

Milk and milk products sector: contractual relations

2010/0362(COD) - 05/07/2011 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Agriculture and Rural Development adopted the report drafted by James NICHOLSON (ECR, UK) on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1234/2007 as regards contractual relations in the milk and milk products sector.

It recommends that the European Parliament's position, adopted at first reading under the ordinary legislative procedure, should be to amend the Commission proposal as follows:

Rules seeking to improve and stabilise the operation of the common market in milk products: in order to improve and stabilise the operation of the market in dairy products with a **protected designation of origin or a protected geographical indication**, Members suggest that Member States may establish rules to allow the management of supply, where the groups responsible for a PDO or PGI formally introduce such a demand. Such rules shall be proportionate to the objective pursued and:

- may only cover the regulation of supply and shall aim to bring the supply of the product in line with demand;
- can be taken by way of implementing decisions taken by inter-branch organisations or decisions taken by groups of operators managing the PDO or PGI's;
- shall not be made binding for more than a (renewable) period of five years of marketing;
- shall not relate to any transaction after the first marketing of the product concerned;
- shall not allow for price fixing, including where prices are set for guidance or recommendation;
- shall not render unavailable an excessive proportion of the product concerned that would otherwise be available;
- shall not harm competition in the internal market, constitute a barrier for new entrants in the market, or lead to small producers being adversely affected.

Inter-branch organisations: Member States shall also **recognise inter-branch organisations** which: (a) have formally requested recognition and are made up of representatives of recognised agricultural organisations and the dairy processing industry, with the optional involvement of representatives of the trade and distribution of milk and milk products or of any other actor in the dairy supply chain and/or public authorities; (b) are formally constituted as entities that have democratic governance and representative structures.

They shall also recognise inter-branch organisations which carry out one or more of the following activities in one or more regions of the Union, taking into account the interests of all actors in the dairy supply chain:

- helping to coordinate better the way the products of the milk and milk products sector are produced and placed on the market, by means of research and market studies specifically focusing on European quality products in order to emphasise their added value;
- promoting consumption and providing information on milk and milk products in both internal and external markets;
- exploring potential export markets;
- drawing up standard forms of contract compatible with Union rules for the sale of raw milk to dairies and the supply of processed products to distributors and retailers, taking into account the

need to achieve fair competitive conditions and to avoid market distortions, in the interests of all actors operating within the industry;

- developing practices aimed at the prevention and management of the risks linked to the production, processing, marketing and distribution of milk and milk products;
- maintaining and developing the production potential of the dairy sector;
- enhancing food safety and security, particularly by ensuring the tracability of milk products;
- exploiting the potential of organic farming and protecting and promoting such farming as well as designations of origin, quality labels and geographical indications and) providing information on the particular characteristics of milk and milk products with a protected designation of origin (PGO) or a protected geographical indication (PGI);
- promoting integrated production recognised and certified at European level as environmentally sound;
- raising awareness of funding opportunities, promoting innovation and supporting programmes for applied research and development (R&D) in order to exploit the full potential of milk and milk products, especially in order to create value added products which are more attractive to the consumer; and
- working towards achieving fair distribution of the profits from the food supply chain , and promoting regional and local economic activity by reinforcing cooperative structures and direct sales of milk and dairy products to consumers.

Where raw milk is sourced from **less favoured areas** (mountainous areas, intermediate LFAs, areas with a specific natural handicap), any transfer of volume collected to an area which is not a LFA, or between different types of LFA, must be authorised in advance by the inter-branch organisation to which the collector and producer concerned belong.

Contractual negotiations in the milk and milk products sector: the amended text stipulates that the negotiation by the producer organisation may take place provided that, for a particular producer organisation:

- the volume of raw milk covered by such negotiations does not exceed 3.5 % of total Union production, and
- the volume of raw milk covered by such negotiations which is produced in any particular Member State does not exceed 40 % of the total national production of that Member State, and
- the volume of raw milk covered by such negotiations which is delivered in any particular Member State does not exceed 40 % of the total national production of that Member State.

In Member States with a total annual raw milk production of less than 500 000 tonnes, the negotiation by the producer organisation may take place if the total volume of raw milk included by a particular producer organisation in such negotiations does not exceed: (a) 75 % of the total national production of any particular Member State concerned, and (b) 75 % of the total combined national production of all the Member States concerned.

Recognition of producer organisations and their associations in the milk and milk products sector: Member States shall recognise as producer organisations in the milk and milk products sector any legal entity or clearly defined part thereof applying for such recognition, provided that they meet certain requirements outlined in the amendments.

In the event of non-compliance or irregularities in the implementation of the measures provided for in this Regulation, Member States may impose on those organisations the applicable penalties that they have laid down and decide whether, if necessary, recognition should be withdrawn.

Compulsory declarations in the milk and milk products sector: Members consider it essential to specify that the **first purchaser** shall declare to the competent national authority the quantity details

regarding the characteristics, volume and average price paid for raw milk that has been delivered to them each month with a view to accurately assessing global Union milk production and supply, thereby improving transparency throughout the dairy supply chain for the benefit of all actors operating within it.

In the interests of protecting fair competitive practices and in order to avoid market distortion, the commercially sensitive nature of such data shall be taken into consideration before it is made public, which may not be less than 45 days from the date of receipt of those declarations.

Contractual relations: the contract shall include in particular: the milk price payable for the delivery which shall be fixed for **no less than one year**. The price shall be calculated using a formula specified in the contract. It may be fixed for a specific volume and for any additional volume, variable according to criteria freely agreed and set out in the contract.

The contract should also include: the rules applicable to the renegotiation of the contract; details regarding payment periods and procedures; arrangements for collecting or delivering the products; the product characteristics; the rules applicable in case of force majeure.

However, with due regard to the principle of subsidiarity, Member States may set the minimum duration of such contracts.

Soft landing: the report underlines the need to facilitate a soft landing for the Union milk quotas system in all Member States of the Union as soon as possible since a hard landing in some Member States could cause price fluctuations in international markets and harm the stability and predictability of the market that is so necessary for European dairy farmers.

Delegated acts: Members have introduced amendments as regards the power to adopt delegated acts conferred on the Commission. The delegation of power shall be conferred on the Commission for a period of five years.