Act on Agricultural Protection and Sovereignty

Downstream Supplier-Distributor relationships

Key Takeaways

The Emergency Act on Agricultural Protection and Sovereignty (the "**Agricultural Emergency Act**") was finally adopted by Parliament on 21 July 2026.

However, the Constitutional Council was seized on 24 July 2026. Accordingly, the Act has not yet been promulgated and its provisions have not yet entered into force.

The summary below outlines the provisions of the final version of the Act relating to downstream supplier–distributor relationships. Subject to the Constitutional Council's decision and the promulgation of the Act, these provisions will enter into force on the day following its publication in the "Journal official".

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Earlier Negotiation Deadline for SMEs

Supplier–distributor relationships (excluding wholesalers) – All product categories

On an experimental basis **until 31 December 2029**, the statutory deadline will be brought forward from March 1st to 31 January for suppliers whose worldwide annual turnover excluding VAT in the latest completed financial year is below EUR 350 million. For fast-moving consumer goods ("FMCG"), the deadline for communicating the general terms and conditions of sale ("GTCS") will be reduced from three months to two.

Where a supplier is included in the consolidated or combined accounts of one or more entities, the threshold shall be assessed by reference to the highest worldwide annual turnover excluding VAT shown in those accounts. **A French subsidiary of a group exceeding the threshold will therefore not benefit from the special statutory deadline.**

In practice, two separate negotiation calendars will coexist:

Supplier	Communication of the GTCS	Execution of the agreement
Worldwide annual turnover excl. VAT (consolidated/combined) **< EUR 350m**	• **FMCG**: no later than 30 November • **Other products**: within a reasonable period before 31 January	No later than **31 January**
Worldwide annual turnover excl. VAT (consolidated/combined) **≥ EUR 350m**	• **FMCG**: no later than 1 December • **Other products**: within a reasonable period before March 1st	No later than **March 1st**
⚠ **Regime not applicable to wholesalers** *For SME supplier–wholesaler relationships, the statutory deadline remains March 1st.*		

> 💡 *This principle is not new. An accelerated negotiation timetable had already been introduced for the 2024 annual negotiations by the Act of 17 November 2023 (commonly referred to as the "LeMaire Act"). The new regime pursues a similar objective by shortening the negotiation period in order to reduce end-of-cycle pressure on smaller suppliers. Its effectiveness, however, remains uncertain*

No Agreement Reached by the Negotiation Deadline – Extension of the Descrozaille scheme

Supplier–distributor relationships (excluding wholesalers) for FMCG

The Act extends the experimental regime introduced by the Descrozaille Act (Egalim 3), which governs the termination of the commercial relationship where no agreement has been reached by the statutory deadline. The extension applies exclusively to FMCG:

- Until **15 April 2029** for "**Egalim 2 products**" (= food products and *pet food* subject to Article L.441-1-1, excluding wholesalers) – agreements referred to in Article L.443-8 of the French Commercial Code;

  > 💡 *Commercial agreements governed by Article L.443-8 of the French Commercial Code apply between a supplier and any category of purchaser (other than wholesalers). However, the new provision specifically refers to "distributors". It may therefore be inferred that agreements concluded between a supplier and a purchaser that does not qualify as a distributor fall outside the scope of this regime.*

- Until **15 April 2028** for other **FMCG** (excluding wholesalers) – agreements referred to in Article L.441-4 of the French Commercial Code.

As a reminder, where no agreement is reached by the statutory deadline, the "Descrozaille" regime **gives the supplier** the **option** either to terminate the commercial relationship with immediate effect or to continue the relationship during a notice period that complies with Article L.442-1 II of the French Commercial Code.

The second option requires the parties to agree on the terms of that notice period, namely its duration and the price applicable throughout its performance. These discussions may take place under the supervision of a mediator until April 1st, after which, if no agreement has been reached, the supplier once again becomes entitled to terminate the commercial relationship with immediate effect.

> 💡 *It is regrettable that the legislature did not seek to address the many uncertainties arising from this regime, in particular the potential standstill period during which the parties might be unable to enter into a new long-term commercial following the failure of their negotiations as at March 1st.*
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> 💡 *The Act contains a drafting inconsistency: it continues to refer to the absence of an agreement on March 1st, without reconciling this mechanism with the new 31 January statutory deadline applicable to certain suppliers.*
>
> *It is reasonable to assume that this is simply a drafting oversight and that, for agreements subject to the earlier negotiation deadline, the reference to 1 March should instead be read as 31 January. Nevertheless, clarification from the French authorities on this point would be welcome.*

Automatic price revision clause: GTCS and non-negotiability

Applicable to supplier–buyer relationships (excluding wholesalers) for food products and pet food subject to Article L.441-1-1 of the French Commercial Code

Where an automatic price revision formula is included in the supplier's General Terms and Conditions of Sale ("GTCS"), that formula becomes non-negotiable and must be reproduced without amendment in the commercial agreement.

- **Inclusion of an automatic adjustment clause in the GTCS *(new Article L.441-1-1 VI bis of the French Commercial Code)***

A supplier may, if it so chooses, include in its GTCS an automatic revision formula of the **price list** reflecting both upward and downward variations in the cost of the agricultural raw materials used in the manufacture of the relevant products.

The formula must operate on the basis of identical calculation methods for both upward and downward price adjustments.

Where a supplier makes this choice, its GTCS must specify:

- the **agricultural raw materials** used in the products to which the automatic adjustment formula applies;
- the **geographical origin** of those agricultural raw materials;
- the proportion represented by those agricultural raw materials, both **by value and by volume**.

Failure to include any one of the above items will be punishable by an administrative fine of up to EUR 375,000 for a legal entity (doubled in the event of a repeat offence within two years).

- **Non-negotiability of the automatic adjustment clause included in the GTCS *(Article L.443-8 IV of the French Commercial Code)***

Once included in the GTCS, the automatic adjustment formula will be **non-negotiable** and must be **reproduced without amendment in the agreement**.

Conversely, where the supplier's GTCS do not contain such clause, the parties remain free to negotiate the conditions governing the mandatory price revision mechanism, without being subject to the same level of transparency. Under the amended version of Article L.443-8 of the French Commercial Code, **no specific requirements will apply**. In particular, it will no longer be mandatory to refer to the indicators provided for under any applicable upstream agreements.

Price changes resulting from the clause must be implemented no later than one month after it is triggered.

A distributor may object to a price change only by providing objective economic data demonstrating that the link drawn by the supplier between the change in the cost of agricultural raw materials and its impact on the unit price list is **manifestly incorrect**.

> 💡 *Including such an automatic adjustment clause in the GTCS significantly strengthens its effectiveness for the supplier. This additional protection is, however, accompanied by increased transparency regarding the origin and, above all, the proportion by value and volume of the agricultural raw materials concerned, including for suppliers that have selected Option 3 under Article L.441-1-1(I) of the French Commercial Code. The new regime therefore requires suppliers to strike a balance between commercial effectiveness and confidentiality. Suppliers unwilling to comply with the statutory transparency requirement will need to remove any automatic adjustment clause from their GTCS.*

Price negotiations: distributor's obligation to provide reasons

Applicable to supplier–distributor relationships (excluding wholesalers) for food products and pet food subject to Article L.441-1-1 of the French Commercial Code

Upon receipt of the supplier's GTCS and price list, the distributor will have one month to *(Article L.443-8 V C of the French Commercial Code)*:

- either expressly set out in writing detailed reasons for its **refusal**;
- or identify the provisions of the GTCS or elements of the price list that it wishes to **negotiate**;
- or notify its **acceptance** of them.

Accordingly, distributors will henceforth be required not only to justify any rejection of the supplier's proposed terms but also to provide reasons where they wish to negotiate the supplier's pricing.

In addition, where the distributor **requests a reduction in the price list** set out in the supplier's GTCS, it will be required to provide **objective evidence** supporting that request. The Act specifies neither the nature of that evidence nor the expected level of detail; it will therefore need to be sufficiently substantiated to enable the supplier to assess the merits of the request.

New unfair trade practices

Applicable to all commercial relationships (all product categories)

The Agricultural Emergency Act supplements Article L.442-1 of the French Commercial Code by introducing two new unfair trade practices capable of giving rise to liability.

- **Substantial reduction in orders during commercial negotiations *(new second paragraph of Article L.442-1-II of the French Commercial Code)***

The following will constitute a new basis for liability:

> *"implementing, in the context of the negotiation of a contract, a substantial reduction in the volumes of orders placed with a commercial partner, including where temporary, where by reason of its scale, its unusual nature or the circumstances in which it occurs, it is liable to undermine the balance of the established commercial relationship".*

The provision applies exclusively to reductions in the volume of orders. By contrast, the version previously adopted by the Senate also referred to reductions in deliveries. Consequently, **only the purchaser's liability is, in principle, capable of being engaged under this provision.**

The legislature has afforded the courts **considerable discretion**. A mere reduction in the volume of orders will not, in itself, be sufficient. The supplier will also have to demonstrate that such reduction is liable to undermine the balance of the established commercial relationship.

Finally, the practice will constitute an infringement only where it occurs *"during the negotiation of a contract."*

In the context of the annual commercial negotiations, this is likely to cover the period between the communication of the GTCS and the finalization of the annual commercial agreement.

That said, a renegotiation of the commercial terms during the course of the year—for example, following requests for additional commercial investments—also constitutes the "negotiation of a contract." Accordingly, a reduction in orders implemented in that context could likewise fall within the scope of the new provision.

> 💡 *This new practice is intended to address reductions in orders used by distributors as a means of exerting commercial pressure during negotiations—a practice highlighted by the Senate's inquiry committee.*
>
> *Nevertheless, the conditions governing its application remain imprecise. It will therefore take several years, until the first judicial decisions are handed down, before its practical effectiveness can properly be assessed.*
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> *The only potential exception concerns the French administrative authorities, which may seek to rely on their administrative injunction powers.*

- **Repeated tender procedures *(new Article L.442-1-I-6° of the French Commercial Code)***

The following will now expressly constitute an unfair trade practice:

> *"subjecting a commercial partner to repeated competitive tendering procedures or calls for tenders whose frequency or terms are liable to create a significant imbalance in the parties' rights and obligations".*

> 💡 *The scheme is aimed in particular at private-label relationships, in which repeated calls for tenders may make the relationship more precarious and undermine the effectiveness of the rules governing the abrupt termination of established commercial relationships. Its standalone scope remains limited: it repeats the "significant imbalance" criterion already set out in Article L.442-1(I)(2), without defining what frequency or terms would be abusive. It nevertheless has the benefit of expressly identifying this practice and making it easier to characterise. A one-off, objective and fair competitive tendering process remains lawful.*

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