Milk and milk products sector: contractual relations

2010/0362(COD) - 09/12/2010 - Legislative proposal

PURPOSE: to propose new measures to improve future stability in the dairy sector.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: the milk sector went through a deep crisis due to a shift in demand away from dairy products following exceptionally high prices in 2007. The crisis also showed some shortcomings in the market orientation of the milk sector.

The Commissioner for Agriculture and Rural Development therefore decided to create a **High Level Experts' Group on Milk (HLG)** to work on a regulatory framework to be put in place for the medium and long term, which can contribute to stabilising the market and producers' income and enhance transparency.

The report and recommendations issued by the HLG were examined by the Council and Presidency conclusions were adopted at the meeting of 27 September 2010. Those conclusions urge the Commission to submit by the end of the year its response to the first three recommendations of the HLG (contractual relations, bargaining power of producers and inter-branch organisations) and to rapidly respond to the HLG recommendation on transparency.

One of the key aspects of HLG's work focussed on areas which relate to the **structure of the market and the actors in it**: contractual relations, bargaining power, producer organisations and inter-branch organisations.

According to the HLG, **the current market structure significantly worsened aspects of the 2009 milk crisis**. The existence for a long period of fixed quotas and high institutional prices, with, in effect, guaranteed outlets for dairy commodities created **rigidities in the market**. Structural adaptation was often inhibited, actors in the production chain were not stimulated to respond to market signals, including price movements, and there were reduced incentives for innovation or productivity gains.

The market structure is very different between and within Member States, but often concentration of supply is much lower than concentration at processing level. This results in an **imbalance in bargaining power** between these levels. There are also rigidities in the market, with farmers having little choice of dairy (or even of transporters for raw milk).

These factors can lead to a serious lack of adaptation of supply to demand and unfair commercial practices. In particular farmers often do not know what price they will receive for their milk when delivering (which is often fixed much later by dairies on a basis wholly out of the farmer's control).

The distribution of the **added value** in the chain is not balanced, especially with regard to farmers, and there is a significant problem of price transmission along the chain.

A **key problem seems to be between the farmers and the processors** and solutions to remedy the situation would focus at this level.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASE: the first subparagraph of Article 42 and Article 43(2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the present proposal addresses all 4 elements: contractual relations, bargaining power of producers, inter-branch organisations and transparency to the extent that they need an amendment to present provisions.

The proposal provides for **optional written contracts between milk producers and processors** to be drawn up in advance of deliveries, which should include details of price, timing and volume of deliveries, and duration. Member States can make the use of contracts compulsory in their territory. **Cooperatives**, in order to take into account their specific nature, are not required to have contracts if their statutes include elements with similar effects.

In order to rebalance bargaining power in the supply chain, the proposal foresees **allowing farmers to negotiate contracts collectively through producer organisations**. Appropriate **quantitative limits** to the volume of this negotiation will put farmers on equal footing with the major dairies while maintaining an adequate competition in the raw milk supply. The limits are set at 3.5% of global EU production and 33% of national production, with specific safeguards also provided to avoid serious prejudice in particular to SMEs.

The proposal provides also **specific EU rules for inter-branch organisations (IPOs)** covering all parts of the chain. They can potentially play useful roles in research, improvement of quality, promotion and spreading of best practice in production and processing methods. They would contribute to improving knowledge and the transparency of production and the market.

It is proposed to apply the rules on the objectives of IPOs in the fruit and vegetables sector to the dairy sector, with appropriate adaptations, so that hardcore restraints of competition (including price fixing and market partitioning) remain excluded and the agreements concerned are submitted to Commission approval.

Again with the purpose of improving knowledge of production and following of developments in the market, it is necessary for the Commission to obtain **regular information on volumes of raw milk delivered**.

In order to further enhance **transparency**, joint meetings of the experts of the Management Committee for the Common Organisation of Agricultural Markets together with the Advisory Group on Milk will be organised to assess the market situation and prospects, the objective being to increase awareness as well as **reinforce the responsibility of operators in the dairy chain** to better take into account market signals and adapt supply to demand.

Lastly, these measures are proposed to remain valid until 2020, with a review in 2014 and 2018.

BUDGETARY IMPLICATION: the proposed measures which can contribute to stabilize the market and producers' income for the medium and long term have no direct impact on the EU Budget.