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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Special Committee on Agriculture
Subject:	Regulation on cross-border enforcement of rules against unfair trading practices (UTPs) *- Confirmation of the final compromise text with a view to agreement*

Delegations find attached the text of the abovementioned Regulation reflecting the political agreement reached at the second trilogue on 12 November 2025 including the recitals agreed since then. The text has still to undergo legal-linguistic revision.

At the meeting of the Special Committee on Agriculture (SCA) on 1 December, delegations will be invited, without discussion, to approve the attached text and to mandate the SCA chair to write to the chair of the European Parliament's Committee on Agriculture and Rural Development to confirm the political agreement.

ANNEX

2024/0318 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on cooperation among enforcement authorities responsible for the enforcement of Directive (EU) 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

[1] OJ C […], […], p. […].

(1) ***Within the agricultural and food supply chain, significant imbalances in bargaining power between suppliers and buyers of agricultural and food products are likely to lead to unfair trading practices.*** Directive (EU) 2019/633 of the European Parliament and of the Council[3] introduced a minimum Union standard of protection against unfair trading practices to reduce the occurrence of ***such*** practices which ▌ have a negative impact on the living standards of the agricultural community.

(1a) The report from the Commission on Implementing the prohibition of unfair trading practices to strengthen the position of farmers and operators in the agricultural and food supply chain - State of play of 23 April 2024 highlighted the persistence of imbalances within the agri-food chain, which increases the need for new measures to step up protection for suppliers and ensure sufficient bargaining power to all operators.

(2) Directive (EU) 2019/633 requires Member States to designate enforcement authorities that ensure the effective enforcement of the prohibitions laid down in that Directive. That Directive also requires the Commission and those enforcement authorities to cooperate closely to ensure a common approach with respect to the application of the rules set out in that Directive. In particular, the enforcement authorities should ***aim to prevent or stop unfair trading practices that have a cross-border dimension and that are performed on their respective territories. They should do so by providing*** each other with mutual assistance, including by sharing information and assisting in investigations that have a cross-border dimension. ***While the scope and the possibilities for cooperation under that Directive remain fully available to the enforcement authorities of the Member States, it is opportune to address some difficulties and increase the effectiveness of the cooperation mechanism.***

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[3] Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (OJ L 111, 25.4.2019, p. 59, ELI: http://data.europa.eu/eli/dir/2019/633/oj).

(3) Due to the principle of territoriality, enforcement authorities may face difficulties gathering information, finding an infringement and imposing and enforcing fines and other equally effective penalties where a buyer is established in another Member State***, for example when operators of the food supply chain or their alliances have a cross-border purchasing strategy***. Such difficulties affect the system of enforcement established by Directive (EU) 2019/633, which depends on cooperation between enforcement authorities, and may lead to an uneven enforcement of unfair trading practices, undermining the protection for suppliers of agricultural and food products intended by that Directive. It is therefore appropriate to establish ***certain, uniform*** rules strengthening cooperation between enforcement authorities in cross-border cases. ***Strengthening that cooperation leads to a more effective protection against unfair trading practices with cross-border dimension and contributes to strengthening farmers' position in the supply chain and thus ensuring a fair standard of living for the agricultural community.***

(4) Given that Directive (EU) 2019/633 allows Member States to maintain or introduce stricter national rules against unfair trading practices, it should be clarified that this Regulation does not cover those rules. However, the ▌ Member States ***should be able*** to decide that their enforcement authorities ▌ make use of the ***possibilities*** established under the ***voluntary cooperation*** mechanism set out by this Regulation in relation to such rules. ***This possibility can be important in particular when the stricter national rules are categorised in some Member States as overriding mandatory provisions that aim to guarantee the stable and sustainable supply of food products to consumers.*** In those cases, the enforcement authorities should ▌ have the right to refuse to comply with such a request.

(5) To ensure the effective application of their obligations under this Regulation, enforcement authorities should be provided with the necessary resources and expertise.

(6) Enforcement authorities should have the power to provide one another with and use in evidence in accordance with their national law any matter of fact or of law, including confidential information. Information exchanged shall only be used in evidence for the purpose of applying ***this Regulation to enforce*** the rules established by Directive (EU) 2019/633 and in respect of the subject-matter for which it was collected by the ***requested*** authority. ***The confidentiality of the information should be guaranteed with due regard to the legitimate interests of a natural person or legal person concerned. Requests of complainants for protection of information based on Article 5 (3) of Directive (EU) 2019/633 should be taken into account and protection should also be ensured in cross border enforcement.***

(7) ***With the aim to help stopping unfair trading practices that have a cross-border dimension,*** enforcement authorities should be empowered in their own territory to ***conduct investigative measures*** on behalf of and for the account of other enforcement authorities. ***Such investigative measures should be carried out in accordance with the powers referred to in Article 6(1), points (a), (b) and (c) of Directive (EU) 2019/633 and in accordance with the national law of the requested enforcement authority.***

(7a) Cooperation between the enforcement authorities concerning the enforcement of final decisions imposing fines or other equally effective penalties and interim measures adopted in accordance with Article 6(1), first subparagraph, point (e) of Directive (EU) 2019/633 is very important in order to achieve an effective protection against unfair trading practices with cross-border dimension. For this purpose it is necessary that the requested enforcement authority is vested with a power to enforce a final decision adopted by the applicant enforcement authority when the collection of the fines or the implementation of the equally effective penalty or interim measure by the applicant enforcement authority is unsuccessful. In case where the collection of fines or the implementation of equally effective penalties or interim measures in the Member State of the requested enforcement authority is carried out by another authority, the requested enforcement authority should have the power to initiate the collection of the fine or the implementation of the equally effective penalty or interim measures before that competent national authority.

(7b) In order to increase the efficiency and effectiveness of this Regulation, to secure smooth cooperation between enforcement authorities and to avoid excessive costs for the requested enforcement authorities, rules on covering the costs of measures taken pursuant to this Regulation should be laid down.

(8) Enforcement authorities should inform one another of an unfair trading practice with a cross-border dimension that has occurred or is occurring in their territory.

(9) Enforcement authorities should be empowered in their own territory and in accordance with their national law to enforce, or initiate proceedings for the enforcement of, final decisions imposing fines or other equally effective penalties***, or interim measures*** on behalf of and for the account of other enforcement authorities, provided that those other enforcement authorities have ***ascertained that*** the fines or other equally effective penalties***, or interim measures cannot*** be enforced ▌ in the Member States of those other enforcement authorities.

(10) Enforcement authorities should be able to ***cooperate with*** other enforcement authorities by issuing requests for ***mutual assistance***. These requests should specify what information ***or measure*** is considered necessary in each case to conduct investigations of unfair trading practices. ***To enable the requested enforcement authority to ascertain its role, the request should include all necessary information about the alleged unfair trading practice.***

(11) Enforcement authorities should not be entitled to refuse to comply with a request for information or to refuse to participate in enforcement measures unless it is likely that ***other*** enforcement actions***,*** administrative decisions ***or judicial proceedings*** taken at national level outside the mutual assistance mechanism would ensure cessation of the unfair trading practice with a cross-border dimension. ***Refusal should also be possible in case the request falls outside the scope of the Regulation or is in contradiction with the national law of the requested enforcement authority.*** Moreover, enforcement authorities should give reasons for such a refusal.

(12) Lack of procedural arrangements on the language regime may pose obstacles to the smooth cooperation between enforcement authorities. For this reason, rules allowing the enforcement authorities to agree on the language to be used in all notifications, requests and communications between them, as well as rules in case of disagreement among them, should be laid down.

▌

(14) Where a widespread unfair trading practice with a cross-border dimension, involving ***buyers and suppliers from*** at least three Member States may be taking place, the enforcement authorities concerned by that practice should be able to issue alerts ***through a dedicated system***, engage in coordinated actions, and designate a coordinator to coordinate the cooperation among the relevant authorities in whose territories the practice may be taking place. To establish which enforcement authorities are concerned by a widespread unfair trading practice with a cross-border dimension, all relevant aspects should be considered, in particular the place where the buyer is established and the location of the suppliers that may be affected by the unfair trading practice. The detection of widespread unfair trading practices with a cross-border dimension should be supported by exchanging information between enforcement authorities when there is a reasonable suspicion of such unfair trading practices with a cross-border dimension. The coordinator should exercise its competence within a framework of close cooperation with the other enforcement authorities concerned. Likewise, all enforcement authorities concerned should actively engage in the investigation at an early stage, and issue alerts to the Commission and to the enforcement authorities concerned by a widespread unfair trading practice with a cross-border dimension and share the necessary information available to them about such practices.

(15) Procedures for the coordination of investigation and enforcement measures relating to widespread unfair trading practices with a cross-border dimension should be laid down. Coordinated actions against widespread unfair trading practices with a cross-border dimension should ensure that enforcement authorities are able to choose the most appropriate and efficient tools to stop those practices.

(16) It is necessary to list the cases where a concerned enforcement authority may decide to refuse to participate in a coordinated action. In particular, lack of available resources on the part of an enforcement authority concerned by that unfair trading practice with a cross-border dimension should not be considered to justify refusing to participate in a coordinated action.

(17) With a view to ensuring that the enforcement authorities concerned by the coordinated action have all the tools necessary to communicate, cooperate, and coordinate, this Regulation should lay down rules on language arrangements.

(17a) Since Directive (EU) 2019/633 also protects suppliers in the Union against unfair trading practices by buyers established outside the Union, as well as suppliers established outside the Union when they sell agricultural and food products into the Union, this Regulation should also provide rules for the cooperation of enforcement authorities of Member States with each other as regards unfair trading practices involving buyers and suppliers established outside the Union and which are prohibited by Directive (EU) 2019/633.

(17b) Directive (EU) 2019/633 also protects suppliers in the Union against unfair trading practices by buyers established outside the Union. It is therefore appropriate to lay down rules enabling enforcement authorities to conduct investigations more effectively in such cases. To that end, an enforcement authority should be able to request that a buyer designates a point of contact within the Union to be the primary point of contact for the enforcement authority and facilitate the investigation. Enforcement authorities should also inform each other and the Commission in cases where a buyer does not comply with such a request.

(17c) With a view to ensuring uniform conditions for the implementation of the measures laid down in this Regulation, implementing powers should be conferred on the Commission to develop standard forms for requests for mutual assistance. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[4].

(17d) The Commission should have an overview of the application of the rules under this Regulation in the Member States. In addition, the Commission should be able to assess the effectiveness of this Regulation. To that end, the enforcement authorities of the Member States should include in their annual reports to the Commission activities falling within the scope of this Regulation. In the interest of an effective implementation of the rules to strengthen the position of operators in the agri-food supply chain that are exposed to unfair trading practices, the report on the application of the rules under this Regulation should be used in the review process of Directive (EU) 2019/633.

(17e) To facilitate effective enforcement, the Commission should provide and manage a platform that allows the swift exchange of information or requests among the enforcement authorities and, where appropriate, with the Commission.

(18) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union and present in the constitutional traditions of the Member States. Accordingly, this Regulation should be interpreted and applied in accordance with those rights and principles.

(19) Criminal investigations and judicial proceedings in Member States should not be affected by the application of this Regulation. ***Likewise, Council Decision 2008/976/JHA, Framework Decision 2005/214/JHA and Directive 2014/41/EU should have precedence over this Regulation if the unfair trading practice concerned falls under their scope.***

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[4] ***Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: http://data.europa.eu/eli/reg/2011/182/oj).***

(20) Since the objective of this Regulation, namely ***to strengthen the*** cooperation between the enforcement authorities responsible for the enforcement of the prohibition of unfair trading practices under Directive (EU) 2019/633 ***in cross border cases***, cannot be sufficiently achieved by the Member States because they cannot ensure cooperation and coordination by acting alone, but can rather, by reason of its territorial and personal scope, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(21) In order to give the enforcement authorities the time needed to be able to implement the rules laid down in this Regulation, its application should be deferred by ***18 months*** after its entry into force,

HAVE ADOPTED THIS REGULATION:

CHAPTER I
INTRODUCTORY PROVISIONS

Article 1

Subject matter

With a view to combating practices that grossly deviate from good commercial conduct, that are contrary to good faith and fair dealing and that are unilaterally imposed by one trading partner on another, this Regulation lays down certain rules under which the enforcement authorities, having been designated by their Member States as responsible for the enforcement of the prohibition of unfair trading practices in business-to-business relationships in the agricultural and food supply chain under Directive (EU) 2019/633, cooperate and coordinate actions with each other***, in order to ensure the effectiveness of that Directive***.

Article 2

Scope

1. This Regulation applies to the enforcement of the prohibition of unfair trading practices in business-to-business relationships in the agricultural and food supply chain laid down in Article 3(1) and (2) of Directive (EU) 2019/633 with a cross-border dimension ***which occur in relation to sales of agricultural and food products between buyers and suppliers referred to in Article 1(2) of Directive (EU) 2019/633***.

   However, ***Chapter IIIa*** of this Regulation also applies in relation to ***periods set on the basis of Article 3(1), point (b), third sentence or*** national rules ***maintained or adopted on the basis*** of Article ***9(1)*** of Directive (EU) 2019/633 if the Member State so decides in accordance with ***Article 12a and*** Article ***12b of this Regulation***. ***Chapter IVa of this Regulation applies in relation to unfair trading practices involving suppliers or buyers established outside the Union.***

2. This Regulation is without prejudice to the Union and national rules on private international law, in particular rules related to court jurisdiction and applicable laws.

3. This Regulation is without prejudice to the application in the Member States of measures relating to judicial cooperation in civil and criminal matters, in particular the operation of the European Judicial Network established by Council Decision 2008/976/JHA[5]***and to the application of Council Framework Decision 2005/214/JHA[6] and of Directive 2014/41/EU[7]***.

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[5] Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network (OJ L 348, 24.12.2008, p. 130, ELI: http://data.europa.eu/eli/dec/2008/976/oj).

[6] ***Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties (OJ L 76, 22/03/2005, p. 16, ELI: http://data.europa.eu/eli/dec_framw/2005/214/oj)***

[7] ***Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters***

Article 3

Definitions

For the purposes of this Regulation, the definitions referred to in Article 2 of Directive (EU) 2019/633 apply. In addition, the following definitions apply:

(a) 'enforcement authority' means ***a*** national authority or national authorities designated by a Member State pursuant to Article 4(1) of Directive (EU) 2019/633;

(b) 'applicant enforcement authority' means ***an*** enforcement authority that makes a request for mutual assistance;

(c) 'requested enforcement authority' means the enforcement authority that receives a request for mutual assistance;

(d) 'unfair trading practice with a cross-border dimension' means ***an*** unfair trading practice ▌ involving one supplier and one buyer that are ***established in two*** different Member States;

(e) 'widespread unfair trading practice with a cross-border dimension' means ***an*** unfair trading practice ▌ involving ***suppliers and buyers established in*** at least three Member States;

(f) 'final decision' means a decision that cannot be, or that can no longer be, appealed by ordinary means.

Article 3a

General principle

The enforcement authorities shall cooperate with each other in order to prevent or stop unfair trading practices with a cross-border dimension on their territories.

CHAPTER II
RESOURCES AND EXPERTISE

Article 4

Resources and expertise

Member States shall ensure that enforcement authorities have the necessary resources ▌ for the application of this Regulation ***and for promoting awareness among buyers and suppliers of the provisions it lays down***.

Article 4a

Confidentiality of information

1. For the purposes of this Regulation, the enforcement authorities shall have the power to provide one another with information and use in evidence any matter of fact or of law, including confidential information.

2. Information exchanged shall only be used in evidence for the purpose of applying this Regulation and in respect of the subject-matter for which it was collected by the requested enforcement authority.

3. The information provided pursuant to paragraph 1 shall only be used by the enforcement authorities with due regard to the legitimate interests of a natural person or legal person, including protection of trade secrets and intellectual property rights.

4. In cases where a complainant requests the protection of information pursuant to Article 5(3) of Directive 2019/633, the enforcement authority receiving the complaint shall ask for the agreement of the complainant to provide the protected information to another enforcement authority.

CHAPTER III
MUTUAL ASSISTANCE MECHANISM

Article 5

Requests for information

1. At the request of an applicant enforcement authority, a requested enforcement authority shall, without delay, and within ***90 days***, provide the applicant enforcement authority with the information requested to establish whether an unfair trading practice ▌ with a cross-border dimension has occurred or is occurring ***in the Member State of the applicant enforcement authority***. ***Where the applicant enforcement authority and the requested enforcement authority agree to an extension of that period of 90 days, it may be extended by an additional period of 30 days.***

2. ***Where*** the requested enforcement authority ***is not fully in possession*** of the ***information requested, the reply referred to in paragraph 1 may contain only partial information or be limited to stating the absence of such*** information ***indicating the reason for such a reply***. ***The requested enforcement authority may still decide to collect the missing information, in which case it shall inform the applicant enforcement authority of its decision and share the information collected with that authority.***

3. The information ***to be*** provided shall only be collected by the requested enforcement authority and used by the applicant enforcement authority in accordance with their ***respective*** national law.

▌

Article 6

Requests for *investigative* measures

1. At the request and on behalf of an applicant enforcement authority, the requested enforcement authority shall ***conduct investigative measures***, in accordance with ▌ the powers set out in Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633 ***and with its national law, in order to determine whether an unfair trading practice with a cross-border dimension has occurred or is occurring***.

2. When a requested enforcement authority exercises the powers set out in Article 6(1), first subparagraph, points (a), (b) and (c), of Directive (EU) 2019/633 at the request and on behalf of an applicant enforcement authority, officials and other accompanying persons authorised or appointed by the applicant enforcement authority shall be permitted to attend and assist the requested enforcement authority, ***upon informing the requested enforcement authority in advance and*** under the supervision of the officials of the requested enforcement authority.

3. The requested enforcement authority shall inform the applicant enforcement authority ***without delay*** about the steps and measures taken and the steps and measures that it intends to take.

Article 7

Requests for the enforcement of decisions imposing fines or other equally effective penalties and interim measures

1. At the request of an applicant enforcement authority, the requested ***enforcement*** authority shall ▌, in accordance with its national law, ***enforce or initiate, without delay, the proceedings for the enforcement of*** final decisions imposing fines or other equally effective penalties and interim measures adopted in accordance with Article 6(1), first subparagraph, point (e), of Directive (EU) 2019/633 ***by the Member State of the applicant enforcement authority***.

2. Paragraph 1 shall apply only to the extent that ▌ the applicant enforcement authority has ascertained that the buyer against which the fine and ▌ other ***equally effective*** penalties and interim measures are enforceable does not have sufficient assets in the territory of ***the*** Member State ***of the applicant enforcement authority***.

3. The applicant enforcement authority may request only the enforcement of a final decision.

4. Questions regarding limitation periods for the enforcement of fines, other equally effective penalties and interim measures shall be governed by the national law of the Member State of the requested ***enforcement*** authority.

Article 7a

Costs

1. Enforcement authorities shall not impose any fees on suppliers to recover costs related to the cross-border dimension of an unfair trading practice.

2. The enforcement authorities shall waive all claims between them for the reimbursement of costs incurred in applying this Regulation, with the exception of the costs they incur as requested enforcement authority for measures taken pursuant to Articles 5, 6, 7, 12a or 12b as referred to in paragraphs 3 and 4 of this Article

3. In relation to measures taken pursuant to Article 5, 6, 12a or 12b the requested enforcement authority may request the applicant enforcement authority to bear reasonable additional costs in full or in part, including translation, labour and administrative costs, arising from the request. In such case, the applicant enforcement authority shall fulfil the request.

4. The requested enforcement authority may recover the full costs incurred in relation to measures taken pursuant to Article 7 from the fine payments collected on behalf of the applicant enforcement authority, including translation, labour and administrative costs. Only if the fine amount does not cover the reasonable additional costs incurred, or the requested enforcement authority is unsuccessful in collecting the fines, provided that it has made all reasonable efforts to collect them, it may request the applicant authority to bear the costs incurred in full or in part. In such case, the applicant enforcement authority shall fulfil the request.

5. The requested enforcement authority shall recover the amounts due in the currency of its Member State, in accordance with its national law.

6. The requested enforcement authority shall, if necessary, in accordance with its national law, convert the fines into the currency of its Member State at the rate of exchange applying on the date on which the fines were imposed

Article 8

Notification mechanism

An enforcement authority shall notify ***the Commission and*** all other enforcement authorities within ***30 days*** after adopting a decision establishing the occurrence of an unfair trading practice with a cross-border dimension in its Member State.

Article 9

Procedure for requests for mutual assistance

1. The applicant enforcement authority shall, when making a request for mutual assistance***:***

(a) state as legal basis this Regulation, the national law transposing Directive (EU) 2019/633, the corresponding provisions of Article 1(2) and Article 3(1) and (2) of Directive (EU) 2019/633, the purpose of the request, including a description of the cross-border dimension of the alleged unfair trading practice, and specify the information requested under Article 5(1) or the enforcement measures requested under Articles 6 or 7;

(b) provide any additional relevant information necessary to enable the requested enforcement authority to fulfil that request, including any information that can be obtained only in the Member State of the applicant enforcement authority.

2. Requests for mutual assistance and all communications linked to them shall be made in writing**.** Standard forms ***for the requests for mutual assistance shall be used when they have been laid down by the Commission in accordance with Article 20b***.

Article 10

Refusal to comply with a request for mutual assistance

1. A requested enforcement authority may refuse to comply with a request for information under Article ***5(1)*** only if one or both of the following applies:

(a) following a consultation with the applicant enforcement authority, ***both enforcement authorities agree that*** the information ▌ is not needed ***or that a new request may be made at a later stage***;

(b) criminal investigations or judicial proceedings have already been initiated against the same buyer in respect of the same unfair trading practice ***towards the same supplier and during the same period of the unfair trading practice covered by these criminal investigations or judicial proceedings,*** before the authorities in the Member State of the requested enforcement authority or of the applicant enforcement authority.

2. A requested enforcement authority may refuse to comply with a request for enforcement measures under ***Article 6*** only if, having consulted with the applicant enforcement authority, ***at least*** one ▌ of the following applies:

(a) criminal investigations or judicial proceedings have already been initiated, ***or*** a judgment has been given ***against the same buyer in respect of the same unfair trading practice towards the same supplier, and during the same period of the unfair trading practice covered by these criminal investigations or judicial proceedings***, or a court settlement has been reached ***with the same buyer*** in respect of the same unfair ***trading*** practice before the judicial authorities in the Member State of the requested enforcement authority;

(b) the exercise of the necessary enforcement powers ***including administrative proceedings*** has already been initiated, or an administrative decision has already been adopted ***against the same buyer*** in respect of the same ***unfair trading practice towards*** the same ***supplier, and during the same period of the unfair trading practice covered by the investigations or the administrative decision*** in the Member State of the requested ***enforcement*** authority in order to bring about the swift and effective cessation of the same unfair ***trading*** practice;

(c) a criminal investigation or judicial proceedings have already been initiated ***against*** the same buyer in respect of the same unfair ***trading*** practice ***towards the same supplier, and during the same period of the unfair trading practice covered by the criminal investigation or judicial proceedings*** before the judicial authorities ***in the Member State*** of the applicant ***enforcement authority***;

(ca) the requested enforcement authority can demonstrate that the requested enforcement measures are not provided in Article 6(1) points (a), (b), (c) of Directive (EU) 2019/633, or can show that the request concerns periods set on the basis of Article 3(1), point (b), third sentence of Directive (EU) 2019/633 or national rules maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633;

(cb) the requested enforcement authority cannot:

(i) ensure the appropriate protection of the relevant information in accordance with Article 5(3) of Directive 2019/633 that has been provided pursuant to Article 4a(4) of this Regulation and on the protection of which the complainant insists, or

(ii) fulfil the request without having access to the information that the complainant did not agree to provide pursuant to Article 4a(4) of this Regulation;

(d) the applicant enforcement authority has not provided the information that is necessary in accordance with Article ***9***.

2a. A requested enforcement authority may refuse to comply with a request for enforcement measures under Article 7 only if, having consulted with the applicant enforcement authority, at least one of the following applies:

(a) criminal investigations or judicial proceedings have already been initiated or a judgment has been given against the same buyer in respect of the same unfair trading practice, or a court settlement has been reached with the same buyer in respect of the same unfair trading practice before the judicial authorities in the Member State of the requested enforcement authority;

(b) the exercise of the necessary enforcement powers including administrative proceedings has already been initiated, or an administrative decision has already been adopted against the same buyer in respect of the same unfair trading practice in the Member State of the requested authority in order to bring about the swift and effective cessation of the same unfair trading practice;

(c) a criminal investigation or judicial proceedings have already been initiated against the same buyer in respect of the same unfair trading practice before the judicial authorities in the Member State of the applicant enforcement authority;

(d) the requested enforcement authority can demonstrate that the final decision concerns periods set on the basis of Article 3(1), point (b), third sentence of Directive (EU) 2019/633 or national rules maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633, or could not have been taken or cannot be enforced in compliance with its national law;

(e) the applicant enforcement authority has not provided the information that is necessary in accordance with Article 9.

3. The requested enforcement authority shall inform ***without delay*** the applicant enforcement authority of any refusal to comply with a request for mutual assistance, together with the reasons for that refusal.

Article 11

Language arrangements

1. The languages used by the enforcement authorities for requests, notifications and all other communications covered by this Chapter which are linked to the mutual assistance mechanism, shall be agreed upon with the enforcement authorities concerned.

2. If no agreement can be reached between the enforcement authorities concerned, requests for mutual assistance shall be sent in the official language, or one of the official languages, of the Member State of the applicant enforcement authority***, accompanied by a courtesy translation in English, if requested*** and replies in the official language, or one of the official languages, of the Member State of the requested enforcement authority***, accompanied by a courtesy translation in English, if requested***.

Chapter IIIa
VOLUNTARY COOPERATION

Article 12a
Requests for information in relation to national rules

1. Member States may decide that enforcement authorities can make use of the possibilities referred to in Article 5 in relation to periods set on the basis of Article 3(1), point (b), third sentence or national rules maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633.

2. When an applicant enforcement authority makes use of this possibility, the requested enforcement authority may provide only partial information or refuse to provide information. The requested enforcement authority shall indicate the reasons for the partial reply or for the refusal. In this case Article 10 shall not apply.

Article 12b
Requests for investigative measures in relation to national rules

1. When a Member State has set periods on the basis of Article 3(1), point (b), third sentence or maintained or adopted national rules on the basis of Article 9(1) of Directive (EU) 2019/633, that provide for the same threshold for the operators or the same type of unfair trading practices as the periods set by another Member State on the basis of Article 3(1), point (b), third sentence or as the national rules of another Member State maintained or adopted on the basis of Article 9(1) of Directive (EU) 2019/633, their enforcement authorities may agree to make use of the possibilities referred to in Article 6(1) in relation to one or more unfair trading practices under those national rules.

2. When an applicant enforcement authority makes use of this possibility the requested enforcement authority may refuse to conduct investigative measures, without indicating the reasons for the refusal. In this case, Article 10 shall not apply.

Article 12c

Procedure for request

When an applicant enforcement authority makes use of the possibility provided in Article 12a and 12b, it shall send a request to the requested enforcement authority which:

(a) states this Regulation as legal basis;

(b) indicates the national law laying down the prohibition of the unfair trading practice concerned that goes beyond Directive (EU) 2019/633, and if that national law is based on Article 3(1), point (b), third sentence or Article 9(1) of Directive (EU) 2019/633;

(c) describes the purpose of the request;

(d) describes the unfair trading practice concerned and specify how this goes beyond the Directive (EU) 2019/633;

(e) specifies what information or which investigative measure is requested.

CHAPTER IV

INVESTIGATION AND ENFORCEMENT MECHANISMS FOR WIDESPREAD UNFAIR TRADING PRACTICES WITH A CROSS-BORDER DIMENSION

Article 13

Launch of a coordinated action and designation of the coordinator

1. Where there is a reasonable suspicion that there may be a widespread unfair trading practice with a cross-border dimension, the enforcement authorities concerned by that practice shall launch a coordinated action which shall be based on an agreement between them. The launch of the coordinated action shall be notified to the Commission without delay.

2. The enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension shall designate an enforcement authority to be the coordinator. ***In order to reach an agreement in the designation of the coordinator, the Commission may, when necessary, facilitate the discussions among the enforcement authorities. If those enforcement authorities are unable to reach an agreement on that designation, the enforcement authority that has issued the alert pursuant to Article 19 shall be the coordinator.***

3. The enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension shall conduct investigations on the basis of information that is available to them. They shall notify the results of such investigations to the other enforcement authorities ***concerned***, pursuant to Article 19.

4. An enforcement authority shall join the coordinated action if it becomes apparent during that coordinated action that the enforcement authority is concerned by the widespread unfair trading practice with a cross-border dimension.

5. In order to establish that an enforcement authority is concerned by a widespread unfair trading practice with a cross-border dimension all elements shall be taken into account and in particular:

   a) the Member States where the buyers are established;

   b) the Member States where the suppliers that may be affected by the unfair trading practice are established.

Article 14

Reasons for refusing to take part in the coordinated action

1. An enforcement authority may refuse to take part in a coordinated action only if any of the following applies:

   (a) a criminal investigation***,*** or judicial ***or administrative*** proceedings have already been initiated, a judgment has been given, or a court settlement has been reached in respect of the same buyer ***or buyers*** and concerning the same unfair trading practice ***towards the same supplier, and during the same period of the unfair trading practice covered by this criminal investigation, or judicial, or administrative proceedings*** in that enforcement authority's Member State;

   (b) the enforcement authority has already initiated investigations before the issuing of an alert referred to in Article 19, or an administrative decision has been adopted against the same buyer ***or buyers*** in respect of the same unfair trading practice ***towards the same supplier, and during the same period of the unfair trading practice covered by the investigations or the administrative decision*** in that enforcement authority's Member State to bring about the cessation of the widespread unfair trading practice with a cross-border dimension;

   (c) the widespread unfair trading practice with a cross-border dimension has not occurred in that enforcement authority's Member State and therefore no enforcement measures ***under Article 6 of Directive (EU) 2019/633*** need to be ***taken*** by that enforcement authority.

2. Where an enforcement authority refuses to take part in the coordinated action, it shall inform the Commission and the other enforcement authorities concerned by the widespread unfair trading practice with a cross-border dimension about its decision without delay, stating the reasons for its decision and providing any necessary supporting documents.

Article 15

***Investigations* in coordinated actions**

1. The enforcement authorities concerned by the coordinated action shall ensure that investigations and inspections are conducted in a ***timely, effective, and*** coordinated manner. They shall seek to conduct investigations and inspections and, to the extent that national law so allows, to apply interim measures simultaneously with one another.

2. The enforcement authorities concerned by the coordinated action shall set out the outcome of the investigation and the assessment of the widespread unfair trading practice with a cross-border dimension in a common ***statement***, summarising the national ***measures taken and, where applicable, the different opinions of the enforcement authorities***.

3. Without prejudice to the rules on confidentiality and on professional and trade secrecy laid down in Directive (EU) 2016/943 of the European Parliament and of the Council[8], the enforcement authorities concerned by the coordinated action shall publish the common ***statement*** or parts thereof on their websites and inform the Commission of the publication.

Article 16

Enforcement measures in coordinated actions

1. The enforcement authorities concerned by the coordinated action shall take within their jurisdiction all necessary enforcement measures under Article 6 of Directive (EU) 2019/633 against the buyer ***or buyers*** responsible for the widespread unfair trading ***practices*** with a cross-border dimension to bring about the cessation of that unfair trading practice.

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[8] Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure (OJ L 157, 15.6.2016, p. 1, ELI: http://data.europa.eu/eli/dir/2016/943/oj).

2. Enforcement measures pursuant to paragraph 1 shall be taken by the enforcement authorities in accordance with the national rules of their Member State and in a coordinated manner to bring about the cessation of the widespread unfair trading practice with a cross-border dimension. The enforcement authorities concerned by the coordinated action shall seek to take enforcement measures simultaneously in the Member States concerned by that widespread cross-border infringement.

Article 17

Cessation of coordinated action

1. A coordinated action shall cease if the enforcement authorities concerned by the coordinated action conclude that the widespread unfair trading practice with a cross-border dimension has ceased in all Member States concerned, or that no such widespread unfair trading practice with a cross-border dimension was committed.

2. The coordinator referred to in Article 13(2) shall notify, where applicable ***and without delay***, the enforcement authorities of the Member States concerned by the coordinated action ***and the Commission*** of the cessation of the coordinated action ▌ .

Article 18

Role of the coordinator

1. The coordinator appointed in accordance with Article 13 shall in particular:

   (a) ensure that the enforcement authorities concerned are duly informed, in a timely manner, of the progress of the investigation or of the enforcement action, and informed of any anticipated next steps and the measures to be adopted;

   (b) coordinate and monitor the investigation measures taken by the enforcement authorities concerned in accordance with this Regulation;

   (c) coordinate the preparation and sharing of all necessary documents among the enforcement authorities concerned;

(d) ***inform the buyer or buyers about the launch of a coordinated action and*** maintain contact with the buyer ***or buyers*** and other parties concerned by the investigation or enforcement measures, as applicable, unless otherwise agreed by the enforcement authorities concerned and the coordinator;

(e) where applicable, coordinate the assessment, the consultations and the monitoring by the enforcement authorities concerned as well as other steps necessary to implement the commitments proposed by the buyer concerned;

(f) where applicable, coordinate enforcement measures adopted by the enforcement authorities concerned;

(g) coordinate requests for mutual assistance submitted by the enforcement authorities concerned pursuant to Chapter III.

The coordinator shall be assisted in the exercise of the tasks set out in paragraph 1, points b), c), e), f) and g) by the other enforcement authorities concerned

2. The coordinator shall not be held responsible for the actions or the omissions of the other enforcement authorities concerned when they make use of the powers set out in Article 6 of Directive (EU) 2019/633 and in the rules laid down in this Regulation.

Article 19

Alert system

1. An enforcement authority shall without delay alert the Commission and ***all*** other enforcement authorities that a widespread unfair trading practice with a cross-border dimension may be taking place***, regardless of whether it is only taking place within the Union or is taking place both within the Union and in one or more third countries***. ***The Commission may supplement the alert with any information that is likely to facilitate rapid, appropriate action by enforcement authorities.***

2. The enforcement authority shall, when issuing an alert referred to in paragraph 1, provide information about the suspected widespread unfair trading practice with a cross-border dimension covered by this Regulation, including, the following:

(a) a ***detailed*** description of the widespread unfair trading practice with a cross-border dimension;

▌

(c) the Member States concerned or possibly concerned by the widespread unfair trading practice with a cross-border dimension;

(d) the identity of the buyer or buyers suspected of committing the widespread unfair trading practice with a cross-border dimension;

(e) the unfair trading practice concerned under Directive (EU) 2019/633 and by reference to national law;

(f) a description of any legal proceedings, enforcement measures or other measures taken concerning the widespread unfair trading practice with a cross-border dimension and their dates and duration, as well as the status thereof;

(g) the identities of the enforcement authorities bringing the proceedings and taking other measures.

3. The enforcement authority may, when issuing an alert, request enforcement authorities in other Member States to verify whether, based on information that is available or ▌ accessible to the relevant enforcement authorities, the same widespread unfair trading ***practice with a cross-border dimension*** may be taking place in the territory of those other Member States or whether any proceedings are pending or any enforcement measures have already been taken against ***that*** unfair trading ***practice*** in those Member States. The enforcement authorities in those other Member States shall reply to the request without delay.

Article 20

Language arrangements

1. The languages used by the enforcement authorities for notifications, as well as for all other communications covered by this Chapter which are linked to the coordinated actions, shall be agreed upon by the enforcement authorities concerned.

2. If no agreement can be reached between the enforcement authorities concerned, notifications and other communications shall be sent in the official language or one of the official languages of the Member State making the notification or other communication***, accompanied by a courtesy translation in English, if requested***.

Chapter IV

Cooperation in relation to suppliers or buyers established outside the Union

Article 20a

Cooperation in relation to suppliers or buyers established outside the Union

In relation to unfair trading practices laid down in Article 3(1) and (2) of Directive (EU) 2019/633 which occur in relation to sales of agricultural and food products between buyers and suppliers referred to in Article 1(2) of Directive (EU) 2019/633 where the suppliers or buyers are established outside the Union, an enforcement authority may:

(a) request information from an enforcement authority of another Member State to establish whether an unfair trading practice has occurred or is occurring in the Member State of the applicant enforcement authority. For such a request, Articles 4a, 5(1), (2) and (3), 7a, 8, 9, 10(1) and 11 shall apply mutatis mutandis.

(b) alert the Commission and other enforcement authorities concerned when it suspects that an unfair trading practice towards a supplier established outside the Union or by a buyer established outside the Union takes place and that that unfair trading practice may concern buyers or suppliers established in at least three Member States. For such alerts, Articles 4a, 19 (2) and (3) and 20 shall apply mutatis mutandis.

Article 20b

Contact person responsible for the EU

1. Where an enforcement authority takes investigative measures against a buyer established outside the Union in relation to an unfair trading practices laid down in Article 3(1) and (2) of Directive (EU) 2019/633, and if it considers that the buyer is not cooperating with it, it may request the buyer to designate as its contact person responsible for the EU a natural or legal person established within the territory of the European Union.

2. The contact person responsible for the EU referred to in paragraph 1 shall:

(a) act as the primary point of contact for that enforcement authority;

(b) facilitate investigations, including by providing the requested documents, records of transactions, data and witness statements to that enforcement authority.

3. Where the buyer established outside the Union does not fulfil the request referred to in paragraph 1 the enforcement authority that issued the request shall without delay alert the Commission and all other enforcement authorities that that buyer has failed to designate a contact person responsible for the EU. The Commission may supplement the alert with any information that is likely to facilitate rapid, appropriate action by enforcement authorities.

CHAPTER V
PROCEDURAL PROVISIONS

Article 20c

Implementing powers

The Commission may adopt implementing acts laying down standard forms for the requests for mutual assistance pursuant to Article 9(2);

The implementing acts referred to in the first paragraph shall be adopted in accordance with the examination procedure referred to in Article 21.

Article 21

Committee procedure

1. The Commission shall be assisted by the Committee for the Common Organisation of the Agricultural Markets established by Article 229 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council[9]. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

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[9] 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 and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671, ELI: http://data.europa.eu/eli/reg/2013/1308/oj).

Article 21a

Reporting obligation of the Commission

1. By 4 years from the application of this Regulation, the Commission shall present a report on the application of this Regulation to the European Parliament and to the Council, as well as to the European Economic and Social Committee and the Committee of the Regions. The Commission shall take this report into account when carrying out the evaluation of Directive (EU) 2019/633. That evaluation shall be accompanied if appropriate by a legislative proposal concerning this Regulation.

2. The Commission shall base the report on the annual reports referred to in Article 10(2) of Directive (EU) 2019/633. The Commission may, if necessary, request additional information from Member States.

3. That report shall describe the evolution of the cooperation mechanisms established under this Regulation and of enforcement activity, in particular the identification of the most frequent types of cross-border unfair trading practices, the most affected sectors, and buyer or buyers' types, including those established outside the Union, most commonly involved.

Article 21aa

Reporting by Member States

The annual report referred to in Article 10(1) of Directive (EU) 2019/633 shall include details of any of the activities falling within the scope of this Regulation. Those details shall, inter alia, include the number of requests received by applicant enforcement authorities, in accordance with Articles 5, 6, 7 and 9 of this Regulation, as well as the number of coordinated actions for widespread unfair trading practices with a cross-border dimension, in accordance with Article 13 of this Regulation, opened or closed during the previous year. For each request or action that has been concluded, the report shall contain a summary description of the matter and of the steps and measures taken.

Article 21b

Internal Market Information System

The Internal Market Information System (IMI), established by Regulation (EU) No 1024/2012[10], shall be used for the purposes of Article 5, Article 6, Article 7, Article 8, Article 9, Article 10, Article 12a, Article 12b, Article 12c, Article 13, Article 14, Article 15, Article 16, Article 17, Article 19, Article 20a and Article 20b of this Regulation

Article 21c

Delegations of power

The Commission shall be empowered to adopt delegated acts to amend article 21b concerning the tool for the management of the notifications and communications among the enforcement authorities to take account of future technical needs.

Article 21d

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 21c shall be conferred on the Commission for a period of 5 years from … [date of entry into force of the basic legislative act]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

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[10] ***Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation'), OJ L 316, 14.11.2012, pp. 1–11***

3. The delegation of power referred to in Article 21c may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 21c shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

CHAPTER VI
FINAL PROVISIONS

Article 22

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the ***Official Journal of the European Union***.

It shall apply from [+ ***18 months*** from the ***entry into force***].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*