



Code of conduct for fair trading relationships between suppliers and buyers in the Agro Food Chain

2012-2013 Annual Report

On 20 May 2010 the partners of the Agro Food Chain platform – BEMEFA, ABS, BOERENBOND, FWA, FEVIA, COMEOS, UNIZO and UCM – signed the code of conduct for fair trading relationships between suppliers and buyers in the Agro Food Chain that formulates a broad mutual engagement about fair trading relationships. The code of conduct serves as a reference for the entire chain.

This code of conduct anticipates that an annual report is issued on the basis of the input of the relevant sector organisations without stating individual names. The committee of sector organisations decides on possible adjustment of the code and informs the minister and the administration about its activities.

The following report provides an overview of the application of this code during the third year of operation, from July 2012 up to June 2013.

This report has been divided into the following themes:

- Adherence
- Dispute resolution
- Possible adjustments
- Initiatives for sustainable development in the Agro Food Chain

1. Adherence

The recommendations become binding through individual adherence of the operators to a declaration of fair trading relationships between suppliers and buyers.

In the course of the third year of operation one distribution Chain adhered to the code of conduct. Contact was made with another distribution Chain in terms of accession, however it informed that it will follow similar arrangements that are being prepared in its home country. This brings the total number of accessions to **222 companies**, of which

- **42 compound feed companies** (BEMEFA)
- **166 companies from the Food industry** (FEVIA)
- **14 companies from the distribution sector** (COMEOS)

The lists of adhered companies are available on the websites of these sector organisations.

For the ABS, Boerenbond, FWA, UNIZO and UCM organisations the signature of the chairman applies to all members.



2. Dispute resolution

The code of conduct contains both target norms and (more) specific norms in the form of recommendations. Thus the code of conduct serves as “a reference in the Agro Food Chain”.

An important principle in the code of conduct is that the parties will act as befits partners pursuing sustainable development of the Chain. In addition the code of conduct devotes itself to a number of recommendations of fair practices, e.g.:

- Use of written agreements;
- No unilateral changes of the agreements;
- Respect of the stipulated payment term.

The platform does not handle individual complaints. If an incident has a wide scope then the undersigned organisations inform each other accordingly with a copy to the chairman of the platform. The latter keeps an overview of the incidents. The follow-up of these incidents is evaluated in the plenary platform.

On the basis of the “comply or explain” principle clarity was provided in the course of the third year of operation about six incidents in reply to questions that had been raised during previous meetings:

- Repayment due to bad communication about recall
 - According to the explanation provided by COMEOS the relevant supplier is not excluded and it can submit offers that must, of course, be competitive (price and quality) and that are subsequently assessed like those of other suppliers; the relevant supplier would, however, not have submitted any offers for a long time (since 2011). According to UNIZO the supplier would indeed have submitted highly competitive offers but without any reaction.
After discussion the members of the Chain platform confirmed the freedom of contract as cornerstone of each and every B2B relationship. In the case at hand it is impossible to evidence abuse.
 - Further to this incident COMEOS declared to be willing to enter into discussions with the FAVV and the other organisations of the Chain about the detail of the traceability in order to avoid too broad recalls in the future.



- Intervention in margin loss
 - According to the relevant retailer the demand for intervention in the margin loss is certainly not a general practice and was limited to two specific instances:
 - On the one hand a number of suppliers were invited to carry on negotiations about complementary conditions (in the form of a discount or commercial promotion of a limited duration) that would allow the retailer to align its prices to that of its competitors. This basically regarded suppliers whose products have a margin that is lower than the lowest return of the retailer.
 - On the other hand a procedure was provided (within the contractual conditions) that anticipates interventions when it becomes apparent that within the framework of a promotion the supplier appears to be unable to guarantee a correct supply.
- Charging of promotional expenses
 - Meanwhile the relevant retailer has adjusted its promotional plan, by increasing the number and the frequency of promotions. The financial contribution was, however, not adjusted despite the higher degree of coverage. The whole of these arrangements was included in a new framework agreement, signed by both parties, that is adjusted each year in function of the results of the commercial negotiations.
- Charging of expenses for communication campaign
 - The relevant manufacturer informed in a written reply that the objective of the campaign was to repair the confidence of the consumers after the horsemeat crisis. As the suppliers also take advantage of the results of these commercial efforts they were requested a limited contribution. Most of the suppliers reacted to this in a more or less positive manner. Hence, according to the manufacturer, it did not regard a unilateral change of the contractual terms and conditions and even less a way to improve its own financial result in the short term.
- General rejection of any price adjustment for suppliers of meat;
 - The concerned retailer clarifies that prices and conditions are being negotiated at the beginning of every year and that every “adjustment” to these prices and conditions will always be subject to discussion between all parties before being applied.



- Charging of new logistical costs to suppliers.
 - The concerned retailer underlines that nothing is being requested from a supplier nor a carrier that has not been discussed beforehand and has not been agreed upon between all parties. Indeed, a financial contribution is requested because of the advantage both parties are receiving from the agreed and elaborated organisation (in its totality). Penalties that are foreseen and possibly applied are a result of not adhering to the clear agreements made beforehand. These agreements are discussed locally: the sole exception is the intervening in case of not adhering to the international GS1 norms (traceability).

The participants in the Chain meeting noted with satisfaction that internal procedures are set up within the companies (including the designation of one responsible party) for the follow-up of reported incidents.

The possibility to rely on a form of external mediation was discussed as a route for enhancement of compliance with the recommendations of the code of conduct. To this end the platform received a proposal from CEPINA, the Belgian Centre for Arbitration and Mediation. After discussion it was decided to take this possibility into account in case of future incidents when a solution cannot be found within the Chain meeting.

3. Possible adjustment

Even though this code is a national initiative the organisations of the Belgian Agro Food Chain opted to pursue a European harmonisation. The high-level activities of the European forum for a better operation of the Food supply Chain are therefore followed closely.

During the past year of operation this particularly regarded the framework for implementation and enforceability of these principles of good practice. On 5 December 2012, after the approval of the principles of good practices in November 2011, the European organisations of the Food Chain also proposed a framework agreement with regard to the implementation and enforceability of these principles. The text provides for, inter alia, the recognition of the national Chain platforms, the possibility to group complaints as a result of which anonymity is guaranteed and the introduction of clear dispute resolution rules.

However, the framework agreement has not been signed by the farmers organisations (COPA-COGECA) and the meat products industry (CLITRAVI). To this end they relied on the absence of a European regulatory framework that should frame this voluntary code of conduct and its modalities of implementation and enforceability.

Meanwhile the other European Chain organisations continue working on the implementation of the framework agreement with the support of the European Commission. This implies, inter alia, that the actors are called to accede at the European level. Moreover discussions will start with the existing national platforms about mutual recognition. The members of the Belgian platform agreed to tie in with these discussions in the fall.



Moreover, in a joint reply to the Green Paper of the European Commission on unfair trading practices all organisations of the Belgian Chain platform expressed their preference for voluntary codes rather than statutory measures.

4. Initiatives for sustainable development in the Agro Food Chain

Within the framework of the code of conduct for fair trading relationships the chain parties emphasised the importance of a strong partnership based on the three pillars of sustainable development (economic, ecologic, social). To better manage the problems in the chain the organisations wish to improve the cooperation in the chain and stimulate good partnership relationships between all operators whilst guaranteeing contractual freedom. In the course of the year this cooperation has translated into the following activities:

- **Market information**

COMEOS and VLAM agreed on arrangements for the exchange of market information. During a periodic meeting of both organisations figures and reports of the sector groups are exchanged. During a meeting of the Agro Food Chain platform COMEOS provided an overview of the challenges for the Agro Food Chain. In function of the areas of interest of the participants more detailed (and quantitatively substantiated) reporting will take place in the following meetings.

- **Sales at a loss**

All organisations of the Chain took a stand in a joint letter against the plans of the government to abolish the ban on sales at a loss. Also under the influence of the arguments submitted by the Chain organisations the government eventually decided to uphold this ban. The definition of sales at a loss has, however, been weakened due to the setoff of volume discounts.

- **Horsemeat crisis**

In reply to the horsemeat crisis in a joint standpoint the partners of the Chain meeting argued in favour of a clear framework that must offer legal certainty in connection with sampling and analyses, linked to a proactive approach in order to prevent fraud and to control shifts. A working group was set up with the assignment to elaborate specific proposals.

Moreover, in reply to the horsemeat crisis, reference was also made to the extremely high pressure on the prices of the meat suppliers, which represents a threat to the viability of the companies. In addition the necessity of working towards a holistic approach of the meat issues was acknowledged.

- **Sustainable development in the market entry systems**

Under the authority of the Agro Food Chain platform the University of Ghent listed and defined the sustainability requirements that occur in the commercial contract documents of retailers, Food service and large Food companies. This inventory is currently used to include generic sustainability requirements in the contract documents for market entry.



- Towards a transformation of the Agro Food system

On 1 May 2013 the “Towards a transformation of the Agro Food system” project took off with support of the Flemish government. This forms a continuation of the New Food Frontier pre-transition project to which FEVIA Flanders and Boerenbond lent their cooperation and which has now been incorporated in the Agro Food Chain platform. All Chain organisations, including COMEOS, lend their cooperation to this. The implementation has been entrusted to ILVO.

A similar project proposal was presented to the Walloon government.

- Piglet castration

An agreement was reached within the Agro Food Chain platform about engagement related to discontinuation of surgical castration of male pigs as from 2018. A joint working group was set up with the assignment to remove the bottlenecks of the various links in this file.

- Beef price index

The chain organisations reached agreement about the charging of extreme feed price fluctuations in commercial negotiations. For the implementation hereof the FPS Economy started the weekly publication of a meat price index and its constituent data.

- Generic contract documents beef

After long and intensive negotiations agreement was reached about generic contract documents for beef. Since 1 July 2013 cattle farmers can be certified for this.

- Relationships with the government

During a meeting on 10 January 2013 with the ministers Vande Lanotte (Economic Affairs) and Laruelle (Agriculture and SMEs) the operation and the results of the Chain meeting were presented.

Since 2009 there has, on the initiative of Boerenbond, been question of structural meetings between the links of the Belgian Agro Food Chain, the so called Agro Food Chain platform. It was set up as the voluntary initiative of all links from the chain that recognised the necessity to jointly clarify issues at an inter-professional level. The Agro Food Chain platform takes place without the presence of public authorities. However public authorities can also support the stipulated arrangements or can be relied on as an independent party in case of disputes. By opting for dialogue the Agro Food Chain platform has been able to agree on arrangements in times of crises, in consultation with and with consent of the competition authority.

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