Basic information

2010/0362(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Milk and milk products sector: contractual relations Amending Regulation (EC) No 1234/2007 2006/0269(CNS) See also 2014/2146(INI) **Subject** 3.10.01 Agricultural structures and holdings, farmers 3.10.03 Marketing and trade of agricultural products and livestock 3.10.05.02 Milk and dairy products	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
AGRI Agriculture and Rural Development	NICHOLSON James (ECR)	01/12/2010
	Shadow rapporteur DANTIN Michel (PPE) TARABELLA Marc (S&D) REIMERS Britta (ALDE) HÄUSLING Martin (Verts/ALE)	

Council of the European Union

Council configuration	Meetings	Date
General Affairs	3150	2012-02-28

European Commission

Commission DG	Commissioner
Agriculture and Rural Development	CIOLOŞ Dacian

Key events

Date	Event	Reference	Summary
09/12/2010	Legislative proposal published	COM(2010)0728	Summary
13/12/2010	Committee referral announced in Parliament, 1st reading		
27/06/2011	Vote in committee, 1st reading		

05/07/2011	Committee report tabled for plenary, 1st reading	A7-0262/2011	Summary
14/02/2012	Debate in Parliament		
15/02/2012	Decision by Parliament, 1st reading	T7-0044/2012	Summary
15/02/2012	Results of vote in Parliament		
28/02/2012	Act adopted by Council after Parliament's 1st reading		
14/03/2012	Final act signed		
14/03/2012	End of procedure in Parliament		
30/03/2012	Final act published in Official Journal		

Technical information

Procedure reference	2010/0362(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation (EC) No 1234/2007 2006/0269(CNS) See also 2014/2146(INI)
Legal basis	Treaty on the Functioning of the European Union TFEU 042-p1 Treaty on the Functioning of the European Union TFEU 043-p2
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	AGRI/7/04836

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE456.663	24/02/2011	
Amendments tabled in committee		PE460.810	28/03/2011	
Amendments tabled in committee		PE462.580	28/03/2011	
Committee report tabled for plenary, 1st reading/single reading		A7-0262/2011	05/07/2011	Summary
Text adopted by Parliament, 1st reading/single reading		T7-0044/2012	15/02/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00077/2011/LEX	14/03/2012	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0728	09/12/2010	Summary
Commission response to text adopted in plenary	SP(2012)213	21/03/2012	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	IT_SENATE	COM(2010)0728	28/01/2011	
Contribution	PT_PARLIAMENT	COM(2010)0728	07/02/2011	
Contribution	RO_SENATE	COM(2010)0728	16/02/2011	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES0810/2011	04/05/2011	
CofR	Committee of the Regions: opinion	CDR0013/2011	12/05/2011	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2012/0261
OJ L 094 30.03.2012, p. 0038 Summary

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.

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.

Milk and milk products sector: contractual relations

2010/0362(COD) - 15/02/2012 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 574 votes to 97, with 18 abstentions, a legislative resolution 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.

Parliament adopted its position at first reading under the ordinary legislative procedure. The amendments adopted in plenary are the result of a compromise negotiated between the European Parliament and the Council. They amend the Commission proposal as follows:

Inter-branch organisations: Member States may also recognise inter-branch organisations which have formally requested recognition and are made up of representatives of economic activities linked to the production of raw milk and linked to at least one of the following stages of the supply chain: processing of or trade in, including distribution of, products of the milk and milk products sector.

They may also recognise interbranch organisations which carry out, in one or more regions of the Union, taking into account the interests of the members of those interbranch organisations and of consumers, **one or more of the following activities**:

- improving the knowledge and the transparency of production and the market, including by publication of statistical data on the prices, volumes and durations of contracts for the delivery of raw milk which have been previously concluded, and by providing analyses of potential future market developments at regional, national and international level;
- promoting consumption of, 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 purchasers and /or the supply of processed products to distributors and retailers, taking into account the need to achieve fair competitive conditions and to avoid market distortions;
- providing the information and carrying out the research necessary to adjust production in favour of products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;
- maintaining and developing the production potential of the dairy sector, inter alia by promoting innovation and supporting programmes for applied research and development 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;
- developing methods and instruments for improving product quality at all stages of production and marketing;
- exploiting the potential of organic farming and protecting and promoting such farming as well as the production of products with designations of origin, quality labels and geographical indications.

Recognition of producer organisations and their associations: Member States shall recognise as producer organisations in the milk and milk products sector all legal entities or clearly defined parts of legal entities applying for such recognition, provided that they meet the requirements laid down in this Regulation.

In response to an application, Member States may recognise an association of recognised producer organisations in the milk and milk products sector if the Member State concerned considers that this association is capable of carrying out effectively any of the activities of a recognised producer organisation and that it fulfils the conditions laid down in the Regulation.

Member States shall:

- decide whether to grant a recognition to a producer organisation within **four months** of the lodging of an application accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;
- carry out, at intervals to be determined by them, **checks** to ascertain that recognised producer organisations and associations of producer organisations are complying with the provisions of this Chapter;
- in the event of non-compliance or irregularities in the implementation of the measures provided for in this Chapter, impose on those organisations and associations the applicable **penalties** they have laid down and decide whether, if necessary, recognition should be withdrawn;
- inform the Commission once a year, and no later than 31 March, of every decision to grant, refuse or withdraw recognition which they have taken during the previous calendar year.

Contractual negotiations: the amended text stipulates that the negotiations by the producer organisation may take place:

provided that, for a particular producer organisation: (i) the volume of raw milk covered by such negotiations does not exceed 3.5% of total Union production, and (ii) the volume of raw milk covered by such negotiations which is produced or delivered in any particular Member State does not exceed 33% of the total national production of that Member State;

provided that the raw milk is not covered by an obligation to deliver arising from the farmer's membership of a cooperative in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes.

Notwithstanding the conditions set out above, a producer organisation may negotiate, provided that, with regard to that producer organisation, the volume of raw milk covered by the negotiations which is produced in or delivered in a Member State having a total annual raw milk production of less than 500 000 tonnes does not exceed 45 % of the total national production of that Member State.

By way of derogation, even where the thresholds set out therein are not exceeded, the national competition authority may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded or in order to avoid seriously damaging SME processors of raw milk in its territory.

Regulation of supply for cheese with a protected designation of origin or protected geographical indication: in view of the importance of protected designations of origin (PDO) and protected geographical indications (PGI), notably for vulnerable rural regions, and in order to ensure the value-added and to maintain the quality of, in particular, cheeses benefiting from PDO or PGI, and in the context of the expiring milk quota system, Member States should be allowed to apply rules to regulate the supply of such cheese produced in the defined geographical area.

The rules should cover the entire production of the cheese concerned and should be requested by an inter-branch organisation, a producer organisation or a group as defined in Council Regulation (EC) No 510/2006 of 20 March 2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

Such a request should be supported by a large majority of milk producers representing a large majority of the volume of milk used for that cheese and, in the case of interbranch organisations and groups, by a large majority of cheese producers representing a large majority of the production of that cheese. Moreover, these rules should be subject to strict conditions, in particular in order to avoid damage to the trade in products in other markets and to protect minority rights. Member States should immediately publish and notify to the Commission the adopted rules, ensure regular checks and repeal the rules in case of non-compliance.

Compulsory declarations: the Regulation stipulates that **from 1 April 2015**, the first purchasers of raw milk shall declare to the competent national authority the quantity of raw milk that has been delivered to them each month.

The term “first purchaser” shall mean an undertaking or group which buys milk from producers in order to: (a) subject it to collecting, packing, storing, chilling or processing, including under a contract; (b) sell it to one or more undertakings treating or processing milk or other milk products.

Contractual relations: if a Member State decides that every delivery of raw milk in its territory by a farmer to a processor of raw milk must be covered by a written contract between the parties and/or decides that first purchasers must make a written offer for a contract for the delivery of raw milk by the farmers, **such a contract and/or such an offer for a contract shall fulfil the following conditions**:

- the price payable for the delivery, which shall: (i) be static and be set out in the contract, and/or; (ii) be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions , the volume delivered and the quality or composition of the raw milk delivered;
- the volume of raw milk which may and/or must be delivered and the timing of such deliveries;
- the duration of the contract, which may include either a definite or an indefinite duration with termination clauses;
- details regarding payment periods and procedures;
- arrangements for collecting or delivering raw milk;
- rules applicable in the event of force majeure.

Notwithstanding these conditions, two options are offered to the Member States:

1. where a Member State decides to make written contracts for the delivery of raw milk compulsory, it may establish a **minimum duration**, applicable only to written contracts between a farmer and the first purchaser of raw milk. Such a minimum duration shall be **at least six months** and shall not impair the proper functioning of the internal market; and/or
2. where a Member State decides that the first purchaser of raw milk must make a written offer for a contract to the farmer, it may provide that the offer must include a minimum duration for the contract, set by national law for this purpose. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market.

The Member States which make use of these options shall notify the Commission of how they are applied.

Farmers shall have the right to refuse such a minimum duration provided that he does so in writing. In this case, the parties shall be free to negotiate all elements of the contract.

Delegated acts: the Commission may adopt delegated acts as regards: (i) the conditions for recognising transnational producer organisations and transnational associations of producer organisations; (ii) rules relating to the establishment and the conditions of administrative assistance to be given by the relevant competent authorities in the case of transnational cooperation; (iii) additional rules regarding the calculation of the volume of raw milk covered by the negotiations.

The power to adopt delegated acts shall be conferred on the Commission for a period of five years from the entry into force of the Regulation.

Milk and milk products sector: contractual relations

2010/0362(COD) - 14/03/2012 - Final act

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

LEGISLATIVE ACT : Regulation (EU) No 261/2012 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.

CONTENT: following agreement at first reading, the European Parliament and the Council adopted a regulation aiming to improve the functioning of the EU milk sector. The Luxemburg delegation voted against the adoption of the Regulation and the Netherlands, Denmark and Ireland delegations abstained.

The provisions on contractual relations in the milk sector and milk products are a response to the deep crisis which affected this sector in 2008 and 2009, but these measures should also be seen in the context of abolition of the milk quotas regime from 2015.

The main elements of the Regulation include:

- a reinforcement of the bargaining power of milk producers by allowing them to set up producer organisations that on their behalf negotiate collectively contracts for the deliveries of milk ;
- Member States may introduce on their territory: (a) an obligation for formal written contracts for the supply of milk and/or (b) an obligation for the first purchaser of milk to present a written contract offer to the producer, who will be able to accept or reject that offer.

All elements of the contracts should be freely negotiated between the parties. However Member States may determine the minimum duration of contracts between the first purchasers and the producers on their territory (at least 6 months). The producer may reject such a minimum duration and negotiate freely all elements of the contract.

Improving transparency of the EU milk production market: the Regulation introduces an obligation for first purchasers to send monthly declarations on the quantities of milk bought by them. The purpose of this requirement is to monitor the volume of milk collected and developments on the market after the milk quota regime expires.

Management of cheeses with PDO/PGI: Member States may under specific conditions, lay down binding rules on supply management of cheeses with Protected designation of origin / Protected geographical indication (PDO / PGI) in order to adapt the production of PDO/PGI cheeses to the actual demand. The rules should cover the entire production of the cheese concerned and should be requested by an inter-branch organisation, a producer organisation or a group as defined in Council Regulation (EC) No 510/2006 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs.

Such a request should be supported by a large majority of milk producers representing a large majority of the volume of milk used for that cheese and, in the case of interbranch organisations and groups, by a large majority of cheese producers representing a large majority of the production of that cheese. Moreover, these rules should be subject to strict conditions, in particular in order to avoid damage to the trade in products in other markets and to protect minority rights. Member States should immediately notify to the Commission the adopted rules, ensure regular checks and repeal the rules in case of non-compliance.

Interbranch organisations: Member States may also recognise interbranch organisations which:

- have formally requested recognition and are made up of representatives of economic activities linked to the production of raw milk and linked to at least one of the following stages of the supply chain: processing of or trade in, including distribution of, products of the milk and milk products sector;
- are formed on the initiative of all or some of the representatives;
- carry out, in one or more regions of the Union, taking into account the interests of the members of those interbranch organisations and of consumers, one or more of the activities specified in the text, including improving the knowledge and the transparency of production and the market, and promoting consumption of milk and milk products in both internal and external markets.

Recognition of producer organisations and their associations: Member States shall recognise as producer organisations in the milk and milk products sector all legal entities or clearly defined parts of legal entities applying for such recognition, provided that they meet the requirements laid down in this Regulation. The text sets out the time limits and obligations for Member States.

Contractual negotiations: the Regulation stipulates that the negotiations by the producer organisation may take place:

- provided that, for a particular producer organisation: (i) the volume of raw milk covered by such negotiations does not exceed 3.5% of total Union production, and (ii) the volume of raw milk covered by such negotiations which is produced or delivered in any particular Member State does not exceed 33% of the total national production of that Member State;

- provided that the raw milk is not covered by an obligation to deliver arising from the farmer's membership of a cooperative in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes.

Notwithstanding the conditions set out above, a producer organisation may negotiate, provided that, with regard to that producer organisation, the volume of raw milk covered by the negotiations which is produced in or delivered in a Member State having a total annual raw milk production of less than 500 000 tonnes does not exceed 45 % of the total national production of that Member State.

By way of derogation, even where the thresholds set out are not exceeded, the national competition authority may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition being excluded or in order to avoid seriously damaging SME processors of raw milk in its territory.

Compulsory declarations: the Regulation stipulates that from 1 April 2015, the first purchasers of raw milk shall declare to the competent national authority the quantity of raw milk that has been delivered to them each month.

The term “first purchaser” shall mean an undertaking or group which buys milk from producers in order to: (a) subject it to collecting, packing, storing, chilling or processing, including under a contract; (b) sell it to one or more undertakings treating or processing milk or other milk products.

Contractual relations: if a Member State decides that every delivery of raw milk in its territory by a farmer to a processor of raw milk must be covered by a written contract between the parties and/or decides that first purchasers must make a written offer for a contract for the delivery of raw milk by the farmers, such a contract and/or such an offer for a contract shall fulfil the following conditions:

- the price payable for the delivery, which shall: (i) be static and be set out in the contract, and/or; (ii) be calculated by combining various factors set out in the contract, which may include market indicators reflecting changes in market conditions , the volume delivered and the quality or composition of the raw milk delivered;

- the volume of raw milk which may and/or must be delivered and the timing of such deliveries;

- the duration of the contract, which may include either a definite or an indefinite duration with termination clauses;

- details regarding payment periods and procedures;

- arrangements for collecting or delivering raw milk;

- rules applicable in the event of force majeure.

Notwithstanding these conditions, two options are offered to the Member States:

- where a Member State decides to make written contracts for the delivery of raw milk compulsory, it may establish a minimum duration, applicable only to written contracts between a farmer and the first purchaser of raw milk. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market; and/or

- where a Member State decides that the first purchaser of raw milk must make a written offer for a contract to the farmer, it may provide that the offer must include a minimum duration for the contract, set by national law for this purpose. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market.

Member States that make use of these options shall notify the Commission of how they are applied.

Farmers shall have the right to refuse such a minimum duration provided that they do so in writing. In this case, the parties shall be free to negotiate all elements of the contract.

Implementing acts: implementing powers are conferred on the Commission relating to (i) the implementation of conditions for the recognition of producer organisations and their associations and interbranch organisations, (ii) the notifications by those organisations of the volume of raw milk covered by negotiations, (iii) the notifications to be made by the Member States to the Commission concerning those organisations and the rules for the regulation of supply of cheese benefiting from a PDO or a PGI, (iv) detailed rules concerning agreements, decisions and concerted practices in the milk and milk products sector, (v) the content, format and timing of compulsory declarations in that sector, (vi) certain aspects of contracts for the delivery of raw milk by farmers and (vii) the notification, to the Commission, of options taken by the Member State in this respect.

ENTRY INTO FORCE: 02/04/2012.

APPLICATION: 02/04/2012, with the exception of certain provisions which apply from 03/10/2012.

DELEGATED ACTS: the Commission has the power to adopt delegated acts in respect of (i) the conditions for the recognition of transnational producer organisations and transnational associations of producer organisations; (ii) the rules on the establishment and the conditions of administrative assistance in the case of transnational cooperation and (iii) the calculation of the volume of raw milk covered by negotiations by a producer organisation.

The power to adopt delegated acts shall be conferred on the Commission for a period of 5 years from 2 April 2012. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period. Delegated acts shall enter into force only if no objection has been expressed either by the European Parliament or the Council.