

# WHO'S GOT THE POWER?

## TACKLING IMBALANCES IN AGRICULTURAL SUPPLY CHAINS



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**A study about Power Concentration and Unfair  
Trading Practices in Agricultural Supply Chains**

November 2014

# “ POWER IN FOOD CHAINS HAS LONG CONSTITUTED A TABOO ... ”

“ The shifts in power in the agrifood sector have now become too significant, and their impacts too considerable, to be ignored. (...) This study illustrates, commodity buyers are larger and more concentrated than previously. (...) Power in food chains has long constituted a taboo. Indeed, the need to improve the governance of food systems in order to avoid instances of excessive domination by a small number of major agrifood companies is hardly ever referred to in international summits that seek to provide answers to the challenges of hunger and malnutrition. This report fills a gap. It sets out a comprehensive set of recommendations that, if implemented, would bring trade as usual closer to fair trade. I welcome this important contribution to a debate that is long overdue. ”



**OLIVIER DE SCHUTTER**

Former United Nations  
Special Rapporteur on the  
right to food (2008-2014)

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# INTRODUCTION

Over recent decades, agricultural chains have become more global and tightly coordinated by a small number of leading actors as a result of the growth of supermarkets and the consolidation of manufacturing, processing, logistics and other related industries (seeds and chemicals).

Although the chain as a whole is quite profitable, the benefits are skewed in favour of the lead firms in the chain and the gap between producer prices and retail prices has grown. More profoundly, the terms of trade for smaller producers have declined; workers' conditions have deteriorated; smaller-scale farmers are increasingly excluded from modern markets and growing environmental burdens undermine the sustainability of food production in many regions.

In this context, the Fair Trade movement has commissioned this study to explore and analyse the issue of power concentration in agricultural chains: What is the relationship between buyer power and unfair trading practices (UTPs)? What are the impacts on small farmers, workers and the environment? How can legal systems regulate buyer power effectively?

This document is an abstract of the full study.

You can find the full study under [fairtrade-advocacy.org/power](http://fairtrade-advocacy.org/power).

## KEY POINTS

This report shows that:

- The concentration of power in agricultural chains is not accidental, but widespread among input suppliers, traders, branded manufacturers and retailers;
- The power gained by large buyers drives four recurrent governance patterns in agricultural chains – vertical integration (hierarchy model), captive set-ups, relational networks and modular chains – through which buyers are able to control suppliers up to the production stage, far removed from the model of perfectly competitive markets;
- Abuses of buyer power lead to unfair trading practices, not only at the retail level but also in producing countries and at all levels of agricultural chains;
- The combination of power concentration in agricultural chains with the liberalisation and financialisation of world markets increases price pressure and volatility, and the shift towards more intensified and mechanised farming systems. This in turn significantly impacts small farmers and workers in many products and regions leading to unsustainable livelihoods, child labour, precarious employment and environmental degradation;
- European competition policy is not in a position to address the issues related to buyer power and the existing legal tools to address unfair trading practices are very fragmented and not specifically designed to tackle this problem;
- In order to address abuses of buyer power and to ensure the sustainability of agricultural chains, EU competition policy should consider consumer welfare far beyond the sole issue of purchasing power and link it more closely to farmers' and workers' welfare.

Fostering a better balance of power in agricultural chains requires coordinated actions from public and private actors at national, European and multilateral levels. More precisely, it is about:

- ✓ Reinforcing producer and workers' organisations capacities
- ✓ Improving transparency about the costs of the agricultural commodity chains
- ✓ Renewing the EU competition law by affirming the "neutrality principle"
- ✓ Putting in place enforcement mechanisms against UTPs
- ✓ Promoting Fair Trade principles and practices in the agricultural commodity chains

# POWER CONCENTRATION IN AGRICULTURAL CHAINS

## 1/ THE GROWING INFLUENCE OF SEVERAL KEY ACTORS IN AGRICULTURAL CHAINS

At the beginning of the 21st century, agricultural chains continue to be characterised by a strong atomisation of producers and consumers. Much of agriculture around the globe is still in the hands of small-scale producers. Over a third of the world's population is rural and 2.5 billion people worldwide depend on agriculture for their livelihoods. On the other side of the food and agricultural chain, 7 billion consumers are increasingly urban people: more than half of the world's population live in cities, and more than half of this urban population is now middle class.



Throughout modern agricultural chains, power concentration appears to be structural and to converge on the following actors: input suppliers (chemical companies and seed companies), traders, branded manufacturers and retailers. The growing concentration of these actors has made them 'the narrow conduits' through which goods must pass in order to reach the final consumer. Their buyer power gives them a huge capacity to influence and set the prices of the agricultural products they buy.

The focus of agricultural chains has switched from what the supplier can offer to what the buyer requires. Farmers no longer produce first and then look for a market. Instead, large buyers decide what they believe the consumer needs, and organise the supply accordingly.

The requirements and standards of buyers are driving a profound restructuring of agricultural chains, favouring the larger producers, exporters, manufacturers and input providers that can more easily meet their demands, at the expense of small farmers and unorganised workers.

Value is increasingly allocated not to those who supply a physical product but to those who can control the information needed to make the global food chain work successfully.



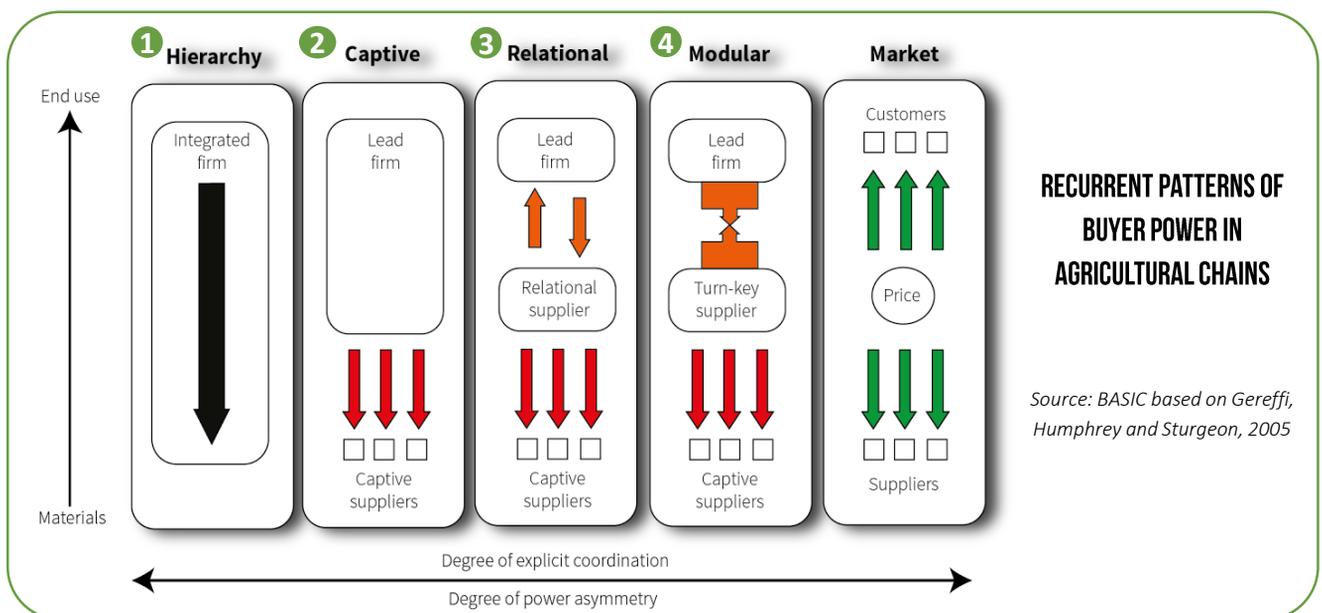
## 2/ POWER RELATIONS IN AGRICULTURAL CHAINS: 4 MAIN GOVERNANCE PATTERNS

The concentration of power in agricultural supply chains is a long-standing issue whose origins can be traced back as far as European colonial times and whose importance has grown since then .

International traders, manufacturers, global brands, supermarket chains and input providers have gradually taken on a greater importance and control over world agricultural chains since the nineteenth century.

As described by several economists, power concentration in value chains is not accidental but structural; it leads to **four recurrent governance patterns** through which 'lead buyers' are able to control suppliers, far removed from the model of perfectly competitive markets:

- 1 **The vertical integration** of all activities in the chain (also called the hierarchy model), which is the oldest form of control developed in agriculture.
- 2 **The captive set-ups** where farmers are kept dependent on large buyers, which emerged with the industrialisation of agriculture.
- 3 **The long-term relational networks** developed by leading brand manufacturers with large traders that maintain farmers in a captive situation. This form has grown in line with the globalisation of chains and the influence of agricultural commodity markets.
- 4 **The modular chains** developed by leading brand manufacturers with turn-key suppliers who manufacture standardised intermediate goods and source from captive farmers. It is the most modern form of control of agricultural chains.

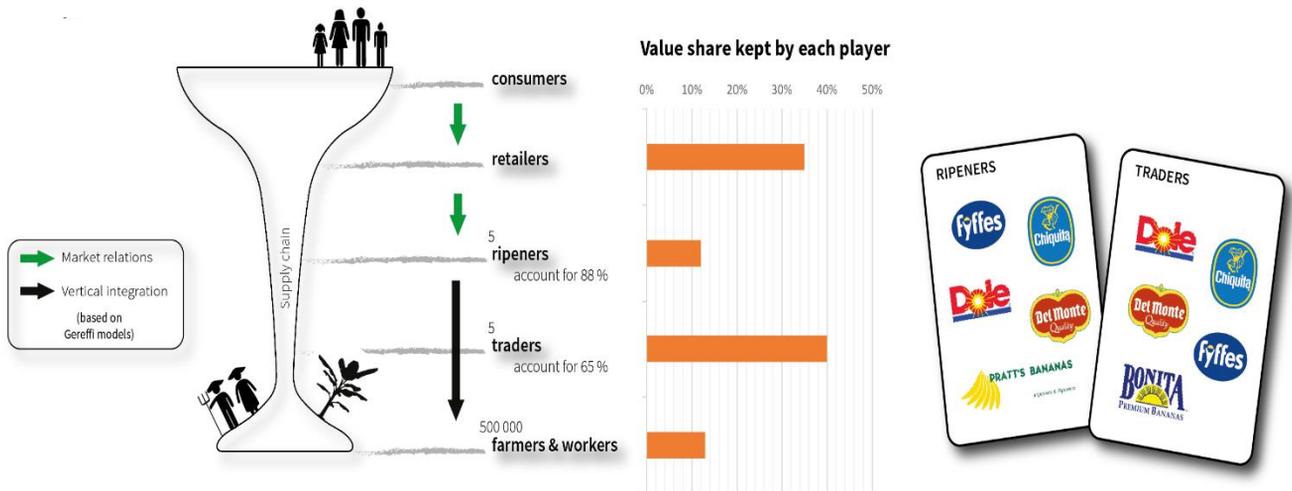


Each of these buyer power systems has been analysed and illustrated in the following pages through case studies of agricultural chains: banana, cane sugar, coffee and cocoa.

# POWER CONCENTRATION IN AGRICULTURAL CHAINS

## VERTICAL INTEGRATION

### EXAMPLE OF THE BANANA SUPPLY CHAIN



### HOW DOES IT WORK ?

- The main cases of vertically integrated chains in agriculture have been developed in fresh tropical fruits, tea, cane sugar, palm oil, soya and more recently off-season vegetables.
- The major drivers of vertical integration are the search for economies of scale, stability of volumes, consistent quality of products and management of risks associated with perishable products.
- **The banana chain** is typical of this ‘hierarchy model’: international traders have historically integrated all operations from the production stage (plantations) down to distribution channels in order to control the market.
- As retailers become more and more influential, new configurations emerge where producers are more independent, but kept captive by supermarkets.

*“According to studies conducted in Costa Rica, the minimum wage set by the government is not sufficient to meet the basic needs of a standard family, since it doesn’t increase in the same proportion as the costs of living.*

*In addition, many banana and pineapple companies do not pay the legal minimum wages because of the absence of trade unions as a result of anti-union policies.*

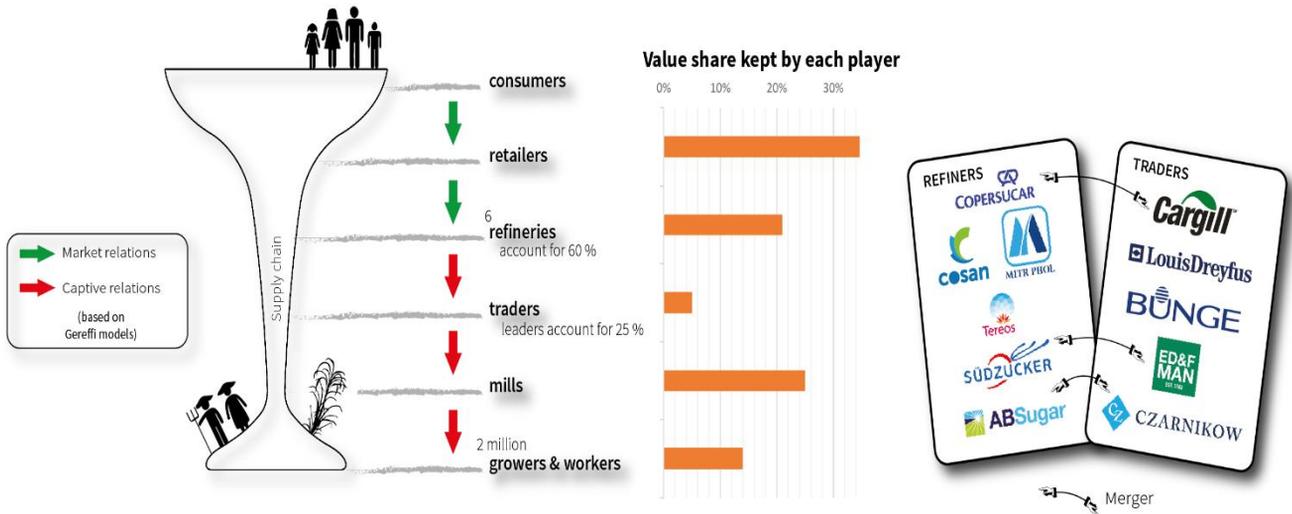
*As a result, many workers are below the poverty line, and in some cases even in situations of extreme poverty.”*

**Trade unionist of the banana sector SINTRAINAGO – COLOMBIA**



# CAPTIVE SET-UPS

## EXAMPLE OF THE CANE SUGAR SUPPLY CHAIN



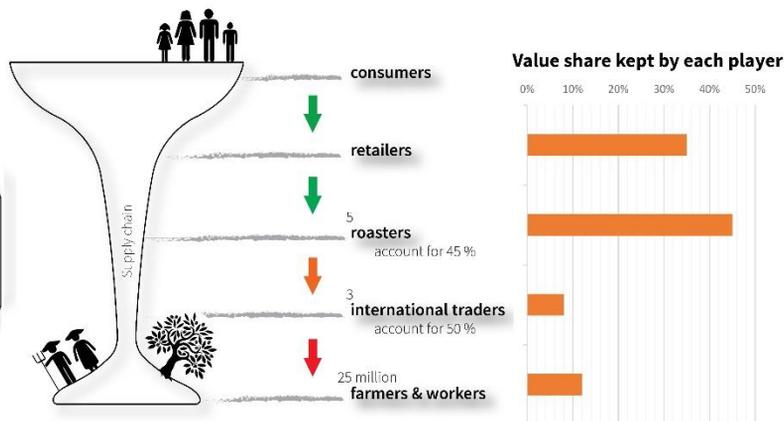
## HOW DOES IT WORK ?

- The 'captive' type of governance is long-standing in agriculture. The primary cases can be found in the sugar, milk and cotton sectors. This model has been developed by large buyers to secure sourcing from a large base of small farmers who are kept dependent.
- **The cane sugar value chain** is a key illustration of this governance model: small growers are kept highly captive by local mills in association with traders and refineries which are the only channel through which they can sell and get the critical inputs they need (seeds, fertilizers).
- The asymmetric power relationships in these captive set-ups obliges farmers to accept the trading conditions and a high degree of monitoring from their buyers.

# POWER CONCENTRATION IN AGRICULTURAL CHAINS

## RELATIONAL NETWORKS

### EXAMPLE OF THE COFFEE SUPPLY CHAIN



### HOW DOES IT WORK?

- Relational network configurations can be found in agricultural products predominantly cultivated by a large base of small farmers where the concentration of traders is coupled with a growing concentration of dominant processors or manufacturers.
- The primary examples of such set-ups can be found in coffee, cocoa and shea butter. It is also widespread in the textile industry.
- **As illustrated by the case of coffee**, relational governance occurs when buyers and sellers have established a close direct relationship that creates a high barrier to entry for other actors in the chain. Such close working partnerships play a key role in enabling buyers to keep access to sourcing in turbulent environments, especially in increasingly volatile markets. The 'relational model' is usually combined with captive sourcing from small farmers.



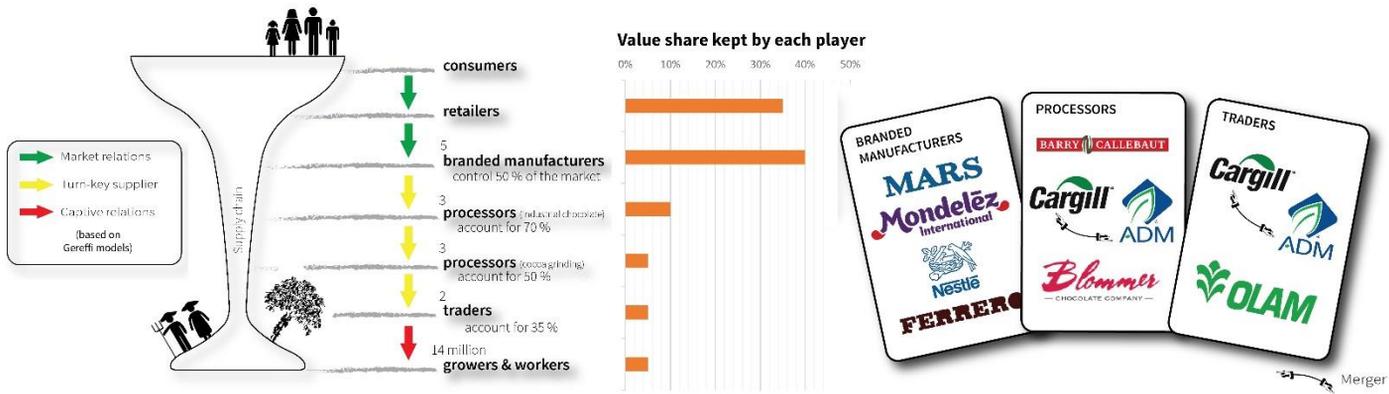
*Javier Rivera Laverde, representative of the small coffee producers association of la Marina (ASOPECAM) and President of the Colombian Fair Trade initiative - COLOMBIA*

*“ Our association is an example of many small farmers’ organizations: we never knew who our clients were, we didn’t have a direct relationship with our customers. We were simply left to hope that the exporter will make good business for us. ”*



# MODULAR CHAINS

## EXAMPLE OF THE COCOA SUPPLY CHAIN



## HOW DOES IT WORK ?

- More recently, complex multiple-level chains have been developed to manufacture final products based on the assembly of standardised ‘intermediate goods’.
- Most processed food products are manufactured through such modular chains (canned foods, ready-made-food, frozen prepared dishes, etc.). This model is also widespread in the fashion apparel industry.
- As illustrated by the case of chocolate, these complex chains are often organised through a set of turn-key manufacturers of ‘components’. These turn-key suppliers make products to customer's specifications, taking full responsibility for the process technology. The exchanged information is highly codified through product and process standards.
- At the beginning of the chain, farmers are most often kept locked in captive set-ups with traders and/or processors.

# POWER CONCENTRATION IN AGRICULTURAL CHAINS

## 3/ FROM POWER CONCENTRATION TO UNFAIR TRADING PRACTICES (UTPS)

The structural concentration of buyer power in agricultural chains described earlier may lead **to situations of abuse of this power and be associated with unfair trading practices** which can be 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 another”.

### UTPs at the retail level

**The best-documented cases of unfair trading practices relate to supermarkets** which have gained pre-eminence in food retail chains over the past decades.

These practices include squeezing on prices, the threat of de-listing, retrospective deductions, using short term or no contracts, paying late, demanding standards’ compliance at suppliers’ expense, etc.

Supermarkets can also distort in-store competition to favour their private labels against independent brands through better positioning or copycat packaging.

However, **legal complaints are almost non-existent**, as suppliers are afraid of upsetting their largest customers and losing them. The existence of a **‘climate of apprehension’** amongst suppliers has been clearly documented in many European countries.

These unfair trading practices increase the economic pressure on branded manufacturers, even the international ones, who in turn exert **strong upstream pressure on the prices paid to suppliers in producing countries**, increasing the risks that farmers cannot achieve a living income or workers a living wage, all the more so as they are usually in a captive situation

### UTPs in producing countries

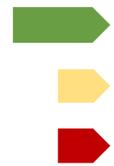
**Unfair trading practices can happen at any stage of agricultural chains** and take many different forms. For this study, we have specifically investigated the situation in producing countries through interviews with small farmers’ representatives and key experts in several products and regions: bananas in the Caribbean, sugar in South America and Southern Africa and coffee in Central and South America.

The results of these investigations indicate, that there are **recurrent practices undertaken by dominant buyers to foreclose small farmers from the market** (in the case of bananas), **impose unfairly low prices** (in the case of sugar) **and prevent small farmers and workers from getting collectively organised** (in the cases of coffee and bananas). These practices do not seem to be specific to given products, but can happen in any agricultural chain if the conditions are met.

*“Unfair Trading Practices are very common from those buyers we call the ‘coyotes’. They leverage on their financial resources to compete with cooperatives of small farmers that do not have the necessary cash flow to buy coffee from their members at the right moment in time. [...] They take advantage of this situation to impose their price and conditions. There is no possibility to claim because if you don’t agree with them, they simply don’t buy your coffee. In the conventional trade, we are always at a loss with large traders.”*

*Raúl Claveri,  
representative of the  
COCLA cooperative  
(coffee production and  
export) and president of  
the Peruvian Fair Trade  
Coordination*

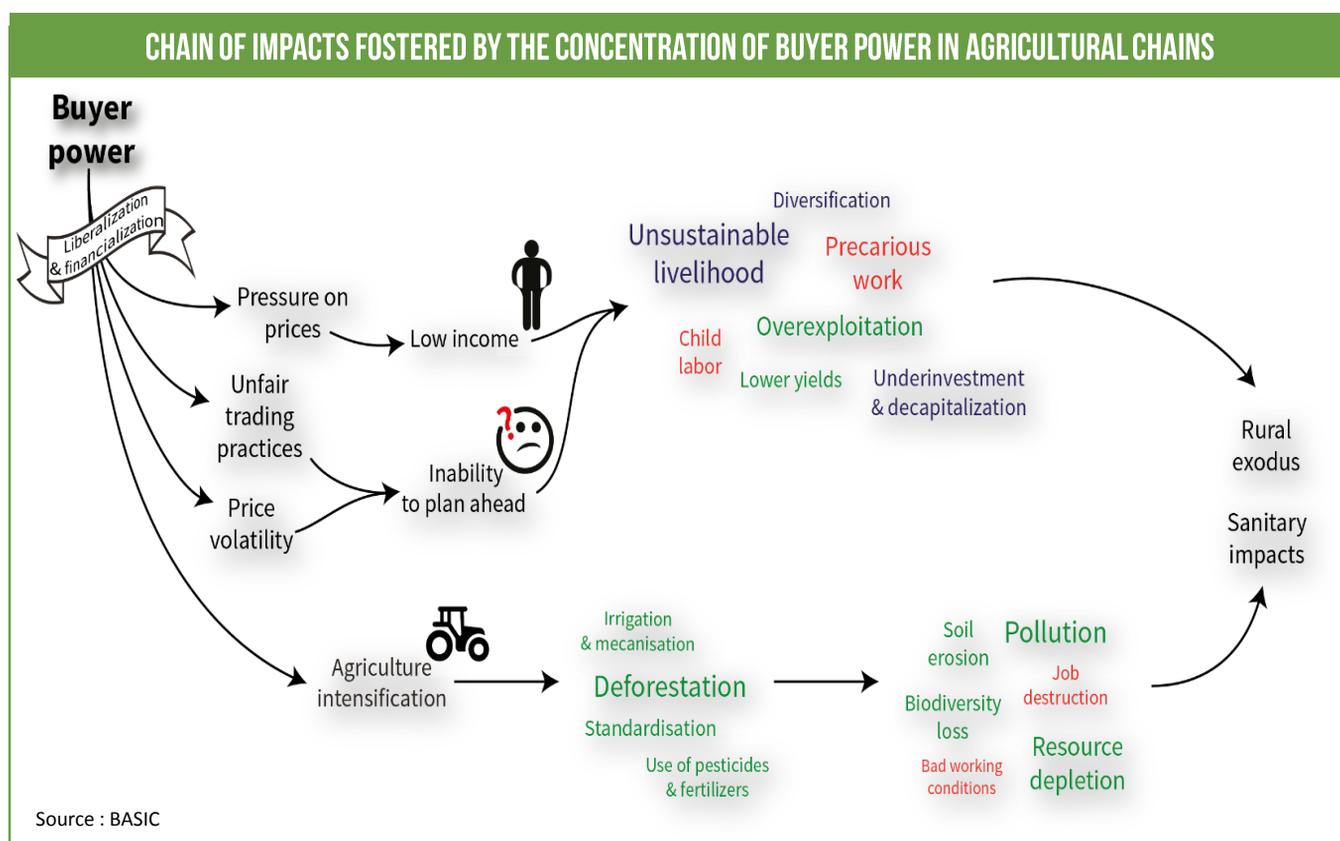




## 4/ THE IMPACT ON FARMERS, WORKERS AND THE ENVIRONMENT

It is the combination of power concentration in agricultural chains with the liberalisation and financialisation of markets that results in small farmers, workers and ecosystems being heavily impacted :

- The gradual dismantling of price-stabilisation tools (quotas, stocks) and the collapse of international commodity organisations has created conditions in which the accumulation of buyer power can result in unlimited price pressure on suppliers in the name of consumer interest, while increasing the risks of unfair trading practices;
- It has also enabled speculation by big buyers and fuelled price volatility on agricultural commodity markets;
- The increase of buyer pressure on prices is also amplifying the shift towards more intensified and mechanised farming systems, in the search for economies of scale, productivity and financial gains.



As a result, although most agricultural chains are quite profitable as a whole, the terms of trade for primary producers have declined and the gap between producer prices and retail prices has grown.

# POWER CONCENTRATION IN AGRICULTURAL CHAINS

## The impact on farmers and workers

In many regions, **the living conditions of small farmers and their families** have deteriorated hugely over the past two decades and **have become unsustainable in many cases**, as in the coffee and cocoa sectors. The lack of economic sustainability for small farmers is also **one of the main drivers of child labour** in rural areas, as shown by the situation in the sugarcane and West African cocoa sectors.

In addition, the lack of economic viability is pushing many small farmers to encroach on natural forests in a desperate search for productivity and access to land, and to an increase in the use of chemical fertilizers and pesticides they can afford to buy.

These dynamics **also affect workers** employed in the different stages of the chain:

- **Rural workers**, whether employed by small farms or by large plantations, suffer **from precarious work, bad working conditions** and wages below the national minimum. The **proportion of the labour force employed in agricultural chains is also falling markedly** in many regions because of the industrialisation of farms and the shift of jobs from the field to the factory.

*““When the producer has to sell its fruit at low price and has no ability to meet its labour obligations, wages are lowered, jobs are cut and the quality of life of workers and their families is deeply degraded. [...] This leads to poverty and underdevelopment in the regions where the fruit is produced.”*

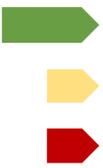
*Trade unionist of the  
banana sector  
SINTRAINAGO –  
COLOMBIA*

- **In the industry, round-the-clock schedules, repetitive work and ‘flexibilisation’ of labour conditions have become the norm**, under the pressure of globalised competition. In addition, the strong pressure on prices exerted by lead buyers prevents them from complying with labour standards, paying decent or even legal wages, and from guaranteeing good employment conditions for workers.

*“What one tends to see is that if a product becomes too expensive from China, factories of large corporations are moved to cheaper producing areas, Vietnam, Cambodia, etc. The exploitation of these labourers, has an effect on producers all over the globe. If one considers what Asian producers sell their products for, one can only but wonder what labour irregularities take place.”*

*André Appelgryn,  
representative of  
the KAPULA  
organisation of  
South-African Fair  
Trade artisans,  
SOUTH AFRICA*





## The impact on the environment

Last but not least, in a context of growing scarcity of land and water in many regions, and increasing climate-change yield losses, **the intensification of agricultural systems increases environmental burdens and undermines the sustainability of production in many regions**: soil erosion, deforestation, pollution, water abstraction, loss of biodiversity and food waste are not being contained and are still on the rise globally

## The long term impact

In the longer term, these interconnected impact chains are key drivers and aggravating factors of rural exodus, social exclusion and health degradation in many regions and countries.

To address these expanding impacts, several public legal instruments exist, mainly within the framework of competition law and fight against unfair trading practices. In addition, stakeholders of agricultural chains and civil society organisations have developed private initiatives to tackle these issues and overcome the shortcomings of public regulation systems.

*The rapid development of big farms (and the growing disappearance of small producers) is largely fuelled by large buyers that increasingly source from large-scale industrial units because of their perceived higher productivity. Conversely, small farmers are generally considered inefficient by the market because of their lack of scale, technical skills and assets.*

*In doing so, lead buyers of agricultural chains form the key constituents of a market system that ignores:*

- *The external costs related to the industrialisation of agriculture: costs of pollution, related health costs for farmers and workers, the unpaid costs of the depletion of natural resources, loss of ecosystem services, unsustainable livelihoods of farmers, workers and their communities;*
- *The positive multiplier effect of small-scale farmers in local economies, the higher level of employment they provide to rural youth, their contribution to food security and, in the end, their key contribution to poverty reduction (which have driven the FAO, the World Bank and many international cooperation bodies to put small farmers at the top of their agenda).*

# PUBLIC AND PRIVATE INITIATIVES ADDRESSING BUYER POWER

## 1/ COMPETITION POLICY OF THE EUROPEAN UNION

The main public legal tool to address buyer power and UTPs is the EU's Competition Policy. Its principal objective is to protect the individual consumer against the risks of undue pricing from sellers.

**The underlying basis is that if consumers consume faster and cheaper, it will foster economic growth.**

As a result, European regulation focuses on protecting the consumers from monopolies and risks of price collusion, and does not take into account the interest of farmers and workers, even playing against it.

**It is focused against seller power and in favour of buyer power.**

More profoundly, the European framework considers each segment of the supply chain in isolation, and remains blind to more systemic analyses embracing the whole value chain, in which a particular player can acquire vertical control, such as supermarket chains and international brands.

## 2/ UNFAIR TRADING PRACTICES (UTPS)

Unfair trading practices (UTPs) have been recognised much more recently by **the European Commission who acknowledged that UTPs are quite common and may have harmful effects, especially on small and middle size enterprises in food supply chains, affecting their capacity to survive in the market.** The possible repercussions of UTPs at EU level have also raised concerns in the European Parliament.

However, the **existing legal tools** that can be useful to address UTPs **are very fragmented** and not specifically designed to tackle this issue (e.g. the Framework on Marketing Practices, the proposed directive on trade secrets or the new Common Agricultural Policy which authorises producer organisations to negotiate collectively with large buyers).

At national level **there is a lot of divergence in how UTPs should be addressed:** some Member States have adopted regulatory measures but the majority of them have opted for self-regulatory approaches or have not taken specific action against UTPs in supply chains, relying instead on general principles.

The German Bundeskartellamt published in September 2014 a report on the sector inquiry into buyer power in the food retail sector. This study showed that decisive action from public authorities is needed to prevent a further worsening of the competitive conditions in the sector. It is based on a 3-years econometric analysis which demonstrated that “the large retail groups who make up 85% of the German market have a huge lead over their small and medium-sized competitors and can make use of their structural advantages in negotiations with manufacturers, even the large ones with well-known brands, who are exposed to the retailers' bargaining power.



### 3/ PRIVATE INITIATIVES TO ADDRESS BUYER POWER & UTPS

In the light of the shortcomings of public regulation, stakeholders of agricultural chains and civil society organisations have developed private initiatives.

Among others, Fair Trade has demonstrated that strong commitments can be implemented on a large scale by business actors in agricultural chains so as to regulate power relations and enable small farmers and workers to make their livings and invest collectively in the long run. In doing so, Fair Trade has also met the growing ethical expectations of consumers.

**Independent studies** conducted over the past decade have demonstrated the positive impacts of the Fair Trade tools and their potential for resolving buyer power and unfair trading practices in agricultural chains.<sup>1</sup>

#### **SEVERAL INDEPENDENT STUDIES CONDUCTED OVER THE PAST DECADE HAVE DEMONSTRATED THE POSITIVE IMPACTS OF THE FAIR TRADE TOOLS ON THE GROUND :**

- When a Fair Trade Minimum Price is in place, it acts as a safety net for producers; it offers an effective protection against price volatility. Based on detailed calculations of the costs of sustainable production, it has a stabilizing effect, and sometimes a boosting effect, on small farmers' income. Combined with longer-term contracts and prefinancing, it enables small farmers to plan ahead.
- The Fair Trade Premium money, which is collectively decided by small farmers and workers, enables them to develop income-generating activities (on the farm and off farm) and enhance their ability to save; this improves their standard of living and reduces their vulnerability to poverty. When invested into productivity, quality, collective infrastructure or additional certification, the Fair Trade Premium enables small farmers to achieve better prices on the market and to reduce their production costs, hence increasing their disposable income.
- Through their democratic grass-root organisations, small farmers and workers acquire greater management skills and negotiation capability; they can assert their rights, get a better position in the chain, interact with other stakeholders and become recognised actors. They can also develop longer term strategies to secure a sustainable livelihood for their communities and greater protection of the environment.
- Through awareness-raising and campaigning, the Fair Trade movement has stimulated the ethical expectations of consumers, encouraging them to look for the origin of the products they purchase and to care for the social and environmental conditions under which they were produced. It has created a strong consumer demand for transparency in agricultural chains.

<sup>1</sup> CIRAD, Cartography of impacts: what do we really know about the impacts of fair trade?, 2010

Sally Smith, Institute of Development Studies (IDS), University of Sussex, 'Fairtrade Bananas: a global assessment of impact, April 2010

Oreade-Breche, Study of the impact of Fairtrade labelling in the Dominican Republic banana and cocoa sectors, 2008

Oreade-Breche, Study of the impact of Fairtrade labelling in the Peruvian coffee sector, 2007

Agronomes et Veterinaires Sans Frontieres, Study of the impact of Fairtrade labelling in the Peruvian mango sector, 2009 and Agronomes et

Veterinaires Sans Frontieres, Study of the impact of Fairtrade labelling in the Bolivian coffee sector, 2006

# PROPOSALS FOR REGULATING BUYER POWER

To address the growing issues raised by the concentration of buyer power and unfair trading practices in agricultural chains, we propose below an integrated approach that draws on the Fair trade principles and values.

## A change of paradigm

People do not only make choices on the basis of their selfish economic preferences alone, but also based on their views concerning what is appropriate for them and society as a whole. Their decisions also reflect their values and vision of the public good.

In addition, putting consumers on one side, in opposition to farmers and workers on the other, is meaningless. The deterioration in the trading and living conditions of farmers and workers, whether inside or outside Europe, creates important risks of unavailability and unaffordability of products for consumers in the mid-term, reducing their welfare in the end.

This is why, in order to address abuses of buyer power and related UTPs, competition policy should consider consumer welfare far beyond the sole issue of purchasing power and link it more closely with farmers' and workers' welfare.

*" We have to require from our governments to implement policies that regulate trade conditions and to have greater intervention in market and price policies. "*

*Trade unionist  
of the banana  
sector  
SINTRAINAGO –  
COLOMBIA*



## 1/ FOSTER BETTER BALANCE OF POWER IN AGRICULTURAL CHAINS

The **collective and independent organisation of farmers and workers** is the best way to prevent unfair trading practices and to foster a better balance of power in agricultural chains. It is therefore necessary that these organisational processes are strengthened to enable farmers and workers to negotiate better with other actors in the chain.

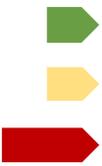
To achieve this, there is a critical need for **public and private investments** to help small farmers' and workers' organisations to **increase their capacities** and consolidate their position in the chain.

### Recommendations to the EU

- Leverage greater investment through the creation of European Sustainable Investment Funds for the Global South focused on key products and aimed at:
  - ✓ Supporting small farmers' and workers' organisations in the field of management skills, occupational health and safety, protection of the environment, knowledge sharing etc.;
  - ✓ Restoring the investment capacity of small farmers' organisations in exporting countries so as to ensure the longer term sustainability of agricultural production;
- Explore a way of extending the initiative on bargaining power in the CAP to non-EU farmers who supply products to the European market

### Recommendations to national governments of Southern countries

- Rehabilitate and revisit the concept of product/sector negotiation roundtables in order to bring together producers, traders and manufacturers to discuss the sustainability of agricultural chains. These roundtables should be open enough to ensure they do not create cartels of interest. Such initiatives have a long tradition (e.g. in France) and have been recently reintroduced by several countries in the Global South, such as in Ecuador for the banana sector.



## 2/ ENHANCE TRANSPARENCY IN AGRICULTURAL CHAINS



*Baltazar Miguel, representative of the 'ASOAGRI cooperative near Huehuetenango and the Guatemalan Fair Trade Coordination GUATEMALA*

*“The exchange of information between producer organizations from different countries is key to building their business capacities.”*

**Measuring the costs of sustainable production** is a unique tool for identifying risks of abuse of buyer power as it can help to reveal the price ‘threshold’ below which the sustainability of the whole chain would be jeopardised. Indeed, identifying products and regions where these costs are not covered would provide useful information on the cases where buyer power might be the strongest, and thereafter would enable preventive measures against UTPs to be taken.

Finally, ensuring greater transparency for consumers about average farm-gate prices and wages of workers in their supply chains would contribute to breaking the vicious circle of ‘price races to the bottom’.

### **Recommendations to retailers**

- Publicise transparent information on the overall cost breakdown, primarily the average farm-gate price and average workers’ wages, in addition to their communication on prices to consumers.

### **Recommendations to FAO**

- Initiate a transparent and credible mechanism of regular evaluation of the costs of sustainable production in key agricultural products. This mechanism should be developed with the main stakeholders. Over time, the evaluation should take into account direct costs, the living incomes of small farmers, living wages of workers and the main social and environmental externalities and opportunity costs.

### **Recommendations to consumers**

- Consumers and consumer associations should demand transparency from retailers on cost breakdowns, primarily the farm-gate price and average workers’ wages in their supply chains, so as to compare retailers on the basis of their pricing policies along the chain.

### **Recommendations to national governments in Europe and the Global South**

- The Advertising Authorities and Competition Authorities should use publicised information on cost breakdowns in their operations.

# PROPOSALS FOR REGULATING BUYER POWER

## 3/ RENEW THE EUROPEAN COMPETITION POLICY FRAMEWORK

The European competition policy framework should adopt the objective of maintaining healthy markets that can realise collective benefits for all actors in the chain. Enforcement mechanisms should address the legitimate concerns of EU consumers in terms of sustainability, quality, consumer choice and fair trade.

It should also reassert the principle of neutrality: excessive buyer power should be regulated as much as seller power because of its likely adverse impacts on social welfare and consumer welfare in Europe.

### Recommendations to the EU

- Address structural issues such as the accumulation of excessive buyer power and increased market concentration in the retail sector through the introduction of sustainability considerations in merger control tools.
- Address behavioural issues such as anticompetitive agreements and abusive unilateral behaviour in the retail sector through the adoption of a block exemption regulation and/or an official guidance for the food sector, which would allow agreements between agricultural companies when the aim is to improve trading conditions and the livelihood of producers.
- Introduce neutrality as a general principle of EU competition policy affecting the interpretation and implementation of rules concerning the balance of power across the supply chain through the adoption of an official guidance within the context of EU competition rules and policy.

### Recommendations to national governments in Europe and the Global South

- Promote legislation regulating the issue of abuse of economic dependency so that it is on an equal footing with the concept of abuse of dominant positions.
- Increase scrutiny of mergers in the retail sector with a view to ex ante precluding the accumulation of excessive buyer power and increased market concentration.
- Allocate greater resources to the enforcement of competition rules in the retail sector.

## 4/ BUILD STRICTER ENFORCEMENT MECHANISMS TO STOP UNFAIR TRADING PRACTICES

Stricter regulation of unfair trading practices requires a network of national enforcement bodies to be built and coordinated by the EU secretariat that:

- ✓ Secures the possibility of recourse and protects the anonymity of the sources of information to counter the 'climate of fear', building on the experience of the UK Groceries Code Adjudicator;
- ✓ Raises awareness about companies that have been convicted of abuse of buyer power and unfair trading practices by publicising legal decisions, building on the practices of the Korean Fair Trade Commission.
- ✓ Develops stronger and more automatic sanctions in order to offset the constraints of addressing competition problems only on a case-by-case basis.

### Recommendations to the EU

- Adopt a directive based on Article 114 (or alternatively, Articles 116 or 115) of the Treaty of Lisbon, establishing objectives for Member State enforcement and rules for their coordination with the EU institutions and other Member States, including measures on access to the mechanism, protection of anonymity and confidentiality, enforcement tools, coordination with Member States and non-EU countries, and identification criteria (size, power, etc.)



## 5/ IMPLEMENT FAIR TRADE PRINCIPLES IN PRACTICE

In order to tackle unfair trading practices, a stronger commitment is needed from business actors in agricultural chains to remedy the problem and implement concrete tools in practice.

The Fair Trade movement has demonstrated that such commitments can have significant positive impacts on small farmers and workers. It provides a relevant baseline to develop tools that can resolve the problems linked with buyer power and unfair trading practices.

*“Fair Trade is an alternative system which has emerged from the endeavour of small farmers associations. It may not be the only alternative, but it is a true leverage if we want to live in dignity.”*

*Luis Martinez Villanova,  
representative  
Latinamerican network of  
Fair Trade small producers  
and of the Union of  
Indigenous Communities of  
the Ixtpu region (UCIRI) –  
MEXICO*



### Recommendations to business actors in agricultural chains

- For their sourcing, business actors should commit to Fair Trade principles and implement concrete tools, in particular:
  - ✓ Longer term contracts with producers than is currently the norm;
  - ✓ Prices that cover the costs of sustainable production and enable living wages to be paid, at least at the agricultural stage;
  - ✓ Written contracts with transparency on prices and conditions, balanced mechanisms of negotiations and disposals for resolving disputes through a balanced system;
  - ✓ Recognition of the suppliers' need for certainty as regards the risks and costs of trading, particularly in relation to production, delivery and payment issues.

*These principles should be integrated at the heart of the sourcing strategy of buyers and go beyond the labelling and certification of limited ranges of products.*

### Recommendations to consumers

- Consumers should require greater commitment and accountability from retailers and branded manufacturers with regards to Fair Trading principles. Raising awareness is necessary to explain to a wider public the critical issues related to buyer power and to show them how this impacts the livelihoods of farmers and workers and the sustainability of the products they regularly purchase.

# Acknowledgement

This study was commissioned by the Fair Trade Advocacy Office, PFCE (Plate-Forme Française du Commerce Équitable), Traidcraft, and Fairtrade Deutschland.



In partnership with:



It was produced with the help of experts from these organisations who provided information, materials, data and guidance.

Produced by :



With support of:



This document has been produced with the financial assistance of the European Union, the Belgian Development cooperation, the Agence Française de Développement and the region Ile-de-France. The contents of this document are the sole responsibility of the authors and can under no circumstances be regarded as reflecting the position of these organisations.