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EUCOLAIT POSITION ON THE MILK PACKAGE

The final adoption of the proposal for a Regulation on contractual relations in the milk products sector is drawing nearer with the trilogue meetings currently being held between the Institutions. At this stage of the procedure and taking into account in particular the report of the Parliament's Committee on Agriculture adopted in July, EUCOLAIT would like to make the following observations.

General appreciation

The Commission proposal was adopted on the basis of the recommendations of the High Level Expert Group on milk as a response to the dairy crisis and in light of the phasing-out of the milk quotas. EUCOLAIT would like to reiterate that the 2009 crisis was caused by supply and demand fundamentals rather than by imbalances in the supply chain. Moreover, we consider in general that possibilities to fulfil the objectives of the proposal with existing instruments should be fully explored before adopting additional legislation. Finally, we feel that the issue of price transmission along the supply chain should be examined in a holistic manner by including all production and distribution steps.

Volume control by groups responsible for a PDO or a PGI

EUCOLAIT considers any form of output limitation as anticompetitive and incompatible with internal market principles and the course taken by the EU towards a more liberal agricultural policy. Such regime would mean a step backwards by introducing another quota system, albeit only for a category of products. Quantitative restrictions will only benefit a group of producers by driving up prices without improving the quality of the product. Other actors in the supply chain, farmers who wish to ensure the highest return for their milk, traders and ultimately also consumers would suffer from such measures reducing competition among producers. According to the AGRI Committee, the management of supply should not harm competition, constitute a barrier for new entrants in the market or lead to small producers being adversely affected. These conditions are however inconceivable since those are precisely the main impacts the proposed measure would have.

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It should also be noted that the “milk package” is certainly not the right instrument for provisions relating to geographical indications, especially given that the quality policy reform is taking place at the same time. Since only a very small percentage of European dairy products would be concerned (approximately 5% and almost exclusively cheeses for that matter), the proposed provisions cannot be referred to as rules seeking to improve and stabilise the operation of the common market in milk products as a whole.

Interbranch organisations

EUCOLAIT sees interbranch organisations as potentially dangerous fora which may distort or eliminate competition, notably through price fixing and market partitioning. The provisions adopted at EU level need to ensure that the limits for the activities that can be carried out by these organisations are clearly defined. Experience in certain Member States shows that attentive monitoring is required to ensure that the scope of the missions and activities enumerated in article 123 are not exceeded in practice. Furthermore, EUCOLAIT feels that the role of an interbranch organisation representing the dairy supply chain should be the promotion of all dairy products. Consequently, any reference to specific schemes such as organic farming, geographical indications or direct sales should be omitted.

Contractual negotiations (bargaining power)

As a matter of principle, EUCOLAIT is of the opinion that the milk price should be determined by market forces and is therefore opposed to establishing derogations from the general competition rules to the benefit of producer organisations (POs). Present competition law already offers ample opportunities for co-operation between producers and possible uncertainties could be tackled with a comprehensive guidance document.

If however a threshold for the volumes that can be covered by the negotiations conducted by a PO is set, it should reflect market realities and avoid adverse effects for the competitiveness of the sector. Given that these provisions are not relevant for processing cooperatives which already include both stages of the supply chain, the ceilings should apply only to the milk delivered to private dairies, as opposed to the total EU milk production. About 58% of European milk is delivered to cooperatives. Applying the 40% limit in a Member State where the EU average of 58% is delivered to co-ops would in reality mean a limit of 95% so that one PO (or an association of POs) could cover virtually all deliveries to private dairies (subject to the 3,5% rule, approximately 5 million tons). In at least 13 Member States, all milk not delivered to cooperatives could be subject to negotiations by one single PO. This reasoning does not yet take into account the case of possible transnational POs or associations of POs which could be even bigger. In light of these figures, the 20% ceiling as proposed by MEP James Nicholson would seem more reasonable to us in case the total milk production of a Member State is maintained as a reference.

Transparency

We welcome the reference made to the possible establishment of a “Market Monitoring Agency” that would collect and publish comprehensive and accurate data relating to dairy markets, including exports and imports. EUCOLAIT has always stressed the need for timely information for the benefit of all actors throughout the dairy supply chain, as outlined in the report of the AGRI committee. The data collected and distributed by the agency could be beneficial for the further development of risk management tools such as futures which require relevant reference prices in order to function properly.

Contractual relations (use of written contracts)

EUCOLAIT does not believe that the lack of written contracts has been one of the causes for low milk prices in the past. It may be useful to lay down certain minimum requirements that contracts must include at EU level so as to ensure a certain degree of harmonisation. However, the use of written contracts for every delivery should not be made compulsory as this would interfere with the freedom of contract of the parties involved. Indeed, a detailed mandatory framework in EU legislation may not be in line with the producers and processors exceptions and thus have a counterproductive effect.

We hope this paper will contribute to the discussion currently taking place on the milk package. We would be glad to further explain our position should questions arise.