (S-LCA)¹⁹¹, as a tool that can be used by supply chain participants and others to assess the social impacts of supply chains at different stages. More widely, it can be used to assess whether supply chains contribute to, or detract from, wellbeing, now seen as an overarching goal of social and economic policy¹⁹². S-LCA adapts the methods of LCA to integrate social considerations (reflecting the integrated approach of sustainability assessment). A 2016 JRC technical report notes that, 'The appraisal of social impacts and benefit is very difficult and controversial as cultural elements, different values, and lifestyles may affect the way social issues are perceived¹⁹³' and the report acknowledges that S-LCA methodology is still at a preliminary stage. However, it may be useful to VALUMICS in that it takes a holistic, supply-chain approach; and tries to integrate multiple criteria into supply-chain analysis.

2.3.11. LATE PAYMENTS DIRECTIVE

One unfair trading practice, to which SMEs were judged to be especially vulnerable, was late payment of invoices. This was outlawed by the EU in 2011, with requirement for national implementation by 2013. Directive 2011/7/EU generally requires Public Authorities to settle invoices for goods and services within 30 days and private enterprises to settle within 60 days, unless they expressly agree

¹⁸⁸ European Parliament (2016) Briefing: *Short food supply chains and local food systems in the EU*.

¹⁸⁹ EC Directorate General Agriculture and Rural Development, 'Rural development 2014-2020', https://ec.europa.eu/agriculture/rural-development-2014-2020_en, viewed 12.9.17

¹⁹⁰ Regulation (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) etc.

¹⁹¹ E.g. through the SENSE project, <http://www.senseproject.eu/project-overview>, viewed 12.09.17

¹⁹² Sala, S., Vasta, A., Mancini, L. Dewulf, J. and Rosenbaum, E. (2015) JRC Technical Report, *Social Life Cycle Assessment: State of the art and challenges for supporting product policies*.

¹⁹³ Sala, S., Vasta, A., Mancini, L. Dewulf, J. and Rosenbaum, E. (2015) JRC Technical Report, *Social Life Cycle Assessment: State of the art and challenges for supporting product policies*, p2.

otherwise¹⁹⁴. A review undertaken in 2016 found that ‘the EU average payment period is slowly decreasing in both the public and private sectors’, but public entities in more than half of all Member States were not yet respecting the 30- day limit imposed by law, whereas in the private sector the payment period was being broadly respected¹⁹⁵.

2.3.12. MILK PACKAGE

The Milk Package is included briefly here as an example of a complex set of sector-specific EU-level policy measures (in this case with national-level implementation), devised in response to a particular set of supply-chain difficulties in one sector. The Package emerged in 2012, based on the recommendations of a High Level Experts' Group on Milk (HLGM) that had been set up following a crisis in the dairy sector in 2008-2010. It had the aim of ‘boosting the position of dairy producers in the dairy supply chain’ and (as with UTP policy) helping farmers to withstand exposure to ‘a more market-oriented’ future¹⁹⁶. The Package allows MS to make written contracts compulsory between producers and processors, and allows producers to negotiate contract terms collectively via producer organizations. It also sets out new specific EU rules for inter-branch organizations, a series of measures for enhancing transparency in the market. The measures apply until mid-2020.

¹⁹⁴ EC Directorate General Growth, ‘Late Payment Directive’, http://ec.europa.eu/growth/smes/support/late-payment_en, viewed 19.09.17.

¹⁹⁵ COM(2016) 534 final, *Report ... on the implementation of Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions*.

¹⁹⁶ EC Directorate General Agriculture and Rural Development, ‘The “Milk Package”’, https://ec.europa.eu/agriculture/milk/milk-package_en, viewed 12.09.17

3. FOOD CHAIN INTEGRITY: FOOD SAFETY AND FOOD AUTHENTICITY

The aim of this part of the report is to identify the main EU regulations, policies and governance actions that impact upon the operation and better functioning of food supply chains in terms of chain integrity. Food chain integrity, **for the purposes of this report**, is defined as safety and authenticity in the food value chain, which reflects the need for products to be safe and to be exactly what they say they are, i.e. to not be misleading or fraudulent.

3.1. FOOD SAFETY

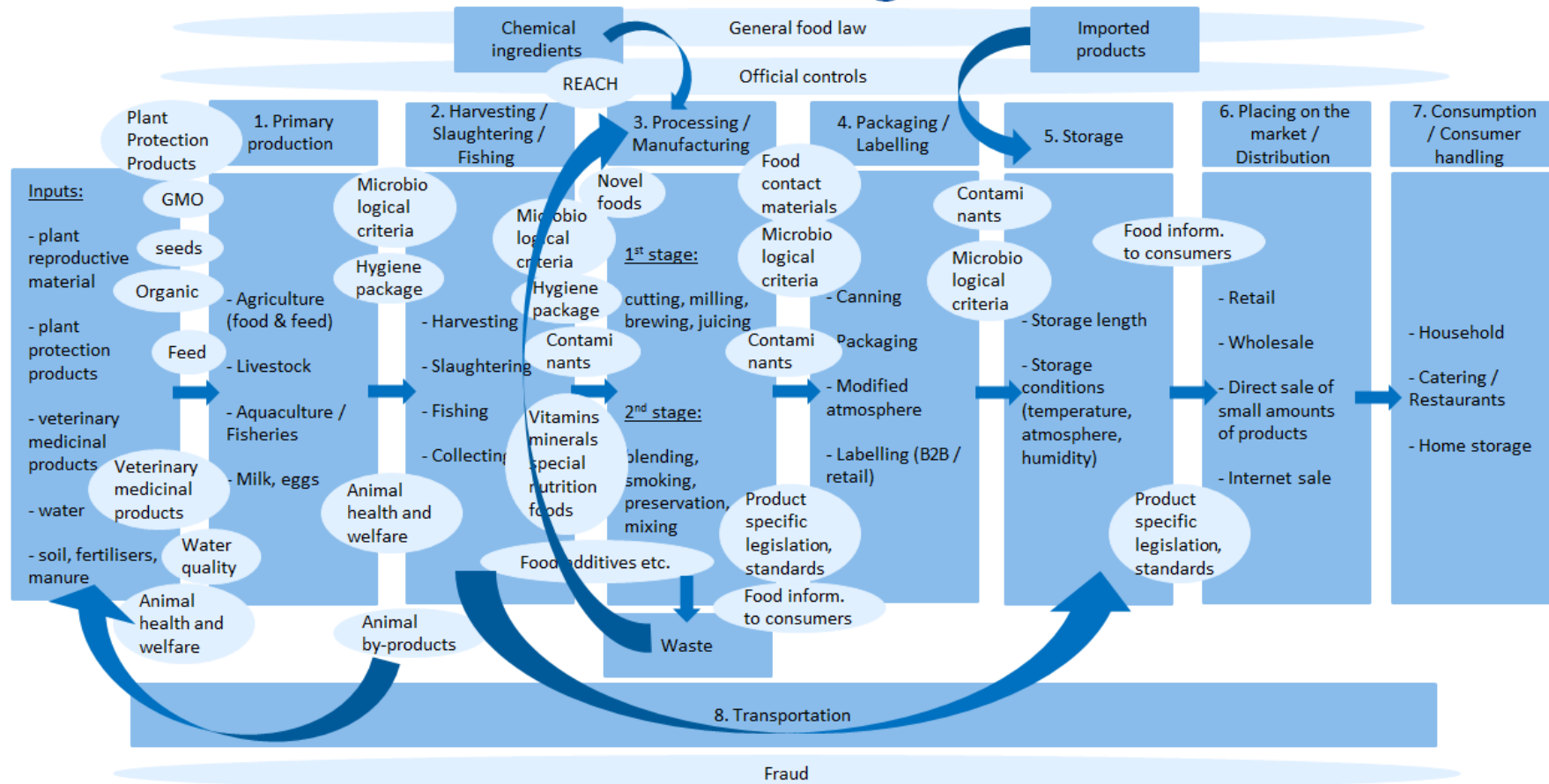
The EUR-LEX website has been screened for the terms ‘food’ and ‘safe’ and ‘health’. For the relevant documents identified, the most recent consolidated version has been used and cited, as this contains all relevant amendments and modifications. In the safety section, the most important relevant documents have been selectively presented as the list of relevant legal acts is extensive and beyond the scope of this review to look into such detail.

3.1.1. REGULATIONS PROMOTING FOOD SAFETY IN FOOD VALUE CHAINS

A recent document published by the Joint Research Centre of the European Commission has mapped the regulatory and policy framework on food safety and nutrition along the food chain¹⁹⁷. Therefore, we will not aim to duplicate this work, but will summarise it here briefly. After this summary, selected legislation that aims to promote safety in the operation of the food value chains will be looked into more detail:

¹⁹⁷ Mylona K., Livaniou A., Maragkoudakis P., Bock A.-K., Wollgast J., Caldeira S. and Ulberth F.; *Overview of the food chain system and the European regulatory framework in the fields of food safety and nutrition*. EUR 28033 EN. Publications Office of the European Union, Luxembourg, 2016, ISBN 978-92-79-60536-9, doi:10.2787/410688.

The food chain and legislation overview



Modified from: Commission SWD (2013) 516 final 'A fitness check of the food chain: State of play and next steps'

Image 1: Overview of the food safety and nutrition legislation along the different steps of the food chain (adopted from¹⁴¹)

The General Food Law (Reg. (EC) No 178/2002¹⁹⁸) and Reg. (EU) No 2017/625¹⁹⁹ on official controls to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (repealing the previous Reg. (EC) No 882/2004²⁰⁰ on official controls to ensure compliance with feed and food law, animal health and animal welfare rules) are two horizontal Regulations applicable to the whole of the food chain. The first one indicates that food legislation must be based on the principles of risk analysis and take into consideration the precautionary principle. The second one lays down rules for the performance of official controls across the whole food chain to ensure compliance with food and feed legislation and to protect the consumers. The new Regulation also covers animal by-products and plant health, which fell outside the scope of the previous Regulation, while plant reproductive material (e.g. seeds) is not covered. Certain rules on official controls are also laid down in Council Directive 2000/29/EC²⁰¹ on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community. This Directive and its provisions will be replaced in 2019 by those of the New Plant Health Law.

Other Regulations lay down measures that regulate specific substances, products and processes that are more relevant to specific steps of the food chain and are known as vertical Regulations. For example, even before primary food production (agriculture, aquaculture, livestock) begins, there are Regulations that specify what kind of fertilisers and plant protection products may be used in agriculture. These are aimed at ensuring the safety and health of humans, plants and animals and protection of the environment.

As products move from primary production to further processing, the hygiene Regulations ensure the implementation of the Hazard Analysis and Critical Control Points (HACCP) principles and the establishment of procedures that help with temperature control in the food chain and compliance of food premises. They also ensure compliance with microbiological criteria and the establishment of control measures to ensure that primary products are protected from contamination. Regulation (EC) No 852/2004²⁰² on the hygiene of foodstuffs also provides for the preparation of guidance documents at European or national level that can be used on a voluntary basis to control hygiene standards. Other Regulations lay down specific microbiological criteria and measures for the detection and control of specific food-borne zoonotic agents.

At the manufacturing step, Regulations lay down provisions on chemical substances such as additives, flavourings, colouring substances and food enzymes that can be used in the preparation of foodstuffs and the maximum levels that these can be added in different products to achieve their intended purpose but without posing a safety risk or being misleading to the consumer. Provisions are also established for foods and food ingredients that are considered novel in the European Union and for products that have been produced using genetically modified ingredients or

¹⁹⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002R0178&from=EN>

¹⁹⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0625&qid=1499181684969&from=EN>

²⁰⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0882-20170228&qid=1499181796978&from=EN>

²⁰¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02000L0029-20170101&qid=1507714191797&from=EN>

²⁰² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0852-20090420&from=EN>

processes. These are accompanied by specific labelling provisions, so that consumers can make informed choices on the food they consume. Other Regulations establish maximum levels for a range of contaminants that may be found in different products to protect consumer health.

As most food offered to consumers is pre-packaged in some way, Regulations lay down provisions for the packaging materials used to protect consumer health and also the environment.

The labelling Regulation (Reg. (EC) No 1169/2011²⁰³) helps consumers understand the nature and the nutrition quality of the products they purchase and consume. It is very important as it helps consumers make safe use of food and informed choices: it helps them avoid certain products that may harm them, if for example they are allergic to certain foods or food ingredients, or that they do not wish to consume for religious or other reasons; and it informs them on the caloric and nutrient content of the product so that they can lead a healthy life style. The Regulation on nutrition and health claims (Reg. (EC) No 1924/2006²⁰⁴) specifies rules to be followed for products that bear such claims. This is aimed at ensuring that consumers are not misled with regards to the ingredients that have been used in those products and to restrict potential misleading practices.

However, the food chain does not end there. In different steps, waste is produced that may re-enter the food chain in different ways and specific Regulations lay down rules for animal by-products and derived products to prevent and minimise risks to public and animal health arising from those products and to protect the safety of the food and feed chain (Regulation (EC) No 1069/2009²⁰⁵).

The provisions of the Regulations are directly applicable in the MS, so the implementation should be the same in all MS except where there is specific allowance for national provisions, guidance, etc. Where rules are laid down by Directives, national implementation may differ between different MS, but the end result must still be the same, to achieve the purpose of these provisions.

Examples of the most important Regulations promoting food safety in the food chain are provided in Table 3.

Table 3: Specific Regulations promoting food safety in food value chains

Regulation	How it promotes food safety
Reg. (EC) No 178/2002 general food law and food safety	Provides the basis for a high level of protection of human health and consumers' interest in relation to food. Establishes common principles and responsibilities, the means to provide a

²⁰³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02011R1169-20140219&qid=1499181874277&from=EN>

²⁰⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1924-20141213&qid=1499350201323&from=EN>

²⁰⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R1069-20140101&qid=1499421958244&from=EN>

	strong science base, efficient organisational arrangements and procedures to underpin decision-making in matters of food and feed safety.
Reg. (EU) No 2017/625 on official controls to ensure compliance with feed and food law, animal health and animal welfare rules	Ensure compliance with the rules on food and feed safety across the whole food chain and of materials intended to come into contact with food. Criteria on how the controls should be organised.
Reg. (EC) No 1169/2011 on the provision of food information to the consumer	Helps consumers understand the nature and the nutrition quality of the food they purchase and consume. It helps them make safe use of food (with the durability information, the storage information, the instructions on safe use, the additional mandatory particulars for specific types and categories of food) and informed choices.

Below follows a more detailed look into the most important Regulations and Directives that impact the operation of the food value chains.

3.1.1.1. Treaty of the Functioning of the European Union

According to the Treaty of the Functioning of the European Union²⁰⁶ safety concerns in relation to public health issues is a shared competence between the Commission and the Member States. In relation to the establishment and functioning of the internal market and related health, safety, environmental and consumer protection concerns, Commission action must be based on a high level of protection and any new scientific information. The Treaty also specifies that the protection of consumer health, safety and economic interests must be one of the aims of the Union.

3.1.1.2. The White Paper on food safety²⁰⁷

One of the Commission's key policy priorities is to ensure that the EU enjoys the highest standards of food safety and this priority is reflected in the White Paper on food safety.

The White Paper presents food safety as a shared responsibility between all stakeholders in the food chain 'from farm to fork', food manufacturers, the European Commission, national authorities and consumers.

The White Paper highlights the importance of **traceability** in ensuring food safety. It explains that food policy must be based on the principles of **risk analysis** and the

²⁰⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

²⁰⁷ COM (1999) 719 final. White Paper on food safety. http://ec.europa.eu/dgs/health_food-safety/library/pub/pub06_en.pdf

precautionary principle. Finally, it indicates that decision making should also consider **animal welfare, sustainability, product quality**, consumer expectations and consumer information to ensure **consumer protection**.

3.1.1.3. Regulation 178/2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (the General Food Law)

This is the principal piece of legislation laying down requirements on food and feed safety in the EU and providing *‘the basis for the assurance of a high level of protection of human health and the consumers’ interests in relation to food’*. It provides the general principles on food and feed and lays down explicit requirements for their safety across the food chain, explaining when food is considered unsafe, not only considering short-term but also long-term and cumulative effects. Similarly, requirements are laid down on the safety of feed.

The Regulation establishes the responsibilities of food and feed business operators to ensure their products meet the requirements of the food law and are safe. It also establishes relevant requirements for the MS: they need to ensure they establish official control measures for the enforcement, monitoring and verification of compliance with the general food law and that food and feed safety and relevant risks are communicated to the public.

This Regulation establishes the **European Food Safety Authority (EFSA)** with the mission to provide scientific advice and support to food and feed safety legislation and policies.

It also revised the **Rapid Alert System for Food and Feed (RASFF)**, as a network for the notification of a direct or indirect risk to human health from food or feed. RASFF is managed by the Commission and it involves the MS, the Commission and EFSA each of which designates a contact point as a member of the network. Where a member of the network has any information relating to a serious direct or indirect risk to human health deriving from food or feed, this information is immediately notified to the Commission under RASFF. The Commission immediately transmits this information to all the members of the network. EFSA may supplement the notification with any scientific or technical information, which will facilitate rapid, appropriate risk management action by the MS. Also, MS must inform the Commission using the RASFF for any measures the take restricting the placing or the market or withdrawing a product, or for any recommendations or rejections related to a product considered to be a risk. EFSA is the recipient of any messages forwarded via the RASFF; analyses the content of these messages and provides the Commission and the MS with any information required for the purposes of risk analysis.

Regulation 178/2002 is one of the Regulations that has gone through the Regulatory Fitness and Performance Programme (REFIT). The Fitness Check on the General Food Law Regulation was launched in 2014 by the Commission and it is due to be completed before the end of 2017. It is a comprehensive policy evaluation assessing whether the legislative framework introduced by the General Food Law Regulation

for the entire food and feed sector is 'fit for purpose' and whether it captures and reflects policy trends of today²⁰⁸.

Finally, the Regulation indicates that the Commission will be assisted by a **Standing Committee on the Food Chain and Animal Health**, the 'Committee', composed of Member States representatives and chaired by a Commission representative. The role of this Committee is to ensure that Union measures on food and feed safety, animal health & welfare as well as plant health are practical and effective and to deliver opinions on draft measures that the Commission intends to adopt. The Committee is organised in 14 different sections to deal with all relevant matters²⁰⁹.

3.1.1.4. Regulation (EU) No 2017/625 on official controls to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products and Regulation (EC) No 882/2004 on official controls to ensure the verification of compliance with feed and food law, animal health and animal welfare rules

Regarding safety, the aim of the Regulation is to ensure compliance with the rules on food and feed safety across the whole food chain as well as of materials intended to come into contact with food, and it specifies the criteria on how the controls should be organised.

Verification of compliance with the rules on products of animal origin must also include verification of compliance with the requirements of Regulations (EC) No 852/2004, (EC) No 853/2004, (EC) No 1069/2009 and (EC) No 1099/2009.

While complying with the objectives of Regulation 2017/625 and in particular the food safety requirements, MS may adopt national measures implementing pilot projects limited in time and extent, to evaluate alternative practical arrangements for the performance of official controls on the production of meat. The outcome of the evaluation conducted through the pilot projects shall be communicated to the Commission as soon as available.

Regulation 2017/625 will apply from 14 December 2019. Until that date, Regulation 882/2004 is still applicable. The aim of this Regulation is to prevent, eliminate or reduce to acceptable levels risks to humans and animals directly or through the environment and to guarantee fair practices in feed and food trade and protect consumer interests, including feed and food labelling and other forms of consumer information. Controls must be carried out on a risk basis, normally without warning and across all steps of the food chain. They must include products to be placed in the internal market, to be exported and imported products, and specific rules are laid down. In case of non-compliance appropriate measures must be taken. The Regulation describes the role of the competent authorities, relevant procedures and rules for staff and indicates that controls should be performed with transparency and confidentiality.

²⁰⁸ https://ec.europa.eu/food/safety/general_food_law/fitness_check_en

²⁰⁹ https://ec.europa.eu/food/committees/paff_en

3.1.1.5. *Reg. 1169/2011 on the provision of food information to the consumers*

The main purpose of the Regulation is to provide the principles, requirements and responsibilities in relation to food information and labelling and to ensure the protection of consumers' health and interest. This food information should allow consumers to make informed choices and safe use of food. In terms of safe use of food, the durability information, the storage information and the instructions on safe use are particularly relevant, as well as any additional mandatory particulars for specific types and categories of food as specified in the Regulation. It is also important to highlight that according to this Regulation a food is deemed to be unsafe if it is past its 'use by' date.

3.1.1.6. *Reg. (EC) No 852/2004 on the hygiene of foodstuffs*

The aim of the general and specific hygiene regulations is to ensure consumer protection in terms of food safety in an integrated approach along the food chain. It considers international obligations laid down in the WTO Sanitary and Phytosanitary Agreement and international food safety standards contained in the Codex Alimentarius.

The Regulation considers food safety as the result of the following factors: legislation, which lays down the minimum hygiene requirements; official controls, which check food business operators' compliance; and food business operators, which establish and operate food safety programmes and procedures based on the HACCP principles. The HACCP is an instrument meant to help food business operators achieve the highest standards of food safety.

The Regulation provides rules for the obligations of food business operators, requirements on guides for good practice and details on hygiene of imported and exported products. It does not apply to primary production for private domestic use, to domestic preparation, handling or storage of food for private domestic consumption or to the direct supply, by the producer, of small quantities of primary products to the final consumer or to local retail establishments directly supplying the final consumer, for which national rules may be established in the different MS.

3.1.1.7. *Reg. (EC) No 853/2004 on hygiene rules for food of animal origin*

Regulation (EC) No 853/2004²¹⁰ aims to secure a high level of consumer protection regarding food safety, to ensure the proper functioning of the internal market in products of animal origin and to contribute to the objectives of the Common Agricultural Policy, by subjecting food business operators throughout the European Union to the same rules. These specific hygiene rules for products of animal origin are required due to the specific microbiological and chemical hazards associated with this kind of product.

²¹⁰

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0853-20160401&qid=1501239388526&from=EN>

It applies to processed and unprocessed products of animal origin but not to products that contain both products of plant origin and processed products of animal origin. There are also exemptions for primary products for private and domestic use and products for domestic preparation and consumption, as well as for small quantities of primary products directly supplied to the consumer or retail establishments. Also exempt is the direct supply of small quantities of meat from poultry and lagomorphs slaughtered on the farm, and small quantities of wild game and its meat supplied by hunters to the final consumer or to retail establishments. For these MS can enforce national rules.

The Regulation does not generally apply to retail unless the operations are carried out with a view to the supply of food of animal origin to another establishment and there may also be national measures for this.

The Regulation specifies responsibilities for the food business operators and provisions for the trade of such products. Overall it lays down rules to ensure the safety of food of animal origin throughout the food chain.

3.1.1.8. Regulation (EC) No 2073/2005²¹¹ on microbiological criteria for foodstuffs

This Regulation lays down microbiological criteria for certain microorganisms and some rules to assist in the implementation of Regulation 852/2004. Compliance with these criteria must be verified by the competent authorities when food is suspected to be unsafe or in the context of risk analysis. These food safety criteria define whether a product or a batch of food is acceptable to be placed on the market. The frequency and sampling for testing against these criteria can be adjusted for smaller businesses, without compromising food safety. If the testing shows that the food safety criteria are not met, the product or batch must be withdrawn from the market and recalled in accordance with the provisions of Regulation 178/2002. If the non-compliant products are on the market but not at retail level, they may be further processed by food business operators other than retailers to eliminate the hazard.

3.1.1.9. Contaminants in the food chain

Regulation (EC) No 1881/2006²¹² sets maximum levels for certain contaminants in foodstuffs and indicates that these foods should not be placed on the market if they contain the specified contaminants in excess of the limits established.

3.1.1.10. Food improvement agents package

The food improvement agents package includes the Regulations of food additives, food enzymes and food flavourings.

²¹¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02005R2073-20170101&qid=1507827451422&from=EN>

²¹² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1881-20170728&qid=1507829955237&from=EN>

Reg. (EC) No 1332/2008²¹³ on food enzymes, Reg. 1333/2008²¹⁴ on food additives and Reg. 1334/2008²¹⁵ on food flavourings indicate that these food improvement agents may only be included in the relevant Community lists of approved substances and be used in food products, if scientific evidence has shown that they are safe and they do not pose any concern to consumer health at the level of proposed use. The producer of food enzymes, food additives or flavourings must inform the Commission immediately, if there is new evidence to suggest that these substances are no longer safe. Manufacturers of table-top sweeteners must provide appropriate information to consumers to allow the safe use of these products.

3.1.1.11. Smoke flavourings

Regulation (EC) No 2065/2003²¹⁶ on smoke flavourings used or intended for use on foods aims to ensure the effective functioning of the internal market in relation to smoke flavourings for use in or on food while ensuring the protection of human health and consumers' interests. It applies to smoke flavourings for use in/on food, source materials for the production of smoke flavourings, the conditions under which smoke flavourings are prepared and to foods in or on which smoke flavourings are present. Smoke flavourings may only be used in or on foods if they do not pose risks to human health and they do not mislead consumers. Authorisations may be accompanied by specific conditions of use. If there is any new scientific or technical information that may affect the safety assessment of an authorised primary product or derived smoke flavouring in relation to human health, the authorisation holder must inform the Commission, and EFSA may review the assessment. Information relating to the safety assessment of such a product is not considered confidential information.

3.1.1.12. Directive 2002/46/EC²¹⁷ on the approximation of the laws of the Member States relating to food supplements

This Directive concerns food supplements marketed and presented as such and indicates that only the vitamins and minerals specified within the Directive and in the forms specified may be used for the manufacture of such products. Vitamins and minerals not listed in the Directive, or in forms not listed therein, may only be used if EFSA has not given an unfavourable opinion for the use of these substances in food supplements. The Directive also specifies that maximum levels of these substances in food supplements must be established, per daily portion, considering the upper safe levels for these substances for different consumer groups and the intake of these substances from other sources. Any food supplement suspected to be dangerous for human health may be temporarily suspended or restricted by a MS.

²¹³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R1332-20121203&qid=1499351578043&from=EN>

²¹⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R1333-20170320&qid=1499351178742&from=EN>

²¹⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R1334-20170324&qid=1499352211223&from=EN>

²¹⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003R2065-20090807&from=EN>

²¹⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02002L0046-20170726&from=EN>

3.1.1.13. Reg. (EC) No 1925/2006 on the addition of vitamins and minerals and of certain other substances in food

The Regulation indicates that the chemical substances that are used as sources of vitamins and minerals to be added to foods should be safe and bio-available (i.e. available to be used by the body). Substances approved in terms of safety and bio-availability should be added to a positive list.

To avoid adverse health effects from the excessive consumption of vitamins and minerals, maximum levels must be established for their addition to food, and specific conditions permitting or prohibiting the addition of a vitamin or mineral to a specific food or food category.

3.1.1.14. Food for infants, young children, special medical purposes and total diet replacement for weight control

Regulation (EU) No 609/2013²¹⁸ on food for infants and follow-on formula, processed cereal-based food and baby food, food for special medical purposes and total diet replacement for weight control establishes compositional and information requirements for these products. To ensure a high level of health protection, the precautionary principle applies to this Regulation. The Regulation indicates that the above categories of food must comply with any requirements of Union law applicable to food. The above categories of food must have appropriate composition for the nutritional requirements of the persons they are intended for and must not contain any substance in a quantity that can endanger the health of these persons. The use of pesticides in products intended for the production of the above foods must be restricted as much as possible. Also, nutrition and health claims to be used on the above product categories must be duly authorised.

3.1.1.15. Novel foods

Regulation (EU) No 2015/2283²¹⁹ on novel foods will replace the previous Regulation (EC) No 258/97²²⁰ on novel foods and novel food ingredients from 2018. The new Regulation lays down rules for the placing on the market of novel foods with the aim to protect human health and consumers' interests and the functioning of the internal market, avoiding unfair conditions of competition.

The Regulation indicates that novel foods must be safe so that they can be placed in the Union list of novel foods, and if their safety cannot be assessed, the precautionary principle must be applied. Also, if a novel food is intended to replace another food, it must not differ from that food and it must be nutritionally more

²¹⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R0609-20170711&qid=1507883733234&from=EN>

²¹⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015R2283&qid=1507831066176&from=EN>

²²⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01997R0258-20090807&qid=1507831066176&from=EN>

advantageous than the original food for the consumer. When a food has a history of safe use within the Union it is not considered as a novel food, and this definition has some more specific restrictions for foods with a history of safe use in third countries so that they can be used in the EU. EFSA must assess the safety of novel foods either produced in the EU or in a third country and give an opinion. The Regulation also provides information on what needs to be considered in assessing the safety of novel foods. It is also possible for the Commission to implement post-market monitoring requirements for food safety reasons.

3.1.1.16. Regulation (EC) No 1829/2003 on genetically modified food and feed

Regulation (EC) No 1829/2003²²¹ on genetically modified food and feed lays down procedures for the authorisation, supervision and labelling of GM food and feed to protect human and animal health and welfare, the environment and consumer interests, while ensuring the uninterrupted functioning of the internal market.

3.1.1.17. Regulation (EU) No 2016/2031²²² on protective measures against pests of plants (New Plant Health Law)

This is a new Regulation that replaces the old Directive 2000/29/EC²²³ on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community, with the aim to ensure the more uniform application of these provisions. As part of the 'smarter Regulations for safer food' package the Regulation also provides limited rules on official controls, as those are contained within the new Official Controls Regulation.

The Regulation lays down rules to determine the phytosanitary risks posed by pathogenic agents, animals or parasitic plants injurious to plants or plant products ('pests') and measures to reduce those risks to an acceptable level. Non-parasitic plants that may pose phytosanitary risks with severe economic, social and environmental impact on the Union territory may be considered as pests as well.

The Regulation requires the issue of a phytosanitary certificate for the introduction into the EU or protected zone of plants, plant products and other objects (than plants or plant products that are capable of harbouring or spreading pests, including soil or growing medium) to ensure phytosanitary safety but also to have an overview of these imports and the associated risks. Details are also provided for the plant passport that should accompany the movement of plant, plant products and other objects in the EU.

²²¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003R1829-20080410&qid=1499274418227&from=EN>

²²² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R2031&qid=1501452064289&from=EN>

²²³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02000L0029-20170101&qid=1501452212691&from=EN>

Rules are laid down for quarantine and priority pests. The Regulation allows MS to adopt stricter provisions than those adopted at EU level in certain cases for quarantine pests and those should be notified to the Commission and the MS.

Also, rules are established for protected zones, for quarantine pests and for non-quarantine pests. Specific provisions are also established for plants, plant products and other objects.

3.1.1.18. Regulation (EU) No 2016/429²²⁴ on transmissible animal diseases (New Animal Health Law)

This is a new Regulation streamlining several legal acts within the context of better regulation and simplification and will apply from 21 April 2021. It aims at improving animal health to support sustainable agriculture and aquaculture in the EU, improving the functioning of the internal market and reducing adverse effects to food and feed safety, animal health, public health and the environment.

The Regulation lays down rules for the prevention and control of animal diseases that are transmissible to animals or humans and applies to terrestrial and aquatic animals, kept and wild animals, germinal products, products of animal origin, animal by-products and derived products and all paths of infection and materials included in the transmission of these diseases, such as facilities, transport means and equipment.

The Regulation lays down the responsibilities of operators, animal keepers, veterinarians and aquatic and other animal professionals regarding animal health and biosecurity measures. It also specifies disease notification, reporting, surveillance and eradication measures. There are rules for disease awareness, preparedness and control. The Regulation specifies that MS may take measures on the use of veterinary medicinal products for disease prevention and control.

Measures are included on how to approach disease control when it is suspected or confirmed. Information is provided on animal health certificates and on the movement of animals and related emergency measures.

This Regulation will apply from 21 April 2021.

3.1.1.19. Directive 2006/88/EC²²⁵ on animal health requirements for aquaculture animals and their products and on the prevention and control of certain diseases in aquatic animals

This Directive promotes safety in the food chain by laying down animal health requirements for the importation, placing on the market and transit of aquaculture animals and their products, preventive measures for aquaculture animal diseases and minimum control measures in case of a disease outbreak in aquaculture animals. It also provides rules for the authorisation of aquaculture production and processing establishments and indicates that good hygiene practices must be followed to prevent the introduction and spread of diseases. The requirement for

²²⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02016R0429-20160331&qid=1501451939788&from=EN>

²²⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006L0088-20140306&from=EN>

record-keeping for traceability purposes is highlighted. The Directive requires that MS apply a risk-based animal health surveillance scheme in farming areas.

This Regulation will be repealed by the New Animal Health Regulation (No 2016/429) from 2021.

3.1.1.20. Regulation 2160/2003²²⁶ on the control of salmonella and other specified food-borne zoonotic agents

This Regulation promotes safety in the food value chain by ensuring that proper and effective measures are in place for the detection and control of salmonella and other zoonotic agents at all stages of the food chain (in primary production and feed, production, processing and distribution) to reduce the risk to public health. The Regulation indicates that Community targets must be established for the reduction of prevalence of zoonoses and zoonotic agents and lays down specific details for those targets. These details may be amended by the Commission after consideration of different criteria such as the frequency of appearance of these zoonoses, the gravity of their effects on humans, the economic consequences arising from human and animal healthcare and for the food/feed businesses, etc. To achieve the Community targets MS must establish national control plans for each zoonosis and zoonotic agent. These must specify the specific control measures after the detection of each zoonosis to protect public health.

3.1.1.21. The Common Agricultural Policy

The Common Agricultural Policy is governed by four main Regulations since the 2013 reform. It is very broad in scope and beyond the scope of this report to be viewed into detail. This section only refers to three of the Regulations and to those aspects that relate to food safety in the food chain. The Regulations promote safety in the food values chain via the following rules:

- **Regulation (EU) No 1305/2013²²⁷ on support for rural development by the European Agricultural Fund for Rural Development (EAFRD)**

This Regulation lays down general rules for Union support for rural development and sets the objectives and priorities of rural development policy. Rural development support can be provided via advisory services and one example of this is advice to individual and young farmers and other land managers on aspects that relate to any of the Union priorities for rural development, one of which relates to safety standards for farms as well as occupational safety standards. Advice may also be offered in relation to health aspects of animal husbandry. Support is also offered to farmers who participate in quality and farm certification schemes for agricultural products, cotton or foodstuffs which guarantee that specific final product attributes, such as a

²²⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003R2160-20130701&qid=1508154455208&from=EN>

²²⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R1305-20170520&qid=1508088662662&from=EN>

final product quality significantly beyond commercial commodity standards on public, animal or plant health, animal welfare or environmental protection.

Also, one of the tasks of the European Innovation Partnership (EIP) network, established to support the EIP for agricultural productivity and sustainability, is to enable the networking of advisory services, researchers and operational groups in relation to the setting up of initiatives on pilot projects on issues such as food quality, food safety and healthy diet.

- **Regulation (EU) No 1306/2013²²⁸ on the financing, management and monitoring of the Common Agricultural Policy**

Regulation 1306/2017 lays down some rules on the financing of the CAP, the farm advisory system and the management and control of the CAP. The Regulation indicates that beneficiaries that receive payments under the different Regulations that form the CAP (except for those participating in the small farmers scheme) must be liable to penalties in cases of non-compliance related to the agricultural activity of the beneficiary or the areas of his holding, due to omissions.

The Regulation also establishes a cross-compliance system on the principle that payments under CAP to beneficiaries should be linked to compliance with rules on land management, agricultural production and agricultural activity. It incorporates into CAP standards on environment, climate change, good agricultural and environmental condition of land but also public health, animal and plant health and animal welfare. Cross-compliance aims to promote sustainable agriculture through ensuring the respect of these standards by the beneficiaries and through improving the alignment of CAP with environmental and public health policies. The specific rules on cross-compliance consist of statutory management requirements and standards for good agricultural and environmental condition of the land. In the area of public health, animal and plant health, the rules relate to food safety as laid down by Regulation 178/2002, to the prohibition of certain substances having hormonal or thyrostatic action and beta-agonists in stockfarming (Directive 96/22/EC), to the identification and registration of animals, to rules on animal diseases (Reg. 999/2001 on the prevention, control and eradication of certain transmissible spongiform encephalopathies), plant protection products (Reg. 1107/2009 concerning the placing on the market of plant protection products) and rules on animal welfare.

- **Regulation (EU) No 1308/2013²²⁹ establishing a common organisation of the markets in agricultural products**

This Regulation establishes a common organisation of the markets for agricultural products, except for fishery and aquaculture products as defined by the common organisation of the market on those products. The Regulation promotes safety in the food chain by laying down specific support measures for the wine sector, such as

²²⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R1306-20170801&qid=1508091333824&from=EN>

²²⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R1308-20160731&qid=1499174383301&from=EN>

information and promotion measures for Union wines in the MS and third countries. Promotion measures in third countries apply to wines with a protected designation of origin (PDO) or a protected geographical indication (PGI) or wines with indication of the grape variety. These measures highlight the high standards of Union products especially in terms of quality, food safety and environment.

The Regulation also indicates that interbranch organisations²³⁰ may be recognised in MS in the agricultural product sectors falling in the scope of this Regulation. These can promote the interests of their members and consumers with a range of objectives. One of these objectives relates to restricting the use of animal health or plant protection products, ensuring product quality and soil and water conservation, promoting food safety through improved traceability and improving animal health and welfare. Interbranch organisations in the milk and milk products sector may also aim to restrict the use of animal health products and enhance food safety and animal health. The Regulation also specifies that if a recognised producer organisation, association or interbranch organisation is considered representative of the production or processing or trade of a specific product in a specific economic area of a MS, the organisation may request the MS to make decisions, agreements or practices binding on other operators (individuals or groups not belonging to the organisation) for a period of time. The aim of this could be among other things to ensure animal or plant health or food safety.

3.1.1.22. Regulation (EC) No 1069/2009 on animal by-products and derived products not intended for human consumption

This Regulation aims to minimise the risks to public and animal health from animal by-products and derived products and to protect the safety of the food and feed chain. It lays down rules for the safe collection, transport and disposal of animal by-products. It also refers to pet food derived from category 3 material²³¹ and the requirement that such products are only placed on the market if they have undergone safe treatment to control risks to public and animal health, where safe sourcing of these materials cannot guarantee the appropriate degree of safety. Some of these by-products may be used as organic fertilisers and soil improvers; these products must have been produced under specific conditions to prevent risks to public and animal health. For certain other by-products it is necessary to ensure

²³⁰ Interbranch organisations are vertically integrated organisations which comprise producers and at least one member of the processing or trading part of the supply chain.

²³¹ Category 3 material comprises animal by-products fit but not intended for human consumption, carcasses and parts of animals considered fit for slaughter for human consumption and slaughtered in a slaughterhouse such as those rejected as unfit for human consumption but which do not show any sign of disease communicable to humans or animals, poultry heads, parts of animals other than ruminants requiring transmissible spongiform encephalopathy (TSE) testing and ruminants tested negative, feathers, animal by-products from poultry and lagomorphs free of signs of disease, blood of animals free of disease, animal by-products arising from the production of products for human consumption, products of animal origin or foodstuffs containing such products or petfood and feedingstuffs of animal origin no longer intended for human/animal consumption due to e.g. manufacturing or packaging defects but where no risk to public health arises, other products e.g. hair, feathers, horns, aquatic animals with no signs of disease, animal by-products from aquatic animals from plants manufacturing products for human consumption, shells from shellfish, eggs, egg by-products and shells, adipose tissue from animals that were considered fit for human consumption, catering waste.

safe sourcing, treatment and safe end uses to protect public and animal health. In such cases, the safe treatment includes specific manufacturing processes and the risks must be reduced from both the material and the substances that result from the manufacturing process used.

3.1.1.23. *Regulation (EC) No 726/2004 on medicinal products for human and veterinary use*

Regulation 726/2004²³² indicates that the European Medicines Agency must provide scientific advice on the quality, safety and efficacy of medicinal products for human or veterinary use and on the use of antibiotics in food-producing animals. Also, it must provide advice on the maximum limits for residues of veterinary medicinal products and biocidal products used in animal husbandry in foodstuffs of animal origin in accordance with Regulation (EC) No 470/2009 on the establishment of residue limits of pharmacologically active substances in foodstuffs of animal origin.

3.1.1.24. *Directive 96/22/EC²³³ concerning the prohibition on the use in stockfarming of certain substances having a hormonal or thyrostatic action and of beta-agonists*

This Directive promotes food safety in the food value chain by limiting the use of certain substances in stockfarming because their residues in meat and other products of animal origin may be dangerous for consumers and may affect the quality of the food products, but also because these products may not correspond to consumer expectations. Such substances have thyrostatic, oestrogenic, androgenic or gestagenic action on the animals. The Directive indicates that an information and awareness-raising campaign on the complete ban of the use of oestradiol 17b in food-producing animals must be aimed at farmers and veterinary organisations in the EU and internationally, in areas from where the EU imports food of animal origin. Similarly, the use of beta-agonists can be a serious risk to human health and the Directive indicates that the administering to animals of such substances but also the holding or placing on the market of these substances must be prohibited.

3.1.1.25. *Safety of pesticides and plant protection products*

There are three main document that establish measures in relation to the use of pesticides and plant protection products:

- **Regulation 1107/2009²³⁴ on placing plant protection products on the market**

²³² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0726-20130605&qid=1499678825618&from=EN>

²³³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01996L0022-20081218&qid=1508153392419&from=EN>

The aim of Regulation 1107/2009 is to ensure a high level of protection of human and animal health and the environment. It uses the precautionary principle to ensure that active substances and plant protection products placed on the market are safe for human and animal health and the environment. For this reason, tests and studies are carried out to determine the behaviour and properties of those substances and products and to establish safe levels of use of these products or safe levels of exposure to these products. Residues of these products, after application according to good plant protection practices and realistic conditions of use, should not have harmful effects on human or animal health or the environment, also considering their cumulative and synergistic effects. Plant protection products must not have any immediate or delayed harmful effects on humans and animals either directly, through drinking water, food, feed and air or through the workplace or groundwater.

When there are immediate concerns about the safety of any such product, it must be immediately withdrawn from the market. The Regulation allows MS to refuse authorisation of a product if it is considered that there may be risks to humans, animals or the environment due to the specific environmental or agricultural circumstances in the specific country. The same also applies to treated seeds.

In case of experiments or tests for research and development purposes that involve the release in the environment of unauthorised plant protection products, the trial permit may impose a range of limits to prevent harmful effects to humans, animals and the environment and prevent entry of residues the food and feed chains.

The regulation also lays down rules for the labelling and advertising of plant protection products, to enable safe use.

- **Directive 2009/128/EC²³⁵ establishing a framework for Community action to achieve the sustainable use of pesticides**

The aim of this Directive is to achieve sustainable use of pesticides, reducing the risk for humans, animals and the environment, promoting the use of integrated pest management and alternatives such as non-chemical alternatives to pesticides.

The Directive requires that pesticide distributors have adequate personnel to advise customers on the safe use of pesticides and on how to reduce the risks to their health and the environment, such as hazards, exposure, proper storage, handling, application, safe use of equipment and safe disposal.

- **Reg. (EC) No 396/2005²³⁶ on maximum residue levels of pesticides in or on food and feed of plant and animal origin**

The aim of this Regulation is to ensure consumer protection by setting maximum levels of pesticides residues in food and feed of plant and animal origin. The

²³⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R1107-20170828&qid=1507803166314&from=EN>

²³⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009L0128-20140630&qid=1507823298720&from=EN>

²³⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02005R0396-20170823&qid=1507826054462&from=EN>

Regulation indicates that such temporary levels may be set and extended under certain conditions, provided there are no safety concerns for the consumers. MS are required to communicate to the European Food Safety Authority all information held related to the safety assessment of maximum residue levels.

3.1.1.26. Regulation (EC) No 2003/2003 on fertilisers

Regulation (EC) No 2003/2003²³⁷ lays down requirements on fertilisers, i.e. materials that provide nutrients to plants. Fertilisers that comply with the requirements of this Regulation are designated 'EC fertilisers' and they must be effective and not adversely affect human, animal or plant health or the environment. If a MS considers an 'EC fertiliser' to be a risk to human, plant or animal health and safety or to the environment, it can prohibit its placing on the market or establish special conditions, explaining to the Commission and other MS the reasons for this decision. The Regulation lays down requirements for different types of fertilisers as well as measures for their safety and traceability and official control purposes.

3.1.1.27. Feed hygiene and safety

- **Regulation (EC) No 183/2005²³⁸ on requirements for feed hygiene**

The aim of this Regulation is to ensure a high level of consumer protection with regard to feed and food safety. Livestock production depends on the use of safe and quality feed. Feed operators (including aquaculture) must operate under harmonised safety standards to protect human and animal health and the environment. Feed safety must be ensured throughout the chain from feed production to its feeding to food-producing animals and should also be ensured for imported feed. Feed business operators are responsible for the primary production of feed and they must take action to ensure that any hazards likely to compromise feed safety are prevented or eliminated. This can include the control of hazards from the air, soil, water, fertilisers, plant protection products, biocides, veterinary medicinal products and waste, as well as measures on plant and animal health and the environment that relate to feed safety, and programmes for the monitoring and control of zoonoses and zoonotic agents. Feed business operators must take appropriate measures conducive to hygienic conditions and must also consider the results of any sample analyses from primary products or other samples relevant to feed safety. They must also keep records on anything that can affect feed safety and as a result the safety of primary products (occurrence of pests, diseases, use of plant protection products, use of genetically modified seeds, etc.).

- **Directive 2002/32/EC²³⁹ on undesirable substances in animal feed**

²³⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02003R2003-20170701&qid=1507914106493&from=EN>

²³⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02005R0183-20160423&from=EN>

²³⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02002L0032-20150227&from=EN>

The Directive deals with undesirable substances, i.e. substances or products present in or on animal feed that potentially present a danger to animal or human health or the environment or could adversely affect livestock production, in products intended for animal feed. Products intended for animal feed may only be imported into the Community or circulated or used in the Community if they are sound, genuine and of merchantable quality, and if when correctly used they meet the above safety requirements. If a maximum level fixed by the Directive for an undesirable substance, or a new undesirable substance, presents a danger for human or animal health or the environment, a MS may take action for the undesirable substance (fix a maximum level, reduce an existing level, prohibit the presence of the substance) and inform the other MS and Commission of the reasons for this action.

3.1.2. REFIT, THE REGULATORY FITNESS AND PERFORMANCE PROGRAMME

REFIT aims to ensure that EU law remains fit for purpose and delivers the intended outcome in the most efficient and effective way. It targets removing red tape and regulating better, lowering costs and simplifying legislation, without compromising policy objectives and EU high standards.

The performance of existing EU legislation and policies is evaluated to identify inefficiencies, burdens, inconsistencies and gaps. Where necessary, revisions and repeals of regulations, simplification and codification of measures, measures to improve implementation and withdrawal of outdated proposals can be used.

REFIT relies strongly on stakeholder input as they are the ones that face the inefficiencies of legislation and its implementation.

The relevant progress achieved by REFIT in the health and food safety area can be found here: https://ec.europa.eu/info/sites/info/files/health_and_food_safety_0.pdf, the progress achieved in the agriculture and rural development sector can be found here: https://ec.europa.eu/info/sites/info/files/agriculture_and_development_0.pdf, while progress achieved in the environment sector can be found at this link: https://ec.europa.eu/info/sites/info/files/environment_0.pdf

3.2. FOOD AUTHENTICITY

This section concerns the second element included under the definition of food chain integrity. In this section, provisions that promote the operation of the food value chains by **preventing misleading the consumer** and by **preventing fraud** are included. Documents in the EUR-LEX website have been screened for the following terms: misleading, fraud, authenticity, integrity, deceptive, adulteration, provenance/origin. Again, the most recent consolidated version of the Regulations or Directives has been used for extracting the relevant information and as a citation.

We have used the following definitions:

- Fraud: Wrongful or criminal deception intended to result in financial or personal gain²⁴⁰;
- Deceptive: Giving an appearance or impression different from the true one; misleading;
- Misleading: Giving the wrong idea or impression;
- Authentic: Of undisputed origin and not a copy; genuine;
- Integrity: The quality of being honest and having strong moral principles. The state of being whole and undivided;
- Adulteration: Rendering (something) poorer in quality by adding another substance;

Note: Reg. 2017/625 refers to two sets of terms: authenticity & integrity in the food chain and fraudulent & deceptive (=misleading) practices. The term 'deceptive' practices are used instead of the term 'misleading' that is used in the other Regulations.

The following Table presents the most important Regulations that promote authenticity in the food value chain by limiting food fraud and ensuring products are not misleading. These and other relevant legislation are examined in more detail in the following sections.

Table 4: Summary of legislation that promotes authenticity in the food chain by limiting fraud and ensuring products are not misleading

Regulation	How it promotes authenticity in the food chain (limiting fraud and ensuring products are not misleading)
Reg. (EC) No 178/2002, the general food law	Aims to prevent fraudulent or deceptive practices, the adulteration of food and any other practices which may mislead the consumer. Requires that the labelling, advertising and presentation of food or feed, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, must not mislead consumers.
Reg. (EU) No 2017/625 on official controls	Competent authorities perform official controls on the likelihood that consumers may be misled as to the nature, identity,

²⁴⁰ <https://en.oxforddictionaries.com/definition/fraud>

	<p>properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production of food.</p> <p>Controls are also performed to verify compliance with the rules on: food/feed and food/feed safety, integrity and wholesomeness at any part of the production, processing and distribution of food/feed, rules aimed at ensuring fair trading practices, protecting consumers interest and information, the manufacture and use of food contact materials and articles, the deliberate release in the environment of GMOs for food and feed production, animal health requirements, protection of human and animal health from risks arising from animal by-products and related products, animal welfare, protective measures against pests of plants, rules for the placing on the market and use of plant protection products and sustainable use of pesticides, organic production and labelling, use and labelling of protected designations of origin, protected geographical indications and protected specialities guaranteed.</p> <p>It does not apply to the controls required by Reg. (EU) 1308/2013 establishing a common organisation of the markets in agricultural products, but it applies to checks under Article 89 of Reg. (EU) 1306/2013 (relating to marketing rules for certain categories of grapevine products the labelling and presentation of which must contain specific mandatory particulars, checks to ensure that raw true hemp and seeds of varieties of hemp falling within specific CN codes meet the requirements that apply to them, etc.), where those checks identify possible fraudulent or deceptive practices in respect of the marketing standards referred in Articles 73-91 of Regulation (EU) No 1308/2013.</p>
Reg. (EU) No 1169/2011 on the provision of food information to the consumer	<p>Food information must not mislead the consumer as to the characteristics of the food and specifically its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production, by suggesting the food has properties it does not have, by suggesting it has special characteristics while all similar foods also have them or by suggesting the presence of a food or ingredient while an ingredient that is naturally present in the product or normally used in it has been substituted by a different one.</p> <p>The Regulation allows for the implementation of national measures on additional mandatory particulars for specific food products with the aim to prevent fraud.</p>
Reg. (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs & Reg. (EC) No 110/2008	<p>Lays down rules on the names that can be registered as designations of origin, geographical indications, homonymous names or traditional specialities guaranteed, as well as on the protection of registered names to prevent misleading the consumer.</p> <p>Provisions like the above are also laid down specifically for the definition, description, presentation, labelling and the protection</p>

on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks	of geographical indications of spirit drinks.
EU Food Fraud Network	It aims to establish more efficient cross-border administrative assistance and cooperation. Its work is facilitated by the Administrative Assistance and Cooperation System (AAC) (operation since November 2015), that enables members of the EU Food Fraud Network to rapidly exchange information on potential cases of cross-border fraud.

3.2.1. PRODUCTS ARE NOT MISLEADING

Several Regulations lay down provisions that aim to ensure that products do not mislead the consumer, while some also aim at ensuring the safety of products. The most relevant legislation for this purpose is examined in more detail in the following sections.

3.2.1.1. *Reg. (EC) No 178/2002, the general food law*

The General Food Law (Reg. (EC) No 178/2002) aims to protect consumers' interests and help them make informed choices in relation to the foods they consume. It also aims to *'prevent fraudulent or deceptive practices, the adulteration of food and any other practices which may mislead the consumer'*. The same Regulation also indicates that *'the labelling, advertising and presentation of food or feed, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, must not mislead consumers'*. The reason is that such practices, at any point in the food chain, may give rise to direct or indirect safety risks. The Regulation also makes reference to fair and ethical trading practices in trade.

3.2.1.2. *Reg. (EU) No 2017/625 on official controls*

Regulation (EU) No 2017/625 (and the old Reg. (EC) No 882/2004) on official controls indicates that competent authorities must perform official controls considering any information indicating the likelihood that consumers may be misled as to the nature, identity, properties, composition, quantity, durability, country of origin or place or provenance, method of manufacture or production of food. The aim of the controls is to verify compliance with the established rules in different areas including food and feed safety, integrity and wholesomeness, rules aimed at ensuring fair practices in trade and protecting consumer interests and information.

3.2.1.3. Reg. (EU) No 1169/2011 on the provision of food information to the consumer

Regulation (EU) No 1169/2011 on the provision of food information to the consumer indicates that food information must not mislead the consumer as to the characteristics of the food and specifically its nature, identity, properties, composition, quantity, durability, country of origin or place of provenance, method of manufacture or production, by suggesting the food has properties it does not have, by suggesting it has special characteristics while all similar foods also have them or by suggesting the presence of a food or ingredient while an ingredient that is naturally present in the product or normally used in it has been substituted by a different one. Food business operators are responsible for the changes in the information accompanying a food and they should not change it if it could be misleading for consumers or reduce their ability to make informed choices.

The Regulation also requires an indication of the country of origin or place of provenance of a food where failure to provide this might mislead the consumer as to the true origin or provenance of the food, in particular if the information accompanying the food or the label as a whole would otherwise imply that the food has a different country of origin or place of provenance, as well as for specific meat products.

Also, any other forms of expression or presentation, such as graphical forms and symbols in addition to words or numbers that may be used to give the energy value and the amount of nutrients of a food product must not mislead the consumer. The same applies for information provided to the consumer on a voluntary basis: it must not be misleading or confusing. If this happens, the Commission may adopt additional provisions for such voluntary information.

National measures on additional mandatory particulars may be adopted to prevent **fraud**, protect public health and consumers and prevent unfair competition.

It is also necessary to indicate the physical condition of the food next to its name where the absence of this information may mislead the consumer.

3.2.1.4. Reg. (EC) 1924/2006 on nutrition and health claims

Regulation 1924/2006 on nutrition and health claims adds to the prohibitions of the labelling Regulation on using information that can mislead the consumer about the properties of food. Nutrition and health claims must not be misleading, false or ambiguous.

3.2.1.5. *Reg. (EC) No 1925/2006 on the addition of vitamins and minerals and of certain other substances in food*

Regulation (EC) No 1925/2006²⁴¹ on the addition of vitamins and minerals and of certain other substances in food indicates that the labelling, presentation and advertising of food to which vitamins or minerals have been added must not mislead the consumer as to the nutritional merit of the product. Also, the Regulation indicates that the addition of vitamins and minerals to foods must result in their presence at a minimum amount in the product, as the presence of an insignificant amount in the final fortified product would have no benefit to the consumer and would be considered misleading.

3.2.1.6. *Food for infants, young children, special medical purposes and total diet replacement for weight control*

Regulation (EU) No 609/2013 on food for the above persons indicates that the labelling, presentation and advertising of these categories of food must provide information for the appropriate use of this food and must not mislead the consumer or attribute to these foods properties of preventing, treating or curing disease or imply such properties. In addition, the labelling, presentation and advertising of infant and follow-on formula must not discourage breastfeeding and must not include pictures of infants or other pictures or text that may idealise the use of these products.

3.2.1.7. *Reg. (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs*

Specific rules are also established by Regulation (EU) No 1151/2012²⁴² on quality schemes for agricultural products and foodstuffs on the names that can be registered as designations of origin, geographical indications, homonymous names or traditional specialities guaranteed, as well as on the protection of registered names to prevent misleading the consumer. The Regulation aims to ensure that the consumer receives reliable information on these products, fair competition and integrity in the internal market and to respect intellectual property rights. To qualify for protection in the territories of Member States, designations of origin and geographical indications should be registered only at Union level. The Regulation also indicates that the Commission can finance administrative support and other measures to protect the use of indications, abbreviations and symbols referring to the quality schemes from misuse, imitation, evocation or any other practice liable to mislead the consumer via the European Agricultural Fund for Rural Development, in accordance with Reg. (EU) 1306/2013²⁴³ on financing, managing and monitoring the Common Agricultural Policy. Finally, the Regulation allows Member States to

²⁴¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02006R1925-20150401&qid=1499678825618&from=EN>

²⁴² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02012R1151-20130103&qid=1499250059777&from=EN>

²⁴³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R1306-20140101&qid=1499255886298&from=EN>

maintain national rules on optional quality terms not covered by the Regulation, provided they comply with Union law. Delegated Regulation (EU) No 665/2014²⁴⁴ supplements Regulation (EU) No 1151/2012 with conditions of use of the optional quality term 'mountain product' so that its use does not mislead the consumer.

One of the aims of this Regulation is to help producers of agricultural products and foodstuffs to communicate their characteristics and attributes to buyers and consumers, thereby ensuring fair competition.

In terms of authenticity this Regulation requires that the product specification for a protected designation of origin or geographical indication must contain information on the method of obtaining the product and the authentic and unvarying local methods, as well as information concerning packaging. It also indicates that groups (i.e. associations of producers or processors working with the same product) can monitor the use of the product name in trade to ensure its quality, reputation and authenticity is guaranteed.

3.2.1.8. Reg. (EC) No 110/2008 on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks

Provisions like the above are also laid down specifically for spirit drinks, by Regulation (EC) No 110/2008²⁴⁵ on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks. The measures are meant to contribute to the attainment of a high level of consumer protection, the prevention of **deceptive** practices and the attainment of market **transparency** and fair competition. The provisions of Directive 2006/114/EC²⁴⁶ concerning misleading and comparative advertising may be considered in addition to the specific rules of Reg. 1151/2012 and they also aim at preventing deceptive practices and prevent their unfair consequences.

3.2.1.9. Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products

Regulation (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products lays down provisions to protect the consumers from being misled regarding the place of origin of homonymous name products in the wine sector. Provisions are also included to protect the use of protected designations of origin, geographical indications and traditional terms from misleading practices. In terms of trade with third countries and the import and export licenses that are required, the Regulation allows for the Commission to adopt delegated acts to lay down additional rules to deal with or prevent cases of **fraud** or allowing the request

²⁴⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0665&qid=1499853876827&from=EN>

²⁴⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R0110-20160705&qid=1499269837083&from=EN>

²⁴⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0114&from=EN>

of additional documents certifying the **authenticity** and quality characteristics of the product for the issue of import licenses. Reference is also made to fair practices.

3.2.1.10. Regulation (EC) No 1829/2003 on genetically modified food and feed

Regulation (EC) No 1829/2003 on genetically modified food and feed also requires that these food products do not mislead the consumer and they do not differ nutritionally from the food they are intended to replace.

3.2.1.11. Regulations (EC) No 1333/2008 on food additives, No 1332/2008 on food enzymes and No 1334/2008 on food flavourings

Regulations (EC) No 1333/2008 on food additives, No 1332/2008 on food enzymes and No 1334/2008 on food flavourings list substances and the levels that can be used to achieve certain functions. All Regulations indicate that the use of these substances must not mislead the consumer. These substances may only be used if they do not pose a safety risk to the consumer.

3.2.1.12. Smoke flavourings

According to Regulation (EC) No 2065/2003 on smoke flavourings used or intended for use on foods, smoke flavourings may only be used in or on foods if they do not pose risks to human health and they do not mislead the consumers.

3.2.1.13. Novel foods

Regulation (EU) No 2015/2283 on novel foods indicates that the use of such foods must not mislead the consumer, in particular when the specific food is intended to replace another food and there is a significant difference in nutritional value. Also, the conditions of intended use of the product and the specific labelling requirements that must be submitted for the authorisation of placing a novel food on the market must not be misleading.

3.2.1.14. Regulation (EC) No 1935/2004 on materials and articles intended to come into contact with food

Also, Regulation (EC) No 1935/2004²⁴⁷ on materials and articles intended to come into contact with food indicates that the use of these materials and articles and their presentation and advertising must not mislead the consumer.

²⁴⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R1935-20090807&qid=1499352448812&from=EN>

3.2.1.15. Regulation (EC) No 1107/2009 concerning placing plant protection products on the market

The Regulation requires that the advertising of plant protection products must not include any information, in any form, that could mislead the consumer in relation to possible risks to human or animal health or the environment such as the terms 'low risk', 'non-toxic' or 'harmless'.

3.2.2. PREVENTING FRAUD

To identify the most relevant legal documents relating to the prevention of fraud, the EURLEX database was scanned for legislation containing the terms 'food' and 'fraud' at the same time.

Currently there is no harmonised definition for food fraud in the EU. However, it is generally considered that *'food fraud covers cases where there is a violation of EU food law, which is committed intentionally to pursue an economic or financial gain through consumer deception. The operational criteria for Food Fraud are:*

- *Violation of EU Food Law*
- *Intention*
- *Economic Gain*
- *Deception of Customers.'*²⁴⁸

There are different types of food fraud: adulteration, counterfeiting, substitution and deliberate mislabelling of goods.

The following paragraphs provide more detail on the most important regulatory documents aimed at preventing food fraud.

3.2.2.1. Regulation (EU) No 2017/625 on official controls

Regulation (EU) No 2017/625 on official controls has recently replaced the old Regulation (EC) No 882/2004 with the aim to simplify and rationalise the overall legislative framework, whilst pursuing the objective of better regulation. It shall apply from 14/12/2019 except for certain Articles that apply from earlier dates.

Regulation (EU) No 2017/625 applies to official controls performed to verify compliance with the rules on: food/feed and food/feed safety, integrity and wholesomeness at any part of the production, processing and distribution of food/feed, rules aimed at ensuring fair trading practices, protecting consumers interest and information, the manufacture and use of food contact materials and articles, the deliberate release in the environment of GMOs for food and feed production, animal health requirements, protection of human and animal health from risks arising from animal by-products and related products, animal welfare, protective measures against pests of plants, rules for the placing on the market and use of plant protection products and sustainable use of pesticides, organic production and

²⁴⁸ https://ec.europa.eu/food/safety/food-fraud_en

labelling, use and labelling of protected designations of origin, protected geographical indications and protected specialities guaranteed.

Regulation (EU) No 2017/625 does not apply to the controls required for the verification of compliance with Reg. (EU) 1308/2013 establishing a common organisation of the markets in agricultural products, but it applies to checks pursuant to Article 89 of Reg. (EU) 1306/2013 (checks relating to marketing rules for certain categories of grapevine products the labelling and presentation of which must contain specific mandatory particulars, checks to ensure that raw true hemp and seeds of varieties of hemp falling within specific CN codes meet the requirements that apply to them, etc.), where those checks identify possible fraudulent or deceptive practices in respect of the marketing standards referred in Articles 73-91 of Regulation (EU) No 1308/2013.

The provisions in the new Regulation compared to the old one in relation to fraud are the following²⁴⁹:

- More specific rules to target fraud, including the obligation for MS to perform regular and unannounced risk-based controls;
- Financial penalties targeting fraudulent behaviour must reflect the economic advantage of the perpetrator, or a percentage of his/her turnover;
- EU Reference Centres will be established for animal welfare and Centres for the authenticity and integrity of the agri-food chain.

The new Regulation also covers animal by-products and plant health, but plant reproductive material (e.g. seeds) is not covered.

Furthermore, the Regulation applies when fraudulent and deceptive practices concerning marketing standards for agricultural products are identified during checks performed under marketing standards rules (Regulation (EU) No 1306/2013).

The authorities must perform frequent official controls to identify non-compliance due to fraudulent or deceptive practices. The frequency should be determined on a risk basis and considering information shared from other MS.

For imported products or animals, Authorities can intensify controls for products of similar origin and use if they suspect fraudulent or deceptive practices.

The Commission must designate European Reference Centres that will provide specialist knowledge in the **authenticity and integrity** of the agri-food chain and in methods for detecting violations of the rules relating to official controls in order to support prevent, detect and combat fraud and deceptive practices. These Centres will also aim to identify which segments of the agri-food chain are potentially subject to such violations or fraudulent and deceptive practices. The Regulation also lays down certain requirements and tasks for these Reference Centres.

The Regulation requires the Authorities to take all measures to ensure that no false or misleading certificates are issued and that official certificates are not abused; where such practices are identified, they must take action against the certifying officer or any other measure to prevent recurrence.

²⁴⁹ http://ec.europa.eu/food/sites/food/files/safety/docs/oc_qa_ocregulation_20170407_en.pdf

The Regulation finally requires MS to ensure that all information related to non-compliance with the rules on official controls or violations due to fraudulent or deceptive practices is communicated to competent authorities.

3.2.2.2. Regulation (EU) No 652/2014 on the management of food chain expenditure

Regulation (EU) No 652/2014²⁵⁰ establishes provisions for the management of expenditure relating to the food chain and aiming to attain food and feed safety, animal health and welfare, fair trading practices and plant health and plant reproductive material. When measures financed under this Regulation are implemented, the Commission must take measures to prevent fraud and thus protect the financial interests of the Union. In case fraud is detected, penalties should be imposed, and the amounts wrongly paid should be recovered. The EU centres for the authenticity and integrity of the food chain established under Reg. 625/2017 may receive grants from the Commission to implement the work programme.

The European Anti-Fraud Office (OLAF) may carry out inspections with a view to establishing whether there has been fraud affecting the financial interests of the Union.

3.2.2.1. Labelling fraud

Regulation (EU) No 1169/2011 on the provision of food information to the consumer specifies certain particulars that must appear on the label of foodstuffs. The Regulation allows for the implementation of national measures on additional mandatory particulars for specific food products with the aim to prevent fraud.

3.2.2.2. Other legislation

Specific provisions are laid down within certain Regulations or Directives with the aim to detect fraud in the field they regulate. For example, Directive 96/23/EC on measures to monitor certain substances and their residues in live animals and animal products, specifically allows the competent authorities to carry out random official checks without any prior notice to check for the possession of prohibited substances or their presence at any stage of the animal production chain where fraud is suspected.

3.2.2.3. EU actions to counter fraud since 2013

Since 2013 and the Horse meat crisis, the following initiatives have been taken to enhance the EU control system in detecting and countering fraud in the food chain²⁵¹:

²⁵⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02014R0652-20170428&from=EN>

²⁵¹ https://ec.europa.eu/food/safety/food-fraud_en

- **Creation of an EU Food Fraud Network** with representatives from the European Commission and all MS including Switzerland, Norway and Iceland, with the aim to establish more efficient cross-border administrative assistance and cooperation;
- Development of a dedicated IT tool, the **Administrative Assistance and Cooperation System (AAC)** (operation since November 2015), that enables members of the EU Food Fraud Network to rapidly exchange information on potential cases of cross-border fraud;
- **Specialised training** (in the framework of the Better Training for Safer Food initiative) for food inspectors, police and customs officers and judicial authorities of the MS, on new investigation and control techniques related to food fraud (including eCommerce);
- **Coordinated Control Plans** at EU level;
- The new **Official Controls Regulation**.

4. COLLABORATIVE INITIATIVES PROMOTING SUSTAINABILITY IN EU FOOD VALUE CHAINS

Sustainability is a huge topic and it is beyond the scope of this project to cover it in detail. In line with the VALUMICS project objectives, this part of the report identifies **collaborative initiatives intended to enhance the sustainability of EU Food value chains.**

For the purposes of this review, **collaborative sustainability initiatives** are defined as:

'policy initiatives from the European Commission that involve collaborations by different actors along the value chain to achieve specified sustainability outcomes; or, in the case of MS, are initiated either by the European Commission or by public authorities within the MS'

These collaborative initiatives invariably arise from pre-existing, cumulative bodies of policy activity and can cover environmental and social sustainability initiatives.

In the following paragraphs, we briefly review the EU policies on sustainability that frame and contextualise the collaborative initiatives. More information on these sustainability policies, as well as on the broader environmental and other policies that set the frame of these policies is provided in the Annex.

Setting the basis of EU policies, the Treaty of the Functioning of the European Union²⁵² requires that policy on the environment contributes to preserving, protecting and improving the quality of the environment, protects human health, natural resources and promotes measures for environmental problems and, in particular, climate change. It also requires that environment policy is based on the precautionary principle, on taking preventive action, on correcting environmental damage and on the principle that the polluter should pay. Also, requirements for environmental protection must be integrated into the definition and implementation of the Union's policies and activities, in particular with a view to promoting sustainable development. The Treaty also provides the foundations for the EU's extensive social policies, focused on fairness and cohesion, the promotion of employment, improved living and working conditions, social protection, dialogue between management and labour, and the development of human resources with a view to lasting high employment and the combating of exclusion. These policies are reflected in the activity around fairer trading practices, already discussed, as well as contributing to the collaborative sustainability initiatives described below.

The following Table summarises the key collaborative initiatives promoting sustainability in the food value chain that have been identified from our research. In the following pages, these are examined in more detail, while in the Annex more

²⁵² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

information can be found on how these collaborative initiatives relate to the broader EU sustainability and environmental policies.

Table 5: Key collaborative initiatives promoting sustainability in the food value chains

Collaborative initiative	Coordination	How it promotes sustainability in the food value chains
<p>The Food Sustainable Consumption and Production Round Table (SCP RT)</p>	<p>Initiative co-chaired by the European Commission and food supply chain partners and supported by the UN Environment Programme (UNEP) and the European Environment Agency. Members represent the European food supply chain, other stakeholders (some as observers). Participation is open to consumer organisations and environmental/nature conservation Non-Governmental Organisations (NGOs).</p>	<p>Its aim is to promote ‘a science-based, coherent approach to sustainable consumption and production in the food sector across Europe, while taking into account environmental interactions at all stages of the food chain’.</p> <p>To support informed choice, the environmental information communicated along the food chain, including to the consumers, must be scientifically reliable and consistent, understandable and not misleading.</p> <p>The food SCP RT has developed 10 Guiding Principles on voluntary environmental assessment and communication of environmental information along the food chain and to consumers.</p> <p>It has also launched the EU Envifood Protocol, a general methodology for the environmental assessment of food and drink products that also ensures environmental information is communicated along the food chain and to the consumers in a practical and reliable way.</p>
<p>EU Platform on Food Losses and Food Waste (FLW) (2016)</p>	<p>Composed of max. 70 senior-level representatives of both the public and private sectors in relation to food waste: competent authorities, umbrella organisations and federations, NGOs, charity organisations, EU bodies (Committee of the Regions, European Economic and Social Committee), international organisations. The public members of the Platform are invited by the Commission while the private ones are selected through an open call for applications. The Platform’s work must be communicated to the</p>	<p>Platform dedicated to the prevention of food waste, to support the achievement of target 12.3 of the 12th Sustainable Development Goal to halve per capita food waste and reduce food losses along the food chain. The aim of the EU Platform on FLW is to support all actors (Commission, Member States, actors in the food value chain) in defining measures needed to prevent food waste, in sharing best practice and in evaluating progress made over time.</p> <p>Certain sub-groups may be set up to examine specific issues. These report to the Platform and operate under its rules and the rules for Commission Expert Groups:</p> <ul style="list-style-type: none"> • Sub-group on food donation <p>Aims to provide input on and prepare EU food donation guidelines for those donating and those receiving food surplus; to identify existing practices on food donation in MS for sharing with Platform members and publication on the</p>

	<p>European Parliament</p>	<p>'Resource library' section of the Commission's food waste website; to contribute to the further scoping of a Pilot Project on food redistribution to be launched in 2017 with the aim to research practices in the MS and to disseminate future EU guidelines at national level.</p> <ul style="list-style-type: none"> • Sub-group on food waste measurement <p>Aims to support the development of a common EU framework for the reporting of food waste amounts and enabling such reporting for SDG target 12.3; the development of food waste indicators that can be used for the monitoring of food waste prevention policies; the identification and sharing with Platform members of existing data sets, data collection practices and experiences on measuring food loss and waste from MS; support discussions on the feasibility of monitoring resource flow and food losses in the agro-food industries in the EU.</p>
<p>Methods to measure and communicate the life cycle environmental performance of products and organisations:</p> <ul style="list-style-type: none"> • Product Environmental Footprint (PEF) • Organisational Environmental Footprint (PEF) 	<p>Developed by DG Environment together with the DG Joint Research Centre and other European Commission services in consultation and testing in collaboration with industry.</p>	<p>PEF is a method that measures the life cycle environmental performance of products. It considers the environmental impacts of all steps needed to get the product to the consumer, such as for the materials and energy needed to make the product, manufacturing, transport, use and end of life of the product.</p> <p>The OEF method applies to organisational activities as a whole, to all activities associated with the goods and/or services the organisation provides from a supply chain perspective: from extraction of raw materials, through use, to final waste management options.</p> <p>To be able to make independent comparisons between the results of separate assessments within a given product category or sector, the PEF and OEF methods require that Category Rules (PEFCR) and Sector Rules (OEFSR) are</p>



		<p>developed respectively. The Food SCP Round Table is tasked with coordinating the development of such product category rules (PCRs) for food and drink related products.</p>
<p>JuiceCSR, the European fruit juice Corporate Social Responsibility platform</p>	<p>Jointly initiated by the EU-level trade association for the juice sector, the European Fruit Juice Association (AIJN), and the Danish CSR consultancy Sociability, and 'endorsed and co-funded' by the European Commission for the first 18 months of its operation</p>	<p>Aims to facilitate and encourage collaboration among stakeholders, and to set a clear framework for commitment to targets, implementation of activities and monitoring of CSR progress. It seeks to include the views of all stakeholders, and to harmonise and communicate efforts from the whole chain.</p> <p>In 2014, the platform produced a Roadmap, with the aim of enabling the industry to 'positively impact society and the environment'. The sector has agreed a set of six principles, based on the UN Global Compact Food and Agriculture Business Principles. The Roadmap also published some preliminary 'commitments', under which members would express their support for the UN Global Compact Food and Agriculture Business Principles, perform company baseline checks against the six principles, and commit to working collaboratively on at least one of them on a voluntary basis. The Roadmap also provides links to other voluntary platforms working to promote supply chain sustainability.</p>

4.1. EU FOOD SUSTAINABLE CONSUMPTION AND PRODUCTION ROUND TABLE

The food Sustainable Consumption and Production Round Table (SCP RT) is an initiative co-chaired by the European Commission and food supply chain partners and supported by the UN Environment Programme (UNEP) and the European Environment Agency²⁵³. Its member organisations represent the European food supply chain plus other stakeholders, some as observers. Participation is also open to consumer organisations and environmental/nature conservation Non-Governmental Organisations (NGOs).

Its vision is to promote ‘a science-based, coherent approach to sustainable consumption and production in the food sector across Europe, while taking into account environmental interactions at all stages of the food chain’.

Its lead principle is that to support informed choice, the environmental information communicated along the food chain, including to the consumers, must be scientifically reliable and consistent, understandable and not misleading. The food SCP RT has developed the following 10 Guiding Principles on voluntary environmental assessment and communication of environmental information along the food chain and to consumers²⁵⁴:

- I. Principles for the voluntary environmental assessment of food and drink products**
 1. Identify and analyse the environmental aspects at all life-cycle stages.
 2. Assess the significant potential environmental impacts along the life-cycle.
 3. Apply recognised scientific methodologies.
 4. Periodically review and update the environmental assessment.
- II. Principles for the voluntary communication of environmental information**
 5. Provide information in an easily understandable and comparable way so as to support informed choice.
 6. Ensure clarity regarding the scope and meaning of environmental information.
- III. Principles for both voluntary environmental assessment and communication.**
 7. Ensure transparency of information and underlying methodologies and assumptions.
 8. Ensure that all food chain actors can apply the assessment methodology and communication tools without disproportionate burden.
 9. Support innovation.
 10. Safeguard the Single Market and international trade.

²⁵³ <http://www.food-scp.eu/node/14>

²⁵⁴ <http://www.food-scp.eu/node/26>

The food SCP RT's specific objectives are centred around the following three main topics in the management of environmental sustainability along the European food chain:

- Identification of scientifically reliable and uniform environmental assessment methodologies for food and drink products, including product category specifications where relevant, considering their significant impacts across the entire product life-cycle;
- Identification of suitable communication tools to consumers and other stakeholders, looking at all channels and means of communication;
- Promotion of and reporting on continuous environmental improvement along the entire food supply chain and engaging in an open dialogue with its stakeholders.

In pursuing the above objectives, the RT must ensure compliance with EU single market rules and avoid distortions of competition.

Overall the aim of the European food SCP RT is to **establish the food chain as a major contributor towards sustainable consumption and production in Europe**. The European Food SCP RT's activities aim to:

- help strengthen the long-term **competitiveness** of the European food chain,
- support EU **policy** objectives (notably those outlined in the European Commission's Action Plan on Sustainable Consumption and Production (SCP) and Sustainable Industrial Policy²⁵⁵)
- advance **resource efficiency**, **sustainable value chains** and **social responsibility** taking into account the global SCP agenda, including the initiatives facilitated by UNEP and other organisations.

In 2012 the European Food SCP RT published a report on 'Continuous Environmental Improvement'²⁵⁶ with the aim to communicate and promote continuous voluntary environmental sustainability initiatives in the different stages of the food and drink value chain, to address its key environmental challenges.

In 2013, it launched the **EU Envifood Protocol, a general methodology for the environmental assessment of food and drink products** that also ensures **environmental information is communicated along the food chain and to the consumers in a practical and reliable way**. The ENVIFOOD Protocol is intended to be a general methodology that allows the adoption of more detailed sectoral guidance and product category rules²⁵⁷.

The assessment and communication of the environmental performance of food and drink products must comply with all existing Community rules laid down in the EU Treaty, including those on the free movement of goods²⁵⁸, and in secondary EU

²⁵⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0397&from=EN>

²⁵⁶ http://www.food-scp.eu/files/Continuous_Environmental_Improvement_FINAL_21_November_2012.pdf

²⁵⁷ http://www.food-scp.eu/files/ENVIFOOD_Protocol_Vers_1.0.pdf

²⁵⁸ Articles 34 and 35 of the Treaty on the Functioning of the European Union
VALUMICS_D3.2 report

legislation, such as the rules aimed at protecting consumers against misleading and deceiving information²⁵⁹.

The ENVIFOOD Protocol represents an intermediate step between ISO standards, the European Commission's Product Environmental Footprint and product-specific rules. It is not a stand-alone document or a product category rule for food and drinks. It provides further guidance for food and drink products without duplicating the other methodologies.

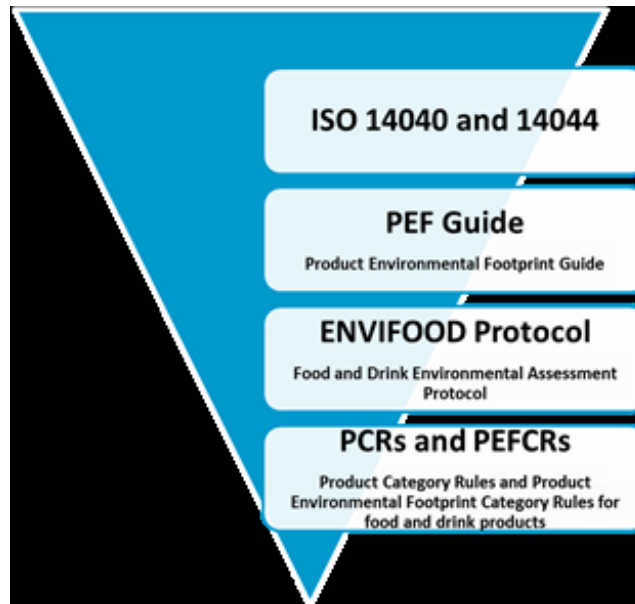


Image 2: Relative position of the ENVIFOOD Protocol in relation to the other environmental systems (from http://www.food-scp.eu/files/PCR-WorkingPaper_final.pdf)

A nice example of how this works in practice is provided by Saouter et al. 2014²⁶⁰ for coffee beverage products: The general guidance on LCA is provided by the ISO norms 14040 and 14044 (e.g. the different phases of LCA). The methodology to follow would further be specified in the PEF Guide (e.g. which impact assessment model should be used). The ENVIFOOD Protocol then provides additional guidance specific to the food sector – in the example on coffee, this might be related to functional unit and the calculation of land use change associated to the development of coffee plantations. Finally, PCRs and PEFCRs would specify further details of how the assessment should be conducted at product level, including for instance on the consumer use phase (e.g. heating of water to drink the beverage). Based on all documents, calculation tools to assess environmental impacts of coffee beverages could be developed. Such tools would be sufficiently simple to use without the need of a deep understanding of all available guidance.

²⁵⁹ Regulation 1169/2011 on the Provision of food information to consumers, Regulation 767/2009 on the marketing and use of feed, and Directive 2005/29/EC on Unfair Commercial Practices and the recently published European Commission guidance on its implementation (SEC(2009) 1666).

²⁶⁰ <http://lcafood2014.org/papers/20.pdf>

4.2. EUROPEAN CIRCULAR ECONOMY STAKEHOLDER PLATFORM

After the Circular Economy Stakeholder Conference of 2017, the European Circular Economy Stakeholder Platform was launched by the Commission and the European Economic and Social Committee (EESC), also supported by the European Parliament²⁶¹, the Council²⁶² and the Committee of the Regions²⁶³. Its vision is to act as a hub of knowledge and dialogue on circular economy among stakeholders taking advantage of cross-sectoral opportunities and challenges²⁶⁴.

The aims of the Platform will be to:

- Advance the concept of circular economy in Member States, regional and local governments, civil society and industry,
- Strengthen cooperation between stakeholders to facilitate the exchange of expertise and
- Contribute to the identification of barriers to the transition towards a circular economy (social, economic, cultural)²⁶⁵.

This Platform will be structured based on three pillars: **policy dialogue** with stakeholders' views and input, a **coordination group** that will bring together the different stakeholders (business, civil society, authorities, research institutions, etc.) and finally a **website for dissemination** of all circular economy related content and information (events, good practices, contacts).

The Platform will have an initial mandate of three years and its activities will be reported annually within the context of the implementation of the Circular Economy Action Plan (CEAP) and in the five-year report after the adoption of the CEAP.

4.3. EU PLATFORM ON FOOD LOSSES AND FOOD WASTE (2016)

The Commission Communication on Circular Economy²⁶⁶ of 2015 asked the Commission to establish a Platform dedicated to the prevention of food waste, to support the achievement of target 12.3 of the 12th Sustainable Development Goal to halve per capita food waste and reduce food losses along the food chain. The aim of the **EU Platform on Food Losses and Food Waste (FLW)** is to support all actors (Commission, Member States, actors in the food value chain) in defining measures

²⁶¹ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2015-0266+0+DOC+PDF+V0//EN>

²⁶² <http://www.consilium.europa.eu/en/press/press-releases/2016/06/20-envi-conclusions-circular-economy/>

²⁶³ <http://cor.europa.eu/en/activities/opinions/pages/opinion-factsheet.aspx?OpinionNumber=CDR%201415/2016>

²⁶⁴ http://ec.europa.eu/environment/circular-economy/index_en.htm

²⁶⁵ http://ec.europa.eu/environment/temp/CESP_aim_structure.pdf

²⁶⁶ http://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.02/DOC_1&format=PDF

needed to prevent food waste, in sharing best practice and in evaluating progress made over time²⁶⁷. This is also reflected in the proposal for a Directive on waste²⁶⁸. The Platform builds on the work of the stakeholder Working Group on Food Losses and Food Waste and the Commission Expert Group on food losses and food waste described in detail above. The Platform helps the Commission to identify and prioritise related actions at EU level and helps the other actors to identify and implement actions at national, regional or local level through the sharing of information and best practices and the exchange of national programmes for the prevention and monitoring of waste, and to share on the progress made towards achieving Target 12.3. It also provides advice and expertise on the implementation of EU legislation and policies and facilitates the preparation of potential policy initiatives, where relevant, as well as contributes to the development of relevant guidance and communication initiatives²⁶⁹.

The Platform is composed of a maximum of 70 senior-level representatives of both the public and private sectors in relation to food waste: competent authorities, umbrella organisations and federations, NGOs, charity organisations, EU bodies (Committee of the Regions, European Economic and Social Committee), international organisations. The public members of the Platform are invited by the Commission while the private ones are selected through an open call for applications. The Platform's work must be communicated to the European Parliament. The Platform must meet at least twice in a year and has an initial mandate until the end of 2019. Certain **sub-groups may be set up to examine specific issues and these must report to the Platform and operate under its rules and the rules for Commission Expert Groups**. Experts may also be invited to participate in the work of the Platform or its sub-groups. In 2017, two such groups were established:

- **Sub-group on food donation**

The aim of this sub-group²⁷⁰ is:

- to provide input on and prepare EU food donation guidelines for those donating and those receiving food surplus by the end of 2017;
- to identify existing practices on food donation in MS for sharing with Platform members and publication on the 'Resource library' section of the Commission's food waste website;
- to contribute to the further scoping of a Pilot Project on food redistribution to be launched in 2017 with the aim to research practices in the MS and to disseminate future EU guidelines at national level.

- **Sub-group on food waste measurement**

The aim of this sub-group²⁷¹ is to support:

²⁶⁷ https://ec.europa.eu/food/safety/food_waste/eu_actions/eu-platform_en

²⁶⁸ <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52015PC0595>

²⁶⁹ https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_flw-platform_tor.pdf

²⁷⁰ https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_subgroup-mandate_food-donation.pdf

²⁷¹ https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_subgroup-mandate_fw-measure.pdf

- the development of a common EU framework for the reporting of food waste amounts and enabling such reporting for SDG target 12.3;
- the development of food waste indicators that can be used for the monitoring of food waste prevention policies;
- the identification and sharing with Platform members of existing data sets, data collection practices and experiences on measuring food loss and waste from MS;
- discussions on the feasibility of monitoring resource flow and food losses in the agro-food industries in the EU.

4.4. EUROPEAN PLATFORM ON LIFE CYCLE ASSESSMENT

An Integrated Product Policy (IPP) has been under discussion in the EU since 1998 in a process that involved stakeholder consultations, studies and discussions in different meetings. It has been shown that IPP can contribute to sustainable development. The Communication from the Commission to the European Parliament and the Council on **'Integrated Product Policy: Building on environmental life-cycle thinking'**²⁷² explains the importance of a product dimension to the environmental policy, explains the IPP approach and presents the principles of the EU's IPP strategy.

Product-related environmental policies need to look into environmental impacts throughout the life-cycle of products including in the use phase instead of just focusing on industrial emissions and waste management.

A range of tools and approaches are presented that may be used by different stakeholders to help in continuous environmental improvement, such as tools for creating a suitable economic and legal framework, tools to promote life-cycle thinking and ways to allow the consumer to decide by providing the appropriate information.

Life cycle assessment was identified as the best framework for assessing the potential environmental impacts of products. The Communication indicated that the Commission would provide a platform to facilitate communication and exchanges to promote the application of life-cycle thinking. The resulting initiative was the **'European Platform on Life Cycle Assessment'** managed by the Joint Research Centre, Institute for Environment and Sustainability (JRC-IES) in collaboration with the DG Environment, Directorate for Sustainable Development and Integration²⁷³. It supports the implementation of the Thematic Strategies on the Prevention and Recycling of Waste and on the Sustainable Use of Natural Resources, IPP, and the SCP Action Plan while it may also support the life-cycle initiatives of other product-related policies and activities, e.g. Energy using products Directive.

The Communication also presented the aim of the Commission to identify products that have the greatest potential for improvement in their environmental impact²⁷⁴. A range of studies were carried out to fulfil this aim and identify those products and possible ways to reduce their environmental impacts.

²⁷² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003DC0302&from=EN>

²⁷³ http://ec.europa.eu/environment/ipp/pdf/bio_ipp.pdf

²⁷⁴ <http://ec.europa.eu/environment/ipp/identifying.htm>

4.5. METHODS TO MEASURE AND COMMUNICATE THE LIFE CYCLE ENVIRONMENTAL PERFORMANCE OF PRODUCTS AND ORGANISATIONS

4.5.1. PRODUCT ENVIRONMENTAL FOOTPRINT (PEF)

Starting in 2003 with the **Integrated Product Policy (IPP) Communication**²⁷⁵ that introduced the concept of **Life Cycle Thinking** in EU policy-making and continuing with the renewed **EU Sustainable Development Strategy** adopted in 2006 and the conclusions of the European Council of March 2008 restating the EU's commitment to tackling climate change, the Council, in its conclusions on the **Sustainable Consumption and Production Action Plan**²⁷⁶ (2008) invited the Commission '*taking into account Member States' experience, to start working as soon as possible on common voluntary methodologies facilitating the future establishment of carbon audits for organisations and the calculation of the carbon footprint of products*'. As a follow up, DG Environment together with the DG Joint Research Centre and other European Commission services worked towards the development of a harmonised methodology for the calculation of the environmental footprint of products and organisations (including carbon)²⁷⁷. Several existing methods and initiatives were considered and after a consultation process, as well as a testing exercise in collaboration with industry, the final methods: the **Product Environmental Footprint (PEF)** and the **Organisation Environmental Footprint (OEF)**, were published as an Annex to the **Commission Recommendation on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations**²⁷⁸ (2013/179/EU). The two methods are tightly interlinked and have many elements in common.

The Product Environmental Footprint (PEF) is a **method** that measures the life cycle environmental performance of products²⁷⁹. The information provided considers the environmental impacts of all steps needed to get the product to the consumer, such as for the materials and energy needed to make the product, manufacturing, transport, use and end of life of the product. The PEF method covers the following 15 environmental impacts: climate change; ozone depletion; human toxicity – cancer and non-cancer effects; eco-toxicity – freshwater aquatic; particulate matter/respiratory inorganics; ionising radiation; photochemical ozone formation; acidification; eutrophication – terrestrial, aquatic freshwater and marine; land use; resource depletion – water, mineral, fossil and renewable. The bigger the value of the result (tonnes of CO₂), the bigger the impact. However, due to the difficulty in measuring the impacts precisely, values close to each other become comparable and therefore performance classes are used (A, B, C, D, E or traffic light system) that also consider the uncertainty in the results²⁸⁰.

²⁷⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003DC0302&from=EN>

²⁷⁶ <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2016914%202008%20INIT>

²⁷⁷ http://ec.europa.eu/environment/eusssd/smgrp/dev_methods.htm

²⁷⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013H0179&qid=1501598262607&from=EN>

²⁷⁹ http://ec.europa.eu/environment/eusssd/smgrp/communication/what_is_pef.htm

²⁸⁰ <http://ec.europa.eu/environment/eusssd/smgrp/communication/impact.htm>

4.5.2. ORGANISATIONAL ENVIRONMENTAL FOOTPRINT (OEF)

Whereas the PEF method is specific to individual goods or services, the OEF method applies to organisational activities as a whole (to all activities associated with the goods and/or services the organisation provides from a supply chain perspective: from extraction of raw materials, through use, to final waste management options). Calculating the OEF does not require multiple product analyses. It is calculated using aggregate data representing the flows of resources and waste that cross a defined organisational boundary. Once the OEF is calculated, however, it may be disaggregated to the product level using appropriate allocation keys. In theory, the sum of the PEFs of the products provided by an organisation over a certain reporting interval (e.g. one year) should be close to its OEF for the same reporting interval. Moreover, the OEF can help to identify areas of the organisation's product portfolio where environmental impacts are most significant and, hence, where detailed, individual product-level analyses may be required²⁸¹.

To be able to make independent comparisons between the results of separate assessments within a given product category or sector, the PEF and OEF methods require that **Category Rules (PEFCR)** and **Sector Rules (OEFSR)** are developed respectively. These will tailor the general provisions of the PEF and OEF methods into product category or sector specific rules that will allow focus on the three or four most relevant environmental impacts among the 14 key environmental impacts indicators and the most relevant processes or life cycle stages for a given product category or sector.

Between 2013-2016 an **Environmental Footprint (EF) pilot phase**²⁸² was carried out with the objectives to test the process for developing product- and sector-specific rules, to test different approaches to verification and to test communication vehicles for communicating life cycle environmental performance to business partners, consumers and other company stakeholders. A Guidance document²⁸³ was published that should be followed by all pilot phase participants.

For a range of food and drink products there are not yet harmonised rules for environmental sustainability assessments, in particular for complex products.

The **Food SCP Round Table is tasked with coordinating the development of such product category rules (PCRs) for food and drink related products**²⁸⁴. For these products, the ENVIFOOD Protocol in addition to the PEF/OEF Guides and the above Guidance document will be used. In case of conflicting requirements between the two, the PEF/OEF guides prevail although both could be used for comparison.

A short report on the applications received for the call for volunteers for feed, food, drink and related products testing of environmental footprint during the second wave of the pilots in 2014 can be found at the following link: http://ec.europa.eu/environment/eussd/smgp/pdf/Application_analysis_2w.pdf

In the aquaculture sector, work was within the FEED Pilot Phase that was initiated by the livestock feed sector, coordinated by FEFAC (the European Federation of Feed Manufacturers), which invited FEAP (the Federation of European Aquaculture Producers) to participate for the part relative to fish feeds. The Norwegian Seafood Federation (FHL), took the initiative to promote a FISH Pilot, covering fish farming (marine and freshwater) and fishing since it represents both activities in Norway.²⁸⁵

²⁸¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013H0179&qid=1501598262607&from=EN>

²⁸² http://ec.europa.eu/environment/eussd/smgp/ef_pilots.htm#pilot

²⁸³ http://ec.europa.eu/environment/eussd/smgp/pdf/Guidance_products.pdf

²⁸⁴ http://www.food-scp.eu/files/PCR-WorkingPaper_final.pdf

²⁸⁵ <http://www.feap.info/Default.asp?SHORTCUT=711>

A report has been published recently on a Review of Environmental Footprint supporting studies: **Key learnings regarding PEFCRs/OEFSRs and horizontal issues from 40 supporting studies**²⁸⁶. It aims at understanding the rules and approaches adopted in the supporting studies, thereby providing the Commission with new insights about horizontal issues and about the applicability of draft PEFCRs.

The Commission recommends the use of the PEF and OEF methods by the MS and private and public organisations. The use, by the MS, of the methods in voluntary policies measuring or communicating the life cycle environmental performance of products or organisations should not create obstacles to the free movement of goods in the Single Market. The Recommendation ask companies, private organisations and industrial associations that use the PEF and OEF methods to review the public databases and populate them with high-quality life cycle data and also ask the associations to promote the use of the methods among their members. MS should report yearly to the Commission on actions taken in relation to this Recommendation.

There is currently no EU legislation specifically harmonising all **green claims and marketing**. The EU has regulated the use of claims either by requirements in specific legislation regulating different types of products' performance (such as for example the Energy Star Regulation) or by setting general rules for preventing misleading environmental claims, leaving to national authorities the task to interpret and enforce them on a case-by-case basis as provided for by the Unfair Commercial Practices Directive (UCPD)²⁸⁷. In the context of the implementation of the UCPD, the Commission has issued and intends to provide further specific guidance to promote the use of clear, accurate and relevant environmental claims in marketing and advertising. The Commission has also started a dialogue with relevant stakeholders to identify challenges and best practices, and to agree on key recommendations for future action.

4.6. HIGH-LEVEL FORUM FOR A BETTER FUNCTIONING FOOD SUPPLY CHAIN²⁸⁸

As already noted in Section 2 above, with respect to fairer Trading Practices **the High-Level Forum for a Better Functioning Food Supply Chain** was established in 2010 by the European Commission with the aim to foster debate on food issues and support policy initiatives for an efficient and competitive food supply chain²⁸⁹. It replaced the previous **High-Level Group on the Competitiveness of the Agro-Food Industry**²⁹⁰. It hosted dialogue on food system sustainability that produced a declaration endorsed by several food chain actors. The Forum comprises members from the national authorities of all MS, the food industry and the different sectors of the food chain, professional associations and non-governmental organisations and is chaired by Commissioners. It had an original mandate for two and then four years, which was further renewed by Commission Decision (2015/C 179/03) in 2015 for another four years²⁹¹.

Topics in which the High-Level Forum was involved between 2010-2014 related to:

²⁸⁶

http://ec.europa.eu/environment/eussd/smgp/pdf/learnings_from_review_of_EF_supporting_studies.pdf

²⁸⁷ http://ec.europa.eu/justice/consumer-marketing/files/ucp_guidance_en.pdf

²⁸⁸ https://ec.europa.eu/growth/sectors/food/competitiveness/supply-chain-forum_en

²⁸⁹ https://ec.europa.eu/growth/sectors/food/competitiveness_en

²⁹⁰ http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=7981

²⁹¹ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D0602\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D0602(01)&from=EN)

- the Internal Market for food and drink products: promoted dialogue on the functioning and harmonisation of the Internal Market and also steered work on the impact of national taxes on food and drink products on the competitiveness of the food chain.
- sustainability: hosted dialogue on food system sustainability that produced a declaration endorsed by several food chain actors²⁹².
- business-to-business trading practices: the Forum assisted in addressing unfair trading practices and contributed in the setting-up of the **Supply Chain Initiative**, a joint initiative launched by 7 EU level associations with the aim to increase fairness in commercial relations along the food supply chain²⁹³. This initiative has been welcomed by the Commission²⁹⁴.
- social dialogue: encouraged dialogue between food industry and trade unions and the development of common pledges on social matters²⁹⁵.
- price monitoring: supported improvement of the Food Price Monitoring Tool and the exchange of best practices on food prices in the Member States.

The Forum also contributed to identifying challenges in relation to the Europe 2020 Strategy, in the Communication on the latest Industrial Policy, and the new Common Agricultural Policy and provided input in the fitness check of the food chain and the General Food Law principles and other topics on health and nutrition and innovation. The Forum highlighted that action on these issues must continue to support the competitiveness of the food supply chain and SMEs.

4.6.1. RETAILERS ENVIRONMENTAL ACTION PROGRAMME

In response to the European Commission's Action Plan on Sustainable Consumption and Production, European retailers and the ERRT set up the **Retailers Environmental Action Programme** (REAP) in 2009. This is a voluntary initiative. Its aims are to reduce the environmental footprint of the retail sector and its supply chains, to promote more sustainable products and to provide better information to consumers. REAP facilitates sustainability dialogue between stakeholders in the supply chain (Commission, retailers, producers, consumers) and stimulates action by its members. It aims to achieve this through its two pillars: the **Retail Forum for Sustainability** and the retailers' commitments that are recorded in the **Matrix of environmental Action Points**. A third aspect, commitments in a **Circular Economy Agreement**, was introduced by the most recent extension of the REAP²⁹⁶.

²⁹² http://www.fooddrinkeurope.eu/uploads/press-releases_documents/Declaration_Sustainability_of_Food_System.pdf

²⁹³ <http://www.supplychaininitiative.eu/about-initiative>

²⁹⁴ http://ec.europa.eu/internal_market/retail/docs/140715-communication_en.pdf

²⁹⁵ http://www.fooddrinkeurope.eu/uploads/press-releases_documents/PR_social_dialogue_-_plenary_2012_FINAL_website_1.pdf

²⁹⁶ <http://ec.europa.eu/environment/industry/retail/pdf/REAP%20Circular%20Economy%20Agreement.pdf>

Since its setup, REAP has achieved significant results such as the adoption of a Code of Conduct on the environmental footprint of retailers' operations, the implementation of retailers' commitments beyond legislation, a Retail Agreement on Waste²⁹⁷ and in general the exchange of good practices and collaboration with stakeholders in the supply chain and a better understanding of issues and opportunities²⁹⁸. REAP members publish a summary of their achievements annually.

On 1st June 2016, the REAP pledged to contribute to the implementation of a more circular economy during the next three years²⁹⁹ by focusing on a range of individual commitments in relation to sustainable sourcing, product re-design, greener operations and distribution, consumer and employee information, food waste prevention and reuse and recycling³⁰⁰.

Monitoring of REAP is carried out by the Commission without any burdens to the REAP members and the results of the monitoring are available on a website hosted by the Commission.

- **Retail Forum for Sustainability**

The Retail Forum for Sustainability is a multi-stakeholder platform with the aim to promote environmentally sustainable consumption³⁰¹, promote best practices on sustainability in retail and identify challenges and opportunities³⁰². It aims to promote more environmentally friendly and energy efficient products and advises consumers on how to use them more efficiently. The Retail Forum was **endorsed by the EU Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan³⁰³ (2008)** and it is considered as a significant contribution in its implementation. **It was launched in 2009 by the European Commission** (Commissioners for Environment and Consumer) and the European retail sector (representatives of the ERRT) with the involvement of other stakeholders (producers, consumers, environment groups). The Forum was initially set up for three years but was then extended for a second and later a third phase of three years until 2018. Membership of the Retail Forum is voluntary and is open to all retailers. Currently the members of the Forum are 17 retail companies and three retail associations. However, all stakeholders (producers, suppliers, consumer and environmental organisations) can participate in the meetings of the Forum to ensure transparency and collaboration³⁰⁴. Meetings take place four times a year and they are co-chaired by a Commission and a retailer representative. The European Commission provides visibility to the Forum and monitors the delivery of the commitments in the context of REAP.

After each meeting of the Retail Forum an Issue Paper is drawn up in close collaboration with the Commission and with the input of all stakeholders involved. The Issue Papers analyse the EU legislative framework, identify challenges and opportunities, and highlight best practices and possible actions for policy-makers and stakeholders³⁰⁵. The conclusions of the Issue Papers identify the need for legislative or non-legislative measures on the specific topics discussed. These Issue Papers can be accessed at this link:

²⁹⁷ http://www.eurocommerce.eu/media/120522/12_wastereport2014.pdf

²⁹⁸ <http://ec.europa.eu/environment/industry/retail/pdf/REAP%202016-2018%20Terms%20of%20Reference.pdf>

²⁹⁹ http://ec.europa.eu/environment/industry/retail/index_en.htm

³⁰⁰ <http://www.errt.org/priorities#block-bean-creating-a-single-market-in-retail>

³⁰¹ <http://ec.europa.eu/environment/industry/retail/launch.htm>

³⁰² http://ec.europa.eu/environment/industry/retail/index_en.htm

³⁰³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0397&from=EN>

³⁰⁴ <http://ec.europa.eu/environment/industry/retail/meetings.htm>

³⁰⁵ http://ec.europa.eu/environment/industry/retail/issue_papers.htm

http://ec.europa.eu/environment/industry/retail/issue_papers.htm

The benefit of the Retail Forum for consumers is that it can give them advice and access to better and greener products at more affordable prices as well as information on how to use them more efficiently. The benefit for retailers is that it can help them grow and innovate but also compete by offering consumers a wider choice of more sustainable/greener products that they seek. It also has the potential to help retailers reduce costs³⁰⁶.

4.7. ADVISORY COUNCILS UNDER THE COMMON FISHERIES POLICY

According to the Common Fisheries Policy, **Advisory Councils** must be established for different geographical areas (West Atlantic, East Atlantic, Indian Ocean, Black Sea) and fields of competence (aquaculture, markets) in which **all stakeholders** (organisation representing fisheries, aquaculture operators, processing and marketing sector representatives, environmental organisations, consumer groups) will take part to fulfil the objectives of the CFP. More details on the operation of these Councils are also provided. In addition, Commission Delegated Regulation (EU) 2015/242 lays down detailed rules for the functioning of the Advisory Councils under the CFP³⁰⁷.

An **Aquaculture Advisory Council (AAC)** has been established in 2016 with the main objective to provide European institutions and MS with recommendations and advice on issues related to the sustainable development of this sector. It is stakeholder-led and composed of representatives from the industry and other stakeholders. It is based in Brussels and receives financial assistance by the EU. The AAC will try to address the different components of the sector using expertise from its member organisations³⁰⁸.

4.7.1. A STRATEGY FOR THE SUSTAINABLE DEVELOPMENT OF EUROPEAN AQUACULTURE

The 2002 Strategy and the policy initiatives contained achieved some progress regarding environmental sustainability and the safety and quality of aquaculture products, however EU aquaculture production stagnated over the same period as opposed to other parts of the world. Communication 162 of 2009 **Building a sustainable future for aquaculture: A new impetus for the Strategy for the Sustainable Development of European aquaculture**³⁰⁹ aimed at addressing the reasons for this stagnation and ensure that the EU remained a key player in the sector, building on the achievements of the 2002 Communication above and on the marine activities contained in the EU Integrated Maritime Policy. A vision was presented for the future of EU aquaculture and challenges and potential solutions were discussed.

One of the ways to promote the competitiveness of EU aquaculture was through promoting research and technological development. An initiative had been launched around that time by industry leaders that aimed to establish a **European Aquaculture Technology and Innovation Platform (EATIP)** to help maintain the world leadership of

³⁰⁶ <http://ec.europa.eu/environment/industry/retail/faq.htm>

³⁰⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02015R0242-20171009&from=EN>

³⁰⁸ https://ec.europa.eu/fisheries/cfp/aquaculture/aquaculture-advisory-council_en

³⁰⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009DC0162&from=EN>

EU aquaculture, provide a strategic vision and define priorities for the sector. The EATIP's vision was finally launched in 2012 and it described the position European Aquaculture should occupy by 2030 and provides the basis for its Strategic Research & Innovation Agenda and its associated Implementation Plan. It also identified 8 Thematic Areas within EATIP, *'each covering important sectoral areas of strategic importance for the future inclusive, smart and sustainable growth of the entire aquaculture value chain and contributing the goals set out by the Europe 2020 proposals for economic reform'*. EATIP *'is composed of associations and federations, companies, public authorities, institutions and universities, financial institutions, of European or international origin, that each has a declared and professional interest in the sustainable development of European aquaculture. It has no political character and does no profit-making activities'*^{310,311}. The European Commission acts as an observer to the EATIP.

Another area of focus of the Communication was that the Community should establish such conditions to promote sustainable growth of aquaculture through protecting the environment, ensuring animal welfare and ensure the protection of consumer health.

Other suggestions from the Communication were the need for better implementation of EU legislation in the sector, reduction of the administrative burden, stakeholder participation and support of public information initiatives and appropriate monitoring of the sector.

4.8. JUICECSR, THE EUROPEAN FRUIT JUICE CSR PLATFORM

JuiceCSR is the European fruit juice CSR platform. Its strapline is *'Collaborating for a sustainable, thriving and resilient fruit juice sector'*³¹². It is a rare example of an EU-initiated, collaborative sustainability initiative in a specified food sector. It grew from policymakers' and the sector's awareness of sustainability-related risks and vulnerabilities in its global supply chains and acknowledges that the industry *'needs to work with stakeholders to continuously improve its social, environmental, ethical and human rights performance'*³¹³.

The Platform was jointly initiated by the EU-level trade association for the juice sector, the European Fruit Juice Association (AIJN), and the Danish CSR consultancy Sociability, and was *'endorsed and co-funded'* by the European Commission for the first 18 months of its operation. Since 2016 its management partner has been the Dutch consultancy Fair & Sustainable Advisory Services (FSAS), which specialises in sustainable supply chains³¹⁴.

The main roles of the Platform are to facilitate and encourage collaboration among stakeholders, and to *set a clear framework for commitment to targets, implementation of activities and monitoring of CSR progress. It also seeks to include the views of all stakeholders, and to harmonise and communicate efforts from the whole chain.*

In 2014, the platform produced a Roadmap, with the aim of enabling the industry to 'positively impact society and the environment'. However, it says that 'integrating CSR

³¹⁰ <http://www.eatip.eu/Default.asp?SHORTCUT=285>

³¹¹ <http://www.eatip.eu/shortcut.asp?FILE=1101>

³¹² JuiceCSR website, 'Juice CSR Platform', <http://juicecsr.eu/>, viewed 24.10.17

³¹³ JuiceCSR (2014) *Fruit Juice CSR Platform Sector Roadmap*, p6.

³¹⁴ JuiceCSR website, 'About Us', <http://juicecsr.eu/csr-platform>, viewed 24.10.17

across complex supply chains and via a collaborative sector-wide approach is no easy task³¹⁵.

The *Roadmap* provides a breakdown of the sector's CSR challenges, identified through stakeholder consultation. They include (under the economic heading): lack of transparency over the distribution of value throughout the chain; lack of cooperation among smallholder farmers, leading to a fragmented market; a need for clear agreements among supply chain partners; difficulties in achieving satisfactory traceability; price fluctuations and low profitability at farm level; and retail / distribution concentration. [These can be seen to echo EU concerns around UTPs]. Also included (under the social heading) are poor labour conditions and low wages at farm level (especially for migrant/ seasonal workers); lack of education and qualified workers at farm level (especially for small farmers); and health and safety issues at farm level, such as unsafe storage of chemicals and machinery accidents. Issues under the environmental heading include agro-chemical use and erosion contributing to poor soil at farm level; need for resource efficiency; water use and waste reduction: lack of research and collaboration between businesses, cooperatives and research institutes; and in dealing with floods and droughts, lack of knowledge and sharing of best practice at farm level³¹⁶.

In response, the sector has agreed a set of six principles, based on the UN Global Compact Food and Agriculture Business Principles³¹⁷:

1. Aim for food security, health and nutrition
2. Be environmentally responsible - protect and enhance the environment
3. Ensure economic viability and share value
4. Respect human rights, create decent work conditions and help communities to thrive
5. Encourage good governance and accountability
6. Promote access and transfer of knowledge, skills and technology³¹⁸.

Stressing that it is 'voluntary and non-prescriptive'³¹⁹ the Roadmap also published some preliminary 'commitments', under which members would express their support for the UN Global Compact Food and Agriculture Business Principles, perform company baseline checks against the six principles, and commit to working collaboratively on at least one of them. The Roadmap also provides links to other voluntary platforms working to promote supply chain sustainability.

³¹⁵ JuiceCSR (2014) *Fruit Juice CSR Platform Sector Roadmap*, p.2.

³¹⁶ JuiceCSR (2014) *Fruit Juice CSR Platform Sector Roadmap*, p.7.

³¹⁷ UN Global Compact website, 'UN Global Compact Food & Agriculture Business Principles (FAB Principles)',

<https://www.unglobalcompact.org/library/2051>, viewed 24.10.17.

³¹⁸ JuiceCSR (2014) *Fruit Juice CSR Platform Sector Roadmap*, p11.

³¹⁹ JuiceCSR (2014) *Fruit Juice CSR Platform Sector Roadmap*, p20

5. CONCLUSIONS

The role of European Union policy on food value chain dynamics is increasing, both in terms of the impacts of policies upon them and in **terms of addressing** some of the more contentious **outcomes of these dynamics**. A number of policy priorities are at play in addressing the outcomes of food value chain dynamics. Innovation and enterprise as determinants of economic growth are one element, which was an early focus of the Commission's work on the Competitiveness of the Agro-Food Industry, where there are high numbers of SMEs in the food processing and manufacturing sectors but where most profit is generated by a small number of large multinational corporations. The **asymmetries of power** with food value chain relationships came to the fore in this work, also, leading to a focus on how this impacts adversely upon on a better functioning food supply. From this the problem of unfair trading practices became more clearly defined, as well as being identified through the levels of food prices and the unevenness of the distribution of profit within food value chains notably upon farmers. The AgriMarkets Task Force has identified that with the withdrawal of market intervention via the CAP, there may be a need to regulate UTPs in food value chains, either at Member State or EU market wide levels. Concerns about rural development and livelihoods and the successful integration of the vast numbers of small farmers into the European market from newer accession states is a key policy consideration, also. Regulation of food safety and aspects of authenticity have been a key regulatory focus to ensure a functioning single market while ensuring consumer health and wellbeing for almost two decades. A food chain length perspective has been attempted, notably through regulations such as the General Food Law, and the rationalisation of the Official Controls on food and feed safety. However, there are still gaps in the effective monitoring and transparency of food safety and of food integrity along value chains, as exemplified by misleading claims and criminal fraud. This has led to renewed policy actions over fraud, in particular. Environmental sustainability, and to a lesser or more peripheral extent, social sustainability, have attracted extensive regulation and policy activity. Within this activity, collaborative sustainability initiatives along food value chains have come mainly in the form of establishing more common LCA (and food waste) methodologies and metrics, embracing food and drink products, or through encouraging and mobilising CSR actions. However, the dynamics of food value chain relationships are a key to delivering effective sustainability through collaborations. The **power relationships and their exercise** remain a key to achieving **better functioning food value chains**.

ANNEX I

I.1 EU SUSTAINABLE DEVELOPMENT STRATEGY

I.1.1 2001 STRATEGY

Commission Communication COM (2001) 264 final³²⁰, '**A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development**', responded to the 1999 European Council's invitation to it '*to prepare a proposal for a long-term strategy detailing policies for economically, socially and ecologically sustainable development...*'. The strategy set objectives and actions for a range of environmental priority challenges such as climate change, clean energy, sustainable consumption and production, sustainable transport and natural resources management for the period until 2010³²¹.

The EU Sustainable Development Strategy was reviewed several times in the following years as appropriate³²².

I.1.2 RENEWED EU SUSTAINABLE DEVELOPMENT STRATEGY 2006

The renewed strategy of 2006³²³ identified as main challenges the continued unsustainable consumption and production patterns and the fact that the approach to policy making is not integrated. It sets out new key objectives on protection of the environment, social equity and cohesion, economic prosperity and meeting the international responsibilities and guiding principles. It also identified 7 key challenges and set out targets, objectives and actions to achieve them. One of them was **Sustainable Consumption and Production** with the overall objective to promote sustainable consumption and production patterns.

I.1.3 2009 REVIEW OF THE EU SUSTAINABLE DEVELOPMENT STRATEGY

COM (2009) 400 on '**Mainstreaming sustainable development into EU policies: 2009 Review of the European Union Strategy for Sustainable Development**³²⁴' highlighted that the long-term sustainability goals should remain a priority in any measures to support the economy despite the then economic crisis.

I.2 SUSTAINABLE GROWTH – SUSTAINABLE CONSUMPTION AND PRODUCTION

³²⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52001DC0264&from=EN>

³²¹ http://ec.europa.eu/environment/sustainable-development/strategy/index_en.htm

³²² http://ec.europa.eu/environment/sustainable-development/strategy/review/index_en.htm

³²³ <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2010917%202006%20INIT>

³²⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009DC0400&from=EN>

The EU has introduced a range of policies and initiatives aimed at sustainable consumption and production within the scope of sustainable growth, which is one of the Commission's main objectives³²⁵.

I.2.1 SUSTAINABLE CONSUMPTION AND PRODUCTION (SCP) AND SUSTAINABLE INDUSTRIAL POLICY (SIP) ACTION PLAN 2008

Commission Communication (2008) 397 on the **Sustainable Consumption and Production and Sustainable Industrial Policy (SCP/SIP) Action Plan**³²⁶ presents the Commission Strategy to support an integrated approach in the EU and internationally to improve sustainable consumption and production and promote the sustainable industrial policy. The aim of the Action Plan is to improve the energy environmental performance of products throughout their life-cycle and enhance their uptake by consumers by stimulating demand and helping consumers make informed choices through more efficient labelling. A list of proposals for improving a number of related EU policies was also included. The SCP/SIP is an integral part of the EU Sustainable Development Strategy.

The SCP/SIP led to the following initiatives: extension of the Eco-design Directive, revision of the Ecolabel Regulation, revision of the EMAS Regulation, legislation on Green Public Procurement, the Resource Efficiency Roadmap, and the Eco-Innovation Action Plan. These are integral parts of the EU's renewed Sustainable Development Strategy that is committed to meeting the challenges of sustainable development, while cooperating with partners outside the EU³²⁷.

I.2.2 EU FOOD SUSTAINABLE CONSUMPTION AND PRODUCTION ROUND TABLE

The food Sustainable Consumption and Production Round Table (SCP RT) is an initiative co-chaired by the European Commission and food supply chain partners and supported by the UN Environment Programme (UNEP) and the European Environment Agency³²⁸. Its member organisations represent the European food supply chain plus other stakeholders, some as observers. Participation is also open to consumer organisations and environmental/nature conservation Non-Governmental Organisations (NGOs).

Its vision is to promote *'a science-based, coherent approach to sustainable consumption and production in the food sector across Europe, while taking into account environmental interactions at all stages of the food chain'*.

Its lead principle is that to support informed choice, the environmental information communicated along the food chain, including to the consumers, must be scientifically reliable and consistent, understandable and not misleading. The food SCP RT has developed the following 10 Guiding Principles on voluntary environmental assessment and communication of environmental information along the food chain and to consumers³²⁹:

I. Principles for the voluntary environmental assessment of food and drink products

³²⁵ http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_5.4.7.html

³²⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0397&from=EN>

³²⁷ http://www.europarl.europa.eu/atyourservice/en/displayFtu.html?ftuld=FTU_5.4.7.html

³²⁸ <http://www.food-scp.eu/node/14>

³²⁹ <http://www.food-scp.eu/node/26>

1. *Identify and analyse the environmental aspects at all life-cycle stages.*
2. *Assess the significant potential environmental impacts along the life-cycle.*
3. *Apply recognised scientific methodologies.*
4. *Periodically review and update the environmental assessment.*

II. Principles for the voluntary communication of environmental information

5. *Provide information in an easily understandable and comparable way so as to support informed choice.*
6. *Ensure clarity regarding the scope and meaning of environmental information.*

III. Principles for both voluntary environmental assessment and communication.

7. *Ensure transparency of information and underlying methodologies and assumptions.*
8. *Ensure that all food chain actors can apply the assessment methodology and communication tools without disproportionate burden.*
9. *Support innovation.*
10. *Safeguard the Single Market and international trade.*

The food SCP RT's specific objectives are centred around the following three main topics in the management of environmental sustainability along the European food chain:

- Identification of scientifically reliable and uniform environmental assessment methodologies for food and drink products, including product category specifications where relevant, considering their significant impacts across the entire product life-cycle;
- Identification of suitable communication tools to consumers and other stakeholders, looking at all channels and means of communication;
- Promotion of and reporting on continuous environmental improvement along the entire food supply chain and engaging in an open dialogue with its stakeholders.

In pursuing the above objectives, the RT must ensure compliance with EU single market rules and avoid distortions of competition.

Overall the aim of the European food SCP RT is to **establish the food chain as a major contributor towards sustainable consumption and production in Europe**. The European Food SCP RT's activities aim to:

- help strengthen the long-term **competitiveness** of the European food chain,

- support EU **policy** objectives (notably those outlined in the European Commission's Action Plan on Sustainable Consumption and Production (SCP) and Sustainable Industrial Policy³³⁰)
- advance **resource efficiency**, **sustainable value chains** and **social responsibility** taking into account the global SCP agenda, including the initiatives facilitated by UNEP and other organisations.

In 2012 the European Food SCP RT published a report on 'Continuous Environmental Improvement'³³¹ with the aim to communicate and promote continuous voluntary environmental sustainability initiatives in the different stages of the food and drink value chain, to address its key environmental challenges.

In 2013, it launched the **EU Envifood Protocol, a general methodology for the environmental assessment of food and drink products** that also ensures **environmental information is communicated along the food chain and to the consumers in a practical and reliable way**. The ENVIFOOD Protocol is intended to be a general methodology that allows the adoption of more detailed sectoral guidance and product category rules³³².

The assessment and communication of the environmental performance of food and drink products must comply with all existing Community rules laid down in the EU Treaty, including those on the free movement of goods³³³, and in secondary EU legislation, such as the rules aimed at protecting consumers against misleading and deceiving information³³⁴.

The ENVIFOOD Protocol represents an intermediate step between ISO standards, the European Commission's Product Environmental Footprint and product-specific rules. It is not a stand-alone document or a product category rule for food and drinks. It provides further guidance for food and drink products without duplicating the other methodologies.

³³⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0397&from=EN>

³³¹ [http://www.food-scp.eu/files/Continuous Environmental Improvement FINAL 21 November 2012.pdf](http://www.food-scp.eu/files/Continuous_Environmental_Improvement_FINAL_21_November_2012.pdf)

³³² [http://www.food-scp.eu/files/ENVIFOOD Protocol Vers 1.0.pdf](http://www.food-scp.eu/files/ENVIFOOD_Protocol_Vers_1.0.pdf)

³³³ Articles 34 and 35 of the Treaty on the Functioning of the European Union

³³⁴ Regulation 1169/2011 on the Provision of food information to consumers, Regulation 767/2009 on the marketing and use of feed, and Directive 2005/29/EC on Unfair Commercial Practices and the recently published European Commission guidance on its implementation (SEC(2009) 1666).

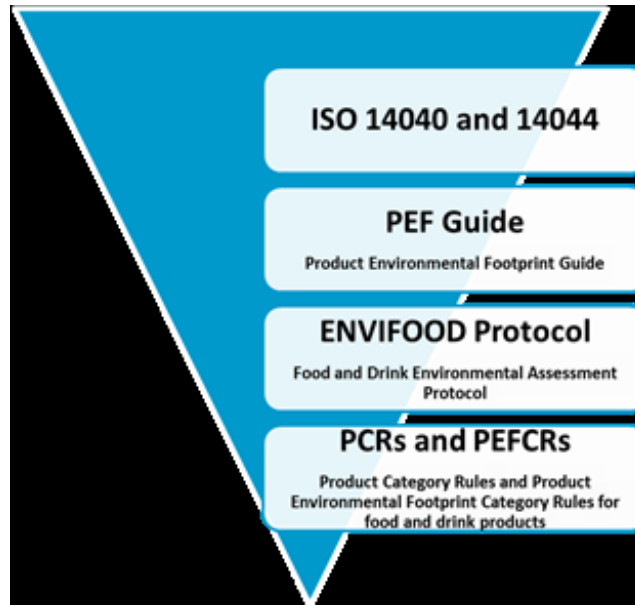


Image 3: Relative position of the ENVIFOOD Protocol in relation to the other environmental systems (from http://www.food-scp.eu/files/PCR-WorkingPaper_final.pdf)

A nice example of how this works in practice is provided by Saouter et al. 2014³³⁵ for coffee beverage products: The general guidance on LCA is provided by the ISO norms 14040 and 14044 (e.g. the different phases of LCA). The methodology to follow would further be specified in the PEF Guide (e.g. which impact assessment model should be used). The ENVIFOOD Protocol then provides additional guidance specific to the food sector – in the example on coffee, this might be related to functional unit and the calculation of land use change associated to the development of coffee plantations. Finally, PCRs and PEFCRs would specify further details of how the assessment should be conducted at product level, including for instance on the consumer use phase (e.g. heating of water to drink the beverage). Based on all documents, calculation tools to assess environmental impacts of coffee beverages could be developed. Such tools would be sufficiently simple to use without the need of a deep understanding of all available guidance.

1.2.3 EU ECOLABEL

The EU Ecolabel scheme is part of the EU Sustainable Production and Consumption Strategy. It was first implemented in 2000 by Regulation (EC) No 1980/2000 which has more recently been replaced by Regulation (EC) No 66/2010 on the EU Ecolabel³³⁶. The aim of the EU Ecolabel scheme is to **promote, via the use of the EU Ecolabel, those products that have a high level of environmental performance**. The use of the EU Ecolabel scheme is voluntary and can be used by producers, importers or retailers³³⁷.

The Regulation presents the criteria that must be met for products to bear the EU Ecolabel. These criteria must be easily understandable, based on scientific evidence considering the whole life-cycle of products and they also must be up to date with the

³³⁵ <http://lcafood2014.org/papers/20.pdf>

³³⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02010R0066-20130904&from=EN>

³³⁷ <http://ec.europa.eu/environment/ecolabel/the-ecolabel-scheme.html>

latest technological developments. The Commission, Member States, competent bodies and other relevant stakeholders are responsible for the development and revision of these criteria. The Regulation defines the rules for the award of the EU Ecolabel and the conditions of its use as well as provisions for surveillance and control of the use of the EU Ecolabel. The need for an action plan for the promotion of the use of the scheme is emphasised and this should be coordinated between the Commission and the Member States.

The Regulation mentions that for the use of the Ecolabel on food and feed products, a study should be conducted to ensure that the criteria are relevant and that added-value can be guaranteed. Also, it is important that this study examines the impact of the EU Ecolabel criteria on organic products within the scope of Regulation (EC) No 834/2007. This report was published in 2011³³⁸. The objectives of the study were to assess:

- the feasibility of establishing EU Ecolabel criteria for the environmental performance of food, drinks and feed products throughout their EU Ecolabel criteria life-cycle,
- the impact and added value of such criteria for these products and their implementation and the potential impact on organic products and any potential consumer confusion and
- the possibility of limiting the scope of EU Ecolabel criteria for food/feed on organically certified products only.

The report concluded that the success of extending the EU Ecolabel to food and feed products would depend on a range of factors such as: the possibility for environmental impact assessment criteria for primary production which are difficult to measure and should also include ethical and social dimensions, the legality of the use of the term 'eco' for food/feed products that may not be organically produced as the use of the term is protected in the EU, the potential for consumer confusion if the use of the Ecolabel also extends to non-organic products and the possibility for an extensive information campaign to be organised, the cost of the extended implementation of the Ecolabel scheme to food/feed. The study identified that if the EU Ecolabel scheme was extended to the food/feed sector, the products that could be first considered for such certification could be cheese and yoghurt, bread, beverages and processed fish.

After this report the EU Ecolabel Board concluded that it could be of value to extend the EU Ecolabel scheme to food and feed products, however to date no further action has been taken due to the difficulties encountered and in particular the conflict with organic products³³⁹.

I.2.4 EMAS – EU ECO-MANAGEMENT AND AUDIT SCHEMES

EMAS is a management instrument that was developed by the Commission to be used by companies and organisations of any type in the evaluation, reporting and improvement of their environmental performance³⁴⁰. It was originally established in 1993 and open for participation from 1995 and has been revised in 2001 and 2009³⁴¹. The most recent version is **Regulation (EC) No 1221/2009 on the voluntary participation**

³³⁸ http://ec.europa.eu/environment/ecolabel/documents/Ecolabel_for_food_final_report.pdf

³³⁹ <http://ec.europa.eu/environment/ecolabel/faq.html>

³⁴⁰ http://ec.europa.eu/environment/emas/index_en.htm

³⁴¹ <http://susproc.jrc.ec.europa.eu/activities/emas/documents/DevelopmentSRD.pdf>

of organisation in a Community eco-management and audit scheme (EMAS)³⁴². Organisations that choose to participate in the EMAS scheme **commit voluntarily to evaluating and reducing their environmental impact beyond what is required by legislation.** EMAS registration is guaranteed by an independent third-party verification, a Competent Body, in each Member State. Organisations with several sites in different Member States can apply for a single registration in the MS where the headquarters of the organisation are located. The Regulation lays down detailed requirements on the obligations of the registered organisations and rules for the Competent Bodies, the Environmental verifiers, the accreditation bodies, the MS and the Commission. Also, rules are included for the use of the EMAS logo. EMAS is considered as an important instrument in relation to the Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan.

The objective of EMAS is given in Article 1 of the Regulation: *'to promote continuous improvements in the environmental performance of organisations by establishment and implementation of environmental management systems by organisations, the systematic, objective and periodic evaluation of the performance of such systems, the provision of information on environmental performance, an open dialogue with the public and other interested parties and the active involvement of employees in organisations and appropriate training.'*

EMAS works through four key principles:

- **Plan:** the organisation's Environmental Management System (EMS) needs to be structured by defining an environmental policy (the publicly available environmental commitments of the organisation, its intentions and direction) and an environmental programme (an action plan that translates the organisation's environmental policy into objectives and targets). An EMS establishes a continuous cycle of planning, implementing, reviewing and improving the environmental performance³⁴³.
- **Do:** action to implement the EMS; this involves the delegation of tasks and responsibilities to individuals in writing, the investment in training and raising internal awareness and employee involvement, internal communication to engage employees in active participation, the maintenance of written records and creation of informative documents and the establishment of operational control for activities related to significant environmental aspects.
- **Check:** the effectiveness of the EMS and the performance of procedures and practices needs to be checked via an internal environmental audit once the EMS has been implemented and it is operational. Environmental performance indicators and follow up and corrective actions also need to be established. The internal audit is very important for ensuring the functioning of the EMS and the compliance of the EMS with the EMAS Regulation.

³⁴² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R1221-20130701&qid=1503504784292&from=EN>

³⁴³ http://ec.europa.eu/environment/emas/join_emas/how_does_it_work_step3_en.htm#hdiw

- **Act:** the aim should be a continuous improvement of the environmental performance. A management review of the organisation's environmental policy and programme should be carried out periodically and is good practice to be timed close to the internal audit. Through EMAS mistakes and problems can be eliminated by identifying, documentation and analysis of the causes.

EMAS's key benefits for the organisations are the enhanced: credibility, transparency and reputation, management of environmental risks and opportunities, environmental and financial performance, employee empowerment and motivation³⁴⁴. EMAS can help organisations enhance their legal compliance and save resources and money can help with corporate responsibility, supply chain management and green public procurement and finally offers stakeholder involvement³⁴⁵.

In terms of costs involved with EMAS in addition to the fixed costs relating to the verification and registration fees, these relate mostly to the need for external consultants to help with EMAS implementation but also with the employees' time needed to run EMAS related tasks, the EMS development and the internal audit³⁴⁶.

All EMAS registered organisations and their specific EMAS registered sites appear on an online searchable database hosted by the European Commission at the following link: <http://ec.europa.eu/environment/emas/register/>

1.2.4.1 Sectoral Reference Documents

Within the EMAS framework, the European Commission has tried since 2009 to promote best environmental management practice by developing **Sectoral Reference Documents (SRDs)**³⁴⁷. These are developed by the Joint Research Centre in close co-operation with the stakeholders concerned. These aim to promote best environmental management practices including techniques, measures or actions implemented by the organisations that are most advanced in terms of environmental performance in the specific sector, are identified, evaluated, documented and promoted (**frontrunner approach**). They are not directed only to the EMAS registered organisations, but to all organisations that want to improve their environmental performance, with or without an environmental management system. The priority by which SRDs are developed depends on the environmental impact of the sector in the EU, the extent of uptake of the EMAS in the sector and the potential for environmental improvements in the value chain of the sector³⁴⁸. The information in the BEMP Reports will be used for the development of an **EMAS Sectoral Reference Documents** that will include, in accordance with Article 43 of Regulation (EC) No 1221/2009, best environmental management practice, environmental performance indicators and, if appropriate, benchmarks of excellence and rating systems identifying environmental performance levels. Organisations registered with EMAS must comply with the relevant SRD and this must be considered when assessing and reporting on their environmental performance and during the verification. Information on SRDs relevant to the food value chain is presented below.

³⁴⁴

http://ec.europa.eu/environment/emas/emas_for_you/premium_benefits_through_emas/key_benefits_en.htm

³⁴⁵ http://ec.europa.eu/environment/emas/pdf/other/Brochure_3x3_Good_reasons_for_EMAS.pdf

³⁴⁶ http://ec.europa.eu/environment/emas/pdf/other/costs_and_benefits_of_emas.pdf

³⁴⁷ <http://susproc.jrc.ec.europa.eu/activities/emas/index.html>

³⁴⁸ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011XC1208\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011XC1208(01)&from=EN)

- **Best Environmental Management Practice for the Food and Beverage Manufacturing Sector**

The Final Draft Report on Best Environmental Management Practice for the Food and Beverage Manufacturing Sector was published by the Joint Research Centre in 2015³⁴⁹. The Report presents best environmental management practices applicable to all food and beverage industries and then, information on BEMPs for the manufacture of some specific food products used as case studies. The draft EMAS Sectoral Reference Document for this sector has been published by **Commission Decision (EU) .../... of XXX on the reference document on best environmental management practice, sector environmental performance indicators and benchmarks of excellence for the food and beverage manufacturing sector under Regulation (EC) No 1221/2009** on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)³⁵⁰.

- **Best Environmental Management Practice for the agriculture sector – crop and animal production**

The Final Draft Report on Best Environmental Management Practice for the agriculture sector – crop and animal production, was published by the Joint Research Centre in 2015³⁵¹. The BEMPs suggested included priority measures and control points for environmental improvement considering geographic and product related challenges in terms of greenhouse gas emissions, acidification, eutrophication, resource depletion, soil degradation, water stress, biodiversity loss and ecotoxicity.

- **Best Environmental Management Practice in the retail trade sector**

The Report on Best Environmental Management Practice in the retail sector was published by the Joint Research Centre in 2013³⁵². BEMPs were identified to improve energy performance, sustainability of retail supply chains, transport and logistics operations, waste and others. Some of these are relevant for the food retail sector as well.

The EMAS Sectoral Reference Document for this sector has been published in **Commission Decision (EU) 2015/801 of 20 May 2015 on reference document on best environmental management practice, sector environmental performance indicators and benchmarks of excellence for the retail trade sector under Regulation (EC) No 1221/2009** on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)³⁵³.

³⁴⁹ <http://susproc.jrc.ec.europa.eu/activities/emas/documents/FoodBeverageBEMP.pdf>

³⁵⁰

https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwjFzoHP8e_VAhUMDcAKHbkhCXgQFggmMAA&url=https%3A%2F%2Fec.europa.eu%2Finfo%2Flaw%2Fbetter-regulation%2Finitiative%2F7183%2Fattachment%2F090166e5ad8ccd7c_en&usq=AFQjCNGKLjnE_gzbK_LD33wm-rh-EDHhtA

³⁵¹ <http://susproc.jrc.ec.europa.eu/activities/emas/documents/AgricultureBEMP.pdf>

³⁵² <http://susproc.jrc.ec.europa.eu/activities/emas/documents/RetailTradeSector.pdf>

³⁵³ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.127.01.0025.01.ENG

1.2.4.2 Advantages of EMAS compared to ISO 14001:2004

EMAS is the only EU-mediated Sustainable Consumption and Production scheme focused on achieving progressive environmental improvements in organisations. It competes at global level with ISO 14001 which is also a voluntary initiative aimed at the environmental management of organisations. Both aim to help organisations improve by using knowledge and information from within the specific organisation³⁵⁴.

Compared with ISO 14001:2004, EMAS is considered superior due to the stricter requirements for environmental performance against the targets set in terms of measurement, performance and continuous improvement, due to the compliance with environmental legislation, the employee engagement, the environmental indicators and due to the registration with a public authority after verifications of compliance³⁵⁵. Also, EMAS is supported by sector-specific guidance through the Sectoral Reference Documents (SRDs).

However, the 2015 revision of ISO 14001 may question the future relevance of EMAS, as it increasingly adopts many of its main elements³⁵⁶.

1.2.4.3 EMAS and Ecolabel Fitness Check

In 2017 the European Commission published a Report on the review of implementation of Regulation (EC) No 1221/2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS) and of Regulation (EC) No 66/2010 on the EU Ecolabel³⁵⁷. Such a report is required under both these two Regulations so that the two schemes can be reviewed. The report fulfils these requirements and also presents the conclusions of the Fitness Check evaluation of the EMAS and the Ecolabel scheme, as part of the Commission's REFIT, an exercise aimed at evaluating the relevance, effectiveness, efficiency, added value, fitness for purpose and cost-effectiveness of the two schemes.

It was found that the Regulations meet their objectives to contribute to the reduction of the environmental impact of consumption and production and to the continuous improvement of the environmental performance of organisations promoting products that meet the criteria of the two schemes. It was, however, found that the level of uptake of the two schemes by producers and organisations is limited due to the limited wider awareness of the schemes and the limited rewards offered for compliance. The contribution of the schemes to the overall challenges and environmental impacts of consumption and production was also found limited.

It was concluded³⁵⁸ that the Regulations and the schemes remain relevant to EU policies to change consumption and production patterns. In terms of effectiveness the Regulations were found partly effective and broadly coherent with other relevant EU policies on sustainable production and consumption although further synergies could be explored with EU policies such as the circular economy action plan, the Unfair Commercial Practices Directive and the Industrial Emissions Directive. The Regulations

354

http://ec.europa.eu/environment/emas/pdf/other/SWD_2017_253_F1_OTHER_STAFF_WORKING_PAPER_EN_V3_P1_942100.pdf

355 http://ec.europa.eu/environment/emas/pdf/other/Brochure_3x3_Good_reasons_for_EMAS.pdf

356 http://ec.europa.eu/environment/ecolabel/documents/Report_from_the_Commission.pdf

357 http://ec.europa.eu/environment/ecolabel/documents/Report_from_the_Commission.pdf

358

[http://ec.europa.eu/environment/emas/pdf/other/SWD_2017_252_F1_OTHER_STAFF_WORKING_PAPER_EN_V2_P1_875447%20\(SWD%20Exec%20summary\).pdf](http://ec.europa.eu/environment/emas/pdf/other/SWD_2017_252_F1_OTHER_STAFF_WORKING_PAPER_EN_V2_P1_875447%20(SWD%20Exec%20summary).pdf)

do deliver added value, but this is limited due to the voluntary nature of the schemes. Their efficiency could not be estimated due to the limited data available.

The Commission will take specific actions to improve the performance of the EU Ecolabel Regulation so that a bigger impact can be achieved. Due to the mixed results of the Fitness Check on EMAS, in 2017 the Commission will aim to obtain confirmation of the Member States' interest in the continuation of the scheme and the implementation of measures to improve the take-up of the scheme. If this is obtained, actions will be taken to increase the added value of the scheme.

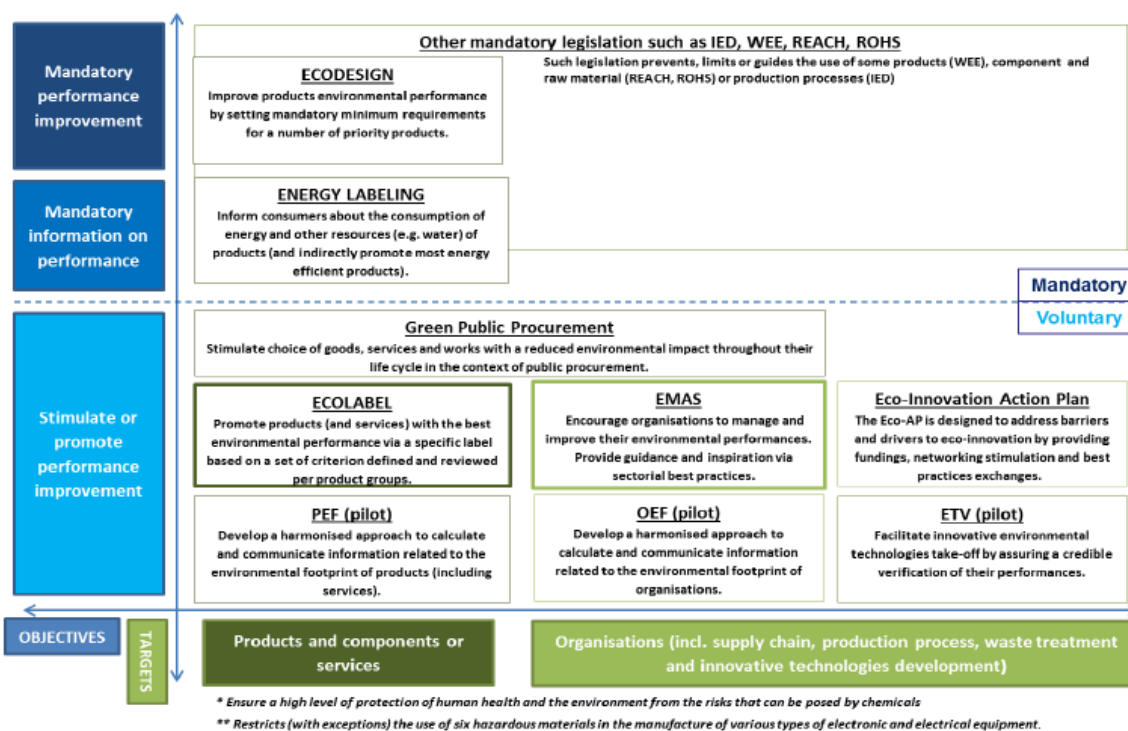


Image 4: EMAS, the EU Ecolabel and other SCP tools (from http://ec.europa.eu/environment/emas/pdf/other/SWD_2017_253_F1_OTHER_STAFF_WORKING_PAPER_EN_V3_P1_942100.pdf)

1.2.5 GREEN PUBLIC PROCUREMENT

The idea behind Green Public Procurement (GPP) is that the public sector and the public authorities in Europe are major customers for a huge range of goods, so if they directed their purchasing power towards more environmentally friendly products, they could contribute significantly to sustainable consumption and production by enlarging these markets³⁵⁹. Therefore, GPP is ‘a process, whereby public authorities seek to procure goods and services with a reduced environmental impact throughout their life cycle when compared to goods, services and works with the same primary function that would otherwise be procured’. This is an increasingly popular idea. Commission Communication COM (2001) 264 final, ‘**A Sustainable Europe for a Better World: A European Union Strategy for Sustainable Development**’ indicates for the first time that ‘**Member States should consider how to make better use of public procurement to favour environmentally friendly products and services**’. Subsequently, it was first highlighted as Green Public Procurement in the Commission Communication on Integrated Product Policy³⁶⁰ in 2003 and then the Commission

³⁵⁹ http://ec.europa.eu/environment/gpp/index_en.htm

³⁶⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003DC0302&from=EN>

agreed to further strengthen GPP under the Sustainable Consumption and Production and Sustainable Industrial Policy (SCP/SIP) Action Plan (2008). It is also mentioned, most recently, in the Circular Economy Action Plan (2015) and in the Europe 2020 Strategy and the Roadmap to a Resource Efficient Europe. GPP has been implemented in most MS through National Action Plans. GPP is a voluntary scheme and therefore MS and public authorities can determine whether and to what extent they can implement it.

Commission Communication COM (2008) 400 final 'Public Procurement for a better environment'³⁶¹ of 2008 aimed to provide guidance on the reduction of the environmental impact caused by public sector consumption and to stimulate innovation in environmental products and services and eco-technologies. In addition, it aimed to address the obstacles that cause limited uptake of GPP: to set common GPP criteria, information on life cycle costing, guidance on legal and operational possibilities and targets for political support³⁶².

GPP criteria must be established as the minimum technical specifications that all bids have to meet while additional criteria such as environmental awards could be included, but should not exclude products that cannot reach this level of performance. They are chosen based on a life cycle approach and they are divided in **core**, that address the most significant environmental impacts and allow easy application of the GPP with minimum verification and cost needs and **comprehensive** criteria, that consider more aspects and higher levels of environmental performance, are intended for use by authorities that want to go further in environmental goals and may require increased administrative effort or higher cost.

Preliminary common GPP criteria were established within the framework of a **Training Toolkit on GPP**³⁶³ by an expert group comprising representatives from MS and Commission. These were endorsed by the Commission after an impact assessment and a consultation with MS, industry and civil society stakeholders and finally endorsed by the MS so they can be included in the national action plans on GPP. In 2010 the procedure for the development of GPP criteria was changed to become more participatory and so that synergies between different product-related policy instruments could be enhanced (for example between GPP and EU Ecolabel). This would now be led by the Joint Research Centre (JRC) with the involvement of stakeholders in a similar way as with the EU Ecolabel criteria-setting procedure and in consultation with the GPP Advisory Group that is composed of representatives from all MS and representatives of civil society, industry, SMEs, public procurement and local authority³⁶⁴.

The Commission also sets targets for GPP and the one set in 2006 by the renewed Sustainable Development Strategy was that the average level of GPP by 2010 should be the same as the one of the best performing MS in 2006. Another target set is that 50% of tendering procedures should be 'green', i.e. compliant with core GPP criteria, by 2010. Compliance with comprehensive criteria is monitored only for the best performing MS to assess the relevance of setting such targets in the future.

The Commission is also responsible for monitoring the performance of GPP and two types of indicators were established in that respect: quantitative indicators to assess the progress of GPP and its impact and impact-oriented indicators to assess the environmental and financial gains delivered from the application of GPP. It has also set

³⁶¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0400&from=EN>

³⁶² http://ec.europa.eu/environment/gpp/gpp_policy_en.htm

³⁶³ http://ec.europa.eu/environment/gpp/toolkit_en.htm

³⁶⁴ http://ec.europa.eu/environment/gpp/gpp_criteria_process.htm

up a Helpdesk to provide information on GPP and answer relevant enquiries from stakeholders, but also to maintain the GPP website and prepare a GPP news alert³⁶⁵.

- **Staff Working Document accompanying the Communication on Public Procurement for a better environment**

The above Communication was accompanied by a Staff Working Document (2008) that provided guidelines on environmental criteria, tools for stimulating GPP and examples of green tender specifications for a range of products including for food.

Environmental criteria have been developed for fruit and vegetables, fish, meat, dairy, processed foods, drinks, beverages and for the catering sector. Core criteria for food products address organic production and packaging waste while comprehensive criteria address aspects related to animal welfare, GMO-free, Integrated Production processes and sustainable fishing and aquaculture³⁶⁶. The Staff Working Document gives examples of how these criteria can be fulfilled, how they can be verified and how additional points can be awarded. For the catering sector, the core criteria address organic food, seasonal fruit, vegetables and fish, waste minimisation and selective collection and the comprehensive criteria focus on environmental selection criteria such as certification to environmental management system, evidence of environmental policy, or local scheme, the use of paper from recycled material or in compliance with sustainable forest management, kitchen equipment free of ozone-depleting substances and meeting energy efficiency standards, cleaning products that meet certain criteria, nutrition etc³⁶⁷.

The GPP criteria for food and catering services were due to be reviewed in 2016. In 2017 a draft report was published by the JRC: **Revision of the EU GPP criteria for Food procurement and Catering services**³⁶⁸, after a consultation process with technical and procurement experts. Further food categories will be included in GPP such as bread, cereals, oils, fat, sugar, jam, honey, chocolate and confectionery. It was clarified that in case an environmental criterion could jeopardise food safety, a decision should be made based on a precautionary approach, such to secure food safety.

The major changes introduced by this revision are: the removal of the seasonal produce criterion and the removal of the packaging criterion in food procurement. Changes were also introduced in the Catering service criteria, some of the criteria were reclassified as technical, award or selection criteria and their content changed. The new criteria focus in promoting vegetables and in the prevention and management of food and other waste. Also, two criteria have been significantly modified and resulted in the inclusion of a criterion focused on prevention of food waste and its re-distribution and a second criterion on prevention and management of other generated waste. The report provides the rationale behind each of these changes and the new criteria for GPP in food and catering are scheduled to be officially adopted.

- **Good practices in Green Public Procurement**

The Commission has collected examples of Good Practice in GPP and successful green tenders since 2010 to provide guidance to anyone who wishes to follow and

³⁶⁵ <http://ec.europa.eu/environment/gpp/helpdesk.htm>

³⁶⁶ http://ec.europa.eu/environment/agriculture/pdf/icm_finalreport.pdf

³⁶⁷ http://ec.europa.eu/environment/gpp/pdf/toolkit/food_GPP_product_sheet.pdf

³⁶⁸

http://susproc.jrc.ec.europa.eu/Food_Catering/docs/170127_EU%20GPP%20Food%20catering%20criteria_TR2.0.pdf

these are published at this link: http://ec.europa.eu/environment/gpp/case_group_en.htm# that also includes examples on food and catering services. In 2012 a 'GPP brochure of good practice examples'³⁶⁹ was published containing some of the most interesting examples, the results that were achieved and the lessons learnt.

- **Buying green! A handbook on green public procurement**

The 3rd edition of this handbook was published in 2016 and it aims to help public authorities (although it can also be used by the private sector) to successfully plan and implement GPP and to help suppliers and service providers and in particular SMEs to understand the environmental requirements encountered in public tenders³⁷⁰.

For a successful implementation GPP implementation should include clear targets, priorities and timeframes, the scope of the purchasing activities covered, responsibilities and a monitoring mechanism to assess performance. An implementation plan should also be established with tasks, responsibilities and time plan. This should be communicated internally but also to the suppliers involved. GPP should be aligned with procurement and sustainable operation policies within the same organisation.

The handbook also refers to the **benefits of cooperation, networking and sharing of information** on GPP and specifically aspects such as the environmental criteria used or the market availability of green products. It also refers to such local and regional initiatives. This information is available at this link: http://ec.europa.eu/environment/gpp/initiatives_en.htm.

I.3 EUROPE 2020 STRATEGY

Commission Communication 2020 of 2010 '**Europe 2020: A strategy for smart, sustainable and inclusive growth**'³⁷¹ laid down the EU Strategy to 2020. It put forward three priorities: smart, sustainable and inclusive growth to help overcome the weaknesses in Europe's economy. The Commission proposed that the EU goals should be translated into national targets for the individual Member States and their situations. The progress achieved on the targets is monitored and reports are published by Eurostat, the EU statistics office.

Europe 2020 Strategy will try to succeed by having more focus and by setting clear goals and transparent benchmarks to assess progress. The Strategy will be organised around:

- **a thematic approach:** that will try to deliver on 5 targets (employment, Research & Development (R&D), climate change and energy, education, poverty and social exclusion) and
- **country reporting/country surveillance:** that will try to help Member States define and implement strategies.

From Europe 2020 Strategy's three priorities, sustainable growth promotes a more resource efficient, greener and more competitive economy. The Strategy also put

³⁶⁹ http://ec.europa.eu/environment/gpp/pdf/GPP_Good_Practices_Brochure.pdf

³⁷⁰ <http://ec.europa.eu/environment/gpp/pdf/Buying-Green-Handbook-3rd-Edition.pdf>

³⁷¹ <http://ec.europa.eu/eu2020/pdf/COMPLET%20EN%20BARROSO%20%20%20007%20-%20Europe%202020%20-%20EN%20version.pdf>

forward seven flagship initiatives to promote progress. One of them is '**Resource efficient Europe**', that aims to decouple economic growth from the use of resources and energy, focus on a low carbon economy, the use of renewable energy and promote energy efficiency. Another one, '**an industrial policy for the globalisation era**' aims to support a strong sustainable industry and to improve the business environment for SMEs.

For Europe 2020 strategy to be successful, several targets are set. One of them is known as the '20/20/20' climate/energy targets that involves a 20% reduction of greenhouse gas emission compared to 1990 (or 30% if conditions allow), an increase of renewable energy sources to 20% of the total energy consumption and a 20% increase in energy efficiency.

To combat climate change and achieve the climate-related goals, it is necessary to reduce emissions faster than in the previous decade and exploit new technologies. Europe will also need to reduce its dependency for raw materials and commodities from foreign sources.

I.3.1 ROADMAP TO A RESOURCE EFFICIENT EUROPE

The **Roadmap to a Resource Efficient Europe**, described in Communication COM (2011) 571³⁷², is part of the Resource Efficiency Flagship of the Europe 2020 Strategy³⁷³ and outlines how Europe's economy can be transformed to a sustainable one by 2050. It is also one of the paths towards a green economy. It sets milestones and actions for a resource efficient and sustainable growth and provides a framework for all related policies and their interactions, so that actions can be designed and implemented following appropriate impact assessments.

To measure progress in improving resource efficiency, indicators will need to be developed: a lead indicator on 'resource productivity' to measure economic performance improvement while reducing pressure on natural resources – which is the primary objective of the Roadmap, but also complementary indicators on the EU's global consumption of key natural resources.

The Roadmap indicates that the EU and the MS should aim to remove any barriers to achieving resource efficiency and to create incentives for production and consumption decisions by addressing markets, prices, taxes and subsidies, encouraging innovation and uptake of sustainable practices, carrying out research and also taking into account the international picture.

The Commission will prepare policy and legislation required to implement the Roadmap, but for the resource efficiency objectives to be achieved, the engagement of all public and private stakeholders is necessary.

A Staff Working Paper, accompanying the Roadmap Communication, was published in 2011 providing an analysis on costs and benefits associated with the Roadmap to a Resource Efficient Europe³⁷⁴.

³⁷² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52011DC0571&from=EN>

³⁷³ http://ec.europa.eu/environment/resource_efficiency/about/roadmap/index_en.htm

³⁷⁴ http://ec.europa.eu/environment/resource_efficiency/pdf/working_paper_part1.pdf

I.4 EUROPEAN ACTION FOR SUSTAINABILITY

After the EU Sustainable Development Strategy of 2001 and its revisions in following years and the Europe 2020 Strategy of 2010, the **2030 Agenda for Sustainable Development (2030 Agenda)** was adopted in 2015 with the Sustainable Development Goals (SDGs) at its core³⁷⁵. It is a commitment to poverty eradication and sustainable development integrating its three dimensions, environmental, economic and social.

A press release ‘Sustainable Development: EU sets out its priorities’ was issued towards the end of 2016³⁷⁶ in response to the 2030 Agenda and the SDGs.

To meet the 2030 Agenda, the following need to be achieved:

- to fully integrate the SDGs in the 10 Commission political priorities and the current policy framework as indicated in Commission Communication (2016) 739 on **Next steps for a sustainable European future: European action for sustainability**³⁷⁷, and
- to develop longer term visions for the implementation of SDGs and sectoral policies beyond 2020.

The Commission will be reporting on the progress of incorporating the SDGs into EU policies and will set up a multi-stakeholder Platform for the exchange of best practices on SDGs implementation³⁷⁸. The EU’s budget will also need to be reoriented towards these long-term objectives and the Commission, the Parliament, the MS and stakeholders will need to work together towards achieving the **2030 Agenda for Sustainable Development**³⁷⁹.

More information on EU actions and policies that contribute in achieving the SDGs are presented in the Staff Working Document accompanying the above Communication.

In relation to the 2nd SDG ‘end hunger and achieve food security and improved nutrition and promote sustainable agriculture’ the Common Agricultural Policy and the Common Fisheries Policy both have some relevant objectives. These are viable food production, sustainable management of natural resources and climate action and sustainable fishing and aquaculture for a sustainable food supply chain respectively. These policies are accompanied by research and innovation actions such as FOOD 2030.

SDG 6 ‘Ensure availability and sustainable management of water and sanitation for all’, SDG 14 ‘Conserve and sustainably use the oceans, seas and marine resources for sustainable development’ and SDG 15 ‘Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss’ have a strong environmental focus. SDG 12 ‘Ensure sustainable consumption and production patterns’ relates to resource efficiency and circular economy actions to make production more resource efficient and environmentally friendly and consumption more sustainable through consumer awareness initiatives.

³⁷⁵ https://ec.europa.eu/europeaid/sites/devco/files/communication-next-steps-sustainable-europe-20161122_en.pdf

³⁷⁶ http://europa.eu/rapid/press-release_IP-16-3883_en.htm

³⁷⁷ https://ec.europa.eu/europeaid/sites/devco/files/communication-next-steps-sustainable-europe-20161122_en.pdf

³⁷⁸ http://ec.europa.eu/environment/sustainable-development/SDGs/implementation/index_en.htm

³⁷⁹ <https://sustainabledevelopment.un.org/post2015/transformingourworld>

SDG 7 'Ensure access to affordable, reliable, sustainable and modern energy for all' and SDG 13 'Take urgent action to combat climate change and its impacts' focus on the reduction of greenhouse gas emissions, improved energy efficiency and renewable energy within the 2030 Climate and Energy Policy Framework.

SDG 8 'Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all' relates to the economic and social aspects of sustainability.

More information on how the EU contributes to the implementation of the 2030 Agenda and the SDGs can be found on the Commission website: https://ec.europa.eu/sustainable-development/about_en

- **FOOD 2030: Research and Innovation for tomorrow's Nutrition and Food Systems**

FOOD 2030³⁸⁰ was a high-level conference organised in 2016 based on the Research and Innovation Commissioner's intention to launch a Food Research Area on key food and nutrition security priorities such as:

- Nutrition for sustainable and healthy diets
- Climate smart and environmentally sustainable food systems
- Circular and resource efficient food systems
- Innovation and empowerment of communities.

The aim of the event was to explore ideas from stakeholders that could contribute to a future more sustainable, resilient, competitive, diverse, responsible food system, able to provide accessible and sustainable food.

- **European Sustainable Development Week (ESDW)**

This is an initiative aimed at promoting sustainable development by promoting the organisation of bottom-up activities related to the SDGs in Europe. It also acts as an umbrella for similar national sustainable development events³⁸¹.

I.4.1 EUROPEAN PARLIAMENT REPORT ON EU ACTION FOR SUSTAINABILITY

Very recently, in June 2017, a report was published by the European Parliament on EU action for sustainability³⁸². While all Commission initiatives are welcome by the Parliament, the aim of the report is to highlight the need for future action that will ensure SDGs are the core of all EU policies.

The report stressed the need for a comprehensive assessment of all existing EU policies and legislation in all sectors that should be coordinated at EU and MS level. This should include policy gaps and trends, inconsistencies and implementation deficiencies, co-benefits and synergies. It asks the Commission to develop a strategy for the implementation of the SDGs and their targets in the EU. It also asks for an integration of all aspects of the 2030 Agenda into the European Semester and for the Parliament to be involved in the process. The Parliament report also welcomes the

³⁸⁰ <http://ec.europa.eu/research/conferences/2016/food2030/index.cfm>

³⁸¹ <http://www.esdw.eu/about-us/>

³⁸² <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+REPORT+A8-2017-0239+0+DOC+PDF+V0//EN>

Commission's aim to mainstream the SDGs into the Better Regulation agenda and include sustainable development as part of the impact assessment for this purpose. It asks for a check of compliance of all new policies and legislation with the SDGs as well as those that go through the REFIT programme.

The Parliament realises the need for the involvement of all stakeholders to meet the SDGs and asks the Commission that the multi-stakeholder platform pools but also disseminates the collected knowledge on SDGs and that it influences the policy agenda. It also asks that the Commission together with Eurostat develop progress indicators for the implementation of the SDGs in the EU.

The Parliament in this report indicates that the extent of industrial agriculture in the EU will make it impossible to meet the aspect of SDG2 on sustainable agriculture and it will also be difficult to meet SDGs that relate to pollution, overuse of water, soil quality and biodiversity. It asks the EU to direct science, technology and innovation policies towards meeting the SDGs.

The report finally presents the opinions and suggestions of different Committees for the Committee on the Environment, Public Health and Food Safety on EU action for sustainability.

I.5 2015 ACTION PLAN FOR A CIRCULAR ECONOMY

The Commission withdrew its legislative proposal on waste in December 2014 and committed to the presentation of a new package by the end of 2015 that would cover not only waste reduction but the full economic cycle.

Communication COM(2015) 614 final '**Closing the loop – An EU action plan for the circular economy**'³⁸³ states that the transition to a more circular economy where products, materials and resources maintain their value for as long as possible, thus reducing waste generation, is an essential contribution to the EU's vision of creating a sustainable, low carbon, resource efficient and more competitive economy. This would transform the EU's economy and offer sustainable competitive advantages to the EU.

The circular economy is closely related to other key EU priorities such as the investment agenda, climate and energy, sustainable development efforts and in particular Sustainable Development Goal (SDG) 12 on sustainable production and consumption, industrial innovation and jobs and growth. At the same time with the adoption of the Circular Economy Action Plan, proposals for regulation of waste, targets on reduced landfilling, and reuse and recycling of packaging and municipal waste were also adopted, while others such as on fertilisers and water reuse will follow.

A circular economy considers the impacts both at design and production phase since both use resources and generate waste. Better design can save resources, but currently the interests of producers, users and recyclers are not the same and therefore it is essential to provide incentives. Reparability, durability, upgradability and recyclability need to be considered in Ecodesign requirements. But even for products that have been designed in a better way, waste can be generated due to inefficient use of resources in the production phase. The environmental and social impacts of production are also important and in that respect the Commission promotes sustainable sourcing of raw materials at global level.

³⁸³ http://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.02/DOC_1&format=PDF

Because resource use, waste generation and its management differ for different industry sectors, the Commission issues '**best available technique reference documents (BREFS)**' directed to the MS to further promote best practices in different sectors. It has also set up the 'European Resource Excellence Centre' to help SMEs benefit from increased resource efficiency and the resulting business opportunities. SMEs could also benefit from improved uptake and efficiency of the EMAS scheme. Innovative industrial policies such as **industrial symbiosis** where the waste of one industry is used as a raw material in another must be promoted. Re-manufacturing is another area that has high potential.

Consumer choices, shaped and affected by the information available to them, the prices, the variety of products on offer and the regulatory framework, can support or slow progress towards a circular economy. The Commission is trying to make green claims more trustworthy, ensure rules are enforced, test the efficiency and effectiveness of schemes such as PEF and the EU Ecolabel and through monitoring unfair commercial practices. Re-use and repair of products is also being promoted at EU and MS level, to help reduce waste.

Efforts are also focused in trying to reduce household waste, but actions such as awareness campaigns and economic incentives are more effective at national and local level.

Collaborative economy initiatives whereby innovative forms of consumption such as the sharing of products or infrastructure are usually initiated by businesses or citizens and they are considered supportive of the circular economy. Green Public Procurement also supports the circular economy. Waste management is of key importance in the circular economy and includes all steps of prevention, preparation for reuse recycling, recovery of energy and disposal/landfilling/ incineration. New legislation is being put forward by the Commission to address relevant issues. A revised Regulation on waste shipment was adopted in 2014 to facilitate the detection of illegal waste shipments³⁸⁴.

Also of importance is the development of EU quality standards for **secondary raw materials** so that operators that wish to use such materials can be certain of their quality. Of particular relevance to the food value chain are **recycled nutrients**, a sub-category of secondary raw materials. Recycled nutrients can be extracted from organic waste material and can be used as sustainable soil fertilisers. This cuts the need for mineral-based fertilisers which are extracted from phosphate rock that is limited and is a process with significant environmental impacts. It is thus very important to develop quality and environmental standards for such recycled nutrients. This will require a revision of the EU Regulation on fertilisers. Secondary raw materials are also closely linked with the chemical's legislation due to the fact that recycling streams can sometimes contain chemicals of concern for health or the environment. Such chemicals are difficult and expensive to detect and remove during recycling, in particular by small businesses. This can be managed by promoting non-toxic materials and better tracking chemicals of concern. For this to be achieved and problems to be overcome, EU action must consider concurrently the legislations on waste, products and chemicals within the context of the circular economy and with the aim to protect human health and the environment. This will be under the umbrella of the '**EU strategy for a non-toxic environment**' within the 7th EAP. Cross-border circulation of secondary raw materials must also be facilitated in the EU through electronic data exchange and the further development of the **Raw Materials Information System**.

Another issue addressed in the circular economy is the reuse of treated wastewater to address water scarcity and the overexploitation of water resources in the EU. Water reuse in agriculture also contributes to nutrients recycling by substitution of solid

³⁸⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2014:189:FULL&from=EN>
VALUMICS_D3.2 report

fertilisers. Again, the Commission has committed to taking action to promote treated wastewater reuse and facilitate its uptake by establishing minimum legal requirements.

Food waste is one of the specific challenges in the context of the circular economy because the different steps of the food value chain (production, distribution, storage) use natural resources and cause environmental impacts and wasting food that is still edible increases those impacts, causes economic losses and also has an important social dimension. The SDGs also aim at halving food waste per capita at retail and consumer level and at reducing food losses in the food chain. The Commission is taking action on measuring food waste, on communicating best practices for preventing food waste and raising awareness at national, regional and local levels with the aim to change behaviour³⁸⁵. A platform has also been created on food waste, to bring together all stakeholders and allow the exchange of ideas. Efforts are also concentrated on reducing waste that arises from the wrong interpretation of legislation in relation to 'best before' dates, food donation, food banks and the use of safe unsold food in animal feed.

Finally, bio-based materials due to being renewable, biodegradable and compostable, they can be used for a range of products, including food, contributing in this way to the circular economy. It is important to ensure their sustainable sourcing and the environmental impacts of their life-cycle and avoid competition or pressure on land-use. The contribution of the Commission's Bioeconomy Strategy of 2012 to the circular economy needs to be considered.

A comprehensive list of actions the Commission has taken to deliver on the Circular Economy Action Plan can be found at the following links: [http://europa.eu/rapid/press-release MEMO-17-105 en.htm](http://europa.eu/rapid/press-release_MEMO-17-105_en.htm)³⁸⁷ and [http://ec.europa.eu/environment/circular-economy/index en.htm](http://ec.europa.eu/environment/circular-economy/index_en.htm)³⁸⁸.

The Annex to the above Communication lays down some timelines for the implementation of the action plan for the Circular Economy³⁸⁹.

In 2017 a report was published on the Implementation of the Circular Economy Action Plan³⁹⁰ with the aim to present the progress since the adoption of the plan in 2015 and to present key deliverables for 2017. According to this report actions have taken place in relation to food waste, organic fertilisers and other areas, the concept of circular economy has been promoted and integrated in industrial best practices, Green Public Procurement and other sectors. From the legislative proposals highlighted in the report, the following are of most relevance to the food value chains:

- Proposal for a Regulation on fertilisers made from secondary raw materials (2016)
- Food waste: the EU Platform on Food Losses and Food Waste has been established, there has been progress on the development of an EU methodology to measure food waste and guidelines are being developed to address legal and operational issues and facilitate food donation and food redistribution in the EU as well as to facilitate the use of former foodstuffs in animal feed. These guidelines are expected to be published in 2017.

³⁸⁵ https://ec.europa.eu/food/safety/food_waste/stop_en

³⁸⁶ [http://europa.eu/rapid/press-release MEMO-17-105 en.htm](http://europa.eu/rapid/press-release_MEMO-17-105_en.htm)

³⁸⁷ [http://europa.eu/rapid/press-release MEMO-17-105 en.htm](http://europa.eu/rapid/press-release_MEMO-17-105_en.htm)

³⁸⁸ [http://ec.europa.eu/environment/circular-economy/index en.htm](http://ec.europa.eu/environment/circular-economy/index_en.htm)

³⁸⁹ http://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.03/DOC_3&format=HTML&lang=EN&parentUrn=COM:2015:614:FIN

³⁹⁰ http://ec.europa.eu/environment/circular-economy/implementation_report.pdf

- Guidelines were issued under the Common Implementation Strategy for the Water Framework Directive to facilitate the reuse of treated wastewater in agriculture. An Inception Impact Assessment for the initiative on minimum quality requirements for water reuse in irrigation and aquifer recharge was published in 2016³⁹¹.

Also, in 2017 a Circular Economy Stakeholder Conference took place to present key deliverables achieved and discuss future action.

- **European Circular Economy Stakeholder Platform**

After the Circular Economy Stakeholder Conference of 2017, the European Circular Economy Stakeholder Platform was launched by the Commission and the European Economic and Social Committee (EESC), also supported by the European Parliament³⁹², the Council³⁹³ and the Committee of the Regions³⁹⁴. Its vision is to act as a hub of knowledge and dialogue on circular economy among stakeholders taking advantage of cross-sectoral opportunities and challenges³⁹⁵.

The aims of the Platform will be to:

- Advance the concept of circular economy in Member States, regional and local governments, civil society and industry,
- Strengthen cooperation between stakeholders to facilitate the exchange of expertise and
- Contribute to the identification of barriers to the transition towards a circular economy (social, economic, cultural)³⁹⁶.

This Platform will be structured based on three pillars: **policy dialogue** with stakeholders' views and input, a **coordination group** that will bring together the different stakeholders (business, civil society, authorities, research institutions, etc.) and finally a website for dissemination of all circular economy related content and information (events, good practices, contacts).

The Platform will have an initial mandate of three years and its activities will be reported annually within the context of the implementation of the Circular Economy Action Plan (CEAP) and in the five-year report after the adoption of the CEAP.

³⁹¹ http://ec.europa.eu/smart-regulation/roadmaps/docs/2017_env_006_water_reuse_instrument_en.pdf

³⁹² <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P8-TA-2015-0266+0+DOC+PDF+V0//EN>

³⁹³ <http://www.consilium.europa.eu/en/press/press-releases/2016/06/20-envi-conclusions-circular-economy/>

³⁹⁴ <http://cor.europa.eu/en/activities/opinions/pages/opinion-factsheet.aspx?OpinionNumber=CDR%201415/2016>

³⁹⁵ http://ec.europa.eu/environment/circular-economy/index_en.htm

³⁹⁶ http://ec.europa.eu/environment/temp/CESP_aim_structure.pdf

I.6 COLLABORATION ON FOOD WASTE

The Food and Agriculture Organisation (FAO) estimates that around a third of the food produced globally is wasted³⁹⁷. Food waste is a big economic and social issue that also impacts the environment and natural resources and therefore attracts significant political interest. The Commission is very keen to reduce food waste, which is also part of the Circular Economy Package and of the commitments towards the SDGs. Therefore, in cooperation with the MS and stakeholders, the Commission is trying to find ways to prevent food waste and make the food system more sustainable while at the same time offering the highest level of protection to human and animal health³⁹⁸.

To achieve the SDGs on food waste reduction, the Commission must:

- develop a methodology to measure food waste consistently;
- create a platform involving MS and stakeholders to help share best practice and collaboration and define measures to achieve food waste reduction towards the SDGs;
- clarify EU legislation related to food, feed and waste and facilitate food donation and the use of former foodstuffs for the production of feed without compromising food and feed safety;
- improve the use of date marking and in particular 'best before' marking by food actors and its understanding by consumers³⁹⁹. For this purpose, the Commission has recently launched a new study⁴⁰⁰ to map how date marking is used by food business operators and control authorities and inform future policy making on date marking and food waste. The results of the study are expected in the end of 2017.

- **Cooperation with EU Member States**

To facilitate cooperation between the Commission and the MS, a dedicated, informal **Expert Group on food losses and food waste** has been established by the Commission since 2014. Its aim is to help both the Commission and the MS to identify and prioritise action to prevent food waste and food losses while ensuring food and feed safety and the protection of animal health, and to share best practice. It also aims to help the Commission and the MS to remove regulatory barriers and clarify grey zones that may lead to food waste⁴⁰¹. This Expert Group is made up of relevant organisations from all MS and will build on and complement the work carried out by other stakeholders in the food chain (economic operators, consumer and other NGOs) under the Advisory Group on the Food Chain, Animal and Plant Health since 2012. It aims to identify opportunities for the prevention of food waste across the whole food chain, from production to consumption. The Group may consider, discuss and recommend policy options, but it would need to be the working groups of the Standing Committee on the

³⁹⁷ https://ec.europa.eu/food/safety/food_waste/stop_en

³⁹⁸ https://ec.europa.eu/food/safety/food_waste_en

³⁹⁹ https://ec.europa.eu/food/safety/food_waste/eu_actions_en

⁴⁰⁰ https://ec.europa.eu/food/safety/food_waste/eu_actions/date_marking_en

⁴⁰¹ https://ec.europa.eu/food/safety/food_waste/eu_actions/member_states_en

Food Chain and Animal Health or other regulatory committees that would consider these issues further⁴⁰².

Summary reports on the outcome of the meetings of this Expert Group can be found at this link: https://ec.europa.eu/food/safety/food_waste/eu_actions/member_states_en

- **Cooperation with stakeholders**

To successfully tackle food waste, collaboration between all stakeholders in the food chain is imperative and this is the reason why stakeholders are also closely involved in the Commission activities in this field. Stakeholders are consulted in the context of Platforms such as the **Advisory Group on the Food Chain, Animal and Plant Health – Working Group on Food Losses and Food Waste**. This Working Group was established in 2012 under the Advisory Group with the aim to help the Commission with best practices and possible actions in relation to food waste prevention. Topics addressed include: donation of surplus food to food banks, date labelling, safe use of former foodstuffs in animal feed, short food supply chains, bio-energy, social innovation in food waste reduction, etc⁴⁰³.

More information on the outcome of the meetings of the Working Group can be found at this link: https://ec.europa.eu/food/safety/food_waste/eu_actions/stakeholders_en

Other platforms for collaboration such as **the EU Food Sustainable Consumption and Production Roundtable** and the **High Level Forum for a better functioning food supply chain** are also considered relevant for food waste and food losses.

I.6.1 EU PLATFORM ON FOOD LOSSES AND FOOD WASTE (2016)

The Commission Communication on Circular Economy⁴⁰⁴ of 2015 asked the Commission to establish a Platform dedicated to the prevention of food waste, to support the achievement of target 12.3 of the 12th Sustainable Development Goal to halve per capita food waste and reduce food losses along the food chain. The aim of the EU Platform on Food Losses and Food Waste (FLW) is to support all actors (Commission, Member States, actors in the food value chain) in defining measures needed to prevent food waste, in sharing best practice and in evaluating progress made over time⁴⁰⁵. This is also reflected in the proposal for a Directive on waste⁴⁰⁶. The Platform builds on the work of the stakeholder Working Group on Food Losses and Food Waste and the Commission Expert Group on food losses and food waste described in detail above. The Platform helps the Commission to identify and prioritise related actions at EU level and helps the other actors to identify and implement actions at national, regional or local level through the sharing of information and best practices and the exchange of national programmes for the prevention and monitoring of waste, and to share on the progress made towards achieving Target 12.3. It also provides advice and expertise on the implementation of EU legislation and policies and facilitates the preparation of potential policy initiatives, where relevant, as well as contributes to the development of relevant guidance and communication initiatives⁴⁰⁷.

⁴⁰² <http://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=3189>

⁴⁰³ https://ec.europa.eu/food/safety/food_waste/eu_actions/stakeholders_en

⁴⁰⁴ http://eur-lex.europa.eu/resource.html?uri=cellar:8a8ef5e8-99a0-11e5-b3b7-01aa75ed71a1.0012.02/DOC_1&format=PDF

⁴⁰⁵ https://ec.europa.eu/food/safety/food_waste/eu_actions/eu-platform_en

⁴⁰⁶ <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52015PC0595>

⁴⁰⁷ https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_flw-platform_tor.pdf

The Platform is composed of a maximum of 70 senior-level representatives of both the public and private sectors in relation to food waste: competent authorities, umbrella organisations and federations, NGOs, charity organisations, EU bodies (Committee of the Regions, European Economic and Social Committee), international organisations. The public members of the Platform are invited by the Commission while the private ones are selected through an open call for applications. The Platform's work must be communicated to the European Parliament. The Platform must meet at least twice in a year and has an initial mandate until the end of 2019. Certain sub-groups may be set up to examine specific issues and these must report to the Platform and operate under its rules and the rules for Commission Expert Groups. Experts may also be invited to participate in the work of the Platform or its sub-groups. In 2017, two such groups were established:

- **Sub-group on food donation**

The aim of this sub-group⁴⁰⁸ is:

- to provide input on and prepare EU food donation guidelines for those donating and those receiving food surplus by the end of 2017;
- to identify existing practices on food donation in MS for sharing with Platform members and publication on the 'Resource library' section of the Commission's food waste website;
- to contribute to the further scoping of a Pilot Project on food redistribution to be launched in 2017 with the aim to research practices in the MS and to disseminate future EU guidelines at national level.

- **Sub-group on food waste measurement**

The aim of this sub-group⁴⁰⁹ is to support:

- the development of a common EU framework for the reporting of food waste amounts and enabling such reporting for SDG target 12.3;
- the development of food waste indicators that can be used for the monitoring of food waste prevention policies;
- the identification and sharing with Platform members of existing data sets, data collection practices and experiences on measuring food loss and waste from MS;
- discussions on the feasibility of monitoring resource flow and food losses in the agro-food industries in the EU.

⁴⁰⁸ https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_subgroup-mandate_food-donation.pdf

⁴⁰⁹ https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-actions_subgroup-mandate_fw-measure.pdf

I.7 2003 ENVIRONMENT POLICY REVIEW

Communication (2003) 745 final/2⁴¹⁰ from the Commission to the Council and the European Parliament on ‘**Environment Policy Review: Consolidating the environmental pillar of sustainable development**’ aimed at reporting on developments since 2001, highlighting priorities for the year to come and monitoring the implementation of the EU’s 6th Environment Action Programme.

The Communication lays down suggestions for improving the implementation of the environmental legislation. Amongst these, it is suggested that to progress towards sustainable development potential **synergies between environment** and the other two dimensions, **economic and social**, must be fully exploited. It is suggested that new business approaches must be fostered. Responsibility and accountability must be promoted. Government efforts to make the regulatory development of company Corporate Social Responsibility (CSR) strategies (voluntarily taking on commitments that go beyond the regulatory framework in place to raise the standards of environmental protection and social development with a view to promoting sustainable development) which explicitly cover the environment. CSR can be encouraged by communication of the efforts by companies, exchange of best practice between businesses and benchmarking business initiatives. Two tools supported by the Commission, can contribute to operationalising CSR:

- **Publication of rigorous and independently verified environmental report by companies**, which is encouraged by the 6th EAP. This should lead to benchmarking for maximising the potential of these reports.
- **EU Eco-Management and Audit Scheme (EMAS)** that promotes continuous environmental performance improvements of industrial activities by committing organisations to evaluate and improve their own environmental performance and provide information to the public.

I.8 ENVIRONMENT ACTION PROGRAMME

Environmental Actions Programmes (EAP) have been establishing EU environmental action since 1973.

In 2002, the European Parliament and the Council adopted the 6th Environment Action Programme, setting out the EU’s environmental roadmap for the next ten years⁴¹¹. The 6th EAP was the main vehicle by which to achieve the environmental goals of the Sustainable Development Strategy. It ended in July 2012 but certain of its provisions continue to be in force. Despite the achievements under the 6th EAP, further improvements in sustainability in its priority areas are needed.

In 2013 the 7th Environment Action Programme ‘Living well within the limits of our planet’⁴¹² was adopted by Decision No 1386/2013/EU which entered into force in 2014 and runs until 2020. The key thematic objectives that should be pursued in parallel are:

⁴¹⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003DC0745&from=EN>

⁴¹¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32002D1600&qid=1503505586269&from=EN>

⁴¹² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013D1386&from=EN>

- to protect, conserve and enhance the Union's **natural capital**;

(There is specific Union legislation that contributed to this aim, including: the Water Framework Directive, the Marine Strategy Framework Directive, the Urban Wastewater Directive, the Nitrates Directive, the Floods Directive, the Priority Substances Directive, the Air Quality Directive and related directives and the Habitats and Birds Directives. Also, legislation that tackles climate change, chemicals, industrial emissions and waste also contributes to the protection of soil and biodiversity, ecosystems, species and habitats as well as reducing nutrient releases.)

- to turn the Union into a **resource-efficient, green, and competitive low-carbon economy**;

(The Roadmap to a Resource Efficient Europe and the Roadmap for moving to a competitive low-carbon economy are key building blocks of the 'Resource-efficient Europe' Flagship Initiative. Also relevant is the Union's Integrated Industrial Policy⁴¹³.)

- to safeguard the Union's citizens from **environment-related pressures and risks to health and wellbeing**;

(The Union air quality policy, the Union noise policy, the Water Framework Directive, the Bathing Water Directive, the Drinking Water Directive, REACH and a Union Strategy for non-toxic environment, the Sustainable Use of biocidal products and plant protection products and the EU Strategy on adaptation to climate change are relevant policies.)

The enabling framework that helps achieve the above priority objectives is built on the following four pillars:

- improve the implementation of the Union environment legislation to maximise its benefits;
- improve knowledge and evidence base for the environment policy;
- secure investment for environment and climate policy;
- improve environmental integration and policy coherence.

Actions are also provided to help achieve this enabling framework by 2020.

The final two objectives to meet local, regional and global challenges are:

- to enhance **sustainability of EU cities**;

(Urban Development Network, Common Strategic Framework, Cohesion policy)

- to increase the Union's effectiveness in addressing **international environmental and climate-related challenges**;

(Convention on Biological Diversity, Intergovernmental Science-Policy Platform on Biodiversity and Ecosystems Services, Convention to Combat Desertification, Multilateral Environmental Agreements, European Union Timber Regulation).

The 7th EAP should build on policy initiatives in the Europe 2020 strategy, including the Union climate and energy package, the Commission Communication on a Roadmap for moving to a low-carbon economy in 2050, the EU Biodiversity Strategy to 2020, the Roadmap to a Resource Efficient Europe, the Innovation Union Flagship Initiative and the European Union Strategy for Sustainable Development.

⁴¹³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0614&from=EN>
VALUMICS_D3.2 report

I.9 INTEGRATED PRODUCT POLICY

I.9.1 GREEN PAPER ON INTEGRATED PRODUCT POLICY

The Green Paper⁴¹⁴ presented a strategy to strengthen and refocus **product-related environmental policies** to promote the development of a market for **greener products**. This strategy was based on the Integrated Product Policy (IPP) approach and aimed to complement existing environmental policies. This approach aims to reduce the environmental impacts of products throughout their life cycle by focusing on decision points that strongly influence these impacts and offer potential for improvement, such as eco-design, informed consumer choice, the ‘polluter pays’ principle in product prices. The purpose of the Green Paper was to **initiate public debate** on this strategy and its prospects for stakeholders and to address how an EU framework could be set up. The outcome of the debate should provide an indication on how to integrate the IPP approach into environmental policy and implement it and this would be published in a Commission Communication. The strategy proposed was based on a mixture of the following instruments: getting the prices right, greener consumption (stimulating consumer demand for greener products) and stimulating greener production⁴¹⁵.

I.9.2 COMMUNICATION FROM THE COMMISSION ON INTEGRATED PRODUCT POLICY

An Integrated Product Policy (IPP) has been under discussion in the EU since 1998 in a process that involved stakeholder consultations, studies and discussions in different meetings. It has been shown that IPP can contribute to sustainable development. The Communication from the Commission to the European Parliament and the Council on **‘Integrated Product Policy: Building on environmental life-cycle thinking’**⁴¹⁶ explains the importance of a product dimension to the environmental policy, explains the IPP approach and presents the principles of the EU’s IPP strategy.

Product-related environmental policies need to look into environmental impacts throughout the life-cycle of products including in the use phase instead of just focusing on industrial emissions and waste management.

A range of tools and approaches are presented that may be used by different stakeholders to help in continuous environmental improvement, such as tools for creating a suitable economic and legal framework, tools to promote life-cycle thinking and ways to allow the consumer to decide by providing the appropriate information.

Life cycle assessment was identified as the best framework for assessing the potential environmental impacts of products.

- **European Platform on Life Cycle Assessment**

The Communication indicated that the Commission would provide a platform to facilitate communication and exchanges to promote the application of life-cycle thinking. The

⁴¹⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52001DC0068&qid=1502274357779&from=EN>

⁴¹⁵ <http://ec.europa.eu/environment/ipp/2001developments.htm>

⁴¹⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003DC0302&from=EN>

resulting initiative was the ‘**European Platform on Life Cycle Assessment**’ managed by the Joint Research Centre, Institute for Environment and Sustainability (JRC-IES) in collaboration with the DG Environment, Directorate for Sustainable Development and Integration⁴¹⁷. It supports the implementation of the Thematic Strategies on the Prevention and Recycling of Waste and on the Sustainable Use of Natural Resources, IPP, and the SCP Action Plan while it may also support the life-cycle initiatives of other product-related policies and activities, e.g. Energy using products Directive.

The Communication also presented the aim of the Commission to identify products that have the greatest potential for improvement in their environmental impact⁴¹⁸. The following studies were carried out to fulfil this aim and identify those products and possible ways to reduce their environmental impacts:

- **Environmental Impact of Products report (EIPRO)**

A report was published on the Environmental Impact of Products (EIPRO): **Analysis of the life cycle environmental impacts related to the final consumption of the EU-25 project**^{419,420}. The aim of this Project was to identify the products that cause the highest environmental impacts, so they can be prioritised for action. According to this report, food and drink (together with tobacco and narcotics) account for 20-30% of the various environmental impacts of consumption and for more than 50% of eutrophication. Meat and meat products were found to have the highest environmental impact considering their whole production chain. These were followed by dairy, plant-based products and drinks.

- **Environmental Improvement Potentials of Meat and Dairy Products (IMPRO – Meat and Dairy)**

To follow up on the above report, a new study report was published in 2008 on the environmental impacts of meat and dairy products⁴²¹, taking into account their entire food value chain and the potential improvements. It was found that the consumption of these products contributes on average 24% of the total environmental impacts, while these products constitute only 6% of the economic value. The main areas where improvements have been proposed are reduction of food waste at household level, improvements in water, air and land use and power saving in the industries involved: food industry, retail, catering, household appliances. These improvements could offer an aggregated environmental impact improvement potential of around 20% for meat and dairy products. However, even with these improvements, the aggregated impact of meat and dairy products on the overall impact of EU-27 total final consumption would only reduce from 24% to 19%.

- **Environmental Impacts of Diet Changes in the EU (IMPRO – Diet change)**

After the results of the above two studies showed that changes in dietary habits could improve environmental impacts, a specific study was launched on the environmental impacts of diet changes⁴²². Recommendations on healthier diets from the World Health Organisation (WHO), the European Food Safety Authority (EFSA) and other relevant

⁴¹⁷ http://ec.europa.eu/environment/ipp/pdf/bio_ipp.pdf

⁴¹⁸ <http://ec.europa.eu/environment/ipp/identifying.htm>

⁴¹⁹ http://ec.europa.eu/environment/ipp/pdf/eipro_report.pdf

⁴²⁰ <http://ec.europa.eu/environment/ipp/lca.htm>

⁴²¹ <http://ftp.jrc.es/EURdoc/JRC46650.pdf>

⁴²² <http://ftp.jrc.es/EURdoc/JRC50544.pdf>

sources were used to develop alternative diets. These indicate that reduction in red meat and dairy consumption can reduce negative health impacts. The alternative diets were compared with current diets. The reduction of environmental impacts related to food consumption decreased by 2% in two of the alternative diets with moderate reduction in meat consumption, which corresponds to an 8% reduction of impacts related to food consumption. However, using a different model and in response to the changed diets other impacts can be observed, resulting in just a 1% reduction of environmental impacts. Therefore, a change in European diets has a marginal only effect on the environment despite their clear health benefits. The report concludes with policy options to support the implementation of healthier diets.

I.9.3 OPINION OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (EESC) ON THE COMMUNICATION ON INTEGRATED PRODUCT POLICY⁴²³

The EESC represents civil society. Their opinion on the above Commission Communication was intended to provide their view on its content and their concerns on certain approaches and to also suggest a way forward on IPP. They highlighted the importance of cooperation between stakeholders: governments, industry, NGOs, consumers.

I.9.4 REPORTING ON THE IMPLEMENTATION OF INTEGRATED PRODUCT POLICY

A report⁴²⁴ was published in 2008 to support the Commission report on the implementation of IPP compiled with information obtained from different stakeholders. The implementation on EU level seems to be on schedule, and actions such as the publication of the above reports have been completed. Certain related policies are going to be revised but there are some barriers in relation to environment-related tax and incentives policies due to differences between the MS. A plethora of related initiatives has been identified in MS. Stakeholders are also playing their own part in IPP related strategies with consumer associations increasing awareness about consumption environmental impacts and sustainable consumption patterns, research institutes creating more sustainable products, industrial federations adopting environmental management systems and related strategies, but still there is a limited uptake by SMEs where more guidance is needed.

I.10 BUILDING THE SINGLE MARKET FOR GREEN PRODUCTS

The Roadmap to a Resource Efficient Europe, as described above, is one of the paths towards a green economy. It also set an ambitious milestone for 2020: *‘providing the right incentives for citizens and public authorities to **choose the most resource efficient products through appropriate price signals and clear environmental information**’*. The Roadmap also recognised that the internal market has an important role in rewarding resource-efficient products, in particular the initiative **‘Building the**

⁴²³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003AE1598&qid=1502446923052&from=EN>

⁴²⁴ http://ec.europa.eu/environment/ipp/pdf/bio_ipp.pdf

Single Market for Green Products'. The generic concept of a green product as the product that has a reduced environmental impact over its life cycle compared to an alternative product will thus be operationalised by: a) the method to measure life cycle environmental impacts and b) the product category-specific rules which will provide the benchmark necessary to define a truly green product. The same approach will also be implemented for organisations.

These two methods introduce several important improvements compared to other existing methods, among others:

- a clear identification of the potential environmental impact categories to be looked at in order to perform a comprehensive LCA;
- the requirement to quantify data quality;
- setting minimum data quality requirements;
- clearer technical instructions for addressing some critical aspects of an LCA study (such as allocation, recycling).

I.10.1 PRODUCT ENVIRONMENTAL FOOTPRINT (PEF)

Starting in 2003 with the **Integrated Product Policy (IPP) Communication**⁴²⁵ that introduced the concept of **Life Cycle Thinking** in EU policy-making and continuing with the renewed **EU Sustainable Development Strategy** adopted in 2006 and the conclusions of the European Council of March 2008 restating the EU's commitment to tackling climate change, the Council, in its conclusions on the **Sustainable Consumption and Production Action Plan**⁴²⁶ (2008) invited the Commission '*taking into account Member States' experience, to start working as soon as possible on common voluntary methodologies facilitating the future establishment of carbon audits for organisations and the calculation of the carbon footprint of products*'. As a follow up, DG Environment together with the DG Joint Research Centre and other European Commission services worked towards the development of a harmonised methodology for the calculation of the environmental footprint of products and organisations (including carbon)⁴²⁷. Several existing methods and initiatives were considered and after a consultation process, as well as a testing exercise in collaboration with industry, the final methods: the **Product Environmental Footprint (PEF)** and the **Organisation Environmental Footprint (OEF)**, were published as an Annex to the **Commission Recommendation on the use of common methods to measure and communicate the life cycle environmental performance of products and organisations**⁴²⁸ (2013/179/EU). The two methods are tightly interlinked and have many elements in common.

The Product Environmental Footprint (PEF) is a **method** that measures the life cycle environmental performance of products⁴²⁹. The information provided considers the environmental impacts of all steps needed to get the product to the consumer, such as for the materials and energy needed to make the product, manufacturing, transport, use and end of life of the product. The PEF method covers the following 15 environmental impacts: climate change; ozone depletion; human toxicity – cancer and non-cancer

⁴²⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52003DC0302&from=EN>

⁴²⁶ <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2016914%202008%20INIT>

⁴²⁷ http://ec.europa.eu/environment/eussd/smgp/dev_methods.htm

⁴²⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013H0179&qid=1501598262607&from=EN>

⁴²⁹ http://ec.europa.eu/environment/eussd/smgp/communication/what_is_pef.htm

effects; eco-toxicity – freshwater aquatic; particulate matter/respiratory inorganics; ionising radiation; photochemical ozone formation; acidification; eutrophication – terrestrial, aquatic freshwater and marine; land use; resource depletion – water, mineral, fossil and renewable. The bigger the value of the result (tonnes of CO₂), the bigger the impact. However, due to the difficulty in measuring the impacts precisely, values close to each other become comparable and therefore performance classes are used (A, B, C, D, E or traffic light system) that also consider the uncertainty in the results⁴³⁰.

I.10.2 ORGANISATIONAL ENVIRONMENTAL FOOTPRINT (OEF)

Whereas the PEF method is specific to individual goods or services, the OEF method applies to organisational activities as a whole (to all activities associated with the goods and/or services the organisation provides from a supply chain perspective: from extraction of raw materials, through use, to final waste management options). Calculating the OEF does not require multiple product analyses. It is calculated using aggregate data representing the flows of resources and waste that cross a defined organisational boundary. Once the OEF is calculated, however, it may be disaggregated to the product level using appropriate allocation keys. In theory, the sum of the PEFs of the products provided by an organisation over a certain reporting interval (e.g. one year) should be close to its OEF for the same reporting interval. Moreover, the OEF can help to identify areas of the organisation's product portfolio where environmental impacts are most significant and, hence, where detailed, individual product-level analyses may be required⁴³¹.

To be able to make independent comparisons between the results of separate assessments within a given product category or sector, the PEF and OEF methods require that **Category Rules (PEFCR) and Sector Rules (OFSR)** are developed respectively. These will tailor the general provisions of the PEF and OEF methods into product category or sector specific rules that will allow focus on the three or four most relevant environmental impacts among the 14 key environmental impacts indicators and the most relevant processes or life cycle stages for a given product category or sector.

Between 2013-2016 an **Environmental Footprint (EF) pilot phase**⁴³² was carried out with the objectives to test the process for developing product- and sector-specific rules, to test different approaches to verification and to test communication vehicles for communicating life cycle environmental performance to business partners, consumers and other company stakeholders. A Guidance document⁴³³ was published that should be followed by all pilot phase participants.

For a range of food and drink products there are not yet harmonised rules for environmental sustainability assessments, in particular for complex products.

The **Food SCP Round Table is tasked with coordinating the development of such product category rules (PCRs) for food and drink related products**⁴³⁴. For these products, the ENVIFOOD Protocol in addition to the PEF/OEF Guides and the above Guidance document will be used. In case of conflicting requirements between the two, the PEF/OEF guides prevail although both could be used for comparison.

A short report on the applications received for the call for volunteers for feed, food, drink and related products testing of environmental footprint during the second wave of the

⁴³⁰ <http://ec.europa.eu/environment/eussd/smgrp/communication/impact.htm>

⁴³¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013H0179&qid=1501598262607&from=EN>

⁴³² http://ec.europa.eu/environment/eussd/smgrp/ef_pilots.htm#pilot

⁴³³ http://ec.europa.eu/environment/eussd/smgrp/pdf/Guidance_products.pdf

⁴³⁴ http://www.food-scp.eu/files/PCR-WorkingPaper_final.pdf

pilots in 2014 can be found at the following link: http://ec.europa.eu/environment/eussd/smgp/pdf/Application_analysis_2w.pdf

In the aquaculture sector, work was within the FEED Pilot Phase that was initiated by the livestock feed sector, coordinated by FEFAC (the European Federation of Feed Manufacturers), which invited FEAP (the Federation of European Aquaculture Producers) to participate for the part relative to fish feeds. The Norwegian Seafood Federation (FHL), took the initiative to promote a FISH Pilot, covering fish farming (marine and freshwater) and fishing since it represents both activities in Norway⁴³⁵.

A report has been published recently on a Review of Environmental Footprint supporting studies: **Key learnings regarding PEFCRs/OEFSRs and horizontal issues from 40 supporting studies**⁴³⁶. It aims at understanding the rules and approaches adopted in the supporting studies, thereby providing the Commission with new insights about horizontal issues and about the applicability of draft PEFCRs.

The Commission recommends the use of the PEF and OEF methods by the MS and private and public organisations. The use, by the MS, of the methods in voluntary policies measuring or communicating the life cycle environmental performance of products or organisations should not create obstacles to the free movement of goods in the Single Market. The Recommendation ask companies, private organisations and industrial associations that use the PEF and OEF methods to review the public databases and populate them with high-quality life cycle data and also ask the associations to promote the use of the methods among their members. MS should report yearly to the Commission on actions taken in relation to this Recommendation.

There is currently no EU legislation specifically harmonising all **green claims and marketing**. The EU has regulated the use of claims either by requirements in specific legislation regulating different types of products' performance (such as for example the Energy Star Regulation) or by setting general rules for preventing misleading environmental claims, leaving to national authorities the task to interpret and enforce them on a case-by-case basis as provided for by the Unfair Commercial Practices Directive (UCPD)⁴³⁷. In the context of the implementation of the UCPD, the Commission has issued and intends to provide further specific guidance to promote the use of clear, accurate and relevant environmental claims in marketing and advertising. The Commission has also started a dialogue with relevant stakeholders to identify challenges and best practices, and to agree on key recommendations for future action.

I.11 HIGH-LEVEL FORUM FOR A BETTER FUNCTIONING FOOD SUPPLY CHAIN⁴³⁸

The High-Level Forum for a Better Functioning Food Supply Chain was established in 2010 by the European Commission with the aim to foster debate on food issues and support policy initiatives for an efficient and competitive food supply chain⁴³⁹. It replaced the previous **High-Level Group on the Competitiveness of the Agro-Food**

⁴³⁵ <http://www.feap.info/Default.asp?SHORTCUT=711>

⁴³⁶

http://ec.europa.eu/environment/eussd/smgp/pdf/learnings_from_review_of_EF_supporting_studies.pdf

⁴³⁷ http://ec.europa.eu/justice/consumer-marketing/files/ucp_guidance_en.pdf

⁴³⁸ https://ec.europa.eu/growth/sectors/food/competitiveness/supply-chain-forum_en

⁴³⁹ https://ec.europa.eu/growth/sectors/food/competitiveness_en

Industry⁴⁴⁰. The Forum comprises members from the national authorities of all Member States, the food industry and the different sectors of the food chain, professional associations and non-governmental organisations and is chaired by Commissioners. It had an original mandate for 2 and then 4 years which was further renewed by Commission Decision (2015/C 179/03) in 2015 for another 4 years⁴⁴¹.

Topics in which the High-Level Forum has been involved between 2010-2014 related to:

- the Internal Market for food and drink products: promoted dialogue on the functioning and harmonisation of the Internal Market and also steered work on the impact of national taxes on food and drink products on the competitiveness of the food chain.
- sustainability: hosted dialogue on food system sustainability that produced a declaration endorsed by several food chain actors⁴⁴².
- business-to-business trading practices: the Forum assisted in addressing unfair trading practices and contributed in the setting-up of the **Supply Chain Initiative**, a joint initiative launched by 7 EU level associations with the aim to increase fairness in commercial relations along the food supply chain⁴⁴³. This initiative has been welcomed by the Commission⁴⁴⁴.
- social dialogue: encouraged dialogue between food industry and trade unions and the development of common pledges on social matters⁴⁴⁵.
- price monitoring: supported improvement of the Food Price Monitoring Tool and the exchange of best practices on food prices in the Member States.

The Forum also contributed in identifying challenges in relation to the Europe 2020 Strategy, in communication on the latest Industrial Policy and the new Common Agricultural Policy and provided input in the fitness check of the food chain and the General Food Law principles and other topics on health and nutrition and innovation. The Forum highlighted that action on these issues must continue to support the competitiveness of the food supply chain and SMEs.

The new High Level Forum from 2015 is expected to continue addressing the above issues as well as competitiveness and SME policy, trade and market access, innovation⁴⁴⁶.

⁴⁴⁰ http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=7981

⁴⁴¹ [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D0602\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32015D0602(01)&from=EN)

⁴⁴² http://www.fooddrinkeurope.eu/uploads/press-releases_documents/Declaration_Sustainability_of_Food_System.pdf

⁴⁴³ <http://www.supplychaininitiative.eu/about-initiative>

⁴⁴⁴ http://ec.europa.eu/internal_market/retail/docs/140715-communication_en.pdf

⁴⁴⁵ http://www.fooddrinkeurope.eu/uploads/press-releases_documents/PR_social_dialogue_-_plenary_2012_FINAL_website_1.pdf

⁴⁴⁶ http://ec.europa.eu/growth/tools-databases/newsroom/cf/itemdetail.cfm?item_id=8298&lang=en

I.11.1 THE SUPPLY CHAIN INITIATIVE

The Supply Chain Initiative⁴⁴⁷ is a joint Initiative launched by 8 EU level associations that represent the food and drink industry, the branded foods manufacturers, the retail sector, SMEs and agricultural traders. The aim of the Supply Chain Initiative is to promote fair business practices in the food supply chain, address disputes in a fair and transparent way and protect the complainant. Its members have agreed on a set of Principles of Good Practice in vertical relations in the food supply chain⁴⁴⁸ which aims to add to existing regulations, national rules and other voluntary schemes and not to replace them. These were **welcomed by the High Level Forum for a Better Functioning Food Supply Chain in 2011** and a framework for their implementation and enforcement was adopted in 2013.

I.11.2 EUROPEAN RETAIL ROUND TABLE

The **European Retail Round Table (ERRT)** is made up of the CEOs of leading European international retail companies in the food, furniture, fashion and electronics markets. The ERRT's aim is to coordinate support and develop strategies to represent and defend the common interests of major European retailing businesses with a focus in the following four strategic themes: creating a Single Market, digitalisation, sustainability, and supply chain⁴⁴⁹. The ERRT promotes a Single Market in Retail⁴⁵⁰, the delivery of a more sustainable consumption model and the creation of new market opportunities globally. It contributes to public policy debate. It also proposes a comprehensive policy initiative to create conditions so that retailers and shoppers can take full advantage of the Single Market offline and online⁴⁵¹.

In terms of sustainability the ERRT members aim to fulfil their environmental responsibilities and promote a more sustainable production and consumption model⁴⁵². ERRT members aim at greening their processes and procedures but also, because of their daily contact with the consumers and the partnerships with their suppliers, they are in a unique position to be able to promote sustainable production and consumption patterns.

I.11.3 RETAILERS ENVIRONMENTAL ACTION PROGRAMME

In response to the European Commission's Action Plan on Sustainable Consumption and Production, European retailers and the ERRT set up the **Retailers Environmental Action Programme (REAP)** in 2009. This is a voluntary initiative. Its aims are to reduce the environmental footprint of the retail sector and its supply chains, to promote more sustainable products and to provide better information to consumers. REAP facilitates sustainability dialogue between stakeholders in the supply chain (Commission, retailers, producers, consumers) and stimulates action by its members. It aims to achieve this through its two pillars: the **Retail Forum for Sustainability** and the retailers' commitments that are recorded in the **Matrix of environmental Action Points**. A third

⁴⁴⁷ <http://www.supplychaininitiative.eu/>

⁴⁴⁸ http://www.supplychaininitiative.eu/sites/default/files/b2b_voluntary_initiative_framework.pdf

⁴⁴⁹ <http://www.errt.org/priorities>

⁴⁵⁰ <http://www.errt.org/priorities#block-bean-creating-a-single-market-in-reta>

⁴⁵¹ <http://www.errt.org/about-errt>

⁴⁵² <http://www.errt.org/priorities#block-bean-sustainability>

aspect, commitments in a **Circular Economy Agreement**, was introduced by the most recent extension of the REAP⁴⁵³.

Since its setup, REAP has achieved significant results such as the adoption of a Code of Conduct on the environmental footprint of retailers' operations, the implementation of retailers' commitments beyond legislation, a Retail Agreement on Waste⁴⁵⁴ and in general the exchange of good practices and collaboration with stakeholders in the supply chain and a better understanding of issues and opportunities⁴⁵⁵. REAP members publish a summary of their achievements annually.

On 1st June 2016, the REAP pledged to contribute to the implementation of a more circular economy during the next three years⁴⁵⁶ by focusing on a range of individual commitments in relation to sustainable sourcing, product re-design, greener operations and distribution, consumer and employee information, food waste prevention and reuse and recycling⁴⁵⁷.

Monitoring of REAP is carried out by the Commission without any burdens to the REAP members and the results of the monitoring are available on a website hosted by the Commission.

- **Retail Forum for Sustainability**

The Retail Forum for Sustainability is a multi-stakeholder platform with the aim to promote environmentally sustainable consumption⁴⁵⁸, promote best practices on sustainability in retail and identify challenges and opportunities⁴⁵⁹. It aims to promote more environmentally friendly and energy efficient products and advises consumers on how to use them more efficiently. The Retail Forum was endorsed by the EU Sustainable Consumption and Production and Sustainable Industrial Policy Action Plan⁴⁶⁰ (2008) and it is considered as a significant contribution in its implementation. It was launched in 2009 by the European Commission (Commissioners for Environment and Consumer) and the European retail sector (representatives of the ERRT) with the involvement of other stakeholders (producers, consumers, environment groups). The Forum was initially set up for three years but was then extended for a second and later a third phase of three years until 2018. Membership of the Retail Forum is voluntary and is open to all retailers. Currently the members of the Forum are 17 retail companies and three retail associations. However, all stakeholders (producers, suppliers, consumer and environmental organisations) can participate in the meetings of the Forum to ensure transparency and collaboration⁴⁶¹. Meetings take place four times a year and they are co-chaired by a Commission and a retailer representative. The European Commission provides visibility to the Forum and monitors the delivery of the commitments in the context of REAP.

After each meeting of the Retail Forum an Issue Paper is drawn up in close collaboration with the Commission and with the input of all stakeholders involved. The Issue Papers analyse the EU legislative framework, identify challenges and opportunities, and highlight best practices and possible actions for policy-makers and stakeholders⁴⁶². The conclusions of the Issue Papers identify the need for legislative or

⁴⁵³ <http://ec.europa.eu/environment/industry/retail/pdf/REAP%20Circular%20Economy%20Agreement.pdf>

⁴⁵⁴ http://www.eurocommerce.eu/media/120522/12_wastereport2014.pdf

⁴⁵⁵ <http://ec.europa.eu/environment/industry/retail/pdf/REAP%202016-2018%20Terms%20of%20Reference.pdf>

⁴⁵⁶ http://ec.europa.eu/environment/industry/retail/index_en.htm

⁴⁵⁷ <http://www.errt.org/priorities#block-bean-creating-a-single-market-in-retail>

⁴⁵⁸ <http://ec.europa.eu/environment/industry/retail/launch.htm>

⁴⁵⁹ http://ec.europa.eu/environment/industry/retail/index_en.htm

⁴⁶⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52008DC0397&from=EN>

⁴⁶¹ <http://ec.europa.eu/environment/industry/retail/meetings.htm>

⁴⁶² http://ec.europa.eu/environment/industry/retail/issue_papers.htm

non-legislative measures on the specific topics discussed. These Issue Papers can be accessed at this link: http://ec.europa.eu/environment/industry/retail/issue_papers.htm

The benefit of the Retail Forum for consumers is that it can give them advice and access to better and greener products at more affordable prices as well as information on how to use them more efficiently. The benefit for retailers is that it can help them grow and innovate but also compete by offering consumers a wider choice of more sustainable/greener products that they seek. It also has the potential to help retailers reduce costs⁴⁶³.

- **Matrix of Action Points (MAP)**

REAP members commit to several environmental sustainability actions every year and define the expected outcomes⁴⁶⁴. The commitments will lead to certain concrete actions that will be monitored and reported in the following years. These commitments and actions are gathered in the REAP on-line searchable database, the Matrix of Action Points (MAP), at the following link:

http://ec.europa.eu/environment/industry/retail/reap/index_en.html

Commitments are divided into three categories based on the objective to be achieved:

- 'what we sell', for actions aimed at lower-impact, more sustainable products;
- 'how we sell', for actions reducing the environmental impact of supply chain operations;
- 'communication', for actions aimed to help consumers make more sustainable choices.

All members of the Retail Forum must report on the progress of their commitments annually to ensure accountability, while the Commission also monitors the retailers' progress in meeting these commitments.

- **Circular Economy Agreement**

The third three-year extension of the REAP will be focused on circular economy and a Circular Economy Agreement will be introduced in addition to the Retail Forum and MAP. Retailers will have to make commitments in this respect, specify their scope, identify progress measures and demonstrate the overall progress to circular economy⁴⁶⁵.

I.11.4 RETAIL AGREEMENT ON WASTE

Waste is one of the more important environmental issues of our days and it is considered a collective challenge. Waste prevention and reduction is a concern for most retailers and many have already set up related actions.

The Retail Agreement on Waste is an awareness-raising initiative⁴⁶⁶ that was set up in 2012. Food retailers committed to helping raise awareness on food waste and how it can be reduced at household level, and to setting at least two such initiatives on a

⁴⁶³ <http://ec.europa.eu/environment/industry/retail/faq.htm>

⁴⁶⁴ http://ec.europa.eu/environment/industry/retail/pdf/reap_tor.pdf

⁴⁶⁵ <http://ec.europa.eu/environment/industry/retail/pdf/REAP%20Circular%20Economy%20Agreement.pdf>

⁴⁶⁶ http://www.eurocommerce.eu/media/120522/12_wastereport2014.pdf

national and/or global level before end of June 2014. This could involve advice on reducing food waste generated, information on 'use by' and 'best before' dates on food in collaboration with the Commission, and the use of innovative tools. The signatories would have to report by providing relevant documentation on their initiatives and the progress would be measured based on the number of initiatives and their reach to consumers.

A report on the outcome of the Retail Agreement on Waste was published in 2014 by the ERRT and EuroCommerce.

I.12 EXPERT GROUP FOR PROCESSED AGRICULTURAL PRODUCTS AND MANAGEMENT COMMITTEE FOR PROCESSED AGRICULTURAL PRODUCTS

Processed agricultural products (PAPs) are non-agricultural food and drink items made from agricultural products, such as chocolate, processed dairy products, frozen fruit and vegetables, confectionery, sweet drinks, beers, spirits bakery products and biscuits. While agricultural products are listed in Annex I to the Treaty on the Functioning of the EU, PAPs are not and they are called 'Non-Annex I goods'. They are listed in Regulation (EU) No 510/2014 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products⁴⁶⁷.

The trade regime for these products⁴⁶⁸ is managed by the Commission including their import trade arrangements and their export refunds. To prepare delegated and implementing acts on these products the Commission consults the authorities in the EU MS through the '**Expert Group on delegated acts under Regulation (EU) No 510/2014 for horizontal questions concerning trade in processed agricultural products not listed in Annex I**' and the '**Management Committee for horizontal questions concerning trade in processed agricultural products not listed in Annex I**'.

I.13 THE COMMON AGRICULTURAL POLICY

As previously discussed, the Common Agricultural Policy is governed by four main Regulations since the 2013 reform⁴⁶⁹.

Regulation (EU) No 1305/2013 indicates that the mission of the European Agricultural Fund for Rural Development (EAFRD) is to contribute to the Europe 2020 Strategy by promoting sustainable rural development throughout the Union in a manner that complements the other instruments of the CAP, the Cohesion Policy and the Common Fisheries Policy. It shall contribute to the development of a Union agricultural sector that is more territorially and environmentally balanced, climate-friendly and resilient, competitive and innovative.

⁴⁶⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0510&from=EN>

⁴⁶⁸ https://ec.europa.eu/growth/sectors/food/processed-agricultural-products/trade-regime_en

⁴⁶⁹ https://ec.europa.eu/agriculture/cap-overview/basic-rules_en

The CAP's aims are to provide consumers with a stable, sustainably produced supply of safe, high-quality and affordable food. Sustainability was and will remain a key factor in the past and future reforms of the CAP. The green direct payments and measures such as agri-environment and organic farming support sustainable agricultural practices. The CAP also promotes healthy diets among schoolchildren through the EU School Fruit and Vegetables and Milk Scheme. It also promotes the sustainable management of natural resources with a priority in restoring, preserving and enhancing ecosystems, improving the management and making more efficient use of water in agriculture⁴⁷⁰. The Common Agricultural Policy also helps the maintenance of agriculture in remote areas – such as mountain areas – where land abandonment would have adverse effects on ecosystems. The Common Agricultural Policy also provides opportunities to support the promotion of sustainable forest management and foresees combatting of desertification and restoration of degraded soil and the prevention of biodiversity loss.

I.13.1 VOLUNTARY AGRI-ENVIRONMENT-CLIMATE MEASURES/PAYMENTS

Regulation 1305/2013 also lays down provisions for certain measures for rural development support. Some of these measures aim to support investments in physical assets such as those aimed at achieving agri-environment-climate objectives. Agri-environment-climate measures can take place at national, regional or local level. They were first introduced in the late 1980s, originally as optional, but in 1992 they became compulsory and they are co-financed by MS while the EU expenditure on these measures accounts for 22% of the rural development expenditure. Agri-environmental measures are an important element for the integration of environmental concerns into the CAP^{471, 472}. Regulation 1305/2013 explains that the aim of these measures is to promote such changes to agricultural practices, to make a positive contribution to the environment and climate. These measures encourage farmers to protect and enhance the environment on their land by adopting voluntary environmental measures going beyond mandatory requirements (as established in Reg. 1306/2013, Reg. 1307/2013 and by legislation on fertilisers and plant protection products), while farmers are compensated for the additional costs and/or income forgone. Farmers commit to adopting environmental-friendly farming techniques for five to seven years.

Agri-environmental measures address a wide range of environmental aims and can contribute positively to the protection of landscapes, soils, water and biodiversity, meeting in this way societal demands. Examples of agri-environment schemes are: environmentally friendly extensification of farming, management of low-intensity pasture systems, integrated farm management, organic agriculture, landscape preservation (hedgerows, woods), conservation of high-value habitats and their biodiversity, grass buffer strips, flower strips. MS must provide those participating in these schemes with the knowledge and information necessary, with expert advice and relevant training. Payments to the participants are granted annually and must compensate wholly or partly the expenses incurred for the commitments made. Support can also be given for the conservation and sustainable use of genetic resources in agriculture. No support can be granted under this scheme for commitments covered under the organic farming measure.

⁴⁷⁰ https://ec.europa.eu/europeaid/sites/devco/files/swd-key-european-actions-2030-agenda-sdgs-390-20161122_en.pdf

⁴⁷¹ https://ec.europa.eu/agriculture/envir/measures_en

⁴⁷² <http://www.food->

[scp.eu/files/Continuous_Environmental_Improvement_FINAL_21_November_2012.pdf](http://www.food-scp.eu/files/Continuous_Environmental_Improvement_FINAL_21_November_2012.pdf)

I.14 WATER POLICIES

I.14.1 THE WATER FRAMEWORK DIRECTIVE

Directive 2000/60/EC⁴⁷³ establishes a framework for Community action in the field of water policy and is known as the Water Framework Directive (WFD). One of the main reasons why water protection became a Commission priority is citizens' demand for clean waters⁴⁷⁴.

The aim of this Directive is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater. This aims:

- to protect aquatic ecosystems and prevent further deterioration as well as protect terrestrial ecosystems and wetlands that depend on these aquatic ecosystems;
- to promote sustainable water, use and protect water resources;
- to protect and improve the aquatic environment through reduction of discharges, emissions and losses of priority substances;
- to reduce groundwater pollution;
- to mitigate the effects of floods and droughts.

It contributes to the objectives of international agreements, to ensuring the supply of sufficient good quality water for sustainable, balanced and equitable water use and to the protection of waters and reduction of groundwater pollution.

It lays down a range of environmental objectives for surface waters, groundwater and protected areas and for their monitoring by MS. It also indicates that MS must monitor waters used for the abstraction of drinking water.

The Directive indicates that MS must encourage the involvement of all interested parties in the implementation of its provisions, especially in relation to river basin management plans. They are required to publish information related to the production of this plan, an interim overview of significant water management issues identified and draft copies of the plan before its beginning. Copies must also be sent to the Commission and to MS concerned.

The Directive also requires the implementation of strategies against water and groundwater pollution.

1.14.1.1 Common Implementation Strategy for the Water Framework Directive

A Common Implementation Strategy (CIS) was collaboratively agreed between the Commission, the MS and Norway to address the challenges in the implementation of the Water Framework Directive⁴⁷⁵. These relate to technical challenges for MS, the Commission, candidate countries, stakeholders and NGOs and also due to the fact that many river basins in the EU are international. Guidance documents on technical issues prepared by the CIS can be found at the following link: http://ec.europa.eu/environment/water/water-framework/facts_figures/guidance_docs_en.htm

⁴⁷³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02000L0060-20141120&qid=1508274238588&from=EN>

⁴⁷⁴ http://ec.europa.eu/environment/water/water-framework/info/intro_en.htm

⁴⁷⁵ http://ec.europa.eu/environment/water/water-framework/objectives/implementation_en.htm

Also, within the context of the CIS for the implementation of the Directive, information exchange between countries, European Institutions and stakeholders and the public has improved.

To promote further information exchange the Commission set up the CIRCA⁴⁷⁶ information platform: <https://circabc.europa.eu/faces/jsp/extension/wai/navigation/container.jsp>.

I.14.2 THE NITRATES DIRECTIVE

Directive 91/676/EEC⁴⁷⁷ concerning the protection of waters against pollution caused by nitrates from agricultural sources is an integral part of the Water Framework Directive. It aims to protect water against the pressure from agriculture by preventing nitrates from agricultural sources polluting ground and surface waters and by promoting the use of good farming practices⁴⁷⁸.

I.14.3 SUSTAINABLE USE OF PESTICIDES

Directive 2009/128/EC establishing a framework for Community action to achieve the sustainable use of pesticides lays down some requirements for the protection of surface water and groundwater from spray drift, drain flow and run-off. Also, the use of pesticides in areas from where drinking water is abstracted can lead to higher risk of pollution of the aquatic environment and therefore specific measures must be established.

I.14.3.1 The TOPPS-Life project

The aim of this project is to reduce losses of plant protection products into water⁴⁷⁹. The project was funded by the EU through the Life programme and by the European Crop Protection Association and took place between 2005-2008. It was a multi-stakeholder project in which took part 15 EU MS, 12 local partners and nine subcontractors. It aimed at the development of best management practices to reduce point sources and at the dissemination of these practices to farms.

Related TOPPS projects are still running.

I.14.4 WATER REUSE

Water scarcity is an issue that has affected Europe as well in recent years and it is expected to become worse in the future due to climate change. The potential of reusing treated waste water can provide safe, available and affordable water, decrease energy needs, the cost of reclamation and environmental impact and it is an essential aspect of sustainable water management. For these reasons, it is embedded in strategies at international, European and national level. At international level, it is one of the targets of SDG 6 on the availability and sustainable management of water. In the EU water reuse is not a widespread practice and the two main reasons for this are limited awareness of the potential benefits and the lack of a coherent supportive framework.

⁴⁷⁶ http://ec.europa.eu/environment/water/water-framework/iep/index_en.htm

⁴⁷⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01991L0676-20081211&from=EN>

⁴⁷⁸ http://ec.europa.eu/environment/water/water-nitrates/index_en.html

⁴⁷⁹ <http://www.topps-life.org/topps-life-project.html>

In the EU water reuse is promoted through the following⁴⁸⁰:

1.14.4.1 Blueprint to safeguard Europe's Water Resources

The Blueprint, presented by the European Commission in 2012, proposes ways to identify challenges to the goal of achieving a good water status for the Union's lakes, rivers, streams and groundwater by 2015 and ways to overcome these challenges. This can be achieved in three ways: by improving the implementation of EU water policy and legislation, by promoting better integration of water policy to other EU policies and by increasing water efficiency through setting national targets to reduce water leakages and through the development of EU standards for the re-use of water⁴⁸¹. The aim is to ensure that there is sufficient good quality water for consumption, for the economy and the environment in the EU⁴⁸². It highlights the need for innovative solutions to deal with water challenges and an enabling policy framework. The Blueprint is closely related to the EU's 2020 Strategy and it is the water milestone in the 2011 Resource Efficiency Roadmap. The analysis underpinning the Blueprint stretches to 2050 and is expected to drive EU water policy in the long term.

1.14.4.2 Strategic Implementation Plan of the European Innovation Partnership on Water

The Steering Group of the European Innovation Partnership in Water (EIP Water) has adopted the Strategic Implementation Plan⁴⁸³ (SIP) of the EIP water in 2012. The SIP is a milestone in Europe's water and innovation strategy, and it includes the long-term objective and actions for the short term. It aims to develop innovative solutions for water challenges, and market opportunities for these innovations. The Partnership consists of 27 high-level representatives of relevant stakeholder groups in both the demand and supply sides of innovation in water and it is supported by a Task Force comprising 45 stakeholder representatives. The Task Force allows stakeholders to meet and discuss the agenda on water and innovation to prepare decision making by the Steering Group. It establishes Action Groups and provides a platform for them to discuss their findings. It coordinates other Partnership activities and tools. It also conducts analysis to prepare input for policy recommendations and decision making. It can create smaller expert groups and ask the support of experts and is responsible for dissemination and communication activities. The Task Force meets two or more times per year. The European Commission acts as a facilitator to the Partnership, keeps oversight and drives the process. It also provides insight into EU funding mechanisms and relevant policies to support the Partnership and facilitates activities driven by the stakeholders. The Steering Group can also ask the Commission to consider the Partnership's recommendations.

The Partnership has attracted a lot of interest and support from stakeholders and has triggered many activities at European, national and regional level. Its vision is *'To stimulate creative and innovative solutions that contribute significantly to tackling water challenges at the European and global level, while stimulating sustainable economic growth and job creation'* and its headline target is to *'Identify, test, scale up, disseminate and stimulate the uptake of innovative solutions by the market and society for 10 major water related challenges'*. To identify and remove barriers it is important to invest in

⁴⁸⁰ <http://ec.europa.eu/environment/water/reuse.htm>

⁴⁸¹ <http://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:52012DC0673>

⁴⁸² http://ec.europa.eu/environment/water/blueprint/index_en.htm

⁴⁸³ <http://www.eip-water.eu/sites/default/files/sip.pdf>

research and innovation, awareness raising, financing, governance, training, international cooperation and synergy.

The Steering Group of the Partnership has asked Action Groups to develop and test approaches that are cost-effective and meet the intended use and quality criteria, treatments producing water for different uses (residential, industrial, agricultural, etc.), systems to determine the quality of recycled water based on the applicable requirements and technologies to harvest resources from waste water and reused water.

More recently, an impact assessment was published in 2015 presenting the problem with water reuse and looking at the different policy options in the EU. A second study was published in 2016 that refined the findings of the previous one and supported the impact assessment of the more detailed policy options on minimum quality requirements for water reuse in agricultural irrigation and water recharge⁴⁸⁴. Also, two public consultations have been organised in 2014 and in 2016-17, giving the opportunity to citizens and stakeholders to get involved in the design of this initiative. The aim of the first one was to evaluate the most suitable instruments at EU level to foster water reuse while promoting human health and the environment and the free trade of food products. The aim of the second was to set the minimum requirements in reusing water in irrigation and groundwater recharge. They led to an agreement to support the water reuse initiative and the setting of minimum quality criteria in agricultural irrigation and water recharge. Stakeholder meetings and consultations with Member States and stakeholders were also carried out during the same time. In 2016, a report was published giving more detail on the issues, the policy objectives and options and the potential impacts (Inception Impact Assessment on the initiative 'Minimum quality requirements for reused water in the EU (new EU legislation)'⁴⁸⁵).

I.15 MARINE POLICIES

I.15.1 THE INTEGRATED MARITIME POLICY

The Integrated Maritime Policy focuses on cross-cutting policies and issues that do not fall under a single sector policy and that require coordination between sectors and actors, such as blue growth, marine data and knowledge, integrated maritime surveillance, sea basin strategies, maritime spatial planning etc. It intends to provide a more coherent approach to maritime issues by increasing coordination between different policy areas. It is of particular use when decisions on one policy area can affect others, to help authorities share data and cooperate on problems and to help increase cooperation between decision-makers in different sectors at national, local and international level⁴⁸⁶. The Integrated Maritime Policy has been put in place since 2007⁴⁸⁷.

The European Commission has also published 'Guidelines for an Integrated Approach to Maritime Policy: Towards best practice in integrated maritime governance and stakeholder consultation'⁴⁸⁸ setting out the vision and actions to be taken by Member States and stakeholders towards an integrated approach to maritime affairs at national level. Member States are encouraged to establish national integrated maritime policies

⁴⁸⁴ <http://ec.europa.eu/environment/water/reuse.htm>

⁴⁸⁵ http://ec.europa.eu/smart-regulation/roadmaps/docs/2017_env_006_water_reuse_instrument_en.pdf

⁴⁸⁶ https://ec.europa.eu/maritimeaffairs/policy_en

⁴⁸⁷ <http://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:52007DC0575>

⁴⁸⁸ <http://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:52008DC0395>

and create internal structures for decision-making but also to involve other local decision-makers and stakeholders and encourage information sharing.

- **Blue Growth**

Blue Growth is the Commission's long-term strategy to support sustainable growth in the marine and maritime sectors⁴⁸⁹ and it is laid down in Communication (2012) 494 final on Blue Growth: opportunities for marine and maritime sustainable growth⁴⁹⁰. It also contributes to the goals of Europe 2020 Strategy. According to this Communication the technological progress that allows offshore working, the awareness of the finite nature of land and freshwater and the need to reduce greenhouse gas emissions, have promoted blue growth as an initiative to harness the potential of Europe's seas, oceans and coasts for jobs and growth. The aim of the Communication is to drive forward the Integrated Maritime Policy and place blue economy on the agenda of all stakeholders.

One of the value chains on which the Blue Growth focuses to deliver sustainable growth and jobs in the blue economy is aquaculture. Aquaculture has the potential to grow and provide consumers fresh, sustainable and/or organic products they can trust and help alleviate pressure on fish stocks, but the lack of space, global competition and administrative constraints in relation to licensing requirements are still presenting challenges. For aquaculture, including the other areas identified in this Communication on Blue Growth, the Commission will consider policy options and further initiatives with the collaboration of Member States and all stakeholders, to develop best practice and guidelines to promote the needs of the blue economy such as Strategic Guidelines on Aquaculture.

A report has been published in 2017 on the Blue Growth Strategy summarising the progress achieved since its adoption in 2012⁴⁹¹.

I.15.2 THE COMMON FISHERIES POLICY

The Common Fisheries Policy (CFP), first introduced in the 1970s and updated several times and most recently in 2014, is a set of rules aimed at managing European fishing fleets and conserving fish stocks. It gives European fishing fleets equal access to EU waters and allows for fair competition. It also takes action against overfishing to ensure the sustainability and long-term productivity of the fishing industry⁴⁹².

The CFP aims to ensure environmentally, economically and socially sustainable fisheries and aquaculture that ensures a source of healthy food for the consumers. To achieve this, catch limits should be set, to allow fish populations to reproduce. It also aims to ensure that the fishing industry is dynamic and can ensure a fair standard of living for the fishing communities. Another aim is to control the impact of human activities on the marine ecosystem by making fishing fleets more selective on what they catch and to stop discarding unwanted fish. Finally, the CFP through its reforms aims to give MS more control at national and regional level.

The most recent reform of 2014 is implemented by Regulation (EU) No 1380/2013 on the Common Fisheries Policy⁴⁹³. Its objectives are:

⁴⁸⁹ https://ec.europa.eu/maritimeaffairs/policy/blue_growth_en

⁴⁹⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0494&from=EN>

⁴⁹¹ https://ec.europa.eu/maritimeaffairs/sites/maritimeaffairs/files/swd-2017-128_en.pdf

⁴⁹² https://ec.europa.eu/fisheries/cfp_en

⁴⁹³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02013R1380-20150601&qid=1506086677513&from=EN>

- to ensure that fishing and aquaculture activities are environmentally sustainable, that they contribute to food supplies and that they offer economic, social and employment benefits;
- to ensure that fishing is managed in a way that restores and maintains species populations at such levels as to produce the maximum sustainable yield, based on the precautionary approach;
- to ensure that negative impacts on the marine ecosystem from fishing activities are minimised and that aquaculture and fisheries do not cause degradation of the marine environment;
- to contribute to the collection of scientific data;
- to eliminate discards by considering scientific advice and by reducing and avoiding unwanted catches, making the best use of such unwanted catches;
- to provide the conditions for a competitive fishing capture and processing industry;
- to take measures in adjusting the fishing capacity of the fleets to prevent overexploitation of marine resources;
- to promote sustainable aquaculture in the Union;
- to contribute to a fair standard of living for those employed in the fishing sector;
- to promote transparency in the internal market for fisheries and aquaculture products;
- to consider the interests of both consumers and producers;
- to promote coastal fishing activities;
- to be coherent with environmental legislation and the target of achieving a good environmental status by 2020.

The CFP must follow the principles of good governance: clear definition of responsibilities at all levels, regionalised approach, consideration of best scientific advice, long-term perspective, cost efficiency, involvement of all stakeholders and in particular the Advisory Councils, the primary responsibility of the flag State, consistency with other Union policies, the use of impact assessment, coherence between internal and external dimensions of the CFP, and transparency of data handling.

The Regulation lays down provisions on the access of Union fishing vessels in the Union waters and any relevant restrictions. It establishes measures for the conservation of marine biological resources and for their sustainable exploitation. The Union may also establish protected areas or fish stock recovery areas where fishing may be restricted or prohibited. Conservation measures to restore and maintain fish stocks above the levels capable of producing maximum sustainable yield can be adopted through multiannual plans for a single species or for mixed fisheries. Emergency measures can also be adopted for up to six months, in case of serious threat to marine biological resources or to the marine ecosystem, on the request of a MS or by Commission initiative. Emergency measures may also be taken by MS in case of

serious threats for up to three months. In such cases the Commission will have to be consulted in case these measures affect the fishing vessels of other MS. In terms of the 'landing obligation' (the bringing and retaining on board the fishing vessels, recording, landing and counting against quotas where applicable, of all catches of species that are subject to catch limits or minimum sizes), MS can conduct studies and consult the Advisory Councils so they can explore all methods aimed at avoiding, minimising and eliminating unwanted catches in a fishery. Details are also laid down in relation to fishing opportunities and the criteria for their allocation by MS. Measures are also laid down on regional cooperation on conservation. Rules are established for the national measures MS may put in place in relation to the conservation of fish stocks and for the management of fishing capacity. Fisheries management must have a scientific base and rules are laid down on the data requirements for this purpose. This is important as it also relates to the award of funding by the European Maritime and Fisheries Fund. Finally, provisions are laid down on the Union's external policy and its activities in international fisheries organisation, as well as its compliance with international provisions in particular in relation to illegal, unreported and unregulated (IUU) fishing.

For Union fishing vessels to fish in third country waters, **sustainable fisheries partnership agreements** are in place with these countries to establish the legal, environmental, economic and social governance framework. Detailed rules are provided in the Regulation on how to form these partnerships and on the issues covered, including financial assistance provided by the Union to these third countries. Finally, there are provisions for the management of stocks of common interest to Union and third countries.

The Regulation also requires the Commission to establish non-binding strategic guidelines on common priorities and targets for the development of sustainable aquaculture to promote sustainability and contribute to food security. These will form the basis of national plans and will aim at improving the competitiveness of the aquaculture industry, its development and innovation, improving the implementation of Union law to meet the needs of stakeholders, encouraging economic activity and improving the quality of life in coastal and inland areas, and integrating aquaculture with maritime, coastal and inland spatial planning. The aims of the national multiannual plans are to:

- simplify administration related with evaluation, impact studies and licenses;
- offer some certainty on access to waters and space to aquaculture operators;
- provide indicators for environmental, social and economic sustainability;
- assess cross-border effects on marine biological resources and marine ecosystems in neighbouring MS;
- promote synergies between national research programmes and industry-scientific collaboration;
- promote sustainable and high-quality food;
- promote aquaculture practices and research to enhance its positive effects on the environment and on fish resources, increase resource efficiency and reduce negative effects such as pressure on fish stocks for feed production.

MS should exchange information and best practices on their national measures and this should be encouraged and facilitated by the Commission.

The Regulation also requires the establishment of a common organisation of the markets in fishery and aquaculture products that would:

- contribute to the objectives of the Common Fisheries Policy and in particular to the sustainable exploitation of living marine biological resources;
- enable the fishery and aquaculture industry to appropriately apply the CFP;
- enhance the competitiveness of the industry and producers;
- improve the transparency and stability of the markets in terms of economic knowledge and understanding along the fishery and aquaculture products supply chain, ensure balanced distribution of added value and improve consumer information through comprehensive labelling;
- promote sustainable exploitation of fisheries resources in the EU ensuring level-playing field for all products;
- offer a diverse supply of these products to the consumers;
- give accurate and verifiable information on the origin and production method to the consumer.

The common market organisation will include market stabilisation measures, production and marketing plans for products, common marketing standards and consumer information.

Compliance with the CFP will be ensured through an effective fisheries control system that will also include the fight against IUU fishing, and details on how this control system needs to be built are provided, as well as the steps that MS need to take to ensure control, inspection and enforcement in their territories. The Regulation also requires the Union to take measures in relation to third countries that allow non-sustainable fishing. An **expert group on compliance** will be set up by the Commission to assist with the implementation and compliance of the fisheries control system, composed of representatives of the Commission, the MS and possibly experts.

Rules are also laid down in relation to the financial assistance to operators.

Advisory Councils must be established for different geographical areas (West Atlantic, East Atlantic, Indian Ocean, Black Sea) and fields of competence (aquaculture, markets) in which **all stakeholders** (organisation representing fisheries, aquaculture operators, processing and marketing sector representatives, environmental organisations, consumer groups) will take part to fulfil the objectives of the CFP. More details on the operation of these Councils are also provided. In addition, Commission Delegated Regulation (EU) 2015/242 lays down detailed rules for the functioning of the Advisory Councils under the CFP⁴⁹⁴.

An **Aquaculture Advisory Council (AAC)** has been established in 2016 with the main objective to provide European institutions and MS with recommendations and advice on issues related to the sustainable development of this sector. It is stakeholder-led and composed of representatives from the industry and other stakeholders. It is based in Brussels and receives financial assistance by the EU. The AAC will try to address the different components of the sector using expertise from its member organisations⁴⁹⁵.

⁴⁹⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02015R0242-20171009&from=EN>

⁴⁹⁵ https://ec.europa.eu/fisheries/cfp/aquaculture/aquaculture-advisory-council_en

I.15.3 REGULATION (EC) NO 1224/2009 ESTABLISHING A UNION CONTROL SYSTEM FOR ENSURING COMPLIANCE WITH THE RULES OF THE COMMON FISHERIES POLICY

Regulation 1224/2009⁴⁹⁶ establishes a Union system for control, inspection and enforcement to ensure compliance with the rules of the Common Fisheries Policy. MS are required to control activities within the scope of the CFP and to adopt measures and resources for ensuring control, inspection and enforcement. The Regulation describes the general requirements for fishing vessels to have access to waters and aquatic resources: fishing licence, fishing authorisation, marking and identification of the fishing vessel and its fishing gear. MS must monitor fishing activities using a satellite-based vessel monitoring system and all vessels of 12m length or more must have a functioning device that allows automatic identification and localisation. This also applies when the vessel is in the waters of another MS or third country. Vessels longer than 15m must be fitted and operate an automatic identification system. MS must establish and maintain fisheries monitoring centres. It is also required that fishing vessels keep logs of their fishing operations and, in particular, all quantities of each species caught above 50kg. They must also report all estimated discards above 50kg for any species not subject to landing obligations. They must also record the time spent in towed gear or static gear. Fishing logbook information must be submitted as soon as possible and with 48 hours after landing. For fishing vessels that are exempt from the above specific requirements, MS must monitor their compliance with the CFP on the basis of sampling and they must establish a sampling plan according to Commission methodology.

Controls are also established in relation to compliance with the fishing effort in geographical areas where such maximums are applicable. Other controlled aspects are the recording of catches and fishing effort and the prohibition of fishing for the stocks whose quota has been exhausted. Fleets are also controlled in terms of fishing capacity and engine power.

Multiannual plans and their different aspects are also controlled, and MS must define a national control action programme for each multiannual plan that must also be communicated to the Commission.

Several technical aspects are also controlled, such as the gear and catch. Fishing restricted areas must also be controlled as well as areas where the quantity of catches reaches the trigger catch. MS must also ensure that recreational fisheries in their territories meet the objectives and rules of the CFP.

The marketing of fisheries and aquaculture products must also be controlled in MS at all stages and there are specific rules for products that need to comply with common marketing standards. There are specific rules for traceability (one level up, one level down) and the labelling of fisheries and aquaculture products.

Details are also established for the controls in relation to post-landing activities such as first sale, weighing and the submission of sales notes and of transport documents. There are also rules for the monitoring of producer organisations and of price and intervention arrangements.

MS must carry out surveillance in their waters based on sightings, a vessel monitoring system or other methods and report any infringements so that follow up action can be taken. Rules are also laid down for control observers on board fishing vessels.

The Regulation specifies rules for inspections and how these should be carried out by officials, the duties of the operator during inspections and how the report of the inspection should be compiled. Additional rules are provided for inspections outside the

⁴⁹⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R1224-20170101&qid=1506354599788&from=EN>

waters if the inspecting MS. The procedure to be followed in case of infringement during the inspections in both above cases is detailed and also details on the proceedings and corrective measures.

Finally, the Regulation specifies that MS must take measures to ensure compliance with the CFP as well as sanctions and details are provided on how this must be implemented.

MS can carry out inspection and surveillance programmes on fisheries activities and they must take measures to ensure the implementation of these control and inspection programmes.

The Commission must control the application of the rules of the CFP by examining the documentation, conducting inspections and audits. MS shall cooperate on the above.

Finally, some rules are provided on measures to ensure MS compliance with the CFP objectives. These include the closure of fisheries in case of failure to comply, deduction and transfer of quotas and fishing effort.

The Regulation also includes the action required to ensure the validation of the accuracy of data and information used for analysis of compliance with the CFP, the access and exchange of data and confidentiality. Information is also provided on the MS official websites and how they should be set up.

I.15.4 A STRATEGY FOR THE SUSTAINABLE DEVELOPMENT OF EUROPEAN AQUACULTURE

- **2002 Communication**

The importance of aquaculture has been recognised by the Commission and action has been taken via the CFP reform and the need for a strategy for sustainable development of the sector. Communication 511 of 2002 lays down a **Strategy for the sustainable development of European Aquaculture**⁴⁹⁷.

The three major sub-sectors of aquaculture in the EU are freshwater fish farming, marine mollusc farming and marine fish farming while there are some small quantities of crustaceans and seaweed farmed in the EU that could further expand.

A range of challenges facing aquaculture were considered and potential solutions for some of the issues. The overall aim of the strategy was to guarantee long-term secure employment, safe and quality aquaculture products, but also animal health and welfare, while at the same time ensuring that aquaculture is acceptable to the consumer in terms of environmental costs. Different environmental impacts of the sector are looked into detail. The success of this strategy would depend on collaboration between all stakeholders (industry, public authorities, consumers). Actions are also presented to help implement the aims of the strategy.

- **2009 Communication**

The 2002 Strategy and the policy initiatives contained achieved some progress regarding environmental sustainability and the safety and quality of aquaculture products, however EU aquaculture production stagnated over the same period as opposed to other parts of the world. Communication 162 of 2009 **Building a sustainable future for aquaculture: A new impetus for the Strategy for the**

⁴⁹⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52002DC0511&from=EN>
VALUMICS_D3.2 report

Sustainable Development of European aquaculture⁴⁹⁸ aimed at addressing the reasons for this stagnation and ensure that the EU remained a key player in the sector, building on the achievements of the 2002 Communication above and on the marine activities contained in the EU Integrated Maritime Policy. A vision was presented for the future of EU aquaculture and challenges and potential solutions were discussed.

One of the ways to promote the competitiveness of EU aquaculture was through promoting research and technological development. An initiative had been launched around that time by industry leaders that aimed to establish a **European Aquaculture Technology and Innovation Platform (EATIP)** to help maintain the world leadership of EU aquaculture, provide a strategic vision and define priorities for the sector. The EATIP's vision was finally launched in 2012 and it described the position European Aquaculture should occupy by 2030 and provides the basis for its Strategic Research & Innovation Agenda and its associated Implementation Plan. It also identified 8 Thematic Areas within EATIP, *'each covering important sectoral areas of strategic importance for the future inclusive, smart and sustainable growth of the entire aquaculture value chain and contributing the goals set out by the Europe 2020 proposals for economic reform'*. EATIP *'is composed of associations and federations, companies, public authorities, institutions and universities, financial institutions, of European or international origin, that each has a declared and professional interest in the sustainable development of European aquaculture. It has no political character and does no profit-making activities'*^{499,500}. The European Commission acts as an observer to the EATIP.

Another area of focus of the Communication was that the Community should establish such conditions to promote sustainable growth of aquaculture through protecting the environment, ensuring animal welfare and ensure the protection of consumer health.

Other suggestions from the Communication were the need for better implementation of EU legislation in the sector, reduction of the administrative burden, stakeholder participation and support of public information initiatives and appropriate monitoring of the sector.

I.15.5 GUIDELINES ON SUSTAINABLE DEVELOPMENT OF EU AQUACULTURE

Communication (2013) 229 final on Strategic Guidelines for the sustainable development of EU aquaculture⁵⁰¹ provides guidelines to help promote environmentally, socially and economically sustainable EU aquaculture. This was proposed by the CFP reform that proposed cooperation based on strategic guidelines and multiannual national plans identifying objectives and indicators to measure progress.

The Communication is based on the outcome of stakeholder consultations and an analysis conducted by the JRC. To help unlock the potential of EU aquaculture the following priority areas will be addressed:

- **administrative procedures need to be simplified,**
- **coordinated spatial planning** to secure sustainable development and growth of aquaculture,
- the competitiveness of EU aquaculture needs to be enhanced,
- **level playing field for EU operators** by exploiting their competitive advantages.

To help towards these priority areas, targets are also provided for MS, the Commission and the Aquaculture Advisory Council.

⁴⁹⁸ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52009DC0162&from=EN>

⁴⁹⁹ <http://www.eatip.eu/Default.asp?SHORTCUT=285>

⁵⁰⁰ <http://www.eatip.eu/shortcut.asp?FILE=1101>

⁵⁰¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013DC0229&from=EN>

The new Governance to support EU aquaculture will be based on the multiannual national strategic plans for sustainable aquaculture, the complementarity with the European Maritime and Fisheries Fund, the exchange of best practice and the Aquaculture Advisory Council whose role is to provide recommendations to policy makers using the evidence base from the participation of all stakeholders, producers, industry, consumer associations, environmental NGOs etc.

I.15.6 EU RULES ON ILLEGAL, UNREPORTED AND UNREGULATED FISHING

Illegal, unreported and unregulated fishing is one of the most serious threats to sustainable exploitation of living aquatic resources – the main objective of the CFP – and has very important consequences. It depletes fish stocks, destroys marine habitats, threatens marine biodiversity, distorts competition, puts honest fishers at an unfair disadvantage and weakens coastal communities particularly in developing countries⁵⁰².

The EU has taken action at different levels to limit IUU. **Regulation (EC) No 1005/2008 establishes a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing**⁵⁰³. According to this Regulation each MS must take measures to ensure the effectiveness of this system and must provide sufficient means to its competent authorities to enable them to implement the requirements of this Regulation. The Community system applies to IUU within the territory of all MS, within Community waters, within maritime waters under the jurisdiction and sovereignty of third countries and on the high seas.

The Regulation explains in which conditions a fishing vessel is considered as engaged in IUU fishing. To prevent, deter and eliminate IUU, all third country fishing vessels must be inspected when calling at MS ports. Third country vessels can have access to ports of MS, provision of port services and to landing and transshipment operations under specific conditions only. Specific rules are laid down for transshipment (unloading of part or all fish on board one fishing vessel to another) between fishing vessels of different countries. Also, MS must designate ports for landing or transshipment. The responsible of third country fishing vessels must notify in advance the ports they wish to use providing very specific information, and they can only access the port after granted authorisation. Landing and transshipment operations must then be recorded and detailed information declared. The Regulation requires MS to inspect their ports and a certain percentage of landing and transshipment operations and details on how these inspections shall take place are provided. Rules also explain the procedure to be followed in case of infringement.

Importation in the EU of fishery products obtained from IUU fishing is prohibited. Therefore, fishery products can only be imported in the EU when accompanied by a catch certificate according to the provisions of this Regulation. The certificate is validated by the flag State of the fishing vessel(s) that made the relevant catches and contains all information specified in the Annex to the Regulation.

The Regulation also lays down rules for the indirect importation of a single consignment of fishery products in the Community from a third country other than the flag State and details the documents that need to be provided. Similarly, rules are established for the importation of a single consignment of fishery products that have been processed in a third country other than the flag State. The Regulation also specifies the conditions for the exportation of catches made by fishing vessels flying the flag of a MS.

⁵⁰² https://ec.europa.eu/fisheries/cfp/illegal_fishing_en

⁵⁰³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008R1005-20110309&qid=1506327933372&from=EN>

MS must verify that the provisions of the Regulation are met, and verifications must be carried out based on the risk identified on the basis of criteria defined on EU or national level. They can then carry out appropriate verification actions according to the details specified in the Regulation. The competent authorities of the MS must refuse importation of fishery products in the EU without requesting any additional evidence under certain conditions specified in the Regulation. Rules are also laid down on the acceptance of catch certificates validated by a given flag State and on the cooperation that is needed with third countries regarding the implementation of the provisions on catch certificates. The Commission must keep records of the States and their competent authorities notified and this information must be published on the Commission's website and in the Official Journal of the European Union.

In case information obtained in relation to the above issues indicates that there is doubt regarding the compliance of fishing vessels or fishery products from third countries with the applicable requirements, the Commission must publish and alert notice on its website and in the Official Journal of the European Union to warn operators and ensure MS take all appropriate action. This information must be communicated to MS and to the flag State. Following such an alert, action needs to be taken by the MS and more information on this action is provided in the Regulation.

The Commission or a body designated by the Commission must compile and analyse all information on IUU and any other relevant information for the establishment of a Community IUU vessel list. MS may provide additional information. This information must then be circulated to MS and to the flag States concerned. The Commission can then notify those flag States or MS of an official request for an enquiry into the alleged IUU fishing.

Before a vessel is placed on the Community IUU list, the Commission must provide the operator with a statement explaining this listing and details that support it. When the decision has been taken, the Commission must notify the owner. The flag States must then take all measures to eliminate IUU fishing and can withdraw the registration of the fishing vessels concerned. The Regulation also describes how a fishing vessel may be removed from the Community IUU list. It also indicates the details that must be listed for each fishing vessel.

The Commission must identify third countries that it considers that do not cooperate in the fight against IUU fishing. Non-cooperating countries are those that fail to complete their duties as flag, port, coastal or market State or take action to prevent, deter and eliminate IUU fishing. The Commission must notify these countries that they may be identified as non-cooperating third countries and communicate to them the information specified in the Regulation. It must ensure that the information has been received by the third country and allow reasonable time for the third country to correct the situation. When a third country is placed on the list, MS must be notified to take appropriate action. Rules are also included on removing a country from the list and on publishing this list.

The Commission can also adopt emergency measures against fishing vessels or fishery products, if the measures adopted by a third country undermine the conservation and management measures adopted by a regional fisheries management organisation.

The Regulation gives detailed information on the measures that must apply to fishing vessels included in the Community IUU vessel list and the action that needs to be taken against non-cooperating third countries.

The Regulation also indicates that nationals of MS must not support or engage in IUU fishing and must not engage on board, as operators or beneficial owners of vessels placed in the Community IUU vessel list. Nationals supporting or engaging in IUU must be identified and information must be collected and verified on them and reported to the

Commission. MS must encourage nationals to communicate any information in relation to IUU fishing to the authorities.

There are also some provisions on immediate enforcement measures and sanctions in case of serious infringements committed by Community fishing vessels or MS nationals. Provisions are also laid down in relation to sighting of fishing vessels engaging in activities that may be considered as IUU fishing and the subsequent relevant investigations.

The Regulation finally indicates that MS must cooperate with each other, with authorities in third countries and with the Commission to ensure compliance with its provisions.

In addition to the above Regulation, **Regulation (EC) No 1010/2009 lays down detailed rules for the implementation of Regulation 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing**⁵⁰⁴. These specifically concern the inspection of third country fishing vessels in MS ports, the catch certificate for importation and exportation of fishery products, the submission of information on sightings of fishing vessels and on the mutual assistance between MS, third countries and the Commission.

The Commission has also provided a page with information in relation to IUU fishing, a handbook and other documents providing information and advice to authorities and operators in the EU MS and in third countries at this link: https://ec.europa.eu/fisheries/cfp/illegal_fishing/info

I.15.7 THE MARINE STRATEGY FRAMEWORK

Directive 2008/56/EC⁵⁰⁵ **establishes a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive)**. MS must take action within this framework, to achieve or maintain good environmental status in the marine environment by 2020 at the latest. The aim of the marine strategies will be to protect and preserve the marine environment, prevent its deterioration and restore marine ecosystems where possible and also to prevent and reduce inputs in the marine environment and phase out pollution to ensure there are no risks or impacts on marine biodiversity, marine ecosystems, human health or legitimate uses of the sea. The strategies must apply an ecosystem-based approach to the management of human activities so that a good environmental status is maintained, and the marine ecosystems can respond to human-induced changes as to enable a sustainable use of marine goods and services today and in the future. The Directive also aims to enhance the integration of environmental concerns in the different policies, agreements and regulatory measures in relation to the marine environment. The Directive applies to all marine waters and considers the transboundary effects on the quality of the marine environment in third States in the same marine region. Where MS share a marine region or subregion, they must cooperate to ensure that the different elements of the marine strategies are coherent and coordinated across the region/subregion to achieve the aims of the Directive. The Directive provides an action plan to achieve this. This action plan may be modified in case the status of the sea in a specific region is critical and necessitates urgent action. To achieve regional cooperation between them and with third countries, MS may use existing regional institutional cooperation structures.

⁵⁰⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R1010-20130917&qid=1506352778053&from=EN>

⁵⁰⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02008L0056-20170607&from=EN>

MS must designate the competent authority for each marine region for the implementation of this Directive and those responsible for cooperation and this information must be communicated to the Commission.

The Directive provides information on how the MS can prepare their marine strategies: how to assess their marine waters, their features, characteristics, environmental status, pressures and impacts including those from human activity, as well as a socioeconomic analysis of the use of those waters and of the cost of degradation of the marine environment and on how they can develop a set of characteristics for good environmental status. MS then need to establish environmental targets and associated indicators for the marine waters in each region and monitoring programmes for the ongoing assessment of the status of the marine waters and these must be communicated to the Commission. The Directive provides more details on how to implement these provisions and for MS that share a marine region. The Commission assesses whether the measures communicated by the MS can meet the requirements of the Directive. MS identify the measures to be taken to ensure or maintain good environmental status in the marine regions after an initial assessment and in relation to the environmental targets established. These measures are devised in a programme of measures that also considers related policies and Community legislation (urban wastewater treatment, bathing water quality, habitats Directive, birds Directive, etc.), sustainable development and the socioeconomic impacts of the measures considered. Measures must also be cost-effective and feasible and must have considered impact and cost-benefit assessments. MS must indicate how their measures will be implemented and must consider their implications on waters beyond marine waters. The Commission assesses the programmes of measures notified by the MS and provides guidance on any modifications that may be needed to meet the requirements of this Directive. Marine strategies must be kept up to date and must be reviewed. MS must also submit to the Commission a report on the progress of the implementation of its programme of measures 3 years after its publication or update. All parties must be given the opportunity to participate in the implementation of this Directive and specific information must be made public and available for public comments. The Commission must also publish an evaluation report on the progress of implementation of this Directive before 2019 at latest and further reports every 6 years thereafter. A Commission report must also be published on the establishment of marine protected areas and the progress achieved.

I.16 THE INDUSTRIAL EMISSIONS DIRECTIVE

Directive 2010/75/EU on industrial emissions (integrated pollution prevention and control)⁵⁰⁶ stipulates conditions for large **pig and poultry production units** by setting challenging emission targets. The Commission and stakeholders try to identify and describe the Best Available Techniques (BAT) for complying with the requirements of this regulation for these farms. The so-called BREF-notes will regularly be revised accordingly⁵⁰⁷.

⁵⁰⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02010L0075-20110106&qid=1501663840060&from=EN>

⁵⁰⁷ http://www.food-scp.eu/files/Continuous_Environmental_Improvement_FINAL_21_November_2012.pdf

I.17 CLIMATE ACTION

Climate action is one of the key priorities in the EU. The European Union has been committed to international efforts to tackle climate change has taken related initiatives since 1991 with the first Community Strategy to limit carbon dioxide (CO₂). Most recently, the EU committed to cutting its greenhouse gas emissions as required by the Kyoto protocol and has adapted a comprehensive policy measures package, the European Climate Change Programme (ECCP) (first package 2000-2004, second from 2005), which is accompanied by related actions at national level in the MS and by all stakeholders (industry and environment groups)⁵⁰⁸.

Action against climate change in the EU and at international level is currently lead in Europe by the Directorate General for Climate Action (DG CLIMA) that formulates and implements policies so that the EU can meet its climate targets for 2020, 2030 and beyond on greenhouse gas emissions and on the ozone layer⁵⁰⁹.

- **2020 climate and energy package**

This is a legislative package adopted in 2009 that sets the following targets for 2020: 20% cut in greenhouse gas emissions from the 1990 levels, 20% energy from renewable sources in the EU and 20% improvement in energy efficiency. These targets are also included in Europe 2020 Strategy⁵¹⁰.

- **2030 climate and energy framework**

This framework was adopted in 2014 and builds on the 2020 package. It sets three key targets for 2030: a 40% cut in greenhouse gas emissions from the 1990 levels, 27% energy from renewable sources and 27% improvement in energy efficiency⁵¹¹.

Due to the priority of climate action in the EU, related spending is incorporated in its whole budget and for the period 2014-2020 this is at least 20% of the EU's budget.

- **LIFE Programme**

LIFE is the EU's financial instrument supporting environmental, nature conservation and climate action projects throughout the EU. Since 1992 there have been four complete phases of the programme (LIFE I: 1992-1995, LIFE II: 1996-1999, LIFE III: 2000-2006 and LIFE+: 2007-2013). Since 1992, LIFE has co-financed more than 4500 projects⁵¹². More than 670 of these projects relate to waste reduction, recycling and reuse, totalling over EUR 1 billion of EU funding⁵¹³.

The most recent phase of the programme has been established by **Regulation (EU) No 1293/2013 on the establishment of a Programme for the Environment and Climate Action (LIFE)**⁵¹⁴ to cover the period from 2014 to 2020. The Regulation describes the objectives of the LIFE programme and the performance indicators for those objectives. The objectives will be pursued through two sub-programmes one for Environment and

⁵⁰⁸ https://ec.europa.eu/clima/policies/eccp_en

⁵⁰⁹ https://ec.europa.eu/clima/about-us/mission_en

⁵¹⁰ https://ec.europa.eu/clima/policies/strategies/2020_en

⁵¹¹ https://ec.europa.eu/clima/policies/strategies/2030_en

⁵¹² <http://ec.europa.eu/environment/life/>

⁵¹³ http://ec.europa.eu/environment/circular-economy/implementation_report.pdf

⁵¹⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1293&from=EN>

one for Climate Action. The Climate Action sub-programme is dedicated to climate action with the aim to develop and implement innovative ways to tackle climate change⁵¹⁵. It also supports public authorities, NGOs and private actors in implementing small-scale innovative solutions. It also supports capacity-building and awareness-raising actions and helps improve the implementation of climate legislation.

An overview of EU law on climate change and the protection of the ozone layer is presented in the website of DG CLIMA at the following link: https://ec.europa.eu/clima/about-us/climate-law_en

It includes legislation on greenhouse gas monitoring and reporting, on EU Emissions Trading System, on effort sharing in relation to greenhouse gas emissions, carbon capture and storage, transport and fuels, ozone layer protection, fluorinated gases and forests and agriculture.

I.17.1 PARIS AGREEMENT

The first global climate agreement was adopted by 195 countries in Paris in 2015 and entered into force in November 2016, after years of related efforts. It sets out a global action plan to help the world avoid dangerous climate change by limiting global warming to well below 2°C above pre-industrial levels⁵¹⁶ with the aim to reduce this at 1,5°C and to undertake further rapid reduction thereafter. Countries will then need to adopt national climate action plans. The Governments will then meet periodically to discuss and report to each other and the public the progress achieved. Countries have also agreed to deal with the impacts of climate change and to support developing countries to meet these targets. The Paris Agreement also recognises the role of other stakeholders (subnational authorities, civil society, private sector, etc.) in addressing climate change.

- **Marrakesh Partnership for Global Climate Action**

This was launched in 2016 to support the Paris Agreement and to promote action on climate change by all players and increase ambition before 2020⁵¹⁷. It focuses in land use, oceans and coastal zones, water, transport, energy, industry and human settlements.

- **Paris Pledge for Action**

This is a call for action supporting the Paris Agreement and intending to act on its outcomes, signed by hundreds of businesses and numerous cities and regions as well as investors, willing to support governments in the implementation of the terms of the Agreement⁵¹⁸.

In addition to the above actions, there are other initiatives supported by the European Commission that promote action in different areas within the scope of climate action, such as clean air, clean energy, renewable energy, sustainable development⁵¹⁹. Also, the Non-State Actor Zone for Climate Action (NAZCA) acts as a register of climate

⁵¹⁵ https://ec.europa.eu/clima/policies/budget_en

⁵¹⁶ https://ec.europa.eu/clima/policies/international/negotiations/paris_en#tab-0-0

⁵¹⁷ https://ec.europa.eu/clima/policies/international/negotiations/initiatives_en

⁵¹⁸ <http://newsroom.unfccc.int/unfccc-newsroom/paris-pledge/>

⁵¹⁹ https://ec.europa.eu/clima/policies/international/negotiations/initiatives_en

commitments from non-state actors that helps countries towards achieving the objectives under the Paris Agreement.

Also, two High-level Champions have been appointed to help ensure a connection between the climate agenda and the voluntary and collaborative actions. They provide visibility and promote the implementation of the initiatives and they act as an interface between action by different parties and at different levels.

ANNEX 2

Grant Agreement number: 727243

VALUMICS

Understanding food value chains and network dynamics

Start date of project: 01/06/2017

Duration: 48 Months

Deliverable: D3.2

Collation of key findings from national (and regional/local) level reports that identify fairer trading practices, integrity and sustainable collaborations in food value chains



Food Systems Dynamics

Project co-funded by European Commission within the H2020 Programme		
Dissemination level of this deliverable		
PU	Public	
CO	Confidential, only for members of the consortium (including the Commission Services)	X
RE	Restricted to a group specified by the consortium (including the Commission Services)	
CI	Classified, information as referred to in Commission Decision 2001/844/EC.	

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Contents

EXECUTIVE SUMMARY	216
1 INTRODUCTION.....	220
1.1 The purpose and structure of this report	220
2 FAIRER TRADING PRACTICES.....	221
2.1 Introduction.....	221
2.1.1 The European context.....	221
2.1.2 Beyond the EU's definitions of UTPs	223
2.2 Czech Republic	223
2.3 France	224
2.4 Germany.....	225
2.5 Iceland.....	226
2.6 Italy	227
2.6.1 National level.....	227
2.6.2 Regional level: Emilia-Romagna	228
2.7 Norway	229
2.8 Spain	229
2.9 United Kingdom	230
3 FOOD CHAIN INTEGRITY: FOOD SAFETY AND FOOD AUTHENTICITY	232
3.1 National provisions promoting food safety in the operation of the food value chains.....	232
3.2 Food Authenticity.....	233
3.2.1 National provisions promoting authenticity in the operation of the food value chains.....	233
3.2.2 National provisions preventing fraud in the operation of the food value chains	236
4 COLLABORATIVE INITIATIVES PROMOTING SUSTAINABILITY IN EU FOOD VALUE CHAINS.....	240
4.1 Introduction.....	240
4.2 Environmental Sustainability	240
4.2.1 National initiatives	240
4.2.2 Food waste related initiatives	243
4.2.3 Water related initiatives	246
4.3 Social Sustainability.....	247
5 CHINA.....	251
5.1 Fairer Trading Practices	251
5.2 Food integrity.....	251
5.3 Collaborative Sustainability initiatives.....	252
6 CONCLUSIONS	253
ANNEX – COUNTRY REPORTS	254
I CZECH REPUBLIC	255
II FRANCE.....	275
III GERMANY	292
IV ICELAND.....	313
V ITALY.....	329
VI NORWAY	348
VII SPAIN.....	363
VIII UNITED KINGDOM	385
IX CHINA	407

EXECUTIVE SUMMARY

1. This task has identified some key **national**, and where relevant regional and/or local, **policy interventions and governance initiatives** that **promote** the operation and better functioning of food supply chains in terms of fair-trading practices, chain integrity, and collaborative sustainability food value chain advances and improved resilience. The focus on national and sub-national levels allows for **more specific interventions** within the framework of EU regulations and policies to be identified and **mapped**. Public documents and investigations were researched for the evidence base, and, where further information was needed, food value chain stakeholders/policy-makers were consulted. In addition, policy interventions and governance in China were researched in these areas impacting on food value chains. The national reports were from a selection of national partners on the VALUMICS project. They do not present a comprehensive audit of national action across the EU or the wider European Economic Area (EEA).

The main section of this report is a synopsis and synthesis of key findings from national (and regional/local) level reports that identify fairer trading practices, integrity, and sustainability collaborations in food value chains. The individual national reports are in the Annex.

2. The first section on **fairer trading practices** identifies the ways that national governments have used their legal frameworks to address perceived unfair trading practices (UTPs). Where national measures address unfair business-to-business (B2B) practices, they tend to cover the same issues as have been identified in EU policy suggesting that they are both widely prevalent and seen to be remediable through policy intervention. However, national governments (and regional authorities) have reacted differently to the policy problem, using both hard and soft law – for example, some have used **national competition law** (e.g. the Czech Republic, Germany, Iceland); some have **used elements of contract law** (e.g. Germany, Italy); some **have ‘stretched’ consumer law to apply it to B2B relationships** (e.g. Germany); some have introduced **independent adjudicators** for certain categories of transactions (e.g. the UK); and at least one national state (the UK) has gone on record as saying that EU-level regulation of UTPs would be unhelpful. Several authorities have **introduced laws specifically designed to regulated trading practices in food value chains** (e.g. Czech Republic, Italy, Spain). And **several have attempted to define exactly what is meant by unbalanced relationships or weak negotiating partners** (e.g. Czech Republic, Italy and Spain). Some have introduced voluntary **Codes of Practice** for food chain operators (e.g. Spain and the Italian region of Emilia-Romagna).

3. Within the area of **food integrity, food safety regulation** is EU led. For very small-scale production and direct supply, there are some national laws identified that cover these activities (e.g. Norway, Iceland, Czech Republic), or to waive the application of EU law (e.g. small slaughterhouses in Czech Republic). All of the national studies found examples of national-local **food authenticity initiatives and polices**, some coming under the EU Geographical Indications’ rules, others focused upon national (as opposed to regional-local) identification (e.g. UK, Iceland). The more recent EU regulation obliging member states to carry out more regular investigation of **food fraud** (Reg. EU 2017/65) has seen allocation of responsibilities in each of the member states surveyed. One caveat is that there are some indications that efficient food fraud inspection lacks the necessary budgetary support from the national authorities at present (UK, Czech Republic). Action is being reviewed by Iceland, but Norway has made the decision not to take any further action, to date.

4. Environmental sustainability policy and interventions are widespread but there are **fewer examples of collaborative food value chain sustainability initiatives**, in particular with government involvement. Where these collaborations are identified they include **sharing of metrics and good practice to assess environmental impacts and to reduce them along the value chains**. In particular the collaborative actions focus on **reduction of greenhouse gas emissions (GHGs)** (UK, Italy, Spain), or adaptations to climate change (Italy), or more **efficient use of water resources** (UK; Iceland). Broader **strategic policies** are often the rationale for more specific actions. The Circular Economy (e.g. Germany, Spain)) or the Sustainable Development Goals, (e.g. Iceland; UK), also inform policy actions in the food sectors, notably around food waste. For example, Germany has a National Programme for Sustainable Consumption that is directly linked to the UN Sustainable Development Goals and Agenda 2030. **Food waste reduction strategies** are being state led or promoted in a number of countries (e.g. UK, Spain, Italy, Norway, Iceland, Germany). In some cases, there are national level initiatives that bundle together different environmental sustainability goals. The main focus of policy interventions on **social sustainability** are on **working conditions** and **worker protections**, including short term and seasonal labour conditions and practices, often using immigrant workers and having relatively low pay (e.g. Norway, UK, Germany, Italy). Italy has a quality certification for farmers who only use declared labour. In the case of Emilia-Romagna quality certification of produce based on sustainability criteria include health impacts upon agricultural workers through reduced use of pesticides.

5. EU regulations, policies and related governance initiatives provide an important framework for national level actions for EU member states and for EEA members. The more tightly EU regulated areas such as food safety, see fewer extra initiatives, but where there is a more general strategic policy and governance push, such as food waste reduction, or food fraud, there is greater independent state level activity. Likewise, there is much more variation on the application of both national and European (Competition) law to govern unfair trading practices impacting upon food value chains. China has seen a gradual accumulation of laws governing food value chains in the identified areas of activity, also.

Abbreviations

AECOSAN	Spanish Agency for Consumer Affairs, Food Safety and Nutrition	GCA	Groceries Code Adjudicator
AICA	Information and Food Control Agency	GHG	greenhouse gas
AOSH	Administration of Occupational Safety and Health	GLA	Gangmasters Licensing Authority
ASF	Assured Food Standards	GLAA	Gangmasters and Labour Abuse Authority
B2B	business-to-business	GSCOP	Groceries Supply Code of Practice
B2C	business to consumer	GWB	Act against Restraints of Competition
BGB	German Civil Code	ICQRF	Department of Central Inspectorate for Quality Safeguarding and Anti-fraud of Foodstuff and Agricultural Products
BRC	British Retail Consortium	IDDDRI	The Institute for Sustainable Development and International Relations
BVL	Federal Office of Consumer Protection and Food Safety	IEH	Ethical Trading Initiative Norway
CAFIA	Czech Agriculture and Food Inspection Authority	IMAO	Leibniz Institute of Agricultural Development in Transition Economies
CAU	China Agricultural University	INPS	National Social Welfare Institution
CICO	Intelligence Centre against Organized Crime	IOs	Interbranch Organisations
CL.A.N.	CL.uster A.grifood N.azionale	ITA	Italian Trade Agency
CMA	Competition and Markets Authority	KSL	Quality System in Agriculture
CZU	Czech University of Agriculture Prague	MAPAMA	Ministry of Agriculture and Fisheries, Food and Environment
Defra	Department of Environment, Food and Rural Affairs	MAST	Icelandic Food and Veterinary Authority
EEA	European Economic Area	MS	Member States
EGA	Etats Generaux de l'Alimentation	NFCU	National Food Crime Unit
ERVET	Regional Development Agency of Emilia-Romagna	NGO	non-governmental organisation
EU	European Union	OFPM	Observatory of Price and Margins Formation for Food Products
FDF	Food and Drink Federation	OPRL	On-Pack Recycling Label
FEA	Five-Fold Environmental Ambition	PDO	Protected Designation of Origin
FHC	Federation House Commitment	PEPs	Prevention Business Plans
FIAB	Spanish Food and Drink Federation	PGI	Protected Geographical Indication
FISS	Food Industry Sustainability Strategy		
FSA	Food Standards Agency		
FSS	Food Standards Scotland		

Deliverable report



PSF	Product Sustainability Forum	SVA	State Veterinary Administration
QC	Quality Control	UK	United Kingdom
SDGs	Sustainable Development Goals	UNIBO	Universita di Bologna
SFCIU	Scottish Food Crime and Incidents Unit	UoI	University of Iceland
SINTEF	Fisheries and Aquaculture, Norway	UTPs	unfair trading practices
SME	small or medium-sized enterprises	UWG	Act against Unfair Competition
WFFCU	Welsh Food Fraud Coordination Unit		
WP	Work Package		
WRAP	Waste Resources Action Programme		

1. INTRODUCTION

1.1. THE PURPOSE AND STRUCTURE OF THIS REPORT

The aim of this report is to identify and map some key **national**, and where relevant regional and/or local, **policy interventions and governance initiatives** that **promote** the operation and better functioning of food value chains and provide examples of national good practice, in relation to three issues:

1. Fairer trading practices
2. Integrity (food safety and authenticity)
3. Sustainability collaborations along food value chains.

These good practice interventions may stem from EU regulations and governance initiatives, or may be additional to these EU-wide actions. The focus on national and sub-national levels allows for **more specific interventions** within the framework of EU regulations and policies to be identified and **mapped**. The main good practice interventions are collated in this report based on a series of more detailed national reports. This report complements the EU-level policy mapping undertaken in task 3.1 which resulted in the deliverable: *Map of EU policy, regulation and governance initiatives that identify fairer trading practices, integrity, and sustainability collaborations in food value chains* (VALUMICS Deliverable 3.1)

The evidence in the report is drawn from a **series of national based reports** that are presented in the Annex to this main report. The national reports were from a **selection of national partners on the VALUMICS project**. They **do not present a comprehensive audit** of national actions across the EU or the wider European Economic Area (EEA). In addition, policy interventions and governance in China were researched in these areas impacting on food value chains, and are summarized in this report below, with the more detailed study presented in the Annex, also. Public documents and investigations were researched for the evidence base, e.g. Government, National Legislature, Regional Government and private and academic sources, and, where further information was needed, food value chain stakeholders/policy-makers were consulted.

Along with University of Hertfordshire, UK, the partners on this task are: University of Iceland (UoI); SINTEF Fisheries and Aquaculture, Norway; Università di Bologna (UNIBO) and the Regional Development Agency of Emilia-Romagna (ERVET); Czech University of Agriculture Prague (CZU), Leibniz Institute of Agricultural Development in Transition Economies (IAMO) Germany; The Institute for Sustainable Development and International Relations (IDDRI) France; the Federation Española de Industrias de la Alimentación Y Bebidas (FIAB) Spain; and, the China Agricultural University (CAU). Each of these partners has provided a report on regulatory and governance initiatives in relation to the above three areas of interest, in their respective countries (see Annex).

2. FAIRER TRADING PRACTICES

2.1. INTRODUCTION

This section discusses examples of good practice at national (or, in the case of Italy, national and one sub-national) level, on the VALUMICS policy theme of fairer trading practices.

2.1.1. THE EUROPEAN CONTEXT

The VALUMICS report D3.1 on EU-level policy relevant to this theme⁵²⁰ found that European authorities have been concerned since at least 2009⁵²¹ that certain practices in agro-food value chains were disadvantageous to some chain partners but fell outside the scope of existing EU-level law. The worry is that added value in the food supply chain is not adequately distributed across all levels of the chain due, for instance, to differences in bargaining power between smaller and thus more vulnerable operators, including farmers and small businesses, and their economically stronger and highly concentrated commercial partners.⁵²² An important consideration is the ‘fear factor’, which may deter less powerful or more dependent enterprises from using available legal remedies⁵²³. Over several years, a number of policy papers have appeared, leading to (among other things) a definition of ‘unfair trading practices’ (UTPs) (see below); compilations of examples⁵²⁴; a set of Principles of Good Practice for Vertical Supply Chain relationships⁵²⁵; a voluntary initiative to implement these principles (the Supply Chain Initiative)⁵²⁶; and (in 2017) a consultation to assess support for regulatory intervention⁵²⁷.

The VALUMICS report on EU-level intervention also found that in the absence of EU-level regulation, some Member States (MS) were using a variety of measures to tackle unfair practices in food supply chains at a national (or sub-national) level. The EU authorities have commissioned work to explore these measures^{528,529,530,531} and

⁵²⁰ VALUMICS (2017) Deliverable 3.1 *Map of EU policy, regulation and governance initiatives that identify fairer trading practices, integrity, and sustainability collaborations in food value chains.*

⁵²¹ Comm (2009) 591 *A better functioning food supply chain in Europe.*

⁵²² EC (2017) Press release announcing public consultation, ‘Towards a fairer food supply chain’, http://europa.eu/rapid/press-release_IP-17-2521_en.htm, viewed 10.01.18.

⁵²³ Stefanelli, J and Marsden, P. (2012) *Models for enforcement in Europe for relations in the food supply chain.* Briefing paper produced with the support of the EU, by the British Institute of International and Comparative Law.

⁵²⁴ E.G. Council of the European Union Note 6808/17, *Information from the Bulgarian, Czech, Hungarian, Latvian, Lithuanian, Slovak and Slovenian delegations on the Better functioning of the food supply chains: addressing unfair trade practices (UTPs) and improving the position of farmers.*

⁵²⁵ Core members of the B2B subgroup of the High Level Forum for a Better Functioning Food Supply (2011) *Vertical relationships in the supply chain: Principles of good practice.*

⁵²⁶ <http://www.supplychaininitiative.eu/about-initiative>

⁵²⁷ EC (2017) Consultation: ‘Initiative to Improve the Food Supply Chain’, *Consultation Strategy*, https://ec.europa.eu/info/sites/info/files/2017_07_31_consultation_strategy_en.pdf, par 1.

⁵²⁸ Fałkowski, J., C. Ménard, R.J. Sexton, J. Swinnen and S. Vandeveldel (Authors), Marcantonio, F. Di and P. Ciaian (Editors) (2017), *Unfair trading practices in the food supply chain: A literature review on methodologies, impacts and regulatory aspects*, European Commission, Joint Research Centre.

this work has been ongoing during this phase of the VALUMICS project. In this context, the WP3 partners were asked to look at measures promoting fairer trading practices in their national territories (including any measures specifically targeting UTPs), with a view to providing examples of good practice. Their findings, along with UK national-level findings, are discussed in the following sections.

It is helpful to bear in mind that the EU has defined unfair trading practices as: *'practices that deviate grossly from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on another'*. They can occur at any stage in the supply chain, and can occur before, during or after contractual periods⁵³². The EU has also defined some 'core' UTPs (the commonest and / or most damaging) as follows:

- one party should not unduly or unfairly shift its own costs or entrepreneurial risks to the other party;
- one party should not ask the other party for advantages or benefits of any kind without performing a service related to the advantage or benefit asked;
- one party should not make unilateral and/or retroactive changes to a contract, unless the contract specifically allows for it under fair conditions;
- there should be no unfair termination of a contractual relationship or unjustified threat of termination of a contractual relationship⁵³³.

In the following sections, it will be seen that **where national measures address unfair business-to-business (B2B) practices, they tend to cover these same issues, suggesting that they are both widely prevalent, and seen to be remediable through policy intervention.**

However, MS have reacted differently to the policy problem, using both hard and soft law – for example, some have used **national competition law (e.g. the Czech Republic, Germany, Iceland)**; some have **used elements of contract law (e.g. Germany, Italy)**; some have **'stretched' consumer law to apply it to B2B /relationships (e.g. Germany)**; some have introduced **independent adjudicators** for certain categories of transactions (e.g. the UK); and at least one MS (the UK) has gone on record as saying that EU-level regulation of UTPs would be unhelpful. Several MS have **introduced laws specifically designed to regulated trading practices in food value chains (e.g. Czech Republic, Italy, Spain)**. And **several have attempted to define exactly what is meant by unbalanced relationships or weak negotiating partners (e.g. Czech Republic, Italy and Spain)**. Some of

⁵²⁹ Arete (Research Consulting in Economics) (2016), *Monitoring of the implementation of principles of good practice in vertical relationships in the food supply chain*, Final report (revised version) Report prepared for European Commission, DG Internal Market Programme for the Competitiveness of Enterprises and small and medium-sized enterprises (COSME).

⁵³⁰ Renda, A., F. Cafaggi, J. Pelkmans, Iamiceli, P., Correia de Brito, A., Mustilli, F., Bebbler, L. (2014) *Study on the legal framework covering business-to-business unfair trading practices in the retail supply chain*. Report prepared for European Commission, DG Internal Market,

⁵³¹ Stefanelli, J and Marsden, P. (2012) *Models for enforcement in Europe for relations in the food supply chain*. Briefing paper produced with the support of the EU, by the British Institute of International and Comparative Law.

⁵³² COM (2016) 32 *Final report from the Commission to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain*.

⁵³³ COM (2016) 32 *Final report from the Commission to the European Parliament and the Council on unfair business-to-business trading practices in the food supply chain*.

introduced voluntary **Codes of Practice** for food chain operators (e.g. Spain and the Italian region of Emilia-Romagna). The following sections summarise the descriptions of practice supplied by WP3 partners, to highlight both the variation and the similarities. More detail can be found in the National Reports compiled by WP3 partners, supplied as an Annex to this report (section references are to the sections of this Annex).

2.1.2. BEYOND THE EU'S DEFINITIONS OF UTPS

VALUMICS Report D 3.1 noted that:

'the term "unfair trading practices" has now become a formula that applies to certain contractual practices between firms operating in food supply chains. However, this relatively narrow focus does not encompass everything that can be construed as unfair in trading practices in food supply chains⁵³⁴.'

This is an important consideration. In fact, to some extent the evolving position on UTPs has supplied an example of definitional closure, in which, by confining UTPs to the specified concerns, other matters have been excluded from the policy debate on fairness in supply chains. D3.1 therefore included a section on 'wider interventions for fairer trading practices in food supply chains'. This covered an array of policies and regulations on, for example, support for certain types of farming enterprises, the position of migrant workers within the agro-food workforce, and policy thinking on minimum wage levels. For the sake of consistency with EU-level practice, the discussion of national practice in this section of the report looks at what the partners found to be relevant on transactional practices in supply chains. The broader concerns are discussed in section 4.3, on social aspects of sustainability.

2.2. CZECH REPUBLIC

In the Czech Republic, unfair trading practices are **partly tackled via competition law**, which regulates both horizontal cooperation between entities in the same market, and vertical agreements, generally concluded between a supplier and its customers; it also regulates abuse of 'dominant position' (entities are deemed to be in a dominant position if they have market power that allows them to act independently of their competitors). Abuses include: charging unreasonably high prices; inconsistent application of contractual terms to customers; tying the sale of goods and services to the consumption of other products; limiting production or the market; and selling at prices below cost to eliminate horizontal competition (see section I.1.1.1).

In addition to these general provisions, a **law has been introduced specifically to regulate supplier-retailer relationships in agro-food supply chains**. Act No. 395/2009 Coll regulated 'significant market power in the sale of agricultural and food products, and abuse thereof'. The Act defines 'significant market powers' as the position where a purchaser may enforce an unfair advantage on suppliers. Several abuses are specified in the Act, including the imposition of unfair contractual terms;

⁵³⁴ VALUMICS Deliverable 3.1, p. 31.

the requirement for payment other than in return for goods or services; the use of 'tax documents' to conceal the true price paid; requirements for fees to stock certain products; discrimination among suppliers; payment periods; rights of return; and compensation for penalties levied by official control. The Act was renewed in 2016 (Act No. 50/2016 Coll.), signalling **a move to a more general treatment of UTPs** (rather than listing specific UTPs, as the earlier Act had done). The new law also covers some novel retail chain practices, e.g. so-called net-net prices (a pressure to reduce food prices), and complaints about certain unfair practices in the provision of logistics services (see section I.1.1.2).

2.3. FRANCE

As noted in the EU policy debates above, concerns about unfair trading practices are underpinned by a view⁵³⁵ that the transmission of prices along food supply chains is neither fair nor transparent. In France, Interbranch Organisations (IOs) which are vertically integrated organisations which comprise producers and at least one member of the processing or trading part of the supply chain⁵³⁶, have played an important role in determining how value is transmitted along chains. They work by influencing policy, as well as through product specification and promotion. Interbranch negotiation strengthens the bargaining power of otherwise fragmented and isolated food enterprises (see section II.2.1).

In the same vein, following a period of destabilising price volatility, an **Observatory of Price and Margins Formation for Food Products (OFPM)** was established in France in 2010, to improve transparency in price transmission and restore confidence between actors. Operating under the supervision of the Ministries of Agriculture and Economy, the OFPM uses available data (i.e., it is not an investigative body), and it does not act as an enforcement authority on fraud or competition. At the micro-economic level, the creation of the OFPM encouraged further sectoral analyses of price distribution. At the macro-level, it illustrated the decline in the share of food-chain value going to farmers, from 22% to 17% between 1999 to 2017 (see section II.2.2).

Also in 2010, a mediator in charge of Trade Relations in Agriculture was appointed to facilitate dialogue within the food chain. Any legal dispute in relation to the conclusion or execution of a sales contract can be submitted to the mediator, who can give an opinion on any matter relating to the contractual relations between the parties involved. Inter-branch organisations, trade unions or consular chambers may also refer to the mediator to request an opinion on contractual relations (see section II.2.2).

Different remedies may emerge from the **EGA (*Etats Generaux de l'Alimentation*) review**, a recent, wide-ranging assessment of the food supply in France organized by the Ministry of Agriculture and the Ministry of Environment. The EGA involved 14 workshops, with two main themes -- 'value distribution of value in the food chain' and

⁵³⁵ Expressed, for example, in the 2016 report of the Agricultural Markets Task Force, *Improving Market Outcomes*, available at https://ec.europa.eu/agriculture/sites/agriculture/files/agri-markets-task-force/improving-markets-outcomes_en.pdf

⁵³⁶ Definition from https://ec.europa.eu/agriculture/producer-interbranch-organisations_en, viewed 3.1.18

'healthy, safe and sustainable food, accessible to all'. 'Sectoral Draft Plans' were negotiated in parallel and presented at the final EGA conference in December 2017. These sector plans will be voted by the National Assembly and will provide the framework for a new law. It is hoped the measures will lead to greater clarity on pricing and strengthen mediation between actors in commercial negotiations (see section II.2.3).

2.4. GERMANY

Three laws cover various unfair trading practices in Germany. They **cover all commercial activities and are not specific to the food chain**. They are the Act against Unfair Competition (UWG), the Act against Restraints of Competition (GWB) and the German Civil Code (BGB) for contract issues. Each covers some of the issues defined as UTPs by the EU (see section III.2.1).

The **Act against Unfair Competition** protects competitors, consumers and other market participants against unfair commercial practices: in other words, it is both B2B and business to consumer (B2C), although it was developed for consumer protection. The law does not mention UTPs by name, but defines 'commercial practices' and says, 'unfair commercial practices shall be illegal'. Businesses are taken to have obligations to deal fairly with competitors as well as consumers. Section 4 of this law is named 'Protection of competitors'. The German national report says 'this can be considered as B2B law and mainly targets business protection against unfair practices.' (see section III.2.2) It broadly covers UTPs as defined by the EU. Breaking or undermining of the Act against Unfair Competition has civil and/or criminal legal consequences. Civil courts can order the payment of damages and impose injunctions while the criminal courts can impose fines (see section III.2.3).

The **Act against Restraints of Competition** does not directly deal with UTPs as defined by the EU, but it prohibits anti-competitive agreements, the abuse of dominant position and the abuse of economic dependence. German law regulates not only the traditional 'dominant position' (also called 'absolute' market power). It also regulates 'relative' market power, the situation in which an enterprise has market power not with respect to all other market participants but only with respect to another enterprise that economically depends on it. It is defined as a situation where 'small or medium-sized enterprises (SME) as suppliers or purchasers of certain kinds of goods or commercial services depend on specific enterprises in such a way, that sufficient and reasonable possibilities of resorting to other enterprises do not exist'. Abuse of market dominance in these situations is prohibited (see section III.2.2). This Act is enforced by competition authorities at federal and state level, backed up by the civil and criminal courts. These authorities can also act ex officio to receive complaints or launch investigations. Remedies for violations include declaring a certain behaviour invalid, monetary penalties, damages, and a skimming-off procedure to recover illegal gains (see section III.2.3).

The **German Civil Code** applies to all contracts and regulates, among other things, **the use of unfair terms**. Sections of the Code transpose Directive 93/13/EEC on unfair terms in consumer contracts and contain a list of prohibited clauses. German case law has developed the practice of using a breach against an example given in

those law sections (308 and 309 BGB) as an indicator for the invalidity of the contract clause in B2B contracts. It is thus used to regulate B2B UTPs. Several of the classes of UTPs identified in the EU Green Paper⁵³⁷ may be covered by the Code, including unfair transfer of commercial risk and lack of clarity in contractual offer (see section III.2.2).

Aside from the Civil Code provisions governing the use of business terms, the Code also enshrines the idea that contractual obligations should be based on 'good faith'. **This principle defines a general presumption that contracting parties will deal in honesty, fairness and good faith.** It is used to cover all those cases in which no specific regulation in the civil code applies. In the case of an unfair practice in a contract or in negotiations, one party may find the principle violated by the other party (where no other specific regulation applies) and can use it in a court of law. It is notable that with regard to UTPs, **unfair practice is not only enforceable in a case of a concluded written contract, but violations and resulting compensation can often occur in ongoing negotiations.** The unlawfulness of contract term definitions or other actions deemed UTPs according to the Civil Code is assessed through a dispute in the civil courts or by means of arbitration. The civil courts may prescribe remedies such as: renegotiations of an agreement, injunctions, invalidity of clauses, damages and restitution (see section III.2.3).

2.5. ICELAND

There is **no specific law targeting B2B practices in Iceland.** There is legislation on 'business practices and marketing', transposing the EU Directive on unfair business-to-consumer commercial practices (Directive 2005/29/EC), but the law is consumer-focused. The little mention of B2B practices is focused on commercial activities, unfair competition and misleading marketing (see section IV.2.1).

Iceland also has a Consumer Agency, a governmental agency falling under the auspices of Ministry of the Interior. The Consumer Agency is one of the governmental agencies entrusted with market surveillance of business operators and the efficient functioning and transparency of the market. The Agency has decisive power and can impose fines. However, Iceland's national report notes that the Consumer Agency rarely acts on activity in the category of UTPs, which are more likely to be tackled via competition law (see section IV.2.1).

Icelandic competition law is based on EU competition law and is enforced by the Icelandic Competition Authority (ICA). Iceland's national report observed that although not explicitly stated as an objective of the competition act, the ICA could intervene in matters that would fall under the EC definition of UTP if:

- 1) The agent in question had a dominant market position;
- 2) The contract or behaviour in question was deemed as anti-competitive.

The ICA has decisive power and can impose fines (see section IV.2.1).

The **ICA has also issued guidelines for behaviour in supplier-retailer contracts,** where special emphasis has been put on vertical competition restraints, loyalty

⁵³⁷ EU Green Paper on UTPs: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013DC0037>

programs, and price manipulation. These are not specific laws but rather **'best practice' guidance** to reduce the chance of the specific behaviour to be found in breach of competition law (see section IV.2.1).

2.6. ITALY

In Italy, a considerable amount of **regulation has been developed targeted specifically at food supply chains**, which are implicitly recognised as having unique environmental, social and economic characteristics. These measures tend to focus on strengthening linkages between operators within sectors and / or geographical areas. The Italian national report (see Annex) provided information on both national policy and regional policy for the Emilia-Romagna region, in north-eastern Italy.

2.6.1. NATIONAL LEVEL

At national level, a **legal decree (1/2012, art. 62) targets potential abuses in the sale of farming and food products**. It covers the abuse of economic dependence/bargaining power, the lack of written contracts, the lack of clarity in contractual terms, terms that unreasonably impose or shift risks, unfair breaking off of negotiations, and unfair contract termination. Broadly, therefore, it **covers similar territory to the EU's core definition of UTPs**. Unusually, the regulation **makes special provision for perishable products** (defined in the law), deemed to be more in need of contractual protection (e.g. terms of payment are 30 days for perishable products and 60 days for the other products). Sanctions, in the form of fines, are imposed by the Anti-Trust Authority, ranging from €500 to €500,000 depending on the turnover of the company (see section 0).

Still at national level, a separate **decree (102/2005, arts. 9 and 10) covers 'supply chain agreements' and 'framework contracts' for agro-food chains**. These involve national-level sectoral (or inter-professional) organisations of food producers, processors and distributors (see section 0).

The supply chain agreements (Art 9) entail a range of practices along food supply chains, from actions to improve market transparency to activities to promote sustainability. Specifically, on fairer trading practices, they address 'contractual models compatible with European regulation to be used in the submission of cultivation, breeding and supply contracts'. The supply chain agreements are conducted in the context of the **Agro-food Board**, created under a separate law (228/2001, art. 20), which again involves the main national food-sector trade associations. Three supply chain agreements have been concluded so far, concerning the sectors of oranges, apples and processing tomatoes (see section 0).

The framework contracts (Art 10) link producer organisations with downstream sectoral trade associations, in relation to single products and geographical areas. Again, they cover a range of issues (such as security of supply and product quality), but relate to fairer trading practices in that they specify, for example, that contract duration must be specified in the contract. After the supply chain agreement on processing tomatoes (see above) was established, a framework contract was agreed

between FEDAGRI (the Confederation of Cooperatives) and UNAPROA (the National Organization of Producers of Fruit & Vegetables) and then communicated to Mipaaf (the National Ministry for Agricultural, Food and Forestry Policies) (see section 0).

Italian law also provides for ‘supply chain contracts’ and ‘district contracts’ (law 289/2002, art. 66), designed to support ‘inter-professional investment programmes’ (and thereby helping **to protect market actors from both volatility and unfair contractual behaviour**), administered through public calls from Mipaaf. A recent example involves Barilla, a major company headquartered in Emilia-Romagna, which in 2016 signed an agreement with 50 suppliers (involving 5,000 companies) in 12 Italian regions, committing it to purchase 900,000 tons of durum wheat from the suppliers during the following three years, with a total investment of about €240 million (see section 0).

Some of the practices defined by the EU as UTPs are addressed under Italian contract law (192/1998 art.9), which is not specific to the food sector. This covers ‘subcontracting relationships in productive activities’, and addresses refusal to negotiate, unilateral modification clauses, abuse of economic dependence/bargaining power and unfair contract termination (see section 0)

2.6.2. REGIONAL LEVEL: EMILIA-ROMAGNA

Emilia-Romagna has **established criteria for ‘Interprofessional Organizations’ (IO) for agro-food sectors, pursuant to a regional law (24/2000)** and also the EU law on Common Market Organisations⁵³⁸. One of the objectives of this regional law is ‘to increase valorisation of products in order to have an equal distribution of the value among the subjects of the food chain, considering the production costs’. In other words, **it is another way of tackling the perceived unfair transmission of prices in agro-food chains that has troubled the EU**. The IOs must include member companies from at least two of the three stages of the chain (production, processing and distribution). Among other activities **the IOs can devise model contracts** for use among members. There are currently four active IOs, covering processing tomatoes; pigs; pears; and poultry and rabbits, but only one (processing tomatoes from Northern Italy) is recognised by the EC (see section 0).

Emilia-Romagna’s Regional Rural Development Plan (RRDP 2014-2020) includes measures aimed at supporting food producers and other food businesses in ways which, although not explicitly targeting UTPs, may help **strengthen the enterprises’ bargaining power or shield them from unfair contractual practices**. For example, a measure on ‘Agro-Food Chain Projects’ allows the regional government to direct financial resources to ‘projects’ linking enterprises along a value chain, where the participants enter into agreements covering their mutual obligations and responsibilities. An example is the Parmigiano Reggiano Chain Project, involving about 30 agricultural companies and 10 dairy companies in a cooperative consortium (see section 0).

Finally, **Emilia-Romagna** has a Regulation (443/2011) aimed at promoting good commercial practices by means of **a voluntary code of conduct for retailers**. The

⁵³⁸ Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products.

code focuses on four principles, including **rights of the workers and the need for written contracts**. The initiative is strongly focused on **certified products of local origin** (see section 0).

2.7. NORWAY

There is currently **no regulation specifically targeting unfair trading practices along food chains within Norway**, although such a measure has been discussed. In 2012, the government appointed a committee to investigate trading practices in grocery supply chains, noting the high degree of concentration (with only four major retailers dominating the market). The Committee reported in 2013, recommending a law on good trading practices and the establishment of a Trade Surveillance Authority for supervision and enforcement of the law. The main objective would have been to oversee negotiations, pricing, discounts, shelf placement, delisting, risk allocation, joint marketing, access to calculations, discrimination between chain own brands and other manufacturers' goods, and brand copying – so covering many of the UTPs identified by the EU. However, in 2015 it was decided not to implement these recommendations. **The issue was framed as one of competition, and it was decided instead to strengthen the Competition Authority and Law on Competition between Enterprises and Control of Business Associations (Competition Act) (LOV-2004-03-05-12)** (see section VI.1.2).

2.8. SPAIN

The Spanish '**mixed model**' **Food Chain Law incorporates both mandatory and voluntary components**, with **UTPs indirectly addressed** under both elements. The mandatory component sets out a list of prohibited business practices (not UTPs) and establishes a penalty system and a public enforcement body, namely the **Information and Food Control Agency (AICA)**. The voluntary components include a Code of Good Business Practice in Food Procurement Contracting, with a dispute resolution system. The whole law is overseen by a Food Supply Chain Observatory (see section VII.2.3).

The **mandatory** component of the law makes written contracts compulsory, **outlaws unilateral changes to contracts or imposition of payments, and covers** (among other things) **contractual terms and commercially sensitive information** (see section VII.2.3) – again, **all issues included in the EU's definition of 'core' UTPs**.

The law **also specifies what constitutes a situation of imbalance in supply chain transactions**:

- a) Where one of the operators has the status of SME and the other does not;
- b) Where one of the operators has the status of primary agricultural, livestock, fishing or forestry producer and the other does not;
- c) Where one of the operators has a situation of economic dependence with respect to the other, i.e., the product supplied represents at least 30% of the turnover of the supplier.

The AICA is an autonomous body, attached to the Ministry of Agriculture, Food and Environment, intended to improve the functioning of the food chain. **AICA has the power to monitor compliance of food enterprises with relevant laws** (including the regulations relating to Unfair Business Practices), and can **investigate complaints, initiate sanctions procedures** or where appropriate **transfer matters to the National Commission of Markets and Competition**. AICA's duties also include managing the voluntary Code of Good Practice in food contracts (see section VII.2.3).

The **Code of Good Practice is a voluntary (self-regulatory) measure for the food industry**. The Ministry of Agriculture and Fisheries, Food and Environment (MAPAMA) set out a series of basic principles for trade relations, such as balance and fair reciprocity between the parties, freedom of covenants, good faith, fair distribution of risks and responsibilities, cooperation and transparency, as well as respect for free competition and the sustainability of the food chain. As discussed above, the Food Chain Law contains mandatory clauses on written contracts and unfair business practices. The Code allows operators to go beyond these statutory requirements. The Code also establishes a dispute resolution mechanism (see section VII.2.4).

2.9. UNITED KINGDOM

The **UK** does not support moves to regulate UTPs at EU level, **preferring to allow the principle of 'freedom of contract' to prevail, with breaches remediable through contract law**. On the definition of UTPs offered in the EC 2013 Green Paper⁵³⁹ (see section 2.1.1) the UK has said:

'The UK agrees that the sorts of practices identified in the Commission Green Paper may be seen as unfair in certain circumstances, but they will not always be unfair across all sectors and types of business relations and certainly should not always be prohibited'.⁵⁴⁰

Practices which are seen in some circumstances as unfair may simply reflect the exercise of **'buyer power'**, which, the UK Government argued, **'may actually deliver positive results for consumers in an otherwise competitive market'**⁵⁴¹ (see section VIII.2.1.1).

In principle, **UK contract law** ensures that businesses operate within a fair framework, and provisions **cover some of the EU's 'core' UTPs, e.g. companies which are misled into agreements may not be bound by them, blanket exclusions of liability are generally not valid, and unilateral changes may not be applied**. At a higher level, where markets are perceived not to be working properly, **the national competition authority** (the Competition and Markets Authority, CMA) **may initiate an investigation, suggest remedies or impose**

⁵³⁹ COM(2013) 37 Final Green Paper on Unfair Trading Practices in the business-to-business food and non-food supply chain in Europe.

⁵⁴⁰ BIS (2013) UK Government response to the European Commission's Green Paper on unfair trading practices in the business-to-business food and non-food supply chain. BIS/13/928.

⁵⁴¹ BIS (2013) UK Government response to the European Commission's Green Paper on unfair trading practices in the business-to-business food and non-food supply chain. BIS/13/928.

penalties. Where competition alone fails to deliver optimum results, the government may intervene further, on a sectoral basis, for example by introducing compulsory independent dispute resolution mechanisms. This is what has happened in **one sector of the UK food supply chain**, where an **adjudicator has been appointed to regulate transactions between the country's 10 largest grocery retailers and their first-tier suppliers**. This legal intervention came about after efforts to encourage voluntary approaches had failed (see section VIII.2.1.2).

A voluntary 'Supermarket Code of Practice', governing relations between the UK's major supermarkets and their suppliers, was first introduced in 2001, after an investigation by the competition authority found retailers were transferring excessive risk and unexpected costs to their suppliers. In 2008, after persistent reports of abuses, the competition authority recommended a strengthened code, the **Groceries Supply Code of Practice (GSCOP), to be enforced by an independent ombudsman, the Groceries Code Adjudicator (GCA)**. The original order was for the grocery industry to create the ombudsman itself; when it failed to do so, the GCA was created by Act of Parliament in **2013**, with statutory duties to enforce the Code. The Code applies only to 'designated' retailers (corporate groups with UK retail groceries turnover exceeding £1 billion a year, currently 10) and their direct suppliers. Indirect suppliers and intermediaries are out of scope (see section VIII.2.1.2).

The GSCOP enforces a principle of fair dealing and covers comparable territory to the EU's agenda on UTPs, though framed in different terms. The **GSCOP outlaws a number of specific practices (except where they have been included in contracts)**, including:

- Making retrospective variation to contracts;
- Making sudden changes to procedures;
- Delaying payments;
- Requiring suppliers to contribute to marketing costs;
- Requiring suppliers to cover the cost of spoilage and waste occurring on the retailers' sites;
- Penalising suppliers for the retailers' forecasting errors;
- Charging stocking, listing or positioning fees;
- Tying supply to purchase of goods or services from a third party;
- Overcharging suppliers for promotions;
- Over-ordering at promotion prices;
- Making unjustified charges in relation to customer complaints;
- De-listing without sound commercial grounds.

Implementing the Code, the **GCA has the power to arbitrate disputes between designated retailers and their direct suppliers, and investigate confidential complaints. Sanctions include** making non-binding recommendations, requiring the retailer to publish details of their breach, or imposing a **financial penalty to a maximum of 1% of the relevant retailer's UK turnover** (see section VIII.2.1.2).

3. FOOD CHAIN INTEGRITY: FOOD SAFETY AND FOOD AUTHENTICITY

Food chain integrity, for the purposes of this report, is defined as safety and authenticity in the food value chain, which reflects the need for products to be safe and to be exactly what they say they are, i.e. to not be misleading or fraudulent.

3.1. NATIONAL PROVISIONS PROMOTING FOOD SAFETY IN THE OPERATION OF THE FOOD VALUE CHAINS

From our review of the national reports provided by the VALUMICS partners it appears that very few countries have additional national provisions to promote food safety in the food value chains and this is an expected outcome, since food safety is highly regulated at EU level with the provisions directly applicable in the EU countries.

Reg. 852/2004⁵⁴² on the hygiene of foodstuffs lays down relevant rules for food business operators that apply to all stages of production, processing and distribution of food and to exports. However, this Regulation **does not apply** to the **direct supply** by the producer to the final consumer **of small quantities of primary products** or to the supply by the producer to local retail establishments that then supply the final consumer. Some of the countries examined (Czech Republic, Italy, Norway, UK) have established national provisions that define 'small quantity' and give limits for the numbers of the different species that can be sold in these short supply chains.

Additionally, in the **Czech Republic** there are also specific waivers for certain EU hygiene rules for slaughterhouses that handle small quantities of animals and national rules for the traditional Czech domestic slaughter of animals (see section I.2.1.1).

In **Iceland** the national Regulation 856/2016 deals specifically with low volume and short supply chains and aims to enable slaughterhouses, fish markets and small food companies to comply with hygiene and regulatory requirements. It concerns meat, fish, eggs and dairy and lays down special provisions on the processing of certain traditional foods, i.e. smoked foods, fish dried outdoors and processing of shark meat (see section IV.3.1).

In **Norway** there are national provisions for a number of animal species and other products. Also, there are national provisions on marginal, local and limited retail activity, where marginal activity is up to 600 kg of food sale in a week, local activity is 100 km distance, limited activity is when goods are sold solely to the retailer. The Norwegian Food Safety Authority has given special guidelines for direct sales of products of animal origin such as meat, dairy, inland fish, eggs and honey and the relevant regulatory framework for these products (see section VI.2.1).

⁵⁴² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0852-20090420&from=EN>

In the **UK**, the Red Tractor Assurance scheme is Government endorsed, but industry owned and operated independently. It is aimed at promoting and regulating food quality, with a focus on food safety. The Scheme is a recognised by the national government's Food Standards Agency as offering equivalent safety inspection processes as local government authorities, under what is termed "earned recognition" (see section VIII.3.1.1). The Red Tractor scheme is aimed at ensuring consumers can trust the quality of the food they eat and aims to promote clearer labelling and ensure that food originates from a trustworthy source which can be traced back to the original farm. The scheme covers food safety, traceability, animal welfare and environmental protection. Standards are produced for chicken, pork, beef, lamb, dairy and fresh produce and crops and they are verified by use of the red tractor logo (see section VIII.3.1.1).

3.2. FOOD AUTHENTICITY

3.2.1. NATIONAL PROVISIONS PROMOTING AUTHENTICITY IN THE OPERATION OF THE FOOD VALUE CHAINS

To promote authenticity in the food value chain, some of the countries studied also have national provisions for the labelling of locally produced food.

In **Iceland**, the use of the Icelandic national flag for marketing of products and services, although debated for years, has finally been enforced in 2017. The terms of application of the flag for marketing purposes are clarified and the Consumer Agency is responsible for the surveillance and monitoring. The flag cannot be used as an identifier or logo for individuals or companies, however, it can be used in sales alerts, on packaging or advertisement of a product or service, only if the application includes marketing of goods where the physical raw material is of **Icelandic origin**, or if sufficient product processing takes place in Iceland, resulting in value increase, which implies that the product is to be considered as originating from Iceland. However, products cannot be considered Icelandic when imported products are similar to characteristic products which are farmed or harvested in Iceland, for example from farms, including products of farmed fish grown in Iceland, from a product manufactured in Iceland in a garden farm, a greenhouse or a horticultural plant or from fish stocks of fish caught by Icelandic vessels within the Icelandic fishing zone. It must be ensured that the country of production is clearly stated and that the declaration is made in conjunction with the use of the national flag so that consumers are not given false or misleading information about the production country (see section 0).

In **Italy**, a regional measure promotes the creation and consolidation of aggregations, horizontal or vertical, to strengthen the commercialization of produce on the "local markets" that must be located at the maximum distance of 70 km from the municipality where the agricultural farm has the operational centre. In addition, in 2011, the Emilia-Romagna Regional government approved a Regulation aimed at valorising good practices with a voluntary code of conduct proposed to the retailing

companies for their own behaviour and for the selection of their suppliers. The code of conduct focuses on 4 principles: quality of products, environmental protection, food safety and rights of the workers, written contracts. The initiative strongly focused on the **quality certified products of local origin**. The code has been experimented for one year. The logo of the Emilia-Romagna Region has been added to two initiatives, by Coop Adriatica (“Territori Coop”) and Sigma Supermarket, in 2011-12, aimed at promoting local quality products (see section 0).

Also, national legislation in Italy reintroduces the obligation to indicate production factories on the label of packaged agro-food products to ensure correct and complete information about the products origin and to improve traceability. This concerns products such as tomato paste, milk and cheese products, pasta and rice.

“The Extraordinary Italian Taste” logo for products made in Italy has been developed as an institutional marketing instrument for promotion activities of Italian agro-food products through information and communication campaigns. Owner of the logo are the Ministry of agriculture, food and forestry policies and the Italian Trade Agency (ITA). The logo can be used by public bodies, associations, professional organizations, consortiums etc (see section 0).

Also in **Italy**, regional politics focus on strengthening regional products with regulated quality certification such as Quality Control (QC brand, QC Qualità Controllata) labels are used in the Emilia-Romagna Region for products that respect a set of rules concerning quality from farming to the end consumer, Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) products, organic products, integrated production with QC brand and traditional products with the aim is to support brands connected to the regional territory concerning cultural aspects, local identities, and traditional production methods (see section 0).

In **Norway**, short supply chains directly from producer to consumer or producer to retailer are characterised as 'Local Food'. As defined by the Norwegian Food Safety Authority **local food** is referred to food production, often small-scale, inhouse, and service that is closely linked to the producer, either at a farm, mountain pasture, fishing area or nearby. Also, in Norway, NYT Norge is a collaborative labelling scheme by the Norwegian Food Safety Authority and a private association Matmerk for products that are produced in Norway. The requirements include the use of Norwegian raw materials, production on farms that follow a quality system such as the KSL (Quality System in Agriculture), production by companies located in Norway and specific compositional requirements (see section VI.2.2). Products that bear the NYT Norge label are mostly commercially grown and processed in Norway and further transported to other parts of the country, however for smaller-scale local food producers adopting the NYT Norge label is not profitable.

There are also national requirements for food information on the trade description, country of origin and variety of fresh fruit, berries, vegetables and potatoes that are pre-packaged or unpackaged (see section VI.2.2).

There are also Regulations on quality schemes for agricultural products and for individual food categories in **Norway**. These control foods such as potatoes, milk and dairy products, meat products, fish and fish products, honey, jams, juices and alcoholic drinks. The regulations impose requirements on raw materials, manufacturing methods and finished products, as well as requirements for labelling of the products to use the terms defined in the regulations for individual food

category. The main purpose of the quality regulations is to contribute to the fair marketing of food products, ensuring equal competition in the market and preventing consumers from being misled (see section VI.2.2).

In the **UK** food authenticity is an important element of the Red Tractor Assurance scheme described in more detail in the above section. Companies joining the Assured Food Standards (AFS) scheme can demonstrate to their customers that they meet the traceability and quality standards and can use the Red Tractor logo. To use the logo specific licensing criteria must be met, which are provided for each of the product categories. The use of the Union Jack flag in the Red Tractor logo confirms that the food has been born, grown, prepared and packed in the UK. There are three versions of the logo (see section VIII.3.1.1).

In the **Czech Republic** there are some national provisions that adopt additional mandatory labelling for specific types or categories of foods with the aim to improve consumer awareness and prevent fraudulent misrepresentation for example for the labelling of meat and meat products. Also, there is a national label for organic products in addition to the EU provisions and national quality labels for domestic products with specific compositional requirements (see section I.2.2.1).

In **Germany** there are two groups of state regulated labels for food products. First, there are state labels that are not based on the certification system, but are regulated through the Law against Unfair Competition and the German Food and Feed Code. This group of labels contains information such as **country of origin and list of ingredients**. Second, there are state regulated labels that are provided through the certification process. The certification process could be entirely regulated by the state or the state sets the standards and requirements, and the certification process is done by the private sector. As an example, if a product has a label that states it is organic, the government relies on the private sector to conduct the certification. Thus, government sets the general rules (standards), but it's not conducting the certification process. The German organic production logo, the Bio-Siegel constitutes an important step in the development of the organic market in Germany. The label may be used on a voluntary basis. The underlying standard set by the EU legislation governing organic farming as well as the waiving of further procedural steps such as the award or licensing procedures permit broad use of the label, even for products from other EU states and third countries. The food labelling requirements in Germany directly refer to the EU legislation (EU Regulation No. 1169/2011), applied from December 13, 2014. Furthermore. In addition, each federal state has additional optional labels (e.g. regional organic labels) that should be aligned with general regulations set by the federal government and EU regulations (see section III.4.1.4).

In **France**, the Red Label in the chicken production, launched in the 1970s, was created as an alternative to intensive farming by selecting slow growing species and by improving feeding and breeding conditions (see section II.3.1).

3.2.2. NATIONAL PROVISIONS PREVENTING FRAUD IN THE OPERATION OF THE FOOD VALUE CHAINS

Regulation (EU) No 2017/625⁵⁴³ on official controls to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products was recently published and will apply from 14 December 2019. Compared to the old Regulation on official controls (Reg. 882/2004⁵⁴⁴) that it will replace, the new Regulation implements the following more specific rules in relation to fraud⁵⁴⁵:

- More specific rules to target fraud, including the obligation for MS to perform regular and unannounced risk-based controls;
- Financial penalties targeting fraudulent behaviour must reflect the economic advantage of the perpetrator, or a percentage of his/her turnover;
- EU Reference Centres will be established for animal welfare and Centres for the authenticity and integrity of the agri-food chain.

The new Regulation also covers animal by-products and plant health, but plant reproductive material (e.g. seeds) is not covered.

Currently, and until this Regulation is fully implemented, there are relevant initiatives on national level in some MS, in particular following food fraud incidents that targeted the EU food chain in the recent years.

From our review of the national reports provided by the VALUMICS partners we have observed that several countries have appointed different national authorities with tasks related to the prevention of fraud with the aim to protect consumers' health and interests and help them make informed choices on the food they consume. In most countries there is also a platform where citizens can report their concerns in relation to food fraud which are followed up by the authorities.

In **Italy**, the ICQRF (Department of Central Inspectorate for Quality Safeguarding and Anti-fraud of Foodstuff and Agricultural Products) is designated by the European Commission as Food fraud contact point and "ex officio" Italian Authority for PDO/PGI products. Its scope is the protection of Italian agricultural products in Italy, the world and on the web against fraud, misuse, cases of Italian sounding and counterfeit products in detriment of "made in Italy" quality products. Also, protection of consumers health and producers' competitiveness against these unfair and unsafe trading practices. There are 29 regional offices. The ICQRF operates also on the web, on eBay, Alibaba and Amazon as a party (owner) entitled to protect the "name" of the Italian Geographical Indications (see section 0).

In **Iceland**, Icelandic Food and Veterinary Authority (MAST) keeps a Facebook page (<https://www.facebook.com/neytendavakt/>) with the intent to function as a platform for consumer discussions and information sharing. The official purpose of the page is to enable consumers to avoid the consumption of dubious foods in the market, guide consumers so that they can ensure food safety as far as possible, enable consumers to make informed decisions about the choice of food and to receive tips from

⁵⁴³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0625&qid=1499181684969&from=EN>

⁵⁴⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0882-20170228&qid=1499181796978&from=EN>

⁵⁴⁵ http://ec.europa.eu/food/sites/food/files/safety/docs/oc_qa_ocregulation_20170407_en.pdf

consumers about unsafe or fraudulent foods in the market. MAST also has a whistleblower interface on its website where consumers can post anonymous tips regarding either food safety or animal welfare. It is worth noting that Regulation (EU) No 2017/625 does not fall under the EEA agreement and has therefore not been implemented in Iceland. The regulation is currently under review at MAST, but no decision has been made to implement it to the EEA agreement (see section 0).

In the **Czech Republic** the Czech Agriculture and Food Inspection Authority (CAFIA) focuses on inspecting the medical harmlessness of foodstuffs, foodstuff quality and labelling, particularly for foodstuffs of vegetable origin, on inspecting food fraud and fraudulent misrepresentation and on controlling production, storage, transport and sales (including import) and food for public caterers. The inspection of foodstuffs of animal origin is done by the State Veterinary Administration (SVA). To inform consumers of poor-quality, adulterated or unsafe food revealed during official inspections, the CAFIA, in cooperation with the Ministry of Agriculture, launched the Food Pillory website www.potravinynapranyri.cz in 2012. The mobile application Food Pillory was launched in 2013, and one year later, a Facebook and Twitter profile were created. The SVA joined the Food Pillory project in 2016. The Food Pillory projects currently provide information about foodstuffs, premises and thematic controls. Foodstuffs are categorised according to the severity of the disobedience of legal requirements – poor-quality, adulterated and unsafe. The Premises section provides information on premises or parts thereof which were closed in the course of official inspections due to a serious violation of hygiene regulations. The "Thematic Controls" section lists the results of control actions that focused on a specific market issue. A consumer who suspects a food crime/fraud may propose a motion to the CAFIA in the case of foodstuffs of plant origin, or to the SVA in the case of animal origin. The complaint must include: the name of the product, where and when the product was purchased, and the batch number or minimum durability date or usability date. The complaint may be filed personally, in writing, by e-mail, on the Food Pillory website, or through a mobile application. The Czech report concludes that one constraint in food safety and food fraud has been the restricted budgets, that have hindered more effective policy implementation and monitoring, meaning that food value chains have not functioned as well as they could in these areas (see section I.2.2.1).

In the **UK** the Government set up the National Food Crime Unit (NFCU) within the Food Standards Agency. The NFCU aims to protect consumers and the legitimate food industry from serious dishonesty and criminal activity that impacts on the safety or authenticity of the food and drink they consume. There is also a Scottish Food Crime and Incidents Unit (SFCIU) within Food Standards Scotland (FSS) and in Wales, the Welsh Food Fraud Coordination Unit (WFFCU). The NFCU comprises two functional teams, the intelligence team and the operational team which work together with the aim to reduce food crime. The intelligence team is focused at the strategic understanding of food crime and assesses and manages all food crime related intelligence and information by all sources. The operational team is responsible for developing and leading operations in relation to identified threats, handles criminal investigations and develops and manages relationships with other departments, local authorities and the police to enhance intelligence collection and cooperation. Food Crime Confidential is a reporting facility where anyone with suspicions about food crime, and in particular those working in or around the UK food industry, can report these safely and in confidence, over-the-phone or online. A

review of the first two years of the implementation of the NFCU was completed in the end of 2016. It concluded with the following recommendations: the NFCU should have an investigative capability, be tasked with food crime prevention, be responsible for the setting of food crime investigation standards and be responsible for training in food crime awareness and intelligence handling. It also concluded that the NFCU should be set up as operationally independent of the Food Standards Agency (FSA) but subject to scrutiny by the FSA. There is a clear concern that lack of funding was preventing the NFCU from developing an effective capability in addressing food fraud (see section VIII.3.2.2.1). A similar observation has been made in Czech Republic.

In **Germany**, the main coordination body that deals with issues of food fraud is the Federal Office of Consumer Protection and Food Safety (BVL). The BVL acts as an official National Food Fraud Contact Point at the EU level. There is a National Strategy to combat food fraud and it's based on the following elements: preventive action, improved evidence of manipulation by further development of analytical origin determinations and the strengthening of regulatory cooperation. In order to make further improvements of the National Strategy, the Expert Advisory Council has been established in 2015. It consists of the representatives from the Federal Ministry of Nutrition and BVL. Beside these two main institutions, there are other Governmental institutions involved in the work of the Council (the Federal Criminal Police Office, the customs investigation service, prosecutors, the EU Commission, the Federal Statistical Office as well as some federal states). There was an initiative from the Federal State of Berlin that resulted in creation of a "Food Fraud" federal-state working group. Also in this body are various federal and state authorities – including the Federal Nutrition Ministry and BVL. This working group is also responsible for further improvement of the National Strategy. There are several important institutions that contribute to the National plan of combating food fraud. The Federal Institute for Risk Assessment aims at safety, authenticity and quality of food in order to ensure and protect the food chain from adulteration. The National Reference Centre for authenticity and integrity in the food chain is the Max Rubner Institute.

Selected approaches for combating food fraud in Germany, include:

- Media observation. With "BeoWarn" the BVL thwarts the media landscape according to current trends and topics with high fraud potential. The information collected is processed and disseminated to other federal states.
- The EU Commission also operates a media monitoring system, the so-called Medical Information System – Medisys, that Member States can access.
- As another way to detect action fields for food fraud, Germany uses the computer-aided data analysis. Statistical data - for example to obtain import quantities, price fluctuations, climatic changes or crop failures – can, after appropriate data processing, provide decisive signals of fraud. This program is developed by the Bavarian State Office for Health and Food Safety (see section III.3.4).

In **Spain**, the State Security Forces (Civil Guard, SEPRONA and the Judicial Police) act in two areas. At the administrative level, the State Security Forces collaborate in the prevention, intelligence and investigation of the fight against food fraud. At the penal level, the General Directorate of the Civil Guard has an Intelligence Centre against Organized Crime (CICO) and a Technical Unit of the Judicial Police, which

acts in the criminal sphere. The actions are developed in collaboration with the competent authorities of the Autonomous Communities, the General Directorate of the Food Industry, of the MAPAMA and the Spanish Agency for Consumer Affairs, Food Safety and Nutrition (AECOSAN). On the other hand, the Civil Guard and the Spanish Food and Drink Federation (FIAB) signed in 2016 an Operational Procedure of collaboration through which they will promote actions and initiatives that result in the effectiveness of the fight against illicit activities that may take place in the field of food production and trafficking, as well as its adulteration and counterfeiting, to favour its eradication. Illicit activities often cause serious harm to the society of any country, since they can endanger both public health and environmental safety. In addition, they constitute an environment conducive to tax and tax fraud and unfair competition in the market. This collaboration agreement demonstrates the Federation's unwavering commitment to the authorities in the fight against fraud and establishes the bases of cooperation to strengthen institutional relations in the area of quality control and protection in the sector. In addition, this procedure will contribute to the maintenance of the loyalty of the commercial transactions between the operators, and to reinforce the confidence of the consumer in Spanish quality products (see section VII.3.2).

The only difference in between the countries examined was observed is **Norway** where following a dialogue with the Norwegian Food Safety Authority, it can be concluded that there are no current national measures specifically targeting fraudulent food practices on a regular basis. However, the Norwegian Food Safety Authority carried out a campaign in 2014 to investigate the labelling information for everyday food products and their compliance to the Food Information Regulations FOR-2014-11-28-1497. Also, any **complaints or suspicions** about food crime, cases of food poisoning or incorrect labelling information and misuse of animals can be **reported** to The Norwegian Food Safety Authority through an online form submission service. The Norwegian Food Safety Authority then investigates the case depending on its nature and seriousness and takes appropriate action (see section VI.2.2).

4. COLLABORATIVE INITIATIVES PROMOTING SUSTAINABILITY IN EU FOOD VALUE CHAINS

4.1. INTRODUCTION

From our review of the national reports provided by the VALUMICS partners on national best practice examples in the field of collaborative initiatives to promote sustainability in the food value chains, we have observed a few best practice examples of such initiatives in relation to environmental sustainability and social sustainability. We were specifically interested in state-led collaborations, or in those where the national or local government was in some way involved.

Some of these initiatives are more directed to the food industry, while other initiatives are also directed to the consumer.

4.2. ENVIRONMENTAL SUSTAINABILITY

4.2.1. NATIONAL INITIATIVES

One such example is from the **UK**; the Product Sustainability Forum (PSF) was a collaboration of 80+ organisations made up of grocery retailers and suppliers, academics, non-governmental organisations (NGOs) and UK Government representatives and provided a platform for these organisations to work together to measure, improve and communicate the environmental performance of grocery products, in line with efforts to agree metrics at the EU level. It also helped co-ordinate the efforts already taken by different companies in measuring **the environmental performance** of their products and to align them to similar initiatives around the world, to help interested parties prioritise which products and which stages of the value chain to focus their efforts on (see section VIII.4.1). The work of the PSF is now taken forward by the Courtauld Commitment 2025. Courtauld 2025 (4th phase of the Courtauld Commitment⁵⁴⁶) is a voluntary 10-year scheme for the food industry stakeholders funded by the government and focused at **cutting waste** and **GHG emissions** in the food and drink sector and **improving water stewardship**. It informs producers and consumers on how to reduce waste along the chain by **using innovative packaging** and **diverting waste to alternative uses**, such as **recycling**, biogas or **compost**. This agreement originates in the 2006 Food

⁵⁴⁶ Courtauld 1 (2005-09) aimed to reduce primary packaging and brought food waste onto the agenda for the industry. Courtauld 2 (2010-2012) included secondary and tertiary packaging, and supply chain waste, and moved from reducing weight to reducing the carbon impact of packaging. Courtauld 3 (2013-15) aimed to further reduce the weight and carbon impact of household food waste.

Industry Sustainability Strategy (FISS), the UK government's first (and so far only) strategy to set goals and direction of travel for the food industry beyond the farm gate. It set targets for **carbon emissions, waste, water and food transportation** (see section VIII.4.2). Both the PSF and the Courtauld Commitment are based within and supported by the Waste Resources Action Programme (WRAP), originally a Government sponsored environmental consultancy, which is now an independent body.

Ambition 25 is another scheme run by the **UK** food manufacturers' trade association, the Food and Drink Federation (FDF), but prompted by the UK Government's 2006 Food Industry Sustainability Strategy, to **cut waste and emissions** arising from its members' activities. It is the latest iteration of a scheme that began in 2007 as the Five-Fold Environmental Ambition (FEA) (see section VIII.4.5).

In **Italy**, the National Technology CL.A.N. – CL.uster A.grifood N.azionale is a multi-stakeholder network of the key national players of the entire agro-food chain, companies, research centres, institutions and other stakeholders, also with a significant representation of Italian regional governments, set up to promote **sustainable economic growth**. One of the research projects undertaken, SO.FI.A, aims to make a significant contribution to the **sustainability** objective of the national agri-food industry through the search for innovative technological solutions that affect the main production chains and impact the entire production, processing and consumption cycle. Specifically, it concerns (i) **adaptation to climate change**: reduction of primary production losses through the selection of agricultural crops, precision agriculture and energy-environmental certification of the main national crops (cereals, viticulture, horticulture); (ii) **recovery and reuse of by-products and waste** from agri-food transformations (fresh products from the IV range, wine industry, dairy and meat) for the production of high added value molecules, new products and energy recovery systems; (iii) new methods of food processing and innovative treatments for their preservation in order to **increase the overall sustainability** of the agri-food chains **and reduce waste** (see section 0).

Also in **Italy**, the Regional Law nr. 27 / 2009 "Information and education program on sustainability from Emilia-Romagna Region for the period 2017-2019" aims to orient food and lifestyle choices towards **sustainability concepts**. It includes initiatives related to **biodiversity**, promotion of **short food value chains** such as **farmers markets**, and valorisation of **cultural diversity** and **typical local agricultural products**. Also, the "Program for consumption orientation and nutrition education and for the qualification of collective catering services" for 2017-2019⁵⁴⁷, focuses on promoting knowledge about the **regional agricultural territory, rural livelihoods and agro-food traditions**, as well as **sustainability concepts**. The projects have an interdisciplinary approach involving nutritionists, agronomists, regional and local public bodies, communication experts, etc. Regional politics in the Emilia-Romagna Region focus on strengthening regional products with regulated quality certification (see section 0). More relevant from the **environmental sustainability** angle is the **integrated production** with QC brand⁵⁴⁸, which is a sustainable agricultural production system with **reduced application of chemical products safeguarding the environment** as well as **health** of agricultural **workers and consumers**.

⁵⁴⁷ Regional Law 4. Nov 2002, n. 29, Program Regional Council 20 April 2017, nr. 494

⁵⁴⁸ Regional Law nr. 28 of 28 October 1999

Products cultivated under integrated production guidelines are valued by receiving the QC brand (see section 0).

In **Spain**, the Spanish Food and Drink Federation, FIAB, organises the Envifood Meeting Point congress, the main event for the sector in environmental sustainability. This is a private/public initiative, FIAB organised it but the action is co-financed by the Ministry and with its involvement, the action is in line with their policy. The event has been consecrated as the great meeting point of the industry for the creation of debate and reflection on the best practices of the agro-food sector by 2020. The Congress brings together more than 200 professionals representing the entire food chain, who have been able to see the main achievements of the food and beverage industry in the fight against climate change, the central theme of the forum. Envifood is the sign of commitment to reducing emissions, waste management, optimizing the use of resources or reducing waste. Actions, all of them, aimed at achieving a sustainable sector. During its last edition Envifood released the report "Adaptation to Climate Change in the Business Strategy. Challenges, Opportunities and next steps for the Food and Beverage Industry" in which the commitments and challenges for the construction of a productive, safe, healthy and competitive environment, economically and environmentally are gathered (see section IVII.5.2VII.5.2).

FIAB in collaboration with Ministry of Agriculture and Fisheries, Food and Environment (MAPAMA) elaborated the Consumer Sustainability Guide. It is a private/public initiative, organised by FIAB, but the action is co-financed by the Ministry and is in line with their policy direction. The food and beverage industry has been working over the years to minimise its impacts and to efficiently manage the available resources, with the main objective of the sector being the construction of a safe, healthy and sustainable industry, and to promote sustainable production and consumption. In order to advance in the sustainability of food, improvement is needed in each of the stages of the food product's life cycle as is collaboration between the agents involved in the product value chain. In this way, the industry proposes, among other measures: to contribute to the development of a sustainable supply of raw materials, to contribute to strategies against climate change, to reduce food waste and to promote the calculation and reduction of the environmental footprint of products as an internal management tool (see section VII.5.4).

In some of the countries sustainability initiatives are established based on related broader national initiatives and some have more recently been extended to also cover the requirements of the Sustainable Development Goals (SDGs).

For example, in **Germany**, sustainability is a guiding principle in policies pursued by the German federal government since 2002, even in draft legislative proposals. Germany has a National Strategy on Sustainable Development defining all related policy actions at national, European and international level. The German Council for Sustainable Development, consisting of members from businesses, trade unions, churches, media, consumer unions, and environmental associations, conducts additional sustainability investigations and provides proposals on how to improve the Strategy. In 2016 they adopted a National Programme for Sustainable Consumption that is directly linked to the UN Sustainable Development Goals and Agenda 2030. Its main aim is to promote sustainability in everyday life and raise awareness of the impacts of sustainable consumption and to enable cooperation between stakeholders related to sustainability issues. Within the National Programme for

Sustainable consumption, the food sector is one of the six priority areas (see section III.4.1.1). Similarly, in Iceland, Food Resource Iceland (Matarauður Ísland) is an initiative aimed at strengthening Iceland's image as a food producing country and at increasing the focus on Icelandic food products. The guideline is sustainable food policy according to the UN goals. The initiative will involve different food related activities to motivate synergies and create value and diversified job opportunities and its first phase is until 2021 (see section IV.4).

In **France**, measures related to food systems sustainability are still in discussion and some are still draft proposals. The suggestions are going towards the idea of the emergence of three main forms of agriculture: the strengthening of organic farming, a certified sustainable agriculture for export and an agroecological model based on the reinforcement of High Environmental Value specifications (see section II.4.3).

In a similar context of implementing national measures around broader sustainability initiatives in **Spain**, in September 2017, the Spanish Food and Drink Federation signed the Pact for a Circular Economy together with the Ministry of Agriculture and Fisheries, Food and Environment and other 52 productive sectors and civil society. This commitment places the food and beverage industry in the first line of action in the construction of a sustainable production environment. The signed Pact includes the commitment to reduce the use of non-renewable natural resources, promote the analysis of the life cycle of products, the incorporation of eco-design criteria, promote guidelines that increase the overall efficiency of productive processes, promote innovative ways of sustainable consumption or the use of digital infrastructures and services, among other points. In addition, they commit to disseminate and promote common initiatives and indicators that favour the development of the circular economy (see section VII.5.1).

From our analysis of the reports provided by our partners for the different countries, we have observed that some of these countries (Czech Republic, France, Italy, Norway, United Kingdom) have included promotion and expansion of organic production in their territories as part of their initiatives to promote sustainability in the food value chains. This is worth mentioning here even though, for the purposes of this report, organic production has been examined mainly from the food integrity/authenticity point of view.

4.2.2. FOOD WASTE RELATED INITIATIVES

Some of the countries have established national initiatives targeted at the reduction of food waste by the industry, the consumers or both, to promote environmental sustainability of the food chains.

In **Italy**, Law 166/2016 (September 14, 2016) on the “**Donation and distribution of food and pharmaceutical products for the purpose of social solidarity and to reduce food waste**” defines how to donate remaining foodstuffs to public private bodies which in return are obliged to **distribute** these products to people in need, or if they are not usable anymore for human consumption, to use as **animal feed or for compost**. Products that can be donated include agricultural products and foodstuffs that remain unsold or are taken off the value chain for commercial or aesthetic reasons or because they are close to expiration date and **foodstuffs beyond their**

durability date, provided that the packaging is undamaged and preserving conditions are suitable (see section 0). Also, in the Emilia-Romagna region, under the “Clust-ER Agro-Food” initiative, a specific value chain that relates to waste has been selected with the aim to strengthen its position in the international competition: ‘SPES - Valorisation of by-products and waste in the agro-food sector’ (see section 0).

In the **UK**, as discussed above, Courtauld 2025 is focused at cutting waste and GHG emissions in the food and drink sector and improving water stewardship. It informs producers and consumers on how to reduce waste along the chain by using innovative packaging and diverting waste to alternative uses, such as recycling, biogas or compost (see section VIII.4.2). Also, on 29 November 2017, WRAP in association with the FSA and Defra published new **labelling guidance** to be used by food manufacturers and retailers and help ensure that food is safe and legally compliant, it is stored and used within time and eventually help **reduce the food waste** generated in UK households due to food not being used on time. This guidance also claims that it can help deliver a four-fold increase in surplus **food redistribution** by 2025 (see section VIII.4.3.4).

In **Spain**, the Spanish Food and Drink Federation (FIAB) in collaboration with the Ministry of Agriculture and Fisheries, Food and Environment (MAPAMA) elaborated and launched the following campaigns against food waste (see section VII.5.3):

- The food industry ratifies in the Senate its fight against waste in September 2017

FIAB considers essential the collaboration of all social agents, together with the Administration, to reduce food waste along the entire agri-food chain, with awareness rising in responsible consumption within the home, where most of the waste is produced.

- Consumer Sustainability Guide

FIAB in collaboration with Ministry of Agriculture and Fisheries, Food and Environment (MAPAMA) elaborated the Consumer Sustainability Guide.

In order to advance in the sustainability of food, improvement is needed in each of the stages of their life cycles and collaboration between the agents involved in the product value chain. In this way, the industry proposes, among other measures to:

- contribute to the development of a sustainable supply of raw materials
- contribute to strategies against climate change
- reduce food waste
- promote the calculation and reduction of the environmental footprint of products as an internal management tool.

- Prevention Business Plans

One of the main successes of the Food and Beverage Industry in terms of packaging management is the involvement of the sector with prevention. Spain was one of the

first countries to compulsorily impose the development of Prevention Business Plans (PEPs). The Spanish packaging companies not only fulfil their obligation through the PEPs, but they go beyond the provisions of European regulations, being pioneers in this field and carrying out numerous actions in the field of prevention.

PEPs seek to minimize and prevent at source the production and harmfulness of packaging waste that is generated. They are documents that collect, for periods of three years:

- Quantified prevention objectives
- Prevention measures planned to achieve these objectives
- Control Systems and annual monitoring of the degree of compliance with these objectives
- They must be approved by the competent bodies of the Autonomous Communities (hereinafter CCAA) where the registered office of the bottling or importing company of packaged products resides.

PEPs are responsible for putting on the market (packaging or importing companies) of packaged products whose package weight put on the market in a calendar year exceeds any of the following thresholds: 250 ton glass, 50 ton steel, 30 ton aluminum, 21 ton plastic, 16 ton wood, 14 ton cardboard, 350 ton if they do not exceed the previous quantities per material. Companies that are required to submit PEP can comply with this legal requirement individually or grouped through the SIG to which they are attached, in which case it is called Sectoral PEP.

In **Iceland**, a Working Group on food waste was set up in 2014 by the Ministry for the Environment and Natural Resources, to formulate proposals for **reducing food waste**. They published a report on what food waste is and compiled a list of projects that have already been implemented in this area. The report also contains suggestions for further initiatives which include research on food waste in Iceland, education for consumers and awareness raising, **storage and labelling of food**, production, distribution and sale of food and food waste in supermarkets, restaurants and cafeterias. Nine focus areas were prioritised, with an emphasis on adequacy, utilization and reduction of waste and focus on education to **prevent waste**. From these, in 2016-2017 the focus area "Food for wellbeing" was prioritized, with a focus on **reducing food waste, reduce greenhouse gas emissions, improve resource utilization** and at the same time ensure food safety. A policy on preventive measures for waste (2016-2027) was also published by the Minister of Environment and Natural Resources. Proposals for further measures include: education to the public, for example on more **efficient buying of food**, the treatment of food that promotes **longer shelf life**, assessing whether foodstuffs are consumable, **shelf-life labels** "use no later than" and "best before" and how to use leftovers. Further cooperative projects are emphasised on reduced food waste, e.g. with restaurants, other catering services, and retail. Also in the long-term emphasis will be placed on further using **"By-products from meat and fish processing" into more valuable products**, that can reduce waste by more than 10,000 tonnes annually while contributing to the reduced landfill of these waste and reduced greenhouse gas emissions. Also, the better use of products of slaughtered animals, will be emphasised. This trend will surely continue, but it is considered necessary to support the initiatives further, for example, by reducing some legal barriers (see section IV.4IV.4.2).

4.2.2.1. *Food waste initiatives within the context of the Sustainable Development Goals (SDGs)*

However, food waste initiatives in some countries are also based on the requirements of broader initiatives such as the Sustainable Development Goals (SDGs) or of the Circular Economy package, by analogy to some sustainability initiatives. For example, in **Germany**, the “**Waste Prevention Programme of the German Government with the Involvement of the Federal Länder**”, implemented in July 2013, was based on the Germany’s first uniform national waste disposal act adopted in 1972 and is an integral part of the more general Circular Economy Act. The main aim of this programme is to reduce food waste by encouraging collaboration between public institutions and industry and by setting voluntary measures on waste prevention addressed to businesses and consumers as well (see section III.4.1.5). In **Norway**, in 2017, a National agreement was signed between several Ministries and the food industry and umbrella organisations, to **reduce food waste** by 50% by 2030 (using 2015 as a baseline) in line with the UN SDGs. It applies to both seafood and agriculture sectors and to all the supply chain stages from production to consumption. Recommendations are provided for the food industry as well as policy makers including better collaboration between actors in the value chain, revising shelf-life labelling, redistribution and knowledge development for consumers (see section VI.3.1).

Other initiatives focus on recycling and related initiatives. In **Norway**, there is a Regulation on **return systems for beverage containers**⁵⁴⁹, according to which individual producers or importers of pre-packed beverages can establish and administer return systems for beverage containers (bottles, cans) with an approval from the Norwegian Environment Agency. This is approved provided it achieves a minimum of 25% return and that the packaging is sent for environmentally sound recycling (see section VI.3.1).

The On-Pack Recycling Label (OPRL) was developed in 2009 in the **UK** by a collaboration between WRAP (a former non-departmental public body now operating as a charity) and the British Retail Consortium (BRC) (the retailers’ trade association) to help consumers **recycle** more effectively. Under this not-for-profit scheme, retailers and brand owners can label food packaging as ‘widely recycled’, ‘check local recycling’ and ‘not currently recycled’ (see section VIII.4.3.1). Also, in 2017, WRAP published ‘**Recycling Guidelines**’, following extensive consultation with the recycling industry on what items may or may not be recycled and how these should be presented for collection. The aim is to increase consistency in **household recycling** across the UK, reduce confusion for householders, improve the quality of materials and save money. The Guidelines will also help inform the review of the OPRL guidelines.

4.2.3. **WATER RELATED INITIATIVES**

Some countries also have specific measures on improving the use of water and thus improving sustainability in the food value chains.

⁵⁴⁹ Regulations on Recycling and Handling of Waste, FOR-2004-06-01-930

In the **UK**, the Federation House Commitment (FHC) is a voluntary agreement managed by WRAP and the FDF. It is also known as a ‘responsibility deal’. It ran from 2008 to 2014 and applied to direct water use in the UK. It encouraged its signatories, food and drink manufacturing companies, to **reduce water use** and examine how their processes could be improved to be more efficient in the future, contributing towards a sector-wide target of 20% water use reduction by 2020 compared to 2007. This target was set out in Defra’s Food Industry Sustainability Strategy (FISS) of 2006. Signatories to the FHC pledged to review their water use and develop and implement action plans for their sites and they had access to support to help review and reduce their water use and to a range of other benefits. Signatories were also encouraged to share best practice on issues such as cleaning methods and techniques to reduce water use (see section VIII.4.4). Also, in the UK, as discussed above, Courtauld 2025 is focused at improving water stewardship.

The **Icelandic Act on water** (No. 20/2006) has been undergoing modifications deriving from impacts of the EU water framework Directive that was taken up for implementation in 2008, and in 2011 the new Icelandic law No. 36/2011 “Vatnatilskipun EB” on the **management of water** was followed by two regulations, no. 535/2011 for categorising and monitoring, and no. 935/2011 on management of water. The focus has been on **protection of groundwater, monitoring of water in nature** and not much focused on usage of water by the food and drink industry. This relates to the abundance of water in Iceland and low cost of the water resource, resulting in high usage levels and limited interest in implementing measures to conserve water usage. However, with increasing attention on sewage generation from industry, which presents an increasing awareness and cost issue, this may change in near future. This is as well impacted by law No. 55/2012 on Environmental Liability (derived from Directive 2004/35/EC) and this legal framework provides longer-term incentives for the food sector to modify its operational practices regarding water usage (see section IV.4IV.4.3).

4.3. SOCIAL SUSTAINABILITY

This section presents a summary of the examples provided by VALUMICS WP3 partners illustrating collaborative efforts, initiated by the state or with state backing or funding, that promote the social aspects of sustainability. Social sustainability, though widely seen as an integral element of sustainability, remains imprecisely and variously defined⁵⁵⁰. In relation to food supplies, it is generally taken to refer to some or all of: the capacity of food systems to provide an adequate and dependable supply of nutritious foods; the capacity of food systems to support decent livelihoods; the quality of work in food systems; fairness in food access; food ethics; food security; and food governance⁵⁵¹. Of these, WP3 partners have chosen good practice examples relating **to working conditions and worker protections**, because these are relevant to the VALUMICS remit. Section references are to the national reports in the Annex, where more detail can be found.

⁵⁵⁰ Bostrom, M. (2012), ‘A missing pillar? Challenges in theorising and practicing social sustainability: introduction to the special issue’, *Sustainability: Science, practice and policy*, vol 8, No1, pp3-14.

⁵⁵¹ Lang, T. (2010), ‘Conclusion: Big choices in the food system’, pp 271-287 in *Food security, nutrition and sustainability*, eds. G. Lawrence, K. Lyons and T. Wallington. London: Earthscan.

In recent years, there has been increasing interest in the social role of agriculture in the **Czech Republic**. **Social agriculture** is supported by government subsidy and a state-industry-civil-society Commission. The aim is to enable farmers to employ disabled workers. Under the programme, a low-interest investment loan is provided, with a maximum amount determined as the product of the number of employees with physical disabilities, and a specified sum. Beneficiaries of aid must employ persons with disabilities for at least five years. A farmer who employs people from socially disadvantaged and health-challenged groups is also favoured under the Rural Development Programme (see section I.1.2.1).

Individual initiatives by **German** trade unions deal with **labour exploitation of regular and irregular migrants**, including in the food sector. One example is the Fair Mobility initiative, funded by the German Federal Ministry of Labour and Social Affairs together with the European Social Fund and the German Trade Union Confederation. The initiative assists in the enforcement of fair wages and working conditions for migrant workers from Central and Eastern European countries in the German labour market (see section I.2.1).

The **Icelandic labour market** is based on the 'Nordic labour model', to which tripartite cooperation is fundamental. The state has set laws regarding a minimum wage. Iceland also has an independent institution, the Administration of Occupational Safety and Health (AOSH), under the Ministry of Social Affairs. Its role is to prevent accidents and health damage in the workplace. The AOSH is responsible for enforcing the act on Working Conditions, Health and Safety in the Workplace. (see section IV.4.1).

Italy provided information both for national-level policy, and for regional policy for Emilia-Romagna, in north-eastern Italy. At **national level**, Italy has introduced **regulations** to tackle the problems of **exploitative and illegal labour in agro-food sectors** (the 'gangmaster' problem). The use of exploitative or illegal labour in agriculture has been made a specific offence in Italian law (199/2016). Illegal conduct includes both the recruitment of labour on behalf of third parties under exploitative conditions, taking advantage of the state of need; and the employment of workers recruited in the manner referred to above. Sanctions include imprisonment from 1 to 6 years, and fines ranging from €500 to €1,000 for each recruited worker, with more severe penalties where violence or threats have been used (see section 0).

A more unusual measure is the 'Network of Quality Agricultural Work' (law 91/2014, modified by law 116/2014), a joint initiative by INPS (National Social Welfare Institution), the Ministry of Agriculture and the Ministry of Justice to tackle **poor employment practices in the farming sector**. The aim is to provide a sort of quality certification for farmers who do not use undeclared work. To join the Network, farmers must meet the following requirements:

- Have no criminal proceedings for violations of the legislation on work and social legislation, or with respect to taxes on income and added value;
- Have no administrative sanctions over the last three years for breaches referred to in the previous point;
- Be in good standing with the payment of social security contributions and insurance premiums.

Membership entails a form of earned recognition, with the Ministry of Labour and INPS focusing inspection activities on companies not belonging to the network, except in special circumstances. Up to the end of 2017, the Network included about 2,870 enterprises (see section 0).

In **Emilia-Romagna**, ‘social sustainability’ is promoted by state-led initiatives in two ways:

- By the **provision of knowledge and education about the region’s agriculture and rural livelihoods**. This is supported by regulation (Regional law 29/2002) and a Regional Council programme (494/2017) for ‘consumption orientation and nutrition education and for the qualification of collective catering services’.
- By including **social aspects of sustainability in a quality certification**, thereby denoting that a regional product has specific social (as well as biophysical or process) attributes, such as the local and cultural traditions and identities associated with certain foods.

Regional Law 27/2009 on ‘an Information and education program on sustainability from Emilia-Romagna Region for the period 2017-2019’ *both* promotes both knowledge about the nature and value of regional food production, in terms of products and livelihoods, *and also* stresses the importance of regional foods’ cultural associations (see section 0).

Unusually, Emilia-Romagna Regional Law 19/ 2014 sets out ‘Norms for promotion and support of a **‘solidarity economy’**. The solidarity economy, which is being implemented through a regional forum, is dedicated to strengthening local / regional food value chains, and social values permeate its aims and practices, which include (among other priorities):

- Solidarity food purchasing assemblies
- Local agriculture: small farms with diversified production and short supply chains with direct sales from farmer to consumer
- Soil use for agricultural purposes as a way of preserving biodiversity enabling also ‘social value creation’ by programs such as soil purchasing groups (see section 0).

Norway has specific regulations governing temporary labour in agriculture and fisheries. Large numbers of East European workers are employed in these sectors and are perceived to be subject to exploitative treatment (low wages, poor working environments). Laws provide for:

- **Minimum wages in the fisheries industry and agriculture:** The Norwegian Labour Inspection Authority introduced minimum wages in 2016 in certain industry sectors. The fish-processing sector and agricultural sectors have minimum wages for temporary harvest workers, shift workers and permanently employed workers.
- **Regulation on Working Hours and Resting time for fisheries workers on board (FOR-2003-06-25-787):** This protects workers subject to long working hours, insufficient rest period or irregular working hours.
- The **Working Environment Law (LOV-2005-06-17-62)** also applies to temporary labour such as seasonal workers on farms, fruit and berry pickers. Section 14-9 of this law includes requirements regarding employment

contracts, right to permanent employment, and termination of temporary employment (see section VI.3.2).

Norway also has a **state-funded initiative** to encourage companies operating in Norway (including some of the largest food companies) to **uphold ethical employment practices along supply chains**. The Ethical Trading Initiative Norway (IEH) is a multi-stakeholder initiative of NGOs, trade unions, businesses and the Enterprise Federation of Norway (an employers' organisation), funded by the Ministry of Foreign Affairs and Ministry of Children, Equality and Social Inclusion. It offers guidance to members on sustainable supply chain practices, and also helps build up capacity of their suppliers abroad (see section VI.1.1).

In the UK there are **no specific measures targeting food workers' wage levels** (the Agricultural Wages Board, the body that set agricultural workers' wages, having been abolished in 2013). However, low-wage workers are disproportionately represented in food sectors in the British economy and have thus benefited from successive regulations introducing (in 1999) then raising the statutory National Minimum Wage (which for workers over 25 is now called the **National Living Wage**). (see section VIII.2.2.1).

To tackle the widespread problem of serious abuse of temporary (often migrant) workers in agricultural and food sectors, the **UK Government** collaborated with industry and NGOs to establish a non-departmental public body, the **Gangmasters Licensing Authority (GLA)**, to enforce employment law. The GLA was empowered to licence suppliers of temporary labour to the fresh produce, horticulture and wild shellfish supply chains, performing checks to make sure the labour providers (or 'gangmasters') met legal requirements. In the sectors affected, it is a criminal offence to supply workers without a licence, or to use an unlicensed labour provider, with a maximum possible prison sentence of 10 years or a fine. Licence criteria cover labour, working conditions, health and safety, accommodation, pay, transport, training, tax, National Insurance and VAT. In 2017 there were nearly 1,000 licensed gangmasters, based in both the UK and overseas, who supplied as many as 464,000 temporary workers in the regulated sectors. In 2017, the GLA was reformed as the Gangmasters and Labour Abuse Authority (GLAA), retaining its licensing role in food value chains, but with an expanded remit to investigate suspected violations of the Modern Slavery Act 2015 and the Immigration Act 2016 (see section VIII.2.2.2).

The **2015 Modern Slavery Act**, which outlaws slavery and human trafficking, is also relevant here. The Act places a duty of transparency on major businesses – including many food companies – in relation to the possible existence of slavery in their operations or supply chains. Specifically, the Act requires every organisation carrying out business in the UK with a total annual turnover of £36m or more to produce a Human Trafficking Statement setting out the steps it has taken to ensure there is no modern slavery in its own business or its supply chains. If an organisation has taken no steps to do this, the statement should say so. A Human Trafficking Statement must be produced by these organisations for every financial year. The measure is designed to create a level playing field between businesses which act responsibly and those that need to change their policies and practices (potentially thereby gaining competitive advantage). If organisations fail to produce the Statement, they can be required to do so (see section VIII.2.2.3).

5. CHINA

China stands outside of the European Union and the European Economic Area, but increasingly trades with the EU in agricultural, aquaculture, fishery and food products. The Chinese national report provides a summary of the legal framework impacting directly of food chains and food products.

5.1. FAIRER TRADING PRACTICES

The Chinese State regulates and administers fair protection of the trading partners, and so unfair trading practices are covered under these generic state legislated trading laws, including the Contract law of the People's Republic of China (1999) and Law of the People's Republic of China on Anti-Unfair Competition (1993) (see section IX.2). As a result, UTPs are defined as the use of improper means to engage in market transactions and to undermine the interests of competitors, which matches the 'core UTPs' defined by the EU. That is that (see section IX.2):

- One party should not use property or other means to make bribes to sell or purchase goods ;
- One party should not take the theft, inducement, coercion or other improper means to obtain the interests of the other party;
- One party should not declare illegal acts by false statements, false advertisements, tying and other decrees ;
- One party should not violate the contractual agreement in an unfair way.

5.2. FOOD INTEGRITY

The generic Product Quality Law of The People's Republic of China (1993) covers all products including food products (see section IX.3.1.1) and has been supplemented with the Law of the People's Republic of China on Quality and Safety of Agricultural Products, which fills the gap of specialized law for agricultural products, designed to ensure the quality and safety of agricultural products obtained from agricultural activities on plants, animals, and microorganisms. In addition, it regulates the origin, production, packaging and labelling of agricultural products, and strengthens the management of quality and safety (see section IX.3.1.2).

The Food Safety Law of the People's Republic of China (2009) was enacted to ensure the food safety and guarantee the safety of the lives and health of the general public. The Law's coverage is comprehensive on food safety standards (production, additives, packaging, hygiene, etc.), administration and inspection, import-export, and safety alerts and responses (see section IX.3.1.3).

Food authenticity and food fraud are concerns in China. A number of additional laws address authenticity in relation to food products in addition to the food safety law. Laws that seek to govern aspects of food authenticity include: crop seed management and labelling, management of pesticide labels and instructions, and management of new food ingredients and additives (see section IX.3.2).

5.3. COLLABORATIVE SUSTAINABILITY INITIATIVES

There are no significant collaborative sustainability initiatives along food value chains. There is a corpus of Environmental protection law impacting upon food chain activities, notably governing water, atmospheric and solid waste pollution (see section IX.4.1). In addition, there are good practice standards set for livestock breeding emissions environmental standards for greenhouse vegetable production, and the environmental impacts of agricultural products, which act as good practice guidelines for producers (see section IX.4.1). The promulgation and implementation of labour law of the People's Republic of China has sought to protect and promote the lawful rights and interests of labourers and reduce the temporary and exploited labor force (see section IX.4.2)

6. CONCLUSIONS

This report complements the detailed mapping of EU regulations and policies (Deliverable 3.1) that impact upon the more effective operation of food value chains in the specific areas of fairer trading practices, food integrity (covering food safety and authenticity, including fraud) and collaborative value chain sustainability initiatives.

EU regulations, policies and related governance initiatives provide an important framework for national level actions for EU member states and for EEA members impacting upon food value chains. The more tightly EU regulated areas such as food safety, see fewer extra initiatives, but where there is a more general strategic policy and governance push, such as food waste reduction, or combatting food fraud, there is greater independent state level activity. At the regional government level, the example of Emilia-Romagna illustrates the scope for good local practice within EU and national policy frameworks. Likewise, there is much more variation on the application of both national and European (Competition) law to govern unfair trading practices impacting upon food value chains. Outside of Europe, China has seen a gradual accumulation of laws governing food value chains in the identified areas of activity, also. The more detailed national reports upon which this preceding synthesis report is based are presented in the Annex.

The findings from this report together with those from the previous Deliverable (3.1) will form the basis of a framework that characterises how EU regulations and policies impact upon the dynamics of food value chains in the areas of fairer trading practices, food integrity and sustainability, which all contribute to the resilience of food value chains, to be carried out in task 3.3. In this next task, food value stakeholders will be invited to provide further input into the development and validity of the characterisation framework.

ANNEX D3.2 – COUNTRY REPORTS

I.	Czech Republic	255
II.	France	275
III.	Germany	292
IV.	Iceland	313
V.	Italy	329
VI.	Norway	348
VII.	Spain	363
VIII.	United Kingdom	385
IX.	China	407

I CZECH REPUBLIC

Review and mapping of national (and regional/local) level policy and governance interventions in the Czech Republic to develop more effective food value chains

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Contents

CZECH REPUBLIC	255
I.1 Introduction.....	257
I.2 Czech provisions promoting fairer trading practices in the food value chain	257
I.2.1 Czech Approach to Unfair Trading Practices.....	257
I.2.2 Broader provisions for fairer practices in food value chains	261
I.3 Czech provisions promoting integrity in food value chains.....	264
I.3.1 Czech provisions promoting food safety in the food value chains	264
I.3.2 Czech provisions promoting authenticity in the food value chains	266
I.4 Czech collaborative initiatives promoting sustainability in the food value chains	272
I.4.1 Environmental Sustainability.....	273
I.5 Conclusion.....	274

Abbreviations

ARB Association of Regional Brands
AWU Average Working Units
BAT Best Available Techniques
CAFIA Czech Agriculture and Food
Inspection Authority
CENIA Czech Environmental Information
Agency
CSA Community-Supported Agriculture
CSO Czech Statistical Office
CTPOF Czech Technology Platform for
Organic Farming

CZ Czech Republic
CZK Czech Crown
EBH Euro Bakeries Holding
EU European Union
FFDI **Federation of Food and Drink
Industries**
LAGs Local Action Groups
SVA State Veterinary Administration
UTPs Unfair Trading Practices

I.1 INTRODUCTION

The aim of this report is to identify good practice examples of national, regional or local level policy interventions and governance initiatives that promote the operation and better functioning of the Czech food value chain in terms of fairer trading practices, food chain integrity (safety and authenticity) and collaborative sustainability actions. These good practice interventions may stem from the EU regulations and governance initiatives, or may be in addition to these EU wide actions.

I.2 CZECH PROVISIONS PROMOTING FAIRER TRADING PRACTICES IN THE FOOD VALUE CHAIN

This section looks at a number of policies developed in the Czech Republic to address what the European Commission terms 'Unfair Trading Practices' (UTPs) and more broadly to promote fairer dealings along food value chains.

I.2.1 CZECH APPROACH TO UNFAIR TRADING PRACTICES

I.1.1.1 Competition law

In the Czech Republic, competition law is generally regulated by Act No. 143/2001 Coll., the Act on the Protection of Competition⁵⁵². This law regulates the distortions of competition through coordination between business organizations (so-called "cartels") or the abuse of a dominant position.

It prohibits in particular agreements on direct or indirect pricing, agreements on the control of production, sales, research and development or investment, and agreements on market sharing. It regulates horizontal cooperation between entities in the same market, as well as vertical agreements, generally concluded between a supplier and its customers.

Competition law also prohibits the abuse of a dominant position. According to Act No. 143/2001 Coll., entities are in a dominant position if they have market power that allows them to act independently of their competitors. The mere existence of a dominant or monopoly position is not prohibited, but it is illegal to abuse this position. These abuses include charging unreasonably high prices, inconsistent application of contractual terms to customers, tying the sale of goods and services to the consumption of other products, limiting production or the market and, last but not least, selling at prices below cost to eliminate horizontal competition. The dominant

⁵⁵² <https://portal.gov.cz/app/zakony/zakon.jsp?page=0&nr=143~2F2001&rpp=15#seznam>

position of a competitor is evaluated by the Office for the Protection of Competition (the Office) on the basis of market share (more than 40%) and other factors, e.g. the economic and financial strength of competitors, legal and economic barriers to market entry, and the interchangeability of the products concerned.

Competition law respects the fact that concentration of entities through mergers and acquisitions is a normal course of market development and is essentially favourable for competition because it improves efficiency and rationalises production. However, as it may become a threat to competition if such concentration were to create a dominant entity in the market, the law gives the power to approve concentrations to the competition authority. If the concentration is evaluated as a threat to competition, the competition authority may prohibit it. In the Czech Republic, only the most significant concentrations are subject to approval by the Office. These are concentrations in which the turnover of all entities concerned exceeds 1.5 billion CZK in the domestic market for the last accounting period, and the net turnover of each of at least two of the entities concerned exceeds 250 million CZK in the market of the Czech Republic for the last accounting period, or if the net turnover of at least one of the entities for the last accounting period in the market of the Czech Republic, establishing a jointly controlled entity, exceeds 1.5 billion CZK and, at the same time, the worldwide net turnover of another entity concerned for the last accounting period exceeds 1.5 billion CZK. For example, the Office assessed the concentration of the entities AGROFERT HOLDING, a.s. and EURO BAKERIES HOLDING a.s. (EBH) in 2012⁵⁵³, which was planned to occur following the acquisition by AGROFERT HOLDING of sole control of EBH. AGROFERT is the parent company of the AGROFERT group, which incorporates manufacturing and trading companies, both in the Czech Republic and abroad, mainly engaged in agriculture, as well as the food and chemical industries. EBH is a holding company that controls primarily UNITED BAKERIES a.s., which is chiefly involved in the production and sale of baked and confectionary products. The Office found that implementation of the merger could result in a significant distortion of competition in the markets for baked and confectionary products, which could lead to a substantial rise in the wholesale prices for baked goods, and mainly for the basic, i.e. wholesale, range of bread products, which would, to a considerable extent, manifest itself in prices for end consumers. The Office also assessed a concentration between the entities Koninklijke Ahold N.V. (Ahold), SPAR Česká obchodní společnost (SPAR) and Imobilia Spa (Imobilia) in 2014⁵⁵⁴. Ahold and SPAR operate supermarkets and other retail stores. In the Czech Republic, Ahold operated mainly retail convenience stores, with 228 supermarkets and 56 hypermarkets under the brand name Albert, and SPAR operated 50 stores, of which 14 were SPAR supermarkets and 36 were INTERSPAR hypermarkets. Imobilia leased real estate and provided commercial services almost exclusively for SPAR. In this case, the Office concluded that the concentration did not cause concern about a significant distortion of competition.

⁵⁵³ Office for the Protection of Competition (2013): *Annual Report 2012*.

⁵⁵⁴ Office for the Protection of Competition (2015): *Annual Report 2014*.

1.1.1.2 Significant market power

The rapid development of retail chains, particularly in the retail market for food products, has ushered in other practices that may have a negative impact on some companies within the supply sector, but which are not regulated by competition law⁵⁵⁵. These practices started to be regulated by Act No. 395/2009 Coll.⁵⁵⁶, on significant market power in the sale of agricultural and food products, and abuse thereof, in 2010. This Act was replaced by Act No. 50/2016 Coll.⁵⁵⁷ in 2016.

Act No. 50/2016 Coll. regulates the supplier-retailer relationship in the food market and defines significant market powers such as a purchaser's position, as a result of which a purchaser may enforce an unfair advantage on suppliers in connection with the purchase of food or with the receipt or provision of services related to the purchase or sale of food. The abuse of significant market power is defined in particular as:

- (a) the negotiation or application of contractual terms that create significant imbalances in the rights and duties of the contracting parties,
- (b) the negotiation or acquisition of any payment or other performance for which no service or other consideration has been provided or which is disproportionate to the value of the consideration actually provided,
- (c) the application or receipt of any payment or discount whose amount, subject and extent has not been agreed in written form prior to the delivery of the food or service to which the payment or discount relates,
- (d) the negotiation or application of pricing conditions, whereby the tax document does not include the final purchase price after any negotiated discounts on the purchase price, with the exception of pre-agreed quantity discounts,
- (e) the negotiation or application of payments or other consideration for the acceptance of foodstuffs for sale,
- (f) discrimination toward suppliers consisting in the negotiation or application of different contractual terms for the purchase or sale of services/foodstuff.

The Act also regulates the due date, the right to return purchased food and the compensation for penalties levied by official control. Compared to Act No. 395/2009 Coll., Act No. 50/2016 Coll. regulates also new retail chain practices, e.g. so-called net-net prices (a pressure to reduce food prices), overuse of corrective tax documents during invoicing, complaints about certain unfair practices in the provision of logistics services, etc.

The Office for the Protection of Competition (the Office) is responsible for supervising compliance with the Act and has received 158 complaints since 2010; see Table 1⁵⁵⁸. More than 60% of the complaints were received in 2010-2011, and the most frequent problems included the failure to observe the thirty-day due date of invoices, sale for below-purchase prices (especially for bread, flour, sugar and eggs), a so-called cash discount (purchaser requires a discount on the goods for earlier

⁵⁵⁵ Office for the Protection of Competition (2011): *Annual Report 2010*.

⁵⁵⁶ <https://portal.gov.cz/app/zakony/zakon.jsp?page=0&nr=395~2F2009&rpp=15#seznam>

⁵⁵⁷ <https://www.psp.cz/sqw/sbirka.sqw?cz=50&r=2016>

⁵⁵⁸ <https://www.uohs.cz/cs/informacni-centrum/vyrocní-zpravy.html>

payment of the invoice), various fees, special leaflet offers, high contractual penalties, and others. The Office initiated three administrative proceedings in 2010 – two proceedings with the company Kaufland and another with the Ahold group.

According to the Office⁵⁵⁹, the Office for the Protection of Competition issued its first decisions in 2011, in which it found an infringement of the Act on Significant Market Power in the matter of infringement of provisions relating to due dates, discounts, and fees for the assignment of receivables to third parties, and it levied a fine of CZK 13,628,000 to Kaufland, which appealed the decision. The Office also initiated three other administrative proceedings with Lidl, Globus, and Tesco in 2011. The administrative proceeding with Kaufland was concluded in 2013 with a fine of CZK 22,130,000.

The decision in the matter of Kaufland was the first sanction decision in force concerning significant market power approved by a second-instance decision. In the years 2010 and 2011, Kaufland negotiated and implemented a payment period of more than thirty days, with more than 50% of its suppliers, and thereby breached the provision of the Act that establishes periods of no more than 30 days for the payment of receivables. According to the Office⁵⁶⁰: *“Failure to comply with the statutory payment period was assessed by the Office as an offense, with suppliers bearing the brunt of its negative impact. Suppliers whose payment periods were not adhered to had to expend more funds to support their cash flow compared to suppliers whose payment periods complied with the law, and thus were at a competitive disadvantage. In this regard, the Office calculated the aggregate amount of losses for suppliers of Kaufland at tens of millions of Czech koruna annually”*. Moreover, Kaufland negotiated a fee for assigning receivables to a third party, including requesting the reimbursement of expenses for such assignment, with the vast majority of its suppliers. Kaufland simultaneously entered into a contractual provision with most suppliers on payment of a discount in the amount of 0.5% from each commenced week of early payment of the receivable that was made at the supplier’s request.

It is notable that the fine to Kaufland was abolished by the court in 2016 due to a misinterpretation of the law by the Office. The Office used an absolute interpretation of market power. According to the court, however, it is necessary to assess Kaufland’s relations with individual suppliers. The case will, therefore, be resolved by the Office.

Table 1: Number of complaints and administrative proceedings, and amount of fines

	2010	2011	2012	2013	2014	2015
Number of complaints	41	57	23	10	12	15
Number of administrative proceedings	3	3	5	5	4	3
Fine in CZK		13,628,000		22,130,000	7,144,000	0

⁵⁵⁹ Office for the Protection of Competition (2012): *Annual Report 2011*.

⁵⁶⁰ Office for the Protection of Competition (2014): *Annual Report 2013*.

In 2014, the Office issued a fine of 7,144,000 CZK to Globus due to the payment period of the invoices.

The Office did not initiate any new administrative proceedings in 2016, with the aim to give the stakeholders affected by the comprehensively amended Act on Significant Market Power enough time to adapt to the new regulation.

Finally, unfair and deceptive business practices towards final consumers are regulated by Act No. 634/1992 Coll.⁵⁶¹, the Consumer Protection Act in the Czech Republic. According to this act, a business practice is unfair if it conflicts with the requirements of professional care and substantially disturbs the economic behaviour of the consumer. A business practice is considered to be deceptive if it contains factually incorrect information that leads the consumer to decide on a purchase he would not otherwise make. However, a business practice is considered deceptive even if it contains true information but is provided in such a way that it may mislead a consumer. The law enumerates these business practices. Examples in the area of foodstuffs include the unlawful use of a quality label, false information on the limited time of the sale of a product (or of the condition of sale) in order to induce a consumer to make an immediate decision, the promotion of a product in a way which may give a consumer the impression that it has been manufactured by a particular manufacturer, even though this is not the case, and the misrepresentation that a product can cure some illness. The law also regulates aggressive business practices, namely practices that significantly aggravate the consumer's freedom of choice, or bothering, coercion or inappropriate behaviour in relation to a product or service, causing a consumer to make a purchase decision that he would not otherwise make. Examples of aggressive business practices are to directly urge children through advertisements to buy a product, convince parents to make a purchase, or create the false impression that a consumer will win a prize if he acts in a certain way, even though in fact no such prize or similar winnings exist. In the event an unfair commercial practice is suspected, consumers may make a complaint to the supervisory authority. In the field of agricultural, food and tobacco products, this authority is the Czech Agriculture and Food Inspection Authority (CAFIA). The information provided by the CAFIA shows that frequent unfair practices of the seller include providing false information about the medicinal properties of their products (e.g. Prostagene, Flexa Plus, Alcostopex) and using the psychological effect of a special discounted offer for immediate ordering when, in fact, the offer is the same every day (e.g. CGA 800, Men Solution Plus).

I.1.2 BROADER PROVISIONS FOR FAIRER PRACTICES IN FOOD VALUE CHAINS

1.1.2.1 Labour relations in the Czech agri-food chain

Labour relations in the Czech Republic are regulated by Act No. 262/2006 Coll.⁵⁶², the Labour Act. The Act regulates the terms of employment (e.g. formation and termination of the employment relationship, layout of working hours, and wages). The majority of this law is common to all sectors. However, the rest period is

⁵⁶¹ <https://portal.gov.cz/app/zakony/zakon.jsp?page=0&nr=634~2F1992&rpp=15#seznam>

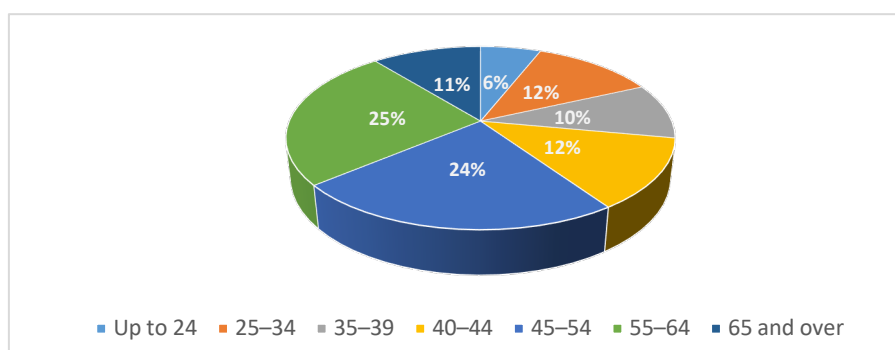
⁵⁶² <https://portal.gov.cz/app/zakony/zakon.jsp?page=0&nr=262~2F2006&rpp=15#seznam>

specifically regulated. In the field of agriculture, the requirement for at least 11 hours of uninterrupted rest is reduced to 8 hours for employees over 18 years of age, provided that the subsequent rest period is extended by this reduction. During the time of seasonal work, this shorter rest period can be replaced within the next 3 weeks after it is shortened. This act regulates not only the employment relationship, but also agreements on non-regular work, which are often used in agriculture during seasonal work.

Agriculture, forestry, and fisheries currently account for 2.5% of total employment in the Czech Republic. However, this share is much higher in predominantly rural areas such as the Vysočina region (6.5%) and South Bohemia (4.5%). According to data from the 2nd quarter of 2017 from the Czech Statistical Office (CSO)⁵⁶³, 97,700 full-time equivalent employees worked in agriculture, forestry, and fisheries. The average monthly wage was 22,937 CZK⁵⁶⁴ at this time. This represented 78% of the average wage in the national economy (29,346 CZK) and is twice as high as the minimum wage (11,000 CZK in 2017; 12,200 CZK in 2018).

More detailed information on agriculture is provided by a structural survey called Agroczensus that was made by CSO in 2016. According to this survey⁵⁶⁵, there were 182,294 persons employed in Czech agriculture, of which 71.5% were regularly employed. 44.9% of persons employed on a non-regular basis were women. In other words, 104,408 average working units (AWU) worked in Czech agriculture in 2016, and 30.2% of the AWUs were women. Compared to 2010, the number of employees decreased by 2% (by 4% in AWU).

The age structure is monitored by Agroczensus only for the category of regularly employed. Employees over 45 years of age dominated in this structure; see Graph 1. Moreover, the group of employees over 65 years of age has increased by 5 percentage points since 2010⁵⁶⁶. Improving the inappropriate age structure in agriculture and reducing the outflow of labour in this sector is one of the priority areas of the Rural Development Programme.



Graph 1: Age structure of labour regularly employed in agriculture in 2016

⁵⁶³ <https://www.czso.cz/csu/czso/evidencni-pocet-zamestnancu-a-jejich-mzdy-2-ctvrtleti-2017>

⁵⁶⁴ According to the Czech National Bank, the exchange rate was 25.565 CZK/EUR on 14-11-2017.

⁵⁶⁵ <https://www.czso.cz/csu/czso/strukturalni-setreni-v-zemedelstvi-2016>

⁵⁶⁶ <https://www.czso.cz/csu/czso/agrocensus-2010-strukturalni-setreni-v-zemedelstvi-a-metody-zemedelske-vyroby-2010-q4sw1ne9f5>

Food and beverage production accounts for 2.7% of total employment in the Czech Republic. According to CSO⁵⁶⁷, there were 119 thousand persons employed in food and beverage production in the 2nd quarter of 2017. The average monthly wage was 22,699 CZK (77% of the average wage in the national economy) in food production and 35,578 CZK in beverage production. According to Act No. 258/2000 Coll.⁵⁶⁸, on the protection of public health, employees in food production are subject to specific health and hygienic requirements. The fulfillment of basic health requirements is evidenced by a health card issued by a general practitioner.

In addition to the food industry, Czech agriculture also faces long-term labour shortages. According to the Agrarian Chamber of the Czech Republic⁵⁶⁹, in the summer of 2017 there was a shortfall of 12-15 thousand seasonal workers and 4,500 non-seasonal workers in agriculture. In particular, growers of fruits, vegetables, hops and poultry, along with slaughterhouses, face a shortage of workers. This shortage is due to the retirement of employees as well as the lower level of interest among the younger generation of trainees, high school graduates, and university graduates. It is a problem of generally lower salaries in the agriculture and food industries compared to other sectors. The lack of a domestic labour force is offset by seasonal workers from Ukraine, Moldavia, Romania, and Mongolia. The Czech government increased the quota for workers from Ukraine from 320 to 800 each month, and the Ministry of Agriculture introduced a project to simplify the recruitment of Ukrainian workers by Czech agricultural and food businesses in 2017. The aim of the project is to quickly and effectively prioritise acceptance of an application for an employee card without requiring registration in the reservation system. The food industry addresses this lack of a labour force by automating production. An example is Hame – a producer of durable food – which wants to spend 180 million crowns for modernization in 2017.

1.1.2.2 Social Agriculture in the Czech Republic

In recent years, the social role of agriculture in the Czech Republic has been growing. The Minister of Agriculture appointed a Working Committee on Social Agriculture in 2014, whose members consist of the state, as well as the for-profit and non-profit sectors. The aim of the Commission is to devote long-term attention to the development and support of social agriculture in the Czech Republic. PGRLF⁵⁷⁰, a.s. opened the Social Agriculture Support Programme in 2015. The aim of the Social Agriculture Support Programme⁵⁷¹ is to create the conditions for ensuring and developing the employment of disabled workers by agricultural entrepreneurs. Under the programme, a low-interest investment loan is provided, with a maximum amount determined as the product of the number of employees with physical disabilities, and 500,000 CZK. However, the maximum may not exceed 5 million CZK. Beneficiaries

⁵⁶⁷ https://www.czso.cz/csu/czso/pru_cr

⁵⁶⁸ http://eagri.cz/public/web/mze/legislativa/ostatni/Legislativa-ostatni_uplna-zneni_zakon-2000-258-verejne-zdravi.html

⁵⁶⁹ <http://www.agrocr.cz/blog/detail/nezamestnanost-v-cr-klesla-na-historicke-minimum-3-8-pracovnici-chybi-vsude>

⁵⁷⁰ PGRLF a.s. is one of the basic pillars of the subsidy policy of the Ministry of Agriculture. It is one of the instruments of Czech agriculture operating under the so-called "national aid" (state aid).

⁵⁷¹ <http://www.pgRLF.cz/programy/uvery-a-zajisteni/socialni-zemedelstvi/>

of aid must employ persons with disabilities for at least 5 years. The programme also provides an operating loan of up to 120,000 CZK multiplied by the number of employees with disabilities, with a total maximum of 1 million CZK. A farmer who employs people from socially disadvantaged and health-challenged groups is also favoured under the Rural Development Programme.

Further support for social entrepreneurship can be gained from the Operational Programme: Employment, within the framework of the calls for Local Action Groups (LAGs) under Priority 2.3 OPZ Community Local Development and from the calls of the Integrated Regional Operational Programme, specifically from Call 44 – Social Entrepreneurship for Socially Excluded Sites and Call 43 – Social Entrepreneurship.

I.2 CZECH PROVISIONS PROMOTING INTEGRITY IN FOOD VALUE CHAINS

The aim of this part of the report is to identify the main policies and governance actions at the Czech Republic or regional/local level within the Czech Republic, that impact upon the operation and better functioning of food supply chains in terms of food chain integrity.

I.2.1 CZECH PROVISIONS PROMOTING FOOD SAFETY IN THE FOOD VALUE CHAINS

I.2.1.1 Food safety in the Czech Republic

The direct supply by the producer to the final consumer of small quantities of primary products, the supply by the producer to the local marketplace, and the supply by the producer to local retail establishments that then supply the final consumer, are regulated by Act No. 166/1999 Coll.⁵⁷², the Veterinary Act, Regulation No. 289/2007 Coll.⁵⁷³, on animal health and hygiene requirements for animal products not governed by directly applicable European Community rules, and Regulation No. 191/2013 Coll.⁵⁷⁴, which changed No. 128/2009 Coll.⁵⁷⁵, on adaptation of animal health and hygiene requirements for certain food businesses handling animal products. The Veterinary Act incorporates the relevant European Union regulations and establishes the requirements for veterinary care for animal husbandry, animal health and animal products. Regulation No. 289/2007 Coll. determines veterinary and hygienic rules for the sale of animals in marketplaces and for the sale of small

⁵⁷² http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_zakon-1999-166-viceoblasti.html

⁵⁷³ http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_vyhlaska-2007-289-veterinarnipece.html

⁵⁷⁴ http://eagri.cz/public/web/mze/legislativa/predpisy-es-eu/Legislativa-EU_od-2011_provadecinarizeni-2013-191.html

⁵⁷⁵ <http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/101071826.html>

quantities of primary products, defines the term “small quantity” and delimits the products that can be sold in this short supply chain. These products are live poultry and rabbits, fresh poultry and rabbit meat, eggs, bee products, raw milk and cream, venison and live fishes. Regulation No. 128/2009 Coll. allows the production of meat, dairy, egg products and fish products on farms, along with their delivery to the local retailer or market. The supervisory authority of this legislation is the State Veterinary Administration.

For example, according to Regulation No. 289/2007 Coll., a breeder can sell raw milk in a small quantity, defined as an amount corresponding to the normal daily consumption of milk in the household of a given consumer. The milk can be sold at the place of production or through a vending machine to the final consumer. The consumer must be informed that the milk is raw and should be heat-treated or pasteurised before use. Raw milk must come from a healthy animal from an officially tuberculosis-free and officially brucellosis-free holding that shows no signs of contagious diseases transmissible to man. If milk is sold directly on the farm, it must be sold in a room separated from the stables and equipped with refrigeration equipment. A breeder who sells raw milk must ensure the analysis of pathogenic organisms, contained in the milk, that could endanger human health. If raw milk intended for direct sale is not sold within 2 hours after sucking, it must be cooled to 8 ° C and sold chilled within 24 hours of sucking, or chilled to 6 ° C and chilled to be sold within 48 hours after sucking. This method of sale is subject to permission by the Regional Veterinary Administration.

In addition, fresh eggs can be sold by the breeder to the final consumer in a small quantity, defined as a maximum of 60 eggs per one consumer. These eggs must be sold within 21 days after laying, with a minimum expiration date of 28 days from the laying date. Fresh poultry meat can be sold directly to the final consumer only by breeders whose annual production is less than 2,000 turkeys, geese or ducks, or 10,000 other poultry, and only in a small quantity, defined as the meat of a maximum of 10 turkeys, 10 pieces of geese, 10 ducks and 35 other poultry in one week. The direct sale of venison to the final consumer is subject to the requirement to keep the meat at a temperature of 0 ° C to 7 ° C for a maximum of 7 days from the date of catch, or at a temperature of 0 ° C to 1 ° C for no longer than 15 days from the date of catch. A small quantity of wild game is defined as one large wild animal and 35 small wild animals per week.

Regulation No. 128/2009 Coll. relieves some hygienic requirements of European legacy. For example, slaughterhouses where no more than 20 large livestock units are slaughtered per week and no more than 1,000 large livestock units per year need not have hygienic stables, and need not have a separate area with facilities for cleaning, washing and disinfecting the means of transport intended for the transport of animals. An enterprise with a slaughterhouse which cuts up to 5 tonnes of meat a week need not have special meat-cutting facilities. A slaughterhouse with a maximum slaughter capacity of 2 tonnes per week does not need special meat-cutting facilities.

Act No. 166/1999 Coll. also regulates a Czech tradition – domestic slaughter. Slaughter animals (other than cattle aged over 72 months, horses and donkeys) may be slaughtered in the farmer's own farmhouse. Each year, a breeder can slaughter up to 3 cattle animals older than 24 months and younger than 72 months. The

breeder is obliged to notify the Regional Veterinary Administration of the domestic slaughter at least 3 days in advance. Meat and organs from domestic slaughter shall not be placed on the market. They can only be consumed by the breeder's household in the case of the meat and organs of cattle, or also close relatives in the case of the meat and organs of other animals. In the Czech Republic, a pig has traditionally been slaughtered, and its domestic slaughter is therefore not subject to any authorization from the Regional Veterinary Administration.

I.2.2 CZECH PROVISIONS PROMOTING AUTHENTICITY IN THE FOOD VALUE CHAINS

1.2.2.1 Promoting authenticity in the food value chain

Basic requirements for the labelling of all foods are laid down by Act No. 110/1997 Coll.⁵⁷⁶, as amended by Act No. 180/2016 Coll.⁵⁷⁷, in the Czech Republic. Further requirements are set out in the implementing regulations to the Act, e.g. Regulation No. 157/2003 Coll.⁵⁷⁸, laying down requirements for fresh fruit and fresh vegetables, processed fruit and processed vegetables, dried nuts, mushrooms, and potatoes and products thereof, as well as other methods of their labelling; Regulation No. 69/2013 Coll.⁵⁷⁹, on requirements for meat, meat products, fishery and aquaculture products and products thereof, and eggs and products thereof; Regulation No. 398/2016 Coll.⁵⁸⁰, on requirements for spices, edible salt, dehydrated products, flavourings, cold sauces, dressings and mustard; Regulation No. 397/2016 Coll.⁵⁸¹, on requirements for milk and dairy products, frozen creams and edible fats and oils; and Regulation No. 417/2016 Coll.⁵⁸², on some methods of labelling foodstuffs.

The national regulations adopt additional mandatory labelling for specific types or categories of foods with the aim to improve consumer awareness and prevent fraudulent misrepresentation. A clear example is the requirements of national meat-labelling legislation. Meat, except for poultry, must be labelled with the group name (cut meat, offal, minced meat, etc.) and the animal species from which it comes (beef, veal, pork, etc.). Cutting meat must be labelled with the name of the technological unit (leg, shoulder, neck, etc.). Special requirements are also put on the labelling of cut beef. This beef, whether wrapped or unpackaged, must be labelled with the words "young bull", "bull", "bullock", "heifer" or "cow". The regulation also lays down the obligation to indicate the animal species for wild game and whether the meat comes from a wild or farmed animal. The national regulation also

⁵⁷⁶ http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_zakon-1997-110-viceoblasti.html

⁵⁷⁷ http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_zakon-2016-180-novela-110-1997.html

⁵⁷⁸ http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_vyhlaska-2003-157-potravinny.html

⁵⁷⁹ <http://www.sagit.cz/info/sb13069>

⁵⁸⁰ http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_vyhlaska-2016-398.html

⁵⁸¹ http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_vyhlaska-2016-397.html

⁵⁸² http://eagri.cz/public/web/mze/legislativa/pravni-predpisy-mze/tematicky-prehled/Legislativa-MZe_uplna-zneni_vyhlaska-2016-417.html

deals with the labelling of meat products and semi-products. It specifies that the designation of an animal species in the name may only be made on a product (semi-product) containing at least 50% by weight of the given meat from the total mass of the meat used for the production. If the product (semi-product) contains less than 50% of the meat, the name of the species may be used only with the word "with". For example, veal sausages must contain more than 50% veal, but sausages with veal could contain only 1% veal. The regulation also specifies composition requirements, sensory requirements, and chemical and physical features for selected meat products. Special requirements are put on the labelling of ham. If ham is made from non-pork meat, the name of the product must be marked with the animal species and part of the carcass (e.g. chicken breast ham). A quality class must also be specified for ham. These classes are based on the pure muscle protein content. For example, the highest quality ham must contain more than 16% pure muscle protein.

Specific requirements are placed on the labelling of organic food. According to Act No. 242/2000 Coll.⁵⁸³, on organic farming, all packed organic products which are produced, controlled, certified and sold in the Czech Republic, must be labelled by a national (see Image 1⁵⁸⁴) as well as EU label. The logo "BIO" must be accompanied by a control code number (CZ-BIO-xxx) which specifies the certification organization: 001 KEZ o.p.s., 002 ABCERT AG, 003 Biokont CZ, s.r.o., 004 BUREAU VERITAS CZECH REPUBLIC, spol. s r.o.. Unpackaged organic products must be appropriately identified, for example in the accompanying documentation by the word "BIO" and the code of the control organization, and accompanied by a valid certificate.



Image 1: Organic product label

To improve customer awareness of high-quality products and to guarantee a certain quality, tradition, and origin of foodstuffs for consumers, two national quality labels have been introduced in the Czech Republic: "KLASA" ("Top Class") and "Regionální potravina" (regional food product); see Image 2⁵⁸⁵.

The "KLASA" label⁵⁸⁶ was created by the Minister of Agriculture in 2003 with an aim to promote domestic food production. The label guaranteed that "KLASA" products were produced with 100% domestic labour and contained at least a 90% share of domestic raw materials for dairy, meat, poultry and millet products and at least a 70% share of domestic raw materials for other products, and that the proportion of domestic raw materials was at least 40% in products requiring imported raw

⁵⁸³ <http://eagri.cz/public/web/mze/zemedelstvi/legislativa/ekologicke-zemedelstvi/uplna-zneni-vybranych-predpisu/zakon-2000-242-viceoblasti.html>

⁵⁸⁴ <http://eagri.cz/public/web/mze/potraviny/znacky-kvality-potravin/>

⁵⁸⁵ <https://www.szif.cz/cs/klasa> and <https://www.szif.cz/cs/znacka-regionalni-potravina>

⁵⁸⁶ <http://www.eklasa.cz/o-znacce-klasa/>

materials not produced in the Czech Republic (cocoa, nuts, dried fruits, sea fish, exotic fruits). However, in 2007, the conditions for the "KLASA" label were changed to comply with EU regulations and did not discriminate against applicants for this quality label from other countries.



Image 2: Czech national quality labels

Since 2007, the "KLASA" label has been awarded by the Minister of Agriculture to the very highest-quality food products meeting strict quality criteria (proving their superior quality) and legislative requirements. At present, 971 products marketed by around 219 producers have been awarded the "KLASA" label. "KLASA" is awarded on the basis of an application evaluated by experts from the food industry (e.g. representatives of the Ministry of Agriculture, the Federation of the Food and Drink Industries of the Czech Republic, the Czech Agrarian Chamber, the Czech Agriculture and Food Inspection Authority and State Veterinary Administration, the University of Chemistry and Technology Prague, and the Food Research Institute Prague). The evaluation committee assesses the products themselves in a process that may encompass a sensory analysis, packaging, and proof of superior quality. The "KLASA" label is awarded for three years and is renewable. Once a "KLASA" label has been awarded, inspection of the newly awarded "KLASA" label must take place within six months. A follow-up check on the required food product compliance is conducted by the Czech Agriculture and Food Inspection Authority and the State Veterinary Administration. Any decline in food quality results in withdrawal of the mark. For example, in 2016, 118 inspections of foodstuffs with the "KLASA" label were performed, under which 200 batches of foodstuffs were examined and two batches were found to be non-compliant.

"Regionální potravina"⁵⁸⁷ is a quality label for food and agricultural products, intended for consumption by the final consumer, which come mainly from domestic raw materials and are produced by small and medium-sized food producers (i.e. companies with a maximum of 250 employees) in a specific Czech region. The competition for the mark "Regionální potravina" is announced annually in each of the 13 regions of the Czech Republic. The mark has been awarded since 2012 by the Minister of Agriculture on the basis of evaluation results presented by the evaluation committee. The evaluation committee focuses on the relationship between the product and the region, what ingredients and feedstock have been used, and what makes the product's quality superior to other products. The evaluation committee consists of at least five and no more than eight members, appointed by the Ministry of Agriculture. The committee members are representatives of the Ministry of Agriculture, the State Agricultural Intervention Fund, the Federation of the Food and Drink Industries of the Czech Republic, the Czech Agrarian Chamber, the Regional Administration Council, the State Veterinary Administration and the Czech

⁵⁸⁷ <https://www.regionálnipotravina.cz/>

Agriculture and Food Inspection Authority. There are three classes of rules: general rules, specific rules and regional rules for awarding a quality mark. The general and specific rules are identical for all regions and require, for example, that regional products consist of ingredients and feedstock of which at least 70% is demonstrably sourced regionally or, in some cases, nationally. The main raw material must be of 100% domestic origin. The product must have characteristics of exceptional quality that increase its added value and guarantee its uniqueness in relation to common products available on the market. Regional rules are designated by each region. The mark “Regionální potravina” is awarded for four years. At present, 696 products have been awarded this mark.

The motivation to obtain these quality labels is reinforced by the fact that holding the quality labels gives a point advantage in the Rural Development Programme⁵⁸⁸.

Domestic production is further promoted with the logo “Česká potravina”; see Image 3⁵⁸⁹. A product can be labelled with this logo if 100% of the total weight of unprocessed food, wine products or milk comes from the Czech Republic, and primary production, slaughter of animals and all stages of production took place in the Czech Republic, or in other cases where the sum of the weight of ingredients originating in the Czech Republic is at least 75% of the total weight. The rules for the use of this voluntary logo are issued by the Ministry of Agriculture⁵⁹⁰.



Image 3: “Česká potravina” logo

Another label referring to domestic production is owned by the **Federation of the Food and Drink Industries of the Czech Republic (FFDI)**; see Image 4⁵⁹¹. This brand was registered for foodstuffs, non-alcoholic and alcoholic beverages, tobacco products, dietetic preparations for medical purposes, and baby food in 2011.

⁵⁸⁸ <http://eagri.cz/public/web/mze/dotace/program-rozvoje-venkova-na-obdobi-2014/zakladni-informace/programove-dokumenty/program-rozvoje-venkova-na-obdobi-2014.html>

⁵⁸⁹ <http://eagri.cz/public/web/mze/potraviny/znacky-kvality-potravin/>

⁵⁹⁰ <http://eagri.cz/public/web/mze/potraviny/znacky-kvality-potravin/ceska-potravina/>

⁵⁹¹

<http://www.foodnet.cz/slozka/?jmeno=Zna%C4%8Dka+%22%C4%8Cesk%C3%BD+v%C3%BDrobek%22&id=1086>



Image 4: Czech Product brand

The use of the brand is authorized by the president of FFDI after prior approval by the executive board of FFDI. The use of the label is subject to a subcontracting agreement between the FFDI and an applicant. The conditions for awarding this brand differ for each product category. For example, meat or milk products labelled with this brand must be produced in a food business in the Czech Republic, and their main ingredients (meat) must be of 100% domestic origin. Baked goods must be manufactured in the Czech Republic and at least 55% of their main components must be of Czech origin.

Domestic production is also promoted by the trademark “Český výrobek”; see Image 5⁵⁹². This label has been registered with the Industrial Property Office since 1993 by the Český výrobek Endowment Fund (EF). The fund lays down the conditions for granting the license and assesses their fulfilment. An applicant for this brand may only be an enterprise owned by Czech citizens, which does not transfer the proceeds of the business outside the territory of the Czech Republic.



Image 5: Czech Product brand

Private labelling of local products has also been introduced in the Czech Republic. The regional product and service labelling system is coordinated at the national level by the Association of Regional Brands, z.s. (ARB). The goal of this system is to highlight a particular region and draw attention to the interesting products that are being produced there. Regional labels coordinated by the ARB are characterized by the uniform visual style of the labels (see Image 6⁵⁹³) and the consistent awarding rules, which, alongside the region's origins, emphasize environmental friendliness and regional uniqueness. 1,011 products, of which 488 are food, are certified, such as Oderský kapr (carp), Krchlebský koláč (cake), and Slezan beer.

⁵⁹² <http://www.ceskyvyrobek.cz/>

⁵⁹³ <http://www.regionalni-znacky.cz/>



Image 6: Visual style of regional labels

There are other regional labels in the Czech Republic that are not members of the ARB, but are based on similar principles, e.g. Regional Product Bohemian Paradise, and Regional Product of the Jizera Mountains.

The Czech consumer is further informed about the nutritional quality of the food using the "Vím, co jím (I know what I'm eating)" brand; see Image 7⁵⁹⁴. This brand is owned by the public service company "Vím, co jím a piju" (PSC). The logo should help consumers to choose suitable foods that contain less salt, added sugars and unhealthy fats.



Image 7: "I know what I am eating" brand

Several Czech products are also registered under the European quality labels. Twenty-three Czech products (especially confectionery products – nine cases, and beer – seven cases) are registered under Protected Geographical Indication. Examples of these products include Pardubický perník (gingerbread), Hořické trubičky (confection), Budějovické pivo (beer), and Třeboňský kapr (carp). At the moment, Český modrý mák (poppy) is also being considered for registration. Six products are registered under Protected Designation of Origin, namely: Všestarská cibule (onion), Chamomilla bohémica, Český kmín (cumin), Nošovické kysané zelí (sauerkraut), Pohořelický kapr (carp), and Žatecký chmel (hops). Finally, four products are registered under the Traditional Speciality Guaranteed label: Liptovský salám, Tradiční loveský salám, Spišské párky, and Tradiční špekáčky. All of these products are smoked meat products. The Czech Republic has also been requesting registration of Pražské šunky (ham) since 2011.

⁵⁹⁴ <http://www.vimcojim.cz/vimcojim/kriteriapro-udeleni-loga/>

Several inspection organizations supervise food quality and safety within the Czech Republic, namely: the Czech Agriculture and Food Inspection Authority (CAFIA), the State Veterinary Administration (SVA), and public health authorities. Each of these organizations has a certain range of competence. The CAFIA focuses on inspecting the medical harmlessness of foodstuffs, foodstuff quality and labelling, particularly for foodstuffs of vegetable origin, and on inspecting food frauds and fraudulent misrepresentation. The CAFIA is responsible for controlling production, storage, transport and sales (including import). It also controls food for public caterers. The inspection of foodstuffs of animal origin is done by the SVA. Public health authorities comprehensively supervise compliance with obligations and health requirements, particularly for factories, establishments, and facilities of public catering.

To inform consumers of poor-quality, adulterated or unsafe food revealed during official inspections, the Czech Agriculture and Food Inspection Authority, in cooperation with the Ministry of Agriculture, launched the Food Pillory <http://www.potravinynapranari.cz> in 2012. The mobile app Food Pillory was launched in 2013, and one year later, a Facebook and Twitter profile were created. The State Veterinary Administration joined the Food Pillory project in 2016. The Food Pillory projects currently provide information about foodstuffs, premises and thematic controls. Foodstuffs are divided into three categories on the website, according to the severity of the disobedience of legal requirements – poor-quality, adulterated and unsafe. The Premises section provides information on premises or parts thereof which were closed in the course of official inspections due to a serious violation of hygiene regulations. The "Thematic Controls" section lists the results of control actions that focused on a specific market issue.

A consumer who suspects a food crime/fraud may propose a motion to the CAFIA in the case of foodstuffs of plant origin, or to the SVA in the case of animal origin. The complaint must include the following information: the name of the product, where and when the product was purchased, and the batch number or minimum durability date or usability date. The complaint may be filed personally, in writing, by e-mail, on the Food Pillory website, or through a mobile application.

I.3 CZECH COLLABORATIVE INITIATIVES PROMOTING SUSTAINABILITY IN THE FOOD VALUE CHAINS

The aim of this part of the report is to look at collaborative initiatives that promote sustainability along the food value chains at national level in the Czech Republic.

I.3.1 ENVIRONMENTAL SUSTAINABILITY

The environmental sustainability of agriculture is supported by the Rural Development Programme⁵⁹⁵ in the Czech Republic, especially by M10 Agri-Environment-Climate measures and M11 Organic Farming. For example, integrated fruit production is supported by 404 Eur per hectare, integrated vegetable production by 426 Eur, organic production of vegetables and special herbs by 466 Eur (536 Eur in the transition period), organic production of strawberries by 583 Eur (669 Eur in the transition period), and other organic production on arable land by 180/245 Eur. Organic farmers and producers of organic food also receive a point advantage in other measures of the Rural Development Programme, especially of an investment nature.

The development of organic farming, in which 9% of Czech farms were engaged in 2015⁵⁹⁶, along with the production of organic food, is also the aim of PRO-BIO Svaz ekologických zemědělců, z.s. PRO-BIO is a non-governmental, non-profit organization, which cooperates with the Ministry of Agriculture in the creation and control of production guidelines and in the certification of organic production. It also creates conditions for cooperation between producers, processors, traders, and consumers of organic food. PRO-BIO activities include the promotion of organic farming, protection of the environment, landscape creation and protection, consumer protection, etc., primarily by organizing educational and promotional events and cooperating with the media. PRO-BIO is a member of the Czech Technology Platform for Organic Farming (CTPOF), which brings together farmers, consumers, research institutes, universities, and advisors. CTPOF focuses on gathering the results of ongoing projects and transforming those results into practical uses and education, promotion of organic research, and lobbying for complex large-scale national research projects. CTPOF is coordinated by Bioinstitut, o.p.s. – a non-governmental organization that focuses on developing organic farming through consultancy; implementing scientific and research findings into practice; education, training and publication activities; promoting the sector to both professionals and the public; and communicating the needs of the sector to the national administration.

In the agriculture-food industry, there are private sustainability initiatives, e.g. the Association of Local Food Initiatives, as well as state sustainability initiatives, e.g. CENIA. The Association of Local Food Initiatives⁵⁹⁷ was established by seven enthusiasts for community-supported agriculture and organic agriculture in 2013. It links and supports subjects interested in local food production, develops local food systems based on the gentle handling of the landscape and an equitable relationship between farmers and consumers, and provides advisory services to farmers and consumers, focusing in particular on facilitating the emergence and interconnection of environmentally and socially responsible local food systems. The Association established the Community of Community-Supported Agriculture (CSA) in 2016. The aim of this community is to share experience and to support various local food initiatives. The Community implemented a project to support the development of community-supported agriculture in the regions of the Czech Republic, under the

⁵⁹⁵ <http://eagri.cz/public/web/mze/dotace/program-rozvoje-venkova-na-obdobi-2014/zakladni-informace/programove-dokumenty/program-rozvoje-venkova-na-obdobi-2014.html>

⁵⁹⁶ http://eagri.cz/public/web/file/564771/Statistika_ekologickeho_zemedelstvi_2015.pdf

⁵⁹⁷ <http://asociaceampi.cz/zakladaci-dokumenty>

financial support of the Ministry of Agriculture in 2017⁵⁹⁸. The Association is also one of the web site operators on community-supported agriculture: kpzinfo.cz. The Association has realized several educational projects focusing on environmental education with the financial support of the capital city of Prague (for example, in 2016 there were 131 ecological educational programs, and excursions for 2854 pupils of kindergartens, primary schools and secondary schools in the capital city of Prague and other regions of the Czech Republic). The Association also established the socio-ecological community space "Kuchyňka" in 2016, which is a community garden with an area of about 3000 m² in Prague⁵⁹⁹.

The Czech Environmental Information Agency (CENIA)⁶⁰⁰ is an agency of the Ministry of Environment of the Czech Republic. Its mission is the collection, evaluation, interpretation, and distribution of environmental information. The CENIA provides advisory services in the area of cleaner production, consultancy and methodological support for the implementation and use of environmental labels, processes of expert opinions on applications for an integrated permits (this permit is needed, for example, by a slaughterhouse with a capacity of more than 50 tonnes of processed meat per day⁶⁰¹), provides information on the use of the Best Available Techniques (BAT) in the Czech Republic, manages and publishes data from the Local Agenda 21 database in the Czech Republic, and provides information on the implementation of the State Environmental Policy of the Czech Republic. The CENIA manages the Integrated System of Reporting Obligations which ensures compliance with mandatory reporting legislation which aims to protect the environment whilst providing cross-sectional data for gaining essential environmental information, and the Information System of Environmental Statistics and Reporting which contains statistical data and indicators of the environment. CENIA is engaged in scientific research activities and environmental education. CENIA also mediates the awarding of the eco-label Eco-Friendly Product/Service and the EU Ecolabel. For example, CENIA has been involved in developing methodological backgrounds for assessing intensive rearing of poultry and pigs in line with the BAT.

I.4 CONCLUSION

From our Czech summary, there have been a number of policy initiatives that either address concerns raised by EU authorities (such as UTPs), or tackle policy problems domestically (such as the environmental impacts of food supply chains). These efforts have had different approaches and different levels of success. One constraint, for example in food safety and in food fraud has been restricted budgets that have hindered more effective policy implementation and monitoring, meaning that food value chains have not functioned as well as they could in these areas.

⁵⁹⁸ <http://kpzinfo.cz/co-delame/>

⁵⁹⁹ <http://kzkuchynka.cz/>

⁶⁰⁰ <http://www1.cenia.cz/www/o-cenia-menu>

⁶⁰¹ <http://www1.cenia.cz/www/sites/default/files/69%20z%20roku%202013.pdf>

II FRANCE

Examples of good practices in the food value chain at the national level in France

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Contents

II	FRANCE	275
II.1	Introduction and specificities of the french context	276
II.2	Key organisations promoting fairer trading practices in food value chains	279
II.2.1	The essential role of inter-branch organisations	279
II.2.2	The establishment of the 'OFPM' (Observatory of Price and Margins Formation for Food Products)	280
II.2.3	Discussions on fair trading practices during the EGA consultation	282
II.3	French regulations on authenticity and safety issues	282
II.3.1	Specificities of the french authenticity institutions	283
II.3.2	Sanitary regulations	284
II.4	Collaborative sustainability initiatives	286
II.4.1	The specificities of organic farming certification in France	286
II.4.2	The reactions to the incoherences of a certification based on technical specifications	287
II.4.3	The EGA consultation: the ambition to build links between fair value distribution and food systems sustainability	288
II.5	Conclusions	289
II.6	References	290

II.1 INTRODUCTION AND SPECIFICITIES OF THE FRENCH CONTEXT

The agri-food sector in France, gathering companies implied in food, beverage and tobacco production, is the first economic sector in France in terms of revenue and added value, and the first employment sector within manufacturing industry. In 2014, the whole sector, employing 525,000 full-time equivalent employees (corresponding to 20% of the manufacturing workforce), generated a turnover of 184.5 billion euros (21% of the manufacturing industrial turnover) and an added value of 39.5 billion euros (18% of the manufacturing added value). The main sectors are dairy products, beverages and meat production. The agricultural and food industries are ahead of industries such as aeronautics, automotive and chemical industries. Their share in the overall manufacturing added value increases over the years (mainly because of the deindustrialization of France, that does not impact agri-food industry as it impacts other sectors). Therefore, agri-food industry is an exception in terms of employment within the French industry: from 1980 to 2007, it only lost 1% of its workforce, compared to a loss of 36% for the whole industry.

Recent analyses tend to put forward that the “cooperative model”⁶⁰², which is the main organisational model in some agri-food sectors in France (globally employing around 160,000 people), tends to adopt strategies and logics that are similar to the usual commercial agri-food industries. The decrease of the public support and their increasing involvement in the international competition along with an increase of their average size made them lose part of their singularity. The 1991 and 1992 laws in France on “cooperative groups” both accompanied their growth and the development of commercial subsidiaries. Some companies (either cooperatives or commercial companies) throughout the rest of European Union (especially in Germany, Belgium, Denmark, Spain, Italy, the Netherlands and Poland) are pretty larger than french companies, with more saturated markets in their national context so that they made significant efforts to increase their presence in the European market. The primary meat processing industries in France are facing increasing competition from Germany (especially because of german wage policy). And in recent years, France which historically had a strong position in the agri-food sector has been challenged both by other European countries and the emergence of new competitors from third countries (Argentina, Brazil and China for example). Indeed, new competitors outside Western Europe, with low production costs, appeared in the 1990s and gained market share in France in the 2000s on basic or little differentiated products: the Mercosur countries competed with France over the meat sectors (beef, poultry); and the European countries of the former Eastern Bloc (Russia, Ukraine) competed with France over the cereals sector for example.

After having been for a long time the leading European exporter of processed agricultural products, France is now third in Europe (recently outperformed by Germany and the Netherlands), experiencing market share losses in recent years, in particular in the milk and meat industries.

⁶⁰²The “cooperative model” can refer to a CUMA (Cooperative for common material use) gathering a few members as it can refer to very big international groups generating several billion of income.

French agri-food trade is mainly with European countries: in 2008, around 73% of French exports went to EU-27 countries, and 77% of French imports came from EU-27 countries. In terms of trade balance, the surplus linked to agri-food trade is tending to decrease (with a structural year deficit if you exclude wines and spirits from the trade balance). The comparison of the recent evolutions of the market shares of France compared to Germany (its main competitor) can be summed up with the following statements: France lost market shares on all products between 2004 and 2009 while Germany won market shares on seven markets (out of thirteen product markets); in 2009, Germany has market shares higher than those of France for ten markets out of thirteen; in the meat sector, France lost important market shares while Germany won some, and the two countries saw their market share decline on dairy products. According to a french report on french agri-food competitiveness (Rouault, 2010), energy production (produced by 4 500 biogas units) of German farms represented € 10.2 billion in 2008, which is about 20% of the value of the german agricultural production, allowing the valorisation of livestock effluents and a part of crop production (17% of the land is used for non-food purposes) as well as a diversification of the income of german farmers. The feed-in tariff for electricity generated by anaerobic digestion is much lower in France than in Germany and remains insufficient to reach a break-even point. In parallel, the development of the production of biofuels and more particularly oil from rapeseed in France has at the same time generated a large production of rapeseed cake, as a by-product resulting from the trituration of the rapeseed. This implied both lower imports of oil and lower imports of soybean meal for pigs and ruminants, with important stakes for the French balance of payments: one-third of soybean imports was avoided, completed by and added value of the biofuel sale.

In the last decades, the development of French agriculture and agribusiness has been underpinned by the strategic conviction that their economic (profitability, price, profits) and social (gastronomy) success was based on the rise in “quality”, largely correlated with the notion of “terroir” or mode of production. The underlying motivation is articulated around the argument that since these sectors are more and more open to competition, especially from countries with low production costs, there is a need to offer products with an increasingly “elaborate” content, which french producers and manufacturers will more easily be able to produce and sell.

French agriculture being mainly based on medium scale family units (around 500 000 farms in France in 2010 led by around 780 000 family members and 180 000 permanent and non-permanent employees), the production structure is based on production units that cannot individually invest on research and development and for which collective solutions have to be found. In France, R&D in agriculture relies on both private and public sectors, but can also be driven through inter-branch organisations which set their own internal funding system to finance research. After the 1960's, institutional compromise was based on farm productivity enhancement and co-management of agriculture between the state and the main agriculture syndicate (the FNSEA). But the paradigm changed in the 1990's with the light introduction of plurality in agriculture governance and discussions on the promotion of a “multifunctional agriculture”. The emergence of this new paradigm was finally replaced by the overall affirmation of agricultural enterprises at the beginning of the year 2000 and the reinforcement of downstream and upstream sectors in the global

agriculture orientations and governance, bringing tensions between environment ministry and agriculture ministry.

We can basically oppose the 1960's french agricultural model, centred on productivism and on the rationalisation of production factors in a context of unsaturated market opportunities, to the model that raised during the 1990's to nowadays, that evolved in a context of liberal reforms and a transformation of markets, progressively more centred on differentiation of qualities. Concerning differentiation and quality/authenticity guarantee mechanisms, France has historically developed two main approaches that make its agricultural sector specific: inter-branch organisations and an early system of registered designations of origin (called AOC in France) that emerged at the beginning of the 20th century (mainly to protect wine trade initially). The specificities and social markers of quality will change at each period, depending on the combination of specific expectations or concerns of consumers and the specific policies and measures that will be applied on agriculture : information on the product, supply control, the provision of eco-system services, social aspects of the production, etc. In the meantime, agricultural production has turned from a production mainly intending to supply domestic market to an international vocation, questioning the viability and relevance of national arrangements in the context of international competition.

Concerning the income of farmers (which is directly connected to the question of fair trade practices), we should mention that it is not only the result of the position of farmers in the overall chain value nor their capacities to bargain inside their production branch that will define it, but also the specific institutional arrangements that characterise each period. During the 1960's, the generation of income was based on direct effects of markets regulation and more indirect effects of facilitated access to credit or negotiations on pension schemes. The conditions that emerged in the 1990's based the generation of income on CAP coupled (then decoupled) support and the institutionalisation of tax exemptions. In terms of market organisation, the reactions to the market saturation that occurred in the last decades associated with the overall increase in social inequalities took two specific forms : extension of market opportunities (through exportation, bioenergy production, agri-tourism...) and a focus on quality (both in terms of sanitary conditions and production methods), based on institutional mechanisms that imply both public and private actors for some of them (based on an organisation that should not be too expensive in order to keep products competitive), and sometimes addressing specific ecological concerns. The stronger standardisation of dietary behaviours in Anglo-Saxon countries led to a strategy that was more centred on market integration and corporate farming concentration in those countries, and made these implications in quality standards less predominant than in France.

II.2 KEY ORGANISATIONS PROMOTING FAIRER TRADING PRACTICES IN FOOD VALUE CHAINS

II.2.1 THE ESSENTIAL ROLE OF INTER-BRANCH ORGANISATIONS

Inter-branch organisations have started in the field of wine and spirits at the end of the 19th century in France, in order to struggle against counterfeits and to find a solution to the phylloxera crisis. In the 1960's and 1970's, inter-branch organisations have been promoted in order to foster chains regulation. The legal frame will be strengthened in the July 1975 law. Inter-branch organisations usually pursue five types of missions: political representation in front of policymakers, promotion of branch products (both in the domestic and in the international markets), support to products specifications, research and development (e.g. : Arvalis for field crops, CNIEL for dairy production, Terres Inovia for oilseeds), markets knowledge and regulation. The role of the inter-branch organisation has even led to the diversification of market opportunities and the construction of a downstream industrial tool for oilseed and protein crops.

To be recognised by the State, inter-branch organisations have to gather organisations that are considered to be the most representative actors of the branch, including producers, processors and retailers (depending on the branch structuring). The decentralisation of negotiations (from an overhanging state policy to an inter-branch organisation) allowed to fragment and isolate negotiations and their specific stakes, enhancing the overall efficiency. Specifications and standards (governing market access) shifted from a State administration to a joint organisation between state and branches. Inter-branch organisations have therefore been an effective way to limit transaction costs and define chain value distribution. Depending on the product, they are organised at the local scale (in the case of a PGI for example) or at the national scale (for more substitutable commodities) with possible regional subdivisions. They have often emerged during production crises or tensions at the national or international scale. For example, protein crops organisation has emerged during the American embargo on soybean in 1973, the oilseed organisation appeared during the consumption drop of rapeseed oil in 1978, the pork organisation (Inaporc) was created in 2002 after the BSE crisis which led to a mistrust atmosphere towards meat production in general.

Concerning commodities specifications, inter-branch organisation have always worked in coordination with the State. For example, the law of 1964 which introduced prices indexed on milk quality and composition was implemented through the support of an inter-branch laboratory. In the field of beef meat, where prices are indexed on carcass weight and grade, slaughterers and breeders have organised cooperatively through the inter-branch organisation to implement both dispute resolution processes and mutual controls on weight and grade operations (Barjol & *al.*, 2014).

Most of inter-branch organisations resources are primarily drawn from the "compulsory voluntary levy" (called CVO in french) imposed on their members, usually representing 0,35% to 1% of the products total value. This financial

mechanism was source of misunderstandings at the European Commission scale, unable to determine if CVOs were resources of public or private nature. This situation has been clarified in May 2013 by a judgement of the European court of justice, followed by the 1308/2013 regulation in December 2013, considering that CVO came inside the scope of private laws. Until this regulation was adopted, CVOs were considered as parafiscal charges (meaning public resources), with inter-branch organisations undertaking actions attributable to the State.

II.2.2 THE ESTABLISHMENT OF THE 'OFPM' (OBSERVATORY OF PRICE AND MARGINS FORMATION FOR FOOD PRODUCTS)

With the former European supervision and control on markets, the prices of agricultural products benefited from a certain stability. The only real unstable conditions were those of the protein and oil crops (for which tariffs were lower and largely linked to the global soybean market), tropical products like coffee and cocoa (which are not in the field of the present Observatory) and the more seasonal volatility of products like fruits and vegetables. The recent transition from stable to unstable prices has led to difficulties in economic relations in France, leading to the establishment of the Observatory of Price and Margins Formation for Food Products (OFPM) to build new efforts on economic transparency and reinforce confidence between actors.

The OFPM is an advisory body created in 2010 under the supervision of the Ministries of Agriculture and Economy. Above all, it is a consultation steering committee including all the links of the food chain (producers, sub-sectors, retailers, consumers). It examines average statistical indicators allowing to depict the distribution of value in the agri-food system from available data of the INSEE (National Institute of Statistics and Economic Studies), the SSP (The Statistics and Foresight Service of the French Ministry of Agriculture) and France AgriMer data (agricultural office in charge of agri-food sub-sectors). OFPM do not ask for the financial results of retailer or agribusiness groups nor lead specific surveys in the agri-food sector. It is not an authority of control (arbitrating on competition or fraud) as well, nor a mediation body (since there already is a mediator in charge of the mediation on contracts in the agri-food sector at the ministry level).

2 main types of work are led by the OFPM:

- microeconomic (or sectoral) analyses: income, expenses, gross and net margins are calculated for every link of different sectors.
- macroeconomic (euro food) analysis: based on the "food dollar methodology", the OFPM calculates (out of national aggregated food figures) how is globally divided each euro paid for food at the national scale (on which proportion each sector is earning part of the overall value, or how overall value is distributed between wages and capital return).

The work of the Observatory is based on various indicators: agriculture products prices (delivered by FranceAgriMer); sales prices of agri-food manufacturers for articles intended for retail sale in supermarkets; prices paid by consumers in

supermarkets; data on industrial transformation yields and loss rates in trade (these losses and yields explaining part of the difference between agricultural and consumer prices); accounts of farms, agri-food and commercial firms as well as supermarket distribution (in order to evaluate the costs and benefits, or losses, that explain the retail prices of products). These data allows the observatory to calculate gross margins at various production and distribution stages. The gross margin (different from the profit), is the difference between the value of what is produced and sold at a given stage of the industry (or distribution) and the value of the raw material used (the values are expressed in the same unit and are taking into account yields and losses).

The creation of the OFPM had several political effects: it can inspire each production sector which could build the same kind of analyses tool in its own sector and even if the figures that are discussed are not perfect (as they rely on aggregated figures and extrapolations), they allow people to share their point of view in a neutral space for dialogue.

Concerning the OFPM results on the macroeconomic analyses, they showed that agriculture went from 22% to 17% of the overall agri-food value between 1999 and 2017, and from 10.5% to 7.3% of the overall agri-food added value. As in most countries, food consumption is now mainly related to services and retail. The OFPM even led some simulations showing the influence of prices increase on producers income and consumer basket.

Concerning possibilities of fair arrangements on the allocation of food value that could better take the production costs into account: even though the last CAP omnibus regulation has taken into account the possibility of having sector arrangements on production costs, each sector will have to take into account the production costs of other European or world countries (depending on the production), especially for fruit and vegetables which are heavily dependent on importations in France⁶⁰³.

In present economy conditions, others limits can be pointed out about the idea of focusing on value distribution of food to give explanations on food economy : the fact that retailers do not take their decisions in terms of specific products sales but in terms of global food sales income; the fact that food economy is now becoming a more narrow part of the global retailers economic activity as they are more and more involved in financial products and land investment and transactions than in their initial activity; and finally the fact that farmers themselves do not only rely on agricultural prices to ensure their competitiveness but more and more on subcontracting activities, by-products valorization (like energy) and tax or legal arrangements optimization.

A mediator in charge of Trade Relations in Agriculture has been appointed after the law of 27 July 2010 on contracts to facilitate dialogue within the food chain. Any legal dispute in relation with the conclusion or execution of a sales contract can be submitted to the mediator, and he can also give an opinion on any matter relating to the contractual relations between the parties involved. Producers or buyers (cooperative, industrial, wholesaler ...) of agricultural products encountering a

⁶⁰³Considering the situation of strong internal trade between member states in Europe, arrangements on basement prices for producers could possibly generate importation increases.

difficulty with their trading partner in these different cases: a contract which has been proposed to them and which would not follow the lines defined by the interprofessional agreement or the general contracts legal frame; a contract which appears to them unbalanced; a contract already concluded that is not properly applied. Inter-branch organisations, trade unions or consular chambers may also refer to the mediator for any request for an opinion on contractual relations.

II.2.3 DISCUSSIONS ON FAIR TRADING PRACTICES DURING THE EGA CONSULTATION

The EGA consultation were organized at the end of year 2017, following the dairy crisis which led to reflections on value distribution among branches. EGA stands for "États Généraux de l'Alimentation", that can be translated by "Estates General on Food". This consultation was held at the initiative of both the Ministry of Agriculture and the Ministry of Environnement and organised around two main themes which were "value distribution in the food chain" and "healthy, safe and sustainable food, accessible to all", divided in 14 workshops. The statement was that the question of value distribution also implied to answer the question of value creation through quality production, leading to an additional reflection on the food system transition in France in the years to come. The first theme implied taking into account the power imbalances in the negotiations within the different sectors. The idea is to go towards contracts that are negotiated by the producers rather than by the purchasing groups. These reflections on value distribution led to "sector plans drafts" submitted by each sector to the government. These sector plans will be voted by the assembly and will provide the framework for the establishment of a new law on this specific issue. Reflections on these sector plans have the ambition to lead to clarification on the notion of predatory pricing, to determine prices from production cost indicators, to increase from 10% the threshold at which sales are making a loss in distribution and to reinforce the mediation between actors in commercial negotiations. A monitoring committee will be set up to monitor the negotiations (involving sector actors, the retail sector, the Ministry of Agriculture and the Ministry of Finance).

II.3 FRENCH REGULATIONS ON AUTHENTICITY AND SAFETY ISSUES

Regulation mechanisms on safety and authenticity have become more and more exhaustive at the end of the 19th century, in particular with the extension of distribution networks, urbanisation and industrialisation (in particular with techniques like cold chain, pasteurisation or sterilisation). In this field, France will early carry out an intense legislative work compared to other European countries, both on safety and authenticity, allowing France to defend and protect its products singularity.

II.3.1 SPECIFICITIES OF THE FRENCH AUTHENTICITY INSTITUTIONS

Authenticity regulation has started in the wine production, with the 1905 and 1919 laws, in charge of defining the different protected areas where wine could benefit from specific designations of origin. The INAO (Institut National des Appellations d'Origine) was created in 1935, turning the simple « origin specification » to a « controlled origin specification », in order to face the wine crises, combining administrative, legal and professional missions, in charge of the protection of both specific origins and specific or traditional know-hows (whereas labels only focus on know-hows and production techniques). The AOC was extended to cheese in 1955. The INAO now assumes the organisation and control of different authenticity indicators as AOCs, PDOs, PGIs, TSGs (traditional speciality guaranteed), french organic farming and red labels.

In the 1960's, policies moved towards more ambitious authenticity regulations, both to conquer new export markets and to protect domestic markets. It was thought as a development policy, aiming at compensating economic disadvantages of some farmers in disfavoured areas. Red labels were created in 1965, and the organic farming label (AB) was created in 1981. 120,000 farms were concerned by an AOC and 25,000 by a PGI in France in 2003, corresponding to more than a quarter of the total French agriculture and more than 17 billion euros of turnover. In the AOC specification, reference is often made on tradition or typicality, ensuring a certain form of specificity, rather than on the use of scientific expertise. Technical specifications are usually transferred to the economic and institutional sphere through the collaboration between local branch organisation and the INAO. The local branch organisation can be in charge of organising the the collection of information to carry out the studies for specifications as well as monitoring the rules defined in the specifications and consumer information. Its role can also be the one of a production regulator at the territory scale: establishing quotas, reception rules for newcomers and potential downgrading or penalties for producers (Torre, 2002). Nearly 60% of wines and 16% of cheeses benefit from the AOC specification.

If we consider the example of the Red Label in the chicken production, launched in the 1970s and promoted by some researchers and a small group of pioneers (breeders and slaughterers), the idea was to build an alternative to industrialisation intensification (intensive farming) by selecting slow growing species and by improving feeding and breeding conditions. The minimum specifications of the standard rely on five points: a slow-growing poultry strain; a diet with lower fat content - richer in cereals (70%) - and without growth promoters; a lower concentration of animals and access to outdoor areas (in the case of "farm" poultry); a longer breeding period (81 days minimum, and more than 91 days in some Labels) and a more rigorous grading of poultry meat in slaughterhouses. The red label chicken went from 2% of the market in 1975 to 20% in 1995 (Sylvander, 1995). The red label went from 17% to 15% of the total production of chickens in France between 2001 and 2012, showing a short reduction of the market share (while the overall volume has increased). Several factors could be implied in this slight decrease according to different analysis: the increasing difference of production costs between label and conventional chickens during this period, the fact that consuming habits have changed in favor of pre-cut chicken (which are less often sold in red label) rather than whole chicken and the competition with the production

of organic chickens. The legal frame provides for the establishment of a certifying body (responsible for the label), technical specifications, a control system assisted by a third-part body and a penalty system. French policymakers have been defending the Red Label at the national scale and at the European scale, until a EC directive was approved in 1991.

Just as the European Commission questioned the existence of inter-branch organisations, it first questioned the existence of the specific labels that emerged in France, bringing to light contradictions between Anglo-Saxon and latin legal frames. Anglo-Saxon would denounce AOC and label regulations as a form of anticompetitive agreements, considering that trademarks and labels are sufficient for the protection of producers and that the struggle against counterfeit products should not rely on collective and multi-stakeholders' organisations (Letablier & *al.*, 1995).

Concerning both authenticity mechanisms and inter-branch organisations, the financial and food crises of 2007-2008 made the European commission change its point of view. The PAC that was built in 2013-2014 acknowledged the fact that powers in negotiation are unbalanced and that producers' organisation should be fostered.

The AOC system is an effective organization, socially and institutionally coordinated, that allows producers to maintain both decent prices and better quality. For example, the price of quality wines (meaning mainly AOC wines) has risen sharply since the 1960s (around 10% in constant francs) while the price of everyday wines dropped significantly (more than 30%) at the same time (Torre, 2002). The difficulty of such a specification occurred with the increase of exportation, as origin specifications are not easy to read on export markets compared to registered trademarks. Being positioned on the very top of the range can arduously be considered as an overall strategy when facing the fierce competition on medium-range products. Bureau & *al.* (2015) cite the example of French wine competing with New World wines. The AOC system, which contrary to the label organisation is connected to specific territories, is also raising questions that might not have been forecasted by the lawmaker. If we take the example of dairy products, we can divide the production between territories that were not implied in AOC organisation and cheese production like Brittany and territories that were strongly implied in the territory valorisation strategies like Comté (well known for cheese production). In the Comté situation, the AOC system led to a rent situation on the Comté territory that both increased the land market value and the difficulties to access to production factors. Moreover, profits from the AOC system tend to decrease, both because AOCs are competing with each other and because quality marks tend to multiply (Torre, 2002).

II.3.2 SANITARY REGULATIONS

Food safety has been a prerogative of the French State since the beginning of the twentieth century, traditionally oriented towards two objectives that essentially correspond to economic logics: the repression of frauds and the surveillance of livestock. Thus, the two major actors involved in this field are, on the one hand, the Directorate-General in charge of competition, consumption and fraud control (the DGCCRF, connected to the Ministry of Finance), in charge of the loyalty of

transactions of fresh and processed products (concerning labels, additives, residues) and, on the other hand, the Directorate-General for Food (DGAL, connected to the Ministry of Agriculture), which is responsible for the hygiene of animal products and animal origin.⁶⁰⁴ We can mention that the Ministry of Health has a very marginal role in the food safety policy, with a field of intervention that has for a long time been mostly confined to the control of the quality of drinking water (Fouilleux, 2008).

From the middle of the 1990's, with the "mad cow disease" crisis, food safety became a priority in the national and European policy agendas. Echoing the scandal of donated infected blood in France⁶⁰⁵, this crisis has led to more public policies, in particular through the establishment of independent institutions in charge of expertise, with the creation of the French Agency for Food Safety (Afssa) on July 1998. A National Committee for Sanitary Security has also been established. It brought together, under the chairmanship of the Ministers of Health, Economy, Environment and Agriculture and all the services and agencies involved in these fields (it was abolished in 2004 and its missions entrusted to a National Public Health Committee). Moreover, in 1995, the Agreement on the application of sanitary and phytosanitary measures (the SPS WTO agreement⁶⁰⁶) and the Uruguay Round Agreement on Technical Barriers to Trade (TBT Agreement) have recognised Codex Alimentarius Commission standards as a reference for dispute resolution mechanisms in international food trade. These agreements had therefore strong impacts on national standards that concerned exported products, but also on national standards that only concerned domestic consumption (Lassalle de Salins, 2012). In a way, trade liberalisation amplifies the regulatory harmonisation work that was led in various international organisations and professional communities by creating a global governance that overlapped states regulations. A cross-border food health policy has therefore been put in place in France in the 1990's, mainly based on the separation between evaluation and risk management (Fouilleux, 2008). During this period, the concept of sanitary safety implied significant changes in the evolution of health policies, revealing a metamorphosis concerning health risks approach, institutional organisation and policies (Tabuteau, 2007). Until the 1990's, the regulations on which sanitary security relied mainly consisted on the respect of standards that were established by the public authority, assuring control and certifications, and stating both on the level of proof and the level of confidence required. In this model, the public authority assumed most of the transaction costs

⁶⁰⁴The Plant Protection Service, in charge of sanitary and phytosanitary surveillance and of the control of plant production conditions must also be mentioned.

⁶⁰⁵In the donated infected blood case in France, a minister was sentenced by the Court of Justice of the Republic for the first time and the State has been convicted by the State Council for "misconduct".

⁶⁰⁶The SPS agreement authorises governments to take sanitary and phytosanitary measures to protect human, animal or plant health, "provided that they are not applied in a manner that constitutes a means of arbitrary or unjustifiable discrimination between Members where the same conditions exist, or a disguised restriction on international trade" (WTO, 1995). In order to reduce the temptations of protectionism, the SPS Agreement requires that any health risk reduction measure that is stricter than international standards be scientifically justified. However, "it does not contain guidelines for determining what is sufficient scientific evidence and it does not specify what constitutes an unjustifiable difference in levels of protection" (Lassalle de Salins, 2012). However, even when they are based on the same scientific evidence, national health risk management policies can differ, considering that both culture and epistemological approaches can influence perception of risk and its management (turning the Codex Alimentarius Commission into a place of struggle at the international level).

linked to the sanitary standardisation of the production. In the recent period, the establishment of technical baseline and their control procedures both gained in complexity and variety (with the exponential number of products placed on the market) so that both work capacities and skills of the public authority reached critical points. Therefore, the work of technical specifications has progressively been taken in charge by the private sector, with a public authority in charge of prescribing “performance requirements” rather than “means requirements” in the agri-food industry. As the level of exportations grow, the sanitary issues are increasingly related to the definition of contamination thresholds that do not constitute a commercial barrier or a limitation of import possibilities. Anticipating emerging risks becomes a priority. Strengthening research in certain areas of health risk did not just become a question of strengthening the control of risks related to food production, but also the means of optimising industrial processes to increase agri-food sector competitiveness on the international market: through the extension of expiry dates and the ability for products to tolerate long transport in particular (Tétart & *al.* 2009).

During the 2000s decade, the major innovation at the European scale was to systematise the triggering of product recall procedures or marketing prohibition measures when an undesirable effect was detected, in order to contain the spread of diseases and epidemics. The regulation of fractional traceability, half-mandatory, half-voluntary, is at the center of the whole mechanism. It relies on an arbitration between a certain level of acceptable risk and limited traceability costs, allowing targeted and accurate withdrawals of products (identified as dangerous for health) to avoid unnecessary cost of risk management. The notion of traceability has somehow shifted from control procedure to an “anticipatory management of contestability” (Saulais & *al.* 2017).

II.4 COLLABORATIVE SUSTAINABILITY INITIATIVES

II.4.1 THE SPECIFICITIES OF ORGANIC FARMING CERTIFICATION IN FRANCE

Organic farming practices, affirmed as such and firstly claimed as an alternative model to the emerging industrial model in farming, started in the 1930's, but really became an institutionalised model in the 1990's. In 1959, the first organic producers organisation was set up (the GABO, standing for « Groupement des agriculteurs biologiques de l'Ouest »), mainly inspired by the Soil Association (created in 1946 in England) basing its work on the discoveries of Albert Howard. It rapidly gave birth to a national association in 1962 (the Afab, standing for « Association Française de l'Agriculture Biologique »). Two visions emerged inside the national federation : a more market-orientated and conservative vision endorsed by the Lemaire-Boucher society (furnishing producers with input), and a more social vision claimed by « Nature et Progrès », gathering producers, processors, retailers and consumers, promoting both a mode of production mode and a way of life (Poméon & *al.*, 2017). « Nature et Progrès » became the leading player of organic farming in France in the 1970's, and most of the specification criteria they built were used in the institutionalisation process that began in the 1980's. From a range of eleven private

recognised specification systems in 1989 in France, a unique label was implemented in Europe in 1991.

The organic label certifies the specific conditions of production that the consumers cannot see on the final product (the fact that no chemical inputs are used, etc.), and producers (both farmers and processors) are required to submit their production to a third-part body in charge of their certification. The producers pay for the certifying organisation which itself pays for an accreditation by an accreditation body in charge of attesting its capacities for certification controls. The whole system of certification is therefore based on both public and private actors, regulated by complex and multiple market transactions turned towards readability and independent control. In France, accreditation and certification are assumed by the Cofrac (Comité Français d'Accréditation) and the INAO.

The consolidation of organic farming institutionalisation was orientated towards the construction of a differentiated and remunerative market that could possibly attract new actors inside the organic farming dynamic and assure good circulation of organic production. It implied the simplification of organic farming standards to make it both more accessible for farmers and more readable for consumers, redirecting the overall organic farming project to technical specifications.

II.4.2 THE REACTIONS TO THE INCOHERENCES OF A CERTIFICATION BASED ON TECHNICAL SPECIFICATIONS

Several types of criticism emerged in this process of institutionalisation, containing several aspects: the fact that the conversion to organic farming could be only motivated by economic opportunities; the kind of standardised production practices that could be implied by the specifications unification at the European scale (not taking into account the territory linkage that organic farming promoters historically emphasised on); the type of « substitution logic » it introduced (substitution of synthesis input with organic input) instead of working on territory connection between breeding and crops that organic farming required; the standardisation and environmental incoherence implied by the insertion of organic farming products in large scale process industry and long distance distribution. All these criticisms will give birth to alternative models around organic farming certification, some of them based on participatory guarantee system, both highlighting stronger expectations on organic farming sustainability and reflecting the debates and controversies inside the organic farming organisations on different subjects : the participation of organic farming to market segmentation (rather than an overall socio-technical transition), the strong market relations inside the certification process and the impossibilities of some actors to contribute to the definition of organic farming as its institutionalisation grew. Constraints linked to the internationalisation of organic farming standards and markets have reinforced these tendencies. So if the EC directive has replaced preexisting national specifications, private standards did not however disappear. Private standards (as « Nature et Progrès », Demeter, etc.), usually going further than European organic farming standards, concern about 10% of organic farmers in France. If private standards have stepped back with the implementation of the European standards in the 1990's, they have been reactivated at the beginning of

the 2000's, a dynamic which can be both understood as a need for stronger standards and coherence with the political project surrounding organic farming and the stronger rivalry that arose inside organic production. For most of these standards, organic farming standards are prerequisites, and the objectives pursued consist both in a strategy of segmentation and product differentiation and an aim of compensating public standards insufficiencies, promoting another vision of what organic farming should be. These private standards can address production systems on a technical point of view (feed autonomy, list of inputs, complementarity between livestock breeding and crop production...) and/or focus on a more social and territorial coherence : the private label "Bio Coherence" specifies that products cannot be sold in conventional supermarkets and at a distance exceeding 80 km. Working conditions are also submitted to the label control : employees can only be employed under french legal working frame and cannot be employed (especially for outsourced work) under the Bolkenstein directive (allowing foreign companies to employ people under their foreign wage scheme).

Participatory guarantee systems (which sometimes correspond to the guarantee systems that those private labels have developed) have emerged on the basis of the several criticisms addressed to the certification and accreditation organisation : rather than working alongside the producers and measuring progress over time, producers have to prove that they are "not guilty" in front of institutional certification organisation; the mainstream certification system can be expensive for small farms and it is disconnected from the specificities of the local territories. Globally, both private standards and participatory guarantee system do not benefit from strong public support. This aspect can be both linked to the fact that these organisations were created on the basis of a criticism of institutional mechanisms and that the standards they promote can sometimes be incompatible with market extensions.

Some consumer associations have denounced either the proliferation of labels and standards and some producers associations or syndicates have denounced the rise of specifications that tend to increase confusion. This was in particular the case with the "sustainable agriculture" certification ("Agriculture Raisonnée") implemented by the Farre network. This specification refers, on a voluntary basis, to simple partial adjustments of the conventional practices, but no precise specifications are associated with it. It is not considered as a sign of quality but can easily mislead consumers who are not highly informed (confusing it with organic farming for example).

II.4.3 THE EGA CONSULTATION: THE AMBITION TO BUILD LINKS BETWEEN FAIR VALUE DISTRIBUTION AND FOOD SYSTEMS SUSTAINABILITY

Contrary to decisions that were taken concerning the value distribution and the reorganisation of sectoral negotiations (helped by the CAP omnibus revision of 2017) and which are already part of the french government policy announcement, the food systems sustainability measures are still in discussion and some are still draft proposals. The suggestions are going towards the idea of the emergence of three main forms of agriculture: the strengthening of organic farming, a certified sustainable agriculture for export and an agroecological model based on the

reinforcement of HEV specifications (High Environmental Value). The vertical contracts of sectors would also be articulated with transversal territory contracts. The government evoked the target of 50% of organic, local or ecological products integrated in collective catering in order to guarantee part of the outlets for quality production. The objective is to increase the part of organic farming land from 6 to 15% by 2022 in France (involving to draw a path towards this goal). A no-pesticide plan is being drafted and will be subject to consultation. The government is wishing to stop glyphosate use in the next 3 years, explaining that the task is not simple when the sectors fear distortions of competition, requiring both to work at the European level and to develop alternatives to glyphosate (and more generally to pesticides).

II.5 CONCLUSIONS

According to Gilles Allaire (Allaire & *al.* 2017), we can distinguish two forms that social rights have taken in agriculture after the 1929 crisis, collective and public or more distinctive policies directed to specific legal holders. Concerning collective policies : in the case of direct intervention in markets, these policies have a social finality that is unrelated to specific legal holders, with a right that is having a public character based on the possibility for producers to get guaranteed price, and the possibility for the consumer to have a stabilized market. These kind of collective rights are not easy to change because the unions are watching over the social agreements that were made and because the social consequences can be immediate (in terms of food accessibility for example). Economic stabilization policies can also create rights that are more specific to legal holders, with the access to milk quotas in 1984 for example, and the reform of the CAP from 1992, necessitating the formal designation of beneficiaries who held “premium rights” and which was first done on a historical basis (this right being restricted to those who were producers during a reference year, in function of to the area they cultivated this specific year). The individualization of access does not suppress the social character of this policy, but modifies its meaning. The initial CAP had a twofold objective: social parity of income for farmers and reasonable prices for food. Individual and collective strategies now tend to adapt to the new CAP and globalization contexts: on the one hand by greater attention to market signals and on the other hand, by trying to avoid competition of the mass markets through local valorization initiatives and the establishment of contractual relations. The financial and food crisis of 2007-2008 and the strong instability of producer prices that extends to national markets have however changed some points of view. The CAP reform in 2014 noted an imbalance of market power between farmers, and industries or central purchasing bodies and the producer organization is encouraged; local control of volumes marketed is even possible in the case of AOCs.

Even though the formulation of coordinated food quality policies that pursue both private and social benefits remains a significant challenge to the agri-food sector regulation, recent developments in the regulatory environment in France seem to be providing a wider range of opportunities for closer collaboration between public authorities and their regulatory agencies. After a form of aversion of the European

Union and some of its state members to the specific standards and forms of organisation that were born in France, examples of such public-private coordination as the quality labels that emerged in France (PGI, PDO, TSG...) are now enshrined in European Union law. Concerning the belated recognition by the European commission of collective and institutional solutions that emerged in France, we have to insist on the fact that this recent adoption by the European institutions coexists and is in tension with other tendencies that rather promote increasing individualization of risks (through the use of new insurance products for example). Concerning the specific subject of organic farming, for some commentators: as long as organic farming is only recognized as a set of techniques or a specific market and not as an innovative production system, it can not provoke any strong questioning of the mainstream agricultural model (Piriou, 2002).

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III GERMANY

Review and mapping of national (and regional/local) level policy and governance interventions in Germany to develop more effective food value chains

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Contents

III	GERMANY	292
III.1	Introduction	294
III.2	Provisions promoting fairer trading practices in the German food value chain	294
III.2.1	German regulations regarding 'Unfair Trading Practices (UTPs)'	294
III.2.2	The relation between German laws and core UTPs defined by EU	295
III.2.3	The nature of state involvement, law enforcement and penalties.....	297
III.2.4	Sectoral legislation for food related UTPs	299
III.3	Provisions promoting integrity in food value chains in Germany.....	299
III.3.1	Legal aspects.....	299
III.3.2	Enforcement of EU regulations	300
III.3.3	Responsible Organisations.....	301
III.3.4	Preventing fraud in the food value chain	303
III.4	German collaborative initiatives promoting sustainability in the food value chains..	304
III.4.1	Environmental sustainability	306
III.4.2	Social sustainability	311
III.5	Conclusion	312

Abbreviations

AA	Auswärtiges Amt (Federal Foreign Office)	DED	Deutscher Entwicklungsdienst (German Development Service)
AEUV	Arbeitsweise der Europäischen Union (English abbreviation=TFEU)	DIHK	Deutscher Industrie- und Handelskammertag (Association of German Chamber of Commerce and Industry)
ArbSchG	Arbeitsschutzgesetz (German Occupational Safety and Health Act)	EU	European Union
ArbZG	Arbeitszeitgesetz (Act on Working Hours)	GG	Grundgesetz für die Bundesrepublik Deutschland (German constitution)
AufenthG	Aufenthaltsgesetz (Residence Act)	GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (German Federal Enterprise for International Cooperation)
AVV RÜb	Allgemeine Verwaltungsvorschrift über Grundsätze zur Durchführung der amtlichen Überwachung der Einhaltung der Vorschriften des Lebensmittelrechts, des Rechts der tierischen Nebenprodukte, des Weinrechts, des Futtermittelrechts und des Tabakrechts (AVV Rahmen-Überwachung)	GTZ	Gesellschaft für Technische Zusammenarbeit (German Technical Cooperation Agency)
B2B	Business to Business	GWB	Gesetz gegen Wettbewerbsbeschränkungen (Act against Restraints of Competition)
B2C	Business to Consumer	inWEnt	Internationale Weiterbildung und Entwicklung gGmbH (Capacity Building International)
BGB	Bürgerliches Gesetzbuch (German Civil Code)	KrWG	Kreislaufwirtschaftsgesetz (Circular Economy Act)
BMBF	Bundesministerium für Bildung und Forschung (Federal Ministry for Education and Research)	LFGB	Lebensmittel und Futtermittelgesetzbuch (German Food and Feed Code)
BMEL	Bundesministerium für Ernährung und Landwirtschaft (Federal Ministry of Food and Agriculture)	LMBG	Lebensmittel- und Bedarfsgegenständegesetz (German Food and Feed Code)
BMJV	Bundesministerium der Justiz und für Verbraucherschutz (Federal ministry of Justice and Consumer Protection)	SchwartzArbG	Gesetz zur Bekämpfung der Schwarzarbeit und illegalen Beschäftigung (Act to combat illegal employment)
BMUB	Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit (Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety)	SME	small or medium sized enterprises
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (Federal Ministry for Economic Cooperation and Development)	TFEU	Treaty on the functioning of the European Union (German abbreviation=AEUV)
BWE	Bundesministerium für Wirtschaft und Energie (Federal Ministry for Economic Affairs and Energy)	UWG	Gesetz gegen den unlauteren Wettbewerb (Act against Unfair Competition)
		WTO	World Trade Organization
		ZDH	Zentralverband des Deutschen Handwerks (German Confederation of Skilled Crafts)

III.1 INTRODUCTION

The main aim of this report is to map the governmental regulations and initiatives concerning unfair trade practices, integrity in food value chains, and collaborative initiatives to promote sustainability in Germany. This report is an integral part of the analysis conducted in the WP3, Task 3.3 of the VALUMICS project, which aims at mapping the “best practice” intervention policies in selected EU Member States.

III.2 PROVISIONS PROMOTING FAIRER TRADING PRACTICES IN THE GERMAN FOOD VALUE CHAIN

Three different laws can be recognized for unfair trade practices (UTPs) in Germany. They are very general and cover all aspects of the economic activities. Not a specific regulation can be defined for UTPs in Germany for the food supply chains.

III.2.1 GERMAN REGULATIONS REGARDING ‘UNFAIR TRADING PRACTICES (UTPs)’

The Germany laws and regulations which are dealing with UTPs belong to the context defined by Act against Unfair Competition (UWG)⁶⁰⁷ for competition issues, Act against Restraints of Competition (GWB)⁶⁰⁸ for unfair competition issues and finally the Germany Civil Code (BGB)⁶⁰⁹ for contract issues. As we will see, each of these laws covers a part of issues defined by UTPs. These laws have historical background but we have only discussed the latest versions. The three laws mentioned above are for all type of business activities. They are not covering specific supply-chain or industry.

The UWG Act shall serve the purpose of protecting competitors, consumers and other market participants against unfair commercial practices. At the same time, it shall protect the interests of the public in undistorted competition (UWG, ch1, section 1). Therefore, it is at the same time business to consumer (B2C) and business to business (B2B). The UWG is originally a B2C law which covers different issues. It is majorly targeted products and services and the behaviour of producers or businesses with them. Nevertheless, it has aspects which are very relevant for B2B relation. This law is originally developed and adapted as a response to EU directive 2005/29/EC concerning unfair business to consumer commercial practices and some other directives from EU.

⁶⁰⁷ Act against Unfair Competition, [Gesetz gegen den unlauteren Wettbewerb (UWG)], last change 17.2.2016

⁶⁰⁸ Act against Restraints of Competition [Gesetz gegen Wettbewerbschrankungen (GWB)], last change 30.10.2017

⁶⁰⁹ German Civil Code [Bürgerliches Gesetzbuch (BGB)] originally issued on 18 August 1896, last change 20.07.2011

The GWB Act says that agreements between businesses (or economic enterprises), decisions by associations of businesses and coordinated behaviours which can restrict or distort competition shall be prohibited (GWB, part1, ch1, section 1). However, there are some exemptions for instance in agriculture (GWB, part1, ch5, section 28). Parts of this act is B2B relation and competition. The relevant parts for UTPs are sections 19-21.

The German civil code (BGB) is the central law for civil codification of the German general private law. The BGB regulates the legal relations between private persons. Therefore, it clearly separates itself from public law. The contract issues are defined in different parts of this law (section 242 and sections 305-311).

III.2.2 THE RELATION BETWEEN GERMAN LAWS AND CORE UTPS DEFINED BY EU

The Act against Unfair Competition (UWG)

The latest revision of UWG which is finalised at 17.2.2016 has 20 sections and one annex. Although this law does not mention the UTPs explicitly, the section 2 (1) and section 3(1) clearly reflects the concept of unfair commercial practices. First the commercial practice defined in 2(1) as:

“Commercial practice” shall mean any conduct by a person for the benefit of that person’s or a third party’s business before, during, or after, the conclusion of a business transaction, which conduct is objectively connected with promoting the sale or the procurement of goods or services, or with the conclusion or the performance of a contract concerning goods or services; “goods” shall be deemed to include immovable property as well, and “services” also rights and obligations;”

Later on the notion of unfair commercial practices defined in 3(1):

“Unfair commercial practices shall be illegal”

Sections 3-7 mention the obligations of businesses toward their consumers and competitors. Section three is specifically covers the consumer issues and the activities which should not be done by the businesses. These activities are reference as black list in its annex. Section 3a of this law clearly mentions that any act which breaks the laws in order to harmfully affect the consumer, markets participants and competitors are considered as unfairness and breaching the law. As we can see for instance here, this is not only B2B. It can be considered as law for UTPs practices.

Section 4 of this law is named “Protection of competitors”. This can be considered as B2B law and majorly target business protection against unfair practices. It covers more or less EU UTPs. This section considers assertion and dissemination of facts about the competitors which affect their business badly are unfair. Additionally, section 4a considers aggression (threatening, harassing, etc.) against the competitors unfair and illegal. Sections 5-7 announces that misleading commercial practices which can harm consumers and competitors are unacceptable.

Act against Restraints of Competition (GWB)

The Act against Restraints of Competition does not directly deal with the unfairness of trading practices as defined by EU. It prohibits anti-competitive agreements, the

abuse of dominant position and the abuse of economic dependence. In this extent, it goes beyond the scope of the EU UTPs by regulating the abuse of economic dependence which has a relevant impact on the market (CEP et al., 2014, p.169)⁶¹⁰. The sections 19-21 are the most relevant part of this law for the UTPs. Section 19(1) clearly announces that the abuse of a dominant position by one or several enterprises is prohibited. The magnitude of this abuse defined in the same section (GWB, sections 19-21).

Accordingly, German law does not regulate only the traditional “dominant position” which is also called “(absolute) market power”. It also regulates the “relative market power”. This is the situation in which an enterprise has a market power not with respect to all other market participants (like in the case of a dominant position), but only with respect to another enterprise that economically depends on it. This regulation of “relative market power” and its “reverse economic dependence” can be found in section 20 (2) of GWB. Section 20(2) of the GWB defines the concept of “dependence” and it prohibits unfair hindrance (German term: Behinderungsverbot) or discrimination (German term: Diskriminierungsverbot) established in section 1 of GWB for dominant enterprises, to enterprises having relative market power on small or medium suppliers or purchasers. In another word, this prohibition is built on the concept of “economic dependence”. It is defined as a situation where “small or medium sized enterprises (SME) as suppliers or purchasers of certain kinds of goods or commercial services depend on specific enterprises in such a way that sufficient and reasonable possibilities of resorting to other enterprises do not exist” (CEP et al., 2014, p.47).

The German civil code (BGB)

The BGB applies to all contracts and regulates, among others, the use of unfair terms. Sections 305-310 of BGB regulated the use of standard business relations. It must be mentioned that section 308 and section 309 of BGB transposing Directive 93/13/EEC on unfair terms in consumer contracts and containing a list of prohibited clauses. This two sections are only applicable to B2C relations (section 310 (1) of BGB).

German case law has developed the practice of using a breach against an example given in those law sections (308 and 309 BGB) as an indicator for the invalidity of the contract clause in B2B contracts. Considering the different classes of UTPs that are identified in the EU Green Paper⁶¹¹, several of UTPs may be covered by those provisions, especially in the light of the examples given by sections 308 and 309 of BGB. These include unfair transfer of commercial risk and lack of clarity in contractual offer.

Aside from the provisions governing the use of standard business terms, there are contractual obligations, deriving from the notion of **good faith** (German term: “Treu und Glauben”) in section 242 of BGB. This section forms out the general legal

⁶¹⁰ CEPS, EUI, & European University Institute. (2014). *Study on the legal framework covering business-to-business unfair trade practices in the retail supply chain*. Brussel. Retrieved from http://ec.europa.eu/internal_market/retail/docs/140711-study-utp-legal-framework_en.pdf

⁶¹¹ EU Green Paper on UTPs: <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52013DC0037>

principle of good faith. This principle defines a general presumption that contracting parties will deal in honesty, fairness and good faith to not harm rights of the other party, sets out a general clause. Thus, it is used to cover all those cases in which a certain specific regulations in the civil code do not apply. So in a case of an unfair practice in a contract or in negotiations of a contract one party may find section 242 BGB violated by the other party (where no else specific regulation applies) and can in the last resort use it in a court of law. Section 242 is also known as „gateway „clause, since it enables general and constitutional principles of fairness and dignity. These principles frame a civil law case indirectly in this way. In a contractual relationship between two parties, section 242 is used to spell out the principle of fair and honest behavior.

Section 311(2) of BGB which is the regulation of *culpa in contrahendo*⁶¹² is also relevant for certain categories of UTPs. These include the unfair use of information and unfair termination of a commercial relationship (CEP et al., 2014, p.170).

III.2.3 THE NATURE OF STATE INVOLVEMENT, LAW ENFORCEMENT AND PENALTIES

Generally speaking, in Germany several selected UTPs are addressed by legislation. However, only in the case of abuse of economic dependence and abuse of confidential information the national competition authorities (German Term: Kartellbehörden) can enforce the rules, also acting *ex officio* and collecting confidential complaints (CEP et al., 2014, p.47).

The Act against Unfair Competition (UWG)

Breaking or undermining of the UWG has civil and/or criminal legal consequences (UWG, section 8). The section 8 (3) defined the eligible claimer and their attributes. In the case of a breach of the UWG, Civil courts can order the payment of damages and imposing injunctions (UWG, section 9). Only the criminal courts have competence to impose administrative fines (UWG, section 13). The section 13(2) of this law has empowered the state's government to implement the court's decision. The government can transfer this power to state's department of justice.

Additionally, section 15 of UWG has allowed the conciliation board. The conciliation boards should be shaped at the Chambers of Industry and Commerce for the resolution of civil law disputes where a claim is asserted by virtue of UWG. This conciliation mechanism is not mandatory regarding to B2B disputes. The conciliation board makes a settlement proposal. If the parties agree with the proposed solution the outcome of this procedure is a settlement that is enforceable by law.

Act against Restraints of Competition (GWB)

The GWB is enforced by competition authorities (German Term: Kartellbehörden) which are defined by GWB section 48(1) are the Federal Cartel Office (German term: Bundeskartellamt) the Federal Cartel Office and its counterparts in the respective

⁶¹² Fault in conclusion of a contract.

federal states (German term: Länder), the Federal Ministry of Economics and Technology. The civil and criminal courts are also responsible organisations in case of legal proceedings concerning administrative fines. The competition authorities can start an investigation *ex officio* (GWB, sections 48-73). The administrative procedure allows, among others, for injunctions, declaring a certain behavior invalid, monetary penalties, damages, and skimming-off procedure to recover ill-gotten gains (CEP et al., 2014, p.171).

Confidential complaints in the form of information about anti-competitive behavior can be filed to the Federal Cartel Office (German term: Bundeskartellamt)⁶¹³. For reasons of competence of the Cartel Office, these complaints can only be of relevance if concerning antitrust law. Likewise, the cartel office can start investigations *ex officio* [Section 54 (1) GWB], though limited to the investigation of breaking of the GWB (CEP et al., 2014, p.172).

The German civil code (BGB)

The unlawfulness of contract term definitions or other action deemed UTPs according to the Civil Code is assessed though a dispute in the civil courts or by means of arbitration. The civil courts may prescribe remedies such as: renegotiations of an agreement, injunctions, invalidity of clauses, damages and restitution. In the specific case of unfair contract terms, the legal consequence is their ineffectiveness (CEP et al., 2014, p.171). The detail are as follow:

As it is mentioned before, sections 305-310 BGB are the regulations concerning general term and conditions of business. A party may refer to those provisions, if they are using a similar contract for several times. According to section 305 BGB, they can set out general terms and conditions of business which are part of their contract (if the other party accepts them). Although the practical advantage for companies is considerable, their allowance to form General Terms lies within the control and restrictions of sections 307-310 BGB. Parties are not allowed to use unfair methods of pricing, and they are especially not allowed to undermine the basic rights of every entity within the BGB, e.g. termination in an ordinary timeframe, make use of counterclaims (section 320 of BGB). The general terms are also restricted or must comply with the principle of good faith (section 242 BGB), which can be found in section 307 BGB.

If a conflict comes to a court of law, the judge may control, if the relevant terms of the General Term Sheet of one party has become part of the contract, or if some terms are unlawful with regard to the before mentioned general principles of civil law.

Furthermore, there is section 311 BGB setting out the rules for contractual obligations (section 311(1) BGB). It sets out that obligations do not only occur in a final conclusion of a contract, but also occur through the beginning of negotiations (section 311(2) BGB). Also third parties are in some cases included in the obligational connection between two parties (section 311 BGB(3)). With regard to UTPs, it can be noted that unfair practice is not only enforceable in a case of a concluded written contract, but violations and resulting compensation can often occur in ongoing negotiations.

⁶¹³ Federal Cartel Office: <https://www.bkms-system.net/bkwebanon/report/>

Example of law enforcement: Two parties are concluding an agreement and are using the General Terms of Business of Party 2. Party 1 feels violated through one provision under the General Terms and made financial loss because of it. So it files a suit against Party 2. It then has to prove that the provision in the General Terms is either not part of the contract pursuant to section 305 BGB (Because it may be e.g. a surprising or unfair clause) or if it is part of the contract, that it violated a right of Party 1 (e.g. an act against good faith, section 242) pursuant to section 307. If they successfully make this claim, they may have a claim on compensation for their financial loss, according to section 280 and 311 BGB.

III.2.4 SECTORAL LEGISLATION FOR FOOD RELATED UTPs

In German legal system there is no specific sectoral legislation addressing UTPs in the retail or food supply chain. The UWG, the GWB and the BGB apply to all the sectors of economy and none of them expressly defines UTPs or explicitly mentions the retail or food supply chain (CEP et al., 2014, p.172).

III.3 PROVISIONS PROMOTING INTEGRITY IN FOOD VALUE CHAINS IN GERMANY

The aim of this part of the report is to identify the main policies and governance actions at Germany or regional/local level within the Germany, that impact upon the operation and better functioning of food supply chains in terms of food chain integrity. Food chain integrity, **for the purposes of this report**, is defined as safety and authenticity in the food value chain, which reflects the need for products to be safe and to be exactly what they say they are, i.e. to not be misleading or fraudulent.

III.3.1 LEGAL ASPECTS

In general, according to Section 288 Treaty on the functioning of the European Union (TFEU; German abbreviation=AEUV), regulations are directly legally binding when passed by the legislator in Brussels. With other words, they are laws, which are applicable and binding in every member state of the EU, passed by the EU-legislator. They do not need to be transformed into domestic national law (like e.g. EU directives). Nevertheless, each country may also pass domestic legislation with even narrower rules, as long as they do not harm EU law.

III.3.2 ENFORCEMENT OF EU REGULATIONS

According to section 38 of the **German Food and Feed Code**⁶¹⁴ (LFGB) - the authority to determine the supervision of both, all EU Regulations on food safety and authenticity regulations (EU) (No 2017/625; 1151/2012; No 1169/2011⁶¹⁵; 852/2004) and domestic laws lies within the competence of the sixteen federal states in Germany, e.g. Bavaria, Lower-Saxony and Hamburg etc. According to section 70 of German constitution (GG)⁶¹⁶, the federal states have the right to pass their own legislation in accordance with general constitutional principles and in accordance with federal regulations. Also the federal states have the competence and obligation to supervise and enable the protection against risks for public security and order by law and law enforcement process (Section 84, GG). They therefore must build authorities and institutions to conduct and enforce laws. They are not only conducting and enforcing their federal state laws, but also federal national laws and especially EU-laws. The latter are implemented by the EU itself, but however, the EU itself has no legal entity to look after enforcement and is thus using the entities of their member states. And in Germany this responsibility lies within the federal states.

Although there is the possibility of sixteen completely different laws for public security matters, the laws of the sixteen federal states are based on the same national sample layout, so there can be found only slightly differences in enforcement proceedings. Furthermore, in terms of enforcement of the Food and Feed Code and related EU legislations the federal legislator passed the AVV (RÜb) Act⁶¹⁷, setting out central proceeding policies and rules in this field of law for all German authorities in every single federal state. The states still are entitled to organize themselves in their intended manner but the proceeding and the legal basis is nationally binding. Most of the federal states organized the control and supervision system in the following way:

As analysing the different rules and regulations of each federal state is out of scopes of this report, we summed it up at this point. The responsible organisations for law enforcement in different states in Germany are listed in next section.

⁶¹⁴ Lebensmittel- und Futtermittelgesetzbuch, https://www.gesetze-im-internet.de/lfgb/_38.html.

⁶¹⁵ on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004.

⁶¹⁶ Grundgesetz für die Bundesrepublik Deutschland, https://www.gesetze-im-internet.de/gg/art_70.html

⁶¹⁷ Allgemeine Verwaltungsvorschrift über Grundsätze zur Durchführung der amtlichen Überwachung der Einhaltung der Vorschriften des Lebensmittelrechts, des Rechts der tierischen Nebenprodukte, des Weinrechts, des Futtermittelrechts und des Tabakrechts (AVV Rahmen-Überwachung – AVV RÜb)
http://www.verwaltungsvorschriften-im-internet.de/bsvwvbund_03062008_3158100140002.htm

III.3.3 RESPONSIBLE ORGANISATIONS

The supervising head in each federal state is a competent ministry (mostly the ministry of Agriculture, Consumer Protection or Justice), sometimes supported by a subordinated state office for Consumer Protection. The control mechanisms, laboratories and staff for controls and enforcement are from the particular district administration. In most of the cases, there are veterinary and food hygiene authorities in each district and in all independent towns working on the law enforcement and on the support of local producers and retailers for food products. The head office is only evaluating and coordinating and de facto only comes into play, if a serious crisis arises. Then according to sections 23 and 24 of AVV Act, the authorities have to inform the federal state ministry and the federal ministry about any possible danger for far-reaching food and hygiene problems. Table 3.1 is the list of responsible organisations in each states for food integrity.

Table 3.1: The list of responsible organisations for enforcing the EU regulations on food integrity in Germany

Federal States	Responsible organisation:
Baden-Württemberg	Federal state offices (German term: Landkreisämter und Ämter der Kreisstädte) For crisis: State control team for food security (German term: Landeskontrollteam Lebensmittelsicherheit Baden-Württemberg, angesiedelt im Landesamt für Geoinformationen und Landentwicklung)
Bayern	Federal state offices (German term: Landratsämter und kreisfreie Städte), in Bayern additionally „Bayern state office for health and food security“(German term: Bayerische Landesamt für Gesundheit und Lebensmittelsicherheit)
Berlin	Veterinary and Health office (German name: Veterinär- und Gesundheitsämter der jew. Bezirke) Control and admission through state office of health and social affairs (German name: Landesamt für Gesundheit und Soziales)
Brandenburg	Federal state offices and health office (German term: Landkreise und kreisfreie Städte, Gesundheits- und Veterinärämter) Technical observation through agricultural ministry (German term: Fachaufsicht durch das Landwirtschafts- und Ernährungsministerium)
Bremen	Federal state offices and health office (Veterinär- und Gesundheitsämter der jew. Bezirke) Control and admission through: “Zulassungen und Aufsicht durch das Landesamt für Gesundheit und Soziales“

Hamburg	Office of health and consumer protection, regulation office, institute for hygiene and environment (German term: Behörde für Gesundheit und Verbraucherschutz; Unterstellt: Bezirksämter mit jew. Ordnungsämtern; Veterinär- und Einfuhramt; Institut für Hygiene und Umwelt)
Hessen	Health and Veterinary Office (German term: Landkreise und kreisfreie Städte ; Gesundheits- und Veterinäramt; meist angesiedelt im Landratsamt) Control and admission through consumer protection ministry (German term: Fachaufsicht durch das Hessische Verbraucherschutzministerium und drei Regierungspräsidien in Darmstadt, Gießen und Kassel)
Mecklenburg-Vorpommern	Federal state offices, Health and Veterinary Office (German term: Landkreise und kreisfreie Städte (Gesundheits- und Veterinäramt) If big casualties happen: State Crisis Centre (German term: Bei drohendem Schaden mit landesweiter Bedeutung: eingerichtetes Landeskrisiszentrum)
Niedersachsen	Federal state offices, Health and Veterinary Office (German term: Landkreise und kreisfreie Städte, Gesundheits- und Veterinäramt)
Nordrhein-Westfalen	The Ministry for Environment, Agriculture, Conservation and Consumer Protection (German term: oberste Landesbehörde ist für die Lebensmittelüberwachung das Ministerium für Umwelt, Landwirtschaft, Natur- und Verbraucherschutz; untergeordnet Landesamt für Natur, Umwelt und Verbraucherschutz) Control and admission through offices of food and veterinary offices (German term: Kontrolle durch Landkreise und kreisfreie Städte mit jew. Lebensmittel- und Veterinärämtern)
Rheinland-Pfalz	Federal state offices, Health and Veterinary Office (German term: Landkreise und kreisfreie Städte; Gesundheits- und Veterinäramt) Control by technical ministries (German term: Aufsicht durch Fachministerium)
Saarland	State office of consumer protection (German term: Landesamt für Verbraucherschutz, fungiert als Lebensmittel- und Überwachungsbehörde)
Sachsen	Federal state offices, Health and Veterinary Office (German term: Landkreise und kreisfreie Städte; Gesundheits- und Veterinäramt) Control by agricultural and food ministry (German term: Fachaufsicht durch das Landwirtschafts- und Ernährungsministerium)
Sachsen-Anhalt	Federal state offices, Health and Veterinary Office (German term: Landkreise und kreisfreie Städte; Gesundheits- und Veterinäramt)

Schleswig-Holstein	<p>Federal state offices, Health and Veterinary Office (German term: Landkreise und kreisfreie Städte; Gesundheits- und Veterinäramt)</p> <p>Control by agricultural and food ministry (German term: Fachaufsicht durch das Landwirtschafts- und Ernährungsministerium)</p>
Thüringen	Federal state offices, Health and Veterinary Office (German term: Landkreise und kreisfreie Städte; Gesundheits- und Veterinäramt)

III.3.4 PREVENTING FRAUD IN THE FOOD VALUE CHAIN⁶¹⁸

The main coordination body that deals with issues of food fraud in Germany is the Federal Office of Consumer Protection and Food Safety (BVL). The BVL acts as an official National Food Fraud Contact Point at the EU level.

There is a National Strategy to combat food fraud and it's based on the following elements:

- preventive action,
- improved evidence of manipulation by further development of analytical origin determinations,
- the strengthening of regulatory cooperation.

In order to make further improvements of the National Strategy, the Expert Advisory Council has been made in 2015. It consists of the representatives from the Federal Ministry of Nutrition and BVL. Beside these two main institutions, there are other Governmental institutions involved in the work of the Council:

- the Federal Criminal Police Office,
- the customs investigation service,
- prosecutors,
- the EU Commission,
- the Federal Statistical Office,
- as well as some federal states.

There was an initiative from the Federal State of Berlin that resulted in creation of a "Food Fraud" federal-state working group. Also in this body are various federal and state authorities – including the Federal Nutrition Ministry and BVL. This working group is also responsible for further improvement of the National Strategy.

⁶¹⁸ Information taken from the official speech of the Parliamentary State Secretary at the Federal Minister of Food and Agriculture, Dr. Maria Flachsbarth, at the opening of the BVL/European Commission, JRC Congress on Food Fraud (June 12-13, 201&).

There are several important institutions that contribute to the National plan of combating food fraud:

- Federal Institute for Risk Assessment. It aims at safety, authenticity and quality of food in order to ensure and protect the food chain from adulteration.
- National Reference Center for authenticity and integrity in the food chain - Max Rubner Institute.

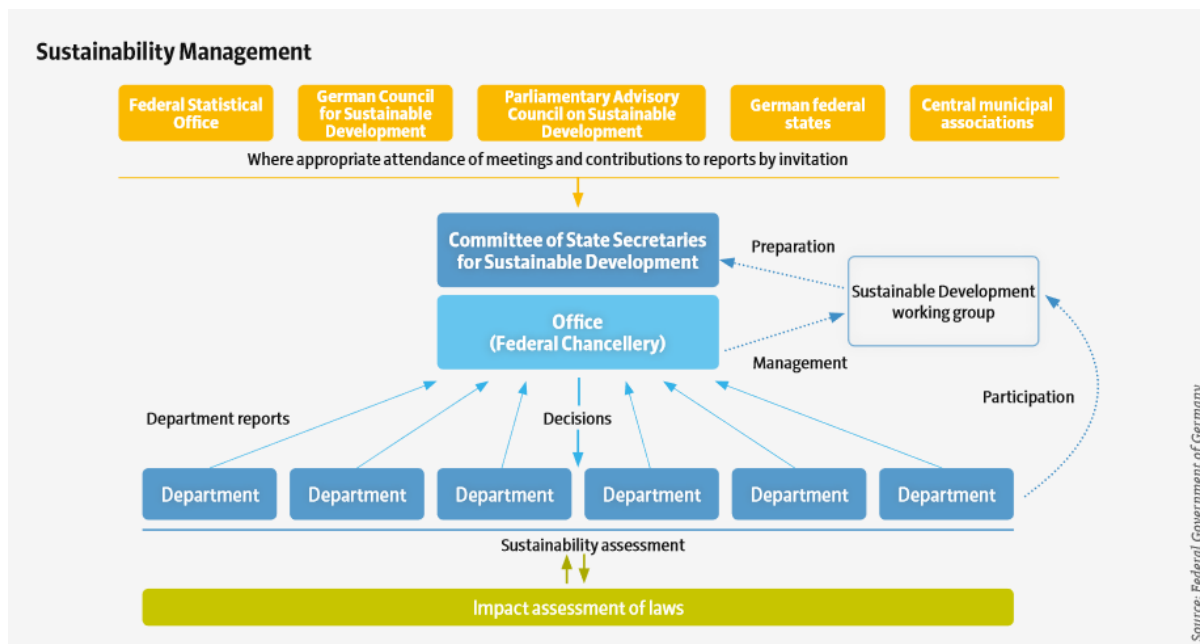
Selected approaches for combating food fraud in Germany:

- Media observation. With "BeoWarn" the BVL thwarts the media landscape according to current trends and topics with high fraud potential. The information collected is processed and disseminated to other federal states. The EU Commission also operates a media monitoring system, the so-called Medical Information System – Medisys, that Member States can access.
- As another way to detect action fields for food fraud, Germany uses the computer-aided data analysis. Statistical data - for example to obtain import quantities, price fluctuations, climatic changes or crop failures – can, after appropriate data processing, provide decisive signals of fraud. This program is developed by the Bavarian State Office for Health and Food Safety.

III.4 GERMAN COLLABORATIVE INITIATIVES PROMOTING SUSTAINABILITY IN THE FOOD VALUE CHAINS

Since 2002, sustainability (i.e. sustainable development) is a guiding principle of the policies pursued by the German federal government. The **National Strategy on Sustainable Development** defines all actions of the federal government at the national, European and international levels in all policy fields. The German federal government has implemented the sustainability concept in all of its legislative procedures. Namely, every draft legislation has to be evaluated in order to assess its possible impact on the sustainable development.

All matters connected to the national sustainable development strategy, any changes or updates, are directly managed by the federal Chancellery. Furthermore, the State Secretary Committee for sustainable development conducts regular monitoring and further develops the sustainability indicators set by the national strategy. All ministers of the federal government are obliged to submit individual reports on how their work complies with the national sustainable development strategy.



The work of the State Secretary Committee, and ministries, is further controlled by the German Council for Sustainable Development that conducts additional investigations if the initial assessment of the sustainability concept is done in a correct way. It consists of fifteen members from businesses, trade unions, churches, media, consumer unions, and environmental associations. The Council act as an individual governmental body and provides proposals on how the National Sustainability Strategy could be further improved. Besides the Council, the Parliamentary Advisory Council plays a significant role in creating concrete terms, provides recommendations, and represents the main contact point for discussing sustainability issues with other EU countries and the European Parliament. This governmental body accounts for 22 members and is directly reporting to the German Federal government.

The federal government closely cooperates with all sixteen individual federal states, where all federal Chancelleries (i.e. their sectoral divisions) are responsible for successful implementation of the National Sustainability Strategy.

In order to improve the implementation of the National Sustainability Development Strategy (on national and international level), the German government merged the three largest national technical cooperation institution (i.e. German Technical Cooperation Agency – GTZ, Capacity Building International – InWEnt, and German Development Service – DED) into one (i.e. German federal Enterprise for International Cooperation – GIZ). The special focus of the GIZ is on human rights, development partnership with the private sector, and strengthening the role of civil society.

III.4.1 ENVIRONMENTAL SUSTAINABILITY

III.4.1.1 National Programme for Sustainable Consumption

The National Programme for Sustainable Consumption was adopted by the German federal Government on February 24, 2016. This Programme was developed by the Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit - BMUB) together with the Federal Ministry of Justice and Consumer Protection (Bundesministerium der Justiz und für Verbraucherschutz - BMJV) and the Federal Ministry of Food and Agriculture (Bundesministerium für Ernährung und Landwirtschaft - BMEL). The National Programme for Sustainable Consumption is directly linked to the UN Sustainable Development Goals (i.e. Agenda 2030). The National Sustainable Consumption Network and the Sustainable Consumption Collaborative Centre (part of the Federal Environment Agency), are directly responsible for the implementation of the Programme.

The National Programme for Sustainable Consumption accounts for all relevant stakeholders such as businesses, commerce, civil society, the scientific community and academia, the media, local authorities and the public sector. The main aim of the Programme is to promote sustainability concept in everyday life and raise awareness of the impacts of sustainable consumption. Furthermore, it should enable cooperation between stakeholders related to sustainability issues.

Within the National Programme for Sustainable consumption, food sector is one of the six priority areas besides mobility, housing and households, office and work, clothing, tourism and leisure. Consumer information and research, as well as education, are sectors that are cross cutting the main six priority areas.

III.4.1.2 German SME Initiative Energy Transition and Climate Protection

The SME Initiative Energy Transition and Climate Protection is directly supported by the German Federal Ministry for Economic Affairs and Energy (BWE), General Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (BUNBR), The Association of German Chamber of Commerce and Industry (Deutscher Industrie- und Handelskammertag - DIHK), and German Confederation of Skilled Crafts (Zentralverband des Deutschen Handwerks - ZDH). The main aim of this initiative is to support German SMEs in implementing innovative solutions for switching to alternative energy sources and to provide know-how to the SMEs sector.

III.4.1.3 Cleaner Production Germany Initiative

The Cleaner Production Germany initiative is one of the leading contributors to the environmental technology transfer in Germany. The activities conducted by this initiative refer to the whole economy, and thus directly affect German agro-food sector as well. This initiative is directly supported (managed) by the German non-profit Environmental Agency dealing with environmental sustainability. This initiative

provided best practice examples in the field of waste management, air pollution control, sustainable mobility, and climate protection. There are numerous projects supported by this initiative and financed by the German Federal Ministry for Education and Research (BMBF). Some of the examples⁶¹⁹ are:

- “Foodstuffs: increased quality on the consumer’s plate”. This initiative accounts for several projects that combine traditional cultivation techniques with different biomolecular methods to produce qualitatively superior and more healthy foods⁶²⁰.
- “Flexible packaging without risk⁶²¹”

III.4.1.4 Food labeling

There are two groups of state regulated labels for food products in Germany. First, there are state labels that are not based on the certification system, but are regulated through the **Law against Unfair Competition (UWG)** and the **German Food and Feed Code (Lebensmittel- und Bedarfgegenständegesetz - LMBG)**. This group of labels contains information such as country of origin and list of ingredients. Second, there are state regulated labels that are provided through the certification process. The certification process could be entirely regulated by the state or the state sets the standards and requirements, and the certification process is done by the private sector. As an example, if some product should have a label that states that product is organic, the government relies on the private sector that should conduct the certification. Thus, government sets the general rules (standards), but it’s not conducting the certification process.

Examples:

- **Gastronomy Hygiene Barometer⁶²²:**

“The hygiene barometer shall inform consumers about the hygiene situation of a particular restaurant. The barometer will consist of a colour scale ranging from green, yellow to red like a traffic light. The colour scale shall be placed visibly at each restaurant entrance. Green stands for no or minor deficiencies, yellow for medium and red for serious deficiencies. The colour scale is supposed to represent the result of the latest and the last three hygiene controls by the competent local food inspectors. The hygiene barometer will at first only apply to restaurants. Eventually, the German conference of consumer protection ministers has indicated that the system will be extended to bakeries, butchers and food retailing. The hygiene barometer aims at providing more transparency for consumers”.

- **German organic production logo⁶²³:**

⁶¹⁹ More examples are available at the following link: <http://www.cleaner-production.de/index.php/en/>.

⁶²⁰ <http://www.cleaner-production.de/index.php/en/topics/energy-and-material-efficiency/food/5002-foodstuffs-increased-quality-on-the-consumer-s-plate>

⁶²¹ <http://www.cleaner-production.de/index.php/en/topics/energy-and-material-efficiency/chemicals/4988-flexible-packaging-without-risk>

⁶²² <https://www.twobirds.com/en/news/articles/2012/hygiene-barometer-0811>

“The Bio-Siegel constitutes an important step in the development of the organic market in Germany. The label may be used on a voluntary basis. The underlying standard set by the EU legislation governing organic farming as well as the waiving of further procedural steps such as the award or licensing procedures permit broad use of the label, even for products from other EU states and third countries. Community law does not allow a state label that goes beyond the standard set by the EU legislation governing organic farming”.

The legal basis for food labeling has its root in many political levels. On the general level, the **Codex Alimentarius** (e.g. Codex Standard 1-1985: General Standard for the Labeling of Packaged Foods) and **WTO** (TBT Agreement: non product-related processes and product methods) set some general standards and guidelines. At the EU level, there are some general food-labeling regulations (e.g. Food Information Regulation, Labeling Guideline, etc.) as well as specific (e.g. GMO law). Nevertheless, the food labeling requirements in Germany directly refer to the EU legislation (EU Regulation No. 1169/2011), applied from December 13, 2014. Furthermore. In Germany, there are also general (i.e. Food and Feed Code – LFBG) and specific (e.g. Additives Approval Regulation, GMO law, Finished Packaging Regulation, etc.) labeling regulations that are implemented on the national level (i.e. binding for all federal states). In addition, each federal state has additional optional labels (e.g. regional organic labels) that should be aligned with general regulations set by the federal government and EU regulations.

III.4.1.5 Food waste

Waste disposal in Germany is indirectly guided by the European regulations and directives. The key provisions of the German waste disposal law are related to the **EU Waste Framework Directive (2008/98/EC)**⁶²⁴ that sets the legal framework.

There are numerous regulations that only partially address the food waste issue mainly being focused on prevention, recycling and disposal of food. One of the policy documents that is currently in force is the **“Waste Prevention Programme of the German Government with the Involvement of the Federal Länder”**, implemented in July 2013, and based on the Germany’s first uniform national waste disposal act adopted in 1972. This programme is an integral part of the more general **Circular Economy Act (Kreislaufwirtschaftsgesetz, KrWG)**. The main aim of this programme was to reduce food waste by encouraging collaboration between public institutions and industry.

There are two main recommendations given by the German waste prevention programme that are directly targeting food waste (BMU, 2013)⁶²⁵:

⁶²³

<https://www.bmel.de/EN/Agriculture/SustainableLandUse/Texte/OrganicFarmingInGermany.html#doc381512bodyText9>

⁶²⁴ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (Waste Framework Directive), published in the Official Journal of the European Union No. L 312 p. 3, corrected Official Journal of the European Union No. L 127, p. 24.

A) Waste prevention measures in business

The main aim is to encourage mutual work of public institutions and businesses (e.g. industry, traders, retailers, etc.) to minimize food waste. Thus, the aim is to account for the whole value added chain, not only consumer behaviour towards waste.

B) Waste prevention measures related to consumers

The main aim is to raise the awareness of consumers concerning waste prevention.

There are three main measures recommended by the German waste prevention programme that directly refer to the food waste (BMU, 2013):

Measure 17: “Voluntary agreement with retail and gastronomy on training measures aimed at a more targeted supply of foodstuffs to shops and restaurants” (Addresses retail sector). Represents a voluntary agreement between the Federal Government and associations in retail and gastronomy, where associations and industry chambers are responsible for conducting training courses that will provide smart procurement strategies and reduce food waste in gastronomy and food retailing.

Measure 18: “Agreements between industry/trade and government agencies on waste prevention” (Addresses various types of companies”). Voluntary agreement between various Federal Ministries and industry associations or retail chains to set waste prevention targets (production waste, packaging waste, food waste, etc.).

Measure 28: “Concerted actions to prevent food waste” (Addresses food industry and retailers). Agreement between public institutions and industry/trade on reducing waste throughout production and entire value chain. The aim is to review existing guidelines on waste, trade regulations and standards and amend them where necessary.

It is important to know that all recommended measures are voluntary.

III.4.1.5.1 Green Dot (Grüne Punkt) labeling system for waste disposal

Image1: Green Dot Label

The Green Dot labelling system (www.gruener-punkt.de) was introduced in 1990 as a first dual system of waste disposal in Germany. It was developed as a parallel service to the existing public-sector waste disposal service, with an aim of collecting used packages and obtaining raw materials from them for achieving the close-cycle economy. Today, the



⁶²⁵ BMU (2013). Waste Prevention Programme of the German Government with the involvement of the Federal Länder. Federal Ministry of the Environment, Nature Conservation and Nuclear Safety, Bonn, Germany, July 2013.

Green Dot is the most widely used trademark worldwide, under the European Green Dot umbrella institution.

Source: Wikipedia.

III.4.1.5.2 German RETech Partnership for Recycling and Waste Management

German RETech Partnership represents a network of German companies and institutions that are involved in waste management and recycling industry. The main aim of this initiative is to export innovative ideas and know-how connected to waste management and recycling.

III.4.1.6 German law on disclosure of the social and environmental actions taken by the large companies

The German federal government introduced in 2017 the law that the large publicly traded companies are obliged to provide standardized and measurable information on how their activities impact society and environment. This law is directly responds to the **EU Directive (2014/95/EU)** implemented in 2014, where all member states supposed to implement such law in their national legislation, and is closely connected with already implemented **Sustainability Code**. The Sustainability Code is a transparency tool (about 20 criteria that should be included in non-financial reporting) developed by the German Council for Sustainable Development in 2011. The main aim of this tool is to empower companies to make their sustainability performance transparent and comparable. The latest update of this tool was done in 2014.

III.4.1.7 German Partnership for Sustainable Mobility

The initiative for Sustainable Mobility, the German Partnership for Sustainable Mobility, directly supported by the German Federal Ministry for Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung - BMZ) and Federal Ministry for Economic Affairs and Energy (Bundesministerium für Wirtschaft und Energie - BWE), provides the guidance for the sustainable mobility and green logistics to the German society. The German Partnership for Sustainable Mobility initiative provides a platform for exchanging knowledge and experiences between academia, businesses, and civil society in Germany and abroad.

III.4.1.8 German Water Partnership

German Water Partnership initiative is a network of more than 350 members from German water industry, research and associations. This initiative is directly supported by the Federal Ministry for Economic Affairs and Energy (Bundesministerium für Wirtschaft und Energie - BWE), Federal Foreign Office (Auswärtiges Amt - AA), Federal Ministry for the Environment, Nature Conservation,

Building and Nuclear Safety (Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit - BMUB), Federal Ministry of Education and Research (Bundesministerium für Bildung und Forschung - BMBF), and Federal Ministry for Economic Cooperation and Development (Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung - BMZ). The main aim of this initiative is to make the German engineering, know-how and expertise in the water sector easily available by focusing on the topics such as, water 4.0, industry water management, innovations, water and energy, and utility know-how.

I.2.1 SOCIAL SUSTAINABILITY

There is no explicit national regulation in Germany governing temporary or exploited labour in food value chains. There are two main governmental regulations important for the general labour market in Germany: the **German Occupational Safety and Health Act** (Arbeitsschutzgesetz, ArbSchG)⁶²⁶ and the **Act on Working Hours** (Arbeitszeitgesetz, ArbZG)⁶²⁷. Both regulations do not explicitly tackle the issue of labour exploitation. Furthermore, in contrast to many EU states, Germany does not have labour inspectors that would permanently monitor labour conditions.

The task of monitoring labour conditions is disseminated among different governmental institutions. For example, Occupational health and safety authorities have similar jurisdiction as the Federal police and make irregular checks if the employers respect the **ArbSchG** regulations. They work together with insurance companies and the Ministry of employment. The main jurisdiction of the Federal police, when it comes to labour issues, is to act according to the **Residence Act** (Aufenthaltsgesetz, AufenthG)⁶²⁸, and thus react in the case of illegal entry and smuggling of migrant workers that might be exploited. Furthermore, possible cases of trafficking of human beings for labour exploitation, including child trafficking, are prosecuted in accordance to the **German Criminal Code, Act to Combat Illegal Employment, and Law on Labour Leasing**.

The issue of undeclared work is regulated through the **Act to Combat Illegal Employment** (SchwarzArbG). This Act should ensure that foreign employees are legally staying in Germany and have the same conditions compared to German workers (ensuring that all social-security regulations are respected). There are also individual initiatives set by the German trade unions that deal with labour exploitation of regular and irregular migrants, such as **Fair Mobility** initiative funded by the German Federal Ministry of Labour and Social Affairs together with the European Social Fund, and the German Trade Union Confederation.

Third country nationals that intent to work in Germany are requested to get a special permit (visa) issued by the German Embassy. Once the visa is granted, the applicant has to register at the respective foreigners' authority office in one of the sixteen Federal states, depending on in which Federal state this person lives. After the registration, the International Placement Service at the Federal Employment Agency

⁶²⁶ German Occupational Safety and Health Act (www.gesetze-im-internet.de/arbschg/).

⁶²⁷ Act on Working Hours (www.gesetze-im-internet.de/arbzgf/).

⁶²⁸ Residence Act (www.gesetze-im-internet.de/englisch_aufenthg/index.html).

is granting the working permit. Nevertheless, the following conditions should be satisfied before granting the employment:

1. There is no legal obstacle to access the German labour market;
2. That the specific job offer really exist;
3. That there are no preferential employees available, and that working conditions are comparable with general domestic conditions described in **Residence Act and Social Security Code III**⁶²⁹.

The general issue of labour rights in Germany are also addressed through the national network of the UN Global Compact, the Global Compact Network Germany that was founded in 2002. This network works closely together with the Federal Ministry of Economic Cooperation and Development and Association for International Cooperation (GIZ). Overall, the main national contribution of this network is awareness rising and education concerning human rights, labour rights, environmentalism, and how to fight corruption.

III.5 CONCLUSION

From our Germany summary, there have been a number of policy initiatives that either address concerns raised by EU authorities (such as UTPs), or tackle policy problems domestically (such as the concept of “dependence” in GWB). However, it is not simple to track the application of these laws and regulations simply. There are multilevel institution in government and justice which are responsible for implementation of the regulation. Additionally, many aspects are the duty of federal states (Bundesländer).

Overall, there is no explicit Law or some legal Act in Germany that is exclusively referring to food supply chains. All legal regulations refer to the economy as whole and thus indirectly refer to food sector as well.

⁶²⁹ Social Security Code III (http://dejure.org/gesetze/SGB_III/284.html).

IV ICELAND

Mapping national level policy and governance interventions in Iceland to develop more effective food value chains

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Contents

IV ICELAND.....	313
IV.1 Introduction	315
IV.2 Iceland provisions promoting fairer trading practices in the food value chain.....	316
IV.2.1 Unfair Trading Practices	316
IV.3 Iceland provisions promoting integrity in food value chains	318
IV.3.1 Iceland provisions promoting food safety in the food value chains.....	319
IV.3.2 Iceland provisions promoting authenticity in the food value chains.....	320
IV.4 Iceland provisions promoting integrity in food value chains	323
IV.4.1 Social sustainability	324
IV.4.2 Food waste and food losses related initiatives	325
IV.4.3 Water usage in the Icelandic food and drink industry	327
IV.4.4 Sustainable Procurement	327
IV.5 CONCLUSION	328

Abbreviations

AOSH	Administration of Occupational Safety and Health	EU	European Union
B2B	Business to business	ICA	Icelandic Competition Authority (Samkeppniseftirlitið)
CA	Consumer Agency (Neytendastofa)	IMO	Icelandic Meteorological Organisation (Veðurstofa Íslands)
CAP	Common Agricultural Policy	MAST	Icelandic Food and Veterinary Authority (Matvælastofnun)
CFP	Common Fishery Policy,	UST	The Environment Agency of Iceland (Umhverfisstofnun)
DL	Directorate of Labour (Vinnumálastofnun).	UTPs	Unfair Trading Practices
EEA	European Economic Area		

IV.1 INTRODUCTION

There is currently no EU regulation directed specifically at business to business (B2B) trading relationships.⁶³⁰ However, there has been extensive debate over several years around ‘vertical’ supply chain relationships, in which the EU and MS have recognised that certain supply chain practices are detrimental to the interests of some supply chain partners, and these are occurring on a widespread scale. The EU has designated these as ‘Unfair Trading Practices’ (UTPs), and has noted that food supply chains are particularly vulnerable to them. By 2016 the Commission had arrived at a specification of the ‘core’ (or most frequently reported) UTPs, which are that:

- One party should not unduly or unfairly shift its own costs or risks to the other party;
- One party should not ask the other party for benefits of any kind without performing a service related to the benefit asked;
- One party should not make unilateral and/or retroactive changes to a contract, unless the contract specifically allows for it under fair conditions;
- There should be no unfair termination of a contractual relationship or unjustified threat of termination of a contractual relationship.⁶³¹

In the absence of EU regulation, MS have used various measures, such as provisions of Competition law, to tackle UTPs. According to COM (2016) 32 Final:⁶³²

Most Member States have addressed UTPs using a variety of approaches, most of them regulatory, and some based on self-regulatory initiatives among market participants ... out of the 20 Member States that already have legislation, 15 have introduced it in the last 5 years. A few more may consider legislation in the near future and some of the Member States have enhanced their older frameworks in the last 5 years (COM (2016) 32 Final p3).

The aim of this national report from Iceland is to identify good practice examples of national level policy interventions and governance initiatives that promote the operation and better functioning of food value chain in terms of the following

1. Fairer Trading practices in food value chains
2. Food Chain Integrity: Food Safety and Food Authenticity

⁶³⁰ The EU has in the past attempted to address a recognised power imbalance between primary producers and downstream operators via the Common Agricultural Policy (CAP) and Common Fisheries Policy (CFP). EU-wide rules on certain parts of the food chain have been introduced under the CAP, including the possibility for MS to require compulsory written contracts between farmers and processors or distributors, with possible obligation for first purchasers to offer farmers minimum contract duration. The reformed CAP and CFP also strengthen the position of producers in the supply chain by supporting the creation and development of producer organisations. The Common Market Organisation also includes elements which aim at reducing the bargaining power gap between farmers and other parties in the food supply chain in selected sectors (milk, olive oil, beef and veal, arable crops) (Source: COM (2016) 32 Final).

⁶³¹ Adapted from (COM (2016) 32 Final, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0032&from=EN>)

⁶³² COM (2016) 32 Final, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0032&from=EN>

3. Collaborative initiatives promoting sustainability in food value chains

These good practice interventions may stem from the EU regulations and governance initiatives, or may be in addition to these EU wide actions.

This information will be collated by UK partners in VALUMICS and mapped together with the information received from the other European partners in the project. The outcome of this mapping exercise, the 'best practice' interventions, will be analysed to inform Task 3.3 of the VALUMICS project, the policy characterisation of food value chain dynamics.

IV.2 ICELAND PROVISIONS PROMOTING FAIRER TRADING PRACTICES IN THE FOOD VALUE CHAIN

This section looks at a regulation or policies in Iceland that are linked to what the European Commission terms 'Unfair Trading Practices' (UTPs) and more broadly to promote fairer dealings along food value chains.

IV.2.1 UNFAIR TRADING PRACTICES

- **National regulation or state-led policy regarding 'Unfair Trading Practices'**

There is a specific law in place in Iceland called *Laws on business practices and marketing* (Lög um eftirlit með viðskiptaháttum og markaðssetningu L. 50/2008, 4. gr. 2005 nr. 57 20. maí <http://www.althingi.is/lagas/138b/2005057.html>). The law is an adaptation of DIRECTIVE 2005/29/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation (EC) No 2006/2004 of the European Parliament and of the Council ('Unfair Commercial Practices Directive')

UTPs are quite narrowly defined as marketing activities. They do not match the 'core UTPs' defined by the EU as the law is targeted against B2C activities. The little mention of B2B practices is focused on commercial activities, unfair competition and misleading marketing.

- **The involvement of the state in UTP**

The state is involved through the *Consumer Agency*, that is a governmental agency falling under the auspices of Ministry of the Interior. The Consumer Agency was established 1 July 2005 according to Act No 62/2005. The Consumer Agency is one of the governmental agencies in Iceland which is entrusted with market surveillance of business operators, good functioning and transparency of the markets with respect to safety and consumers' legal rights as well as enforcement of legislation

adopted by the Icelandic Parliament for protection of consumers' health, legal and economic rights.

- **What form does the measure take and how does it work**

The Consumer Agency, as the highest governmental authority has decisive power and can impose fines. Decisions of the Consumer Agency can be appealed to the judicial system.

- **How extensively has the law been used?**

When asked, a representative of the consumer agency did not recall a single case which fell under this definition of UTP, and he believed that such actions might fall under competition law.

Icelandic competition law is based on *Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty* and its main directive is listed as:

- fight against unfair barriers and restrictions on freedom of business
- fight against harmful oligopoly and competition barriers
- facilitate new competitors' access to the market

Competition law is enforced by the Icelandic Competition Authority. The objective of the Competition Act is to promote effective competition in economic activities and the Competition Authority is responsible for achieving the objectives of the Competition Act.

The role of the Competition Authority includes:

- To enforce the requirements and prohibitions of the Competition Act and, as applicable, Articles 53 and 54 of the EEA Agreement, and to permit exceptions pursuant to the Competition Act
- To decide on measures to be taken against anti-competitive behaviour of undertakings
- To monitor the development of competition and trade practices in individual market sectors in Iceland and to investigate the management and ownership relations between undertakings

The Icelandic Competition Authority (Samkeppniseftirlitið) was founded on 1 July 2005, when the Competition Act No. 44/2005 entered into force. Prior to that, the Icelandic Competition Authority was also responsible for the supervision of unfair business practices and market transparency. These tasks were assigned to the Consumer Agency pursuant to Act No. 57/2005 on the supervision of unfair trade practices and market transparency.

When asked, a representative of the *Icelandic Competition Authority* stated that although not explicitly stated as an objective of the competition act, the ICA could intervene in such matters that would fall under the EC definition of UTP if:

- 3) The agent in question had a dominant market position.
- 4) The contract or behaviour in question was deemed as anti-competitive.

The ICA has decisive power and can impose fines.

The ICA has also issued guidelines for the behaviour in supplier – retailer contracts, where special emphasis has been put on vertical competition restraints, loyalty programs, and price manipulation. These are not specific laws but rather best

practice explanations to reduce the chance of the specific behaviour to be found in breach of competition law.

IV.3 ICELAND PROVISIONS PROMOTING INTEGRITY IN FOOD VALUE CHAINS

The aim of this part of the report is to identify the main policies and governance actions in Iceland at national level, that impact upon the operation and better functioning of food supply chains in terms of food chain integrity. Food chain integrity, **for the purposes of this report**, is defined as safety and authenticity in the food value chain, which reflects the need for products to be safe and to be exactly what they say they are, i.e. to not be misleading or fraudulent.

Icelandic food safety and authenticity regulation is based on EC regulation No 178/2002 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety. Iceland has adopted **Reg. 852/2004⁶³³ on the hygiene of foodstuffs** via Reglugerð 103/2010

The following EC regulations and amendments have also been adopted:

EC nr. 853/2004, EC nr. 854/2004, EC nr. 882/2004, EC nr. 1662/2006, EC nr. 1664/2006, EC nr. 1666/2006, EC nr. 2074/2005, EC nr. 2076/2005.

The Icelandic Food and Veterinary Authority (MAST) is an inspection and administrative body and the Competent Authority (CA) in Iceland in the field of food safety, animal health and welfare, control of feed, seed and fertilisers, plant health and water for human consumption. MAST is responsible to the Ministry of Industries and Innovation and its primary roles include:

- Food safety legislation and control
- Control of primary production of animal products, including fish and fish products
- Control of meat processing and dairy plants
- Import and export control of all foodstuffs
- Supervision of domestic food control by municipal authorities

Iceland has implemented the EU legislation on veterinary matters, foodstuffs, feed and other food chain related issues. The obligations of Iceland, like other EFTA States which are parties to the EEA Agreement, include the application of this legislation by the Icelandic Food and Veterinary Authority (CA) and the municipal food control authorities (LCAs). With respect to the EEA Agreement, the Authority is the CA for the legislation applicable to Iceland in Annex I to the EEA Agreement, and

⁶³³ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0852-20090420&from=EN>

the food legislation in Chapter XII of Annex II to the Agreement. The same applies to the EEA legislation on water for human consumption.

MAST is responsible, in addition to veterinary and food services, inter alia, for services to individuals and businesses engaged in import and export. MAST is also responsible for the operation of several Border Inspection Posts (BIPs) for control of import of foods from third countries (non EEA States) and for the supervision of 10 independent municipal Environmental and Public Health Offices which are responsible for food safety controls at the retail level.

IV.3.1 ICELAND PROVISIONS PROMOTING FOOD SAFETY IN THE FOOD VALUE CHAINS

Reg. 852/2004⁶³⁴ on the hygiene of foodstuffs lays down relevant rules for food business operators that apply to all stages of production, processing and distribution of food and to exports. However, this Regulation **does not apply** to the **direct supply** by the producer to the final consumer **of small quantities of primary products** or to the supply by the producer to local retail establishments that then supply the final consumer.

- **What national (regional) rules or guidelines are there in Iceland for these short supply chains?**

Regulation 856/2016 deals specifically with low volume and short supply chains.

The purpose of the Regulation is to enable slaughterhouses, fish markets and small food companies to comply with hygiene and regulatory requirements in accordance with regulations. The provisions of the Regulation are in accordance with Regulation no. 103/2010 on the entry into force of Regulation (EC) No. No 852/2004 on food hygiene, Regulation no. 104/2010 on the entry into force of Regulation (EC) No. No 853/2004 laying down specific hygiene rules for food of animal origin and Regulation No. 105/2010 on the entry into force of Regulation (EC) No. No 854/2004 laying down specific rules for the organization of official controls on products of animal origin intended for human consumption, all with subsequent amendments.

- **What products do they concern?**

Meat, fish, eggs and dairy. Also, the regulation contains special provisions on the processing of certain traditional foods, i.e. smoked foods, fish dried outdoors and processing of shark meat.

- **How are they enforced and by what authority?**

The Icelandic Food and Veterinary Authority (MAST) is an inspection and administrative body and the Competent Authority (CA) in Iceland in the field of food, including food safety, control of primary production of animal products, including fish products, import and export control of all foodstuffs.

⁶³⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0852-20090420&from=EN>

IV.3.2 ICELAND PROVISIONS PROMOTING AUTHENTICITY IN THE FOOD VALUE CHAINS

Regulation (EU) No 1169/2011⁶³⁵ lays down rules **on the provision of food information to the consumer**. The Regulation allows for the adoption of **additional mandatory labelling particulars** for specific types or categories of foods with the aim **to prevent fraud, protect public health and the consumers and prevent unfair competition**.

Regulation (EU) No 1169/2011 has been adopted in its entirety through regulation: *Reglugerð nr. 1294/2014 um miðlun upplýsinga um matvæli til neytenda*. There are no additional national mandatory labelling particulars involved in the regulation.

However, of relevance for export of fishery and aquaculture products from Iceland to the EU are the CMO labelling requirements (e.g. origin, species, catching area etc.) according to **Regulation (EU) No 1379/2013** of the European Parliament and of the Council of 11 December 2013 on **the common organisation of the markets in fishery and aquaculture products**.

- provide for a new tool – production & marketing plans (see Commission implementing regulation (EU) No 1418/2013) – mandatory since 1 January 2014. These plans will help professional organisations with the day-to-day implementation of the Common Fisheries Policy's reform goals and allow them to manage their activities in a business-like and market-oriented manner.
- improves consumer information requirements, to help consumers make informed choices. These provisions, which complement regulation (EU) 1169/2011 on food information for consumers ("the FIC regulation"), apply since 13 December 2014. They do not change any of the terms of regulation 1169/2011.

Regulation 1379/2013 does not fall under the EEA agreement and has therefore not been implemented in Iceland, but companies need to fulfil the requirements for export to EU

- **How are they enforced and by what authority?**

The Icelandic Food and Veterinary Authority (MAST) is an inspection and administrative body and the Competent Authority (CA) in Iceland in the field of food

Regulation 1151/2012⁶³⁶ on quality schemes for agricultural products and foodstuffs allows Member States to maintain **national rules on optional quality terms** not covered by this Regulation, provided that such rules comply with Union law.

Regulation 1151/2012 does not fall under the EEA agreement and has therefore not been implemented in Iceland.

⁶³⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02011R1169-20140219&qid=1499181874277&from=EN>

⁶³⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02012R1151-20130103&qid=1499250059777&from=EN>

IV.3.2.1 PROMOTING AUTHENTICITY IN THE FOOD VALUE CHAIN

- **Are there national or regional rules on such optional quality terms not covered by Regulation 1151/2012 in your country?**

Regulation 1151/2012 on quality schemes for agricultural products and foodstuffs includes a request for a report by the European Parliament and the Council on the potential for a new **local farming and direct sales labelling scheme** to assist producers in marketing their produce locally. That report could be accompanied by appropriate legislative proposals on such a scheme if appropriate. The report⁶³⁷ (submitted in 2013) indeed included potential labelling options and recommendations. Although no further action has been taken on EU level since that report, it is likely that Member States may have taken relevant action on national level.

Regulation 1151/2012 does not fall under the EEA agreement and has therefore not been implemented in Iceland.

- **Are there any measures in your country for the labelling of locally produced food or for direct sales?**
- **What is the nature of the regulations?**

The use of the Icelandic national flag for marketing of products and services has been debated during the years, but finally a consensus has been reached and a new Act No. 28, 29. April 2016 has been enforced, amending the Act on the national flag of Icelanders and the national coat of arms, no. 34/1944, with subsequent amendments (use of the flag for the marketing of goods and services)⁶³⁸ as implemented by Regulation 618/2017⁶³⁹. The Consumer Agency is responsible for the surveillance and monitoring according to the new act.

The act clarifies the terms of application of the flag for marketing purposes. It is prohibited to use the flag as an identifier or logo for individuals or companies. However, the flag can be used in sales alerts, on packaging or advertisement of a product or service, only if the application includes marketing of goods where the physical raw material is of Icelandic origin, or if sufficient product processing takes place in Iceland, resulting in value increase, which implies that the product is to be considered as originating from Iceland.

However, products cannot be considered Icelandic in the case when the imported products are similar to characteristic products which are farmed or harvested in Iceland, for example from:

- farms, including products of farmed fish grown in Iceland,
- a product manufactured in Iceland in a garden farm, a greenhouse or a horticultural plant,

⁶³⁷ <http://ec.europa.eu/transparency/regdoc/rep/1/2013/EN/1-2013-866-EN-F1-1.Pdf>

⁶³⁸ Lög um breytingu á lögum um þjóðfána Íslendinga og ríkisskjaldarmerkið nr. 34/1944, með síðari breytingum (notkun fánans við markaðssetningu á vöru og þjónustu) <https://www.althingi.is/alttext/stjt/2016.028.html>

⁶³⁹ Reglugerð um notkun þjóðfána Íslendinga við markaðssetningu á vöru og þjónustu (Regulation on the use of Icelanders' national flag in the marketing of goods and services) <https://www.reglugerd.is/reglugerdir/eftir-raduneytum/atvinnuvega--og-nyskopunarraduneyti/nr/0618-2017>

- fish stocks of fish caught by Icelandic vessels within the Icelandic fishing zone.

It must be ensured that the country of production is clearly stated and that the declaration is made in conjunction with the use of the national flag so that consumers are not given false or misleading information about the production country.

Regulation (EU) No 2017/625⁶⁴⁰ on official controls to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products was recently published and **will apply from 14 December 2019**. Compared to the old Regulation on official controls (Reg. 882/2004⁶⁴¹) that it will replace, the new Regulation implements more specific rules to target fraud. Currently, and until this Regulation is fully applicable, it is likely that there are relevant initiatives on national level in different MS.

Regulation (EU) No 2017/625 does not fall under the EEA agreement and has therefore not been implemented in Iceland. The regulation is currently under review at MAST but no decision has been made to implement it to the EEA agreement.

Sheep farmers own initiatives on non-GMO in feeds have set up own labelling scheme linked to the “naturalness” of Icelandic lamb. This has resulted in local branding effort with creation of a special label “ICELANDIC LAMB Roaming Free Since 874” initiative⁶⁴².



- **National measures targeting fraudulent food practices in your Iceland**

MAST keeps a Facebook page (<https://www.facebook.com/neytendavakt/>) with the intent to function as a platform for consumer discussions and information sharing. The official purpose of the page is to:

- To enable consumers to avoid the consumption of dubious foods in the market.
- To guide consumers so that they can ensure food safety as far as possible.
- To enable consumers to make informed decisions about the choice of food.
- Receive tips from consumers about unsafe or fraudulent foods in the market.

MAST also has a whistle-blower interface on its website where consumers can post anonymous tips regarding either food safety or animal welfare.

⁶⁴⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0625&qid=1499181684969&from=EN>

⁶⁴¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0882-20170228&qid=1499181796978&from=EN>

⁶⁴² Initiative website, visited 18.10.2017, <https://icelandiclamb.is/>

IV.4 ICELAND PROVISIONS PROMOTING INTEGRITY IN FOOD VALUE CHAINS

The aim of this part of the report is to look at collaborative initiatives that promote sustainability along the food value chains at national level. The role of the state or its authorities must be visible in the enabling of the 'good practice' initiative – for example by state agency support or state department funding, or indeed state legislation.

Promote Iceland <http://www.islandsstofa.is/en/about>

Promote Iceland is a public-private partnership established to improve the competitiveness of Icelandic companies in foreign markets and to stimulate economic growth through increased export. The objective is to enhance Iceland's good image and reputation, to support the competitive standing of Icelandic industries in foreign markets, to attract foreign tourists and investments to the country, and assist in the promotion of Icelandic culture abroad.

Promote Iceland helps small companies make the most of the business opportunities in the European Economic Area and hosts the Iceland Responsible Fisheries program.

Logo of origin: Icelandic origin of fish catches in Icelandic waters and responsible fisheries management



Seafood from Iceland
for the benefit of future generations
www.ResponsibleFisheries.is

A different version of the logo is used to symbolise certification of fisheries and chain of custody certification. Both versions have been registered at the Icelandic Patent Office and in all important markets for Icelandic seafood in order to secure ownership of the logo as a registered trade mark.

The Iceland Responsible Fisheries logo indicates Icelandic origin of fish catches in Icelandic waters and responsible fisheries management. It refers to Icelandic origin and to the <http://www.fisheries.is/management/government-policy/responsible-fisheries/> in Iceland. The logo provides opportunities for stakeholders in the value chain of Icelandic seafood to highlight Icelandic origin. Icelandic fishing vessel owners, processing plants as well as other stakeholders in the value chain of Icelandic seafood products can apply for a permit to use the logo. The logo can be used on packaging of products produced from catch of Icelandic seafood or in advertisements.

The Certification Programme: The certification model is a robust, common sense, practical and cost-effective approach and allows Icelandic fisheries to meet the FAO

criteria for credible certification. This programme also utilizes a certifier who is accredited to the International Organization for Standardization (ISO) by an International Accreditation Forum member. The programme has received a recognition by Global Seafood Sustainable Initiative (GSSI). The result is a model that is practical, verifiable, transparent and incorporates the criteria and procedures outlined in the FAO Code and Guidelines.

Matarauður Ísland - Food Resource Iceland

Matarauður Ísland⁶⁴³ is an initiative of the Minister of Fisheries and Agriculture and has the first phase of the project's budgets until December 2021. The project is intended primarily to strengthen Iceland's image as a food producing country and to increase the focus on Icelandic food products, as well as to strengthen projects that promote food tourism and other job opportunities in connection with food supply across the country. Sustainable food policy according to UN goals will be the guideline. The initiative will involve different food related activities to motivate synergies and create value and diversified job opportunities. The project budget is ISK 80 million per year for 5 years.

IV.4.1 SOCIAL SUSTAINABILITY

Social sustainability in the context of this report will discuss the general labour market with a focus on the labour market according to **national regulation**. There is no specific policy in Iceland for temporary or exploited labour in food value chains.

The Icelandic labour market is based on the Nordic labour model, where the tripartite cooperation is fundamental to the model. It means employers and employees negotiate about wages and working conditions, while policies and measures are often shaped through dialogue with the social partners.

As an example, the state has set laws regarding minimum wage under the act on employee benefits and compulsory pension insurance (Lög nr. 55 1980, um starfskjör launafólks og skyldutryggingu lífeyrisréttinda) that state: "Salaries and other terms of employment are to be negotiated by the labour market organizations and shall be minimum terms. Contracts between individual employees and employers on poorer terms than the general wage settlements shall be null and void." But it is up to the labour market actors to negotiate the minimum amount for each field of work.

The state is involved primarily through two agencies, the Administration of Occupational Safety and Health (AOSH), and the Directorate of Labour (Vinnumálastofnun). The Directorate of Labour is responsible to the ministry of welfare and is tasked with the management of employment services as well as the day-to-day care of the Unemployment Insurance Fund, the Maternity / Paternity Leave Fund, the Wage Guarantee Fund and many other labour market related projects such as the posting of workers (Lög nr. 45 2007, um réttindi og skyldur

⁶⁴³ <https://mataraudur.is/>

erlendra fyrirtækja sem senda starfsmenn tímabundið til Íslands og starfskjör starfsmanna þeirra) in compliance with Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

The AOSH is an independent institution under the Ministry of Social Affairs. It's role is to prevent accidents and health damage in the workplace. The AOSH is responsible for enforcing the act on Working Conditions, Health and Safety in the Workplace No. 46/1980 (Lög nr. 46 1980, um aðbúnað, hollustuhætti og öryggi á vinnustöðum).

The purpose of this Act is:

- To ensure a safe and healthy working environment which in general is in accordance with the social and technical developments in society,
- To ensure such conditions that within the workplaces it is possible to solve safety and health problems in accordance with acts and regulations, in accordance with guidelines from employers and employees and in accordance with guidelines and instructions from the Administration of Occupational Safety and Health.

The act complies with Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work.

IV.4.2 FOOD WASTE AND FOOD LOSSES RELATED INITIATIVES

In 2014 A Working Group on food waste⁶⁴⁴ was set up in Iceland by the Ministry for the Environment and Natural Resources to formulate proposals for reducing food waste. The working group published a report focused on what food waste is and compiled a list of projects that have already been implemented in this area. In addition, the report contains suggestions for further initiatives, which include research on food waste in Iceland, education for consumers and awareness raising, storage and labeling of food, production, distribution and sale of food and food waste in supermarkets, restaurants and cafeterias.

A **policy on preventive measures for waste 2016-2027** (Saman gegn sóun - Almenn stefna um úrgangsforvarnir 2016 – 2027)⁶⁴⁵ was published by the Minister of Environment and Natural Resources.

Based on the report of the Working Group on Food Waste, nine focus areas have been prioritised, with an emphasis on adequacy, utilization and reduction of waste and focus on education to prevent waste. In 2016-2017 the focus area “**Food for wellbeing**” (Matur er mannsins megin) was prioritized, with a **focus on reducing**

⁶⁴⁴ Matarsóun – tillögur til úrbóta Starfshópur um matarsóun, apríl 2015

https://www.stjornarradid.is/media/umhverfisraduneyti-media/media/pdf_skrar/skyrsla-starfshops-um-matarsoun-22042015.pdf

⁶⁴⁵ Saman gegn sóun Almenn stefna um úrgangsforvarnir 2016 – 2027

https://www.stjornarradid.is/media/umhverfisraduneyti-media/media/PDF_skrar/Saman-gegn-soun-2016_2027.pdf

food waste, reduce greenhouse gas emissions, improve resource utilization and at the same time ensure food safety.

Measures already in place include various Nordic collaboration e.g. the Nordic project “Zero waste”; “United Against Food Waste Nordic” and The Nordic Council of Ministers focus on reducing food waste by half by 2020 (as of 2012)⁶⁴⁶. The results of the Nordic projects forming part of the Nordic Council of Ministers’ green growth initiative served as input to EU FUSIONS, a collaborative project that works towards a more resource-efficient Europe by significantly reducing food waste. The results of the Nordic and EU funded projects has motivated the establishment of the policy on preventive measures for waste in Iceland (645).

The Environment Agency in Iceland has been collaborating in Nordic and EU projects, for example in this context the FP7 funded EU project FUSIONS (Food Use for Social Innovation by Optimizing Waste Prevention Strategies)⁶⁴⁷. The objective was to combat food waste and perform food waste analysis in food value chains. **Environmental Indicators** have been proposed to assess average household consumption (data is available from Statistics Iceland), and amount of food waste collected, both separately and with mixed waste. (Adjusted for population and gross domestic product at constant prices).

Proposals for further measures include: education to the public, for example on more efficient buying of food, the treatment of food that promotes longer shelf life, assessing whether foodstuffs are consumable, shelf-life labels "use no later than" and "best before" and how to use leftovers. Further cooperative projects are emphasised on reduced food waste, e.g. with restaurants, other catering services, and retail.

Categories that will be emphasized over the long term include “**By-products from meat and fish processing**”, according to the policy of the Ministry for the Environment and Natural Resources on preventive measures for waste. Further utilizing by-products from the production of meat and fish into more valuable products, can reduce waste by more than 10,000 tonnes annually. In parallel with the reduced landfill of these waste, greenhouse gas emissions will be reduced. In the latter years, the trend has been to utilize better products of slaughtered animals, and enhanced growth has been in entrepreneurship on value added products from waste. This trend will surely continue, but it is considered necessary to support the initiatives further, for example, by reducing some legal barriers.

Environmental Indicators have been established on the quantity of fish waste sent for disposal (Adjusted for total catch) and amount of slaughtering waste sent for disposal (Adjusted for the quantity of meat products produced).

General measures already in place to meet the objectives of the policy include for example the Government’s strategy to reduce greenhouse gas emissions and Climate Action Plan 2010-2020.

⁶⁴⁶ <http://www.norden.org/en/news-and-events/articles/multiple-benefits-of-reducing-food-waste-in-the-nordic-region>

⁶⁴⁷ /www.eu-fusions.org

IV.4.3 WATER USAGE IN THE ICELANDIC FOOD AND DRINK INDUSTRY

The Icelandic Act on water (No. 20/2006) has been undergoing modifications deriving from impacts of the EU water framework directive⁶⁴⁸ that was taken up for implementation in 2008, and in 2011 new Icelandic law No. 36/2011 “Vatnatilskipun EB” on the management of water was followed by two regulations, no. 535/2011 for categorising and monitoring, and no. 935/2011 on management of water. The focus has been on protection groundwater, monitoring of water in nature and not much focused on usage of water by the food and drink industry. This relates to the abundance of water in Iceland and low cost of the water resource, resulting in high usage levels and limited interest in implementing measures to conserve water usage. However, with increasing attention on sewage generation from industry, which presents an increasingly awareness and cost issue, this may change in near future. This is as well impacted by law No. 55/2012 on Environmental Liability (derived from Directive 2004/35/EC) and this legal framework provides longer-term incentives for the food sector to modify its operational practices regarding water usage.

IV.4.4 SUSTAINABLE PROCUREMENT

The EU’s policy of moving towards Green Public Procurement has been considered in Iceland and a policy on ecological procurement and green government operations was approved by the Icelandic government in 2013 (VISTVÆN INNKAUP OG GRÆNN RÍKISREKSTUR -STEFNA RÍKISINS 2013 – 2016⁶⁴⁹). The policy deals with how to integrate environmental considerations into good procurement processes for state procurement and how public entities can make their business greener. In the parliamentary proposals on strengthening the Green economy, it is emphasized that the state becomes a model and creates conditions for a green economy, through ecological procurement and targeted environmental work. The policy of ecological procurement and green government operations is in the spirit of this, and is also based on the goals of sustainable development and procurement policy of the state. The policy on ecological procurement and green government takes on from the earlier policy on ecological procurement since 2009 and the older environmental policy in government operations since 1998.

⁶⁴⁸ ["Directive 2000/60/EC of the European Parliament and of the Council establishing a framework for the Community action in the field of water policy"](#)

⁶⁴⁹ VISTVÆN INNKAUP OG GRÆNN RÍKISREKSTUR -STEFNA RÍKISINS 2013 – 2016.
https://www.stjornarradid.is/media/fjarmalaraduneyti-media/media/skjal/vistvaen_innkaup_og_graenn_rikisrekstur.pdf

IV.5 CONCLUSION

The review in Iceland shows that in some aspects food regulations and governance initiatives follow the direction of EU food legislation due to the common European market requirements. Iceland is a non-member state of EU, but through the European Economic Area (EEA) agreement in place between EU and Iceland, Norway and Lichtenstein many of the EU food regulations are taken into laws and regulations in Iceland. However, the EEA agreement does exclude the Common Agricultural Policy (CAP), and Common Fishery Policy (CFP), and requirements arising from these framework policies are not considered to affect the EEA countries. This situation compounds domestic issues regarding how food legislation arising from EU should be implemented into the legal framework in Iceland, and to an extent slows uptake of actions that should be implemented due to the common market requirements, in particular if this concerns agricultural production and fisheries.

Iceland has a small population and has a small infrastructure on the public services front responsible for reviewing EEA relevant legislative requirements, and this places more responsibility on non-government stakeholders and organisations that either want to suppress rapid uptake of requirements to protect own “turfs” and businesses (e.g. farmers and distributors of farmed goods), while consumer groups and importers want a more rapid uptake to facilitate e.g. consumer protection or importation of Agri-goods like raw meat, eggs and milk.

This fragmentation and low capacity to follow through often places initiatives on NGOs, interested individuals, consumers, retailers or other stakeholders to carry forward initiatives to motivate policy makers to progress on legislative matters. Also, the Icelandic fishery sector is largely export orientated with EU as its main market region, which drives rapid uptake of customer countries legal requirements due to pressure from importers and retailers needing to provide goods meeting the local legal EU driven frameworks. This often precedes the national law making in Iceland, as the industry needs to adopt faster uptake than the national legislative framework can cope with.

V ITALY

Country Report – Italy – Emilia-Romagna region

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Contents

V	ITALY	329
	V.1 Introduction	330
	V.2 Fairer trading practices – National Regulation.....	330
	V.3 Fairer trading practices – Regional Regulation.....	333
	V3.1 Agro-food chain projects	334
	V.4 Integrity	335
	V.4.1 Food safety - National regulation	335
	V.4.2 Materials and articles intended to come into contact with food	336
	V.5 Food safety - Regional regulation	336
	V.5.4 Collaborative sustainability initiatives.....	340
	V.5.4.1 Environmental sustainability - National regulation.....	340
	V.5.4.2 Environmental sustainability - Regional regulation	341
	V.5.4.2.1 Cluster Agro-Food (regional).....	341
	V.5.4.3 Social sustainability - National regulation	342
	V.5.4.4 Social sustainability - Regional regulation	345

V.1 INTRODUCTION

The report identifies and explains Italian policies, regulations and initiatives that impact agro-food value chains. It includes examples of national and regional good practice, with specific focus on Emilia-Romagna region. The issues covered at fairer trading practices, integrity (food safety and authenticity), and environmental and social sustainability.

V.2 FAIRER TRADING PRACTICES – NATIONAL REGULATION

Art. 62 – Rules applicable to commercial transactions concerning the sale of farming and food products (Italian law decree n. 1/2012, art. 62, enacted by law no. 27/2012)

The article 62 deals with the following issues: Abuse of economic dependence/bargaining power, Lack of written contract, Lack of clarity in contract offer, Terms unreasonably imposing or shifting risks, Unfair breaking off of negotiation, Unfair contract termination (Source: DG MARKT/2012/049/E). According to the report 'STUDY ON THE LEGAL FRAMEWORK COVERING BUSINESS-TO-BUSINESS UNFAIR TRADING PRACTICES IN THE RETAIL SUPPLY CHAIN', the Italian legal framework goes much further than the SCI (Supply Chain Initiative - www.supplychaininitiative.eu) in terms of obligations, commitments and foresees clear and very strict sanctions". However, the same report states that "Article 62 is very controversial. One commentator indicated concern that the frequency at which retailer/supplier contracts are negotiated may prove impossible to satisfy the Article's drafting requirements". The article provides general legal provisions (comma 1 and 2), with a focus on perishable products (comma 3 and 4). The Anti-Trust Authority (Autorità Garante per la Concorrenza ed il Mercato) can impose fines (Law 24 November 1981, n. 689). The Anti-Trust Authority publishes annual reports with updates on the Law application. In 2015 there have been 2 controls in application of the article 62 - EUROSPIN and COOP ITALIA-CENTRALE ADRIATICA - and Coop Italia-Adriatica resulted not compliant with the regulation with a total fine of about 26,000 euro. No control related to Art.62 has been carried out in 2014 and 2016 according to the AntiTrust Authority Report.

The sanctions provided are the following:

- Comma 1 refers to Lack of written contract, Lack of clarity in contract offer, Terms unreasonably imposing or shifting risks. Fines vary from minimum 1,000 euro to maximum 40,000 euro, depending on the value of the goods. Another sanction is the nullity of the contract.
- Comma 2 focuses on Abuse of economic dependence/bargaining power. Fines vary from minimum 2,000 euro to maximum 50,000 euro, depending on the benefit obtained by the subject by not respecting the rule.

- Comma 3 focuses on respecting the terms of payment (30 days for perishable products, 60 days for the other products, term starts from the last day of the month in which the invoice has been delivered). Fines vary from 500 to 500,000 euro. Fine can vary according to the turnover of the company, the delay of the payment and the repetition of the delay of the payment.
- Comma 4 specifies which are the “high perishable products”.

Art. 9 and Art. 10. of Italian Law Decree 102/2005: Supply chain agreements and framework contracts for agro-food chains.

The Supply Chain Agreements (“Intese di filiera”) and Framework Contracts (“Contratti quadro”) for agro-food chains involve the representative organizations at national level in the sectors of the production, transformation, commerce and distribution of the agro-food products. The regulation also admits agreements involving the Inter-professional Organizations recognized in accordance with the article 12 of the national Law Decree 173/98.

The Supply Chain Agreements (Art. 9) aim to define:

- actions to improve the knowledge and the transparency of the production and the market and the coordination for the product placement on the market;
- contractual models compatible with European regulation to be used in the submission of cultivation, breeding and supply contracts;
- processes of valorization of designation of origin and geographical indications products and quality marks;
- information and research activities concerning the orientation of the agricultural production towards the demand and needs of the consumers, aimed to pursue conditions of equilibrium and stability of the market;
- production methods sustainable for the environment.

The Supply Chain Agreement are concluded in the context of the “Agro-food board” (Tavolo Agroalimentare, art. 20, law decree 228 of May 18 2001) involving the main representative organizations at national level in the sectors of the production, transformation, commerce and distribution of the agro-food products.

The “Framework Contracts” (Art.10) are undersigned by Producers Organizations and organizations of enterprises of processing, distribution and trading of agricultural products, in relation to single products and geographical areas. The Contract defines the product, the geographical area, the criteria and the general conditions that the parties commit to respect. Duration and the conditions of renovation have to be specified in the contract. The Framework Contract is more operative than the Supply Chain Agreement and pursues the objectives to develop trade markets, pursue conditions of equilibrium and stability of the market, guarantee security of supply, improve product quality (with particular respect to different territorial vocations and to environmental protection), and to reduce the fluctuations of the prices.

Three Supply Chain Agreements have been concluded so far, on the 21st of February 2016, involving the Interprofessional Organization of fruits and vegetables, concerning the sectors of oranges, apples and processing tomatoes. The Agreement

on processing tomatoes includes the quantity of product to be delivered to industry as raw material in 2006, a periodic analysis of the sector aimed to increase the competitiveness of all the stages of the chain, the valorization of certified local products and the criteria for traceability. After the Agreement, a Framework Contract has been undersigned by FEDAGRI (Confederation of Cooperatives) and UNAPROA (National Organization of Producers of Fruit & Vegetables, Citrus Fruits and Fruits in Shell) and then communicated to Mipaaf (National Ministry for Agricultural, Food and Forestry Policies).

Art. 66 (Law n.289/ of December 27, 2002): “Supply chain contract” and “District Contract”

The Mipaaf, in accordance with the National Ministry for Economic Development (Mise) promotes “Supply chain contracts” and “District Contracts” to support inter-professional investment programmes. The execution of these contracts is carried out through calls published by the Mipaaf.

The 4th call for the “Supply chain contracts” and “District Contracts” for the period 2015-20 has been published in 2016 by Ministerial Decree (n.1192 – 8/1/2016). <https://www.politicheagricole.it/flex/cm/pages/ServeBLOB.php/L/IT/IDPagina/9327>

One recent example of supply chain contract is from Barilla, big company headquartered in Emilia-Romagna, that signed an agreement with 50 suppliers (involving 5,000 companies) in 12 Italian regions (Lombardia, Veneto, Emilia-Romagna, Marche, Umbria, Toscana, Lazio, Abruzzo, Molise, Basilicata, Campania e Puglia). Through the agreement, signed in December 2016, Barilla commits to purchase 900 thousand tons of durum wheat from the Italian suppliers that undersigned the agreement, in the next three years, with a total investment of about 240 million Euro.

Art. 9, Law 18.6.1998, nr. 192, concerning subcontracting relationships in productive activities

The article 192 deals with the following issues: Refusal to negotiate, Unilateral modification clauses, Abuse of economic dependence/bargaining power, Unfair contract termination (source: DG MARKT/2012/049/E). This regulation applies to all productive sectors, including agro-food.

According to the last annual report of the Anti-Trust Authority (Autorità Garante per la Concorrenza ed il Mercato) the article has been applied for the first time in November 2016 in relation to terms of payment to suppliers by the multi-utility company HERA. The company had to pay a fine of 800,000 euro for having imposed 120 days as maximum term for the payment for several years.

V.3 FAIRER TRADING PRACTICES – REGIONAL REGULATION

“Criteria to recognize the regional agro-food producer groups and the Interprofessional Organizations (IO), in application of the Regional Law 24/2000” Regional Council Decision nr. 339 of March 14th, 2011

The Emilia-Romagna Region has defined criteria to recognize the Interprofessional Organizations (IO) (Organizzazioni Interprofessionali in Italian) on a regional level for all the agro-food segments in application of the Regional Law 24/2000. One of the objectives of the law is “to increase valorization of products in order to have an **equal distribution of the value among the subjects of the food chain**, considering the production costs”. The Interprofessional Organizations have to include companies from at least two of the three segments of the chain: production, processing/transformation and distribution. Members of the organization can come also from other regions.

The IO can develop common rules on production, define models of interprofessional agreements to be used among members, organize databases for programming production, make collective actions to promote their products, develop common services aimed at improving product quality and social and environmental sustainability.

At the moment there are 4 active IO, but only one (processing tomatoes of Northern Italy) is recognized by the European Commission.

- 1) I.O. Processing tomatoes of Northern Italy. Territories involved: Emilia-Romagna, Lombardia, Piemonte, Veneto, provincia autonoma di Bolzano. Based in Parma, recognized by the EC. Product: tomato for industry.

Activities recently carried out to support the food chain:

- Emergency fund of 123,000 euro for farms hit by the bacterium *Ralstonia Solanacearum*;
- Analysis of the contracts for supply of tomato;

- 2) I.O. Italian Pigs. Territories involved: Emilia-Romagna Region. Based in Bologna;

- 3) I.O. Pears. Territories involved: Emilia-Romagna, Veneto. Based in Ferrara;

- 4) National Association of Poultry and Rabbit Breeders (ASSOAVI - Associazione Nazionale Allevatori e Produttori Avicunicoli). Product: eggs. Territories involved: Emilia-Romagna, Lombardia, Veneto, Piemonte, Marche, Umbria. Based in Forlì.

This regulation is an integration with respect to the European Regulation n. 1308/2013 of the European Parliament (17th of December 2013) on the Common Market Organizations⁶⁵⁰ that operates via **Producers Organizations** supported by operational programmes.

⁶⁵⁰ **Single common market organisation (sCMO)** - A common market organisation is a set of measures that enables the European Union to monitor and manage, either directly or indirectly (via producer organisations supported by operational programmes), the markets of agricultural products. The rules are laid down in the regulation on the single common market organisation. The purpose of market management is to stabilise markets (in terms of quantity offered and purchased and the price

V3.1 AGRO-FOOD CHAIN PROJECTS

Emilia-Romagna Regional Government identified the “Agro-Food Chain Projects” (“progetti di filiera”) as a strategic tool inside the Regional Rural Development Plan 2014-2020 (RRDP). The “Agro-Food Chain Project” is defined as a set of activities that contribute to the production, distribution, marketing and supply of an agri-food product, from the basic agricultural production to the sales to the final consumer. The “chain project” foresees a specific agreement signed by a plurality of subjects (“direct beneficiaries” and “indirect beneficiaries”) linked to each other by constraints of a contractual nature and by mutual obligations and responsibilities. The projects have to respect one or more of the following priorities: environment, innovation, quality.

According to the Regional Resolution number 227 of 27/02/2017, the total resources allocated to the agro-food chain projects amount to Euro 135,800,000 - inclusive of European, national and regional resources - and subdivided into four RRDP Measures.:

- Measure 4.1.0.1 Financial incentives to support Investments in farms (mandatory). Available resources for chain projects: Euro 72,400,000
- Measure 4.2.0.1 Financial incentives to support investments in agro-industrial companies (mandatory). Available resources for chain projects: Euro 52,400,000 (see also paragraph 1.2.3)
- Measure 16.2.01 Pilot projects and innovation development (optional). Available resources: Euro 10,000,000
- Support for vocational training and skills acquisition (optional). Available resources: Euro 1,000,000

The Agro-food Chain Project has to include investments involving the Measures 4.1.0.1 and 4.2.0.1 (mandatory). The other two Measures are optional.

One example is the “Parmigiano Reggiano Chain Project” (evaluation of this project is still ongoing), involving about 30 agricultural companies that are partners of 10 dairy companies in a cooperative consortium. The project includes tangible investments in the production cycles of both the agricultural companies and dairy companies, and intangible investments in research, organizational innovation, technical assistance and training, if jointly developed.

Type of operation 4.2.01 Financial incentives to support investments of agro-industrial companies” (Emilia-Romagna Regional Rural Development Programme 2014-20)

The measure promotes the integration among the agricultural and agro-industrial segments sustaining the activities of processing, commercialization and development of new products. Beneficiaries: enterprises that develop activity of

at which transactions take place) and thus to ensure, on the one hand, that farmers do not suffer from excessively low prices and, on the other, that consumers have a secure supply of food at reasonable prices. Until 2007, the European Union operated 21 common market organisations which together covered around 90% of the output of farms. With a view to make things simpler, the European Union has amalgamated these 21 common market organisations into a single set, known as the single common market organisation. Source: https://ec.europa.eu/agriculture/glossary/single-common-market-organisation_en_it#glossary-c

commercialization and transformation of agricultural products. Beneficiaries have to demonstrate to have subscribed contracts with direct and indirect producers of agricultural products. Type of contribution: capital contribution amounting to 40% of eligible expenditure. The eligible expenditure of the project can vary from a minimum of 250,000 to a maximum of 5,000,000 euros if the application refers only to this measure of the RRDP. The eligible expenditure of the project can vary from a minimum of 100,000 to a maximum of 3,000,000 euros if the investment refers to an Agro-Food Chain Project involving more measures of the RRDP (see also the paragraph “Agro-food chain projects”).

Financing granted in 2016: € 69,516,987.00 for 72 applications accepted.

Good practices for the agro-food chain in Emilia-Romagna. Regional Regulation n.443, April 4 2011

In 2011 Emilia-Romagna Regional government approved a Regulation aimed at valorising good practices with a voluntary code of conduct proposed to the retailing companies for their own behaviour and for the selection of their suppliers. The code of conduct focuses on 4 principles: quality of products, environmental protection, food safety and rights of the workers, written contracts. The initiative strongly focused on the quality certified products of local origin. The code has been experimented for one year. The logo of the Emilia-Romagna Region has been added to two initiatives, by Coop Adriatica (“Territori Coop”) and Sigma Supermarket, in 2011-12, aimed at promoting local quality products.

V.4 INTEGRITY

V.4.1 FOOD SAFETY - NATIONAL REGULATION

Regulation on Food Safety at national level mainly refers to the European regulation. In Italy some specific regulation concerns particular aspects, such as: use of pesticides, food supplements, dyes, residues of veterinary drugs and contaminants, addition of vitamins, minerals and similar substances, materials and articles intended to come into contact with food. The last one (materials and articles intended to come into contact with food) mostly affects the food chain management. Regulation concerning Food Authenticity at national level identified in this report is related to Food Safety as well. See also paragraphs:

- Law D.L. 18 June 1986, n. 282, art. 10 founds the control body ICQRF - DEPARTMENT OF CENTRAL INSPECTORATE FOR QUALITY SAFEGUARDING AND ANTI-FRAUD OF FOODSTUFF AND AGRICULTURAL PRODUCTS
- Measure D.L. 15/09/2017 n° 145, G.U. 07/10/201 establishes the reintroduction of the obligation to indicate production factories on the label of packaged agro-food products.

V.4.2 MATERIALS AND ARTICLES INTENDED TO COME INTO CONTACT WITH FOOD

The national framework of the regulation concerning “materials and articles intended to come into contact with food” complies with the European regulation. However, some specific materials are regulated by national acts that integrate the European framework. One example is given by the use of disposable gloves in nitrile and latex, for which the regulation is not harmonized at European level. The national Ministry issued some clarifications on the use of this article (e.g.: communication of the Italian Health Ministry DGISAN n.0000798 - 13/01/2016).

V.5 FOOD SAFETY - REGIONAL REGULATION

Controlled Quality (Qualità Controllata - QC) - Regional Law 28 October 1999, n. 28. Valorization of agricultural and food products with techniques respectful for environment and consumers' health

The QC is a brand registered by the Emilia-Romagna Region. It can be used by companies working in the agro-food production, processing and distribution stages of the chain and that commit to respect a set of rules concerning quality from farming to the end consumer. The control system is in charge of accredited organizations that have the role to verify the correct application of the set of rules. The QC products can be beneficiaries of public grants provided for integrated production and quality products. There are about 140 agro-food companies that obtained the QC-Controlled Quality products certification (updated in January 2017) in Emilia-Romagna.



V.5.1 Regional Interministerial group for food labelling

The Emilia-Romagna region General Directorates of Health and Agriculture established an Interministerial group of experts and regional officials working in different regional ministers active in food safety and labelling. The group organizes seminars involving producers and consumers in different regional provinces. The objective is the dissemination of information to better understand and comply with the food labels. The results are published on the website <http://www.alimenti-salute.it> (in Italian) in the box that provides information about “Labelling” with respect to regulation, press release, training courses, nutritional/health information, guidelines.

Measures to promote consumption of healthy food according to the Regional Prevention Program “Build health” 2015 – 2018 for Emilia-Romagna” (based on the National Prevention Program 2014 – 2018, signed between the national state, the regions and the autonomous provinces)

Beneficiaries: general population with special attention to vulnerable groups of the population (low income, low level of education, foreign nationality)

Interest groups: public and collective catering, agro-food companies, local associations, hospitality institutes; the program uses a transversal multi-sector approach.

Main activities:

- Promote healthy menus in public catering services
- “Bread with less salt”: Initiatives to reduce salt in the diet for the prevention of cardiovascular diseases offering information, teaching and communication events aimed at bakeries and consumers
- Promote the use of iodized salt

The informed consumer: organize teaching and information initiatives to reduce food waste and to enable the consumer to read correctly food labels and nutrition information; help the consumer to make healthy food choices considering acceptable food prices; special activities for vulnerable groups of the population to make healthy food choices; initiatives for the general population to improve nutrition and to increase physical activity for disease prevention.

V5.2 Food Authenticity - National regulation

Law D.L. 18 June 1986, n. 282, art. 10 founds the control body ICQRF - DEPARTMENT OF CENTRAL INSPECTORATE FOR QUALITY SAFEGUARDING AND ANTI-FRAUD OF FOODSTUFF AND AGRICULTURAL PRODUCTS

Scope of the ICQRF is the protection of Italian agricultural products in Italy, the world and on the web against fraud, misuse, cases of Italian sounding and counterfeit products in detriment of “made in Italy” quality products, as well as the protection of consumers health and producers competitiveness against these unfair and unsafe trading practices.

ICQRF has been designated by the European Commission as Food fraud contact point for Italy and “ex officio” Italian Authority for PDO / PGI products. At national level, the central investigation unit and the *ex officio* unit coordinate the main actions in Italy, on the web and worldwide. Additionally, there are 29 regional offices. The ICQRF operates also on the web, on eBay, Alibaba and Amazon as a party (*owner*) entitled to protect the “name” of the Italian Geographical Indications.

The most affected agro-food sectors are the wine sector, followed by oil, milk and dairy and fruit and vegetables; most-known examples of products concerned are Parmigiano-Reggiano, Prosciutto di Parma, Prosecco and Aceto balsamico di Modena.

In 2016, ICQRF carried out 38,756 inspections and analysed 9,554 samples for a total amount of 48,310 controls. The operators controlled have been more than 25,000 and the products controlled have exceeded 53,000 units.

The ICQRF has by law the role of sanctioning authority for numerous infringements of Italian agro-food law. In 2016 the ICQRF forwarded to the judiciary 311 crime reports, and imposed 4,096 administrative sanctions. Furthermore, ICQRF

inspectors seized irregular agro-food products for a total amount of 13,000 tons with a commercial value of over 12.5 million Euros. In sectors, such as wine and olive oil, ICQRF carries out the largest number of anti-fraud controls in the world.

Focus on Italian sounding

“Italian sounding” stands for imitation of a product, a name or a brand giving the idea that the product is Italian when this actually is not the case. The difference to counterfeit products is that this kind of imitation cannot be legally penalized. The value of Italian sounding abroad is estimated to be around € 54 billion, according to Federalimentare, the food and beverage processors association for protection and promotion of Italian agro-food products.

Measure D.L. 15/09/2017 n° 145, G.U. 07/10/201 establishes the reintroduction of the obligation to indicate production factories on the label of packaged agro-food products.

Objectives of this measure is to guarantee that the consumer receives correct and complete information about the products origin and at the same time to improve traceability of agro-food products. The aim is to make food labelling clear and transparent giving the Italian agro-food chains a competitive advantage and assuring a more efficient protection of consumer health.

Companies are obliged to indicate the address of the production site, or if different, of the packaging site. Administrative sanctions vary between € 2,000 and 15,000. With this decree Italy is at the forefront concerning consumer health protection and traceability.

The measure concerns products of the following categories:

- tomato pulp
- milk and cheese products
- pasta
- rice

The most prominent examples are tomato pulp products and milk. For tomato pulp, the cultivation and packaging location has to be indicated; industry organizations are satisfied with this measure as it improves protection and competitiveness of Italian tomato products against counterfeit products made from Chinese tomato pulp, for example. Besides it fulfils consumers request for clear and transparent information.

Information to be indicated for tomato based transformed products:

- Country of origin of the cultivation of tomatoes.
- Country of processing of the tomatoes: EU countries, non EU countries, EU countries, non EU countries
- If all cultivation and production activities are carried out in Italy: “Origin of tomatoes: Italy”

Another example is milk: if the labelling states “origin: Italy”, it means the milk has been milked and processed in Italy. If these production steps occur outside Italy, this needs to be indicated clearly on the label.

Measure for the extraordinary promotion of Made in Italy and attraction of investments, adopted by decree of March 14 2015 from the Minister of agriculture, food and forestry policies and the Italian Trade Agency (ITA). In accordance with art. 30 of D.L. 133/2014 with modifications of L. 164/2014.

A unique logo for made in Italy products “The Extraordinary Italian Taste” has been developed as an institutional marketing instrument for promotion activities of Italian agro-food products through information and communication campaigns.

Owner of the logo are the Minister of agriculture, food and forestry policies and the Italian Trade Agency (ITA). The logo (see below) can be used by public bodies, associations, professional organizations, consortiums etc.



V.5.3 Food Authenticity (regional regulation)

Measure 3.1.01 “Regimes of quality of the agricultural and agro-food products” (Regional Rural Development Programme 2014-20 - Priority - COMPETITIVENESS - P3A)

Emilia-Romagna is the first region in Europe for number of PDO and PGI products (44), thanks also to the support of the Regional Rural Development Programme. The measure 3.1.01 of RRDP targets the agricultural and food processing actors of the production chains. The aim is to stimulate the subscription of new operators to the regimes of quality certification of the agricultural and food products, through financial contributions for the coverage of costs of certifications and analysis necessary for the subscription.

Beneficiaries: farmers, associations, and producers organization, inter-professional organization, consortium of PDO, PGI, STG products.

Type of contribution: 100% of the costs of participation, until 3,000 euros for company for the first 5 years of adhesion.

Financing granted in 2016: € 232,906.00 for 498 applications accepted.

Measure 16.4.01 “Cooperation for the development and the promotion of the short chain” (Regional Rural Development Programme 2014-20) – Priority COMPETITIVENESS – P2A

The measure promotes the creation and consolidation of aggregations, horizontal or vertical, to strengthen the commercialization of the productions on the “local markets” that has to be located at the maximum distance of 70 km from the municipality where the agricultural farm has the operational center.

Beneficiaries: consortium among farmers, producer organizations, association of producers organization and network of enterprises.

Type of contribution: capital contribution amounting to 70 % of eligible expenditure. The amount of the project can change from a minimum of 30,000 to a maximum of 50,000 euros.

V.5.4 COLLABORATIVE SUSTAINABILITY INITIATIVES

V.5.4.1 ENVIRONMENTAL SUSTAINABILITY - NATIONAL REGULATION

CL.A.N. National Technology Agro-food Cluster (national), Clust-ER Agro-food (regional)

National Technology Agro-food Cluster CL.A.N. is a multi-stakeholder network of the key national players of the entire agro-food chain - a partnership of companies, research centres and institutions set up to promote sustainable economic growth, based on research and innovation in the industry and acting as partner for Italian and European Institutions. CL.USTER A.GRIFOOD N.AZIONALE CL.A.N., in compliance with the Notice of MIUR of 2012 is promoted by Federalimentare - Italian Food and Drink Industry Federation, Aster - Consortium between Emilia-Romagna Region, Regional Universities, Research Bodies and Business Associations (President and Vice-President), together with Alma Mater Studiorum - University of Bologna, ENEA (both members of the Presidential Office of the Cluster) and the other 24 members of the Coordination and Management Body. Cluster CL.A.N. is a non-profit association with more than 80 members ranging from large, medium and small-sized enterprises, to universities and research centres, business associations, technological districts, nongovernmental organisations and other stakeholders active in the agro-food sector. The regional representation of the Cluster is equally significant. Eleven Italian regions have joined it⁶⁵¹.

Projects: SAFE&SMART, new enabling technologies for food safety and integrity of agri-food chain in a global scenario; SO.FI.A.⁶⁵², Sustainability of agri-food chain;

⁶⁵¹ The CL.USTER has been financed by the National Ministry of Education, University and Research with a call published in 2012 - <http://hubmiur.pubblica.istruzione.it/web/ricerca/bando-cluster-tecnologici-nazionali>. In addition, the Cluster includes 46 research centres, 14 territorial public authorities or regional development/innovation agencies, 33 agro-food companies (Barilla, Granarolo, etc.).

⁶⁵² The research project SO.FI.A aims to make a significant contribution to the sustainability objective of the national agri-food industry through the search for innovative technological solutions that affect the main production chains and which impact the entire production, processing and consumption cycle.

In specific:

- Adaptation to climate change: reduction of primary production losses through the selection of agricultural crops, precision agriculture and energy-environmental certification of the main national crops (cereals, viticulture, horticulture)
- Recovery and reuse of by-products and waste from agri-food transformations (fresh products from the IV range, wine industry, dairy and meat) for the production of high added value molecules, new products and energy recovery systems

PROS.IT, promotion of consumers health: valorization of the nutritional characteristics of the products of the Italian Tradition.

Web site: <http://www.clusteragro-food.it/en/>

A similar Initiative, “Clust-ER Agro-Food” has been carried out at regional level, promoted by ASTER and Emilia-Romagna Region. “Clust-ER Agro-food is a community of public and private actors, including research centers, companies and training institutes. The Clust-ER operates through working groups representing the value chains that are most important to the regional economy. For each value chain a manifesto has been drawn up laying down a strategic vision and objectives aimed at strengthening the value chain’s position in the international competition. The selected value chains for regional agri-food are: SOSFARM - Sustainable and precision farming; FoodQST - Quality, safety and traceability in processes, products and nutrition, SPES - Valorisation of by-products and waste in the agro-food sector⁶⁵³.

Green Public Procurement (The National Action Plan (NAP-GPP) for environmental sustainability of public administration consumption was approved by Interministerial Decree No. 135 of 11 April 2008 (G.U. No. 107 of 8 May 2008)

The NAP GPP aims to guide public spending towards: energy efficiency and savings in the use of resources, in particular the reduction of CO2 emissions, the reduction of the use of hazardous substances and the production of waste. The Plan identifies 11 categories of products and services of priority interest by volume of expenditure and environmental impacts, encompassing catering services management. The objective is to promote a minimal environmental impact.

V.5.4.2 ENVIRONMENTAL SUSTAINABILITY - REGIONAL REGULATION

V.5.4.2.1 CLUSTER AGRO-FOOD (REGIONAL)

See paragraph 3.1.1 - CL.A.N. National Technology Agro-food Cluster (national), Clust-ER Agro-food (regional))

Measure 16.1.01 “European Innovation Partnership (“EIP”) for agricultural productivity and sustainability” (Emilia-Romagna Regional Rural Development Programme 2014-20 - Priority – Knowledge and Innovation)

This initiative sustains the management and the realization of the plans of EIP with concrete solutions thanks to the innovation and to new technologies.

- New methods of food processing and innovative treatments for their preservation in order to increase the overall sustainability of the agri-food chains and reduce waste
<http://www.clusteragrifood.it/it/attivita/progetti/so-fi-a.html> (in Italian)

⁶⁵³ In these projects a number of public and private bodies cooperate. The partners are 36 innovation centres (some with the involvement of public bodies) and 3 private companies.

Beneficiaries: European Innovation Partnership ("EIP") for agricultural productivity and sustainability, constituted by subjects as farmers, researchers, advisors and entrepreneurs of the agro-food sector.

Type of contribution: "global grant".

Financing granted in 2016 and 2017: € 17,695,287.00 for 87 applications accepted.

***Green and social public procurement initiatives in Emilia-Romagna region
Establishment of a e-Procurement Agency (Intercent-ER) with Regional Law nr. 11 of 2004***

Intercent-ER is the Agency for the development of the telematic markets. It manages the aggregate purchasing system of public administrations in Emilia-Romagna, with the aim of rationalizing the spending and favouring, through the use of an advanced e-procurement system, the matching between the public demand for goods and services and qualified suppliers.

The Agency pursues "qualitative" objectives, promoting, for example, the environmental and social sustainability of the companies and encouraging experimentation and competitiveness among economic operators, with over 50 agreements activated which have provided for the inclusion of social and environmental criteria as minimum requirements for supply or reward factors in the evaluation of offers.

V.5.4.3 SOCIAL SUSTAINABILITY - NATIONAL REGULATION

Law 29 October 2016 no. 199. "Provisions to counter the phenomena of undeclared employment, of exploitative labour in agriculture and the realignment of wages in the agricultural sector concerning illegal labour market in agricultural sector" (Published in Italian Official Gazette no. 257 of 3 November 2016)

The main amendments introduced by the legislative action aimed at countering the so-called 'gangmaster system' include:

1. the reformulation of the criminal offence of "Unlawful intermediation and labour exploitation" punishable under article 603 bis of the Italian Criminal Code;

Following the amendments, the provision provides sanctions (with imprisonment from 1 to 6 years and a fine ranging from 500 to 1,000 euro for each recruited worker) for:

- the illicit conduct of the so-called 'gangmaster', which according to the current wording includes the recruitment of labour on behalf of third parties, under exploitative conditions, taking advantage of the state of need;
- the conduct of the employer who uses, hires or employs workers recruited in the manner referred to above. The law provides a more severe penalty

(with the application of imprisonment from 5 to 8 years and a fine of 1,000 to 2,000 euro for each worker recruited), in relation to ‘gangmastering’ committed with violence and threats (paragraph 2). Finally, the reformulated offence continues to provide for (paragraph 3) the enumeration of some symptomatic indices of worker exploitation, as well as three specific aggravating circumstances of the crime (under paragraph 4), increasing of the sentence from a third to a half;

2. the introduction of the offence of ‘gangmastering’ among the predicate offences pursuant to Legislative Decree no. 231/2001.

The offence of “Unlawful intermediation and labour exploitation”, recalled in article 25 quinquies, paragraph 1, letter a) of Legislative Decree no. 231/2001, in case of commission of the crime in the interest or to the advantage of the company, providing for the application of administrative fines ranging from 400 to 1000 quotas: in the corpus of Legislative Decree 231, the reinforcement of the criminal action in relation to the employment terms and conditions, previously limited to the repression of the offence of employing illegal workers under article 25 *duodecies* of Legislative Decree 231/2001;

3. the precautionary measure of judicial control of the company in the criminal proceedings in relation to the crime of ‘gangmastering’ (article 3 of Law no. 199/2016).

- replacing seizure pursuant to article 321, paragraph 1, of the Italian Criminal Procedure Code, in the case that the interruption of business could have negative consequences on employment levels or compromise the value of the company

4. the introduction of the mitigating circumstance consisting in cooperation with the Authority and mandatory confiscation, also of equivalent value.

Particularly, new provisions under articles 603 bis 1 and 603 bis 2 of the Italian Criminal Code introduce:

- a new special mitigating circumstance (with reduction of the penalty by one third to two thirds), in the case of collaboration with the Authority, aimed at preventing further consequences of the criminal activity and/or to secure evidence of the crime and/or the identification of other individuals responsible for the crime and/or seizure of sums/other transferred assets;
- (in the case of conviction or plea bargain), the obligatory confiscation, also in the equivalent form, of the things that were used or were intended to be used to commit the offence and constitute the price, product or profit of the crime, except when such things which belong to a third person unrelated to the offence (in any case, without prejudice to the injured party’s rights to obtain restitution and compensation for damages);

5. the inclusion of article 603 bis of the Italian Criminal Code among the offences for which extended confiscation is provided pursuant to article 12 of Decree no. 306/1992 converted with modification in Law. no. 356/1992.

To the offence of ‘gangmastering’, both with a conviction or plea bargain, the obligatory confiscation of money and/or goods and/or other benefits, with unjustified

origin, that the convicted person, even though a natural or legal person intermediary, who turns out to be the owner or to have access to, in a disproportionate value to his income (declared for income tax) or economic activity, is applied;

6. the mandatory arrest for the hypothesis of unlawful intermediation and labour exploitation committed with violence and threats.

The new law has introduced the offence of 'gangmastering' committed with violence and threats (provided by article 603 bis, paragraph 2) among the criminal offences referred to in article 380 of the Italian Criminal Procedure Code, in relation to which the mandatory arrest upon the act of the crime it is provided for (article 380, paragraph 2, new letter d.1).

The national law contains new provisions on illegal labour market combating all forms of exploitations. It reformulates the art. 603 bis of the Italian Penal Code about 'black employment' and exploitation, providing an increase of the punishment by imprisonment of between one year and 6 years and a penalty of 500 to 1.000 euros for each of illegal workers employed.

Network of the agricultural work of quality - Art. 6, DL 91/2014, and modified by Law no. 116/2014 concerning the reorganization of the agricultural sector. (Published in Italian Official Gazette no 144. 24-06-2014)

It is an initiative launched by Institutions – INPS (National Social Welfare Institution), Ministry of Agriculture and Ministry of Justice – created to reinforce enterprises by contrast irregularities and critical aspects that characterize the working conditions in the agricultural sector. The farmers who can apply to the network have to meet the following requirements:

- a. not to have criminal proceedings for violations of the legislation on work and social legislation and with respect to taxes on income and on the added value;
- b. not to have administrative sanctions over the last three years for the breaches referred to in point a;
- c. be in good standing with the payment of social security contributions and insurance premiums.

The aim of the network is to ensure a sort of quality certification of not utilization of undeclared work. The establishment of the "network of the agricultural work of quality" also aims at optimizing resources in the field of inspection activity. In fact, the Ministry of Labour and INPS (National Social Welfare Institution) will guide the activities of vigilance against companies not belonging to the network, except in cases of:

- request for intervention from the worker, the trade unions, by the judicial or administrative authorities
- farmers who have criminal proceedings for violations of the legislation on labour and social legislation, collective contracts, workplace safety, and measures relating to the income tax and VAT.

The network has been open to applications from the 1st of September 2015. About 2,870 companies have been included so far (updated the 15th of November 2017).

Food waste – Law 166/2016 September 14, 2016 “Donation and distribution of food and pharmaceutical products for the purpose of social solidarity and to reduce food waste” (Donazione e la distribuzione di prodotti alimentari e farmaceutici a fini di solidarieta' sociale e per la limitazione degli sprechi)

The law defines the mechanisms how to donate remaining foodstuffs to public private bodies which in return are obliged to distribute these products to people in need, or if they are not usable anymore for consumption, to use as animal feed or for compost.

Products that can be donated:

- agricultural products and foodstuffs that remain unsold or are taken off of the value chain for commercial or aesthetic reasons or because they are close to expiration date.
- Foodstuffs which have passed the minimum conservation time provided that packaging is undamaged and preserving conditions are suitable.

The law has its beginning in the so-called Pinpas, the National prevention program against food waste (Piano nazionale di prevenzione degli sprechi alimentari) from February 2014. After this first program numerous initiatives originated all over Italy aimed at reducing food waste. Furthermore, the program launched the elaboration of specific regional laws in at least 15 Italian regions.

The law 166 / 2016 recognizes to a large extend proposals elaborated in consultation with the main stakeholders since the Pinpas was summoned. Stakeholder from organized retail distribution are satisfied and appreciate especially the procedures the law establishes without imposing obligations or sanctions.

V.5.4.4 SOCIAL SUSTAINABILITY - REGIONAL REGULATION

Regional Law 4. Nov 2002, n. 29, Program Regional Council 20 April 2017, nr. 494 “Program for consumption orientation and nutrition education and for the qualification of collective catering services” for the three-year-period 2017-2019

Main focus lies on promoting knowledge about the regional agricultural territory, rural livelihoods and agro-food traditions, as well as sustainability concepts. Furthermore, it promotes education on healthy food choices and organic products. The projects have an interdisciplinary approach involving nutritionists, agronomists, regional and local public bodies, communication experts, etc.

Agriculture and food productions are of very high socio-economic and environmental value for Emilia-Romagna Region. Regional politics focus on strengthening regional products with regulated quality certification. These product groups are the following:

- 1) The QC brand (QC Qualità Controllata) (see also chapter 2.1.1)
- 2) PDO and PGI products (see also chapter 2.3.1)
- 3) Organic products (Reg. (CE) n. 834 del 2007, Reg. (CE) n. 889 del 2008, D. Lgs. 220 del 17 marzo 1995, Regional Law nr. 28 del 2 August 1997): regional initiatives promote organic production which results in a growing number of organic farms (2014: 3,876 and 2015: 4,165) and companies

- engaged in processing and sales of organic production (900 units in Emilia-Romagna)
- 4) Integrated production with QC brand (Regional Law nr. 28 of 28 October 1999), sustainable agricultural production system reducing application of chemical products safeguarding the environment as well as health of agricultural workers and consumers. Products cultivated under integrated production guidelines are valued by receiving the QC brand (Regional law n. 28/99. see 2.2.1). Furthermore, large-scale retail distributors use the integrated production requirements to set up their private label standards
 - 5) Traditional products: for Emilia-Romagna there is a list of 387 products. Aim is to support brands connected to the regional territory concerning cultural aspects, local identities, and traditional production methods. These products need to have a production history of at least 25 years.

Operation 16.9.02, Measure 16 of the Regional Rural Development Program 2014 – 2020 “Promotion and implementation of nutrition education services and education on sustainability”

Regional Law n. 4 from 2009 gives teaching farms a formal recognition. Teaching farms are an approved instrument to develop multifunctional farms and for the orientation of consumers to healthy and sustainable food choices as well as a valuation of the local agricultural territory and production.

Regional Law nr. 27 / 2009 “Information and education program on sustainability from Emilia-Romagna Region for the period 2017-2019”

Objective is to orient food and lifestyle choices towards sustainability concepts. Initiatives are:

- Collaboration on biodiversity projects with education and regional communication campaigns promoting the World Biodiversity Day;
- Promoting consumer and producer networks to value short food supply chains, for example food purchasing groups and farmers markets
- Improve knowledge of typical local agricultural products
- Sustainability in the sense of valorisation of cultural diversity and as an instrument for integration.

Regional Law nr. 19 of 23 July 2014 on “Norms for promotion and support of a solidarity economy”

The intention of this norm is to promote the creations of networks fostering the solidarity economy. For this scope, three regional initiatives have been promoted:

- 1) Regional Forum for solidarity economy (Forum regionale dell'economia solidale),
- 2) Permanent regional table for the solidarity economy (Tavolo regionale permanente per l'economia solidale),
- 3) Observatory for the solidarity economy (l'Osservatorio dell'economia solidale).

Supporting measures concern the following focus areas:

- Local traditional agriculture, organic and biodynamic agricultural production
- Solidarity food purchasing assemblies (Gruppi di acquisto solidate - GAS)
- Guarantee of foodstuff quality
- Local agriculture: small farms with diversified production and short supply chains with direct sales from farmer to consumer
- Identify procedures and necessary requirements to allow transformation of some of the agricultural production allotted to direct sales on the farms
- Research and innovation in organic and biodynamic cultivation and rearing and alternative veterinary medicine
- Soil use for agricultural purposes as a way of preserving biodiversity enabling also social value creation by programs such as soil purchasing groups.

Food waste – Emilia-Romagna the first region to start the real-life application of the new national law for food waste reduction fostering donation of food and solidarity (Law 166 / 2016)

It is a collaboration between different regional organizations (Last Minute Market, Confesercenti and Federconsumatori). The agreement protocol states as objective to safe unsold foodstuffs from traditional groceries and public entities for a value of 1.2 billion Euros.

VI NORWAY

Review and mapping of national (and regional/local) level policy and governance interventions in Norway to develop more effective food value chains

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Contents

VI	NORWAY	348
	VI.1 FAIR TRADING PRACTICES	349
VI.1.1	Ethical Trading Initiative Norway	349
VI.1.2	Norwegian Official Report 2013:6 on good trading practices in groceries chain	350
	VI.2 INTEGRITY	351
VI.2.1	Food Safety for short supply chains (Producer to Consumer)	351
VI.2.2	Food authenticity	355
	VI.3 COLLABORATIVE SUSTAINABILITY INITIATIVES.....	359
VI.3.1	Environmental Sustainability.....	359
VI.3.2	Social sustainability	361

VI.1 FAIR TRADING PRACTICES

There is one relevant initiative in Norway that promotes fair trading practices between different actors in the supply chain with a focus on human rights and ethical working conditions. There has also been discussion in Norway around 2011-2015 regarding a new law for good trading practice in groceries chain, however this law did not come into the action. A short summary of this discussion is included in this section.

VI.1.1 ETHICAL TRADING INITIATIVE NORWAY

The Ethical Trading Initiative Norway (IEH)⁶⁵⁴ is multi-stakeholder initiative, represented by NGOs, Trade Unions, Businesses and the Enterprise Federation of Norway that assists its members to promote decent working and environmental conditions in their supply chains. IEH Norway is funded by the Ministry of Foreign Affairs and Ministry of Children Equality and Social Inclusion and have members ranging from Norway's largest companies to sole proprietorships, public bodies and organisations. Most of the biggest companies such as COOP Norge, REMA, Bama, NorgesGruppen, Orkla in the food industry in Norway are members of IEH. IEH Norway offers guidance, support and tools to enable its members to develop more sustainable supply chain practices and helps build up capacity of their suppliers abroad. As there is no law which prohibits or prevents Norwegian businesses from importing goods manufactured under unlawful conditions, such as child labour or extreme overtime, efforts to promote ethical trade are left to the discretion of individual businesses. To address this challenge IEH has developed 'Guidelines for Procurement' based on the UN and ILO conventions for all its members. Suppliers and sub-suppliers of IEH members can adapt these guidelines and must deliver goods and services based on the requirements given in the guidelines. The code of conduct in the guidelines covers fundamental requirements for human rights, workers' rights, the environment and anti-corruption in supply chains. However, they do not include any of the 'core Unfair Trade Practices' defined by the EU.

IEH can request the suppliers to document that the guidelines are respected and in the event of a breach of the code of conduct, the IEH member and supplier will jointly prepare a contingency plan for remedying the breach. IEH member can terminate the contract if the supplier, after several requests does not rectify the situation.

⁶⁵⁴ Ethical Trading Initiative Norway, http://etiskhandel.no/English/About_IEH/About_IEH/index.html

VI.1.2 NORWEGIAN OFFICIAL REPORT 2013:6 ON GOOD TRADING PRACTICES IN GROCERIES CHAIN

Although there is no current regulation or policy targeting unfair trading practices in Norway, there has been some discussion about a new law on good trading practices in groceries chain to avoid unfair competition.

On 26 October 2012, the Norwegian government appointed a committee to investigate how best to safeguard the principle of good trading practice in the grocery chains and address consumer concerns. The committee came out with the Norwegian Official Report 2013:6⁶⁵⁵ in 2013, which discusses the challenges of the fact that there are only four major players (NorgesGruppen, COOP, ICA and Rema) in the grocery industry and how this affects negotiation between suppliers and the grocery chains. The committee proposed a law on good trading practices and establishment of a Trade Surveillance Authority for supervision and enforcement of the law. The main objective of this authority would be to oversee negotiations, pricing, discounts, shelf placement, delisting, risk allocation, joint marketing, access to calculations, discrimination between chain EMVs (own brands) and other manufacturers' goods, brand copying, etc. This document also gives an assessment of the existing regulatory framework and to what extent can they regulate negotiations and the principles of good trade practices in grocery chains.

In 2015, after several investigations and proposals for a separate law on good trading practices and the establishment of a Trade Surveillance Authority, it was decided to neither have a new law nor a Trade Surveillance Authority⁶⁵⁶. The food market in Norway is highly concentrated and the challenges in the grocery sector are mainly of a competitive nature and should be solved through measures targeting unfair competition. Therefore, it was decided to instead strengthen the Competition Authority and Law on Competition between Enterprises and Control of Business Associations (Competition Act): LOV-2004-03-05-12⁶⁵⁷. The purpose of the Competition Act is to promote competition in order to contribute to the efficient use of society's resources and pay attention to the interests of the consumers. According to the Competition Act, Chapter III, Section 10 on Agreements between undertakings that restrict competition, the following shall be prohibited: all agreements between undertakings, decisions by associations of undertakings and concerted practices which have as their object or effect the prevention, restriction or distortion of competition, and in particular those which:

- a) Directly or indirectly fix purchase or selling prices or any trading conditions.
- b) Limit or control production, markets, technical development, or investment.
- c) Share markets or sources of supply.

655 God handelsskikk i dagligvarekjeden, 2013. <https://www.regjeringen.no/no/dokumenter/nou-2013-6/id725309/>

656 Konkurransetilsynets innsats overfor dagligvaremarkedet styrkes, 2015.

<https://hoyre.no/aktuelt/nyheter/2015/konkurransetilsynets-innsats-overfor-dagligvaremarkedet-styrkes/>

657 Lov om konkurranse mellom foretak og kontroll med foretakssammenslutninger (konkurranseloven)

<https://lovdata.no/dokument/NL/lov/2004-03-05-12>

- d) Apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage.
- e) Make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

In a case in 2015, the Competition Authority interfered the acquisition of a supermarket chain ICA by an already strong actor NorgesGruppen with an intention to allow fair competition and avoid a single actor having a dominant position in the market. In 2016, The Competition Act was amended and the most significant changes is prohibition of acquisition and mergers that lead to restricted competition as a result of a dominant position of one actor. The amendment also entails a change in the competition law's appeal system, through the establishment of a competition complaints committee. According to a press release by the government in 2016, the authorities suggest measures that will strengthen the Competition Act for grocery chains including compulsory notification of mergers and acquisitions which will make the Competition Authority better able to assess whether smaller mergers / acquisitions restrict competition. Also, providing an easier access to new actors and removal or changing of barriers that restrict start-ups⁶⁵⁸.

VI.2 INTEGRITY

The following sections summarises the Norwegian initiatives to promote food chain integrity including food safety and authenticity including those that are based on EU regulations as well as national initiatives.

VI.2.1 FOOD SAFETY FOR SHORT SUPPLY CHAINS (PRODUCER TO CONSUMER)

The short supply chains directly from producer to consumer or producer to retailer is termed as 'Local Food' in Norway. As defined by the Norwegian Food Safety Authority local food is referred to the food production and service that is closely linked to the producer, either at a farm, mountain pasture, fishing area or nearby. Table 1 compiles all the national regulations relevant for these short supply chains, the complementary EU regulations and the national provisions of the EU regulation. A detailed description of the national provisions are provided in section 1. and 2. below.

1. Supplementary **national provisions**⁶⁵⁹ **in Food Hygiene Regulation FOR-2008-12-22-1623** on direct supply of small quantities of raw materials from primary production.
 - a. **Requirement for production:** Raw materials from primary production can only be traded if the requirements for primary production in Regulation (EC)

⁶⁵⁸ Press release on strengthening the competition in grocery sector.
<https://www.regjeringen.no/no/aktuelt/bedre-konkurransen-i-dagligvarekjeden/id2479824/>

⁶⁵⁹ Forskrift om næringsmiddelhygiene (næringsmiddelhygieneforskriften).
https://lovdata.no/dokument/SF/forskrift/2008-12-22-1623#KAPITTEL_3

No 852/2004 Annex I are complied with. For certain commodities of animal origin from primary production, additional requirements are laid down for production in the Animal Hygiene Regulation (FOR-2008-12-22-1624 Chapter II) as explained in the next section.

- b. Requirements for storage and transportation:** Raw materials from primary production should be stored and transported so that they are protected from contamination, do not deteriorate unnecessarily and so that their natural quality is adequately safeguarded.
 - c. Registration requirements:** Primary producers and hunters shall notify in advance of the activities to the Norwegian Food Safety Authority.
 - d. Exceptions:** The requirements do not apply to the random delivery or delivery of small amounts of raw materials from primary production directly to the final consumer. The requirements of section 5 to section 7 also do not apply to the delivery of small amounts of herring and directly from hunter to final consumer or to local retailer who sells directly to the final consumer.
2. Supplementary **national provisions**⁶⁶⁰ in **Regulations on special hygiene rules for food of animal origin** FOR-2008-12-22-1624 on direct supply of small quantities of raw materials of animal origin from primary production.
- a. Requirements for primary production of seafood**⁶⁶¹.
 - b. Requirement for approval from the Norwegian Food Safety Agency for direct delivery of small quantities of poultry and rabbit** slaughtered on the operating unit (slaughterhouse on farm) and requirement of skilled labour for the operating unit. The small quantity of meat refers to sales up to 10000 units of poultry and 10000 units of hare/rabbit⁶⁶².
 - c. Requirements for the storage and transport of wild game**, limitations on the sale and assessment of quality before sale⁶⁶³.
 - d. National provisions on understanding marginal, local and limited retail activity**, where marginal activity is up to 600 kg of food sale in a week, local activity is 100 km distance, limited activity is when goods are sold solely to retailer⁶⁶⁴.

In addition to these mentioned above, there are national provisions that provide requirements for temperature storage for eggs, processing of minced meat, traditional outdoor drying of fish, sale of raw milk and cream and sale of reindeer meat.

Table 1. Regulations for short supply chains in Norway

660 Forskrift om særlige hygieneregler for næringsmidler av animalsk opprinnelse (animaliehygieneforskriften).

https://lovdata.no/dokument/SF/forskrift/2008-12-22-1624/*#

661 Forskrift om særlige hygieneregler for næringsmidler av animalsk opprinnelse (animaliehygieneforskriften).

https://lovdata.no/dokument/SF/forskrift/2008-12-22-1624/KAPITTEL_2#KAPITTEL_2

662 Forskrift om særlige hygieneregler for næringsmidler av animalsk opprinnelse (animaliehygieneforskriften), Kapittel 3.

https://lovdata.no/dokument/SF/forskrift/2008-12-22-1624/KAPITTEL_3#KAPITTEL_3

663 Forskrift om særlige hygieneregler for næringsmidler av animalsk opprinnelse (animaliehygieneforskriften), Kapittel 4.

https://lovdata.no/dokument/SF/forskrift/2008-12-22-1624/KAPITTEL_4#KAPITTEL_4

664 Forskrift om særlige hygieneregler for næringsmidler av animalsk opprinnelse (animaliehygieneforskriften), Kapittel 5.

https://lovdata.no/dokument/SF/forskrift/2008-12-22-1624/KAPITTEL_5#KAPITTEL_5

National regulation /requirements	Complementary EU regulation (if any)	Supplementary national provision in Norway (if any)	Requirements of the national/EU regulation or national provision
1. Regulation on hygiene of food (Food hygiene regulation) FOR-2008-12-22-1623 ⁶⁶⁵	Food Hygiene Regulation (EC) No 852/2004	National provisions for direct supply of small quantities of raw materials from primary production	Requirements for production, Storage and Transportation, Registration of activity and some exceptions
2. Regulations on special hygiene rules for food of animal origin (Animal hygiene regulation) FOR-2008-12-22-1624 ⁶⁶⁶	Regulation (EC) No 853/2004 on specific hygiene rules for food of animal origin	National provisions for direct supply of small quantities of raw materials (seafood, poultry, wild game, rabbit) from primary production	Additional requirements for live seafood, Approval from Norwegian Food Safety Authority, Skilled labour
3. Law on Food Production and Food Safety (Food law) LOV-2003-12-19-124 ⁶⁶⁷	Regulation (EC) No 178/2002, Food Law, Article 18 ⁶⁶⁸	None	Requirement on traceability of food products in direct supply chains
4. Mandatory labelling of food products sold over the counter⁶⁶⁹	Food Information Regulation (EC) No 1169/2011, Article 44 ⁶⁷⁰	None	Requirement on conveying information about contents, origin, production date etc. for food products sold over the counter without packaging. Mandatory allergen labelling.
5. Sale or service of food products at festivals, fairs and farmer's market⁶⁷¹	Food Hygiene Regulation (EC) No 852/2004, Annex II, Chapter III	None	Requirements for registration of activity, Requirement for hygiene practices in temporary kitchens.

⁶⁶⁵ Forskrift om næringsmiddelhygiene (næringsmiddelhygieneforskriften). <https://lovdata.no/dokument/SF/forskrift/2008-12-22-1623>

⁶⁶⁶ Forskrift om særlige hygieneregler for næringsmidler av animalsk opprinnelse (animaliehygieneforskriften).

<https://lovdata.no/dokument/SF/forskrift/2008-12-22-1624>

⁶⁶⁷ Lov om matproduksjon og mattrygghet mv. (matloven). <https://lovdata.no/dokument/NL/lov/2003-12-19-124?q=matloven>

⁶⁶⁸ EC Regulation 178/2002, Food Law <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2002:031:0001:0024:en:PDF>

⁶⁶⁹ Krav til merking av matvarer som selges over disk, 2012.

https://www.mattilsynet.no/mat_og_vann/butikk_og_butikkjeder/butikk_med_ferskvare/krav_til_merking_av_matvarer_som_selges_over_disk.420

⁶⁷⁰ Regulation 1169/2011 on food information to consumers <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32011R1169>

⁶⁷¹ Kortvarig salg av mat, 2012. https://www.mattilsynet.no/mat_og_vann/matservering/kortvarig_salg_av_mat/

Norwegian Food Safety Authority and receives an identification label, which is used as a label for all products by that primary producer. The producer can register the activity under different categories depending on the products they sell and the sale quantity.

VI.2.2 FOOD AUTHENTICITY

This section describes the regulations and other special requirements in Norway that ensure that food products are sold with correct information and labels and make it easier for consumers to choose the right products.

1. **Regulations on Food Information to Consumers** FOR-2014-11-28-1497⁶⁷⁶ which is implemented in Norway based on the (EU) Regulation No 1160/2011 allows some national provisions. There are additional requirements on language, food information for vegetables, fruits, berries and requirements for information on GMO foods. These include the following:
 - a) **Language requirements:** Food information that is mandatory in accordance with the provisions of this regulation shall be in Norwegian or a language that has same script as Norwegian.
 - b) **Requirements for food information on the trade description, country of origin and variety** of fresh fruit, berries, vegetables and potatoes that are pre-packaged or unpackaged. Fresh fruit, berries, vegetables and potatoes that are not pre-packaged must be accompanied by information on the trade description. Pre-packaged apples, pears, plums, cherries and strawberries shall be marked with information about variety. Apples, pears, plums, cherries and strawberries that are not pre-packaged must be accompanied by information about variety.
 - c) **Genetically modified foods**, including additives and flavourings, must be labelled with or in conjunction with the relevant ingredients, labelled with either "genetically modified" or "produced from genetically modified [name of the organism]" when:
 - i. The food consists of or contains genetically modified organisms
OR
 - ii. The food is produced from, but does not contain genetically modified organisms. The labelling obligation also applies to genetically modified foods, additives and flavours where DNA and protein resulting from genetic modification cannot be detected.
 - d) Based on the regulation on **Origin labelling of meat**, Regulation (EU) No 1337/2013, recent changes were made in May 2017 to the Regulation (EU) No 1169/2011 for labelling requirements for meat products. All meat products must be labelled with the country the animal was bred, born and slaughtered. Except for minced meat, all meat products must be labelled. The Norwegian Food Safety Authority will enforce the new changes from 2018⁶⁷⁷.

⁶⁷⁶ Forskrift om matinformasjon til forbrukerne (matinformasjonsforskriften).

<https://lovdata.no/dokument/SF/forskrift/2014-11-28-1497>

⁶⁷⁷ Nye krav til opprinnelsesmerking av kjøtt.

https://www.mattilsynet.no/mat_og_vann/merking_av_mat/generelle_krav_til_merking_av_mat/endrin

2. Regulations on Protection of Designation and Geographical indication

FOR-2002-07-05-698⁶⁷⁸ aims at protecting product names of foods with specific origin or geographic location and traditional character, ensuring fair sale of these products. This regulation is based on the Council Regulation (EEC) No 2081/92 which is no longer in use. In Norway, there are specific regulations for individual products including types of fish, meat, dairy product, potato, fruits and fruit products from particular geographical area. For example – Apples from Hardanger region in Norway and Buttermilk from Røros are protected under the individual regulations⁶⁷⁹. There are above 20 different products from Norway that are protected under this regulation.

3. Regulation on quality schemes for agricultural products and food

The Regulations on quality schemes for agricultural products and food are laid down for individual food categories in Norway⁶⁸⁰. These quality regulations control foods such as potatoes, milk and dairy products, meat products, fish and fish products, honey, jams, juices and alcoholic drinks. The regulations impose requirements on raw materials, manufacturing methods and finished products, as well as requirements for labelling of the products in order to use the terms defined in the regulations for individual food category⁶⁸¹. Foods that are not regulated by separate quality regulations are nevertheless governed by general provisions given in the Regulations on Food Information⁶⁸². The main purpose of the quality regulations is to contribute to the fair marketing of food products, ensuring equal competition in the market and preventing consumers from being misled. For example, there are special requirements for honey on the species it is produced from, that it is produced by plant nectar or honeydew from living plant parts, origin of honey, extraction method and on.

The companies themselves are responsible for complying with the regulations, and the Norwegian Food Safety Authority oversees that the food products are manufactured and labelled in accordance with the regulations.

4. Local farming and direct sales labelling scheme, Are there any measures in your country for the labelling of locally produced food or for direct sales?

[g_av_matinformasjonsforskriften_nye_krav_til_opprinnelsesmerking_av_kjott_ferskt_kjolt_eller_fryst_kjott_fra_svin_sau_geit_og_fjorfe_tilsyn_med_nye_bestemmelser.26492](https://lovdata.no/dokument/SF/forskrift/2002-07-05-698)

678 Forskrift om beskyttelse av opprinnelsesbetegnelser, geografiske betegnelser og betegnelser for tradisjonelt særpreg på næringsmidler.

<https://lovdata.no/dokument/SF/forskrift/2002-07-05-698>

679 Forskrifter for beskyttede betegnelser.

https://www.mattilsynet.no/mat_og_vann/merking_av_mat/beskyttede_betegnelser/?subTopic=80&s=forskrifter

680 Kvalitetsbestemmelser om matvarer.

https://www.mattilsynet.no/mat_og_vann/merking_av_mat/kvalitetsbestemmelser/#regelverk

681 Forskrifter for kvalitetsbestemmelser.

https://www.mattilsynet.no/mat_og_vann/merking_av_mat/kvalitetsbestemmelser/?subTopic=515&s=forskrifter

682 Forskrift om matinformasjon til forbrukerne (matinformasjonsforskriften). <https://lovdata.no/dokument/SF/forskrift/2014-11-28-1497>

NYT Norge⁶⁸³ is a collaborative labelling scheme by the Norwegian Food Safety Authority and a private association Matmerk for products that produced in Norway. The following requirements are defined for this labelling scheme:



- a) The raw materials must be Norwegian.
- b) The raw materials must be produced on farms that follow any quality system, can document this and be follow up on the recipients of this raw material.
- c) The most commonly used internal control system is KSL (Quality System in Agriculture). The KSL standard⁶⁸⁴ is based on the national laws and regulations and additional requirements by defined by Matmerk. These regulations are grouped together into general requirements for farms, health safety and environment, dairy products, meat products, honey etc. This standard is used by 97 percent of Norwegian farmers and was recognized as an Industry Standard by the Norwegian Food Safety Authority in 2012.
- d) The products shall be made by companies located in Norway.
- e) For meat, milk and eggs, 100% Norwegian origin applies.
- f) For compound products, up to 25% non-Norwegian ingredients, such as salt, rice and sugar, are allowed.

The production units and products must be registered and approved by Matmerk to be able to use this labelling scheme. All production units are audited every two years.

5. Requirements for labelling of food products that are sold over the counter⁶⁸⁵

These requirements apply for food products that are packed just before the sale for example, fresh fish over the counter or bread from a bakery. These also apply to the pre-packaged products that are sold fresh on a daily basis, for example, sandwiches or ready to eat foods. The seller is required to convey the following information orally or in a written format to all consumers:

- a) Allergen labelling: It is mandatory to inform consumers in a written form about what ingredients contained in the food can cause allergy or intolerance. There are 14 specific allergens to be informed about according to the Food Information Regulations for Foods FOR-2014-11-28-1497 and Food Information Regulation (EC) no 1169/2011⁶⁸⁶.
- b) Beef that is sold over the counter without packaging must contain information on the origin of the meat also in the cases where imported meat is processed in Norway.

⁶⁸³ Nyt Norge. <http://www.matmerk.no/no/nytnorge>

⁶⁸⁴ KSL Standard lovgrunnlag. <https://www.matmerk.no/no/ksl/om-ksl/lovgrunnlag>

⁶⁸⁵ Krav til merking av matvarer som selges over disk, 2012.

https://www.mattilsynet.no/mat_og_vann/butikk_og_butikkjeder/butikk_med_ferskvare/krav_til_merking_av_matvarer_som_selges_over_disk.4207

⁶⁸⁶ Forskrift om matinformasjon til forbrukerne (matinformasjonsforskriften). <https://lovdata.no/dokument/LTI/forskrift/2014-11-28-1497>

- c) Fish products that are sold over the counter must have information about origin, processing method for fish, catchment area and any presence of allergens.

6. Are there national measures targeting fraudulent food practices in your country?

In Norway, the handling of food fraud and food crime is mainly regulated by the Food Production and Food Safety Law, LOV-2003-12-19-124⁶⁸⁷. Following a dialogue with the Norwegian Food Safety Authority, it can be concluded that there are no current national measures specifically targeting fraudulent food practices on a regular basis. However, the Norwegian Food Safety Authority carried out a campaign⁶⁸⁸ in 2014 to investigate the labelling information for everyday food products and their compliance to the Food Information Regulations FOR-2014-11-28-1497⁶⁸⁹.

7. Are there reporting facilities where anyone with suspicions about food crime can report these safely and in confidence?

Any complaints or suspicions about food crime, cases of food poisoning or incorrect labelling information and misuse of animals can be reported to The Norwegian Food Safety Authority through an online form submission service as seen in Figure 1. The Norwegian Food Safety Authority then investigates the case depending on its nature and seriousness and takes appropriate action⁶⁹⁰.

687 Lov om matproduksjon og mattrygghet mv. (matloven). <https://lovdata.no/dokument/NL/lov/2003-12-19-124>

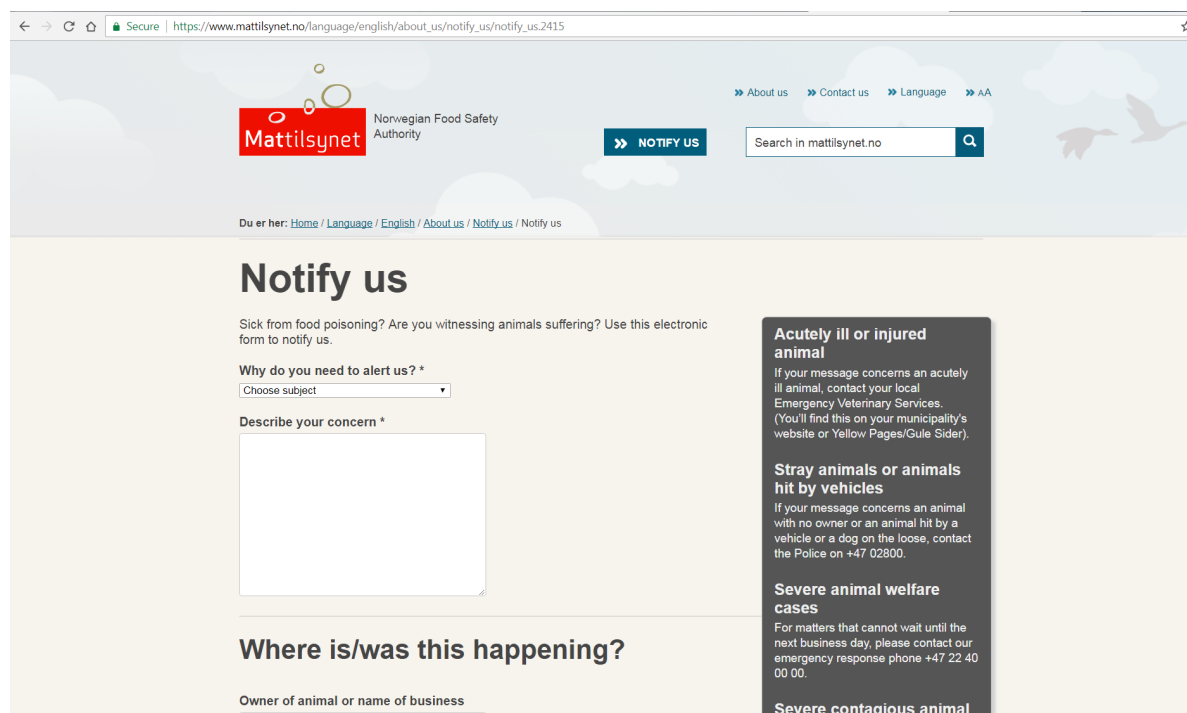
688 Merkesjekken sluttrapport, Nov 2014.

https://www.mattilsynet.no/mat_og_vann/merking_av_mat/generelle_krav_til_merking_av_mat/rappo_r_t_merkesjekken_2014.16826/binary/Rapport:%20Merkesjekken%202014

689 Forskrift om matinformasjon til forbrukerne (matinformasjonsforskriften). <https://lovdata.no/dokument/SF/forskrift/2014-11-28-1497>

690 Bekymringsmeldingsskjema hos Mattilsynet.

https://www.mattilsynet.no/om_mattilsynet/varsle_oss/bekymringsmelding.633



Secure | https://www.mattilsynet.no/language/english/about_us/notify_us/notify_us.2415

Mattilsynet Norwegian Food Safety Authority

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Notify us

Sick from food poisoning? Are you witnessing animals suffering? Use this electronic form to notify us.

Why do you need to alert us? *

Choose subject

Describe your concern *

Where is/was this happening?

Owner of animal or name of business

Acutely ill or injured animal
If your message concerns an acutely ill animal, contact your local Emergency Veterinary Services. (You'll find this on your municipality's website or Yellow Pages/Gule Sider).

Stray animals or animals hit by vehicles
If your message concerns an animal with no owner or an animal hit by a vehicle or a dog on the loose, contact the Police on +47 02800.

Severe animal welfare cases
For matters that cannot wait until the next business day, please contact our emergency response phone +47 22 40 00 00.

Severe contagious animal

Figure 1. Online reporting form of the Norwegian Food Safety Authority

VI.3 COLLABORATIVE SUSTAINABILITY INITIATIVES

VI.3.1 ENVIRONMENTAL SUSTAINABILITY

The following section summarises the Norwegian initiatives to reduce impacts on the environment from food production, processing and consumption. This includes Norway commitment to reduce food wastage by 50% by 2030, increase organic food production and consumption by 15% by 2020 and waste recycling schemes.

1. There is a National agreement⁶⁹¹ between Norwegian Ministries and Food Industry to reduce food waste by 50% by 2030. Ministry of Climate and Environment, Ministry of Agriculture and Food, Ministry of Food and Fisheries, Ministry of Children and Equality, Ministry of Health and Care Services have signed the agreement in June 2017 to join the UN Sustainability Development Goal's target to reduce food wastage by 50% in 2030 keeping 2015 as a baseline. In Norway, an average consumer throws away 42 kg of food per year⁶⁹². In addition, food waste throughout the food chain amounts to 68 kg per

691 Avtale for å redusere matsvinn. <https://www.regjeringen.no/no/aktuelt/avtale-om-a-redusere-matsvinn/id2558931/>

692 ForMat sluttrapport, 2015. <http://matsvinn.no/wp-content/uploads/2017/06/ForMat-Final-report-2010-2015.pdf>

person each year. Currently large quantity of good quality food is thrown instead of being given away creating an environmental problem. Norway has therefore agreed to achieve the UN's sustainability target to reduce food wastage by 2030. Representatives of the entire food industry including umbrella organizations such as Norwegian Food and Beverage Association, Norway's Farmers Association, Norwegian Federation of Fisheries among many others have also signed this agreement. The Working Group report⁶⁹³ provides recommendations for all the branches within the food industry as well as policy makers. Some of the suggestions include better collaboration between actors in the value chain, revising shelf-life labelling, redistribution, knowledge development for consumers. The national agreement applies to both seafood and agriculture sectors and for all the supply chain stages from production to consumption.

2. National management plan⁶⁹⁴ for increasing organic production and consumption to 15% by 2020. Initiated by the Food and Agriculture Department, 15% of all food production in Norway and 15% of all Norwegian as well as imported products for consumption will be organic by 2020. This action plan⁶⁹⁵ sets strategies and identifies measures to help achieve the target. As a part of the strategy implementation, further development of certification systems in agriculture like Debio⁶⁹⁶ in Norway will be necessary to strengthen the competency in auditing and certification for organic production. The Norwegian Food Safety Authority has regulations for organic production, labelling of agricultural and aquaculture products, nutrients and feed⁶⁹⁷ that can be further developed according to the action plan.
3. Regulation on return systems for beverage containers (Panteordning) According to the Regulations on Recycling and Handling of Waste FOR-2004-06-01-930⁶⁹⁸, individual producers or importers of pre-packed beverages can establish and administer return systems for beverage containers (bottles, cans) with an approval from the Norwegian Environment Agency. The Norwegian Environment Agency approves the return system provided it achieves a minimum of 25% return and that the packaging is sent for environmentally sound recycling. The deposit rate for each type of container is set by the Norwegian Environment Agency and each container must be labelled with relevant information. The containers can be returned at retail outlets and the deposit is returned in cash.

⁶⁹³ Rapport- Anbefalinger-tiltak matsvinn, Feb. 2017.

<https://www.regjeringen.no/contentassets/1c911e254aa0470692bc311789a8f1cd/rapport-anbefalinger-tiltak-matsvinn-17.02.17.pdf>

⁶⁹⁴ Avtale for å øke Økologisk matproduksjon.

<https://www.regjeringen.no/no/tema/mat-fiske-og-landbruk/mat/innsikt/okologisk-matproduksjon/id2357162/>

⁶⁹⁵ Handlingsplan for å nå målet om 15 pst. økologisk produksjon og forbruk i 2020, 2017.

https://www.regjeringen.no/globalassets/upload/lmd/vedlegg/brosjyrer_veiledere_rapporter/handlingsplan_okologisk_200109.pdf

⁶⁹⁶ Debio. <https://debio.no/>

⁶⁹⁷ Forskrift om økologisk produksjon og merking av økologiske landbruksprodukter, akvakulturprodukter, næringsmidler og fôr (økologiforskriften).

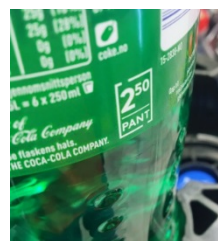
<https://lovdata.no/dokument/SF/forskrift/2017-03-18-355>

⁶⁹⁸ Forskrift om gjenvinning og behandling av avfall (avfallsforskriften). <https://lovdata.no/dokument/SF/forskrift/2004-06-01-930/>

4. Grønt Punkt Norge AS (formerly Materialretur AS), established in 1997, is a company that manages the collection of packaging waste from Norwegian enterprises⁶⁹⁹. The members of Grønt Punkt Norge are all types of companies that bring packaging to the Norwegian market; packaging manufacturers, packaging importers, manufacturers, merchants and wholesalers. Grønt Punkt Norge following a series of agreements between the Ministry of the Environment and the business community on voluntary collection and recycling of packaging in 1994. As of January 2013, Grønt Punkt has 4847 members and 1875 board members and only companies that are members of Grønt Punkt Norge have the right to use the Grønt Punkt logo on their products. The products also have a logo to guide which category does the packaging waste go into. To encourage consumers to recycle milk cartons and tetra packs, Grønt Punkt Norge started a **'Carton Return Lottery'** where each the regular collection facility ticket. Everyone individuals or schools, sports teams etc. and win in the lottery by writing their name and phone number on the cartons returned. Every year, prizes are awarded for a total of NOK 1.6 million. This is divided into 120 prizes per kr. 10,000 and 4 prizes per kr. 100,000⁷⁰⁰. As a result of Grønt Punkt's agreement with several waste collection stations, out of the 12 000 tons of plastic is used in the agricultural sector in Norway, 75% is returned and further recycled. The plastic is mainly used to wrap haystacks on the farms and was previously burned in open air⁷⁰¹.



Gjelder for Norge



carton returned to municipal waste acts as a lottery from private organizations, kindergartens, can participate return carton



VI.3.2 SOCIAL SUSTAINABILITY

This section lists some regulations that govern temporary labour in agriculture and fisheries sector. In Norway, the agriculture and fisheries sector has a large number of temporary seasonal workers from east European countries who are sometimes paid lower wages and provided inadequate lodging facilities. To address this situation, there has been increased focus to regulate the temporary foreign labour in

699 Grønt Punkt Norge. <https://www.grontpunkt.no/>

700 Returkartonglotteriet. <https://www.grontpunkt.no/gjenvinning/returkartonglotteriet/>

701 Landbruksplast en positiv spiral i landbruket, 2015.

<https://rig.no/aktuelt/landbruksplast-en-positiv-spiral-i-landbruket>

these sectors⁷⁰². The regulations mentioned below in this section are laid down by the Norwegian Labour Inspection Authority. Additionally, The Norwegian Labour and Welfare Administration, Farmer's associations around the country and The Norwegian Tax Administration provide guidance and general information about regulations, safety, social benefits etc. to the temporary workers through information documents and guidance lectures. The Norwegian Labour and Welfare Administration cooperates with other European labour authorities and the European Commission through the EURES (European Employment Services) network, aimed at helping employers who need recruitment from abroad or help individuals who want to apply for employment in other EEA countries⁷⁰³.

- 1. Minimum wages for fisheries and agriculture:** The Norwegian Labour Inspection Authority has introduced minimum wages in 2016 in certain industry sectors. The fish processing sector⁷⁰⁴ and agricultural sector⁷⁰⁵ have minimum wages for temporary harvest workers, shift workers and for permanently employed workers.
- 2. Regulation on Working Hours and Resting time for fisheries workers on board FOR-2003-06-25-787⁷⁰⁶** ensures that workers' safety and health are protected against damage that occurs or may arise in the case of long working hours, insufficient rest period or irregular working hours. The regulation gives general guidelines on working hours, health and safety of workers, work and rest period and night shifts.
- 3. The Working Environment Law LOV-2005-06-17-62⁷⁰⁷** in Norway applies also to temporary labour such as seasonal workers on farms, fruit and berry pickers. The Section 14-9 of this law includes requirements regarding employment contract, right to permanent employment, and termination of temporary employment.

⁷⁰² Utenlandsk arbeidskraft i landbruket - en veiviser til deg som arbeidsgiver. <https://www.bondelaget.no/utenlandsk-arbeidskraft/category8184.html>

⁷⁰³ Work immigration. <https://www.regjeringen.no/no/tema/arbeidsliv/arbeidsmarked-og-syssetting/innsikt/arbeidsinnvandring/id976/>

⁷⁰⁴ Minimum wages for fisheries workers. <https://www.arbeidstilsynet.no/regelverk/forskrifter/forskrift-om-allmenngjoring-av-tariffavtale-for-fiskeindustribedrifter>

⁷⁰⁵ Minimum wages for agricultural workers. <https://www.arbeidstilsynet.no/regelverk/forskrifter/forskrift-om-tariffavtale-for-jordbruk-og-gartneri>

⁷⁰⁶ Forskrift om arbeids- og hviletid på fiske- og fangstfartøy. <https://lovdata.no/dokument/NL/lov/2005-06-17-62>

⁷⁰⁷ Lov om arbeidsmiljø, arbeidstid og stillingsvern mv. (arbeidsmiljøloven). <https://lovdata.no/dokument/SF/forskrift/2003-06-25-787>

VII SPAIN

Map of Spanish policy, regulation and governance initiatives to foster more effective food value chains

Concha Ávila

Federation Espanola de Industrias de la Alimentacion Y Bebidas (FIAB)

Contents

VII	SPAIN	363
	VII.1 Introduction to the Spanish Food Chain.....	364
VII.1.1	National Plan of Official Control of the Food Chain and Ministries involved (MAPAMA, MSSSI)	364
VII.1.2	Annual results report of the National Official Control Plan.....	365
	VII.2 Food Chain Law	367
VII.2.1	The Food Chain Law	367
VII.2.2	Unfair Business practices	367
VII.2.3	AICA – Food Information and Control Agency.....	368
VII.2.4	CODE OF GOOD BUSINESS PRACTICES IN FOOD CONTRACTING	371
VII.2.5	Food Supply Chain Observatory.....	372
	VII.3 Food Quality Defence	373
VII.3.1	Law 28/2015 for the defense of food quality:.....	373
VII.3.2	Collaborative operating procedure to combat fraud.....	374
	VII.4 Food Security and Nutrition.....	375
VII.4.1	Assured Food Standards	377
	VII.5 Sustainability	378
VII.5.1	Pact for a Circular Economy	378
VII.5.2	Envifood Meeting Point.....	378
VII.5.3	Campaigns against food waste.....	380
VII.5.4	Consumer Sustainability Guide	381
VII.5.5	Prevention Business Plans	382
	VII.6 REFERENCES.....	382

VII.1 INTRODUCTION TO THE SPANISH FOOD CHAIN

VII.1.1 NATIONAL PLAN OF OFFICIAL CONTROL OF THE FOOD CHAIN AND MINISTRIES INVOLVED (MAPAMA, MSSSI)

In accordance with Article 41 of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls to ensure verification of compliance with the legislation on feed and food and the regulations on animal health and animal welfare, all the Member States of the European Union should draw up a single national multiannual control plan.

In the case of Spain, this plan is called the **National Official Control Plan of the Food Chain (PNCOCA)**, which describes the official control systems along the entire food chain in Spain, from primary production to the points of sale to the final consumer, including the controls that are carried out on products from third countries.

The PNCOCA establishes the general guidelines that must be followed by the different Spanish Public Administrations in the official control actions that they carry out within the scope of Regulation (EC) No. 882/2004.

In its configuration, the PNCOCA has a multi-year nature and is conceived as an integral tool when carrying out official control, since it brings together all the sectors involved in the food chain in a single document, respecting the competence framework in the control official, which is distributed among the different Public Administrations in matters of public health, agriculture, livestock, fisheries and food; lending, in turn, a special attention to the instruments of coordination, cooperation and collaboration that must be enabled by the competent authorities to guarantee their correct application.

In December 2015, the third National Plan of Spain was approved, known as the "National Official Control Plan of the Food Chain 2016-2020", in force since the first day of 2016, which provides our country with a solid, stable framework the time flexible, for the realization of official control over food and feed, where public administrations, economic operators and consumers find a reference for obligations and guarantees.

From a competence point of view, the **Ministry of Agriculture and Fisheries, Food and Environment (MAPAMA)** and **Ministry of Health, Social Services and Equality (MSSSI)** have a mainly coordinating role, since the execution of most of the official controls falls on the Autonomous communities. However, the MSSSI, through the **General Directorate of Public Health, Quality and Innovation**, has a general responsibility for the planning and coordination of:

- Official control of goods for human use or consumption from third countries;
- and

control and hygienic-sanitary surveillance of the border control and sanitary storage facilities.

Taking into account this distribution of powers, the PNCOCA 2016-2020 includes a common part to all the competent authorities, which describes the high level objectives, the competent authorities involved in its execution and the legal support common to all of them. In turn, it also consists of a second part in which are described, as follows, the different official controls that each competent authority carries out along each link of the food chain:

- Official control in the field of primary production and food quality, in the field of MAPAMA.
- Official control in the phases subsequent to primary production, within the scope of the MSSSI:
 - Control system of food establishments and foods produced or marketed in the intra-community market with repercussions on food security.
 - System of control of goods for human use or consumption from third countries.
 - Food control system made available to the consumer without repercussions on food safety.

With regard to official controls on Foreign Health, the "Control system for goods for human use or consumption from third countries" includes the competences of the MSSSI, developed through the following four Programs:

- Sanitary control of products for human use or consumption originating in or coming from third countries.
- Official control of personal games and commercial samples.
- Control of kitchen waste from means of international transport.
- Authorization and supervision of border control facilities or sanitary storage of goods.

VII.1.2 ANNUAL RESULTS REPORT OF THE NATIONAL OFFICIAL CONTROL PLAN

The National Plan is evaluated by means of an Annual Report on the results of official control, which is sent to the Commission no later than June 30 of the year following the report, as established in the article 44 of Regulation (EC) No. 882/2004.

In preparing this report, the considerations set out in Decision 2008/654 / EC are taken into account, where the guidelines provided for in Article 44, paragraph 2, of Regulation (EC) No. 882/2004 are set out.

The objectives of the annual report of the PNCOCA are:

- Comply with the legal reporting obligations established in Article 44, paragraph 1, of Regulation (EC) No. 882/2004;
- Summarize progress in the implementation of the PNCOCA and evaluate the effectiveness of control plans and systems based on the results of official controls in the Member State;

- Help the Member States to more easily review the effectiveness of their control systems and contribute to their development and continuous improvement; and
- Help the Commission to:
 - Develop their annual control programs (documentary analysis, audits and inspections), and
 - Prepare the report you have to submit to the European Parliament and the Council.

To achieve these objectives, the annual report should cover the full scope of the PNCOCA and will contain:

- Any adaptation carried out in the national multiannual control plans;
- The results of the controls and audits carried out in the previous year in accordance with the provisions of the national multiannual control plan;
- The type and number of cases of non-compliance discovered; and
- Actions to ensure the effective functioning of national multiannual control plans, including implementation and results.

Taking these considerations into account, the annual report, in general terms, is structured in the following sections:

- Report on human, technical and material resources.
- Report of the control programs.
- Report of the system review section: supervision, verification and audits.
- Conclusions of a general nature.
- Proposals to adapt the Plan.
- Advertising reports.

In short, the annual report contains the overall results on the functioning of official controls in the relevant areas, the analysis of these results and the conclusions at the national level, which can be presented on the basis of the sectors and phases of production or on the basis of the structure established in the national control plan of the Member State, as appropriate.

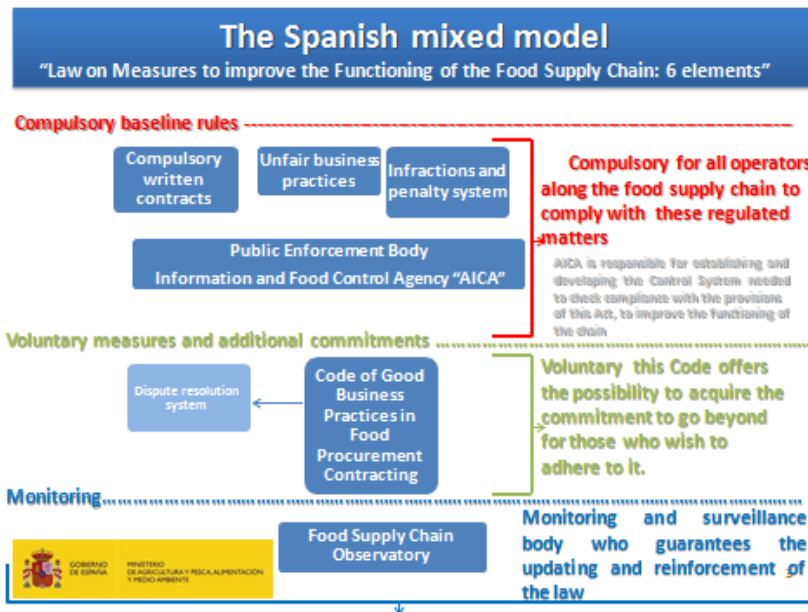
Through this process of compilation and analysis of control data for the purpose of the annual report, Member States are helped to more easily review the effectiveness of their control systems and thereby contribute to the development and continuous improvement of their systems of control.

In the case of Spain, the annual reports are prepared in a coordinated manner between MAPAMA, the Spanish Agency of Consumption, Food Safety and Nutrition (AECOSAN) and the General Directorate of Public Health and Quality and Innovation of the MSSSI.

Finally, in accordance with article 18 of Law 17/2011, on food security and nutrition, the annual report of the execution of the PNCOCA is sent to Spanish Parliament for the purposes of information and control and is made available to the public through the Web page of this Department.

VII.2 FOOD CHAIN LAW

In Spain there is a **mixed model** based on the mandatory law and the voluntary Code Chain Law



Source: MAPAMA

VII.2.1 THE FOOD CHAIN LAW

- Establishes the obligation to enter into written contracts
- Sets the principles of good practice
- Delimits unfair business practices
- Creates a system of infractions and sanctions
- Creates the **AICA** annual reports on its inspection activity and sanctions
- Establishes a **Code of Good Practices**
- Establishes an **Observatory of the food chain**

VII.2.2 UNFAIR BUSINESS PRACTICES

1. The Law establishes a list of prohibited business practices:
 - Article 8. Obligation of written contracts
 - Article 9. Contractual terms

Article 10. Electronic auctions

Article 11. Obligation to preserve documents

Article 12. Unilateral modifications and commercial payments not foreseen

Article 13. Provision of sensitive commercial information.

Article 14. Brand management.

It also defines what are considered as situations of imbalance:

- a) That one of the operators has the status of SME and the other does not.
- b) That, in the case of commercialization of unprocessed agricultural products, perishable goods and food supplies, one of the operators has the status of primary agricultural, livestock, fishing or forestry producer or a group thereof and the other does not.
- c) That one of the operators has a situation of economic dependence with respect to the other operator, understanding by such dependence, that the billing of the product of that in respect of this one is at least 30% of the turnover of the product of the first in the previous year.

“Article 5. Definitions”, defines what is considered “food chain”, “operator”, “producer”, “sensitive commercial information” etc., but there is not a specific definition of what is generally considered “unfair trading practice”, as the objective of the Law is to improve the functioning and the structure of the food chain in a way that increases the efficiency and competitiveness of the Spanish agri-food sector and reduces the imbalance in trade relations between the different operators of the value chain, within the framework of fair competition that benefits not only of the sector, but also of the consumers.

VII.2.3 AICA – FOOD INFORMATION AND CONTROL AGENCY

The Food Information and Control Agency (AICA) is an autonomous body, attached to the Ministry of Agriculture, Food and Environment, through the General Secretariat of Agriculture and Food, created by Law 12/2013, of August 2, of measures to improve the functioning of the food chain, with the purpose of controlling the rights and obligations established in said Law, instructing or initiating the sanctioning procedure if it detects infractions to it.

The functions of AICA are included in the first additional provision of Law 12/2013, and Article 3 of the AICA Statute.

Taking into account the functions of the Agency, AICA's activity focuses on three main blocks:

- Control of compliance with Law 12/2013, of August 2, on measures to improve the functioning of the food chain. This function is developed through

inspections ex officio or through complaints received about possible breaches of the Law.

- Control of the veracity of the data incorporated into the market information system of the olive sector and the wine sector, from the declarations made by the operators of the sector.

All harvesters must submit an annual harvest declaration that is completed according to each Autonomous Community with a basic data. Grape harvest declaration:

- Personal data of the harvester: company name, province, etc.
- Vineyard data: quantity of grapes harvested: wines with PDO, wines with PGI, wines without PDO and without PGI, other wines (province, area in hectares, production of red and white grapes, etc.)
- Data of the destination: grape delivered as grape or as a grape must for 100 kg, origin of the vineyards, etc.

All producers and storekeepers must submit a monthly detailed statement for the installation of stocks, production, entry and exit and packaging of wine and must. Examples of data: campaign, month to which the data refers to, producer, storekeeper, entry of grapes for transformation (by kg and if is red or white), initial stocks of wine, wine entries (from Spain, EU rest, imports from third parties countries), etc.

- Establish and develop the official control regime for operators under Protected Designations of Origin or Protected Geographical Indications, whose territorial scope extends to more than one Autonomous Community, and that of their respective management entities (first final provision of Law 6) / 2015, which modifies Law 12/2013, of August 2).

Section 6 of the first additional provision of Law 12/2013, and Article 3 of the AICA Statute, establishes the functions of the Agency, which are the following:

1. Manage and maintain information systems, monitoring and analysis of the olive markets (olive oils and table olives) and dairy.
2. In the olive sector, establish and develop the control regime necessary to verify compliance with obligations by operators, to ensure the accuracy of the data that is incorporated into the market information system, and to determine the origin, destination and characteristics of raw materials and products, including by taking samples and analytical determinations at any stage of the chain, as well as the monitoring and control of the application or final destruction of by-products that do not have food use.
3. Transfer to the competent authorities the facts about the alleged breaches detected in the control actions, accompanying the necessary documentation on the facts established and their technical and legal assessment.
4. Initiate and instruct the disciplinary proceedings for non-compliance with the payment of mandatory contributions to interprofessional organizations, recognized by the Ministry of Agriculture, Food and Environment in the

- sectors of olive oil (olive oil and table olives) and dairy products, formulating the competent authorities the corresponding resolution proposals.
5. Establish and develop the control regime necessary to verify compliance with the provisions of Law 12/2013. In this area, it will be possible to check the contractual, commercial, technical, economic documentation and, where appropriate, of the bids; as well as the origin, destination and characteristics of the raw materials, the products and by-products affected, even by taking samples and analytical determinations, at any stage of the chain.
 6. Carry out the corresponding checks with respect to complaints filed by any natural or legal person, including associations of economic operators or consumers, or that are transferred by other bodies or administrations for possible breaches of the provisions of Law 12 / 2013, and when appropriate, initiate and instruct the corresponding sanctioning procedure and formulate the resolution proposal to the competent authority of the Ministry of Agriculture, Food and Environment or, where appropriate, transfer them to the National Commission of Markets and Competition, together with the actions taken.
 7. Initiate ex officio the sanctioning procedure corresponding to the irregularities found in the exercise of their functions that imply noncompliance with the provisions of Law 12/2013, and after the instruction, propose to the competent authority the appropriate resolution or, in its case, file a complaint with the CNMC.
 8. Collaborate with the Observatory of the Food Chain in carrying out works, studies and reports on the sectors of olive oil, table olives and dairy products, which are necessary for the exercise of the functions entrusted to the Observatory.
 9. Manage, maintain and disseminate the State Register of Good Commercial Practices in Food Contracting.
 10. Establish collaborative relationships with other bodies of the General State Administration and with the autonomous communities for the markets or sectors of oil and milk, without undermining the competences of other ministerial departments.
 11. Collaborate with sectoral organizations, producers and interprofessionals of the olive and dairy sectors, in the exclusive field of their functions.
 12. Prepare an annual report of activities carried out by the Agency.
 13. Carry out work, studies and reports on matters of its competence.
 14. Other functions attributed to it by regulation.

The Law 6/2015, of May 12, of Denominations of Origin and Protected Geographical Indications of supra-autonomous territorial scope, regulates the controls of the fulfilment of the requirements established with obligatory character for the commercialization of the protected products, establishing competences within the General Administration of the State regarding official controls.

The first final provision of said Law, modifies Law 12/2013, of August 2, on measures to improve the functioning of the food chain, specifically, adds a new function to AICA:

"Establish and develop the official control regime for operators under Protected Designations of Origin or Protected Geographical Indications, whose territorial scope extends to more than one Autonomous Community, and that of their respective management entities; initiating and instructing, according to its own regime, sanctioning procedures for breaches of Law 6/2015, and formulating the corresponding resolution proposals to the competent authorities".

VII.2.4 CODE OF GOOD BUSINESS PRACTICES IN FOOD CONTRACTING

The Code of Good Practices is a mechanism of self-regulation that will strengthen the competitiveness of the sector and the functioning of the food chain. From the MAPAMA it has been highlighted as a series of basic trade relations principles such as balance and fair reciprocity between the parties, freedom of covenants, good faith, fair distribution of risks and responsibilities, cooperation and transparency, as well as respect for free competition and the sustainability of the food chain.

The Law dedicates a part to voluntary control systems established and establishes the regulation of a **Code of Good Commercial Practices in Food Contracting**.

For every operator it remains compulsory to comply with all the regulated matters (written contracts and UTP's). Additionally, this Code offers the possibility to acquire the commitment to go beyond for those who wish to adhere to it. Adherence to the Code is voluntary. To date more than 90 operators have been adhered.

The code establishes the principles upon which business relationships and trade are to rely on, fostering fair, balanced and loyal relations between the operators within the food supply chain.

The code establishes a dispute resolution system. A procedure for the settlement of disputes which could arise as a result of the application thereof, in an impartial proceeding based on the commitment made by operators to minimize operational and management costs in the resolution of disputes.

After three years of the implementation of the Spanish law, we have achieved important success but also we have learned lessons which we consider should be taken into account in any model against UTPs.

These lessons could be summarized in the following principles:

- ✓ Define and establish a list of specific Unfair Trading Practices, in order to avoid and stop them effectively.
- ✓ Contractualisation, defined as the mandatory use of contracts to regulate sales, provides the legal security to ensure operator's rights.
- ✓ It is also necessary, to set up a penalty procedure to correct Unfair Trading Practices
- ✓ Self- regulation voluntary schemes, must give the possibility to go beyond, which is mandatory, by additional commitment.

- ✓ Self- regulation voluntary schemes must include a private dispute settlement procedure; enable to bring fast and efficient answer to disputes that might arise from
non-compliance with the voluntary commitments. It reduces administrative costs and assure impartiality guarantee.
- ✓ Establishment of a “**Food supply chain observatory**” enables to provide effective monitoring of the quality in the business relationships between operators.
- ✓ A change of model implies modification of some traditional practices very common among the food supply chain. It requires **an adaptation to the new framework**.
- ✓ Available information shows a **progressive improvement** in framework of Spanish commercial relationships

The Code of Good Business Practices says that operators, who adhere to it, assume certain principles: principle of legality; principle of consumer protection; principles of freedom of enterprise, market freedom and agreements; principle of loyalty; principles of transparency, clarity, concreteness and simplicity; principle of efficiency and principle of sustainability of the food chain.

Then, there are general commitments for operators and their associations: clarity and constancy of contracts and commercial agreements; predictability of business relationships; compliance with contracts and commercial agreements; loyalty, confidentiality and respect to the Law in the exchange of information; transfer of risk and responsibilities; Justification of business demands.

To complement the general commitments mentioned before, there are additional commitments (innovation, promotion activities, relations with third parties, communication between operators, etc.) among which are included those of the Law of Food Chain and make explicit reference to the Law: mandatory contracts and contractual terms; unilateral modifications and commercial payments not foreseen; provision of sensitive commercial information; brand management.

VII.2.5 FOOD SUPPLY CHAIN OBSERVATORY

Lastly, the model is monitored by the **Food Supply Chain Observatory**. It guarantees the updating and reinforcement of the law, identifying the main lines for improvement. It provides a better knowledge of markets and analyses the basic structure of cost and prices and the factors responsible for their evolution.

VII.3 FOOD QUALITY DEFENCE

Defense of food quality, promoting authenticity and preventing fraud in the food value chain:

VII.3.1 LAW 28/2015 FOR THE DEFENSE OF FOOD QUALITY:

The object of this law is to establish the basic norm in defense of food quality, including the sanctioning regime, to comply with the obligation established by Article 55 of Regulation (EC) N° 882/2004 of the European Parliament and of the Council, of 29 April 2004, on the official controls carried out to ensure verification of compliance with the legislation on feed and food and the regulations on animal health and animal welfare or regulation it replaces, as well as cooperation mechanisms.

The purposes of this law are:

- a) **Contribute to generate a high level of confidence in food products through the necessary procedures to defend their quality.**
- b) **To provide loyal conditions within the framework of its activity among the operators of the food chain.**
- c) **Protect the rights of operators in the food industry and consumers, ensuring compliance with the general principle of truthfulness and demonstrability of the information contained in the labeling of food products.**
- d) **Contribute to market unity and competitiveness, in addition to the transparency and clarity of the Spanish food sector.**
- e) **Guarantee the coordination of the control exercised over food quality by the competent authorities.**
- f) **Ensure that the processes of processing and processing of food products comply with the regulations in force in the European Union.**
- g) **Establish the necessary collaboration with the food industry to address issues that affect the objectives of this law.**

In this way, the law will contribute to market unity in the field of quality control and **defense against food fraud**, as well as competitiveness, transparency and clarity of the food sector, while protecting the rights of operators of the food industry in the face of unfair competition.

At the same time, this rule establishes effective, proportionate and dissuasive sanctions, in order to stop food fraud, in line with the mandate of the European Union in this matter.

In addition to official control, the new law incorporates and systematizes other forms and **instruments of control**, such as traceability and self-control, both individually

and by the sectorial associations, thereby putting into effect the provisions of the community regulations in food stuff.

In addition, the regulation provides for the establishment of an information system to identify and address food fraud by the competent authorities, both at the national level and in Spain's relations with the European Union and the rest of the Member States.

VII.3.2 COLLABORATIVE OPERATING PROCEDURE TO COMBAT FRAUD

For the State Security Forces and Corps as well as for MAPAMA's Food Industry General Directorate, the fight against food fraud is a priority. Thus, Spain has participated in the OPSON Operations, coordinated by INTERPOL and EUROPOL, carried out from 2011 to date.

The State Security Forces (Civil Guard, SEPRONA and the Judicial Police) act in two areas:

- At the administrative level: The Civil Guard, the SEPRONA and the Judicial Police collaborate in the prevention, intelligence and investigation of the fight against food fraud. The General Directorate of the Civil Guard has several units within the Deputy Operational Directorate with competences in this area: the Fiscal and Frontier Headquarters, the Head of Nature Protection (SEPRONA) and the Chief of the Judicial Police.
- At the penal level: The General Directorate of the Civil Guard has an Intelligence Center against Organized Crime (CICO) and a Technical Unit of the Judicial Police, which acts in the criminal sphere.

The actions are developed in collaboration with the competent authorities of the Autonomous Communities, the General Directorate of the Food Industry of the MAPAMA and the Spanish Agency for Consumer Affairs, Food Safety and Nutrition (AECOSAN).



On the other hand, the Civil Guard and the Spanish Food and Drink Federation (FIAB) signed in 2016 an **Operational Procedure of collaboration through which they will promote actions and initiatives that result in the effectiveness of the fight against illicit activities** that may take place in the field of food production and trafficking, as well as its adulteration and counterfeiting, in order to favor its eradication.

Illicit activities often cause serious harm to the society of any country, since they can endanger both public health and environmental safety. In addition, they constitute an environment conducive to tax and tax fraud and unfair competition in the market.

This collaboration agreement demonstrates the Federation's unwavering commitment to the authorities in the fight against fraud, and establishes the bases of cooperation to strengthen institutional relations in the area of quality control and protection in the sector. In addition, this procedure will contribute to the maintenance of the loyalty of the commercial transactions between the operators, and to reinforce the confidence of the consumer in our quality products.

VII.4 FOOD SECURITY AND NUTRITION

Law 17/2011, of July 5, on food safety and nutrition, constitutes the legal support on which all actions related to food safety are based.

The law defines for the first time a homogeneous food security information system for the exchange of data among professionals, researchers and administrations, as well as to facilitate the most advanced knowledge in the field.

The specific purposes of this law are:

- a) **The establishment of instruments that contribute to generating a high level of safety of food and feed and the contribution to the prevention of human health risks derived from food consumption.**
- b) **Setting the bases for the planning, coordination and development of strategies and actions that promote information, education and health promotion in the field of nutrition and especially the prevention of obesity.**
- c) **The establishment of the tools that propitiate the collaboration and coordination of the competent public administrations in matters of food security and nutrition.**
- d) **The regulation of procedures for the evaluation, management and communication of food risks, as well as the regulation of action procedures in cases of crisis or emergencies.**
- e) **The creation of a Spanish Network of Food Safety Control Laboratories, which will reinforce the vigilance in everything related to food.**

The following chapters of this law should be highlighted:

- Chapter I: Prevention and safety measures for food and feed.
- Chapter II: Guarantees of security in foreign trade of food and feed.
- Chapter III: Official control and administrative coordination.
- Chapter IV: Food safety instruments.
- Chapter V: Risk assessment, emerging risks and scientific-technical cooperation
- Chapter VI: Laboratories
- Chapter IX: Sanctioning power
- Chapter X: Fees

Therefore, we can speak of a modern law, because the concept of food security incorporates healthy eating habits, and contributes, since establishes the coordination mechanisms necessary to achieve an effective application both at the autonomous level and in relations with the European Union, in such a way that it is an important tool for the Spanish Agency for

Consumer Affairs, Food Safety and Nutrition (AECOSAN), which gives legal support to the NAOS Strategy (Nutrition, Physical Activity and Prevention of Obesity). Specifically, the text establishes the obligation to review the NAOS Strategy, created in 2005, every five years to update and advance its objectives. For this, has created the Observatory of nutrition and the Study of Obesity, which performs periodic analysis of the nutritional situation of the population and the figures of obesity in Spain.



Bienvenidos Benvinguts Ongi etorri Benvidos Benvinguts Welcome Bienvenue

GOBIERNO DE ESPAÑA MINISTERIO DE SANIDAD, SERVICIOS SOCIALES E IGUALDAD **aecosan** agencia española de consumo, seguridad alimentaria y nutrición

Buscar

Contacto Enlaces Mapa Web Preguntas Frecuentes

INICIO AGENCIA CONSUMO SEGURIDAD ALIMENTARIA **NUTRICIÓN** LABORATORIOS NOTICIAS Y ACTUALIZACIONES PARA EL CONSUMIDOR

Nutrición y Actividad Física – Estrategia NAOS

La Estrategia NAOS es una estrategia de salud que promueve una alimentación saludable y la práctica de la actividad física, para invertir la tendencia de la prevalencia de la obesidad, mediante el desarrollo de acciones o intervenciones, en base a la evidencia científica en todos los ámbitos y con todos los sectores (públicos y privados) de la sociedad.

- Acceso rápido
- Vigilancia de la obesidad infantil
- Programas y buenas prácticas
- Código PAOS
- Reducción de nutrientes seleccionados
- Pirámide NAOS

At the same time we can consider that it is a timely law because although there is a basic regulatory framework at European level established by different regulations, It is necessary to provide the Spanish State with coordination mechanisms to achieve an effective application of these regulations in the different Autonomous Communities, which have transferred competence in the official control of food.

VII.4.1 ASSURED FOOD STANDARDS



Food of differentiated quality is those products that are protected by EU regulations that guarantee compliance with requirements that are higher than those required for the rest of the products.

The products that are protected by the Protected Designation of Origin (PDO) are those whose quality or characteristics are due to the geographical environment with their natural and human factors and whose production, transformation and elaboration is always carried out in that delimited geographical area from which they take name.

Products with a Protected Geographical Indication (I.G.P.) have some specific quality or reputation or other characteristic that can be attributed to a geographical origin and whose production, transformation or elaboration takes place in the delimited geographical area from which it also takes its name.

Guaranteed Traditional Specialties (E.T.G) is the products that have specific features that differentiate other foods of the same category. In addition, these agricultural or

food products must be produced from traditional raw materials, or present a traditional composition, mode of production or transformation.

VII.5 SUSTAINABILITY

VII.5.1 PACT FOR A CIRCULAR ECONOMY

In September 2017, the Federation signed the Pact for a Circular Economy together with the Ministry of Agriculture and Fisheries, Food and Environment and other 52 productive sectors and civil society. This commitment places the food and beverage industry in the first line of action in the construction of a sustainable production environment.

In Spain, since 2008, the productivity of the national consumption of materials has increased by 85%, while the energy consumed between 2000 and 2013 in relation to our GDP has fallen by 20%.

This data that has been considered as "positive and encouragement to take the production model of the circular economy" which will be aligned and adapted to the conditions of Spain, with the package and the Plan of Action for a circular economy of European Union, presented by the European Commission in December 2015.

The future Spanish Circular Economy Strategy will be ambitious, it will involve the business sector, civil society and the consumer, which is an indispensable driver of any social change, and which may participate during the public consultation process.

The signed Pact includes the commitment to reduce the use of non-renewable natural resources, promote the analysis of the life cycle of products, the incorporation of eco-design criteria, promote guidelines that increase the overall efficiency of productive processes, promote innovative ways of sustainable consumption or the use of digital infrastructures and services, among other points.

In addition, they commit to disseminate and promote common initiatives and indicators that favor the development of the circular economy.

VII.5.2 ENVIFOOD MEETING POINT

FIAB organizes the Envifood Meeting Point congress⁷⁰⁸, the main event for the sector in environmental sustainability. The event has been consecrated as the great meeting point of the industry for the creation of debate and reflection on the best practices of the agro-food sector by 2020.

The Congress brings together more than 200 professionals representing the entire food chain, who have been able to see what have been the main achievements of

⁷⁰⁸ Envifood Meeting Point congress is a private/public initiative, FIAB organized it but the action is co-financed by Ministry and with its involvement, the action is in line with their policy.

the food and beverage industry in the fight against climate change, the central theme of the forum.

During its last edition Envifood released the report "Adaptation to Climate Change in the Business Strategy. Challenges, Opportunities and next steps for the Food and Beverage Industry" in which the commitments and challenges for the construction of a productive, safe, healthy and competitive environment, economically and environmentally are gathered.

Spain is recognized for the safety and quality of its food, signs of identity to preserve against any threat. The irreversible variations of this phenomenon will directly affect not only the supply chain of raw materials of the food and beverage sector, but also the availability of key resources in industrial production.

Envifood is the sign of commitment to reducing emissions, waste management, optimizing the use of resources or reducing waste. Actions, all of them, aimed at achieving a sustainable sector.

Seven challenges and opportunities of the Food and Drink Industry in the face of climate change have been identified in the aforementioned Report.

The increase in energy efficiency, the integration of renewable energies, the optimization of the consumption of soil, water and energy resources, or the integration of the circular economy, are just some of the advances that have allowed the first industrial sector to be consolidated in a privileged position to lead the change towards a sustainable production model.

The food and beverage industry has raised the challenges to improve the productivity, sustainability and efficiency of the sector compatible with the optimization of resources and the minimization of waste and emissions. In this sense, seven areas have been identified where it is necessary to increase the effort to achieve responsible production and consumption.

The first challenge points to the need **to integrate climate change into the business strategy of the company**, from the assimilation of its effects on productive operations, to the management of its risks and the realization of the objectives set, an area where commitment to R & D incentive policies is key.

Once the initiatives focused on the reduction of Greenhouse Gases (GHG) have been finalized, it is necessary to **extend climate management in the operations of the sector**, as second of the challenges set. It is essential to have internal management tools such as the carbon footprint to identify and prioritize actions, as well as focus efforts and investments.

Ensuring **a sustainable supply of energy** in the sector is the third factor. The rational use of energy implies the adoption of initiatives focused on achieving sustainable supply through actions in energy efficiency, such as cogeneration, whose use at the national level is led by the food and beverage industry, or the promotion of renewable.

Climate change poses a far-reaching challenge that affects all agents in the sector. The fourth challenge refers to the **support of climate management in the value chain**, for which it is necessary to establish a framework of collaboration with the

rest of the chain and public administrations will give greater competitiveness to the entire chain.

The fifth challenge refers to the supply of increasingly sustainable products, along with information and consumer education measures, will contribute to a **more responsible production and consumption**. On the other hand, increasing the **transparency of information** to interest groups motivates investment because of the positive value it gives to the entities that practice it, as well as improving the perception of consumers.

Finally, the rational use of raw materials and resources, and encourage the reduction of food waste are measures that seek the promotion of **circular economy models in the sector**.

In this framework, the food and beverage industry is moving towards an environment conducive to the stimulation of a sustainable culture, which sets out ambitious reduction objectives, which promotes the company's involvement at an international level, as well as the circular production of reflection on the subject of risks and public-private collaboration in the promotion of initiatives respectful of the environment and socially and economically competitive.

VII.5.3 CAMPAIGNS AGAINST FOOD WASTE

FIAB in collaboration with MAPAMA elaborated and launched different campaigns against food waste.

➤ The food industry ratifies in the Senate its fight against waste in September 2017

FIAB considers essential the collaboration of all social agents, together with the Administration, to reduce food waste along the entire agri-food chain, with awareness rising in responsible consumption within the home, where most of the waste is produced.

Waste is a global problem that involves all levels and links of the food chain, with significant negative repercussions at the social, environmental and economic levels, and urges a change of attitude of all stakeholders towards a use of resources smarter, sustainable and efficient. Therefore, the food and drink industry sees this as a priority for a sector that transforms 70% of agricultural production and allows the supply of more than 120 million servings of food daily inside and outside the home.

➤ Christmas tips against Food Waste in December 2017



VII.5.4 CONSUMER SUSTAINABILITY GUIDE

FIAB in collaboration with Ministry of Agriculture and Fisheries, Food and Environment (MAPAMA) elaborated the Consumer Sustainability Guide. It is a private/public initiative, FIAB organized it but the action is co-financed by Ministry and with its involvement, the action is in line with their policy.

The care and protection of the environment has always been a priority for the agro-food industry, since the raw materials necessary for the preparation of food come directly from the natural environment and its correct conservation implies ensuring a long-term sustainable production.

However, any industrial sector has certain associated environmental impacts to its activity.

The food and beverage industry has been working for years to minimize its impacts and to efficiently manage the available resources, with the main objective of the sector being the construction of a safe, healthy and sustainable industry. This objective goes beyond the interest to improve productive efficiency and delves into the need to promote sustainable production and consumption.

The search for environmental sustainability by companies makes them more efficient, reducing the consumption of resources and energy and reducing the level of polluting emissions, which has as a secondary effect a cost saving and an improvement in their competitiveness.

Given the prospect of a growing world population and an environment in which natural resources will be increasingly scarce, it is crucial that all the links in the food chain work to improve the efficiency of their processes, reduce the consumption of resources and energy, and minimize the impact on the environment.

In order to advance in the sustainability of food, improvement is needed in each of the stages of their life cycles and collaboration between the agents involved in the product value chain. In this way, the industry proposes, among other measures:

- contribute to the development of a sustainable supply of raw materials
- contribute to strategies against climate change

- reduce food waste
- promote the calculation and reduction of the environmental footprint of products as an internal management tool.

VII.5.5 PREVENTION BUSINESS PLANS

One of the main successes of the Food and Beverage Industry in terms of packaging management is the involvement of the sector with prevention. Spain was one of the first countries to compulsorily impose the development of PEPs. (Prevention Business Plans). The Spanish packaging companies not only fulfill their obligation through the PEPs, but they go beyond the provisions of European regulations, being pioneers in this field and carrying out numerous actions in the field of prevention.

PEPs seek to minimize and prevent at source the production and harmfulness of packaging waste that is generated. They are documents that collect, for periods of three years:

- Quantified prevention objectives
 - Prevention measures planned to achieve these objectives
 - Control Systems and annual monitoring of the degree of compliance with these objectives
- They must be approved by the competent bodies of the Autonomous Communities (hereinafter CCAA) where the registered office of the bottling or importing company of packaged products resides.

PEPs are responsible for putting on the market (packaging or importing companies) of packaged products whose package weight put on the market in a calendar year exceeds any of the following thresholds: 250 ton glass, 50 ton steel, 30 ton aluminum, 21 ton plastic, 16 ton wood, 14 ton cardboard, 350 ton if they do not exceed the previous quantities per material.

Companies that are required to submit PEP can comply with this legal requirement individually or grouped through the SIG to which they are attached, in which case it is called Sectoral PEP.

Speaking of prevention, a key point in the circular economy, let's see what the IAB has done in this area.

Companies in the food and beverage sector work to minimize the environmental impact of their packaging at all stages of their life cycle.

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VIII UNITED KINGDOM

Review and mapping of national (and regional/local) level policy and governance interventions in the UK to develop more effective food value chains

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Contents

VIII UNITED KINGDOM.....	385
VIII.1 Introduction	387
VIII.2 UK provisions promoting fairer trading practices in the food value chain	387
VIII.2.1 Unfair Trading Practices	387
VIII.2.2 Broader provisions for fairer practices in food value chains	391
VIII.3 UK provisions promoting integrity in food value chains.....	393
VIII.3.1 UK provisions promoting food safety in the food value chains	393
VIII.3.2 UK provisions promoting authenticity in the food value chains.....	396
VIII.4 UK collaborative initiatives promoting sustainability in the food value chains.....	399
VIII.4.1 Product Sustainability Forum	399
VIII.4.2 Courtauld 2025	400
VIII.4.3 Food waste and food losses related initiatives	401
VIII.4.4 Water usage in the UK food and drink industry – Federation House Commitment .	403
VIII.4.5 Ambition 2025	403
VIII.4.6 Sustainable Procurement	404
VIII.5 Conclusion	406

Abbreviations

AFS	Assured Food Standards	GCA	Groceries Code Adjudicator
B2B	Business to business	GHG	Greenhouse Gas
BRC	British Retail Consortium	GLA	Gangmasters Licensing Authority
CC	Competition Commission	GLAA	Gangmasters and Labour Abuse Authority
CCTV	Closed-Circuit Television	GSCOP	Groceries Supply Code of Practice
CMA	Competition and Markets Authority	INSPI	International Network of Product Sustainability Initiatives
CPET	Central Point of Expertise on Timber	LEAF	Linking Environment and Farming
Defra	Department of Environment, Food and Rural Affairs	NFCU	National Food Crime Unit
EFRA	Environment, Food and Rural Affairs (Select Committee)	NFU	National Farmers Union
EIPRO	Environmental Impact of Products	OPRL	On-Pack Recycling Label
EU	European Union	PSF	Product Sustainability Forum
FARMA	National Farmers' Retail and Markets Association	SCI	Supply Chain Initiative
FDF	Food and Drink Federation	SFCIU	Scottish Food Crime and Incidents Unit
FEA	Five-Fold Environmental Ambition	UK	United Kingdom
FHC	Federation House Commitment	UTPs	Unfair Trading Practices
FISS	Food Industry Sustainability Strategy	WFFCU	Welsh Food Fraud Coordination Unit
FSA	Food Standards Agency	WRAP	Waste and Resources Action Programme
FSS	Food Standards Scotland		
GBS	Government Buying Standards		

VIII.1 INTRODUCTION

The aim of this report is to identify good practice examples of national, regional or local level policy interventions and governance initiatives that promote the operation and better functioning of the UK food value chain in terms of fairer trading practices, food chain integrity (safety and authenticity) and collaborative sustainability actions. These good practice interventions may stem from the EU regulations and governance initiatives, or may be in addition to these EU wide actions

This information will be collated and mapped together with the information received for the other Member States from the VALUMICS partners. The outcome of this mapping exercise, the 'best practice' interventions from EU Member States, will be analysed to inform Task 3.3 of the VALUMICS project, the policy characterisation of food.

VIII.2 UK PROVISIONS PROMOTING FAIRER TRADING PRACTICES IN THE FOOD VALUE CHAIN

This section looks at a number of policies developed in the UK to address what the European Commission terms 'Unfair Trading Practices' (UTPs) and more broadly to promote fairer dealings along food value chains.

VIII.2.1 UNFAIR TRADING PRACTICES

VALUMICS Deliverable 3.1, on EU-level policy initiatives around the specified VALUMICS concerns, showed that since at least 2009⁷⁰⁹, European authorities have devoted considerable attention to what they have designated business-to-business (B2B) 'Unfair Trading Practices', defined as '*Practices that grossly deviate from good commercial conduct, are contrary to good faith and fair dealing and are unilaterally imposed by one trading partner on its counterparty*'⁷¹⁰. These can occur anywhere in food value chains, and usually result from disproportionate bargaining power between value chain actors (such as large corporate retailers compared with their smaller and less well-resourced suppliers), and cannot be effectively dealt with by existing law. The European Commission has therefore mooted the idea of EU-level regulation in this area.

The UK opposes this approach. In a 2013 response to the Commission Green Paper on UTPs⁷¹¹, the UK Government commented⁷¹¹ that it would be 'extremely sceptical' of an effort to harmonise contract law on the issue, and argued that the EU's definition of UTPs (quoted above) was unhelpful, because the 'fairness' of commercial practices varied between sectors and contexts. Additional regulations would be unlikely to help, given that companies vulnerable to UTPs are not in a position to assert their existing

⁷⁰⁹ Comm (2009) 591 *A better functioning food supply chain in Europe*.

⁷¹⁰ COM (2016) 32 *Final Report from the commission to the European parliament and the council on unfair business-to-business trading practices in the food supply chain*.

⁷¹¹ COM(2013) 37 *Final Green Paper on Unfair Trading Practices in the business-to-business food and non-food supply chain in Europe*.

contract rights, let alone any new ones. Overall, the UK ‘would generally not favour [EU] action on a cross-sectoral basis’⁷¹².

The UK preferred a sectoral approach organised at the member state or regional level, with collaboration between member states. In practice, the UK has recognised the occurrence of unfair B2B practices in food supply chains, arising from ‘economic dependency’, where a business ‘is forced to accept unfair terms because it cannot afford to challenge its sole/main customer or supplier’⁷¹³. While the preferred remedies lie in contract law or within the remit of the Competition and Markets Authority (CMA), the state has also deemed it necessary to create special regulatory frameworks, including in the groceries sector. These arrangements are discussed below.

VIII.2.1.1 UK approach to UTPs

There is no general principle of ‘fair dealing’ or ‘good faith’ ‘applicable to B2B transactions in UK law. However, there are several common law principles and statutory provisions which give some protection against unfair contractual dealings. These provisions are fragmentary: generally, freedom of contract prevails in commercial transactions’⁷¹⁴.

UK law deals with unfair contractual dealings in various ways. Contract law ensures that there is a framework of fairness within which business should operate - companies which are misled into agreements may not be bound by them, blanket exclusions of liability are generally not valid and unilateral changes may not be given legal effect, for example. At a higher level, where markets are perceived not to be working properly, the Competition and Markets Authority may initiate an investigation and suggest remedies or impose penalties. Where competition alone fails to deliver optimum results, Government may intervene further, on a sectoral basis, for example introducing compulsory independent dispute resolution mechanisms (usually ombudsmen)⁷¹⁵. This is what happened in the groceries sector in the form of the Groceries Code Adjudicator (see below). The UK government argues that this combination of remedies, with shared learning and collaboration among EU member states, is sufficient.

On the definition of UTPs offered in the 2013 Green Paper (and now accepted at EU level), the UK said: ‘*The UK agrees that the sorts of practices identified in the Commission Green Paper may be seen as unfair in certain circumstances, but they will not always be unfair across all sectors and types of business relations and certainly should not always be prohibited*’⁷¹⁶.

Practices which are seen in some circumstances as unfair may simply reflect the exercise of ‘buyer power’, which, the Government said, ‘may actually deliver positive results for consumers in an otherwise competitive market’. It urged the EU to be cautious about intervening:

‘Protecting weak companies against strong ones may appear to be “fair” and even to improve business diversity in the short term but it can damage market dynamics, deter

⁷¹² BIS (2013) *UK Government response to the European Commission’s Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

⁷¹³ BIS (2013) *UK Government response to the European Commission’s Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

⁷¹⁴ BIS (2013) *UK Government response to the European Commission’s Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

⁷¹⁵ BIS (2013) *UK Government response to the European Commission’s Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

⁷¹⁶ BIS (2013) *UK Government response to the European Commission’s Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

new market entry and in the long run make the market less efficient, raising prices for consumers⁷¹⁷.

VIII.2.1.2 The GSCOP and the GCA

The UK Government has acknowledged that abuse of market power has occurred in the groceries sector, and has acted to impose arbitration – but (somewhat arbitrarily) only at one stage of the supply chain, between the major retailers and their ‘first tier’ or direct suppliers.

A ‘Supermarket Code of Practice’, governing relations between the UK’s major supermarkets and their suppliers, was first introduced in 2001, following a recommendation from the (then) Competition Commission (CC), which had investigated the groceries sector⁷¹⁸. In 2008, after persistent complaints of unfair practices, the CC completed a second investigation, which found that while the sector was broadly competitive, some retailers were transferring excessive risk and unexpected costs to their direct suppliers. The CC recommended a strengthened and extended Code, the Groceries Supply Code of Practice (GSCOP), to be enforced by an independent ombudsman, the Groceries Code Adjudicator (GCA). The original order was for the grocery suppliers to create the ombudsman themselves; when they failed to do so, the GCA was created by Act of Parliament in 2013, with statutory duties to enforce the Code⁷¹⁹. Its aim is ‘to ensure supermarkets treat their suppliers lawfully and fairly⁷²⁰’.

The Code applies to ‘designated’ retailers (corporate groups with UK retail groceries turnover exceeding £1 billion a year, currently 10) and their direct suppliers⁷²¹. Indirect suppliers and intermediaries are out of scope (because they had not fallen within the terms of the CC investigation). However, the CC did suggest that if it subsequently appeared that intermediaries continued to transfer risks and costs up the supply chain, Government should consider extending the role of the Ombudsman to cover these actors⁷²².

The GSCOP enforces a principle of fair dealing, and covers comparable territory to the EU’s agenda on UTPs, though framed in different terms. The GSCOP specifies that:

‘A Retailer must at all times deal with its Suppliers fairly and lawfully. Fair and lawful dealing will be understood as requiring the Retailer to conduct its trading relationships with Suppliers in good faith, without distinction between formal or informal arrangements, without duress and in recognition of the Suppliers’ need for certainty as regards the risks and costs of trading, particularly in relation to production, delivery and payment issues⁷²³.’

The Code outlaws a number of practices, except where they have been included in contracts, including:

⁷¹⁷ BIS (2013) *UK Government response to the European Commission’s Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

⁷¹⁸ Competition Commission (2000) *Supermarkets A report on the supply of groceries from multiple stores in the United Kingdom Volume 1: Summary and Conclusions*.

⁷¹⁹ BIS (2013) *UK Government response to the European Commission’s Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

⁷²⁰ GCA (2017) *Groceries Code Adjudicator Annual Report and Accounts 1 April 2016 – 31 March 2017*.

⁷²¹ GCA (2017) *Groceries Code Adjudicator Annual Report and Accounts 1 April 2016 – 31 March 2017*.

⁷²² BIS (2013) *UK Government response to the European Commission’s Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

⁷²³ BEIS webpage ‘Guidance: Groceries Supply Code of Practice’, <https://www.gov.uk/government/publications/groceries-supply-code-of-practice/groceries-supply-code-of-practice>, viewed 4.12.17.

- Making retrospective variation to contracts;
- Making sudden changes to procedures;
- Delaying payments;
- Requiring suppliers to contribute to marketing costs;
- Requiring suppliers to cover the cost of spoilage and waste occurring on the retailers' sites;
- Penalising suppliers for the retailers' forecasting errors;
- Charging stocking, listing or positioning fees;
- Tying supply to purchase of goods or services from a third party;
- Overcharging suppliers for promotions;
- Over-ordering at promotion prices;
- Making unjustified charges in relation to customer complaints;
- De-listing without sound commercial grounds⁷²⁴.

Implementing the Code, the Adjudicator's powers are to:

- Arbitrate disputes between designated retailers and their direct suppliers;
- Investigate confidential complaints from direct and indirect suppliers, whether in the UK or overseas, and from third parties;
- Impose sanctions on retailers found to have breached the Groceries Supply Code of Practice, by making non-binding recommendations, requiring the retailer to publish details of their breach, or, in the most severe or repeated breaches, imposing a financial penalty to a maximum of 1% of the relevant retailer's UK turnover⁷²⁵.

The GCA's first mandate ran from 2013 to 2017, now extended for one year. A statutory review of the role of the GCA was launched late in 2016. At the time of writing (December 2017), its fate is undecided. However, campaigners have called for its remit to be renewed and extended beyond first-tier suppliers⁷²⁶. The Adjudicator herself reports having witnessed a 'transformation in both the culture of the sector and the behaviour of the retailers'⁷²⁷.

It is worth noting that this example of good practice only covers retailers in the grocery market and does not extend to all supplier buyer relationships along food value chains, such as between producers and manufacturers, or producers and food service companies. To this extent it does not match the more extensive arrangements for intervening in unfair trading practices at the different stages of food value chains that are to be found in some other member states⁷²⁸.

VIII.2.1.2.1 The GCA as the UK iteration of the Supply Chain Initiative (SCI)

As described in Deliverable 3.1, the Supply Chain Initiative is a joint scheme run by seven EU-level food-sector associations with the aim of increasing fairness in

⁷²⁴ ⁷²⁴ BEIS webpage 'Guidance: Groceries Supply Code of Practice', <https://www.gov.uk/government/publications/groceries-supply-code-of-practice/groceries-supply-code-of-practice>, viewed 4.12.17.

⁷²⁵ BIS (2013) *UK Government response to the European Commission's Green Paper on unfair trading practices in the business-to-business food and non-food supply chain*. BIS/13/928.

⁷²⁶ E.g, Sustain webpage, 'The case for extending the remit of the Groceries Code Adjudicator', https://www.sustainweb.org/news/sep17_groceries_code_sept17/, viewed 4.12.17.

⁷²⁷ GCA (2017) *Groceries Code Adjudicator Annual Report and Accounts 1 April 2016 – 31 March 2017*.

⁷²⁸ See VALUMICS Deliverable 3.1 section 2.2.8.

commercial relations along the food supply chain. The EU SCI website⁷²⁹ refers to national platforms and analogous organisations⁷³⁰: For the UK⁷³¹, this links to information on the GCA and GSCOP. It notes that the UK GCA ‘was mutually recognized with the EU-level SCI in June 2013 in relation to dealings between the 10 designated retailers and their direct suppliers’. The participating associations are listed as the Food and Drink Federation, The British Brands Group, the British Retail Consortium (BRC) and the Association of Convenience Stores.

VIII.2.2 BROADER PROVISIONS FOR FAIRER PRACTICES IN FOOD VALUE CHAINS

Deliverable 3.1 noted that the issues brought together by the EU under the label of Unfair Trading Practices (which consist of abuses in contractual relations between supply chain partners) do not encompass all the policy initiatives intended to promote fairer dealings in supply chains. Fair treatment of workers is an important consideration both inherently (as a social dimension of sustainable food chains) and as another factor in fair trading practices, since firms that exploit labour can undercut more responsible firms, with impacts along the value chain. Two UK policy initiatives worthy of note here concern fair pay, and fair treatment of contracted labour to agriculture and food processing.

VIII.2.2.1 *The National Minimum and National Living Wage*

Wage levels, and efforts to set a minimum threshold, are relevant to food value chains because low-wage jobs (including seasonal and part-time jobs) are concentrated in this sector.

In the UK, the non-partisan think-tank the Resolution Foundation provides authoritative data on low-wage work. Its 2016 report found that just under 20% of workers in Great Britain were low-paid (using the measure of earning less than two-thirds of the national hourly median wage), a proportion that has remained steady for the past 20 years. Within this group, food-related trades were disproportionately represented: 33% of agriculture workers, 40% of retail workers and 65% of hotel and catering workers were low paid⁷³².

To tackle the persistent problems of low pay and in-work poverty, the UK introduced a statutory National Minimum Wage for the first time in 1999. It built on a history of state intervention in wage-setting to prevent labour wage exploitation traceable to the late 19th century⁷³³. In 2017, the National Minimum Wage was raised significantly and rebranded as the National Living Wage (co-opting the name of the pre-existing, independently set Living Wage, calculated to reflect realistic living costs, administered by the third-sector Living Wage Foundation and paid voluntarily by some employers⁷³⁴). The new National Living Wage (which is lower than the ‘real’ Living Wage) is mandatory for workers aged

⁷²⁹ The Supply Chain Initiative, <http://www.supplychaininitiative.eu/>, viewed 10.10.17

⁷³⁰ Supply Chain Initiative ‘Regional and National Supporting Initiatives’, <http://www.supplychaininitiative.eu/regionalnational-supporting-initiatives>, viewed 10.10.17

⁷³¹ Supply Chain Initiative Regional and National Supporting Initiatives, ‘United Kingdom’, <http://www.supplychaininitiative.eu/regionalnational-supporting-initiatives>, viewed 10.10.17.

⁷³² Resolution Foundation (2016) *Low Pay Britain 2016*.

⁷³³ Eurwork webpage ‘The UK’s first National Minimum Wage’, <https://www.eurofound.europa.eu/observatories/eurwork/articles/the-uks-first-national-minimum-wage>, viewed 4.12.17.

⁷³⁴ Living Wage Foundation website, <https://www.livingwage.org.uk/>, viewed 4.12.17.

25 and over, with lower age groups and apprentices continuing to receive specified National Minimum Wage rates. The rates are reviewed annually by an independent public body, the Low Pay Commission. It is a criminal offence for employers not to pay at least the National Living Wage or Minimum Wage, as appropriate.

Because so many food workers were concentrated in low-wage sectors, they were among those who most benefited from the introduction of the National Living Wage⁷³⁵. However, after this initial boost, the Resolution Foundation calculates that across all sectors the proportion of people earning at or very close to the ‘wage floor’ (i.e. the age-appropriate minimum wage) is on course to rise significantly, with the harshest effects in low-paying sectors like agriculture, retail and hospitality. In hotel and food services, 38% of employees are already at the wage floor⁷³⁶.

VIII.2.2.2 The Gangmasters and Labour Abuse Authority

The non-departmental public body now known as the Gangmasters and Labour Abuse Authority (GLAA) was set up in 2004 as the Gangmasters Licensing Authority (GLA). It was established soon after 21 undocumented Chinese workers were drowned by an incoming tide while harvesting shellfish off the northwest coast of England, but had by then been under discussion for several years. Its objective was to tackle the exploitation to which migrant and / or seasonal workers (many of whom were known to be employed in food production and processing) were exposed⁷³⁷.

The GLA was empowered to licence suppliers of temporary labour to the fresh produce, horticulture and wild shellfish supply chains, performing checks to make sure the labour providers (or ‘gangmasters’) meet legal requirements. In the sectors affected, it is a criminal offence to supply workers without a licence, or to use an unlicensed labour provider, with a maximum possible prison sentence of 10 years or a fine. Licence criteria cover labour, working conditions, health and safety, accommodation, pay, transport, training, tax, National Insurance and VAT⁷³⁸. In 2017 there were nearly 1,000 licensed gangmasters, based in both the UK and overseas, who supplied as many as 464,000 temporary workers in the regulated sectors⁷³⁹.

In 2017, the GLA was reformed as the GLAA, retaining its licensing role in food value chains, and with an expanded remit to investigate suspected violations of the Modern Slavery Act 2015 and the Immigration Act 2016, both of which aimed in different ways to tackle illegal labour.

VIII.2.2.3 The Modern Slavery Act and Transparency in Supply Chains

The Modern Slavery Act 2015, among other provisions, places a duty of transparency on major businesses – including many food companies – in relation to the possible existence of slavery in their operations or supply chains. Modern Slavery is a term used to encapsulate slavery, servitude, forced or compulsory labour; and human trafficking, as set out in the 2015 Act⁷⁴⁰. Specifically, the Act requires every organisation carrying on a business in the UK with a total annual turnover of £36m or more to produce a

⁷³⁵ Resolution Foundation (2017) *Low Pay Britain 2017*.

⁷³⁶ Resolution Foundation (2017) *Low Pay Britain 2017*.

⁷³⁷ GLAA (2017) *Our Plan 2017-2020*

⁷³⁸ Gangmasters and Labour Abuse Authority website, <http://www.gla.gov.uk/>, viewed 4.12.17.

⁷³⁹ GLAA (2017) *Our Plan 2017-2020*.

⁷⁴⁰ *Modern Slavery Act 2015, Chapter 30*, <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>, viewed 4.12.17.

Human Trafficking Statement setting out the steps it has taken to ensure there is no modern slavery in its own business and its supply chains. If an organisation has taken no steps to do this, the statement should say so. A Human Trafficking Statement must be produced by these organisations for every financial year. The measure is designed to create a level playing field between businesses which act responsibly and those that need to change their policies and practices (potentially thereby gaining competitive advantage). If organisations fail to produce the Statement, they can be required to do so. Persistent failure may lead to reputational damage and 'it will be for consumers, investors and Non-Governmental Organisations to engage and/or apply pressure where they believe a business has not taken sufficient steps'⁷⁴¹

VIII.3 UK PROVISIONS PROMOTING INTEGRITY IN FOOD VALUE CHAINS

The aim of this part of the report is to identify the main policies and governance actions at UK or regional/local level within the UK, that impact upon the operation and better functioning of food supply chains in terms of food chain integrity. Food chain integrity, **for the purposes of this report**, is defined as safety and authenticity in the food value chain, which reflects the need for products to be safe and to be exactly what they say they are, i.e. to not be misleading or fraudulent.

VIII.3.1 UK PROVISIONS PROMOTING FOOD SAFETY IN THE FOOD VALUE CHAINS

VIII.3.1.1 Red Tractor Assurance scheme – Assured Food Standards

The Red Tractor Assurance scheme is the largest farm and food standards scheme in the UK. It was established in 2000⁷⁴² and launched by the Prime Minister as part of a Government-led Action Plan for Farming. The scheme is owned by Assured Food Standards (AFS) (established the same year), a UK not-for-profit organisation owned by the UK food industry (farmers, producers and retailers) but operating independently⁷⁴³. It is aimed at promoting and regulating food quality, with a focus on food safety. A range of organisations operate as guarantors: National Farmers Union (NFU), Dairy UK, Ulster Farmers' Union, the Agriculture and Horticulture Development Board, BRC and NFU Scotland, while the Food and Drink Federation acts as an observer.

The Red Tractor scheme is aimed at ensuring consumers can trust the quality of the food they eat and aims to promote clearer labelling and ensure that food originates from a trustworthy source which can be traced back to the original farm. It is overseen by several technical and marketing boards⁷⁴⁴. The scheme's mission is to define standards, ensure conformance with the standards, ensure clear labelling by use of the

⁷⁴¹ 'Transparency in Supply Chains etc, A Practical Guide', Guidance issued under section 54(9) of the Modern Slavery Act, 2015
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/649906/Transparency_in_Supply_Chains_A_Practical_Guide_2017.pdf

⁷⁴² <https://www.redtractor.org.uk/?src=landing>

⁷⁴³ <https://www.redtractor.org.uk/what-we-do/fag#480>

⁷⁴⁴ <https://www.redtractor.org.uk/what-we-do/who-we-are/company-structure>

Red Tractor logo and to communicate the benefits of the scheme. The scheme covers food safety, traceability, animal welfare and environmental protection. Standards are produced for chicken, pork, beef, lamb, dairy and fresh produce and crops⁷⁴⁵.

Companies joining the AFS scheme can demonstrate to their customers that they meet the traceability and quality standards and can use the **Red Tractor logo** which is widely recognised by the UK food industry. To use the logo specific licensing criteria must be met, which are provided for each of the product categories⁷⁴⁶. The use of the Union Jack flag in the Red Tractor logo confirms that the food has been born, grown, prepared and packed in the UK. There are three versions of the logo, the standard logo, used on single ingredient food with a 5% tolerance for seasoning, the 'named ingredient' logo that can be used on products where the primary ingredient is between 65% and 94% of the finished product, but where 100% of that ingredient is assured, and the 'made with' logo used in multi-ingredient foods where the characteristic ingredient is assured but amounts to less than 65% of the finished product (additional rules apply)⁷⁴⁷. There are currently over 78000 Red Tractor farmers in the UK selling their food to the 350 Red Tractor packers that are licensed to use the logo on their packaging. The logo is used by food companies of all sizes. Products assured under the scheme are available in all retailers but also in food service outlets.

'The Standard' Logo

'Named Ingredient' Logo

'Made with' Logo



Image 5: Red Tractor Assurance scheme logos

At its inception in 2000 the AFS became an umbrella for a number of existing producer-led assurance schemes, from different product sectors such as combinable crops, pigs, eggs and so on. Following the initial endorsement by the Government, AFS was subject to a number of reviews by Governmental bodies, such as the Food Standards Agency (FSA) and the Advisory Committee on Consumer Products and the Environment, particularly from the consumer perspective. The introduction of the EU Food Hygiene Regulation in 2007, which took food safety inspection on to the farm, led to the FSA granting the principle of “earned recognition” to members of the AFS scheme, which meant that they underwent a lighter food hygiene safety inspection regime (2% businesses audited) by local authority inspectors than farming businesses outside of the scheme (25% audited). This was a “risk assessment” based approach to regulation by the FSA, which determined that the AFS scheme’s processes met the safety standards required by law. The current practice is laid out in a Memorandum of Understanding for Earned Recognition that was signed in July 2016 between the Food Standards Agency and Assured Food Standards trading as Red Tractor Assurance⁷⁴⁸. The agreement sets out the general principles on collaboration, cooperation, roles and responsibilities in

⁷⁴⁵ <https://www.redtractor.org.uk/what-we-do/standards-chart>

⁷⁴⁶ <http://licensees.redtractor.vertouk.com/licensing-information/licensing-criteria>

⁷⁴⁷ <https://logo.redtractor.org.uk/what-we-do/using-the-logo>

⁷⁴⁸ <https://www.food.gov.uk/sites/default/files/multimedia/pdfs/enforcement/mou-red-tractor.pdf>

relation to the earned recognition process between the two. The rationale behind earned recognition is that food businesses compliant with a scheme recognised by the FSA and verified through a third party certification process, and taking positive action to reduce risks and comply with legislative requirements, can benefit from reduced frequency of inspections. This allows the enforcement authorities to focus their inspections and resources on less compliant businesses. The schemes must be compliant with the FSA criteria for earned recognition that look into the governance of the scheme, the scheme standards, the certification and the monitoring/review process. The FSA is responsible for verifying compliance of the schemes with these criteria to ensure continued confidence and justify the approved status. If a scheme fails to meet the criteria, the approved status is removed. The above Memorandum established a specific framework for the delivery of earned recognition for members of the Red Tractor Assurance scheme in relation to official controls for food hygiene, dairy hygiene and feed in primary production.

However, despite the best intentions, sometimes such initiatives may fail to meet their aims. In the UK, recently, one of the major chicken processing companies was found in breach of safety procedures but also in breach of the earned recognition rules. The processing site involved had been granted the earned recognition and had been audited by both the FSA and the Red Tractor scheme, but the audits conducted by the different bodies failed to identify the non-compliances unearthed by undercover journalists. A report was published of the results of an inquiry from the Environment, Food and Rural Affairs (EFRA) Select Committee of the House of Commons⁷⁴⁹. The Committee used the flouting of safety procedures at the 2 Sisters Food Group plant, as a case study to assess the performance of the regulatory system. It investigated the role of the FSA and the local authority in inspecting and auditing food production and processing plants, and of the private organisations that conduct audits, and the communication of intelligence between them and the FSA.

It found that there are gaps in the current governance processes, leading to the need to increase collaboration between the different auditing companies and sharing of data, which apparently is hindered by the screen of confidentiality. Also, better and more efficient communication is needed between companies granted an earned recognition status and the FSA. The inquiry showed that plants were able to opt out of unannounced accreditation visits. The quality of the risk assessment conducted for deciding whether to audit a plant or not and the better application of existing risk management processes could also help prevent the reoccurrence of such incidents. The possibility for increasing FSA's Food Crime Unit's powers to include investigative powers, in addition to intelligence gathering, could be considered, but would also require an increase of its funding. Another suggestion relates to the introduction of CCTV monitoring in cutting plants, in addition to current voluntary practices in slaughterhouses, subject to an impact assessment. The Committee asked the Government to report back to it on progress after a six-month period.

The FSA is spoken of in EU regulatory circles as a "good practice" national agency. From late 2015 the FSA's budget was frozen until 2020 (a real terms cut of 7%), which added to budget cuts in local authorities food safety inspection capacities, making the wider inspection environment "extremely challenging".⁷⁵⁰ While the AFS scheme is used as a good practice public-private governance mechanism for a risk based approach to food safety that may allow for more public authority inspection to focus on more vulnerable "at risk" food businesses, the 2 Sisters case shows that the public-private

⁷⁴⁹ <https://publications.parliament.uk/pa/cm201719/cmselect/cmenvfru/490/490.pdf>

⁷⁵⁰ Perret. M. (2016) FSA budget cuts: what it means for Food Safety" <https://www.nutraingredients.com/Article/2016/02/04/Food-safety-implications-of-FSA-budget-cuts>

food safety interface still has many gaps. Also, further improvements suggested by the EFRA Select Committee 2 Sisters report need further budget support to be implemented.

VIII.3.2 UK PROVISIONS PROMOTING AUTHENTICITY IN THE FOOD VALUE CHAINS

The aim of this part of the report is to identify good practice policy interventions and related governance initiatives that promote authenticity or prevent fraud in the food value chain.

VIII.3.2.1 Promoting authenticity in the food value chain

VIII.3.2.1.1 Red Tractor Assurance scheme – Assured Food Standards

Authenticity is an important element of the AFS scheme as outlined above.

VIII.3.2.2 Preventing fraud in the food value chain

VIII.3.2.2.1 UK Food Crime Units

Regulation (EU) No 2017/625⁷⁵¹ on official controls to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products was recently published and **will apply from 14 December 2019**. Compared to the old Regulation on official controls (Reg. 882/2004⁷⁵²) that it will replace, the new Regulation implements more specific rules to target fraud.

In the UK, the horse meat scandal of 2013 and the growing concern about the increasing potential for food fraud, prompted the Government to commission a review into the Integrity and Assurance of the food supply networks. This was completed by a team headed by Professor Elliot and is known as the Elliot Review⁷⁵³. The review proposed several recommendations and the implementation of a national food crime prevention framework.

As a response, the UK Government set up the **National Food Crime Unit (NFCU)**⁷⁵⁴ within the Food Standards Agency (FSA)⁷⁵⁵ in December 2014. The NFCU covers England, Wales and Northern Ireland, providing leadership for food crime response while respecting the devolution of relevant powers. There is also a **Scottish Food Crime and Incidents Unit (SFCIU)** within Food Standards Scotland (FSS) that was established in 2015 following the recommendations of the Scudamore report⁷⁵⁶ on Future arrangements to secure food standards and safety in Scotland. In Wales, the **Welsh Food Fraud Coordination Unit (WFFCU)** was established in 2004 and funded

⁷⁵¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R0625&qid=1499181684969&from=EN>

⁷⁵² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02004R0882-20170228&qid=1499181796978&from=EN>

⁷⁵³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350726/elliott-review-final-report-july2014.pdf

⁷⁵⁴ <https://www.food.gov.uk/sites/default/files/tacklingfoodcrime-nfcu.pdf>

⁷⁵⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350735/elliott-review-gov-response-sept-2014.pdf

⁷⁵⁶ <http://www.gov.scot/Resource/0039/00391041.pdf>

by the Welsh Government via FSA in Wales⁷⁵⁷. It coordinates food fraud enforcement action in the 22 unitary authorities in Wales. FSA Northern Ireland has recently appointed a **food fraud liaison officer** to collect intelligence to be communicated to the NFCU and to investigate intelligence developed locally or provided by the NFCU.

The NFCU aims to protect consumers and the legitimate food industry from serious dishonesty and criminal activity that impacts on the safety or authenticity of the food and drink they consume⁷⁵⁸. The NFCU defines **Food Crime** as “*Financially motivated dishonesty relating to food production or supply, which is either complex or results in serious detriment to consumers, businesses or the overall public*” and **Food fraud** as “*A dishonest act or omission, relating to the production or supply of food, which is intended for personal gain or to cause loss to another party*”. According to the NFCU, food fraud becomes food crime when the scale and potential impact of the activity is considered serious. This can include that the criminal activity has cross-regional, national or international reach, that there is significant risk to public safety, or that there is a substantial financial loss to consumers or businesses. Clearly, the full extent and impact of food crime activity may not be immediately apparent when relevant information is first received.

The NFCU comprises two functional teams, the intelligence team and the operational team which work together with the aim to reduce food crime. The intelligence team is focused at the strategic understanding of food crime and assesses and manages all food crime related intelligence and information by all sources. The operational team is responsible for developing and leading operations in relation to identified threats, handles criminal investigations and develops and manages relationships with other departments, local authorities and the police to enhance intelligence collection and cooperation. The SFCIU aims to provide leadership in the prevention, investigation, disruption and enforcement of food crime and to manage food safety incidents in Scotland. The SFCIU includes the investigations and intelligence arms of FSS⁷⁵⁹.

Food Crime Confidential is a reporting facility where anyone with suspicions about food crime, and in particular those working in or around the UK food industry, can report these safely and in confidence, over-the-phone or online.

Examples of information or suspicions that are considered interesting for the NFCU include:

- food or drink, potentially adulterated or substituted
- methods used for producing, processing, storing, labelling or transporting food that appear illegal or substandard
- companies or businesses that are selling items of food or drink that claim to be of a certain quality or from a specific place or region or suggest they have specific health benefits, but do not appear genuine or are suspected to be fake.

FSS also has set up a Scottish Food Crime Hotline to enable consumers or industry personnel to report illegal practices in the food chain anonymously. Additionally, there is an online form where such information can be provided, again anonymously, at the following link:

<https://forms.theiline.co.uk/ScottishFoodCrimeHotline>

⁷⁵⁷ https://www.food.gov.uk/sites/default/files/nfcu-review_0.pdf

⁷⁵⁸ <https://www.food.gov.uk/enforcement/the-national-food-crime-unit>

⁷⁵⁹ <http://www.foodstandards.gov.scot/business-and-industry/industry-specific-advice/food-crime-incidents>

The FDF published in 2014 a guidance document called '**Food authenticity: five steps to help protect your business from food fraud**'⁷⁶⁰ aimed to help its members, food businesses of all sizes, to identify, prioritise and manage upstream supply chain authenticity risks⁷⁶¹. This is an outcome of FDF's active engagement with the FSA, the Department of Environment, Food and Rural Affairs (Defra) and retailers and stakeholders in the UK, Europe and globally.

A review of the first two years of the implementation of the NFCU was completed in the end of 2016⁷⁶². This review found that the NFCU plays an important role in protecting the food chain from criminal activity according to the views of both the food industry and consumer stakeholders. It was also concluded that there are **capability issues at local and regional level that affect the enforcement of response to food crime, due to lack of training and expertise and due to the associated costs**. **The NFCU has limited capability to react to intelligence and support investigations, so its response to food crime has been inadequate**. However, stakeholders in Wales and Northern Ireland highlighted that there are certain positive aspects of the differences in devolved enforcement. **A lack of coordination and lack of clarity on roles and responsibilities was also identified by local authorities and law enforcement partners**. Different stakeholders also agreed that the NFCU should have **investigative capacity to fill a gap in food law enforcement**. Overall it was agreed by all stakeholders that *"the work of the NFCU is a good strategic fit for the FSA"*, but some industry stakeholders wanted reassurance on the ability of an open and transparent organisation such as the FSA to handle intelligence with appropriate sensitivity. Also, stakeholders gave feedback on how NFCU's operations may be improved in the future.

The review concluded with the following recommendations: The NFCU should have an investigative capability, be tasked with food crime prevention, be responsible for the setting of food crime investigation standards and be responsible for training in food crime awareness and intelligence handling. It also concluded that the NFCU should be set up as operationally independent of FSA but subject to scrutiny by the FSA (Arm's Length Body). The EFRA Select Committee also recommended an investigative capability for the NFCU, but this may be unlikely to be implemented given current budget restrictions (see section 3.1.1. above). The head of the FSA, speaking in September 2017, voiced the clear concern that lack of funding was preventing the NFCU from developing an effective capability in addressing food fraud⁷⁶³.

It must be concluded that the reforms that issued from the Elliot Review offer an important step forward in principle but in practice but fall some way short of full operational effectiveness and are hampered in terms lacking the budget to carry out a needed investigative role.

⁷⁶⁰ https://www.fdf.org.uk/corporate_pubs/Food-Authenticity-guide-2014.pdf

⁷⁶¹ <http://www.fdf.org.uk/food-authenticity.aspx>

⁷⁶² https://www.food.gov.uk/sites/default/files/nfcu-review_0.pdf

⁷⁶³ <http://www.telegraph.co.uk/news/2017/09/11/governments-2m-a-year-food-crime-unit-will-fail-unless-given/>

VIII.4 UK COLLABORATIVE INITIATIVES PROMOTING SUSTAINABILITY IN THE FOOD VALUE CHAINS

The aim of this part of the report is to look at collaborative initiatives that promote sustainability along the food value chains at national level in the UK. The role of the state or its authorities must be visible in the enabling of the ‘good practice’ initiative – for example by state agency support or state department funding, or indeed state legislation.

VIII.4.1 PRODUCT SUSTAINABILITY FORUM

The Product Sustainability Forum (PSF)⁷⁶⁴ was a collaboration of 80+ organisations made up of grocery retailers and suppliers, academics, NGOs and UK Government representatives. *‘It provides a platform for these organisations to work together to measure, improve and communicate the environmental performance of grocery products’*. The PSF was set up to co-ordinate the efforts already taken by different companies in measuring the environmental performance of their products and to align them to similar initiatives around the world so as to help interested parties to prioritise which products to focus their efforts on. Waste and Resources Action Programme (WRAP), a government-initiated, now independent non-profit organisation, acts as the secretariat to the PSF. The PSF originated from Defra to develop environmental assessment methodologies for the food and drink (and home improvement) sectors and replaced an existing Defra supported Retail Forum.

WRAP’s vision is *‘a world in which resources are used sustainably’* and works with governments, businesses and communities to deliver practical solutions to improve resource efficiency and facilitate a transition to a sustainable, resource-efficient economy⁷⁶⁵. WRAP works with partners such as governments in the UK and internationally, businesses, trade associations, institutions and charities⁷⁶⁶ and its action⁷⁶⁷ includes:

- research and analysis of evidence: to help partners overcome challenges;
- voluntary agreements: to help organisations work in partnership and achieve common sustainability goals;
- consumer campaigns: to help change behaviour and empower individuals to take action.

The PSF published a report in 2013 on *‘An initial assessment of the environmental impact of grocery products’*⁷⁶⁸. This report is a unique source of information as it collated data from more than 150 related studies. It identified a provisional ‘top 50’ grocery items that account for 80% of the environmental impacts. These products include alcoholic drinks, ambient products, bakery, dairy, fruit and vegetables, household products, meat, fish, poultry and eggs, non-alcoholic drinks, other chilled and

⁷⁶⁴ <http://www.wrap.org.uk/content/product-sustainability-forum>

⁷⁶⁵ <http://www.wrap.org.uk/about-us/about>

⁷⁶⁶ <http://www.wrap.org.uk/about-us/our-partners>

⁷⁶⁷ <http://www.wrap.org.uk/about-us/what-we-do>

⁷⁶⁸

http://www.wrap.org.uk/sites/files/wrap/An%20initial%20assessment%20of%20the%20environmental%20impact%20of%20grocery%20products%20final_0.pdf

frozen products and personal care products. Impact metrics cover greenhouse gas (GHG) emissions, embedded energy, water, use of materials and waste and are split into five stages in the product's lifecycle: Materials and Agriculture; Packaging; Manufacture; Distribution and Consumer Use. The environmental impacts related to GHG emissions and to use of resources (top-level household environmental impacts) were summarised using data from the European Commission's research project on the Environmental Impact of Products (EIPRO). The report concluded that the production and sale of grocery products contributes between 21-33% of the household consumption GHG emissions and to around 24% of abiotic resource depletion impacts.

This report helps organisations develop more detailed strategies to reduce their impacts. PSF also conducted research on interventions with the greatest potential to reduce grocery products impacts and produced guidance documents for the industry. 'Pathfinder' projects were undertaken to address whole food chain resource efficiency in specific food value chains, for: potatoes, onions, apples, pork and beef⁷⁶⁹. In addition, a more generic Whole Chain Resource Efficiency toolkit is available, and a business case for lead companies to target and gain value chain collaboration. This work is now being continued under the latest phase of the Courtauld Commitment 2025.

VIII.4.2 COURTAULD 2025

Courtauld 2025⁷⁷⁰ is a collaborative initiative that aims to cut the waste and greenhouse gas (GHG) emissions associated with food and drink by at least one-fifth per person in ten years (from 2015) and improve water stewardship. It is a voluntary scheme for food industry stakeholders, funded by the UK, Scottish, Welsh and Northern Ireland governments and delivered by WRAP, a former non-departmental public body now operating as a charity. Stakeholders, which include retailers, brand owners, manufacturers and suppliers, sign up to the targets and take steps to achieve them.

Its main methods are to inform producers and consumers on how to reduce waste along the chain; to design waste out through the use of innovative packaging (including with less materials, in better sizes, with more useful labelling); and to divert waste to alternative uses, such as recycling, biogas or compost.

The agreement originated in the 2006 Food Industry Sustainability Strategy (FISS), the UK government's first (and so far only) strategy to set goals and direction of travel for the food industry beyond the farm gate. The Strategy was itself highly collaborative, with industry stakeholders participating in setting priorities and targets. Under its 'Primarily environmental' pillar (which sat alongside several others), the Strategy set targets for carbon emissions, waste, water and food transportation⁷⁷¹. Various collaborative initiatives, in successive iterations, have taken policy forward on these topics. The Courtauld Commitment, looking at waste and water stewardship, is one; others include the Federation House agreement and the food industry's Fivefold Ambition, both discussed in this document.

The Courtauld Commitment is now in its fourth phase. Over the years its scope has broadened, and its knowledge base has deepened. Courtauld 1 (2005-09) aimed to reduce primary packaging and brought food waste onto the agenda for the industry. Courtauld 2 (2010-2012) included secondary and tertiary packaging, and supply chain waste, and moved from reducing weight to reducing the carbon impact of packaging.

⁷⁶⁹ <http://www.wrap.org.uk/content/whole-chain-resource-efficiency>

⁷⁷⁰ Wrap website, <http://www.wrap.org.uk/content/courtauld-commitment-2025>, viewed 5.12.17

⁷⁷¹ Defra (2006) *The Food Industry Sustainability Strategy*.

Courtauld 3 (2013-15) aimed to further reduce the weight and carbon impact of household food waste. Courtauld 2025, the current, 10-year plan, has a more holistic ambition to reduce waste and GHG emissions from the food supply, on a per capita basis, as noted above. Progress reports are published annually⁷⁷².

VIII.4.3 FOOD WASTE AND FOOD LOSSES RELATED INITIATIVES

VIII.4.3.1 On-Pack Recycling Label

The On-Pack Recycling Label (OPRL)⁷⁷³ was developed in 2009 by a collaboration between WRAP and the BRC (the retailers' trade association) to help consumers recycle more effectively. Under this not-for-profit scheme, retailers and brand owners can label food packaging as 'widely recycled', 'check local recycling' and 'not currently recycled'. It also includes special labels for composite beverage cartons and plastic films. More than 145 organisations have signed up to use the scheme and it's been used in more than 75,000 product lines. The benefits for these organisations include engaging customers, delivering on sustainability, supporting sector-wide commitments, participating in the circular economy and addressing political and public criticism⁷⁷⁴.



Image 6: Labels that can be used under the On-Pack Recycling Label scheme to help consumers recycle more efficiently.

VIII.4.3.2 Recycling Guidelines

In 2017, WRAP published 'Recycling Guidelines', following extensive consultation with the recycling industry. It includes information on what items may or may not be recycled and how these should be presented for collection⁷⁷⁵. The aim is to increase consistency

⁷⁷² Wrap website, <http://www.wrap.org.uk/content/courtauld-commitment-2025>, viewed 5.12.17

⁷⁷³ <http://www.wrap.org.uk/content/pack-recycling-label>

⁷⁷⁴ <http://www.oprl.org.uk/get-involved/what-are-the-benefits/>

⁷⁷⁵ <http://www.wrap.org.uk/collections-and-reprocessing/collections-and-sorting/kerbside-collections/reports/recycling-guidelines>

in household recycling across the UK, reduce confusion for householders, improve the quality of materials and save money⁷⁷⁶. The WRAP Recycling Tracker survey⁷⁷⁷ of 2016⁷⁷⁸ had indicated that there is confusion amongst householders on what can and can't be recycled and that this is one of the barriers to recycling. The Recycling Guidelines were tested extensively with consumers to ensure the language used is right, to check how different they are from consumers' current behaviour and knowledge and to check if consumers claim they would follow them.

WRAP will also produce, quarterly, communication material on commonly missed recyclables, common contaminants, etc. The Guidelines will also help inform the **review of the OPRL guidelines**.

VIII.4.3.3 The Hospitality and Food Service Agreement

The Hospitality and Food Service Agreement was a voluntary agreement, delivered by WRAP through its national programmes, aimed at supporting the sector in reducing waste and recycling more. The Agreement closed at the end of 2015 and the final results were published in 2017⁷⁷⁹. The targets of the Agreement, detailed below, were developed (and owned) by WRAP in close collaboration with organisations and individuals in the sector and they were delivered by the signatories.

- Prevention target: reduction of food and associated packaging waste rising by 5% by the end of 2015 compared against a 2012 baseline and measured by CO₂ emissions.
- Waste management target: at least 70% increase of food and packaging waste being recycled, anaerobically digested or composted by the end of 2015.

WRAP will continue to work with the sector through the **Courtauld Commitment 2025**.

VIII.4.3.4 Labelling guidance to reduce household food waste

On 29 November 2017, WRAP in association with the FSA and Defra published new labelling guidance to be used by food manufacturers and retailers and help ensure that food is safe and legally compliant, it is stored and used within time and eventually help reduce the 2 million tonnes of food waste that is generated each year in UK households due to food not being used on time⁷⁸⁰. This guidance also claims that it can help deliver a four-fold increase in surplus food redistribution by 2025⁷⁸¹.

The guidance clarifies the use of 'best before' and 'use by' dates, promotes the use of only one date on a product (no 'display until' and other similar dates), aims to maximise the life of products after opening the container by use of appropriate instructions and clarify which products need to be stored in the fridge and which are suitable for home freezing. Helpful logos will be used alongside text to help consumers better understand storage instructions.

⁷⁷⁶ http://www.wrap.org.uk/sites/files/wrap/Recycling%20guidelines%20briefing%20doc%20v1.6_0.pdf

⁷⁷⁷ This is an annual survey of UK house holds aimed at gathering evidence on consumers' current attitudes, knowledge and behaviour in relation to recycling, both dry recyclables/packaging and food.

⁷⁷⁸ http://www.wrap.org.uk/sites/files/wrap/Recycling%20Tracker%20Report%202016_0.pdf

⁷⁷⁹ <http://www.wrap.org.uk/content/hospitality-and-food-service-agreement-3>

⁷⁸⁰ <https://www.food.gov.uk/news-updates/news/2017/16752/wrap-launches-new-labelling-guidance>

⁷⁸¹ http://www.wrap.org.uk/food-date-labelling?utm_source=PR&utm_medium=media-wrap&utm_campaign=date-labelling

VIII.4.4 WATER USAGE IN THE UK FOOD AND DRINK INDUSTRY – FEDERATION HOUSE COMMITMENT

In 2010 WRAP commissioned and published a study to better understand water usage in the UK food and drink industry. It appeared that the food and drink manufacturing and hospitality and food service sectors were the largest water users, even though water use reduced between 2007 and 2010⁷⁸².

The Federation House Commitment (FHC) is a voluntary agreement managed by WRAP and the FDF. It is also known as a ‘responsibility deal’. It ran from 2008 to 2014 and applied to direct water use in the UK. It encouraged its signatories, food and drink manufacturing companies, to reduce water use and examine how their processes could be improved to be more efficient in the future, contributing towards a sector-wide target of 20% water use reduction by 2020 compared to 2007. This target was set out in Defra’s Food Industry Sustainability Strategy (FISS) of 2006. Signatories to the FHC pledged to review their water use and develop and implement action plans for their sites within 6 months of signing up to the Commitment and they had access to support to review and reduce their water use⁷⁸³ and to a range of other benefits. The action plans should then be updated, and signatories should provide data on water and cost savings achieved on an annual basis. According to the 2011 report, at least 102 sites achieved a reduction in water use between 2007-2011 and the reduction in water use between 2007 and 2010 was 5.3% while production increased by 7.5% during the same time. The 2015 report showed that water use was reduced by 15% in the period 2007-2014 (excluding that in product) while production increased by 10.2% over the same time⁷⁸⁴. Signatories were also encouraged to share best practice on issues such as cleaning methods and techniques to reduce water use. Some signatories set more challenging objectives than the ones of FHC for reducing water use and achieving their sustainability goals.

In 2013 Dairy UK and WRAP signed an agreement that would allow Dairy UK to become an official partner in FHC, joining WRAP, FDF, Defra and the Environment Agency⁷⁸⁵. This partnership aimed to promote greater awareness of water efficiency, sustainability and environmental responsibility in the dairy industry as well.

From 2015 and following the success of FHC, the accountability for improving water efficiency in the food and drink sector has moved to the industry and data are now collected via FDF, Dairy UK and other trade associations⁷⁸⁶.

VIII.4.5 AMBITION 2025

Ambition 25 is a scheme run by the UK food manufacturers’ trade association, the Food and Drink Federation (FDF), to cut waste and emissions arising from its members’ activities. It is the latest iteration of a scheme that began in 2007 as the Five-Fold Environmental Ambition (FEA)⁷⁸⁷. Like the Courtauld Commitment and the Federation House Commitment, the Five-Fold Environmental Ambition was prompted by the UK

⁷⁸² <http://www.wrap.org.uk/node/15637>

⁷⁸³ http://www.wrap.org.uk/sites/files/wrap/FHC_Annual_Report_2011.pdf

⁷⁸⁴ <http://www.wrap.org.uk/content/federation-house-commitment>

⁷⁸⁵ <http://www.wrap.org.uk/content/dairy-uk-and-wrap-sign-federation-house-commitment-partnership-reduce-water-usage>

⁷⁸⁶ <http://www.wrap.org.uk/content/federation-house-commitment>

⁷⁸⁷ Food and Drink Federation website https://www.fdf.org.uk/environment_progress_report.aspx, viewed 5.12.17.

Government's 2006 Food Industry Sustainability Strategy, which put the food industry on notice that it needed to reduce its negative environmental (and to some extent social) impacts⁷⁸⁸. In response, in 2007 the FDF (whose stakeholders had participated in developing the Strategy) published the first FEA, described as a roadmap to help food and drink manufacturers achieve improvements in resource efficiency. Echoing the FISS, the targets covered CO2 emissions, waste, packaging, water and transport⁷⁸⁹, the five topics of the title. Over the duration of the scheme, substantial achievements have been recorded. For example, by 2016, FDF members achieved an absolute reduction of 46% in CO2 emissions from their use of energy in manufacturing operations compared to the 1990 baseline⁷⁹⁰. The current iteration, Ambition 2025, was launched in 2016 with the targets updated and extended to take in supply chains. Although the Ambition's roots lay in a state-led initiative to improve food industry sustainability⁷⁹¹, it is run by the industry, via its trade association – an example of effective public-private governance.

VIII.4.6 SUSTAINABLE PROCUREMENT

VIII.4.6.1 The Government Buying Standards for food and catering services

The EU's policy of moving towards Green Public Procurement has been implemented by the UK Government over a number of years. The current UK policy initiatives come under the heading Sustainable Procurement and addresses several industrial sectors⁷⁹². Sustainable procurement is when organisations source goods, services, works and utilities in such a way that benefits not only the organisation, but society and the economy as well, and minimises damage to the environment⁷⁹³. In 2014 the UK Government published Government Buying Standards (GBS) for food and catering services, considering energy and water use, end of life costs and resource efficiency. The GBS for food and catering services apply only to central government departments. There are mandatory standards and recommended good practice. In addition, there is a supporting tool called **the balanced scorecard** that provides more detailed advice for departments for setting technical specifications and evaluating bids⁷⁹⁴. Some of the details of the mandatory standards and recommended good practice are below:

- Mandatory standards for central government procurement:** Government departments and related organisations must meet these standards when buying goods and services for the products covered. It is encouraged that these standards are specified in wider public sector tenders. The mandatory standards cover production, processing and distribution, traceability, authenticity and origin, animal welfare and eggs, environment (including palm oil and fish), variety and seasonality, nutrition (reducing salt, increasing fruit and vegetable consumption and reducing saturated fat, and provisions for cereals and fish), resource

efra (2006) *The Food Industry Sustainability Strategy*.

⁷⁸⁹ Food and Drink Federation website https://www.fdf.org.uk/environment_progress_report.aspx, viewed 5.12.17.

⁷⁹⁰ FDF's Environmental Ambition Progress Report 2016, https://www.fdf.org.uk/corporate_pubs/2016-ear-report.pdf%20, viewed 5.12.17.

⁷⁹¹ Defra (2006) *The Food Industry Sustainability Strategy*.

⁷⁹² <https://www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs>

⁷⁹³ <https://www.gov.uk/government/publications/sustainable-procurement-the-gbs-for-food-and-catering-services>

⁷⁹⁴ <https://www.gov.uk/government/collections/food-buying-standards-for-the-public-sector-the-plan-toolkit>

efficiency (water, reducing landfill, food waste, energy management, catering equipment, paper products) and social-economic aspects (ethical trading, SMEs inclusion, equality and diversity). These can be seen as the minimum standards.

- Best practice voluntary standards for central government procurement:**
 Best practice standards have more or stricter criteria and they are to be followed or used in tenders by organisations concerned about sustainable procurement. They cover specific environmental production standards, nutrition (including specifications for snacks, confectionery, sugar sweetened beverages, menu analysis, calorie and allergen labelling), resource efficiency (including environmental management systems, packaging waste, food waste, energy efficiency, waste minimisation, catering equipment and paper products) and social-economic aspects (such as ethical trading and SME inclusion).

The GBS for food and catering services cover a range of existing non-governmental standards and are a good example of the Government following and thus endorsing some private and civil society standards setting. Examples include the Marine Conservation Society and Marine Stewardship Council's sustainable fish standards, organic certification, and recognised integrated farm management standards (e.g. Linking Environment and Farming (LEAF)). At the same time the social standards for sustainable procurement of food and catering services include as mandatory that 50% of tea and coffee procured must be fair trade certified. Best practice guidelines (not mandatory but recommended to follow) include following the Groceries Supply Code of Practice (GSCOP) for farmers (see section 2.1.2 above). Large facilities' companies who provide catering services to central government departments are tailoring their contract specifications accordingly, and so impacting along food value chains. The application of these standards to central government departments sets a benchmark for their potential use by a wider range of public sector institutions providing catering, from armed services canteens to local authorities, schools and hospitals.

VIII.4.6.2 Sustainable palm oil

Other action the UK Government has taken towards sustainable development of relevance to the food supply chain, is the publication of a step-by-step leaflet to help food and drink manufacturers identify, prioritise and manage palm oil supply chain risks⁷⁹⁵. This guide has been developed by the FDF with Central Point of Expertise on Timber (CPET) (run by two companies contracted by Defra⁷⁹⁶) and is called **CPET 5 steps to sourcing sustainable palm oil**. The guide helps companies source sustainable palm oil, the world's most widely used vegetable oil contained in many food products, by helping them to identify, prioritise and manage key risks in its supply chain and helping them define an action plan for sustainable sourcing that should be implemented, tracked, reviewed and communicated⁷⁹⁷.

⁷⁹⁵ <https://www.gov.uk/government/publications/cpet-5-steps-to-sourcing-sustainable-palm-oil-leaflet>

⁷⁹⁶ <https://www.gov.uk/government/groups/central-point-of-expertise-on-timber>

⁷⁹⁷ <http://www.fdf.org.uk/sustainable-palm-oil.aspx>

VIII.5 CONCLUSION

From our UK summary, there have been a number of policy initiatives that either address concerns raised by EU authorities (such as UTPs), or tackle policy problems domestically (such as the environmental impacts of food supply chains). These efforts have had different approaches and different levels of success. One constraint, for example in food safety and in food fraud has been restricted budgets that have hindered more effective policy implementation and monitoring, meaning that food value chains have not functioned as well as they could in these areas.

IX CHINA

Review and mapping of national (and regional/local) level policy and governance interventions in China to develop more effective food value chains

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Contents

IX	CHINA	407
	IX.1 Introduction	408
	IX.2 Fairer Trading Practices	408
	IX.3 Integrity (food safety and authenticity).....	409
IX.3.1	Food safety.....	409
IX.3.2	Food authenticity	413
	IX.4 Collaborative sustainability initiatives	414
IX.4.1	Environmental sustainability.....	414
IX.4.2	Social sustainability	416

IX.1 INTRODUCTION

The food industry is the pillar industry of china's national economic development, which has a very important influence on the national economy and the development of market economy. Speeding up the development of food industry and ensuring food safety is an important choice of national sustainability strategy.

Food safety concerns people's health and life safety, and the circulation of food value chain has an important influence on food quality and safety. The formation of food value chain is from agricultural production to processing, until the packaging, circulation and final consumption of food supply chain links within the enterprise value chain, on the other hand, the vertical link between the links and the value chain formed. However, due to the volatility of food production, food safety is difficult to ensure that the value chain of agricultural products on the distribution of the interests of unfair, especially farmers ' economic interests and consumer interests is difficult to maintain, may lead to the value chain information opaque, asymmetric, unfair competition between enterprises, In the end, the main body of Chinese food value chain is difficult to form beneficial symbiosis and the whole industry lacks market competitiveness. Therefore, for ensuring the sustainable development of food industry, every link should be strictly controlled, the whole food supply chain must be established strict laws and regulations.

In recent years, the legislation of sustainable development of food industry in China is gradually perfected. At present, China's policies and regulations on sustainable development of food industry are divided into the following aspects: Fair Trade Practices, Food Safety, Food Authenticity, Environmental Sustainability, Social Sustainability.

IX.2 FAIRER TRADING PRACTICES

Fair trading is a partnership based on dialogue, transparency and mutual respect. The relationship of fair trading provides a continuity, which requires fair trade activities to bring benefits to producers, consumers and the natural environment. However, there are many inequities in trade that undermine the interests of supply chain partners in china, that is unfair trade practices (UTPs).

UTPs are defined as the use of improper means to engage in market transactions and to undermine the interests of competitors, which matches the 'core UTPs' defined by the EU. UTPs are that:

- One party should not use property or other means to make bribes to sell or purchase goods ;
- One party should not take the theft, inducement, coercion or other improper means to obtain the interests of the other party;
- One party should not declare illegal acts by false statements, false advertisements, tying and other decrees ;
- One party should not violate the contractual agreement in an unfair way.

The state has the functions of legislation, judicature and administration. State's involvement plays an important regulatory role, which is conducive to the fair protection of the interests of the partners.

In order to encourage legitimate competition and protect the interests of supply chain partners, china has implemented relevant regulations and state-led policies to tackle unfair trade practices (UTPs), such as provisions of Law of the People's Republic of China on Anti-Unfair Competition, Law of the People's Republic of China on Foreign Trade and Contract law of the People's Republic of China. Specific laws and regulations are shown in the following table:

Kind	Name	The main contents	Impact			Adopted Date
			Link	Object	Compulsory or not	
Law	Law of the People's Republic of China on Anti-Unfair Competition	unfair trade practices, and it's supervision and inspection	Entry-exit trade	business dealer	Yes	2/9/1993
	Law of the People's Republic of China on Foreign Trade	product trade regulations, trade services, trade order	Entry-exit trade	Parties to the contract	Yes	12/5/1993
	Contract law of the People's Republic of China	Contract effectiveness, Contract performance, Contract rights and obligations	Entry-exit trade	Parties to the contract	Yes	15/3/1999

IX.3 INTEGRITY (FOOD SAFETY AND AUTHENTICITY)

IX.3.1 FOOD SAFETY

In recent years, food quality and safety issues have been paid more and more attention by domestic and foreign food producers, consumers and managers. Food safety are related to people's lives and health. The plants, animals, microbes and their products obtained in agricultural activities are the most concerned in China. For ensuring food safety, regulating and managing food production, processing and distribution, promoting the healthy and sustainable development of food supply chain, China has issued a series of laws and regulations about food quality and safety. The most important and basic laws are Product Quality Law of the People's Republic of China, Law of the People's Republic of China on Quality and Safety of Agricultural Products and Food Safety Law of the People's Republic of China. These laws are applicable to the all links of food supply chain.

IX.3.1.1 Product Quality Law of The People's Republic of China (22/02/1993)

Product Quality Law of the People's Republic of China (Product Quality Law) was passed by Committee of the Seventh National People's Congress on February 22, 1993.

Product Quality Law is enacted to strengthen the supervision and control over product quality, to improve product quality, to define the liability relating product quality, to protect the legitimate rights and interests of consumers and to safeguard the socio-economic order. Product Quality Law has 6 chapters, 74 provisions, includes general provisions, supervision and control over product quality, quality responsibilities and obligations of producers and sellers, compensation for damage, penalty provisions, supplementary provisions. Product Quality Law has some relevant provisions which mainly concern about product quality, the food industry's production and sales activities. Such as:

- The requirements of liability and obligation of producers concerning product quality
 - 1) Producers shall be liable for the quality of the products they produce;
 - 2) All marks on the products or the packages thereof shall meet the requirements;
 - 3) No producer may produce any product that has been officially eliminated by the State.

- The requirements of liability and obligation of sellers concerning product quality
 - 1) A seller shall practise a check-for-acceptance system while replenishing his stock, and examine the quality certificates and other marks;
 - 2) A seller shall adopt measures to keep the products for sale in good quality;
 - 3) A seller may not sell invalid or deteriorated products.

The Product Quality Law strengthens the supervision and management of product quality. Its provisions about quality are relevant to all product categories, food product as a product, its quality is constrained by this law. Product Quality Law has a great significance in improving the level of food product quality, clarifying the liability of food product, protecting the legitimate rights and interests of consumers, safeguarding the socio-economic order.

IX.3.1.2 Law of the People's Republic of China on Quality and Safety of Agricultural Products (29/04/2006)

The Law of the People's Republic of China on Quality and Safety of Agricultural Products, amended and adopted at the 21st Meeting of the Standing Committee of the Tenth National People's Congress of the People's Republic of China on April 29, 2006, is hereby promulgated and shall go into effect as of November 1, 2006.

This law is enacted in order to ensure the quality and safety of agricultural products, maintain the health of the general public, and promote the development of agriculture and rural economy.

The following contents about agricultural products are included in this law:

- The formulating, promulgating, implementing guideline of quality and safety standards of agricultural products;

- The standards of permitted and prohibited to create agricultural product production areas;
- The technical requirements and operating rules for production to ensure the quality and safety of agricultural products;
- The agricultural inputs prohibited to use in the agricultural product production process;
- The requirements packaging and labelling of agricultural products.

Law of the People's Republic of China on Quality and Safety of Agricultural Products fills the gap of specialized law for agricultural products, ensures the quality and safety of agricultural products obtained from agricultural activities on plants, animals, microorganisms, regulates the origin, production, packaging and labeling of agricultural products, strengthens the management of quality and safety.

IX.3.1.3 Food Safety Law of the People's Republic of China (28/02/2009)

The Food Safety Law of the People's Republic of China, which was adopted at the 7th Session of the Standing Committee of the 11th National People's Congress of the People's Republic of China on February 28, 2009, is hereby promulgated and shall come into effect as of June 1, 2009. The Food Safety Law is enacted to ensure the food safety and guarantee the safety of the lives and health of the general public.

The following business activities carried out within the territory of the People's Republic of China shall abide by this law:

- Food production and processing, food distribution and catering service
- Production and trading of food additives
- Production and trading of packing materials, vessels, detergents and disinfectants for food, as well as utensils and equipment used in food production and trading
- Food additives and food-related products used by food producers and traders
- Safety management of food, food additives and food-related product

Food Safety Law regulates almost all aspects of food production and business activities, the main contents of the law are:

- Food safety standards;
- Food production and business activities;
- Inspection and Testing of Food;
- Food Import and Export;
- Response to Food Safety Incidents;
- Supervision and Administration of Food safety.

Food Safety Law is based on Food Sanitation Law and Product Quality Law. Its promulgation and implementation have great significance in preventing, controlling,

reducing and eliminating food contamination, preventing and controlling the occurrence of foodborne disease and food safety incident, ensuring food safety, safeguarding public health and safety, improving the level of food safety, safeguarding the fundamental interests of the people.

For some short supply chains, such as producers directly supply a small number of primary products to the end-consumer, or by producers to local retail institutions, before the supply of the final consumer, China's existing laws and regulations are not strictly defined. However, laws and regulations applicable to these short supply chains have also been promulgated. These detailed rules and regulations are as following table:

Kind	Name	The main contents	Impact			Adopted Date
			Link	Object	Compulsory or not	
Law	Regulations on the Implementation of the Food Safety Law of the People's Republic of China	Food supervision and management, food safety standards, food safety incidents and food production and operation, inspection, import and export, etc.	The whole supply chain of food	Food	Yes	08/07/2009
Legislation	Administrative Measures of Food Safety National Standard	The content of national standards for food safety, procedures for standard developing and revising.	The whole supply chain of food	Food safety standards	Yes	20/09/2010
	Supervision and Management Measures of Food Safety Circulation Link	In order to strengthen the supervision and management of circulation link of food safety.	Food circulation	Food	Yes	30/07/2009
	Supervision and Management Regulations of Dairy Quality and Safety	The supervision and management of dairy and dairy product quality and safety (dairy livestock breeding, raw milk acquisition, production and sale of dairy products, etc.).	The whole supply chain of dairy	Dairy livestock, raw milk and dairy product	Yes	09/10/2008
	Administrative Measures of Aquatic Products Wholesale Marketplace.	Strengthen the management of aquatic products market and maintain market order and promote the coordinated development of fishery economy.	Aquatic products circulation	Aquatic products and aquatic products marketplace	Yes	27/11/1996

IX.3.2 FOOD AUTHENTICITY

Food fraud is still happening, but most of them are shoddy, with fake real economic interests oriented food authenticity problem. In the product of doping, adulteration, to pseud True, is the quality of fraud violations, and production shoddy, failure deterioration, counterfeit qualified products, indicating the false origin, production plant name, site, forge production date, shelf life, forgery or the use of quality certification signs, etc. are serious quality fraud problems. Clearly, food as a consumer product, the authenticity of food is also protected by relevant laws and regulations. Food fraud has damaged the reputation of genuine businesses. Once the food safety problem, responsibility is difficult to trace, consumer security is not guaranteed.

In order to prevent food fraud and ensure food safety, the state has enacted relevant laws and adopted a series of measures. The government should ensure the objectivity, authenticity and unimpeded information channels of food safety information. At the same time, the government should not only announce the real information of food safety in real time, but also enhance information exchange between enterprises, experts and consumers, and guide consumers' rational behaviour and corporate integrity. The state has enacted laws and regulations to address fraudulent food practices. The administrative organs of the state and the organizations authorized by the law and the public officials shall exercise the administrative power in accordance with the statutory powers and procedures in order to implement the laws enacted by the national legislature. Below we list the relevant regulations:

Kind	Name	The main contents	Impact			Adopted Date
			Link	Object	Compulsory or not	
regulation	Management method of crop seed label	Labeling requirements for crop seeds	Crop Planting	seed	Yes	08/7/2016
	Measures for the management of pesticide labels and instructions	Labelling content of pesticide labels	The whole supply chain of food	pesticide	Yes	08/12/2007
	Management methods of new varieties of food additives	Regulations on labels, instructions and food additives	The whole supply chain of food	food additives	Yes	30/03/2007
	Punishment measures against the rights and interests of consumers	Regulations for the prohibition of goods or services, and provisions on penalties for infringement	The whole supply chain of food	goods	Yes	05/01/2015

IX.4 COLLABORATIVE SUSTAINABILITY INITIATIVES

The concept of sustainability requires the integration of its three pillars – environmental, social and economic– in a holistic manner. For food industry, a coherent policy on sustainability must take into account essential aspects such as trade and competitiveness, safety, health, quality, the environment, functionality, convenience and other societal concerns. The goal of sustainability is not a collection of various goals, but a collaborative implementation system. This document will carry out an in-depth analysis of environmental sustainability and social sustainability.

IX.4.1 ENVIRONMENTAL SUSTAINABILITY

Environmental protection is an effective way to achieve environmental sustainability. Food production have a direct impact on the environment. The impact on the environment is not only from the manufacturing process, but in the whole process of the supply chain. The most common effects related to this sector include water, energy consumption, waste water production, air emissions, label packaging, etc.

To protect the environment and promote environmental sustainability, China has promulgated a series of laws and regulations and some good practices. the most important one is Environmental Protection Law of the People’s Republic of China.

Environmental Protection Law of the People’s Republic of China (Environmental Protection Law) was adopted by the 11th Session of the Standing Committee of the 7th National People’s Congress of the People’s Republic of China on December 26, 1989. This Law is formulated for protecting and improving people’s environment and the ecological environment, preventing and controlling pollution and other public hazards, safeguarding human health and facilitating the development of socialist modernization.

Food industry may give impact to every factor of environment. Except for Environmental Protection Law, China issues other specific environmental protection directives on water, air, solid waste, environmental noise, etc.

Below we list relevant legislation and some good practices examples that can promote the environment sustainability.

Kind	Name	The main contents	Impact			Date
			Link	Object	Compulsory or not	
Law	Law of the People’s Republic of China on Prevention and Control of Water Pollution	Prevent and control water pollution, protect and improve the environment, safeguard human health, ensure effective utilization of water resources.	The whole supply chain of food	Water	Yes	11/05 /1984

	Law of the People's Republic of China on the Prevention and Control of Atmospheric Pollution	Prevent and control atmospheric pollution, protect and improve people's environment and the ecological environment, safeguard human health, and promote the sustainable development of economy and society.	The whole supply chain of food	Air	Yes	05/09/1987
	Law of the People's Republic of China on Prevention of Environmental Pollution Caused by Solid Waste	Prevent the pollution of the environment by solid waste, ensure the good health of the public, and promote the development of socialist modernization.	The whole supply chain of food	Solid waste	Yes	30/10/1995
	Law of the People's Republic of China on Environmental Impact Assessment	The establishment of an evaluation index system based database of environmental impact assessment, the project's environmental impact assessment.	The whole supply chain of food	Environmental impact	Yes	28/10/2002
	Measures for the management of packaging and labelling of agricultural products	The implementation of scientific packaging methods, the promotion of advanced marking technology	Agriculture products	Food quality and Environmental	Yes	17/10/2006
Standard	Evaluation Standard of Agricultural Origin Environment Quality	Protect agricultural product quality and safety, protect ecological environment, protect and control environmental pollution, safeguard human health.	Agricultural products production	Environmental impact	HJ 332-2006	17/11/2006
	Evaluation Standard of Greenhouse Vegetable Origin Environment Quality	Protect ecological environment, protect and control environment pollution, safeguard and promote greenhouse vegetable production.	Greenhouse vegetable production	Environmental impact	HJ 333-2006	17/11/2006
	Control Standard of Storage and Disposal Site of General Industrial Solid Waste	The secondary pollution problem of general industrial solid waste storage and disposal site.	Food processing	Solid waste	GB 18599-2001	28/12/2001
	Emission Standard of Livestock Breeding Pollutants	Environmental pollution caused by livestock breeding waste water, waste, stench, promote livestock breeding development.	Livestock breeding	Livestock pollutants	GB18596-2001	28/12/2001

IX.4.1.1 China example —Packaging sustainability Conference

Food and agricultural products-green packaging, safety traceability and packaging materials harmless treatment Conference organized by the packaging technology Association, academics and food companies, which conducted extensive exchanges on the green packaging technology of food and agricultural products, the safe traceability technology, and the harmless treatment of packaging materials. Subsequently, the academic report on the sustainable development of packaging was carried out for seeking packaging technology to reduce environmental pollution and promote environmental sustainability.

IX.4.2 SOCIAL SUSTAINABILITY

The social sustainability takes "the human" as the centre, "The Human" is the social sustainability topic. Labour force is the most valuable and important resource for the sustainability of society. For protecting the legitimate rights and interests of laborers, China has promulgated a series of laws, the most important of which is the labour law of the People's Republic of China.

The labor law of the People's Republic of China was adopted by the Standing Committee of the Eighth National People's Congress in July 5, 1994. This Law is formulated for the purpose of protecting the legitimate rights and interests of workers, the adjustment of labor relations, the establishment and maintenance of labor system suited to the socialist market economy, and promote economic development and social progress. This law mainly solves the problems of employment of workers, labor contract, labor productivity, labor relations, social security and welfare, labor rights, vocational training, related legal liability, etc. The specific terms are as follows:

To stipulate the right of laborers to equal employment and to choose their profession, and to obtain corresponding remuneration;

Workers need to sign a legal labor contract;

The employment of workers is not discriminated against by nationality, race, sex or religion;

The State takes various measures to promote employment, develop vocational education, formulate labor standards, regulate social collection, improve social insurance, coordinate labor relations, and gradually improve the living standard of laborers.

In the labor law, the state plays an important role in supervision and inspection. The partners of this Law include enterprises, state organs, institutions, social organizations, and workers with the establishment of labor relations. Every labourer should be strictly implemented in accordance with the provisions and requirements of this law.

The promulgation and implementation of labor law of the People's Republic of China has played a great role in promoting and promoting the lawful rights and interests of laborers and reducing temporary and exploitative labor force.