

H2020 VALUMICS Project Policy Brief

EU policies promoting Fairer Trading Practices, Food Integrity, and Sustainability Collaboration along European Food Value Chains

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Key Outcomes

The need for improved fairness and transparency are two key themes that arose out of the mapping of policies impacting upon food value chains in terms of fairer trading practices, food integrity, and sustainability collaborations.

Some key policy gaps identified in the original mapping carried out in 2017-8 are being addressed in the EU's Farm to Fork (F2F) Strategy – however, there are important steps that need to be taken if EU ambitions are to be realised.

Introduction

This brief presents the updated findings of a mapping exercise, carried out in 2017-8, of the different European Union (EU) policies and governance actions impacting upon food value chains, with a focus on fairer trading practices, food integrity (food safety and authenticity), and sustainability collaboration.

The findings detail the processes and drivers of the EU's policy, and how its policy activity is impacting on food value chain dynamics, and is seeking to improve their effectiveness. The researchers developed a characterisation framework (see Box 1) to clarify the forms that EU policies take across multi-levels of governance. This framework was used to organise and understand the range of types and levels of policy action identified in the mapping.

Box 1: Characterisation framework for EU policies and their impacts on Food Value Chains

EU Policies are characterised by the following framework which illustrates how the European Commission and authorised national (and subnational) public authorities deploy different types of policy action:

- EU Treaty-led policy competencies provide the legal authority for broader strategic policies or programmes that set overall objectives
- More specific laws in the forms of regulations, directives and agreements
- Non-legislative policy instruments: so-called 'soft law' that allows the Commission to seek policy influence beyond the direct scope of its competencies. This latter area of public policy activity embraces modes of governance such as:
 - Voluntary agreements with key stakeholders
 - 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
- Supplemented by multilevel governance through national level laws and/or state led governance actions, as explained above, down to regional-local levels.

Governance modes which incorporate stakeholders from the private sector of business and industry, as well as the voluntary sector and other civil society organisations, are also used by national governments, to extend policy reach and achieve public policy goals. This outsourcing of policy making and delivery means governance involves an iterative process of negotiation and compromise entailing power relationships between actors, and across governments and public agencies, the private sector and civil society.

Mapping EU Policies and Governance

Unfair trading practices 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’¹.

The following sections summarise briefly the mapping findings across the three defined areas of interest.

Fairer Trading Practices

Adverse impacts of asymmetries of power within food value chain relationships, in particular on farmer-growers, have motivated policy approaches for Fairer Trading Practices.

1. Policy Approaches to Fairer Trading Practices

Fairer trading practices along food value chains were identified as an issue for policy attention in the European Commission’s work on the Competitiveness of the Agro-Food Industry in the late 2000s. The findings highlighted the adverse impacts of asymmetries of power within food value chain relationships leading to the Commission’s multi-stakeholder High Level Forum (HLF) for a Better Functioning Food Supply. The Commission created a voluntary Supply Chain Initiative, aiming to eliminate unfair business-to-business trading practices in the food supply chain through collaboration, to promote a ‘genuine culture change’. However, it failed to get buy-in from the peak European farming organisation COPA-COCEGA, and had limited take up in member states. The farmer-grower’s voice was taken up by DG Agriculture which set up the *Agricultural Markets Taskforce*, as it was concerned that increased market orientation of farming and less management (by governments) of agricultural markets meant that farmers were becoming ‘the main shock absorber in the supply chain’, yet lacked the resilience to withstand price volatility or long periods of low prices². Invoking Article 39 of the Consolidated version of the Treaty on the Functioning of the European Union (TFEU): ‘*contributing to a fair standard of living for the agricultural community*’, the task force recommended regulation that was finally legislated as the *Directive on unfair trading practices in business-to-business relationships in the agricultural and food supply chain (EU) 2019/633*, adopted in April 2019. The Directive applies a “step approach” based on turnover figures as a proxy for the different bargaining powers of suppliers and buyers, and prohibits 16 specific unfair trading practices (UTPs) imposed unilaterally by one trading partner on another. Another key initiative from the Commission was the introduction of a *European Food Price Monitoring Tool* online in 2009, 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) and between Member States³.

Food Integrity

The safety and quality aspects of food integrity have been well-addressed by policy, but concerns remain around food fraud, and in particular the need to better resource national inspection and prevention.

2. Policy Approaches to Food Integrity

Regulation of food integrity - defined as safety and aspects of authenticity - has been a key focus for two decades, to ensure a functioning single market while protecting consumer health and wellbeing. A food chain perspective has been attempted, through regulations such as the General Food Law, with its traceability requirements, and the rationalisation of the Official Controls on food and feed safety. The importance of food safety led to the creation of the European Food Safety Authority (EFSA) and the revamping of the Rapid Alert System for Food and Feed, which shares information on food safety risks across the Member States. A ‘Regulatory Fitness and Performance Programme’ review of the General Food Law and EFSA concluded that the law has achieved its core objectives, namely high protection of human health and consumers’ interests and the smooth functioning of the internal market; but, it is less adequate to address new challenges like food sustainability in general, and more specifically, food waste. In the case of transparency for the consumer, both the General Food Law and the Official Controls Regulation play important roles along with the Food Information to Consumers Regulation. The latter Regulation also has a key role in ensuring authenticity, and dovetails with the Regulation on quality schemes for agricultural products and foodstuff (Geographical Indications) The mapping also identified 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.

¹ 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.

² Agricultural Markets Task Force (2016) *Enhancing the position of farmers in the supply chain: Report of the Agricultural Markets Task Force*.

³ Website for European Food Price Monitoring Tool, https://ec.europa.eu/growth/sectors/food/competitiveness/prices-monitoring_en, (Accessed May 2021)

Renewed policy actions over food fraud included the creation of an EU Food Fraud Network, the effectiveness of which remains to be proven. Commitment of sufficient national level budgetary resources is a necessity to ensure successful fraud inspection and prevention, as evidenced by concerns raised in some member states (UK & Czech Republic).

Sustainability Collaboration

The European Commission has initiatives to measure the sustainability impacts of food products; yet EU competition law inhibits sustainability collaboration between supply chain actors

3. Policy Approaches to Sustainability Collaboration

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 methodologies and metrics around food waste, and Life Cycle Analysis (LCA) of food and drink products, or through encouraging and mobilising Corporate Social Responsibility (CSR) actions. Food value chain sustainability collaborations fall within broader EU policy strategies, for example the Roadmap to a Resource Efficient Europe and its Sustainable Consumption-Production initiatives, the Circular Economy Action Plan, and the more recent Green Deal. These strategies are focused on collaborative processes, such as the EU Food Sustainable Consumption and Production Round Table. A key part of this initial work was to coordinate the methodologies for assessing the life cycle impact of food products in the form of the Envifood protocol. EU Competition Law, with its emphasis upon preventing market collusion to ensure a fair price to the consumer, was identified as inhibiting sustainability collaboration by actors within stages of, and along, the food value chain as a whole. One area for consideration is the revision of EU market competition rules in order to incorporate public interest outcomes, such as sustainability.

Box 2: What policy and governance gaps do food value chain stakeholders want to see filled?

A survey of policy-facing food value chain stakeholders across selected European countries found support for the policy approaches being taken to fairer trading practices, food integrity (food safety and authenticity), and sustainability collaboration. But the stakeholders also highlighted areas they wanted policy to go further.

On **fairness**, for example, stakeholders identified nationally set Minimum Wage levels and special laws to protect seasonal or other precarious food chain workers as important aspects of supply chain fairness. These are not captured in the Directive on Unfair Trading Practices.

On **food integrity**, addressing food fraud regulation was found to be a bigger concern than food safety, where legislation was broadly seen to be effective.

On **sustainability**, collaboration was seen to be vital if the issues were to be tackled effectively. EU Competition policy was seen as a barrier to progress as it could inhibit sustainability initiatives and collaborations along and within sectors of food value chains identifying them as collusion and so anti-competitive. 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). 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.

Cross-cutting Themes: Fairness and Transparency

Cross-cutting Themes

Power relationships and their management remain key to achieving better functioning food value chains.

While the policy to tackle fairness has focused on eliminating market distorting unfair trading practices in business-to-business relationships, fairness could be enhanced with more explicit recognition of the health and working conditions of the labour force.

Increased transparency of the environmental impacts will require a move towards true costing of FVC products.

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’⁴. In terms of fairness, the policy focus regarding food value chains has been to try to eliminate market distorting unfair trading practices in business-to-business (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 and pay levels 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 force⁵. At the regional level, there are innovative policies such as a scheme in Emilia-Romagna 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 consumer⁶.

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.

Addressing the Policy Gaps: Recommendations

The findings presented above were identified prior to publication of the **Farm to Fork Strategy (F2F)**, and some **key policy gaps** identified are now on the agenda of the Strategy. The Strategy aims to build a “*Food chain that works for Consumers, Producers, Climate and the Environment*”, supported with legislation for a framework for a sustainable food system⁷.

Fairer trading practices and the labour force

- The importance of critical staff, such as agri-food workers, to food value chains has been highlighted by the COVID-19 pandemic, leading to a declaration in the F2F Strategy “*to ensure that the key principles enshrined in the European Pillar of Social Rights are respected, especially when it comes to precarious, seasonal and undeclared workers*”.

⁴ 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)

⁵ See deliverable 3.2, section 4.3. <http://valumics.eu/publications/>

⁶ See deliverable 3.2, p228. <http://valumics.eu/publications/>

⁷ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system COM/2020/381 final (European Commission, 2020) (p4) (Accessed May 2021)

Addressing Policy Gaps through the F2F Strategy

The Covid-19 pandemic has highlighted the importance of critical staff, such as agri-food workers, to food value chains, as recognized in the worker protection aims of the Farm to Fork Strategy, but delivering on the aims will require detailed attention from law-makers.

Plans to scale up and strengthen control and enforcement of food fraud will need adequate investment and budgets for national enforcement.

Alongside clarifying competition rules, the Strategy proposes a sustainable labelling framework, however sustainability impacts will need to be reflected in the costs of food.

Workers' social protection, working and housing conditions as well as protection of health and safety are seen as key elements in “*a fair, strong and sustainable food systems*”.

- However, the means by which these aims will be delivered, and the numerous national derogations in existing EU “soft law” initiatives, will demand detailed attention from European law-makers. For example, proposed amendments to the CAP, which would make subsidies conditional upon farmers' upholding working and employment standards, termed “social conditionality”, are proving to be controversial with farming stakeholders⁸.

Food Integrity

- On food fraud, the Strategy's aims include scaling up and strengthening “*the powers of control and enforcement authorities*” with stricter “*dissuasive measures*”, and better import controls, and to “*examine the possibility to strengthen coordination and investigative capacities of the European Anti-Fraud Office (OLAF)*”⁹.
- These measures will still need adequate investment and budgets for national enforcement authorities from member states, as well as careful monitoring from the Commission in order to be successful.

Sustainability Collaboration.

- The Commission envisages a clarification of competition rules for collective initiatives that promote sustainability in supply chains¹⁰. The EU's competition regulatory framework has been argued to constrain private sector capacity to attend to broader societal interests such as sustainability. DG Comp's October 2020 call for contributions on the role of competition policy in supporting the Green New Deal¹¹, led to over 180 responses from stakeholders, with many cited examples of where competition policy has undermined sustainability in business practices¹².
- Another recent development has been the use of ‘comfort letters’ to allow for coordination in the pharmaceutical sector during the Covid pandemic, and suggestions it may extend this tool to green cooperation. Several national competition authorities are also addressing the coherence of their competition rules with sustainability goals. At the same time, the framing of the call for contributions from the European Commission suggest a cautious approach will be taken¹³.
- The F2F Strategy proposes a sustainable labelling framework covering nutritional, climate, environmental and social aspects of food products. In addition, responsibility is put upon the corporate sector to integrate sustainability objectives and to be part of an EU Code of Conduct for Responsible Business and Marketing Practice, accompanied by a monitoring framework.
- The presentation of these sustainability aspects will require a coordinated and transparent approach to their measurement and monitoring; and, still awaits more specific policy proposals for the costing the negative externalities into the pricing of the food and drink products.

⁸ https://www.euractiv.com/section/agriculture-food/news/social-conditionality-set-to-be-sticking-point-in-cap-negotiations/?utm_source=EURACTIV&utm_campaign=dfdedbd60d-AgriFood_Brief_COPY_01&utm_medium=email&utm_term=0_c59e2fd7a9-dfdedbd60d-

⁹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system COM/2020/381 final (European Commission, 2020) (p15) (Accessed May 2021)

¹⁰ Ibid (p12)

¹¹ https://ec.europa.eu/competition/information/green_deal/call_for_contributions_en.pdf

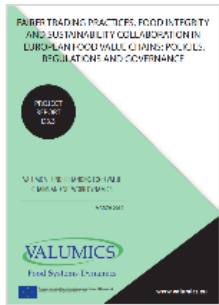
¹² <https://www.lw.com/thoughtLeadership/sustainability-eu-competition-law>

¹³ Ibid

Key sources for further information

To discuss the research presented in this brief, please email: d.barling@herts.ac.uk

Reference:



Barling, D., Sharpe, R., Gresham, J., Mylona, K. (2018). Characterisation framework of key policy, regulatory and governance dynamics and impacts upon European food value chains: Fairer trading practices, food integrity, and sustainability collaborations. The VALUMICS project “Understanding Food Value Chains and Network Dynamics” funded by EU Horizon 2020 G.A. No 727243. Deliverable D3.3, University of Hertfordshire, UK, 416 pages. <https://doi.org/10.5281/zenodo.3458159>

Available at: https://valumics.eu/wp-content/uploads/2019/10/D3.3_Project-Report.pdf

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