



Several Suggestions Upon Reviewing Taipei's Agricultural Products Market Transaction Process from a Legal Perspective

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In the beginning of 2018, the prices of fruits and vegetables fell almost 30 % because the Managers of Taipei's agriculture products wholesale market decided that the market would not be in operation for two three-days near the Chinese Lunar Holidays. This event attracted many attentions from every level, which especially focus on how the market mechanism could contribute more on price stabilization of fruits, vegetable and processed products. Although the trading markets have been established for almost 50 years, both farmers and consumers are not satisfied with the implementation of the market mechanism in the agriculture and fruit products transaction. This article would like to raise the following issues from the legal perspective and provide suggestions for improving the effectiveness of the governing future market.

The main rules to regulate agriculture product transaction are the Agriculture Products Market Transaction Act (APMTA) in 2011,¹ Enforcement Rules of Agriculture Products Market Transaction Act (Enforcement Rule of APMTA) in 2007 and the Agriculture Wholesale Market Management Regulation (AWMMR) in 2016. The definition of "agriculture produces" means vegetables, fruits, animal husbandry, fisheries and products of vegetables, fruits, animal husbandry, fisheries and forests assigned by the Council of Agriculture (COA).

The Legislative Yuan adopted APMTA in 1981 with the purpose of ensuring trade order and adjusting demand and supply of agricultural products, fruits and other products. The trading mechanism is one of the measures to reach its adjustment purpose and establish 15 wholesale markets within the island. These markets are not open to the general public but only allow specific participants to complete each transaction. The end users or consumers are not able to use these wholesale markets to shop their daily needs. Based on the APMTA Article 12, these wholesale markets shall be public owned utilities and their operation entities shall only limit to farmer's organizations and their related cooperation or institutions.² These

¹ Gazette of Office of the President, Republic of China, No. 3860. August 5th, 1981.

² Agriculture Products Market Transaction Act 2016, Article 13, paragraph 1. "The object of agricultural product wholesale markets limits to one of the followings: 1. Farmer's organization. 2. The "legal person" who is invested and organized by farmer's organizations. 3. The "legal person" who is invested and organized by government institutions, or county, Township/municipality government offices and farmer's organizations. 4. The "legal person" who is invested and organized by farmers and shippers of agricultural products. 5. The "legal person" who is invested and organized by government institutions, or county, Township/municipality government offices. 6. The "legal person" who is invested and organized by government institutions, or county, Township/municipality government offices, farmer's organizations or farmer, and shippers of agricultural products."

wholesale market suppliers also limit to six types of qualifications including farmers, farmer's organizations, agricultural corporations, agriculture product producers approved by municipal or county government, shippers and agriculture products importers.³ The six types of persons or entities can apply as demanders after they register and are approved by the operational entities of the wholesale markets.⁴ For those counties without establishing wholesale markets, the APMTA allows the shippers and delivers to trade with farmers or farmer's organizations directly and defines that as retail market in Article 22 and Article 33, except demanders, the shippers and delivers can play the roles as buyers in the agriculture and fruit products markets.

Therefore, the agriculture and fruit products markets are classified as wholesale and retail markets in Taiwan. The above regulations also identified that the wholesale market is not an open market but a closed market for a specific pricing control purpose. The efficiency and liquidity of the public owned markets is not the major concern but fair-trading, consumer protection and price adjustment are. Not only the participants are limited by the Act, the transaction methods used in the market also limit to auction, bargaining and fixed price transactions.⁵

The structure of agriculture and fruit products trading markets is shown below.

³ *Id.*, Article 18.

⁴ *Id.*, Article 19, paragraph 1. "One of the followings applies for demander's permit through the agricultural product wholesale markets and approved by local competent authority will be that wholesale market demanders. 1. The retailer. 2. The reseller. 3. The shipper. 4. The exporter. 5. The processor. 6. The great quantity consumer."

⁵ Enforcement Rules of Agriculture Products Market Transaction Act, Article 9.

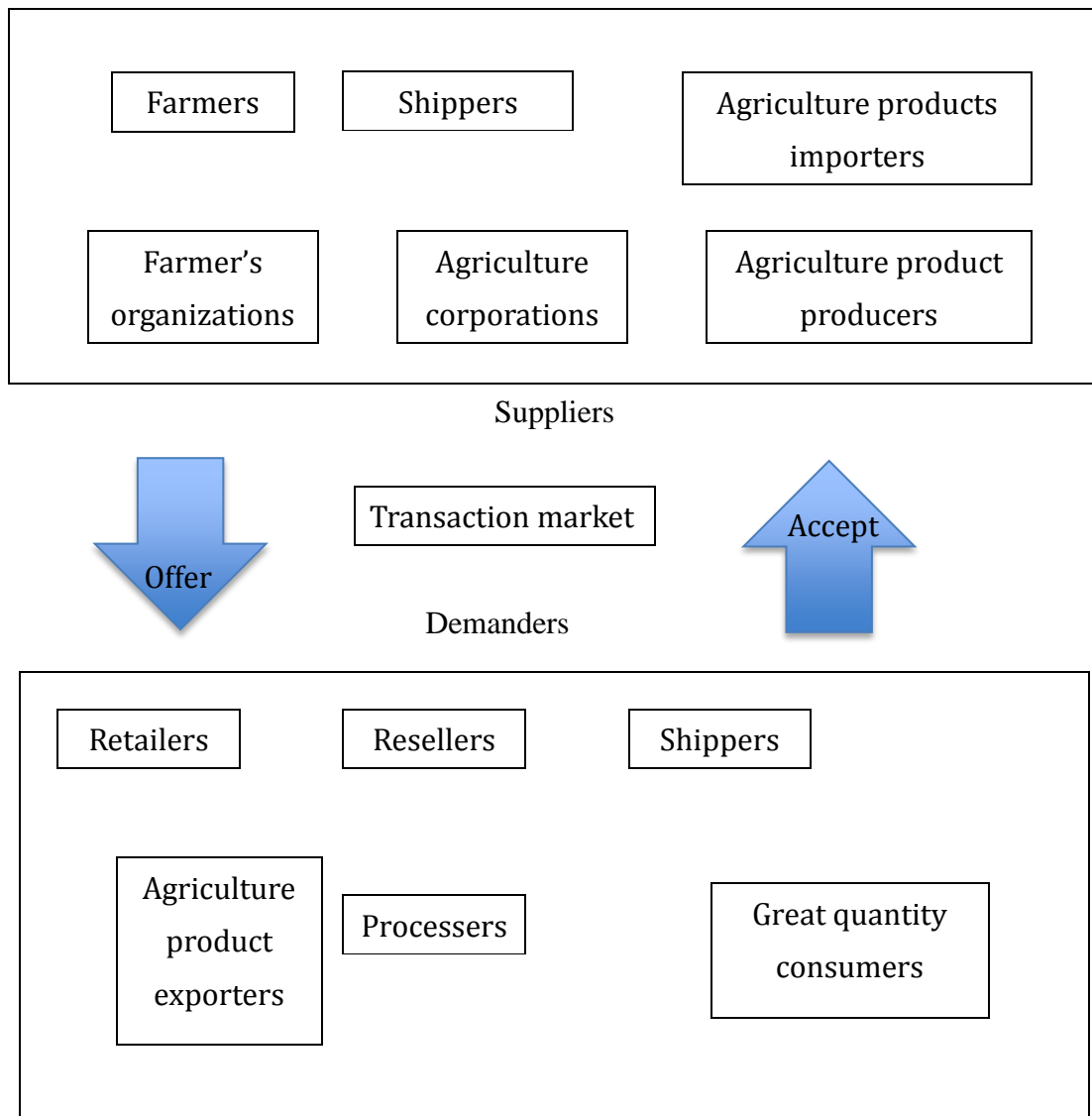


Fig. 1. the Legally Designed Agriculture Product Transaction Market

As the Fig. 1 shown above, the farmers is one of members of the supplier. However, the, farmers rarely have capacities to enter markets directly and deal with demanders because one single farmer can not grow that many agriculture products to control the auction price. On the contrary, the shippers, agricultural corporation and farmer's organization can collect more agriculture products from the original production sites through production contracts or fix price purchasing. Some shippers even can play as farmers if they could have economic power to acquire farm lands. This arrangement prevents farmers deals with consumers directly and also allows the middle agents can have chances to disturb prices in the market. It makes the farmers can only sell their agriculture products on retail or local market but the price is heavily influenced by the wholesale market. Eventually the farmers cannot get their best benefits from their hard works on land. Second, within the transaction market, the supplier cannot directly trade with consumers. All agriculture products must go through the Taipei Agriculture Product Marketing Co., LTD to finish the transaction and every deal is completed by the auctioneers. It does not establish computer system to achieve deal matching but all depends on auctioneers to decide the price of the transaction. These auctioneers have

privilege to assess earlier market information based on trading price and amounts made in earlier date. It also gives a great chance to the big shippers because they normally hold big amount of agriculture products to control price on each auction. In order to raise the auction price, the big shippers might release few amount of agriculture products into the market and wait until the price goes up. Since they could have chance to control supply amount, it prevents farmers to improve quality of products because the buyers are always the shippers. The farmers could get cash from the shippers and prevents them to improve quality of agriculture products.

The farmers always complain that the selling price remains low even the demand was high in the market because the vendors/consignees keep its position between farmers and demanders. The APMTA Article 18, paragraph 2 and 3 requires that all suppliers shall complete the registration that is approved by the operation entities prior their supply behaviors. However, some of the vendors might be powerful enough to serve both farmers and vendors. The more powerful vendors have more negotiation power to decide price and grab more lands. These vendors may sell their agricultural products directly and also sign agreements with other farmers with fixed price to procure their agriculture products. They are not legally buyers/demanders described in the APMTA but they could be suppliers/farmers and sell products to the demanders. Compared with those registered and approved shippers and resellers by the market operational entities, they could escape supervision from the operational entities and their purchase price might be lower than market price. The price might hurt farmer's interest and infringe the effectiveness of the market. Farmers are generally excluded from the market and their profits are controlled by the contract between vendors and farmers. Since the vendors are not authorized participants on the market, the operational entity can neither regulate vendor's behaviors nor review the agreement for the farmers. In order to fix this issue and prevent the unauthorized vendors from participating the transaction, the operation entity of each agriculture market shall enforce the registration requirement based on Article 13. The registered farmer's list within 15 agriculture trading markets shall be shared and disclosed to each other, it could prevent the farmers from playing as double identities in the market and also prevent price control. It helps farmers enter the market directly and prevent unauthorized third party from marking up their cost on the agriculture products. The operational entity shall enhance the enforcement and comply with the requirements of the Article 13.

Second, the current supply quantity in the agriculture transaction market is collective information provided by the individual shippers but does not rely on real demand of buyers. Therefore, the price is distorted by the supply amount/quantity and the market could not reply the need of consumers. Since the supply amount changes, the price changes in the market fail its original price adjusting function to protect consumers. When the demand is getting strong in a very short amount of time, the suppliers cannot respond to the demands, which causes a price raise. In order to prevent the supply information from being controlled by the suppliers, the operational entities shall encourage farmers to provide production information from the place of origin. They shall also disclose and share the production information to other operation entities. More accurate production information could stabilize the price as well.

Third, the regulated market transaction methods described in the Agriculture Wholesale Market Management Regulation(AWMMR) are auction, bargaining, fixed price and tendering transaction.⁶ Based on the Article 9, the transaction methods highly rely on auctioneers and market personnel and allow all transaction information gathering by these market personnel. The current transaction methods create opaque processes and allow anthropogenic behaviors involved during the transaction process. The auctioneers and market

⁶ The Agriculture Wholesale Market Management Regulation, Article 9, paragraph 1.

personnel control the transaction information and processes. It prevents the trading parties from negotiating price and quantity directly. The operational entity shall establish an e-commerce platform and reduce the man made disturbance during the transaction. The more transparent procedures create more efficient transaction in the markets. It also increases the reliance on the transaction system among participants. The animal husbandry trading market already implemented and established an e-commerce platform to complete transaction. The agriculture and fruit market operators could learn from those successful experiences and introduce the e-commerce platform to replace auctioneers and market personnel. The e-commerce platform increases information transparency during the price negotiation procedure and helps participants to know more trading information. It also helps the farmers to acquire necessary quality information from the buyers and improve their agriculture products qualities.

The APMTA describes basic transaction participants within the agriculture and fruit product market. However, the current market allows other participants not regulated by the APMTA and these unauthorized participants who create many uncertain information to disturb the market price. Based on the current regulations, the operational entity shall comply with the regulations and prevent other unauthorized participants to get involved with the transaction, since more unauthorized participants will provide wrongful production information, which increases the transaction cost. The operational entity of agriculture and fruit market shall change its transaction methods but introduce e-commerce platforms to allow farmers to provide production information directly. It can reduce the anthropogenic interference during the negotiation process and improve market efficiency.

Based on the above discussion, this article suggests the agriculture marketing company shall implement automatic trading system or e-commerce platform to reduce improper influence from the employee or other third person. Especially after the meat and poultry trading market already introduced the e-commerce trading system for years, the agriculture products trading market shall have confidence to introduce and implement e-commerce trading system. The e-commerce trading system could also save more labor expenses and increase profits for the company. The enforcement on APMTA shall be improved and prevent unauthorized participants enter into the transaction market. The agriculture marketing company shall also accelerate the systematic reform and prevent the auctioneers and wholesale to decide selling price and supply amounts. The government shall also promote and educate farmers to engage product classification and packaging. It could accelerate trading speed and improve profits of agriculture products. The agriculture products classification and proper packaging could also help the farmers to get more profits from the transaction. The government shall also educate and help the farmers to acquire refrigeration system for keeping their agriculture products. It could help farmers to achieve better supply amount adjustment and prevent the agent to control purchasing price. The supply amount and selling price will not be hurt by the nature events. New concepts shall be adapted and installed for efficiency improving on the agriculture product trading.

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