

## **Position of the Netherlands as concerns the inception impact assessment entitled “Initiative to improve the food supply chain”**

The Netherlands welcomes the initiative of the European Commission (EC) as regards the execution of an inception impact assessment with respect to the follow-up of the Council conclusions of 12 December 2016 concerning the food supply chain<sup>1</sup> and looks forwards to the outcome of that assessment, which should also feed in to the general review of the Common Agricultural Policy and its accompanying legislative proposals.

### **Scope of the inception impact assessment**

The Netherlands notes that the scope of the inception impact assessment (IIA) is confined, in spite of the title ‘initiative to improve the food supply chain’, to certain aspects of the Council conclusions mentioned above, in particular to tackling unfair trading practices. Moreover, while the inception impact assessment refers at length to the 2016 report of the Agricultural Markets Task Force (AMTF), it addresses only a subset of the AMTF recommendations.

As emphasised in the Council, the Netherlands urges the EC, in order to strengthen the farmers’ position in the chain, to clarify the margins for agricultural exemptions to competition law and explore any possible, duly justified, amendments. Therefore, limiting the IIA scope in regard to possibilities of farmers to cooperate to one specific solution (value sharing agreements) is undesirable. In line with the Better Regulation guidelines, any selection of one specific solution should be the outcome of an impact assessment, not its starting point.

The Netherlands assumes that the EC intends to address the remaining aspects of the Council conclusions and the full width of the AMTF recommendations (e.g. risk management and CMO-related issues) through the impact assessment for the overarching review of the Common Agricultural Policy (CAP).

The EC is invited to amend the first sentence under the IIA header “Problem the initiative aims to tackle” as follows:

“The initiative aims to address three specific issues that have a bearing on the functioning of the food supply chain in respect of agri-food products and the bargaining position of operators in the chain:

- unfair trading practices;
- market transparency; and
- ~~one specific~~ possibilities for farmers to cooperate.

The remaining elements of the Council conclusions and of the AMTF recommendations will be addressed through the impact assessment for the Common Agricultural Policy as a whole, to be published later in 2017.”

In regard to subsidiarity and proportionality, the IIA considers voluntary initiatives to address unfair trade practices as complementary to legislation, including the supply chain initiative. However, as expressed also in the Council conclusions, it is rather the reverse: such voluntary initiatives may be complemented by a regulatory approach and, in line with the Better Regulation guidelines, non-legislative solutions should be preferred. Legislative solutions at EU level could in fact be at the

---

<sup>1</sup> Council conclusions of 12 December 2016, Strengthening farmers’ position in the food supply chain and tackling unfair trade practices.

expense of existing voluntary solutions at national or EU level and of existing national legislative solutions. For that reason the Netherlands suggests to amend the objective of the policy action in the field of unfair trade practices by clarifying that it does not primarily aim to strengthen the governance of the food supply chain and legal certainty, but rather the proper functioning of the food supply chain.

### **Expected impacts to be assessed**

The Netherlands notes that, under the header “Preliminary assessment of expected impacts”, no reference is being made to public health impacts linked to food safety. This needs to be taken into account as part of the possible social impacts. The EC is requested to insert a new bullet point under “Likely social impacts”:

- facilitate farmers to comply with EU food safety legislation.

As recommended by the AMTF report, the CAP needs to evolve towards a Common Agriculture and Food Policy. Aspects of the food supply chain are regulated through dedicated EU legislation on the safety of the food supply chain (as well as animal and plant health legislation) and the legislation concerned, Regulation 178/2002, is currently under review. The Netherlands would like to underline these policy linkages. In line with the reasoning in the IIA concerning environmental impacts, farmers with a stronger economic position in the chain would be better empowered to comply with the relevant food safety legislation managed through DG SANTE. Indeed, the Commissioner for Health and Food Safety is already a member of the High Level Forum on Better Functioning of the Food Supply Chain and it seems appropriate to include DG SANTE in the list of associated DGs.

Furthermore, as argued above, under the header “Preliminary assessment of expected impacts”, subheader “Likely economic impacts”, a new bullet point should be inserted at the end of the list of bullet points concerning impacts:

- on the other hand, the effects of EU legislation on possible crowding out of existing voluntary initiatives and solutions in Member States and compliance with subsidiarity principles.

### **Further substantive input of the Netherlands**

The Netherlands refers to its previous interventions in Council, in particular those made in the December 2016 Council, as regards its substantive policy views in the area concerned. Further substantive input from the Netherlands will be provided in due course through the appropriate channels, including the forthcoming public consultation for the impact assessment and as part of the overall CAP review.