

WHO'S GOT THE POWER?

Tackling Imbalances in Agricultural Supply Chains



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

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1. Foreword



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(2008-2014)*

The shifts in power in the agrifood sector have now become too significant, and their impacts too considerable, to be ignored. As this study illustrates, commodity buyers are larger and more concentrated than previously. They seek to respond to the requirements of their food industry clients by increasing vertical coordination, thus tightening their control over suppliers. The processing industry also is rapidly consolidating. After an initial period during the 1980s and early 1990s during which the parastatal large-scale processors were dismantled, this sector has been increasingly globalized and dominated by large transnational corporations. Global retailers and fast food chains, finally, are expanding. They now reach also to China, India, Russia, Vietnam, and increasingly Southern and Eastern Africa. The major retail chains are also diversifying from processed foods to semi-processed foods and, increasingly, fresh produce.

The process of concentration is self-reinforcing. Large retailers tend to prefer to source from large wholesalers and large processing firms: by sourcing from larger wholesalers and processors, retailers reduce transaction costs and have access to a diversity of product types in a "one-stop shop" ; the invoicing system is formalized, allowing the retailers to discharge their accounting obligations for value-added tax accounting and product liability; and the packaging and branding of products is superior to that which smaller processors or wholesalers would be able to achieve. This leads to what some authors have called a "mutually reinforcing dual consolidation": the more large retailers dominate consumers' markets, the more large commodity buyers tend to dominate the upstream markets.

Moreover, this process leads to a race towards the bottom: to lower wages for farmworkers, and to lower remuneration for independent agricultural producers that supply the raw materials. Large buyers can obtain from the sellers a number of concessions that reflect their dominant buyer power, such as discounts from the market price that reflect the savings made by the seller due to increased production, or the passing on to the seller certain costs associated with functions normally carried out by the buyer, such as grading of the livestock or stocking of shelves. This not only makes it more attractive for the retailers to source from these dominant buyers, since they may benefit from this superior buyer power that such larger suppliers have. It also further strengthens the position of the dominant buyers, who can acquire a competitive advantage over less dominant buyers in the downstream markets, leading to the acquisition by the larger agribusiness firms of dominance on both the buying and selling markets.

Due to these self-reinforcing mechanisms in which buyer power grows by the very fact of being exercised, the expansion of global supply chains results in an increased concentration in the food production and distribution chains. As part of the process of vertical integration that characterizes the agrifood sector as a whole, both wholesalers and retailers seek to secure stability of supply by long-term arrangements with producers in the form of 'contract farming', or by techniques such as preferred supplier lists ; procurement is increasingly centralized, as the the area from which companies source expands from the national to the regional and global networks ; and more trade occurs intra-firm, with Cargill in Argentina selling soy to Cargill in Europe for example, rather than inter-firm or inter-country.

The report prepared by BASIC provides a detailed review of these developments, distinguishing between the different forms that increased concentration is taking in agricultural supply chains. But it is the consequences of this so-called "modernization" of global supply chains that matters. The ascendancy of what Philip McMichael calls a corporate food regime -- the growth of "food empires", to borrow the expression of Jan Douwe van der Ploeg -- increases the power imbalances in the food chain at the expense, potentially, of the least organized and most dependent segments: the small-scale producers of raw materials.

As a narrow set of large firms increasingly act as gate-keepers to the high-value markets of rich countries, small-scale farmers find it increasingly difficult to join these supply chains, and the gap is growing between large and small producers in a context in which both categories of producers compete for access to resources, to credit and influence, and to political influence. Larger producers have easier access to capital and thus to non-land farm assets such as storage, greenhouses, or irrigation systems. They can more easily comply with the volumes and standards requirements that the agrifood companies -- the commodity buyers, the processors, and the retailers, depending on which sources directly from the producer of raw materials -- seek to impose. Small farmers can only compensate for these disadvantages by their lower labor costs, or because they are a less risky sourcing option to the buyers, since the larger farmers have more market options and thus can be less reliable. The disturbing consequence is that small farmers pay a high entry fee into global supply chains : because of these structural obstacles they face, they can only compete by a form of self-exploitation for instance by agreeing to low wages for those (often family members) working on the farm, and to be locked into a situation of high dependency towards the buyer.

None of this is inevitable. For many years, particularly since the publication by John K. Galbraith of *American Capitalism*, his 1952 best-selling book in which he documented the rise of large-scale agrifood corporations, the field was divided. Some called for "breaking down big business" by relying on competition law. Others followed Galbraith's call for the emergence of a "countervailing power" by an improved organisation of individual farmers into cooperatives, both to improve their bargaining power and to allow them to invest in collective goods -- from storage facilities to small-scale processing plants -- to allow them to capture a larger proportion of the value. The two strategies, it has now become clear, can and must be combined: competition law is important to protect from the abuse of buyer power, but it is limited in what it can achieve, and it is not a substitute for organizing farmers better, and for improving the organization of markets in order to ensure that they are more inclusive and socially equitable.

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)

2. Executive Summary

Over recent decades, the growth of supermarket chains, the increase in the number of processed food products they sell and the consolidation of retail, processing, logistics' chains and other related industries (seeds and chemicals), have led to the emergence of new procurement practices.

Supply chains sourcing agricultural products have become more global and tightly coordinated. Lead buyer requirements and standards have led to the restructuring of the chains, favouring medium-size and large producers and exporters that can more easily meet their demands¹.

The focus 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, those who control supply chains decide what they believe the consumer needs, and then design the supply chains required to deliver those products.

The benefits that accrue to actors of global supply chains are skewed in favour of the lead firms in the chain. Value is increasingly allocated not primarily to those who supply a physical product but to those who can bring to bear the information needed to make the global food chain work successfully².

Although the chain as a whole is quite profitable, the terms of trade for smaller producers have declined, in the Global South as well as in Europe; the gap between producer prices and retail prices has grown; workers' conditions have degraded; and smaller-scale farmers are finding themselves increasingly excluded from higher value markets.

These trends are accelerating transformations in rural societies and the way rural people are making a living: restructuring of agrifood and land markets, rural exodus, labour shortages...³

These developments are also associated with growing environmental burdens that undermine the sustainability of food production in many regions, because of land and water scarcity and climate-change yield losses⁴.

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?

¹ Center on Globalisation, Governance & Competitiveness, Duke University, Skills for upgrading: Workforce Development and Global Value Chains in Developing Countries, November 2011

² Olivier de Schutter, Addressing concentration in Food Supply Chains, Briefing Note December 2010

³ IIED / hiVos / Mainumby Ñakurutú, Small producer agency in the globalised market, 2012

⁴ Oxfam Research Report, Who Will Feed the World?, April 2011

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;
- Concrete proposals that can achieve this in practice include:
 - Fostering a better balance of power by supporting farmers' and workers' organisations;
 - Enhancing transparency of the costs in agricultural chains;
 - Renewing the European Competition Policy, reasserting the principle of neutrality and addressing structural and behavioural issues;
 - Building stricter enforcement mechanisms to stop unfair trading practices;
 - Promoting Fair Trade principles and practices in agricultural chains.

Acronyms

CIRAD	International Research Centre on Agriculture for Development
EC	European Commission
EU	European Union
FAO	Food and Agriculture Organisation
FOB	Free on Board (incoterms)
ICO	International Coffee Organization
ICCO	International Cocoa Organization
ICI	International Cocoa Initiative
IIED	International Institute for Environment and Development
ILO	International Labour Organization
ILRF	International Labour Rights Fund
ISO	International Standard Organisation
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations
RSCE	Round-Table on Sustainable Cocoa Economy
TCC	Tropical Commodity Coalition
UNCTAD	United Nations Conference for Trade and Development
UNDP	United Nations Development Program
UNEP	United Nations Environment Program
UNIDO	United Nations Industrial Development Organization
UTP	Unfair Trading Practices
USDA	United States Department of Agriculture

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3. Economic theories, power concentration and unfair competition in the current economy

a) How ideal markets function in theory

The theoretical models developed by classical and neoclassical economics in the late 18th and in the 19th centuries are based on the concept of "Homo oeconomicus"⁵ which defines **human beings as rational self-interested actors who pursue the maximisation of:**

- the utility of their **consumption** of goods and services;
- the **economic profit** they make from the goods and/or services they produce/sell

One of the fundamental assumptions of this theory is that optimal private decisions based on mutually advantageous exchange lead to optimal social outcomes, provided that the market system operates under conditions of 'perfect competition'.

Such **perfect competition requires several criteria to be met**, the core ones being⁶:

- All economic actors (buyers and sellers) are price takers, i.e. they don't have sufficient power to set or influence the market price of the products and services they buy or sell;
- There is a large number of producers, all of them having a relatively small market share;
- All producers can freely enter and exit the market (no barriers to entry) and have equal access to resources (e.g. technology, finance, etc.);
- All buyers have complete and transparent information about the products being sold and the prices charged by each economic actor;
- All buyers regard the products sold by producers as equivalent products.

In theory, the perfect competition model enables goods and services to be allocated to those who value them the most, thanks to a decentralised structure of decision-making and exchange (no planner is needed to allocate resources). In doing so, competitive markets enable the most efficient use of assets/ benefits to be optimally distributed among individuals and therefore enable an increase in global well-being.

Ultimately, this model makes it possible for individuals to achieve what is best for society as a collective body through rationally pursuing their own interests.

The theory of perfect competition was later translated into a mathematical model called the 'general equilibrium theory' which assumes the existence of a stable, mechanistic and optimal balance of the socioeconomic system⁷.

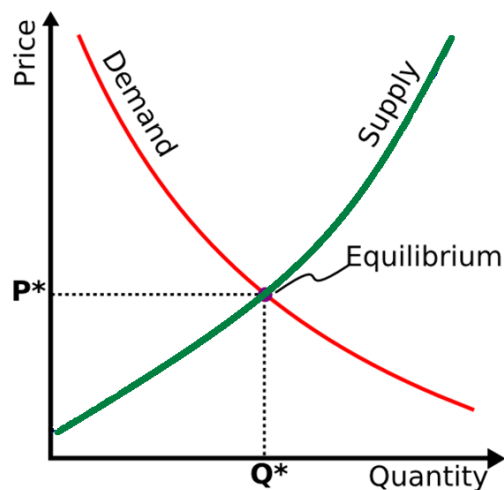
⁵ Cf. Adam Smith, the Wealth of the Nations, Books I-III. Penguin Classics, 1986, page 119: "It is not from the benevolence of the butcher, the brewer, or the baker that we expect our dinner, but from their regard to their own interest."

Cf. John Stuart Mill. On the Definition of Political Economy, and on the Method of Investigation Proper to It, London & Westminster Review, October 1836: "[Political economy] does not treat the whole of man's nature as modified by the social state, nor of the whole conduct of man in society. It is concerned with him solely as a being who desires to possess wealth, and who is capable of judging the comparative efficacy of means for obtaining that end."

⁶ Paul Krugman and Robin Wells, Microeconomics, 2nd edition, 2010

In this model, **perfect competition is represented through theoretical shapes of supply and demand curves**, which illustrate how a market reaches equilibrium where supply for every product/service equals demand price. This point is called a Pareto optimum, meaning that nobody can be made better off without making someone else worse off.

The price system plays the crucial coordinating and equilibrating role in this theoretical model: the fact that all individuals face the same prices in the economy is what generates the common information required to coordinate a wide diversity of individual decisions⁸.



General equilibrium theory - supply and demand curves

Source: Wikipedia

In order to consolidate this economic model, several economists further investigated the **existing gaps with observed reality**. They identified costs and/or benefits that remain outside the market which they called **'externalities'**, enabling a key theoretical step forward in the beginning of the 20th century. In the presence of externalities, positive or negative, the market fails to be perfectly competitive and to reach its optimum equilibrium. To address this issue, externalities have to be reintegrated into 'right prices' so that markets can work better.

The model of perfect competition has therefore been extended to include the absence of externalities and transaction costs as new criteria.

b) Failures of the perfect competition model: oligopoly and oligopsony

However, real-world competition differs from the theoretical model in several fundamental ways:

- In many sectors, a few actors are large enough to affect market prices through their negotiation power because they sell or purchase a large percentage of total demand. In addition, these leading actors often have greater access to capital and technology than most of their competitors.

⁷ Léon Walras, *Eléments d'économie pure, ou théorie de la richesse sociale*, 1874

⁸ Jonathan Levin, *General Equilibrium*, 2006

- Consumers nearly always have imperfect information, their preferences and choices being influenced by marketing and advertising.
- Finally, equivalence between products is difficult to judge rationally due to the continuous efforts of companies to differentiate their products from those of their competitors.

Ultimately, the prime reason for the failure of the perfect competition model in practice is the ability of some actors to gain sufficient economic power to influence the market, which invalidates the other assumptions of the theoretical model.

Concentration of power occurs when far fewer actors are present (single or small number) in relation to others. Three levels can be distinguished depending on the number of agents and the position of the buyer or seller (see the table below).

	Seller			
Buyer		Only one	Small number	Large number
Only one		Duopoly	Countervailed Monopsony	Monopsony
Small number		Countervailed Monopoly	Bilateral Oligopoly	Oligopsony
Large number		Monopoly	Oligopoly	Perfect Competition

Stackelberg competition model

Source: BASIC

On the seller side, when competition is reduced, the tendency of sellers is no longer to maintain their prices to break even and remain competitive with other businesses, but instead to try to set the highest possible price. Sellers tend to set the retail price above the equilibrium price for a perfectly competitive market, closest to the consumers' willingness to pay. This leads to a net loss of welfare in neoclassical economic theory (which can be represented graphically by the "Harberger triangle").

On the buyer side, when competition is reduced, downstream firms can affect the terms of trade with upstream suppliers. A distinction is made between monopsony power and bargaining power, with different implications on global welfare:

- Monopsony power refers to the situation where a group of buyers is able to withhold demand in order to reduce the price paid to suppliers below the equilibrium price for a perfectly competitive market, which results in quantity distortion and loss of efficiency to the detriment of consumers.
- Bargaining power refers to the bargaining strength that buyers have with respect to the suppliers with whom they trade. When bargaining power is exercised (whether oligopsony or bargaining power), suppliers are bound to accept terms that they would not normally and in addition, may not complain, for fear of commercial retaliation by the buyer. It is less clear what the welfare implications are. If bargaining power exercised by buyers is countervailing (i.e. enables to offset the market power of sellers), it may even have positive impacts, such as increasing output in the upstream market and increasing the welfare of consumers in the downstream market.

In practice, revealing a dominant position of buyers or sellers is often very complicated because the assessment criteria can vary widely. Different countries use different approaches to establish market dominance. Some use quantitative measures, others qualitative and there are wide disparities between the levels of market share at which a firm is considered to be dominant – from as low as 20% to as high as 70%. For example in the OECD model law the ‘threshold’ for judging dominance in a vertical agreement is that at least one of the parties holds a position of 35% of market share or more (or that similar agreements are widespread and affect competition). However these are not widely implemented in buyer power cases.⁹

c) Models of power concentration in value chains

Institutional economic theory¹⁰ provides a more wide-ranging angle on the real economy, considering that social losses are not accidental, exceptional cases or minor disturbances, but are the normal result of market competition in a pecuniary society¹¹, and are closely related to power relations between business actors.

Inspired by institutional economics, **the theory of global value chains takes a radically different view from that of neoclassical economics on international trade:**

- whereas traditional economic trade theory only focuses on transactions, global value chain theory looks instead at the whole range of activities from production to consumption including the links that bind them (from production to retailing and final disposal of products);
- while economic trade theory assumes that “buyers and sellers in different markets meet each other as independent agents” (explaining trade as the result of technology, tastes and product differentiation), the global value chain model highlights the institutional context of power relations in which trade is embedded, with key agents setting the rules of the game.

The **concept of the Global Value Chain (GVC)** was originally defined as “a network of labour and production processes whose end result is a finished commodity”¹². It was consolidated by Gereffi et al. within the context of globalisation, as “***a socially constructed entity that reflects changes in the organization of production and distribution due to economic globalization, technological advancement and regulation***”¹³.

Global Value Chains are modelled through **four key dimensions:**

- The input-output structure of the chains;
- The territory they cover (geographical coverage);

⁹ Dhanjee, R., “The tailoring of competition policy to Caribbean circumstances: some suggestions”, Centre on Regulation and Competition Working Paper Number 79, 2004

¹⁰ developed amongst many others by Thorstein Veblen, Karl Polanyi and William Kapp

¹¹ Swaney and Evers 1989

¹² Hopkins and Wallerstein (1986: 159)

¹³ Gereffi and Korzeniewicz, Commodity Chains and Global Capitalism, 1994

- Their governance structure (where the key notions of barriers to entry and chain co-ordination appear in the analytical framework);
- The institutional framework surrounding the chains which delineates the conditions under which key or 'lead' agents incorporate subordinate agents through their control of market access and information (both technological and market information).

Based on this analytical framework, **five recurrent governance patterns were identified along value chains, which can be defined as “the relations of authority and power that determine how financial, material and human resources are allocated and flow within the chain”**¹⁴.

Governance patterns describe how 'lead firms' in value chains are able to make key decisions about inclusion and exclusion of suppliers, the distribution of particular activities between different actors in the chain, and even the structure of production.

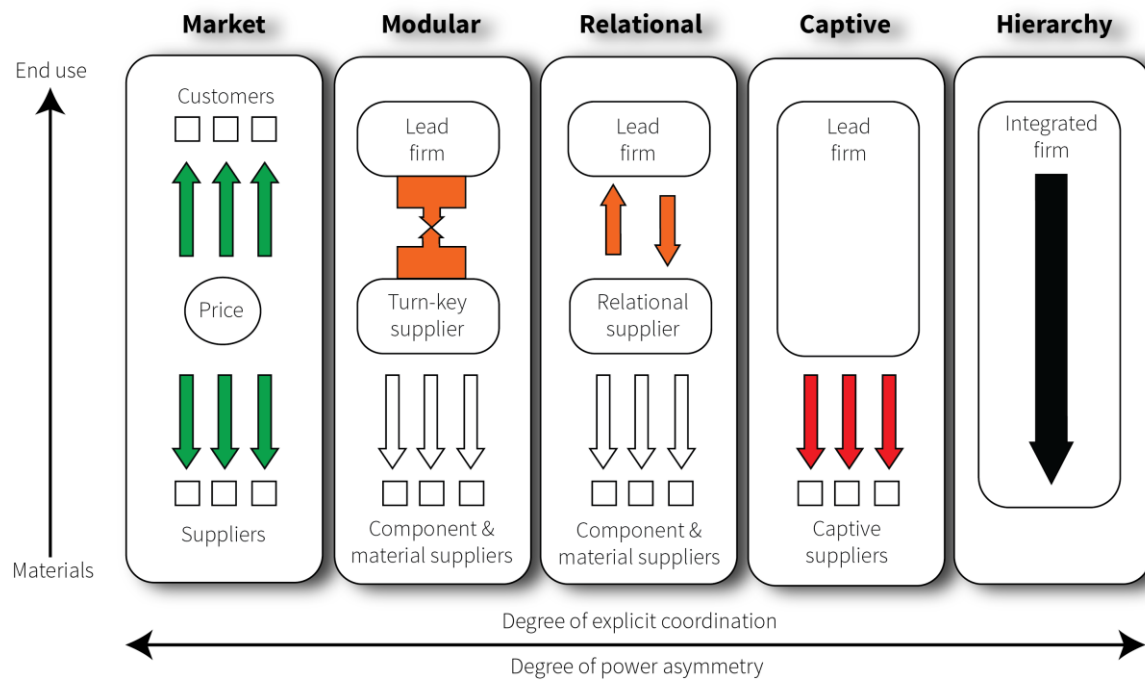
The first type is called market and is the closest to perfect competition theory. In practice, it is best illustrated by the functioning of traditional spot markets. In this model, the costs of switching to new partners are low for both parties. However, market linkages do not have to be completely transitory, as it is typical for spot markets and can persist over time, with repeat transactions.

The four other types illustrate the ways in which power becomes concentrated in the hands of lead buyers who are able to drive and control the chain:

- In **modular value chains**, turn-key suppliers make products according to key customers' specifications for a limited set of components (with varying degrees of formal requirements). In this set-up suppliers take full responsibility for the processing, using generic technology to limit specific investments, and make capital outlays on behalf of customers. Standards often help simplify interactions in this system;
- **Relational value chains** are characterised by complex interactions between some key buyers and key sellers, which often create mutual dependence and high levels of asset specificity. They are often managed through reputation or personal ties. Spatial proximity plays an important role in supporting relational value chain linkages, but trust and reputation might also function in geographically dispersed networks;
- In **captive set-ups**, small suppliers are transactionally dependent on much larger buyers. Suppliers face significant switching costs and are, therefore, 'captive'. Such networks are frequently characterised by a high degree of monitoring and control by lead firms;
- Finally, **the hierarchy type** is characterised by vertical integration. In this set-up, the dominant form of governance is managerial control, flowing from managers to subordinates or from headquarters to subsidiaries and affiliates.

The figure below illustrates much of the above in graphic form, showing the five global value chain types laid out according to the level of explicit coordination and power asymmetry.

¹⁴ Ibid.



Global Value Chains 5 governance models
 Source: BASIC, based on Gereffi, Humphrey and Sturgeon, 2005

The small line arrows represent exchange based on price while the larger block arrows represent thicker flows of information and control, regulated through explicit coordination. This includes instructions not only coming from a more powerful buyer (or manager) to a less powerful supplier (or subordinate), as in captive and hierarchy global value chains, but also the social sanctions regulating the behaviour of partners in relational global value chains. In the case of modular global value chains, information flows are far more codified and the turn-key supplier can establish market-based, captive or relational chains with its material suppliers.¹⁵

The modular and relational governance types have three variants: the exchange with suppliers of components or raw materials at the lower end of the chain can either be hierarchical, captive, or market-based (only the latter is drawn in the diagram above).

The following chapter builds on the framework developed by Gereffi, Humphrey and Sturgeon in order to investigate buyer power in agricultural value chains, its evolution and its repercussions on farmers and agricultural workers.

¹⁵ Gary Gereffi, John Humphrey, and Timothy Sturgeon. "The Governance of Global Value Chains." *Review of International Political Economy* 12, no. 1 (February 2005): 78-104

4. Concentration of power in agricultural value chains

a) Global picture of the structural governance of agricultural chains

Historical perspective

The **concentration of power in agricultural supply chains is an issue of growing importance** with origins dating from European colonial times.

Traditionally, agricultural products were always organised around **local and fragmented village markets** because of the logistical constraints and the perishable nature of many products. With the rise of towns in Europe, larger and more centralised wholesale markets began to appear during the Middle Ages, first in dry goods and later in perishables, such as the Champagne, Lyons, and Piacenza Fairs which took place in France and Italy¹⁶.

The first major changes came with European colonisation: **the plantation model was invented in the 16th century** to produce sugar cane in the Americas and was rapidly adopted for many other tropical products. Its success was closely related to the development of industrial labour with slaves, mostly from Africa, providing the necessary labour for three centuries, before being gradually replaced by indentured labour following the abolition of slavery in the Caribbean British colonies in 1830¹⁷.

The planters were the central actors of the chain. They owned large-scale agricultural plantations which could take advantage of specialisation and the division of labour, minimising costs and covering high fixed investments. They owned the product throughout its transportation from the tropical region until the point of sale in Europe, assuming the related risks (time and distance) and need for credit¹⁸.

The second change occurred in the middle of the 19th century in the United States, where the rapid expansion of the telegraph, steamships and railroads enabled people, livestock and agricultural goods to crisscross the continent faster, cheaper, and more reliably than ever before. Coupled with the rise of cities, **farmers became more and more dependent on long-distance chains** (through shipping and railways) to get their goods sold to urban consumers.

The significant development of transport and communications also brought two major innovations that transformed the organisation of agricultural chains: the introduction of **standards** to grade products and the development of **futures markets** which both emerged in the Chicago Board of Grain Trade¹⁹.

¹⁶ Braudel, 1979

¹⁷ Sheridan, The abolition of the Atlantic slave trade, 1981

¹⁸ Daviron & Ponte, The Coffee Paradox: Global Markets, Commodity Trade & the Elusive Promise of Development, 2005

¹⁹ In a futures market, a trader can sell a 'contract to arrive' without owning the product. This contract defines a specific grade, volume, and date of delivery of the product. It can be bought and sold independently of the physical product.

These new tools rapidly spread from grains to cotton and other products, first in the United States and then soon followed by Europe. They fostered the emergence of a new model of agricultural chains called the '**classical commodity markets**' where **traders** who were previously commissioned merchants acting on behalf of large producers **became independent powerful actors**²⁰. Those who were able to invest and organise transport infrastructures were able to decide which farmers or communities were linked with the transportation network, and ultimately with the market²¹.

Until the beginning of the 20th century, these dynamics continued and were accelerated by:

- **major technical advances** which enabled the mass production of standardised food products: chemical fertilizers, pasteurisation, food preservatives, food canning and mechanical refrigeration²²;
- **the growing influence of consumerism**²³ which gradually imposed the idea that the central goals of the economy should be consumer satisfaction and the final demand for goods and services²⁴;
- the related development of **free market policies**, inspired by classical economists²⁵, whereby governments of major economies relaxed restrictions on trade (tariffs, prohibitions, etc.) and supported a movement of trade globalisation and integration of agricultural markets²⁶;
- the widespread adoption of the gold standard which launched a period of **financial liberalisation**, enabling capital to move internationally without risks of sudden changes in currency values²⁷.

The resulting economic system, **led by large traders and producers**, initiated a long-term dynamic of exclusion of small traditional farmers. In several European countries, the price of food dropped so low that farmers began to turn to their governments for support²⁸.

This process of transformation was **put to a halt by the two world wars, before being revived in the middle of the 20th century**, fuelled by the following trends:²⁹

- The reconstruction process and development of consumer mass markets in Europe and Japan;
- The spread of processed goods thanks to the development of national brands created by food manufacturers, and the expansion of advertising in print, on radio and television;

²⁰ Daviron & Ponte, 2005, op. cit.

²¹ Heffernan, Agriculture and Monopoly Capital, 1998; Van der Ploeg J.D., The New Peasantries, 2009.

²² Mokyr and Strotz, Northwestern University, The second industrial revolution 1870-1914, August 1998

²³ Cf. A. Smith, the Wealth of the Nations: "Consumption is the sole end and purpose of all production and the welfare of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer."

²⁴ Global Development And Environment Institute, Tufts University, Consumption and Consumer Society, 2008

²⁵ Adam Smith, David Ricardo and John Stuart Mill (see first chapter)

²⁶ Rodrik, The Globalisation Paradox: democracy and the future of the world economy, 2011

²⁷ Ibid.

²⁸ Mokyr and Strotz, 1998, op. cit.

²⁹ R.W. Cotteril, 'Dynamic Explanations of Industry Structure and Performance', Commissioned Paper presented at USDA Conference "The American Consumer and the Changing Structure of the Food System", Washington DC, May 2000

- The development of automobile, trucks and road systems which transformed food distribution;
- The mechanisation & industrialisation of agriculture through tractors, agricultural machinery...

The period from 1945 to 1980 saw the **internationalisation of the food industry** and was described as the golden age of manufacturer brands and mass marketing of food products³⁰. It was also marked by the creation of **public regulation policies** that succeeded in controlling agricultural prices through buffer stocks and export quotas, in particular in the European Common Agricultural Policy and the international associations for coffee, cocoa, natural rubber and cane sugar³¹.

In this context, branded food manufacturers became the most influential actors in agricultural chains (e.g. Nestlé, Unilever, Mars, etc.), while wholesaling commenced a long-term decline and supermarket chains progressively reached national coverage and a significant scale in Europe and the United States³². Vertical integration was the mainstream trend in the industry, mainly led by manufacturers, but also by some retailers³³. The dynamics of mergers and acquisitions contributed to the rise of tight oligopolies in manufacturing, accelerated by a new groundswell of financial liberalisation³⁴.

The period since 1980 has been one of **unprecedented globalisation**, powered by the liberalisation of capital markets.

The growing problems of agricultural overproduction, the emergence of major new producing countries (mostly in Asia), and the primacy of free market thinking among public decision-makers led to the collapse of international commodity organisations (coffee, cocoa...) and the gradual dismantling of price-stabilisation tools (quotas and stocks), in developing countries as well as in Europe and the USA. As producers subsequently lost control, so **international traders became more and more influential**³⁵.

Processors, manufacturers and distributors increased their specialisation and vertical integration started to decline significantly as new global actors emerged in the sector such as chemical companies and seed companies. Market concentration increased at the manufacturing, and most importantly, at the retailing stage through mergers and acquisitions. Several supermarket chains reached international coverage and gained strong influence in agricultural chains. Thanks to the development of their private label offerings, they increasingly challenged international brands for leadership³⁶. The availability of cheap liner shipping services and the liberalisation of consumer markets enhanced the supermarkets' capacity to control the chains through new instruments: preferred supplier lists, central purchasing platforms and technical quality standards³⁷.

³⁰ Ibid.

³¹ P. Gibbon, *Agro-Commodity Chains: an introduction*, 2002

³² J.M. Connor, R.T. Rogers, B.W. Marion, and W.F. Mueller, 'The Food Manufacturing Industries: Structures, Strategies, Performance, and Policies'. Lexington, 1985

³³ R.W. Cotteril, 'Dynamic Explanations of Industry Structure and Performance', 2000, op. cit.

³⁴ Whereas capital control was widespread under the Bretton-Woods regime established in the 1940s, the system began to break down in 1968 when America suspended the conversion of the dollar into gold. The collapse of the fixed exchange rate system followed in 1973, and the United States officially abandoned capital controls in 1974.

³⁵ P. Gibbon, 2002 op. cit. and Fondation Schuman, *L'Europe et la crise du lait*, 2009

³⁶ R.W. Cotteril, 'Dynamic Explanations of Industry Structure and Performance', 2000, op. cit.

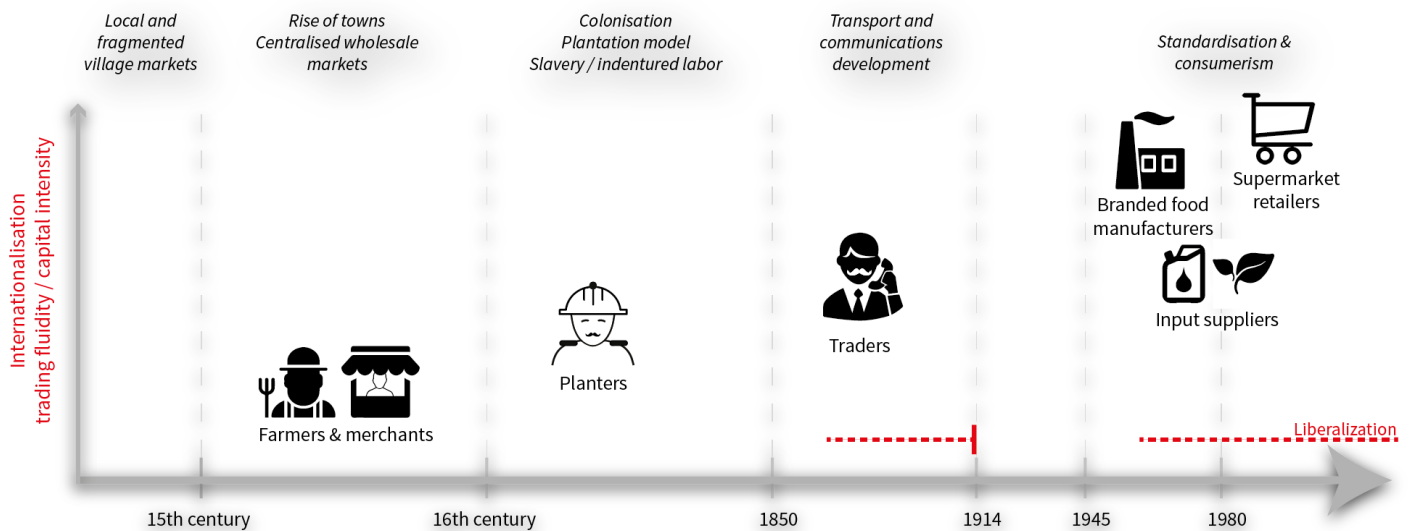
³⁷ Fairtrade Foundation, *Britain's bruising banana wars: why cheap bananas threaten farmers' futures*, 2014

As a result, the control of agricultural supply channels clearly shifted from national and international brands towards retailers³⁸.

The end result of the historical process of consolidation of retail, processing, logistics' chains and related industries (seeds, chemicals...) is the emergence of modern procurement practices whereby agricultural chains have become more and more global and tightly coordinated³⁹:

The focus 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, those who control supply chains decide what they believe the client or consumer needs, and then design the supply chains required to deliver those products⁴⁰. Lead buyer requirements and standards have led to the restructuring of the chains, favouring the larger producers, exporters, manufacturers and input providers that can more easily meet their demands⁴¹.

Below is a snapshot of the main historical evolutions of agricultural chains analysed in this chapter:



*Main historical evolutions of agricultural chains
Source: BASIC*

³⁸ R.W. Cotteril, 'Dynamic Explanations of Industry Structure and Performance', 2000, op. cit.

³⁹ Common Fund for Commodities, Current Trends and the New Development Role of Commodities, November 2006

⁴⁰ ILO, Tripartite Meeting to Examine the Impact of Global Food Chains on Employment, 2007

⁴¹ Center on Globalisation, Governance & Competitiveness, Duke University, Skills for upgrading: Workforce Development and Global Value Chains in Developing Countries, November 2011.

Today's situation

At the beginning of the 21st century, **agriculture continues to be characterised by a strong atomisation of producers and consumers.**

Despite rapid urbanisation and the increase in large-scale commercial farming, much of agriculture around the globe is still in the hands of small-scale producers⁴². Over a third of the world's population is rural and 2.5 billion people worldwide depend on agriculture for their livelihoods (five-hundred million smallholder farms worldwide are supporting around 2 billion people⁴³ and 450 million workers are working globally in agriculture⁴⁴).

On the other side of the food and agricultural chain, the 7 billion consumers are increasingly urban people: more than half the world's population live in cities⁴⁵, and by some estimates more than half of this urban population is now middle class, thanks to rapid growth in emerging economies⁴⁶.

Throughout modern agricultural chains, power concentration appears to be structural and to converge on the following actors (cf. diagram on next page)⁴⁷:

- Chemical companies and seed companies (input suppliers)
- Traders
- Processors and branded manufacturers
- Retailers



“We have to democratize the economy. The economy is a non-democratic system that generates inequality. This is not healthy. [In our countries], we leave the economy in the hands of 5 to 6 families while the majority of people remains poor.”

Luis Martinez Villanova, UCIRI – Mexico

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 buy⁴⁸.

⁴² International Institute for Environment and Development (IIED) / hiVos / Mainumby Ñakurutú, Small producer agency in the globalised market - Making choices in a changing world, 2012

⁴³ Oxfam Research Report, Who Will Feed the World?, April 2011

⁴⁴ FAO, ILO, IUF-UITA, Agricultural workers and their contribution to sustainable agriculture and rural development, 2007

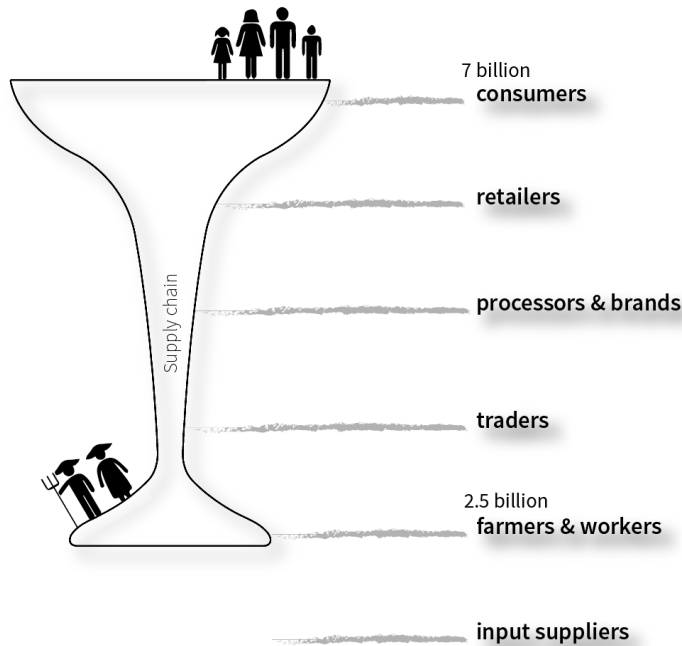
⁴⁵ Un habitat, 2010

⁴⁶ The Economist, 2009

⁴⁷ UNIDO, Global value chains in the agrifood sector, 2006

⁴⁸ Olivier de Schutter, Addressing concentration in Food Supply Chains, Briefing Note December 2010

GLOBAL supply chains



Top 10 brands account for 15 % of world retail sales

5 retailers account for 50 % of the market in Europe



Global agricultural value chains

Source: BASIC

Concentration of input suppliers

The increased concentration of the agrochemical sector over the past twenty years is quite striking: **whereas the top 20 companies accounted for 90 % of global sales in the late 1980s, this number had fallen to seven by 2002** (Syngenta, Aventis, Monsanto, BASF, Dow, Bayer and DuPont)⁴⁹.

Beyond the agrochemical sector, these companies have also massively invested in the seed sector.

This concentration process has happened in three distinct phases:

- Interest from chemical/food companies emerged in the 1960s-70s with the success of hybrid crops,
- In the 1980s, agro-technology companies developing genetically modified products became increasingly interested in the seed business, as a potential distribution channel for their new products: This brought companies like Du Pont, ICI, Elf-Aquitaine, Monsanto, Rohm and Haas, and Unilever into the seed business as they sought to exploit the complementarities between seed and other inputs (e.g., through seeds tolerant to specific herbicides)⁵⁰.

⁴⁹ Lang, Food Industrialisation and Food Power: Implications for Food Governance, Development Policy Review, 2003.

⁵⁰ Srinivasan, Concentration in ownership of plant variety rights: some implications for developing countries, 2003

- In the 1990s, life-science companies such as Monsanto and Novartis became more prominent in the sector, combining interests in seeds with agrochemicals, and pharmaceuticals. This move was closely related to their strategies regarding intellectual property rights and plant variety protection certificates⁵¹.

Traders

Global traders perform a vertical coordination role, linking suppliers with international customers, mainly through a loose ‘arm’s length’ system of contract-based relations covering only a single commodity. Even when governments regulated agricultural chains between the 1950s and the 1980s through marketing monopolies, buffer stocks and export quotas, these trading companies continued to coordinate their chains vertically⁵².

The leading example of concentration in agricultural trading is the so-called ‘agricultural ABCD’: Archer Daniels Midland (ADM) created in 1902, Bunge founded in 1818, Cargill born in 1865, and Louis Dreyfus created in 1851.

These corporations are nowadays involved in 90 % of the world’s grain trade. They have also gradually expanded their global activities much beyond grain trading⁵³:

- ADM has become one of the largest agricultural processors of soya beans, maize, wheat and cocoa. ADM also produces soya bean meal and oil, sweeteners, flour, ethanol and biodiesel. It also holds a broad portfolio of animal feeds and industrial products.
- Bunge is one of the world’s largest companies in the agrochemical and food sector. The company claims to be the world’s largest processor of oil seeds, the largest producer and supplier of fertilizers to farmers in South America, the largest exporter of soya from Latin America, and a leading producer of biodiesel.
- Cargill has become a major player in the sourcing, trading and processing of wheat, cocoa, soya, rice, barley, maize, flax, oats, colza, sugar, vegetables, oils, poultry, beef, pork, dietary supplements and additives, and genetically modified products. It also provides a number of financial services: loans, investment advice, insurance, etc.
- Louis Dreyfus is today a major trader and processor of sugarcane, palm oil, oranges, lemons, soy, maize, wheat, cotton, sunflower oil and seeds, peanuts and rice.

Processors and branded manufacturers

Concentration is also increasing strongly at the level of processors, manufacturers and consumer food brands. Indeed, as detailed in the previous section:

- Global chains such as coffee, cocoa, rubber, tea, sugar, oil palm and tropical timber have become shorter in the past decades and driven by highly concentrated groups of processors and international brands who are active in re-allocating functions along the chain;

⁵¹ Bern Declaration, Agropoly: A handful of corporations control world food production, 2013

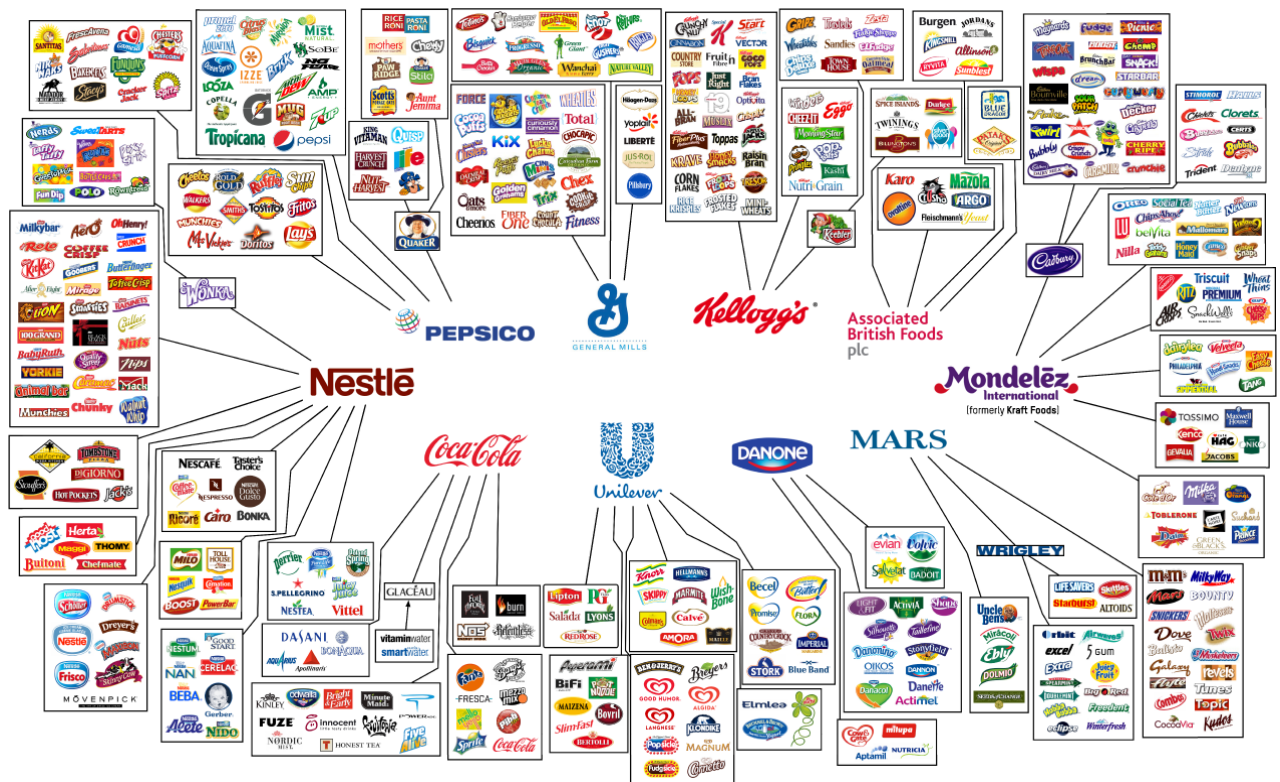
⁵² P. Gibbon, Agro-Commodity Chains: an introduction, 2002

⁵³ Oxfam Wereldwinkels, Concentration of power in supply chains: a game of giants, 2013

- Increasing levels of concentration has also happened in fresh horticultural produce, favouring the large processors who are able to provide the necessary technical expertise and investment⁵⁴;
- The strong development of processed food has also spurred concentration in the interrelated chains for beef, chicken and pork and for animal feed crops such as soya beans and corn⁵⁵. The resulting chains are increasingly integrated vertically and horizontally, the leading actors having a strong presence in food sectors such as seeds/ biotech, food ingredients, sweeteners and seafood⁵⁶.

The top 10 players of the global packaged food market are: Nestlé, Kraft/Mondelez, Unilever, PepsiCo, Mars, Danone, Kellogg's, General Mills, Associated British Foods and the Coca-Cola Company. Their total annual revenue is above 450 billion US\$⁵⁷, representing more than 15% of retail value sales worldwide⁵⁸ and a much greater market share in key segments (e.g. coffee, tea, confectionary, dairy or bottled water).

Below is an illustration of the main brands belonging to these 10 companies:



Main brands owned by the largest food and beverage companies
 Source: Oxfam, Behind the brands, 2013 (<http://www.behindthebrands.org>)

⁵⁴ Dolan and Humphrey (2000; 2004)

⁵⁵ A complex of interlocking chains has emerged globally, linking animal production in the US, Europe and Asia with animal feed production in the US and Latin America

⁵⁶ An overview of these chains a decade ago can be found in the contributions of McMichael (2000) and Francis (2000) to a special edition of World Development

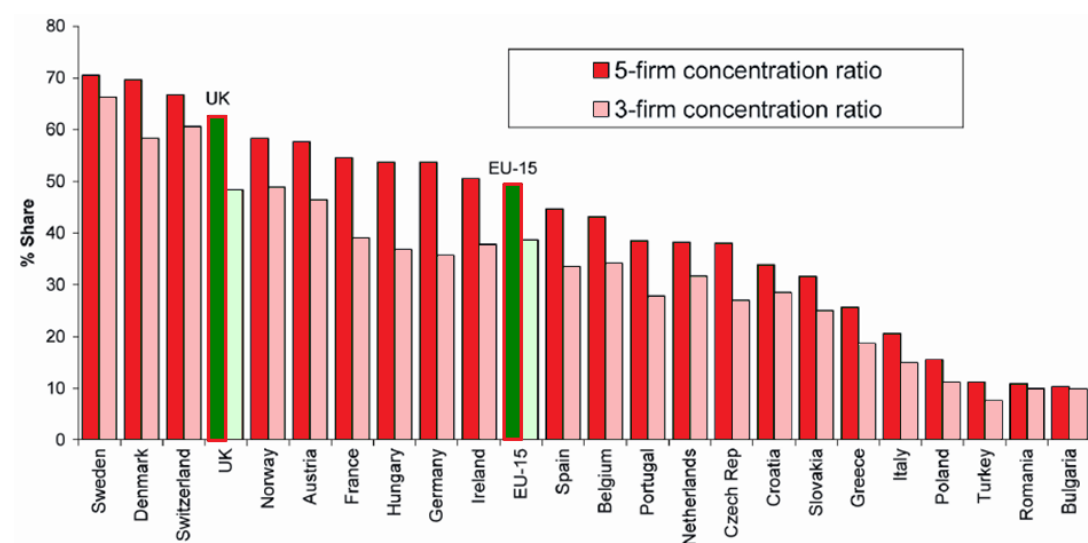
⁵⁷ Oxfam, Behind the brands: Food justice and the 'Big 10' food and beverage companies, February 2013

⁵⁸ Euromonitor, Packaged Food 2010 – Global Market Performance, November 2010

Supermarket chains

The emergence of supermarket chains with a worldwide outreach started in Europe and the United States before spreading to other regions since the 1990s.

In 1992, the five largest U.S. supermarket chains comprised 19 % of grocery sales. By 2005, conservative estimates put it at 28.7 %⁵⁹. Wal-Mart was a pretty small distributor in the mid-1990s when it started to sell food. It is now positioned as the largest global food retailer and alone accounts for 6.1% of global retail sales⁶⁰. In the UK, the top four retailers comprise 75% of the grocery market⁶¹ and concentration of the top 5 supermarket chains in the European grocery sector exceeds 50% on average (see below).



Concentration levels in European 'grocery' markets – 2004/5
Source: OECD, redrawn from DEFRA (2006)

In developing countries, the 'supermarket revolution' started in the early 1990s and has continued to the present, involving the rapid increase of modern retail shares in food retailing at the expense of traditional shops and wet-markets⁶².

The diffusion of modern food retail appeared to be much quicker in developing regions than in OECD countries and rolled out in three waves⁶³:

- The first wave in Latin America, Central Europe and South Africa went from a small share of supermarket sales in overall food retail in the early 1990s (5–10%) to some 50% or more by the mid-2000s.

⁵⁹ Sophia Murphy, 2006, op. cit.

⁶⁰ Olivier de Schutter, 2010, op.cit.

⁶¹ Action Aid and South Centre, 2008, op. cit.

⁶² Reardon et al., The rise of supermarkets in Africa, Asia and Latin America, 2003

⁶³ Reardon, The global rise and impact of supermarkets: an international perspective, Keynote address, 2011

- The second wave, in the mid to late 1990s, was in South-east Asia (outside transition countries like Vietnam), Central America, and Mexico. The second-wave countries in Asia started later and reached a range of some 30–50% share by the mid-2000s.
- The third wave, in the late 1990s and 2000s, has taken place in China, Vietnam, India and Russia, South Africa and is just starting in some other countries in eastern/ southern Africa.

In these different countries, **the diffusion of supermarket chains also rolled out from large cities to small cities, from upper to middle to poorer classes, from processed foods to semi-processed foods to fresh produce, and from domestic local chains only, to a multi-nationalised, concentrated sector.**

Supermarket chains in developing regions have been shifting over the past few years away from the old procurement model based on sourcing products from the traditional wholesalers and the wholesale markets, toward the use of a new kind of procurement system.

Initially, procurement by modern retail was only from the spot wholesale markets, and few standards were used. Gradually, sourcing became increasingly direct from preferred suppliers, consisting of dedicated wholesalers, food companies, cooperatives, or farmers. Finally, distribution centres and national and regional networks (involving intra-regional trade within a chain) were developed, using private standards. These changes were rolled out from multinational and large domestic chains eventually to smaller chains. They were also rolled out from processed foods to fresh products⁶⁴.

This ‘supermarket revolution’ has been driven by the same factors in the different regions: on the demand side by income growth and urbanisation, and on the supply side by foreign direct investment (FDI), format diversification to meet consumer segment needs, competitive domestic investments, and procurement system modernisation to drive down costs.

The repercussions of this evolution materialise in various ways, *inter alia*⁶⁵:

- **Retailers tend to select growers who also supply the export market**, to ensure that quality/sanitary standards are implemented (using own inspectors and/or third-party certification). Procurement tends to rely on larger farms;
- **The growers are responsible for all post-harvest activity** up to the point at which their produce reaches the supermarkets’ distribution centres. In the case of perishable goods, the farmers are expected to make daily deliveries in their own or rented refrigerated trucks. There is thus a hefty capital requirement on the post-harvest side as growers can stay on the Preferred Suppliers List only if they maintain the full set of requirements;
- **Sourcing in one country and exporting in another** has created some tensions in several markets where the competition is being felt. In least developed countries, domestic producers might be increasingly marginalised by imports and retailers could find it easier to import something than to buy it locally.

⁶⁴ Reardon, The global rise and impact of supermarkets: an international perspective, Keynote address, 2011 op. cit.

⁶⁵ Weatherspoon, Dave D., and Thomas Reardon. “The Rise of Supermarkets in Africa: Implications for Agrifood Systems and the Rural Poor.” Development Policy Review, 2003

Recent evolution of agricultural supply chains' dynamics

Because of the growing concentration at different levels in agricultural chains, there are increasing power struggles for the control of the chain between the leading business actors, namely between supermarkets, brands, processors, traders and input providers.

The growing concerns over the supply of key commodities such as coffee, cocoa or bananas in the mid-term, due to the combination of constraint resources (land, water, energy), the shrinking number of farmers, climate change, etc. has generated an **intense competition for the control of sourcing** in these sectors. This has led to an **increased tendency of supermarkets and brands** to bypass the other influential actors in the chain (in particular traders) in order **to acquire vertical control** of the chain down to producers through trading instruments (in order to save them the costs of vertical integration).

In parallel, the financial and economic crisis that started in 2008 has also induced an increased pressure on the margins and financial results of business actors, in particular, the multinational companies, which has pushed **several of them to (re)focus on their core business and get increasingly specialised**.

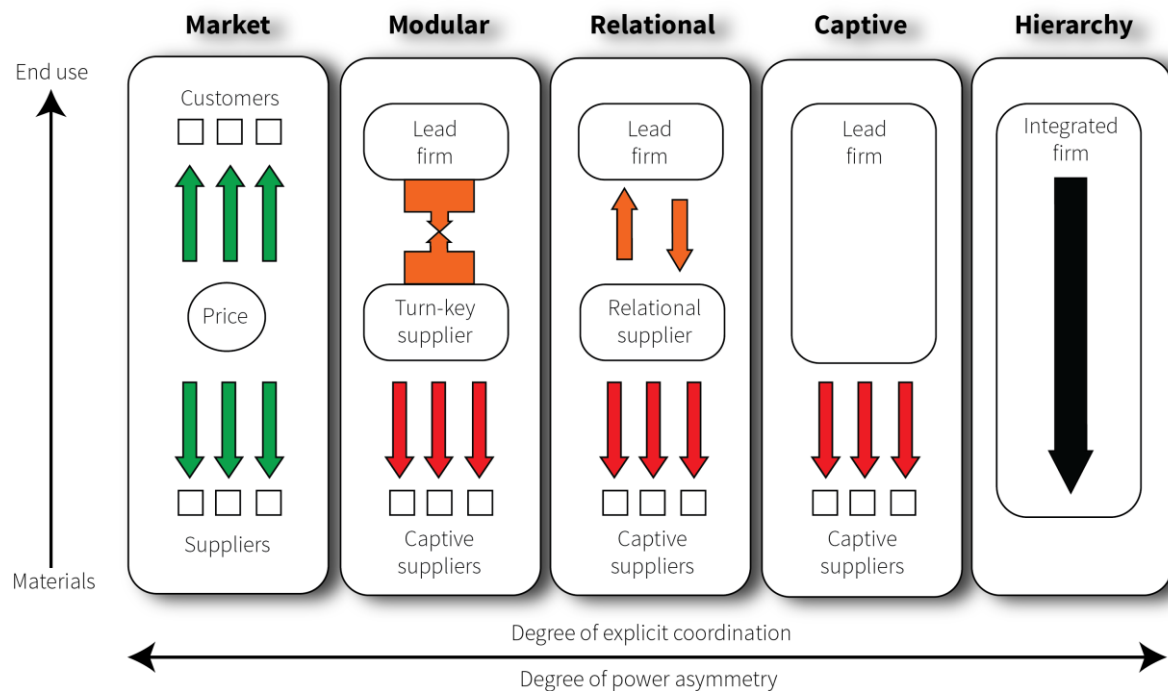
These potentially opposite trends have led to growing reconfigurations and alliances in agricultural chains, the concrete final outcome of which is difficult to predict at this time.

b) Main patterns of power concentration

As described by Gereffi et al. (see chapter 1), power concentration in global value chains is not accidental, but structural; it leads to governance patterns through which 'lead buyers' are able to control suppliers, the distribution of activities and the structure of production and processing, far removed from the model of perfectly competitive markets.

In agricultural chains, these patterns can be reduced to 4 main recurrent cases (see diagram below):

1. **The vertical integration of all activities** from the manufacturing of finished goods down to the production in industrial plantations, the distribution being left in the hands of distributors (**Hierarchy model**).
2. **The captive set-ups** where agricultural producers are kept dependent on large buyers that control the chain from the manufacturing or distribution stage.
3. **The long-term relational networks** developed by leading brand manufacturers with large traders that maintain agricultural producers in a captive situation.
4. **The modular chains** developed by leading brand manufacturers with turn-key suppliers who manufacture standardised intermediate goods and source from captive agricultural producers.



Recurrent patterns of buyer power in agricultural chains
 Source: BASIC based on Gereffi, Humphrey and Sturgeon, 2005

Vertical integration

The older model of control in agricultural chains is vertical integration. It dates back to the colonial trade of export commodities (cf. the historical background detailed previously). It has been developed mainly in fresh tropical fruits (banana, pineapple, mango...), tea (mainly in Sri Lanka and East Africa), cane sugar, palm oil, soya and more recently off-season vegetables.

The common feature of these chains is the structural control exerted by companies that have historically integrated the chain from the production up to the manufacturing of end products.

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. Such hierarchical set-ups are often characterised by patriarchal relationships where large owners may provide schools, health facilities and housing to their plantation workers in exchange for their dedication and social peace.

These hierarchically integrated chains are increasingly challenged by looser models of vertical control, which have been facilitated by the globalisation and specialisation of actors in agricultural chains.

Bananas: a leading example of historical vertical integration

The development of the banana into a major worldwide trade commodity has its roots in the 19th century. **Given the perishable nature of the banana, its trade has been historically dominated by vertically integrated companies that controlled production, packing, shipping, import and (sometimes) ripening.**

From 1900 to 1930, UFC (United Fruit Company) dominated the US market, while Fyffes had a quasi-monopoly in the UK⁶⁶. Following anti-trust decisions by US courts, the Standards Fruit Company, and later Del Monte, were created⁶⁷. In the 1980s and 1990s, only 5 companies – Dole (formerly the Standard Fruit Company), Chiquita (formerly the United Fruit Company), Del Monte, Fyffes and Noboa - traded more than 80% of world bananas⁶⁸.

The banana chain is typical of the hierarchy model where these multinational companies have vertically integrated all operations along the supply chain, from the production stage (through ownership of plantations) down to distribution channels (small shops, retailers and ultimately the consumers) in order to control the offer and influence the downstream market.

More recently, the availability of a competitive offer of liner shipping services, the creation of technical quality standards by supermarkets and the liberalisation of the European market enabled retailers to buy bananas independently of the multinationals. As a result, **several large supermarkets have started to build more loosely controlled chains from consumers down to producers, passing down responsibilities to their suppliers, such as risk management, quality control and logistics**⁶⁹.

The increased competition between large fruit companies to remain the ‘preferred suppliers’ of supermarkets has led to a ‘reversal’ of the governance structure of global banana chains which are increasingly driven by retailers instead of integrated fruit companies.

This has triggered a renewed dynamic of concentration in the banana industry, the most notable being the recent attempted merger - which eventually failed - between Chiquita (the world’s biggest banana trader) and Fyffes (4th biggest) announced in March 2014.

This evolution of the global banana chains has led to the emergence of new configurations where producers (plantations and small farmers) are more independent, but kept captive by supermarkets at the other end of the chain (although they are not totally integrated into their supply chains).

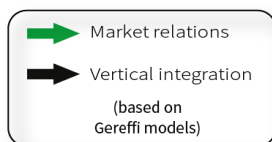
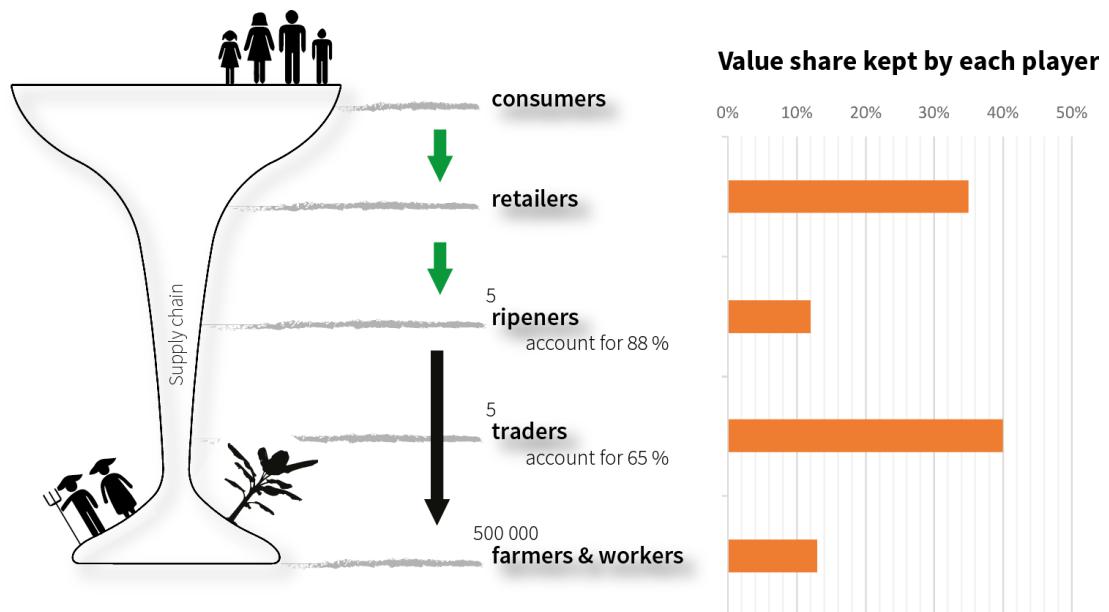
⁶⁶ William H. Friedland, University of California, Agrifood globalisation and commodity systems, 2003

⁶⁷ Marcelo Bucheli, Stanford University, The Role of Demand in the Historical Development of the Banana Market, 2002

⁶⁸ FAO, The world banana economy 1985-2002, Rome 2003; International Centre for Trade and Sustainable Development (ICTSD), Value Chains and Tropical Products in a Changing Global Trade Regime, 2008

⁶⁹ Fairtrade Foundation, Britain’s bruising banana wars: why cheap bananas threaten farmers’ futures, 2014

The BANANA supply chain



Global Value Chains of bananas
Source: BASIC

Captive set-ups

This type of governance structure is long-standing in agriculture. The primary cases were historically developed by traders of colonial commodities, especially traders located in producer countries.

This model has been replicated in many products where farmers are dependent on a few buyers who wield a great deal of control. The asymmetric power relationships in these captive set-ups **oblige farmers to accept the trading conditions** and a high degree of monitoring from their buyers.

Today, this set-up can be found very frequently in the following products:

- In tropical fresh fruits and palm oil where outgrowers and small farmers are used as buffer volumes by dominant exporters who also own plantations (cf. case of banana described above);

- In cane sugar where dominant processors outsource the production of these perishable goods to a large number of small farmers who have to sell them their product quickly before it rots;
- In cotton in Asia (and to a lesser extent in West Africa) where small farmers under contract production are highly dependent on their sole buyer who provides them with marketing services and key inputs for production (fertilizers and pesticides);
- In milk, especially in Europe, where farmers are directly contracted by concentrated dairy corporations (e.g. Nestlé, Lactalis...).

A key example of captive farmers: cane sugar supply chains

Nearly 83% of the world's sugar comes from cane, and the remainder from beet. Sugarcane is mostly cultivated in the Global South. Brazil is the major world exporter (almost half of world exports), followed by Australia, Thailand, Cuba, Guatemala, South Africa, Mauritius, Colombia, El Salvador and Fiji⁷⁰.

For many countries in the Global South, sugarcane cultivation is a major source of revenue (e.g. 70% of Cuba's exports and 40% of Belize's and Fiji's exports) **and rural employment** (the sugarcane industry employs over 1 million people in Brazil and 25% of Fiji's workforce)⁷¹.

In most producing countries, processing and refining is highly concentrated in the hands of a few large privately owned companies⁷² that have a national presence with sugar exports usually controlled by a single desk company or organisation⁷³. While private corporations increasingly control the chain vertically, important protectionist policies in major producing countries (USA, EU, Brazil, India, China...) are still used to influence world market prices.

Sugar processing and refining are typically very capital intensive and critical for the competitiveness of the sector. They have always been the bottlenecks of cane sugar value chains⁷⁴. This is why the major sugar traders – Cargill, Louis Dreyfus, Bunge ED&F Man, Sucden and Czarnikow – have increasingly invested in sugar mills in the past decade⁷⁵, as have the rapidly expanding Brazilian large refiners (Copersucar, Cosan and Crystalsev)⁷⁶. More recently, European refiners have started to merge with international traders and invest increasingly in local sugar mills in order to keep control over supply: AB Sugar (subsidiary of Associated British Foods plc) now owns Czarnikow and Illovo (leading sugar producer in East & Southern Africa), while Südzucker acquired a control stake in ED&F Man. Most recently, in September 2014, Cargill and Copersucar announced the integration of their commercialisation activities, creating the biggest world sugar trading company.

⁷⁰ FAO, Markets and Trade Division, Sugar International Market Profile, Background paper for the Competitive Commercial Agriculture in Sub-Saharan Africa (CCAA) Study, 2007

⁷¹ Fairtrade Foundation, Fairtrade and sugar, commodity briefing, January 2013

⁷² The level of concentration in the European Union also appears to be high: according to an Oxfam report published in 2002, one company controlled the sugar beet quota in eight of the 14 EU-member countries.

⁷³ Garside et al, 2005; Bureau et al, 2007

⁷⁴ Helvetas, Value Chain Governance that Benefits the Poor, Working Paper, 2010

⁷⁵ Ethical Sugar, Sugar Market and Industry Facts and Figures, 2010

⁷⁶ Ethical Sugar, The Development Model of Brazilian Sugarcane, 2009

Cane sugar is processed by mills that are usually located close to the growing areas⁷⁷. **A mill usually serves many farmers and there is unlikely to be more than one mill in a given area⁷⁸. This creates a strong asymmetry of power**, especially in countries where sugarcane is mainly grown by small farmers, such as in Pakistan and the Philippines where most of the cane farming is done in farms of 5 hectares and below.⁷⁹ The supply of sugar is regulated through contractual agreements between small farmers and the mill, which also provides credit, extension support and social services (such as schools and health clinics)⁸⁰.

As a result, small sugarcane farmers are kept captive by the mill, which is the only channel through which they can sell their product, and which provides them with the critical inputs – in particular pesticides – and services they need. Their dependence is heightened by the fact that they have to sell their product very quickly once harvested before it loses its sucrose content.

The situation is very similar in East and Southern Africa where large sugarcane estates contract small independent farmers in their surroundings to supply buffer volumes. The estate provides them with seeds, fertilizers and transport to their factory. In return, farmers are obligated to sell 100% of their cane production to the sugar estate and to accept the deduction of loan repayments from the sale price⁸¹.

As described above, the cane sugar value chain is a key illustration of the captive model of governance defined by Gereffi et al. as described in chapter 1 of this report.

⁷⁷ Canes are crushed with heavy rollers to retrieve the juice containing sucrose. The raw brown sugar is further refined before it can be used in food chains. The refinery removes the remaining impurities and colour by washing and filtering. The refined sugar is then crystallised, dried, and packed ready for industry clients and final consumers.

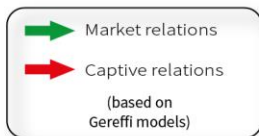
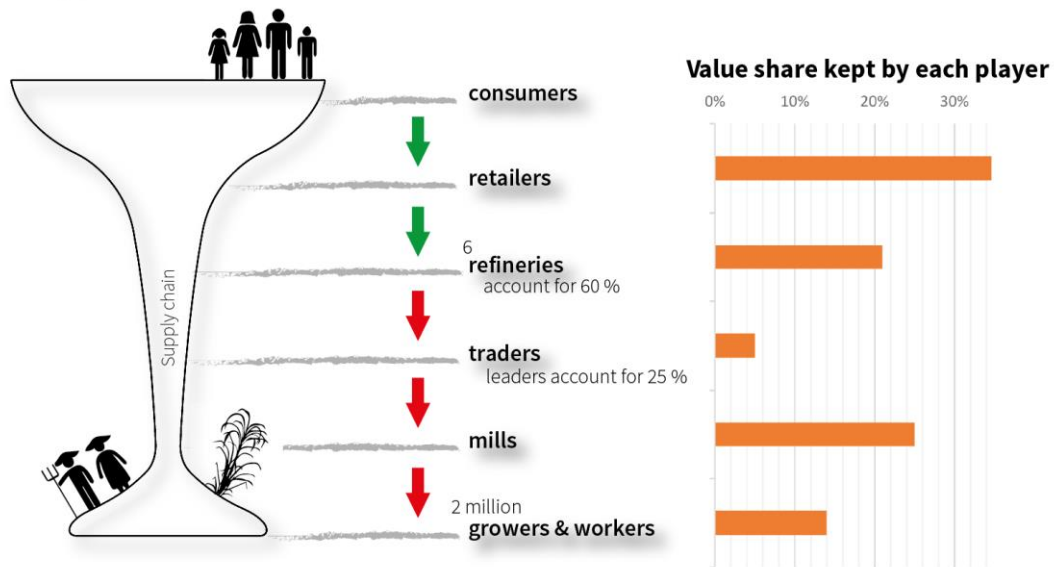
⁷⁸ J. Clay, *World Agriculture and the Environment*. Island Press. USA. 2004

⁷⁹ United Nations Development Program, *Sugar Scoping Paper*, 2010

⁸⁰ International Centre for Trade and Sustainable Development (ICTSD), *Value Chains and Tropical Products in a Changing Global Trade Regime*, 2008

⁸¹ USAID, *Value chain governance and access to finance: maize, sugar cane and sunflower oil in Uganda*, Sept. 2007

The CANE SUGAR supply chain



Global Value Chains of sugar
Source: BASIC

Another very similar example can be found in cotton production where most small growers, in West and Central Africa as well as in South and East Asia, are kept dependent by ginners who control the first processing stage of the chain in the same way as millers do in the cane sugar industry: they control the price paid to farmers and provide them with the critical input they need (seeds, fertilizers...).

Relational networks sourcing from captive farmers

Agricultural chains are not always as highly concentrated as described in the two previous cases. Relational network configurations emerged in the 20th century in agricultural products predominantly cultivated by a large base of small farmers where the power concentration of traders increased in line with the one of dominant processors and manufacturers down the value chain.

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 for firms to keep access to sourcing in turbulent environments, especially in increasingly volatile agricultural markets. Legal contract is the main mechanism used between firms to deal with their interdependent relationship.⁸²

In agricultural value chains, this governance model is combined with the establishment of captive sourcing with small farmers to secure the sourcing of raw materials at the lowest possible price. The primary examples of such set-ups can be found in coffee (between traders and roasters), as well as other commodities such as cocoa or shea butter (between traders and processors). It is also widespread in the textile industry, in particular, in cotton value chains.

Coffee global value chains: strong relational networks between roasters and traders that keep small farmers highly captive.



“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.”

Javier Rivera Laverde, ASOPECAM – Colombia

Coffee is grown by about 25 million producers (mainly small holders of less than 10 Ha) and consumed by 500 million people worldwide⁸³.

Only five firms carry out 45% of all coffee roasting – Nestlé, Kraft-Mondelez, Sara Lee, Procter & Gamble and Tchibo – **while only three firms trade 50% of green coffee worldwide** – Neumann Gruppe, ECOM and Volcafé (now owned by ED&F Man).⁸⁴

Since the liberalisation of the coffee trade in 1989, the coffee value chain has been increasingly influenced by roasters (much more than retailers), **above and beyond the historical influence of traders**. They are also the actors who generate the most of the ‘added value’ in the chain. However, they do not influence the chain by themselves, but in close coordination with international coffee traders with whom they have often built close relationships for decades⁸⁵.

In many regions, the structure of the coffee chains is strongly driven by the combined influence of roasters and traders, in particular through the establishment of entry barriers (minimum volumes, supplier management inventories...) and the sourcing of coffee from small growers who find themselves locked in a captive situation because of the asymmetry of negotiation power.⁸⁶

⁸² Helvetas, Value Chain Governance that Benefits the Poor, Working Paper, 2010

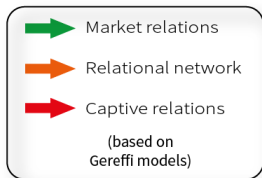
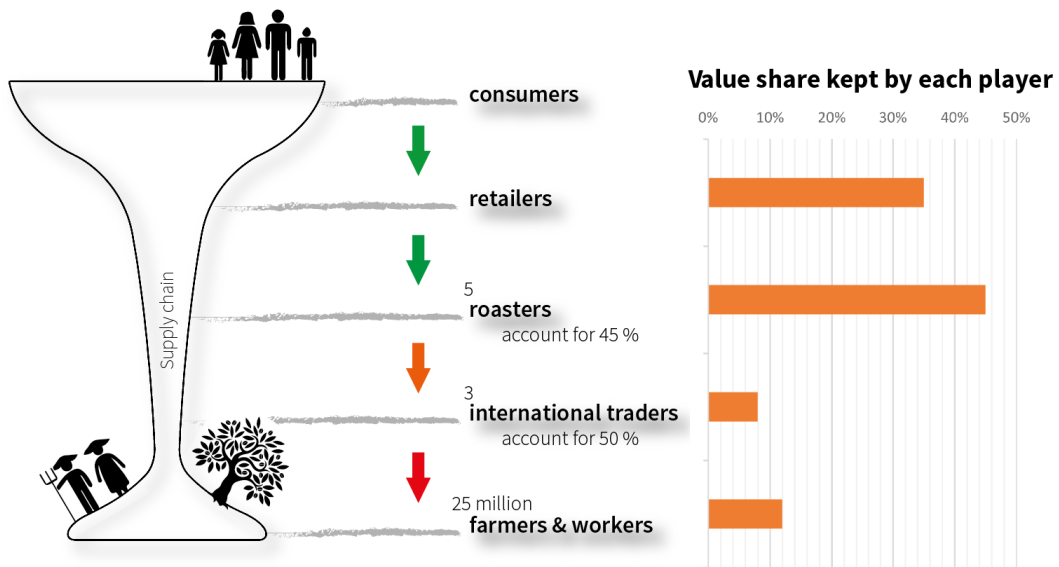
⁸³ International Coffee Organisation (ICO), International coffee figures, 2010

⁸⁴ Tropical Commodity Coalition, Coffee Barometer, 2012

⁸⁵ Daviron & Ponte, The Coffee Paradox: Global Markets, Commodity Trade & the Elusive Promise of Development, 2005

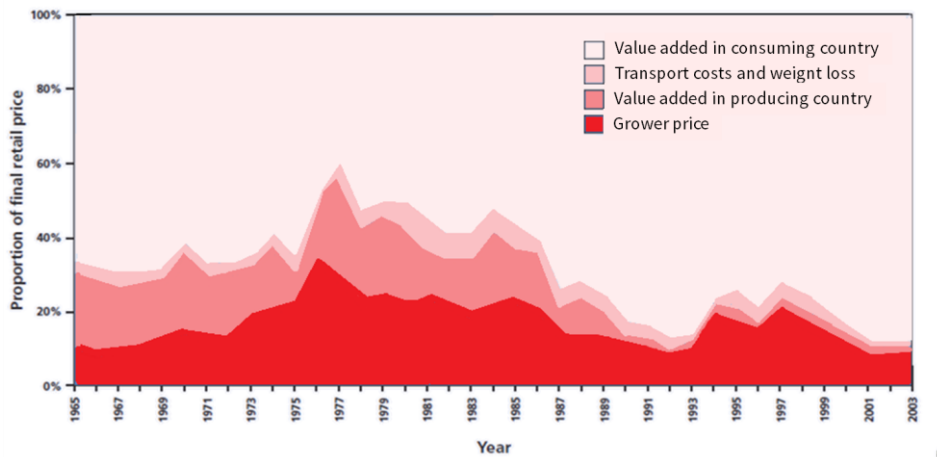
⁸⁶ Ibid.

The COFFEE supply chain



Governance of the coffee chain
Source: BASIC

The strong position of traders and roasters in global coffee chains has allowed them to influence the value share of green coffee into the final product (see below).



Evolution of coffee value breakdown since the 1960's
Source: Daviron & Ponte 2005

Roasters and traders have succeeded in increasing their gross margin while the part allocated to farmers has decreased. This situation led to a crisis called the “**coffee paradox**” in 2000 when farmers were faced with among the lowest prices in a century in real terms whereas, at the same time, the value of coffee-based products in consuming countries increased.⁸⁷

As a result, although the power is globally more widely distributed in the coffee sector than in value chains such as bananas, the coffee farmers are mostly bound to accept the terms of trade imposed by their buyers, unless they manage to get collectively organised in cooperatives. **This is a clear illustration of the relational network value chains.**

Modular chains based on turn-key suppliers and captive farmers

More recently, **more complex agricultural chains have been developed to manufacture processed food through the assembly of standardised ‘intermediate products’.**

These more complex chains are often organised through a set of turn-key manufacturers of ‘components’, each of them controlling supply chains which can be structured along the lines described earlier, most often keeping farmers in a captive situation.

Turn-key suppliers in modular value chains make products to a customer's specifications, taking full responsibility for the process technology. The required 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.⁸⁸

Most processed food products are manufactured through modular chains led by branded manufacturers down to the primary agricultural producers: canned foods, ready-made-food, frozen prepared dishes, etc. It is also widespread in the fashion apparel industry.

Chocolate: a leading example of processed food chains concentrated at several levels

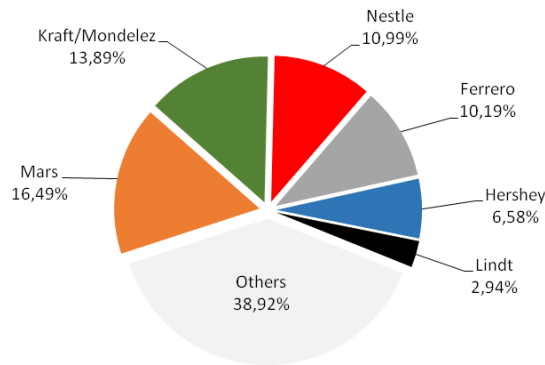
One of the most telling examples of a modular governance structure is the case of chocolate which results from the assembly of cocoa paste/mass, cocoa butter, sugar and soya lecithin (with sometimes vanilla extracts in the standard recipe).

At the end of the chocolate chain, there is increasing concentration, firstly, due to the numerous barriers to entry (costs of investment in R&D process, advertisement budgets, etc.) which limit the emergence of new competitors, and secondly, due to the numerous mergers and acquisitions in the chocolate industry which keep reducing competition levels. **The leading branded manufacturers – Mars, Kraft/Mondelez (which recently bought Cadbury), Nestlé, Ferrero and Hershey – account for almost 50% of the world confectionary market.**⁸⁹

⁸⁷ Daviron & Ponte, 2005, op. cit.

⁸⁸ Helvetas, Value Chain Governance that Benefits the Poor, Working Paper, 2010

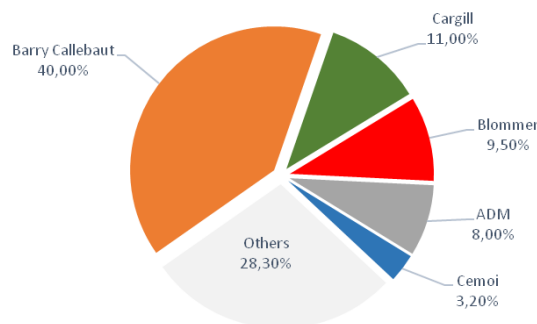
⁸⁹ Tropical Commodity Coalition, Cocoa Barometer, 2012



World confectionary market shares
Source: BASIC based on Euromonitor 2009

Upstream, the last transformation of the chain is the production of industrial chocolate called chocolate couverture (which is not the one consumers buy). There are two categories of operators:

- The vertically integrated chains of branded manufacturers which produce industrial chocolate for their own use (Mars, Kraft/Mondelez, Nestlé...) and represent 52% of global chocolate production⁹⁰;
- The manufacturers of industrial chocolate (also called couverture chocolate) for external clients, which represents 48% of global chocolate volumes and is highly concentrated too: in this category, **more than two thirds of the world market is supplied by only four companies (Barry Callebaut, Cargill, Bloomer and ADM), Barry Callebaut alone claiming a market share of roughly 40 %⁹¹ . Most recently, in September 2014, Cargill bought the cocoa manufacturing operations from its rival Archer Daniels Midland in order to increase its vertical integration** from cocoa beans trading up to industrial chocolate making.



Industrial chocolate market shares
Source: BASIC based on UNCTAD (2008) and Barry Callebaut (2013)

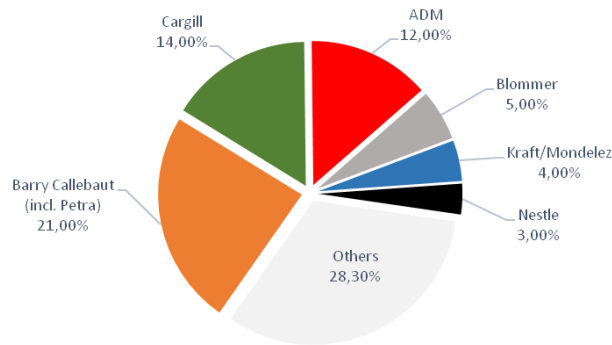
One level up in the supply chain, the structure of the cocoa grinding segment is also significantly concentrated. The three largest cocoa-processing companies – ADM, Cargill and Barry Callebaut – account for 45 % of the market. Different categories of companies operate in this segment: commodity trading companies and specialised grinding company and confectionary manufacturers like Kraft/Mondelez, Nestlé and Ferrero which have integrated grinding for special requirements⁹².

⁹⁰ Barry Callebaut, Tapping into a fast-growing chocolate market, press conference, October 2013

⁹¹ Tropical Commodity Coalition, Cocoa Barometer, 2012

⁹² Tropical Commodity Coalition, Cocoa Barometer, 2012

Most recently, a dynamic of power concentration has been renewed at this level of the chain as Barry Callebaut acquired the cocoa division of Petra Foods in July 2013, creating the world's leading cocoa powder supplier, in addition to being the global leader in chocolate.



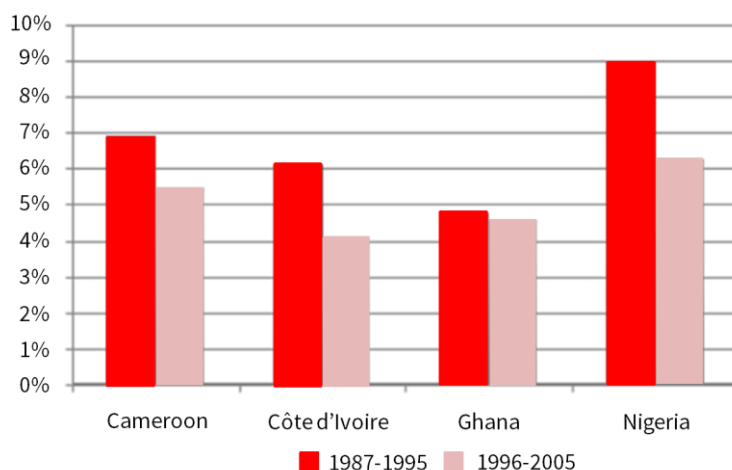
Cocoa grinding market shares

Source: BASIC based on UNCTAD (2008) and Barry Callebaut (2013)

At the level of cocoa production, over 90% of global cocoa is cultivated by an estimated 5.5 million small farmers, mainly in West Africa (Ivory Coast and Ghana). Another 14 million rural workers directly depend on cocoa for their livelihoods. Farmers sell their produce through large commodity trading companies, which most often buy cocoa beans through local intermediaries. At this end, the cocoa chain is pretty much organised as a captive chain in most producing countries.

The value share of the final product left to cocoa farmers has decreased since cocoa liberalisation in 1990, while the share generated by downstream activities has significantly increased in line with the price of the final product (e.g. chocolate bar), in particular, thanks to product development and brand marketing. This situation reflects the growing market power of the actors at the end of the chain (traders, grinders, manufacturers, brands).

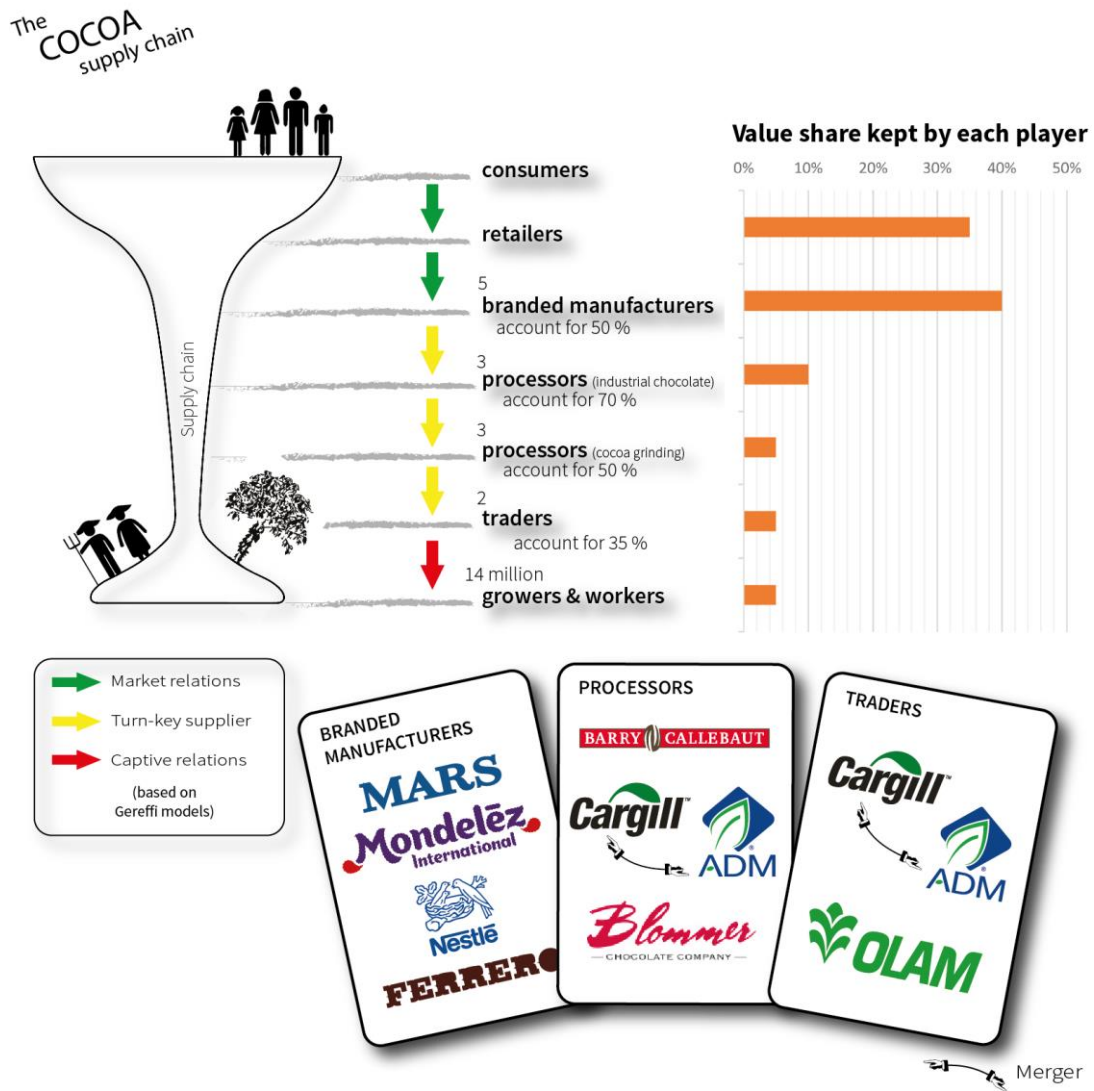
Cocoa, the key component of chocolate, is a good illustration of the repercussions of the captive situation of agricultural farmers at the beginning of the chocolate modular value chain.



Producer value share in main African cocoa origins as a percentage of the retail price for chocolate in UK

Source: UNCTAD, 2008

A global picture of the cocoa value chain is provided in the following diagram:



Governance of the global cocoa-chocolate chain
Source: BASIC

In addition, the production of chocolate also assembles other ingredients - sugar, soya lecithin and vanilla extract - which are also most often organised as captive chains with similar impacts (in particular, the vanilla produced in Madagascar and India).

c) How power concentration leads to unfair trading practices (UTPs)

The structural concentration of buyer power in agricultural chains described in the previous section 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”.⁹³

⁹³European Commission, Tackling unfair trading practices in the business-to-business food supply chain, communication to the European Parliament and the European Economic and Social Committee, 2014

The following section analyses these practices in consumer countries as well as producing countries, exploring their repercussions on farmers and workers.

UTPs at the retail level

The best-documented cases of unfair trading practices relate to leading supermarkets which have gained pre-eminence in food retail over the past decades and radically changed the balance of power in agricultural chains⁹⁴.

The reported supermarkets' practices include: squeezing on prices, threatening de-listing⁹⁵, retrospective deduction or changing of prices, demanding loyalty payments from suppliers, keeping pricing opaque, using short term or no contracts, demanding regional/global supplier agreements, paying late, demanding global promotions at short notice and demanding standards' compliance at suppliers' expense⁹⁶. Leading supermarkets may also transfer excessive and/or unjustified risks to suppliers and may undermine the competitiveness of the independent grocery brands⁹⁷.

In addition, **there are many reported cases of distorted in-store competition linked with supermarkets own brands (private labels)** which have been created to compete with independent brands: better positioning of the supermarket private labels, copycat packaging of targeted competitors, lower in-store services provided to independent brands, etc.

However, legal complaints are almost non-existent, as suppliers are afraid of upsetting their largest customers and losing them⁹⁸. The existence of a 'climate of apprehension' amongst suppliers was clearly documented in many countries, namely by the UK Competition Commission's enquiry into the behaviour of the UK's four largest supermarkets. Indeed, in most cases, the supermarkets' position of power is such that their listing decisions may affect the financial viability of their suppliers⁹⁹.

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 they pay their 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 with regards to their buyers or employers¹⁰⁰.

⁹⁴ Weiss and Wittkopp, "Buyer Power and Product Innovation: Empirical Evidence from the German Food Sector", Working Paper FE 0303, University of Kiel, June 2003, p. 3

⁹⁵ Blythman, *Shopped: the shocking power of Britain's supermarkets*, Harper Perennial, 2007, pp. 150-151

⁹⁶ South Center-Traidcraft, *rebalancing the supply chain, buyer power, commodities & competition policy*, 2008

⁹⁷ Grocery brands may thereby be contractually forced to bear the cost of: (1) delivery in pallets and crates of third parties (imposed by the supermarkets) to the individual stores; (2) in-store replenishment; (3) in-store promotions and marketing activities; (4) product shrinkage; (5) consumer complaints; (6) guaranteed margins or wrong margin forecasts; (6) unsold items; and (7) positive credit terms enjoyed by supermarkets.

⁹⁸ Bevan, "Trolley wars: the battle of the supermarkets", Profile Books, 2006, pp. 174-175

⁹⁹ Thomassen, Lincoln and Aconis, *Retailization – Brand survival in the age of retailer power*, Kogan Page, 2006

¹⁰⁰ ILO, *Tripartite Meeting to Examine the Impact of Global Food Chains on Employment*, 2007

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 case of coffee). These practices do not seem to be specific to given products, but can happen in any agricultural chain if the conditions are met.

Foreclosing small farmers from the market and keeping them as buffer volumes suppliers

Examples of this situation have been found in the Dominican Republic where agriculture is strongly polarised between "family agriculture" and "industrial agriculture" or agribusiness (according to the office for national agricultural records, family farming represents on average 65% of the total number of producers and only use 11% of the total arable land). In this context, banana production is a primary example of unfair competition between small farmers and plantations in the country.

Bananas are the Dominican Republic's second largest agricultural export and an important source of employment, wages and income in poor regions of the country¹⁰¹. 90% of producers are small farmers (holding between 1.2 and 2.5 Ha), accounting for approximately 50% of the country's banana production¹⁰².

Because of the perishable nature of bananas, small farmers' cooperatives don't have the capacity to export by themselves, or aren't willing to take that risk; for this reason, small farmers end up exporting their fruit through private exporters who are generally integrated in vertical chains.

As exporters are often owners of large banana plantations, they tend to sell their volumes first to their clients, **using small farmers' cooperatives only as 'buffer' volume providers** of bananas, whatever the quality they deliver or the competitiveness of their offer.¹⁰³

Having no direct access to importers or to market information (albeit through the exporter), small holders' cooperatives are often kept dependent on the exporter who can impose very low terms of trade, and therefore they have very little chance of more autonomy in the chain.¹⁰⁴

This is further worsened by the fact that most buyers in Europe and the USA (fruit companies and supermarkets) give priority to big volumes and homogeneous production with good visual appearance and impose increasingly expensive quality standards, which plantations are much more capable of delivering than small farmers' cooperatives.¹⁰⁵

¹⁰¹ Millennium Development Objectives Achievement Fund, Dominican Republic fact sheet, April 2013
<http://www.mdgfund.org/sites/default/files/Dominican%20Republic%20Joint%20Programme%20Fact%20Sheet.pdf>

¹⁰² Banana Link, Banana Trade News Bulletin, June 2012, op. cit.

¹⁰³ Anonymous interviews with banana producers and experts in producing countries

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

Similar cases can be found in many products and regions where small farmers are contracted as outgrowers by large plantations or estates such as in tea, coffee and sugar cane production in East and Southern Africa, or pineapple production in Central America.

Imposing unfairly low prices on small farmers

Situations where unfavourable terms of trade are being imposed on small farmers which forces them to sell below their costs of production are quite common in agricultural chains.

This is best illustrated using the case of small sugarcane producers who heavily depend on their local sugar mill as it is their sole buyer (as described in the previous section).

In practice, the price they get is based on the sugar content of the cane they deliver to the factory. But this figure can only be known once the fresh sugarcane has been processed. **Therefore, it is the mill that most often calculates this ratio and determines the final price paid to farmers. Given the high variability of the sugar content, farmers have no other solution but to trust the factory on their estimation.**¹⁰⁶

Although cases of underpayments have been regularly reported, **farmers have almost no way to complain** as they are dependent on the mill to process and sell their product and have no alternative in the region where they are located.¹⁰⁷

These situations are quite common wherever small farmers are kept captive by their buyer with little or no possibility to find alternative commercial routes, such as in milk production in Asia, vanilla in Madagascar or cashew nuts in West Africa and Asia.



“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. In the conventional trade, we are always at a loss with large buyers.”

Raúl Claveri, COCLA - Peru

Unfair trading practices against small farmers willing to get collectively organised

In many cases, **when small farmers try to get collectively organised (in cooperatives, unions, etc.) in the absence of public regulation, buyer power concentration is also used to weaken their initiative or to prevent them from doing so**

This is the case particularly in Mexico, Nicaragua and Peru where more than 70% of the coffee export market is channelled by private coffee exporters who do not produce coffee, but only buy it from small farmers through local intermediaries. These exporters often own the biggest coffee processing plants in the country, packaging plants, a large number of trucks, and warehouses

¹⁰⁶ Anonymous interviews with sugar producers and experts in producing countries

¹⁰⁷ Anonymous interviews with sugar producers and experts in producing countries

situated in all coffee producing zones. They also employ a large staff of technical coffee experts throughout the country to provide inputs and services to small farmers, trying to keep them as captive suppliers. They have access to cheap capital and large amounts of public investment funds. Most of all, they are the preferred suppliers of coffee roasters who are reluctant to change suppliers unless they have to.¹⁰⁸

In comparison, coffee cooperatives in these countries have to leverage their own capital and resources through their members (and sometimes through supporting NGOs and small business partners in niche markets). Most of all, they lack the personal ties with coffee roasters and brands.

In the competition for sourcing, there are multiple reported cases where large coffee exporters have used their financial resources to entice producers out of existing coffee cooperatives. At the critical moment of the year, intermediaries working for these exporters offer advance payments in cash in exchange for the sale of the entire harvest regardless of the quality. This also requires the setting up of contracts with individual farmers or very small groups and a refusal to negotiate with existing cooperatives. When prices are high on the world coffee market, the cooperatives cannot compete with these large exporters because of their lack of financial resources. They are significantly weakened and sometimes end up being broken up.¹⁰⁹



“The last thing that large buyers want is to deal with an organization of small producers. They prefer isolated and disunited people who they can manipulate more easily through short-term prices that do not guarantee the development of their family.”

“Unfair trading practices are being instigated by the same companies that are also financially supported by our state governments.”

Luis Martinez Villanova, UCIRI – Mexico

Even when coffee cooperatives manage to establish direct partnerships with large roasters in consumer countries, they still suffer from large exporters who can break up their business partnerships, by creating smoke screens.

In several reported cases, exporters operating between coffee cooperatives and roasters have used false allegations of quality problems in order to supply coffee from unorganised producers instead, ensuring that the roasters could not get in direct contact with the cooperatives to verify the case. Being unable to appeal against the claim, the coffee cooperatives had no choice but to accept a renegotiation of the prices and conditions after the coffee had been shipped. Such situations have led to the failure of several initiatives of direct trading relationships between small farmers and large manufacturers in recent years.¹¹⁰

Similar cases can be found in the products and regions where collective organisations of farmers (cooperatives, unions...) are in direct confrontation with large buyers who want to maintain or increase their power in the chain, in particular in cocoa and milk production in Latin America, Africa and Asia.

¹⁰⁸ Anonymous interviews with coffee producers and experts in producing countries

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

5. Social and environmental impacts of power concentration in agriculture



“The concentration of production in fewer hands and the disappearance of small and medium producers foster monopoly and the control of prices and the market, which creates adverse pressure on social conditions, wages and human rights.”

SINTRAINAGRO – Colombia

a) Unsustainable livelihoods of farmers

It is the combination of power concentration in agricultural chains with the liberalisation and financialisation of world markets that results in small farmers being heavily impacted, first and foremost in the form of increased price pressure and higher price volatility.

As described in the previous chapter, **the gradual dismantling of price-stabilisation tools** (quotas and stocks) **and the collapse of international commodity organisations** (coffee, cocoa, sugar...) **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** at the expense of the least powerful actors in the chain.

This trend has also enabled speculation by big buyers in agricultural commodity markets which has resulted in **unprecedented price volatility** and several food crises in developing countries.

As a result, **the benefits that accrue to actors of agricultural supply chains tend to be increasingly skewed in favour of the lead firm in the chains**. Value is increasingly allocated not primarily to those who supply the physical product but to those who can bring to bear the information needed to make the global food chain work successfully¹¹¹.

Although most agricultural chains are quite profitable as a whole, the terms of trade for primary producers have declined, the gap between producer prices and retail prices has grown, and family-scale farmers are finding themselves excluded from higher value markets¹¹².

In many regions, and for many agricultural products, small farmers are the first to suffer the consequences of this situation: their living conditions have deteriorated hugely over the past two decades and, in many cases, become unsustainable.

Prime illustrations of this can be found in the coffee and cocoa sectors, which serve to illustrate the situation of many other small farmers in agriculture (bananas, sugarcane, palm oil, milk, etc.).

¹¹¹ ILO, Tripartite Meeting to Examine the Impact of Global Food Chains on Employment, 2007

¹¹² IIED, 2012, op. cit.

The systemic impacts of coffee price crises on small farmers

As one of the most important commodities, in terms of value traded globally, coffee plays a crucial role in the livelihoods of millions of rural households across the developing world. In addition to the estimated 25 million small coffee farmers who depend directly upon coffee as their primary source of income, coffee contributes significantly to foreign exchange earnings and plays a leading role in employment and infrastructure development in more than 50 developing countries.

Until 1989, there was a consensus between producers and consumers on the need for agreements and rules aimed at achieving an orderly market and equitable coffee prices, with guaranteed supplies for the coffee industry. **Since the collapse of the coffee agreement in 1989, this consensus has been replaced by the doctrine of liberalisation.**

This major change in the governance of the world coffee sector fostered a sustained period of crisis with low prices and a structural oversupply of beans. In particular, prices fell below the average cost of production from 1989 to 1992 and from 2000 to 2004. For example, in 2002 prices hit an all-time low of below 46.2 cents a pound, compared to \$1.2 dollars a pound, which is the cost of sustainable production that enables farmers and their families to live in dignity. In 2002, the money that farmers could make from coffee would only buy one-quarter of what it could in 1960¹¹³.

These price crises have generated a significant loss of income and subsequent impacts on small farmers in many developing countries: Abandonment of farms, the widespread loss of jobs, reduced export earnings and fiscal revenue, a knock-on effect on other economic sectors, migration from the countryside to cities, emigration abroad, less money for health care and education, an increase in households living under the poverty line, increased malnutrition, increased indebtedness, growth in illicit crop production, etc.¹¹⁴

The unsustainable living conditions of West African cocoa growers

Over 90% of global cocoa production is cultivated by an estimated 5.5 million small holders. Another 14 million rural workers directly depend on cocoa for their livelihoods.

Under pressure to liberalise their markets, countries such as Nigeria, Cameroon and the Ivory Coast fully privatised their internal and external marketing structures in the nineties, whereas centralised marketing systems had prevailed until then in West & Central Africa. The Ghana Cocoa Board is the only remaining structure that sets the price of the cocoa paid to the farmers and controls 70% of cocoa trade. In most other cocoa producing countries a free market system now prevails.

The Roundtable on Sustainable Cocoa Economy (RSCE) recognises that: ***“The liberalization of the cocoa industry has not resulted in the expected increased competition between buyers at the farmers’ gates. Smallholder farmers producing cocoa are still located at the starting point of a buyer-driven value chain in which the buying power is highly concentrated between a few companies worldwide”***.¹¹⁵

The resulting critical problem in the cocoa economy is the lack of economic sustainability of cocoa farming due to price instability and a declining trend in real cocoa prices. In many West African countries, the income of cocoa farmers’ families easily drops below the poverty line. This situation clearly makes cocoa cultivation economically unsustainable.

¹¹³ International Coffee Organization, Director’s submission to UNCTAD Conference, June 2004

¹¹⁴ Ibid.

¹¹⁵ Roundtable on Sustainable Cocoa Economy (RSCE), 2010

Living in rural areas, many cocoa farmers are denied access to basic infrastructure facilities, such as roads, electricity, potable water, medical services, education and other essential basic amenities.

The deep inequalities of the cotton trade

The world cotton market epitomises trade globalisation and illustrates its inequalities: on the one hand, intensive large-scale cotton production, with high input levels, is concentrated in a few countries where farmers are heavily subsidised¹¹⁶ and able to sell their crops below the real costs of production; on the other hand, millions of small producers – in West & Central Africa, India, Bangladesh... – despite their lower production costs and much lower environmental impacts, are severely affected by market liberalisation: high volatility in cotton prices, dumping caused by subsidised exports and pressure exerted by large seed manufacturers.

As a result, the economies of entire regions in Africa and Asia have been affected in recent decades and a significant part of their population is abandoning cotton cultivation, or even farming, as an activity to take their chances in the big cities.¹¹⁷

b) Child labour

The lack of economic sustainability for small farmers described above has fostered a vicious circle of poverty in many regions, and is also one of the main drivers of child labour in rural areas, as shown by the situation in the cocoa and sugarcane sectors.

Structural child labour in West African cocoa production

Due to poverty, combined with the lack of genuine educational opportunities, many cocoa growers in West Africa often decide that the child should work on the farm. In some cases, this results in the occurrence of the worst forms of child labour, as defined by relevant ILO Conventions¹¹⁸.

In 2002, a study quoted by the US State Department's country report on human rights for the Ivory Coast found that between 5,000 and 10,000 children were trafficked to or within the country to work full or part-time in the cocoa sector. The study also found that approximately 109,000 child labourers (70% of whom worked on family farms) worked in hazardous conditions on cocoa farms in the country in what the study described as the worst forms of child labour.

The Harkin-Engel Protocol (commonly called the Cocoa Protocol) established in 2001 was an attempt to eliminate the worst forms of child labour in the West African cocoa industry. A central part of the Protocol was an obligation by companies to implement an independent and credible system of farm monitoring, certification and verification for their suppliers, to ensure no child labour was taking place. The initial deadline, July 2005, was not met and extended. In July 2008, the renegotiated parameters resulted in a new commitment.

¹¹⁶ According to a recent study conducted by the European Commission, in the US, the prices received by cotton farmers are 90% to 154 % greater than world market prices.

¹¹⁷ ICTSD, Cotton: Trends in Global Production, Trade and Policy, Information Note, May 2013

¹¹⁸ Child Labour Cocoa Coordinating Group, Annual Report, 2012

Independent progress reports of the Harkin-Engel Protocol openly questioned the basics of the proposed ‘certification concept’ as put forward by the cocoa industry. The International Labour Rights Forum (ILRF) has monitored the Cocoa Protocol closely and clearly states that the certification concept put forth by the cocoa industry does not offer any assurance to consumers that the corporations have taken steps to eliminate child labour within their supply chains, a fact recognised by the industry itself¹¹⁹.

Today, the problem of child labour in West Africa still needs to be addressed, from the outset, in terms of its endemic root causes: poverty, unstable commodity prices and market concentration of buyers. Even if cocoa buyers have claimed to help farmers’ incomes by increasing yields; in reality, yield increases have benefitted corporations but done little to raise farmers’ incomes.

Child labour and hazardous work in the sugarcane sector

Sugar production is very labour intensive, harvesting is still mostly done by hand and located where cheap labour is available. It plays a key role in the economies of several least developed countries.

As in the case of cocoa, sugarcane is sold on the global market at prices barely covering the costs of production. This is supporting child labour and bad working conditions in the sugarcane sector as documented by several human rights and civil society organisations.¹²⁰

In the Philippines, the work that children perform on the sugarcane plantations of Leyte (one of the main sugar cane regions of the country) is a prime example of the “grey area” between child work and the worst forms of child labour.

Children’s tasks vary from weeding and planting to applying fertilizers and harvesting. Even though parents try to protect children from the most hazardous work, they are exposed to a number of risks while at work. Sugar planting, harvesting, and processing is tiring, hot and dangerous work. Cutting sugar cane can be extremely dangerous (machete injuries are very common) and there are many issues associated with worker exposure to smoke, pesticides and venomous animals.

Penalising parents for child labour would be punishing them for their poverty. For this reason government programmes try to initiate other sources of income for the parents, outside the plantation¹²¹.

c) Precarious employment and poor living conditions of workers

The structural increase of buyer power combined with market liberalisation and financialisation does not only have repercussions for small farmers: it affects all of those employed at the different stages of production and processing in agricultural chains.

¹¹⁹ IRLF report on the Harkin-Engel Cocoa Protocol, 2009 & Child Labour Cocoa Coordinating Group, Annual Report, 2012

¹²⁰ UNDP, Sugar Scoping Paper, April 2010

¹²¹ Ethical Sugar, Sugar cane and child Labour: realities and perspectives, 2011



“Unstable employment is growing every day as companies that implement ‘cost reduction policies’ consider that job security increases the costs of production because of the rights acquired by workers.”

SITRAP – Costa Rica

The difficult situation of farm workers

“Upstream”, the proportion of the labour force employed in agricultural chains is falling markedly in most regions, especially in developed countries. The industrialisation of farming and agro-food processes requires less workers and is shifting much of the work from the field to the factory or the packaging plant¹²².

Most often, casual and permanent workers employed in rural farms represent the poorest segment of the population in the chain. Although workers are not directly exposed to the market like small farmers, evidence suggests that the **price pressure exerted by lead buyers is transmitted to workers through declining job security, bad working conditions and wages below minimum requirements**¹²³.

The banana sector is a prime example of this situation. For decades, it has been characterised by recurring labour rights’ conflicts in plantations, and denunciations for active repression of union activities, including harassment and violent repression of union members or strikers¹²⁴.

Since 2000, more than a dozen conflicts and cases of labour rights’ abuse were taken to the ILO Committee on Freedom of Association and publicised in Europe and the USA, where these cases helped to increase consumer awareness of the ethical issues related to banana production and trade¹²⁵.

As a result of pressure from Latin American trade unions and civil society allies in Europe and North America, some successful initiatives to promote workers’ organisation have managed to emerge since the 1990s, a notable example being the Framework Agreement signed in 2001 between Chiquita, the international agricultural and food workers union, the IUF, and COLSIBA (Alliance of Latin American Banana Workers Unions)¹²⁶.

In recent years, 4 additional trends have been documented in the sector, notably in Latin America:

¹²² GRAIN, Agricultural workers still struggle for their rights, 2010

ILO, Tripartite Meeting to Examine the Impact of Global Food Chains on Employment, 2007

¹²³ Ibid.

¹²⁴ Ethical Consumers, In search of a fair price, May/June 2012; FAO, The Banana Economy, 2003

¹²⁵ Ibid.

¹²⁶ International Labour Organisation, 2008 op. cit.

- Firstly, regular work paid on hourly rates has been often replaced by piece-work through productivity and enables the employers to transfer risks on to workers: they have to work whatever time it takes to earn the minimum wage (if there is no work, they are not paid at all)¹²⁷
- Secondly, plantations have increasingly hired workers for repeated periods of three months, thereby reducing the number of permanent workers. A notable example has been documented by SITRAP (Sindicato de Trabajadores Agrícolas y Plantaciones) in Costa Rica where permanent contracts fell from 80% in 2000 to around 40% in 2006¹²⁸.
- Thirdly, the use of sub-contractors and temporary agencies has increased, which in many cases enables banana plantation owners to distance themselves from their responsibilities with regards to labour laws¹²⁹.
- Fourthly, the flow of migrant workers has also increased in several countries, providing plantations with a cheaper, more economically vulnerable, and potentially more compliant, labour force (often lacking the necessary official papers). The case of Nicaraguan migrants in Costa Rican plantations, Haitians in the Dominican Republic, and Central American migrant workers in Belize are all clear illustrations of this situation¹³⁰.

Moreover, as bananas for export are only produced in monoculture systems in tropical regions, the **significant amount of chemicals used can prove dangerous for workers** who are continually exposed, inadequately trained or lack protective clothing¹³¹.

A key illustration is the toxic chemical insecticide DBCP (Dibromochloropropane also known as Nemagon) which is blamed for a series of health problems, including liver and kidney damage and male sterility. In the 1990s, banana workers from Latin America took up law suits against large fruit and chemical companies (Dole, Del Monte, Chiquita, Dow Chemicals, Shell and Occidental) for using Nemagon in banana plantations despite the ban instituted in 1977. The lawsuits came to a close in 2011 awarding compensatory damages to several plaintiffs, thereby recognising the responsibility of these companies¹³².

Similar cases have been documented for many products and regions where agricultural plantations are well developed, namely in sugar, tea, coffee and flowers. It also gradually affects the workers employed in the other stages of the agricultural chain in the form of precarious employment.

Growing precarious employment in the rest of the agricultural chains

According to the latest available data of the ILO, the food and drink industry is a major source of employment worldwide: it employed 22 million people in 2010 and accounted for 4 % of world GDP. Regarding health and safety, if workers in food manufacturing are to some extent spared the particular concerns facing agricultural workers, in particular, the use of pesticides and chemicals, packing and processing is repetitive work often associated with muscular pain.

¹²⁷ P.K. Robinson, Precarious and temporary work: the real cost of the high yielding, top quality, low-priced banana, 2011

¹²⁸ Banana Link, Collateral Damage: How price wars between UK supermarkets helped to destroy livelihoods in the banana and pineapple supply chains, November 2006

¹²⁹ P.K. Robinson, 2011, op.cit.

¹³⁰ Ministry of Labour of Dominican Republic, "Inmigrantes Haitianos y Mercado Laboral", 2010

¹³¹ Wilson and Otsuki, To spray or not to spray: Pesticides, Banana Exports and Food Safety, World Bank, 2002

¹³² Cf. Independent.co.uk dated Monday, 27 June 2011: 'Latin American banana labourers file pesticide exposure claims',

Regarding employment conditions, food businesses today demand round-the-clock schedules and flexibility because of the pressure exerted by worldwide competition in globalised food chains. This flexibility is reflected in the terms of employment and working conditions in the industry. There is clearly a growing “flexibilisation” of the labour force in the food and drink industry. Employees in casual, temporary and informal working relationships (i.e. precarious employment) – above all, women workers, migrant workers and young workers – are most likely to bear the negative consequences of current trends in the industry¹³³.

Although there is potential for better industrial relations and higher levels of compliance with core labour standards (from which both companies and workers would benefit), a particular concern associated with flexibilisation is the **tendency of powerful lead firms to exert strong downward pressure on the prices they pay their suppliers, particularly in developing countries, preventing those suppliers from paying decent, or even legal, wages, or to provide good employment conditions for their workers.**

One could argue that precarious work is still better than unemployment. However, its negative impacts on society are significant and on the rise¹³⁴:

- Research has found that within four years, much of the perceived “benefit” of precarious work dissipates in the eyes of the workers¹³⁵;
- Precarious work leaves workers and communities in unstable and insecure situations, disrupting their life-planning options: getting married, having children, purchasing homes¹³⁶;
- Precarious workers are found to suffer a higher rate of occupational health and safety issues, as subcontracting is often used as a means of shifting risks to outsourced workers;
- Precarious work fortifies gender divisions and worsens the situation of migrant workers¹³⁷;
- When trapped in a precarious position, few workers feel confident enough to bargain collectively or join a union at the risk of losing their jobs¹³⁸.



“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, have 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.”

KAPULA – South Africa / Handicrafts

¹³³ ILO, 2007, op. cit.

¹³⁴ ILO, Bureau for Workers' Activities – Regulations & Policies to combat precarious work, 2011

¹³⁵ Addison, J. and Surfield, C. J. 2009

¹³⁶ Dörre, K. 2006

¹³⁷ Menéndez M., Benach J., Muntaner C., and O'Campo, P. 2007

¹³⁸ Brophy, E. 2006

d) Environmental degradation

The increase in the concentration of power and the resulting strong buyer pressure on prices at all stages of the agricultural chains is also amplifying the shift towards more intensified and mechanised farming systems, in the search for economies of scale, productivity and financial gains. This poses critical challenges and direct threats to the environmental sustainability of many regions.

Indeed, **world agriculture is facing critical environmental bottlenecks**, in particular the growing scarcity of land and water in many regions, and the climate-change yield losses¹³⁹:

- nearly 25 % of the land surface is now cultivated (almost all available well-suited land);
- agriculture and food processing represent more than 70% of world water consumption;
- agriculture and food processing also account for more than 30% of world CO2 emissions.

Meeting the growing global demand for food and agricultural products therefore requires increasing agricultural productivity on existing farmland while adopting more sustainable production methods¹⁴⁰.

However, although traditional farming systems – in particular agroforestry – generate a relatively low level of environmental impacts, continuing efforts to increase productivity over the past decades have considerably intensified agricultural production systems and amplified their negative impacts on the natural environment: soil erosion, deforestation, pollutions associated with mono-culture and industrial production, water abstraction, reduction of carbon sequestration as well as loss of flora, fauna and mammalian diversity¹⁴¹.

In addition, the lack of economic viability for small farmers also has negative effects on environmental sustainability. Producers, in search of income generation, encroach on natural forests to get access to new land when their productivity is too low, and tend to increase the use of chemical fertilizers and pesticides (even though they lack financial resources and key information on how to use them).

Bananas and sugarcane are two illustrative examples of the environmental repercussions of the rapidly expanding large scale of the industrial production model in agriculture which generates significant impacts that are very difficult to control, if controllable at all:

- The expansion and intensification of large banana plantations set up by multinational fruit companies in search of economies of scale gave rise to a series of environmental problems. As bananas are mainly produced as a monoculture in a humid tropical climate, a significant number and amount of chemicals are applied throughout the production process, including fungicides, insecticides and herbicides, which are intended to protect bananas against insects and disease¹⁴². Inappropriate production practices have often led to important

¹³⁹ United Nations Environment Programme (UNEP), Millennium Ecosystem Assessment, 2005 and The Economics of Ecosystems and Biodiversity, Report for Policy Makers, 2010

¹⁴⁰ OXFAM Research Report, Who Will Feed the World?, April 2011

¹⁴¹ Tropical Commodity Coalition – 2008

¹⁴² S. Williamson, PAN UK, cited in Ethical Consumers, 2012, op. cit.

impacts in many producing regions: pollution of land, watercourses and aquifers¹⁴³ with sanitary consequences for local communities, and a reduction in biological diversity¹⁴⁴.

- Sugarcane is mainly produced in mono-cropping systems. Its large-scale production not only requires a high use of chemical inputs and pesticides, but also large amounts of water as it is a deep-rooted, water intensive crop that remains in the soil all year round. Even in areas where the crop is rain-fed, it can still affect river flows by intercepting run-off from the catchment and drawing heavily on underground water supplies¹⁴⁵. In addition, the milling and refining of sugarcane to obtain raw or refined sugar also consumes a significant amount of water and generates important water pollution. Finally, the carbon footprint of sugarcane cultivation is an important issue because of harvest practices, especially burning.

Other major environmental impacts associated with modern agricultural chains are food losses and waste which occur throughout the supply chain, from primary production to household consumption. In medium- and high-income countries, food is mainly wasted at the consumption stage (estimated at 95-115 kg/year/capita in Europe and North America) while in low-income countries, food is mostly lost at the early stage and much less at the consumer level (estimated at 6-11 kg/year/capita in sub-Saharan Africa, South and South East Asia).¹⁴⁶ Although there are many root causes for this issue (technical, legal, fiscal and organisational), **there is an inherent link between food losses/waste on the one hand, and the development of mass-consumption and standardisation of products in a growing number of countries** on the other. Both trends are in turn clearly accelerated by large buyers in agricultural chains, especially supermarkets, branded manufacturers and input providers.

e) Growing polarisation of the agricultural world

As described previously, the withdrawal of state intervention and the liberalisation of world trade, amplified by the concentration of power in agricultural chains, have brought small-scale agriculture into direct competition with modern industrial-scale farming and to direct exposure to global price volatility, not only in the export markets, but also in the national and local markets where most producers trade¹⁴⁷.

Agricultural producers, whether big or small, are also experiencing turbulence and a change in rural society — including a demographic transition, urbanisation, a labour shortage due to migration, and evolving off-farm work that reshuffle the ways rural people make their living. As a result, rural areas are going through a major demographic shift with migration to urban areas: many young people hope to be able to leave agriculture, an aspiration often even backed by their families¹⁴⁸.

¹⁴³ Dr Raul Harari, IFA, Trabajo, ambiente y salud en la producción bananera del Ecuador, Nov 2009

¹⁴⁴ Environmental Toxicology and Chemistry, Pesticides in blood from spectacled caiman (Caiman crocodilus) downstream of banana plantations in Costa Rica, September 2013

¹⁴⁵ WWF. 2005. Sugar and the Environment: Encouraging Better Management Practices in sugar production. 36 p.

¹⁴⁶ FAO, Global Food Losses and Food Waste: Extent, causes and prevention, Rome, 2011

¹⁴⁷ International Institute for Environment and Development (IIED) / hiVos / Mainumby Ñakurutú, Small producer agency in the globalised market - Making choices in a changing world, 2012

¹⁴⁸ Proctor and Lucchesi, 2012

This profound transformation leads to a growing division between three types of agricultural producers¹⁴⁹:

1. **Subsistence family farmers** for whom food security is the main concern. They own very little land in unfavourable environments and lack most types of asset, focusing solely on production for home consumption. They mix subsistence farming with off-farm work (often in plantations) and temporary migration for their survival¹⁵⁰.
2. **Small investor farmers** are rural households engaged in farming as a business. Their production is mainly based on family labour on small land holdings, which they cultivate for both commercial and subsistence purposes. They exhibit high production efficiency, but their assets are limited. Although small investor farmers have traditionally constituted the bedrock of rural economies, it is a shrinking and ageing population whose children are unlikely to take over the land¹⁵¹, including in ‘developed’ countries¹⁵².
3. **Large-scale farmers** are medium to large firms engaged in high-value and export markets, which employ permanent full-time workers. They account for a very small percentage of world agriculture but have become a vital part of global agribusiness. They have direct access to finance, risk-management tools, information and infrastructure to remain competitive and meet the strict standards imposed by processors and retailers.

Region	Mean size (ha)	% < 2 Ha
Central America	10,7	63
East Asia	1	79
Europe	32,3	30
South America	111,7	36
South Asia	1,4	78
South-east Asia	1,8	57
Sub-Saharan Africa	2,4	69
United States	178,4	4
West Asia & North Africa	4,9	65

Mean farm sizes worldwide: predominance of small-scale farmers

Source: based on World Bank 2010 in OXFAM Research Report, Who Will Feed the World?, April 2011

¹⁴⁹ Based on five rural-world definitions as indicated in OECD (2006) ‘Promoting Pro-poor Growth: Agriculture, on the definition of competitive commercial agriculture in ‘Competitive Commercial Agriculture in Sub-Saharan Africa (CCAA) Study’ (World Bank, 2008a), and the definition adopted by Oxfam International (2009a), ‘Harnessing Agriculture for Development’ Research Report.

¹⁵⁰ Food Inc., Corporate concentration from farm to consumer, 2005

¹⁵¹ Food Inc., 2005, op. cit.

¹⁵² France lost half of its farmers between three censuses (1982, 1990 and 1999) and in Germany, farmer numbers declined by a quarter since 2000. The same tendency has been documented in the USA and Canada.

In addition, while the number of farmers world-wide is strongly decreasing, **more and more rural workers are being employed by farms as they grow larger, fuelling migration across borders**¹⁵³ and casual work in agriculture and food processing.

The rapid development of big farms (and the growing disappearance of small producers) is largely fuelled by large buyers (supermarkets, brands, manufacturers, etc.) that increasingly source from large-scale industrial units **because of their perceived higher productivity** based on economies of scale, investment capacity, access to markets, technical know-how and ability to reach a high level of standardised quality¹⁵⁴. 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;¹⁵⁵
- **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, promoting pro-poor strategies in order to safeguard the same positive externalities that world market trends are fast undermining¹⁵⁶).

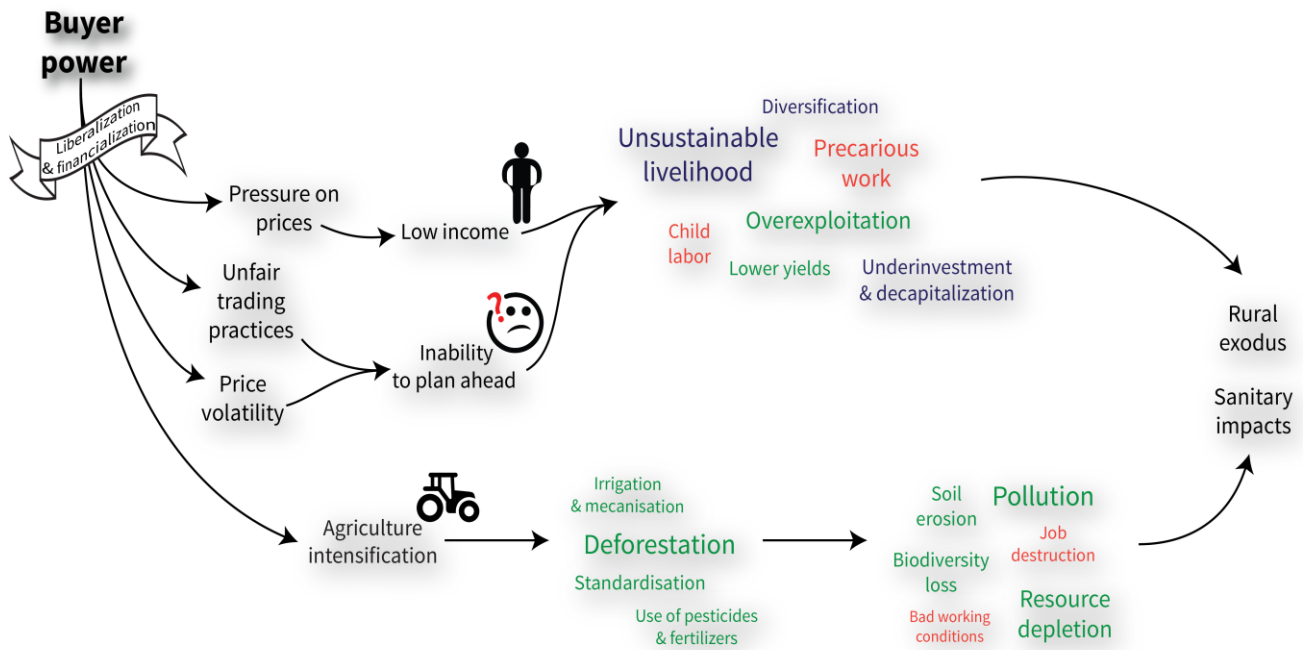
In conclusion, the following diagram illustrates the chain of impacts fostered by the concentration of buyer power and its abuses in agricultural chains. It shows how **the interconnected impact chains are key drivers and aggravating factors for rural exodus, social exclusion and health degradation in many regions and countries.**

¹⁵³ Sophia Murphy, Concentrated Market Power & Agricultural Trade, Ecofair Trade Dialogue discussion papers, 2006

¹⁵⁴ F. H. Buttel, University of Wisconsin, Internalizing the Societal Costs of Agricultural Production, 2003

¹⁵⁵ F. H. Buttel, 2003, op. cit.

¹⁵⁶ OXFAM, 2011, op. cit.



Chain of impacts fostered by the concentration of buyer power in agricultural chains
 Source: BASIC

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.

6. Public and private initiatives to address buyer power and UTPs

a) History and fundamentals of competition policy

The history of competition law can be traced back as far as 50 BC when the Roman Lex Julia de Annona was enacted in order to protect the grain trade. Fines were imposed on anyone who attempted to raise prices by blocking the arrival of grain ships in order to create artificial shortages. Concern about unfair practices continued throughout the Middle Ages and into the Renaissance, focusing on food supplies, particularly grain.

It is generally acknowledged that modern competition law began with the development of the USA's "anti-trust laws", in particular the Sherman Act in 1890 and the Clayton Act in 1914, which incorporated elements of 16th century English Common Law.

Competition laws in many European countries evolved in their own way (e.g. the French Napoleonic Code defined in 1810) until the end of the Second World War when the US emerged as a reference. In particular, the articles relating to competition in the Treaty of Rome (Treaty of the European Community signed in 1957) are very similar to the provisions of US Anti-Trust legislation.

The modern concept of competition is closely related to microeconomic theory, the neoclassical model of Walras in particular (cf. chapter 2) and based on the assumption that, under certain conditions, perfect market competition leads to a social optimum and thus allows efficient use of scarce resources.

Competition between firms is then seen as a virtue, prompting the effort to make good use of scarce resources to meet needs. It should therefore be promoted.

Competition policy can be very simply defined as a set of rules that govern the behaviour of firms in markets. A more precise definition can be: **all legal devices to organise and control the markets, so as to guarantee a sufficiently competitive level to ensure maximum economic efficiency**. This concept of economic efficiency still dominates competition policy in practice.

Neoclassical economics shaped the historical approach to competition policy, considering that the behaviour of firms can lead to an increase of their market power and distort competitive conditions to the detriment of social welfare (the consumers' welfare in particular).

From this perspective, **the role of competition policy is thus to maintain the 'real' economy as close as possible to conditions of pure and perfect competition**. This approach is called the '**structuralist school**' (also the Freiburg or Harvard school).

Historically, structuralism largely dominated the thinking of competition law until the 1970s when a new approach emerged and became the mainstream doctrine in the 1980s: the Chicago School.

Contrary to the structuralist approach, the Chicago School approach - which was greatly influenced by the economic theories of Joseph Schumpeter and the Austrian school - does not make perfect competition the ultimate reference. It **focuses instead on efficiency**.

It is based on the idea that competition is a dynamic process capable of bringing the greatest well-being in the long term, even when firms have market power, permanent or temporary.

Competitive practices of firms such as seeking dominance are not necessarily harmful to economic efficiency¹⁵⁷.

The Chicago School approach believes that the ultimate goal of competition law is thus only to maximise consumer welfare and that a concentrated market structure may be more efficient in doing so.

From this perspective, the higher profits of larger firms are considered a positive outcome of their lower costs and economies of scale¹⁵⁸. In practice, the Chicago School is the mainstream approach used to define competition policies in many countries, especially in Europe.

In reaction to the perceived conservative stance of the Chicago School, a more liberal version, also grounded in neoclassical economics, emerged in the 1990s. This approach, called the ‘Post-Chicago School’ also focuses on the efficiency of the market, but differs on some points¹⁵⁹. However, beyond these discrepancies, the two approaches have much in common and share the same theoretical basis¹⁶⁰.

A fourth and more recent approach is grounded in Innovation Economics which assumes that the priority of public policy should be long-term economic growth, and that the creation of new forms of business models are critical for expanding wealth and quality of life. In contrast to neoclassical economics, which is focused on getting the price signals right to maximise the efficient allocation of resources, innovation economics is focused on spurring economic actors to be more productive and innovative¹⁶¹.

As a result, the ‘innovation’ approach to competition law is less focused on competitive markets, and more on examining processes that develop competitive, innovative and productive firms¹⁶².

The four different approaches to competition policy are summarised in the table below:

	STRUCTURALIST	CHICAGO	POST-CHICAGO	INNOVATION
Major Goal	Fairness for consumers	Allocation efficiency	Allocation efficiency	Innovation and productivity
Time focus	Short term	Short term	Short term	Longer term
View of market concentration	Suspected of anticompetitive collusion	Not problematic, except for price fixing	Suspected of anticompetitive collusion	Can be a way for firms to address collective challenges
Effectiveness of government intervention	High	Low	Moderate	Varies
Concern with buyer power	High	Low	Moderate	Low

Antitrust doctrines

Source: BASIC based on ITIF, *Economic doctrines and approaches to antitrust*, 2011

¹⁵⁷ The Information Technology & Innovation Foundation, *Economic Doctrines & Approaches to Antitrust*, January 2011

¹⁵⁸ Ibid.

¹⁵⁹ In particular, post-Chicagoans are more concerned about entry barriers and have more faith in government’s ability to distinguish between competitive and anti-competitive behaviours

¹⁶⁰ The Information Technology & Innovation Foundation, 2011, op. cit.

¹⁶¹ Ibid.

¹⁶² Ibid.

b) Structural shortcomings of the mainstream approach of competition law¹⁶³

The EU's Competition Policy has been steadily moving towards a Chicago School approach over the last few years. Its **principal objective is to protect the individual consumer and/or citizen and stop suppliers** of goods and services from gaining control over markets and **from using this control to extort undue payments** from its customers. In practice, European competition law considers that price - and price alone - is the only legitimate value. The underlying basis is that if consumers consume faster and cheaper, it will foster economic growth.

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

For example in the UK, some major retailers have found themselves in trouble with the Competition Authorities for trying to raise the retail price of milk. The punishments for collusion were potentially severe, with hefty fines payable and the possibility that Directors could be imprisoned. Some of the defendants who were accused of colluding to raise retail prices tried to claim that they had been attempting to ensure that farmers would receive fair prices, but their collusion in agreeing to raise the retail prices on the supermarket shelves was clearly a liability offence. The later judgement of the UK Competition Authority in 2008 on textile prices declared that there is no infringement of competition law if, and only if, consumers are enabled to buy goods, which are produced by workers who were not paid enough money to live on.

More profoundly, the theoretical framework of European competition law considers each segment of the supply chain in isolation, focusing on the buyer-seller relationship. **This framework is thereby blind to any systemic analysis embracing the whole of a global supply chain, in which a particular player can acquire vertical control.**

In particular, the European competitive institutional framework - and the underlying mind-set - has a dual bias against seller power, in favour of buyer power.

On the one hand, when competition authorities assess the power of manufacturers (sellers), they simply refer to it as market power and not seller power. On the other hand, when they investigate the power of retailers (in their dealings with manufacturers), they avoid the term market power and refer to either buyer power or bargaining power, implicitly suggesting it is a countervailing (equilibrating) force opposed to manufacturers' power.

In a similar vein, several competition authorities gathered at the OECD Roundtable, tried to distinguish bargaining power (pro-competitive) from monopsony power (anti-competitive)¹⁶⁴. This view openly or implicitly concedes that the concept of monopsony power is a more theoretical issue that plays no meaningful role in competition policy enforcement.

Supermarkets: a prime illustration of the conceptual limits of European competition law

Supermarket power has enabled them to bundle two business models: they de facto behave as service providers vis-à-vis independent grocery brands, whilst controlling retail competition through their formal role of merchants. As a consequence, supermarkets are no longer neutral

¹⁶³ Javier Berasategi, "Supermarket power: serving consumers or harming competition", February 2014

¹⁶⁴ OECD, "Roundtable on Monopsony and Buyer Power", Competition Committee, DAF/COMP, 2009

traders, as understood in mainstream economic theory. Their position has consequences for both suppliers and consumers. **Research shows that the exploitation of suppliers may in many cases, exceed the potential gains to consumers, even under intense supermarket competition.** In the longer term, the leading supermarkets' practices can undermine grocery innovation, variety and quality. Cumulative effects of the unilateral decisions by a few supermarkets to refuse access to an innovation may have significant effects on consumer welfare and economic growth.

In this context, conventional competition analysis sticks to a simplistic theoretical assessment of supermarket dominance, or brand dominance, based on high market shares that overlooks the real sources of the supermarkets' bargaining power over their suppliers.

Modern competition policy still considers supermarkets to be neutral transmitters of customer demand and agents/representatives of consumers (for example, the EU Vertical Guidelines still associate the term 'consumer' with the term 'distributor' and refers to retailers as mere distributors of goods¹⁶⁵).

Competition authorities assume that grocery retail markets are competitive in terms of overall prices, leading to the conclusion that supermarkets either do not hold market power over suppliers or exploit it for the benefit of end consumers¹⁶⁶. The short-term benefits of price competition are accorded preference over the long-term restriction of competition.

The vertical integration of supermarkets into grocery products (private labels) is either absent in the competition analysis or considered to be a countervailing force to seller power and, therefore, pro-competitive¹⁶⁷. To be fair, the new EU Vertical Guidelines do mention the potential foreclosure of independent brands by supermarkets, but retailers are still not considered to be 'manufacturers' when they subcontract the production of goods under their own brands. Therefore, conventional competition policy in the retail sector has been limited to merger control (i.e., ensuring that single dominant positions, measured by high market shares, do not emerge in local markets) and competition advocacy (i.e. removal of legal barriers to entry and expansion).

However, more recently, some competition authorities have begun to question the mainstream conventional competition analysis regarding supermarkets, while respecting its foundations.

The UK Competition Commission has been the precursor of this evolutionary movement. Its reports published in 2000 and 2008 called for remedies in the procurement of retail markets and have paved the way for other competition reports and regulatory initiatives¹⁶⁸. The UK Grocery Report commissioned in 2000 by the Competition Commission found that the five leading supermarkets

¹⁶⁵ EU Guidelines on Article 101(3) TFEU and Commission notice, Guidelines on Vertical Restraints ("EU Vertical Guidelines"), 2000

¹⁶⁶ Cf. Javier Berasategi, Supermarket power: serving consumers or harming competition", February 2014
The logic of competition authorities is the following: "a virtuous low-price/high output circle is in place: (1) buyer power leads to lower procurement prices without restricting input; (2) low purchase prices are passed-on to low retail prices, thereby increasing end-consumer demand; and (3) increased demand reinforces buyer power and leads to lower procurement prices without ever restricting input."

¹⁶⁷ OECD, Roundtable on Competition and Regulation in Agriculture, 2005

¹⁶⁸ UK Competition Commission, "Supermarkets: A report on the supply of groceries from multiple stores in the United Kingdom", 2000 and "The supply of groceries in the UK market investigation", 2008

(i.e., Asda, Safeway, Sainsbury, Somerfield and Tesco), each having at least an 8% share of grocery purchases, had sufficient buyer power so that their practices adversely affected the competitiveness of some of their suppliers and distorted competition in the supplier market.

As a remedy, the UK Competition Commission considered that any supermarket meeting the 8% criterion should be required to comply with a Code of Practice providing for independent dispute resolution. The Supermarket Code of Practice subsequently entered into force in 2002.

The UK Grocery Report 2008 has gone further than its predecessor. Despite stating that buyer power in principle benefits consumers, it has singled out the dangers of an excessive transfer of risks from supermarkets to suppliers. Therefore, the UK Competition Commission has expanded the scope and the substance of the re-named Grocery Supply Code of Practice (GSCOP), and proposed a regulator with enforcement and fining powers (the Ombudsman, now called Adjudicator).

Overall, the GSCOP is a rigorous first attempt to reconcile supermarket power with economic efficiency and free competition in the grocery supply chain, even though some loopholes remain.

Following the trail blazed by the UK Competition Commission, the Spanish Competition Authority adopted a Grocery Report in October 2011¹⁶⁹. More recently, the Finnish Competition Authority published a Grocery Report (the Finnish Grocery Report) along the lines of the Spanish Grocery Report.¹⁷⁰ In addition, the French Competition Authority has published a report on the grocery retailing market in Paris¹⁷¹ and the Italian Competition Authority on the alliances between large retailers¹⁷².

Most recently, the German Bundeskartellamt published in September 2014 an 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”.¹⁷³

c) Addressing unfair trading practices: a recent fragmented approach¹⁷⁴

In comparison with competition law, unfair trading practices (UTPs) have been recognised and discussed much more recently. Quite a few surveys conducted in Europe over the past few years have begun to show that UTPs occur relatively frequently, especially in food chains:

¹⁶⁹ Comisión Nacional de los Mercados y la Competencia, Informe sobre las relaciones entre fabricantes y distribuidores en el sector alimentario, 2011

¹⁷⁰ Finnish Competition Authority (FCA), “FCA study shows that daily consumer goods trade uses its buying power in several ways that are questionable for competition”, 2012

¹⁷¹ Autorité de la Concurrence, Avis n° 12-A-01 du 11 janvier 2012 relatif à la situation concurrentielle dans le secteur de la distribution alimentaire à Paris.

¹⁷² Autorità Garante della Concorrenza e del Mercato, “Indagine conoscitiva sul settore della Grande Distribuzione Organizzata”, 2013

¹⁷³ Bundeskartellamt, Gliederung der Sektoruntersuchung Lebensmitteleinzelhandel, September 2014

¹⁷⁴ Communication from the European Commission, Tackling unfair trading practices in the business-to-business food supply chain, 2014

- In 2011, an EU-wide survey among suppliers in the food chain revealed that 96% of respondents said that they had already been subject to at least one form of UTP¹⁷⁵;
- In the 2011 report commissioned by the Spanish Competition Authority on the relations between manufacturers and retailers in the food sector, 56% of responding suppliers said that retroactive changes to contract terms occurred frequently or occasionally¹⁷⁶;
- The survey conducted by the Italian Competition Authority in 2013 showed that 57% of producers often or always accept retroactive unilateral changes, because they are afraid of commercial retaliation if they refuse the changes¹⁷⁷.

In its latest communication, **the European Commission acknowledges 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, undertake new financial investments in products and technology, and develop cross-border activities in the Single Market¹⁷⁸. This finding has been confirmed by stakeholders in the High Level Forum for a Better Functioning Food Supply Chain, set up by the Commission in 2010.

The possible repercussions of UTPs at EU level have not only raised concerns in the European Commission but also in the European Parliament: in January 2012, the Parliament adopted a resolution which highlighted the European dimension of the imbalances in the food supply chain which can lead to unfair practices. This resolution identified a list of specific UTPs and called for them to be subject to specific regulation, supervision and sanctions¹⁷⁹.

In order to better understand the issue, the Commission published a Green Paper on UTPs in January 2013 to gather stakeholder views on the occurrence of UTPs in the food and non-food supply chain and to identify possible ways to address them¹⁸⁰.

The main categories of UTPs identified in this Green Paper are as follows:

- a trading partner's retroactive misuse of unspecified, ambiguous or incomplete contract terms;
- a trading partner's excessive and unpredictable transfer of costs or risks to its counterparty;
- a trading partner's use of confidential information;
- the unfair termination or disruption of a commercial relationship.

However, the existing legal tools that can be useful to address UTPs and their negative effects are very fragmented and not specifically designed to tackle this problem¹⁸¹:

¹⁷⁵ Survey on Unfair Commercial Practices in Europe, March 2011, organised by Dedicated on behalf of CIAA (European association of the food / drink industry) and AIM (European Brands Association)

¹⁷⁶ Comisión Nacional de los Mercados y la Competencia, 2011, op. Cit.

¹⁷⁷ Autorità Garante della Concorrenza e del Mercato, 2013, op. Cit.

¹⁷⁸ Communication from the European Commission, 2014, op. cit.

¹⁷⁹ European Parliament Resolution on imbalances in the food supply chain of 19.01.2012

¹⁸⁰ Green Paper on unfair trading practices in the business-to-business food and non-food supply chain in Europe COM(2013) 37, 31 January 2013

¹⁸¹ Communication from the European Commission, Tackling unfair trading practices in the business-to-business food supply chain, 2014

- The new Common Agricultural Policy (CAP) and the new Common Fisheries Policy (CFP) enable the position of producers in the supply chain to be strengthened vis-à-vis downstream operators, notably by supporting the creation and development of producer organisations;
- The new single Common Market Organisation of the CAP also includes elements which aim to reduce the bargaining power gap between farmers and other parties in the food supply chain in some selected sectors (milk, olive oil, beef and veal, arable crops).
- The Framework on Marketing Practices¹⁸², Unfair Contract Terms in Consumer Contracts¹⁸³, the proposed directive on trade secrets¹⁸⁴ and other cross-sectorial legislation can also be used to address specific cases of UTPs
- At national level, there is a lot of divergence in how UTPs are 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.

Any party exposed to UTPs may in principle seek redress via litigation in court against abusive contract clauses. However, legal complaints are very rare, as litigation is generally costly and time consuming, and suppliers are afraid of upsetting their largest customers and losing them.

This often discourages them from taking legal action, which in turn can limit the deterrence factor for the trading party applying UTPs. Against this background, some Member States have put in place an enforcement authority, which is independent from the market players concerned and has the power to launch investigations and to accept confidential complaints on alleged UTPs.

d) Private initiatives to regulate buyer power and unfair trading practices

In the light of the shortcomings of public regulation, stakeholders of agricultural chains and civil society organisations have developed private initiatives to address the issues raised by buyer power and limit its impacts on small farmers and workers.

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.

Several independent studies conducted over the past decade have demonstrated the positive impacts of the Fair Trade tools on the ground¹⁸⁵:

¹⁸² Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising

¹⁸³ Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts

¹⁸⁴ Proposal for a Directive of the European Parliament and the Council on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure of 28 November 2013 COM(2013) 813 final

¹⁸⁵ 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

- 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 sustainable livelihood for their communities and greater protection of the environment.
- 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 stabilising 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 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.

Although not perfect, The Fair Trade movement offers a **relevant and credible baseline** for resolving buyer power and unfair trading practices in agricultural chains, acting on the root causes of the adverse impacts which affect small farmers and workers in many regions and products.¹⁸⁶

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

¹⁸⁶ Ibid

7. Proposals for regulating buyer power

In order to address and resolve the issues described in the previous chapters, this section recommends that a comprehensive strategy is adopted based on:

- A vision of consumer welfare that goes beyond purchasing power and recalls its inherent link with farmers' and workers' welfare;
- Measures to rebalance business power in agricultural chains in the short term;
- Mechanisms to enhance transparency in agricultural chains so that stakeholders can better identify the risks of abuse of buyer power and unfair trading practices;
- A renewed European competition policy framework capable of better regulating such abuses;
- Enforcement mechanisms to stop unfair trading practices (UTPs) within food supply chains serving the EU market;
- Initiatives to promote and widely spread fair trading practices in the mid to long run.

a) Our vision: ensuring the long term interest of consumers, farmers and workers

First of all, it is an issue of paradigm shift.

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.¹⁸⁷

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 of Europe, creates important risks of unavailability and unaffordability of products for consumers in the mid-term, reducing their welfare in the end.¹⁸⁸

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 that they implement policies that regulate trade conditions and have greater intervention in market and price policies.”

SINTRAINAGRO – Colombia

¹⁸⁷ As demonstrated by Amartya Sen in: ‘Rational Fools: A Critique of the Behavioural Foundations of Economic Theory’, 1977 (in *Philosophy and Public Affairs* 317, 332)

¹⁸⁸ JM Keynes, ‘The General Theory of Employment, Interest and Money’, 1936

b) Proposal 1: Foster a better balance of power in agricultural chains

General Principles

As described in chapters 2b, 2c and 4d, long-standing instruments to foster a better balance of power in agricultural chains are collective organisations such as farmers' cooperatives, farmers' credit unions and workers' trade unions, provided they are better protected from abuse of power and unfair trading practices. The **democratic and independent organisation of farmers and workers** therefore needs to be strengthened to enable them to negotiate better with other actors in the chain, assert their rights and realise their potential.

Most recently, the new Common Market Organisation of the CAP included elements aimed at reducing the bargaining power gap between farmers and other parties in the food supply chain through the creation of producers' organisations that can negotiate collectively with buyers in some selected sectors (milk, olive oil, beef and veal, arable crops). Such measures need to be extended beyond these specific products and outside Europe.

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.

Indeed, several key successes such as the Manduvira cooperative of sugar farmers in Paraguay and Cafe Direct in the United Kingdom, a brand which belongs to small coffee growers' cooperatives in Latin America and Africa, show that the upgrading of farmers is possible in many agricultural chains.



“What we have done [to address unfair trading practices] is to collectively invest through our collective organizations in infrastructure, mills and processing.”

Raúl Claveri, COCLA – Peru

Recommendations to the EU

- 1.1. 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.
- 1.2. 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

1.3. 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 and necessary trading conditions. These roundtables should be open enough to ensure they do not create cartels of interests. 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.

c) Proposal 2: Enhance transparency in agricultural chains



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

Baltazar Miguel, ASOAGRI – Guatemala

General Principles

As detailed in chapters 2b (in the case of sugar and coffee), 2c and 3a, **measuring the costs of sustainable production** can be a unique tool for identifying risks of abuse of buyer power and the related unfair trading practices. Indeed it would help to reveal the price ‘threshold’ below which the affordability of products, and more globally 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. The FAO appears to be the best placed, and most legitimate organisation, to initiate such a mechanism as most key agricultural chains are globalised. To achieve this, the FAO could build on the significant experience of the World Banana Forum, which the FAO has supported and facilitated since 2009 (and more specifically done work for on living wages and the cost of production index in the banana sector).

Finally, **ensuring greater transparency for consumers** about the overall value breakdown of the products they buy would contribute to preventing risks of abuse of buyer power. Indeed, a major cause of the problem lies in the strategy of ‘everyday low prices’ developed by buyers, especially retailers. Such transparency should focus on the weakest actors in the chains – small farmers and workers – and provide information on the average farm-gate price and workers’ wages in their supply chains in order to break the vicious circle of ‘price races to the bottom’.

Recommendations to retailers

- 2.1 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

- 2.2 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 actors in the chains: producer organisations (especially the ones representing small farmers), trade unions (workers), traders (exporters, importers...), processors, manufacturers, brands and retailers. 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

- 2.3 Consumers and consumer associations should demand transparency from retailers on the cost breakdown, primarily the farm-gate price and average workers' wage 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

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

d) Proposal 3: Renew the European competition policy framework

General Principles

In order to address the shortcomings of the EU legal systems detailed in chapter 4b, in particular the limits related to its theoretical background and concrete tools, the European competition policy framework should **adopt the objective of maintaining healthy markets that can realise collective benefits for all actors in the chain, this means farmers and workers as well as consumers.**

More specifically, the enforcement of competition rules in the areas of anticompetitive agreements, abusive unilateral behaviour, and merger control should address the legitimate concerns of the EU consumers also in terms of sustainability, quality, consumer choice and fair trade. The added-value of these criteria should be considered part of the 'consumer welfare' notion under EU competition rules.

The European Competition policy framework should also **reassert the principle of neutrality, meaning that excessive buyer power should be regulated as much as excessive seller power** because of its likely adverse impacts on social welfare and consumer welfare in Europe (whereas only the latter is sufficiently addressed in the current European framework). The European institutions should therefore abstain from discriminating between supply-side and buyer-side issues in their enforcement and priority-setting of EU competition policy.

Recommendations to the EU

- 3.1 Address **structural issues** such as the accumulation of excessive buyer power and increased market concentration in the retail sector through a revised approach to merger control.
 - ▶ Reference to sustainability considerations in the recitals of the EU Merger Control Regulation and use of available legal concepts (e.g., collective dominance) and economic tools (e.g., Herfindahl-Hirschmann Index) to this effect.
- 3.2 Address **behavioural issues** such as anticompetitive agreements and abusive unilateral behaviour in the retail sector, which have an adverse impact on small suppliers and consumers.
 - ▶ Adoption of a block exemption regulation for the food sector, which would allow agreements between agricultural companies when the aim is to improve trading conditions and the livelihood of producers, and/or official guidance on how existing legislation should be interpreted to meet these concerns.
- 3.3 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.
 - ▶ Adoption of official guidance clarifying that supplier and buyer competition issues must be treated neutrally or, at least, in an equivalent way within the context of EU competition rules and policy (e.g., by correcting ‘pro-retailer’ language used in several legal instruments).

Recommendations to national governments in Europe and the Global South

- 3.4 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 position.
- 3.5 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.
- 3.6 Allocate **greater resources** to the enforcement of competition rules in the retail sector.

e) Proposal 4: Build stricter enforcement mechanisms to stop unfair trading practices

General Principles

Based on analysis of the limits of legal tools available to address UTPs detailed in chapter 4c, a stricter regulation of unfair trading practices would require 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 in cases of abuse of buyer power, building on the experience of the Groceries Code Adjudicator created in the United Kingdom since 2010;
- **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 which orders the violation of competition law by companies to be acknowledged publicly through statements in major newspapers (cf. judgements in 2001 against Wal-Mart and Carrefour in Korea);
- **Develops stronger and more automatic sanctions** in order to offset the constraints of addressing competition problems only on a case-by-case basis. This would be a first step towards more systemic tools to tackle abuses of buyer power and unfair trading practices.

In 2013, the European Commission Green Paper acknowledged that it might be necessary to establish a “common set of enforcement principles” for UTPs at EU level. Although the Commission focuses on the fair functioning of the internal market, the Green Paper also addresses the harmful consequences of UTPs on suppliers in a weak bargaining position as well as their impacts on workers and the environment due to price squeezing transmitted throughout the whole of the supply chain.

Recommendations to the EU

4.1As described in the BIICL report published in 2014, the EU should 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 the following measures:

- All actors and stakeholders in the food supply chain doing business in any EU Member State should have access to the mechanism regardless of their geographic origin;
- The mechanism must provide a means by which to protect the anonymity and confidentiality of any parties, who may complain, especially suppliers who are concerned that they may lose business if they do;
- The mechanism must be equipped with a number of different enforcement tools that can be used to change behaviour and deter poor practice, either at EU or Member State level (e.g. informal dialogue, financial penalty or even incarceration);
- Establish procedures for coordination between the proposed network of enforcement authorities in the Member States and the EU and methods for international cooperation with non-EU enforcement authorities;
- Establish procedures and mechanisms for exchange of information and coordination between the EU and non-EU countries, in particular through closer ties with Ministries of Agriculture in the Global South;

- Develop criteria to determine which food businesses will be subject to the enforcement mechanism, such as size, power, or degree of concentration or role within the supply chain.

f) Proposal 5: Implement Fair Trade principles in practice

General Principles

Stronger commitments are also needed from business actors in agricultural chains to address the issues related to abuses of buyer power and unfair trading practices.

As detailed in chapter 4d, **the Fair Trade movement** has demonstrated that such commitments can be implemented on a large scale by all actors of agricultural chains and have significant positive impacts on small farmers and workers, acting on the root causes of the problems at stake. Therefore it provides a relevant baseline to develop concrete tools in practice.



“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 true leverage if we want to live in dignity.”

“We believe in the power of the consumer. He votes every day when choosing what to bring back to his house. The consumer who is aware and cares about the consequences of his consumption, when realizing he can use this power, can go further in his demands towards the companies he buys from.”

Luis Martinez Villanova, UCIRI – Mexico

Recommendations to business actors in agricultural chains

5.1 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. These contracts should provide greater visibility on purchases and reduced price volatility;
- 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 trading conditions, balanced mechanisms of negotiations and disposals for resolving disputes through a balanced and independent arbitration system;
- Buyers’ trading relationships with suppliers should be conducted in good faith, without distinction between formal or informal arrangements, without duress and in 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

5.2 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.

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