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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	16779/24
Subject:	Regulation amending the common market organisation (CMO) Regulation as regards the strengthening of the position of farmers in the food supply chain - Presidency suggested amendments

Delegations will find attached the Presidency drafting suggestions on the Commission's proposal concerning the targeted amendment of the CMO Regulation. Suggested additions are in **bold**, suggested deletions are in ~~strikethrough~~. The titles of Articles also appear in bold as in the original text of the Commission proposal.

ANNEX

PUBLIC

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EU) No 1308/2013, (EU) 2021/2115 and (EU) 2021/2116 as regards the strengthening of the position of farmers in the food supply chain

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 42, first subparagraph, and Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

~~Having regard to the opinion of the Court of Auditors[1],~~

Having regard to the opinion of the European Economic and Social Committee[2],

~~Having regard to the opinion of the Committee of the Regions[3],~~

Acting in accordance with the ordinary legislative procedure,

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1 ~~OJ C, …~~

2 OJ C, …

3 ~~OJ C, …~~

Whereas:

(1) The agricultural sector, in particular farmers, face a range of challenges. The Covid-19 pandemic and Russia's ongoing war of aggression against Ukraine have led to an unprecedented increase of energy-related agricultural input costs and a prolonged period of high inflation, affecting farmers' costs and food prices. In parallel, farmers continue to undertake efforts to make their production more environmentally sustainable. Many consumers, dealing with an increased cost of living, have also directed their consumption patterns towards less expensive food products. This has further destabilised the distribution of value added along the food supply chain and has increased the degree of uncertainty in which farmers operate, fuelling protests and mistrust. It is thus appropriate to adopt measures to tackle those challenges and restore the trust of the actors in the food supply chain.

(2) Various operators within the agricultural and food supply chain, active at different stages of production, processing, marketing, distribution, and retail, have developed schemes and labels to promote commercial modalities ensuring the fair allocation of value added to farmers and the creation and maintenance of short supply chains. Establishing minimum requirements for the use of optional terms describing those commercial modalities is necessary to increase the transparency and reliability of the use of those terms in the food supply chain, complementing existing food labelling rules, in particular Regulation (EU) No 1169/2011 of the European Parliament and of the Council[4].

[4] Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18, ELI: http://data.europa.eu/eli/reg/2011/1169/oj).

(3) In the interest of increased trust and fairness along the food supply chain, the terms 'fair', 'equitable'**, and terms having an** ~~or~~ equivalent ~~terms~~**meaning**, should be used only to designate commercial modalities that ensure stability and transparency in commercial relations between farmers and purchasers and pricing considered equitable by participating farmers, and that support and contribute to the United Nations Sustainable Development Goals, including in a manner that is consistent with Annex I of Directive (EU) 2024/1760 of the European Parliament and of the Council[5].

(4) **[**The term 'short supply chain' should be used only to designate commercial modalities where a direct connection exists between farmers and consumers that allows to directly exchange on the production process and the product, including by means of distance communication and/or via an intermediary who ensures such exchange at the moment of sale. Alternatively, this term may also be used where a close connection between farmers and consumers within their geographic proximity exists, including in cross-border contexts. This will incentivise consumers to pay prices that fairly remunerate farmers for what they produce, strengthen and contribute to the development of rural areas, improve transparency regarding the origin and production methods of the products.**]**

(5) In light of market conditions, evolving consumer expectations, advances both in marketing standards and in relevant international standards, implementing powers should be conferred on the Commission to ensure uniform conditions for the use of the optional terms designating commercial modalities related to the fair allocation of value added to farmers and the creation and maintenance of short supply chains. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[6].

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[5] Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, (OJ L, 2024/1760, 5.7.2024, ELI: http://data.europa.eu/eli/dir/2024/1760/oj).

[6] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: http://data.europa.eu/eli/reg/2011/182/oj).

PUBLIC

(6) For those same reasons, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of additional optional terms that are equivalent to the terms ‘fair’ or ‘equitable’.

(7) While Member States may retain or introduce national provisions stipulating supplementary requirements for the use of optional terms for commercial modalities, those provisions should not hinder, limit, or obstruct the use of these terms for products legally produced or marketed in another Member State.

(8) The use of written contracts plays a crucial role in the accountability of operators, raising awareness about the importance of market signals, adapting supply to demand, improving price transmission within the supply chain, enhancing transparency and preventing and addressing unfair trading practices. The rules on contractual relations in the milk and milk products sector should therefore be extended to cover products other than raw milk, while ensuring alignment with the rules on contractual relations applicable to other agricultural sectors.

(9) In order to increase flexibility for Member States and simplify the procedure for the recognition of producer organisations, thereby reducing transaction costs and improving efficiency, the rules on producer organisations should allow for their recognition following**, instead of one request for each sector as currently required,** a single request covering multiple sectors and products**, provided that the producer organisation fulfils the conditions which are applicable to each sector for which it seeks recognition**. Moreover, to enhance collaboration between organic product producers, the establishment and recognition of producer organisations by organic product producers should be explicitly provided for. The criteria for the recognition of producer organisations and their statutes should also provide that producer organisations are established at the initiative of farmers and are controlled in accordance with rules that enable farmer members to scrutinise democratically their organisation and decisions. This should not preclude other producers that are not farmers, and non-producers from joining producer organisations.

PUBLIC

(10) To promote further sustainable development, which is a core principle of the Treaty and a priority objective for the policies of the Union, and to ensure transparency, stability and fairness in commercial relations between farmers and purchasers throughout the supply chain, Member States should be able to recognise producer organisations that pursue specific aims with optional terms for commercial modalities, such as 'fair', 'equitable' or **terms having an** equivalent ~~terms~~**meaning**, and 'short supply chain'.

(11) To ensure a fair standard of living for farmers, enhance their bargaining position vis-à-vis processors and other actors in the supply chain and provide for a fairer distribution of added value along the supply chain, the possibility of negotiating contract terms on behalf of their members should be extended to non-recognised producer organisations, including cooperatives, for some or all of their production. To ensure equal treatment with members of recognised producer organisations, this possibility should be subject to appropriate limits. In particular, non-recognised producer organisations benefiting from that possibility should comply with the recognition criteria set at Union level and engage in the activities set out in Regulation (EU) No 1308/2013 of the European Parliament and of the Council[7], including concentrating supply and placing their members' products on the market.

(12) To strengthen the negotiating position of recognised producer organisations and to ensure the viable development of agricultural production, recognised associations of producer organisations should be allowed to negotiate contract terms on behalf of their members, including price, for some or all of their members' production. This possibility should be allowed, subject to the safeguard that the organisations which are members of those associations are not also members of another association of producer organisations and the volume of ~~products~~**the product** covered by the activities of the association does not exceed 33% of the total national production of ~~any given~~**that product in the** Member State **concerned**. In order to maintain effective competition on the market, recognised associations of producer organisations should also not be allowed to negotiate contract terms where those associations include non-recognised producer organisations.

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[7] Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347, 20.12.2013, p. 671, ELI: http://data.europa.eu/eli/reg/2013/1308/oj).

(13) To prevent purchasers from undermining the bargaining position of producer organisations, appropriate safeguards should be established for contacts between purchasers and members of those producer organisations. While purchasers may contact members of producer organisations, those contacts should not undermine the objectives of the producer organisations, ~~or~~**including** the concentration of supply and placing of products on the market.

(14) Interbranch organisations play an important role in facilitating dialogue between actors in the supply chain, and in promoting best practices, market transparency, stability and fairness in commercial relations between farmers and purchasers throughout the supply chain. It is therefore appropriate to include the promotion of initiatives for the inclusion of optional terms for commercial modalities, such as 'fair', 'equitable' or **terms having an** equivalent ~~terms~~**meaning**, and 'short supply chain' in the list of objectives that a recognised interbranch organisation may pursue.

(15) Certain Member States have decided that all deliveries of agricultural products in their territory are to be covered by written contracts between the parties. Where the Member States do not make use of this possibility, farmers, producer organisations or associations of producer organisations can request the use of written contracts. However, due to the weaker bargaining position of farmers and the fear of commercial retaliation by purchasers, it can be difficult for farmers and their associations to make such a request. To increase trust, transparency, and efficiency within the supply chain and to enable all farmers, **including farmers' associations,** producer organisations and associations of producer organisations to benefit from the use of written contracts, deliveries of agricultural products in the Union by a farmer, **including a farmers' association,** a producer organisation or an association of producer organisations to a processor, distributor or retailer should be covered by a written contract.

PUBLIC

(16) To better take into account the signals of the market and to improve price transmission, Member States should be able to require the use of written contracts for the delivery of agricultural products by ~~producers other than~~**processors that are not** farmers, ~~by producer organisations or~~**including farmers'** associations ~~of producer organisations~~, and to require that purchasers make use of written offers for contracts for the delivery of agricultural products. In the interests of simplicity and reduction of transaction costs, this Regulation should lay down certain exceptions to the required use of written contracts or written offers for contracts and allow Member States to exempt certain deliveries from the required use of written contracts or written offers, while leaving farmers and their associations the possibility of requesting the use of written contracts or written offers when there is no such obligation. **To provide Member States with the option to take into account national or regional practices, the Regulation should allow Member States to exempt products subject to seasonal supply, demand fluctuations or perishability as well as products that are subject to specific traditional or customary selling practices.**

(17) The required use of written contracts for the delivery of agricultural products and the basic conditions for their use should be laid down at Union level, while ensuring that the right of the parties to negotiate all elements of their contracts is not restricted beyond what is strictly necessary.

(18) To encourage parties to reach an amicable settlement in case of disputes over the conclusion or review of a written contract, Member States should ~~establish~~**ensure that** mediation mechanisms **are available for them in such cases**. Member States should inform the Commission about the mediation mechanisms in place in their territory ~~or the establishment of those mechanisms~~, and the Commission may facilitate exchanges of best practices about those mechanisms.

(19) To facilitate the functioning of price transmission mechanisms, where the final price payable for the delivery of agricultural products is calculated by combining various factors set out in the contract, those factors should include objective indicators, indices or methods of calculation that are easily understandable by the parties. To avoid that farmers are forced to sell systematically below their production costs, the indicators, indices and methods of calculation of the final price should reflect changes in market conditions and production costs of the agricultural products delivered.

(20) Considering the vulnerable negotiating position of farmers and their organisations, recent instances of significant volatility in agricultural input costs and market prices, and the need for a more efficient price transmission within the supply chain, contracts with a duration of more than 6 months should include a revision clause that may be triggered by the farmers and their organisations. Such a clause should permit farmers to request after the 6 months at any moment a revision of the elements of the contract and permit them to end the contract in case no agreement on a revision is reached, without interfering with the right of the parties to negotiate other possibilities for the revision of the contract.

(21) To enhance contractual transparency and contribute to fairer trading practices, Member States should be able to require the registration of written contracts for the delivery of agricultural products.

(22) Certain vertical and horizontal cooperation initiatives concerning agricultural and food products, which aim to apply requirements that are more stringent than the mandatory requirements, can have positive effects on the objective of the common agricultural policy to ensure a fair standard of living for the agricultural community and on the objective of sustainable development of the Union. Therefore, under specific circumstances, such initiatives should not be subject to the application of Article 101(1) of the Treaty on the Functioning of the European Union.

(23) In periods of severe market imbalance, specific categories of collective actions by private operators can contribute to stabilise the sectors concerned. With a view to ensuring that private operators have the necessary resources to implement these actions, the Commission should be able to make available Union resources from the agricultural reserve to support these actions. Member States should also be able to allocate additional national resources.

(24) To enable sugar beet growers to benefit from enhanced contractual clarity and to ensure a harmonised contractual framework while taking account of the specificity of the sugar beet sector, purchase terms in contracts for the delivery of sugar beet should be aligned with the conditions for the use of written contracts in other agricultural sectors.

(25) Regulation (EU) No 1308/2013 should therefore be amended accordingly.

PUBLIC

(26) To strengthen the position of farmers in the food supply chain, several provisions of Regulation (EU) 2021/2115 of the European Parliament and of the Council[8] should be amended as regards the types of intervention in certain sectors. These amendments aim to support farmers to become or remain members of producer organisations or associations of producer organisations recognised under Regulation (EU) No 1308/2013, in light of the positive role these organisations and associations play in strengthening the bargaining power of producers. Moreover, to ensure a more efficient and targeted support of producer organisations through the CAP Strategic Plans, the possibility of an increase of the Union financial assistance to operational programmes in certain sectors should be provided for.

(27) The value of production of fruit and vegetables marketed by producer organisations compared to the total value of the fruit and vegetable production remains in certain Member States far below the Union average. Among the financial incentives available, Member States can already provide national financial assistance as provided for in Article 53 of Regulation (EU) 2021/2115 to producer organisations located in certain regions where the degree of organisation is significantly below the Union average. With a view to enhancing competitiveness, strengthening farmers' positions in the value chain and setting up new producer organisations, a financial incentive consisting in an increase of 10 % of the Union financial assistance should be granted to producer organisations in Member States, in which the degree of organisation of producers is below 10 % for 3 consecutive years preceding the implementation of the relevant operational programme.

(28) With a view to facilitating the generational renewal in the farming sector and encouraging entrance of new producer members in producer organisations in the fruit and vegetables sector and in other sectors as referred to in Article 42, point (f), of Regulation (EU) 2021/2115, a particular incentive should be granted to young farmers and new farmers who join a producer organisation recognised under Regulation (EU) No 1308/2013. Consequently, a possible increase of 10 % of the Union financial assistance for expenditure related to investments made at the premises of a young farmer or a new producer who joins a recognised producer organisation for the first time should be made available.

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[8] Regulation (EU) 2021/2115 of the European Parliament and of the Council of 2 December 2021 establishing rules on support for strategic plans to be drawn up by Member States under the common agricultural policy (CAP Strategic Plans) and financed by the European Agricultural Guarantee Fund (EAGF) and by the European Agricultural Fund for Rural Development (EAFRD) and repealing Regulations (EU) No 1305/2013 and (EU) No 1307/2013, (OJ L 435, 6.12.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/2115/oj).

(29) Given the recurrence of adverse climatic events, natural disasters, plant diseases or pest infestations in recent years, it has proven useful for producer organisations and associations of producer organisations to be able to redirect funds, including Union financial assistance within the operational fund, to interventions required to address the consequences of those events. It is therefore necessary to provide for the possibility of increasing the Union financial assistance laid down in Article 52(1) of Regulation (EU) 2021/2115 from 50% to 70% of the actual expenditure incurred, under certain conditions.

(30) In order to support the setting-up of types of intervention in the other sectors referred to in Article 42, point (f), of Regulation (EU) 2021/2115, Member States should be allowed, as of 2025, further flexibility to adjust the allocation of funds to these sectors by using up to 6 % of their allocations for direct payment.

(31) Regulation (EU) 2021/2115 should therefore be amended accordingly,

(32) With a view to ensuring that Union resources from the agricultural reserve can be made available to the Member States in order to support collective actions by private operators in periods of severe market imbalance, the possibility to use the agricultural reserve should be extended to the support of collective actions when the Commission decides that competition rules do not apply to those actions.

(33) Article 16 of Regulation (EU) 2021/2116 of the European Parliament and of the Council[9] should therefore be amended accordingly.

(34) In order to give the market operators the necessary time to adapt and to allow the Commission to assess existing national schemes and practices, the application of the rules relating to the reservation of the optional terms 'fair', 'equitable' and ~~their~~**terms having an** equivalent ~~terms~~**meaning**, and the term 'short supply chains', should be deferred by 2 years after the entry into force of this Regulation. Additionally, in order for operators to adapt their contractual relations to the new rules on written contracts, the application of those rules should be deferred by 18 months after its entry into force.

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[9] Regulation (EU) 2021/2116 of the European Parliament and of the Council of 2 December 2021 on the financing, management and monitoring of the common agricultural policy and repealing Regulation (EU) No 1306/2013, (OJ L 435, 6.12.2021, p. 187, ELI: http://data.europa.eu/eli/reg/2021/2116/oj).

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1308/2013

Regulation (EU) No 1308/2013 is amended as follows:

(1) In Part II, Title II, Chapter I, Section 1, the following subsection is inserted after Subsection 3:

‘Subsection 3a

Use of optional terms for products in all sectors listed in Article 1(2)

Article 88a

Optional terms for commercial modalities

1. The terms ‘fair’, ‘equitable’ or terms **having an** equivalent **meaning to those**~~to these~~ terms may be used ~~only~~, alone or in combination with other terms, on the labelling, in the presentation, on advertising material or on commercial documents of a product of the sectors listed in Article 1(2) that is placed on the market, ~~provided that these~~**only if those** terms are used to inform purchasers about existing modalities for the organisation of production, distribution, or placing on the market, which ~~contribute~~ **aim to ensure** at least ~~to~~:

   (a) stability and transparency in the relations of farmers with purchasers along the supply chain,

   (b) a price considered equitable by participating farmers for their products, and

   (c) **the implementation of** collective initiatives pursuing one or several of the United Nations Sustainable Development Goals.

PUBLIC

2. The term ‘short supply chain’ may be used ~~only~~, alone or in combination with other terms, on the labelling, in the presentation, on advertising material or on commercial documents of a product of the sectors listed in Article 1(2) that is placed on the market, ~~provided that~~**only if** the term is used to inform purchasers about existing modalities for the organisation of production, distribution, or placing on the market, which ~~provide for~~**ensure**:

   (a) a direct connection between the farmer and the final consumer of the product, or

   (b) a close connection ~~and geographical proximity~~ between the farmer and the final consumer of the product**, with a limited number of intermediaries, and geographical proximity between the farmer, the intermediaries and the final consumer of the product**.

3. The Commission may adopt implementing acts to specify further the conditions referred to in paragraph 1, points (a), (b) and (c), and in paragraph 2, points (a) and (b), taking into account any relevant international standard.

   Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).

4. The Commission is empowered to adopt delegated acts in accordance with Article 227, amending paragraph 1 to add terms that are equivalent to the terms ‘fair’ or ‘equitable’, when such equivalent terms are used on the market to inform purchasers about the commercial modalities referred to in paragraph 1.

5. Member States may adopt or maintain national rules laying down conditions additional to those referred to in paragraph 1, points (a), (b) and (c) and in paragraph 2, points (a) and (b), for the use of the terms referred to in paragraphs 1 and 2 respectively. Such rules shall not prohibit, restrict or impede the use of the terms referred to in paragraphs 1 and 2 for products that are legally produced or marketed in another Member State under the terms referred to in paragraphs 1 and 2.

6. This Article shall be without prejudice to the rules laid down in Regulation (EU) No 1169/2011.’;

PUBLIC

(2) Article 148 is replaced by the following:

‘Article 148

Contractual relations in the milk and milk products sector

1. Every delivery in the Union of milk and milk products by a farmer, **including a farmers' association, or** a producer organisation or an association of producer organisations, to a processor, collector, distributor or retailer shall be covered by a written contract between the parties.

   Such contract shall fulfil the conditions laid down in paragraphs 4 and 8.

   For the purposes of this Article, a "collector" means an undertaking that transports raw milk from a farmer or another collector to a processor of raw milk or another collector, where the ownership of the raw milk is transferred in each case.

2. Member States may also decide that:

   a) the delivery of milk and milk products by ~~a producer other than a farmer, a producer organisation or an association of producer organisations to a~~**processors that are not covered by paragraph 1 to another** processor, collector, distributor or retailer shall be covered by a written contract;

   b) the first purchasers of milk and milk products shall make a written offer for a contract for the delivery of milk and milk products by the farmer, **including a farmers' association, or** a producer organisation or an association of producer organisations.

   Such a contract or offer for a contract shall fulfil the conditions laid down in paragraphs 4 and 8.

PUBLIC

3. Member States shall ~~establish a~~**ensure that** mediation ~~mechanism to cover~~**mechanisms are available in** cases in which~~ there is~~ no mutual agreement **has been reached with a view to negotiating a mutually acceptable solution on concluding**~~to conclude~~ a contract referred to in paragraphs 1 and 2 or ~~to revise~~**revising** such a contract.

Member States shall inform the Commission of the mediation mechanisms ~~established~~**available** in their territory.

4. The contract or the offer for a contract referred to in paragraphs 1 and 2 shall:

(a) be made in advance of the delivery,

(b) be made in writing, and

(c) include, in particular, the following elements:

(i) the price payable for the delivery, which shall:

- be static and set out in the contract; or

- be calculated by combining various factors set out in the contract, which shall include objective indicators, indices or methods of calculation of the final price, that are easily accessible and comprehensible and that reflect changes in market conditions and production costs, the quantities delivered and the quality or composition of the milk and milk products delivered. To that effect, Member States may determine indicators, in accordance with objective criteria based on studies carried out on production and the food supply chain. The parties to the contracts shall be free to refer to these indicators or any other indicators;

(ii) the volume of raw milk or the quality and quantity of milk or milk products to be delivered, and the timing of such deliveries;

PUBLIC

(iii) the duration of the contract, which may include a definite duration or an indefinite duration with a termination clause. In the case of a contract with a minimum duration longer than six months, the contract shall include a revision clause that may be triggered by the farmer, **including a farmers' association, or** a producer organisation or an association of producer organisations;

(iv) details regarding payment periods and procedures;

(v) arrangements for collecting or delivering milk or milk products; and

(vi) rules applicable in the event of force majeure.

5. By way of derogation from paragraphs 1 and 2, a written contract or a written offer for a contract shall not be required in the following cases:

(a) the milk or the milk products concerned are delivered by a member of a producer organisation or cooperative to the producer organisation or cooperative of which it is a member provided that the statutes of that producer organisation or cooperative or the rules and decisions provided for in, or derived from, these statutes contain provisions having similar effects to the provisions set out in paragraph 4;

~~(b) the first purchaser of milk or milk products is a micro or small-sized enterprise within the meaning of Recommendation 2003/361/EC[10];~~

(c) the ~~delivery~~**conclusion of the contract** and the payment for the milk or milk products take place ~~simultaneously~~**at the time of delivery**;

(d) the delivery is made for free or in the context of the disposal of milk or milk products which are no longer fit for sale.

PUBLIC

6. Member States may decide that a written contract or a written offer shall not be required in one or more of the following cases:

(-a) the first purchaser of milk or milk products is a micro or small-sized enterprise within the meaning of Recommendation 2003/361/EC[10];

(a) the **contract concerns a** delivery ~~concerns~~**or deliveries of volumes of raw milk or the quality and quantities of milk or milk** products of a value equal to or below a threshold to be determined by the Member State, which shall not exceed EUR 10 000;

(b) the delivery concerns milk and milk products that are subject to seasonal supply or demand fluctuations or perishability;

(c) the delivery concerns milk and milk products that are subject to traditional or customary selling practices.

7. Where pursuant to paragraph 5, points ~~(b),~~ (c) and (d), or paragraph 6, a written contract or a written offer for a contract is not required, a farmer, **including a farmers' association, or** a producer organisation, or an association of producer organisations may require that a delivery of milk or milk products be the subject of a written contract or of a written offer for a contract. Such a contract or offer for a contract shall fulfil the conditions laid down in paragraph 4 and paragraph 8, first subparagraph.

8. All elements of contracts for the delivery of milk or milk products concluded between farmers, **including farmers' associations, or** producer organisations or associations of producer organisations and collectors, processors, distributors or retailers, including the elements and their components referred to in paragraph 4, point (c), shall be freely negotiated between the parties.

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10 Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, (OJ L 124, 20.5.2003, p.36, http://data.europa.eu/eli/reco/2003/361/oj).

Member States may establish one or more of the following:

(a) in respect of the written contracts referred to in paragraph 1 of this Article:

(i) an obligation for the parties to agree on a relationship between a given quantity of milk or milk products delivered and the price payable for that delivery;

(ii) a minimum duration which shall be at least six months and shall not impair the proper functioning of the internal market;

(b) in respect of the written offers referred to in paragraph 2, point (b), an obligation that the written offer shall include a minimum duration for the contract, set by national law. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market.

Farmers, **including farmers' associations, or** producer organisations or associations of producer organisations may refuse in writing the minimum duration imposed pursuant to the second sub-paragraph.

9. Member States may require the purchaser of milk or milk products to register the written contracts referred to in paragraph 1 prior to the delivery of the milk or milk products concerned by the farmer, **including a farmers' association, or** a producer organisation or an association of producer organisations to a collector, processor, distributor or retailer in their territory.

10. Member States that make use of the options referred to in paragraphs 2, 6, 8 and 9 shall notify the Commission of how they are applied.

11. The Commission may adopt implementing acts laying down measures necessary for the uniform application of paragraphs 4 and 5 and measures relating to notifications to be made by the Member States in accordance with paragraph 10. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).';

PUBLIC

(3) Article 152 is amended as follows:

(a) paragraph 1 is amended as follows:

(i) point (a) is replaced by the following:

‘(a) are constituted by producers in one or several sectors listed in Article 1(2) or by producers of organic products in one or several sectors listed in Article 1(2), and are controlled by farmer members, in accordance with Article 153(2), point (c);’;

(ii) in point (b), the introductory sentence is replaced by the following:

‘(b) are formed on the initiative of farmers and carry out at least one of the following activities:’;

(iii) point (c)(vi) is replaced by the following:

‘(vi) promoting and providing technical assistance for the use of production standards, improving product quality and developing products with a protected designation of origin, with a protected geographical indication or covered by a national quality label, carrying out initiatives promoting short supply chains or the use of the optional terms referred to in Article 88a;’;

(b) in paragraph 1a, the first subparagraph is replaced by the following:

‘1a. By way of derogation from Article 101(1) TFEU, a producer organisation recognised under paragraph 1 of this Article, or a producer organisation, including a cooperative, that has not been recognised as a producer organisation by a Member State, but meets the requirements set out in paragraph 1 of this Article and of Article 154, **or, if applicable, of Article 160 or Article 161,** may plan production, optimise the production costs, place on the market and negotiate contracts for the supply of agricultural products, on behalf of its members for all or part of their total production. **A Member State may require that a producer organisation that is not recognised in accordance with Article 154 shall declare to the competent national authority that it fulfils the requirements laid down in paragraph 1 of this Article and of Article 154, or, if applicable, of Article 160 or Article 161, for the purpose of benefitting from the derogation contained in this paragraph.’**;

PUBLIC

(c) in paragraph 1b, the following second subparagraph is inserted:

'By way of derogation from paragraph 1a ~~and the first subparagraph~~, an association of producer organisations recognised under Article 156(1) **whose members comply with the conditions of paragraph 1a, second subparagraph, points (a) and (b),** may also carry out the activities referred to in paragraph 1a, first subparagraph, provided that:

(a) its members have been recognised in accordance with paragraph 1 of this Article,

(b) its members are not members of another recognised association of producer organisations ~~for any given product~~**as regards the products covered by the activities referred to in the first subparagraph of paragraph 1a**,

~~(c) its members comply with the conditions of paragraph 1a, second subparagraph, points (a) and (b),~~

(d) the volume of ~~products~~**the product** covered by the activities referred to in the first subparagraph of paragraph 1a does not exceed 33% of the total national production of ~~any given~~**that product in the** Member State **concerned**.';

(4) Article 153 is amended as follows:

(a) in paragraph 2, point (c) is replaced by the following:

'(c) rules enabling the farmer members to scrutinise democratically their organisation and its decisions as well as its accounts and budgets;';

(b) paragraph 2a is replaced by the following:

'2a. The statutes of a producer organisation may provide for the possibility of members being in direct contact with purchasers, provided that such direct contact does not jeopardise the objectives pursued by the producer organisation, ~~or~~**including** the concentration of supply and placing of products on the market by the producer organisation. Concentration of supply shall be deemed to have been ensured if the essential elements of the sales such as price, quality and volume are negotiated and determined by the producer organisation.';

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(c) paragraph 3 is replaced by the following:

'3. Paragraphs 1 and 2 shall not apply to producer organisations in the milk and milk products sector.';

(5) in Article 157(1), point (c), the following point is added:

'(xvii) promoting the use of the optional terms referred to in Article 88a.';

(6) Article 168 is replaced by the following:

'Article 168

Contractual relations

1. Every delivery in the Union of agricultural products from a sector listed in Article 1(2), other than milk and milk products and sugar, by a farmer, **including a farmers' association, or** a producer organisation or an association of producer organisations to a processor, distributor or retailer, shall be covered by a written contract between the parties.

Such contract shall fulfil the conditions laid down in paragraphs 4 and 8.

2. Member States may also decide that:

(a) the delivery of agricultural products by ~~a producer other than a farmer, a producer organisation or an association of producer organisations to a~~**processors that are not covered by paragraph 1 to another** processor, distributor or retailer shall be covered by a written contract,

(b) the first purchaser of the agricultural product shall make a written offer for a contract for the delivery of agricultural products by the farmer, **including a farmers' association, or** a producer organisation or an associations of producer organisations.

Such a contract or offer for a contract shall fulfil the conditions laid down in paragraphs 4 and 8.

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3. Member States shall ~~establish a~~**ensure that** mediation ~~mechanism to cover~~**mechanisms are available in** cases in which ~~there is~~ no **mutual** agreement **has been reached with a view to negotiating a mutually acceptable solution on concluding**~~to conclude such~~ a contract referred to in paragraphs 1 and 2 or ~~to revise~~**revising** such a contract.

Member States shall inform the Commission about the mediation mechanisms ~~established~~**available** in their territory.

4. The contract or the offer for a contract referred to in paragraphs 1 and 2 shall:

(a) be made in advance of the delivery,

(b) be made in writing, and

(c) include, in particular, the following elements:

(i) the price payable for the delivery, which shall:

- be static and set out in the contract or

- be calculated by combining various factors set out in the contract, which shall include objective indicators, indices or methods of calculation of the final price, that are easily accessible and comprehensible and that reflect changes in market conditions and production costs, the quantities delivered and the quality or composition of the agricultural products delivered; to that effect, Member States may determine indicators, in accordance with objective criteria based on studies carried out on production and the food supply chain. The parties to the contracts shall be free to refer to these indicators or any other indicators which they deem relevant.

(ii) the quantity and quality of the agricultural products concerned which may or must be delivered and the timing of such deliveries,

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(iii) the duration of the contract, which may include either a definite duration or an indefinite duration with a termination clause. In the case of contracts with a minimum duration longer than six months, the contract shall also include a revision clause that may be triggered~~, in particular,~~ by the farmer, **including a farmers' association, or** a producer organisation or an association of producer organisations;

(iv) details regarding payment periods and procedures,

(v) arrangements for collecting or delivering the agricultural products,

(vi) rules applicable in the event of force majeure.

5. By way of derogation from paragraphs 1 and 2, a written contract or a written offer for a contract shall not be required in the following cases:

(a) The agricultural products concerned are delivered by a member of a producer organisation or cooperative to the producer organisation or cooperative of which they are a member provided that the statutes of that producer organisation or cooperative or the rules and decisions provided for in, or derived from, these statutes contain provisions having similar effects to the provisions set out in ~~points (a), (b) and (c) of~~ paragraph 4;

~~(b) the first purchaser of the agricultural products concerned is a micro or small-sized enterprise within the meaning of Recommendation 2003/361/EC;~~

(c) the ~~delivery and~~**conclusion of the contract and the** payment ~~of~~**for** the agricultural products ~~concerned~~ take place ~~simultaneously~~**at the time of delivery**;

(d) the delivery is made for free or in the context of the disposal of products which are no longer fit for sale.

6. Member States may decide that a written contract or a written offer shall not be required in one or more of the following cases:

(-a) the first purchaser of agricultural products is a micro or small-sized enterprise within the meaning of Recommendation 2003/361/EC;

(a) the **contract concerns a** delivery ~~concerns~~**or deliveries of** products of a value equal to or below a certain threshold of value to be determined by the Member State, and which shall not exceed EUR 10 000;

(b) the delivery concerns agricultural products that are subject to seasonal supply or demand fluctuations or perishability;

(c) the delivery concerns agricultural products that are subject to traditional or customary selling practices.

7. Where pursuant to paragraph 5, points ~~(b),~~ (c) and (d), or paragraph 6, a written contract or a written offer for a contract is not required, a farmer, **including a farmers' association, or** a producer organisation or an association of producer organisations, may require that any delivery of agricultural products to a processor, distributor or retailer be the subject of a written contract between the parties or of a written offer for a contract. Such a contract or offer for a contract shall fulfil the conditions laid down in paragraph 4 and paragraph 8, first subparagraph.

8. All elements of contracts for the delivery of agricultural products concluded between farmers, **including farmers' associations, or** producer organisations or association of producer organisations, and processors, distributors, or retailers including those elements and their components referred to in paragraph 4, point (c), shall be freely negotiated between the parties.

Member States may establish one or more of the following:

(a) in respect of the written contracts referred to in paragraph 1 of this Article, a Member State may establish:

(i) an obligation for the parties to agree on a relationship between the given quantity of agricultural products delivered and the price payable for that delivery;

(ii) a minimum duration, which shall be at least six months and shall not impair the proper functioning of the internal market;

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(b) in respect of the written offers referred to in point (b) of paragraph 2, an obligation that the written offer shall 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.

Farmers, **including farmers' associations, or** producer organisations or associations of producer organisations may refuse in writing the minimum duration imposed pursuant to the second sub-paragraph.

9. Member States may require the purchaser of agricultural products to register the written contracts referred to in paragraph 1 prior to the delivery of the agricultural products concerned by the farmer, **including a farmers' association, or** a producer organisation, or an association of producer organisations to a processor, distributor or retailer in their territory.

10. Member States that make use of the options referred to in paragraphs 2, 6, 8 and 9 shall notify the Commission of how they are applied.

11. The Commission may adopt implementing acts laying down measures necessary for the uniform application of paragraphs 4 and 5 and measures relating to notifications to be made by the Member States in accordance with paragraph 10. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).';

(7) Article 210a is amended as follows:

(a) in paragraph 3, the following points are added:

'(d) supporting the economic viability of small farms predominantly relying on family labour with a standard output as defined in Article 2, point (8), of Council Regulation (EC) No 1217/2009[11] that shall not exceed 100 000 EUR;

(e) attracting and supporting young producers of agricultural products; or

(f) improving working and safety conditions in agricultural or processing activities.';

[11] Council Regulation (EC) No 1217/2009 of 30 November 2009 setting up the Farm Sustainability Data Network (OJ L 328 15.12.2009, p. 27, ELI: http://data.europa.eu/eli/reg/2009/1217/oj).

(b) paragraph 6 is replaced by the following:

‘From 8 December 2023, producers as referred to in paragraph 1 may request an opinion from the Commission concerning the compatibility of agreements, decisions and concerted practices as referred to in paragraph 1 with regard to the implementation of sustainability standards aiming to contribute to one or more of the objectives laid down in paragraph 3, points (a), (b) and (c), with this Article.

From [entry into force +2 years], producers as referred to in paragraph 1 may request an opinion from the Commission concerning the compatibility of agreements, decisions and concerted practices as referred to in paragraph 1 with regard to the implementation of sustainability standards aiming to contribute to one or more of the objectives laid down in paragraph 3, points (d), (e) and (f), with this Article.

The Commission shall send the applicant its opinion within four months of receipt of a complete request.

If the Commission finds at any time after issuing an opinion that the conditions referred to in paragraphs 1, 3 and 7 of this Article are no longer met, it shall declare that Article 101(1) TFEU shall apply in the future to the agreement, decision or concerted practice in question and inform the producers accordingly.

The Commission may change the content of an opinion at its own initiative or at the request of a Member State, in particular if the applicant has provided inaccurate information or misused the opinion.’;

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(8) in Article 222, paragraph 1 is replaced by the following:

‘1. During periods of severe imbalance in markets, the Commission may adopt implementing acts to the effect that Article 101(1) TFEU is not to apply to agreements and decisions of farmers, farmers' associations, or associations of such associations, or recognised producer organisations, associations of recognised producer organisations and recognised interbranch organisations in any of the sectors referred to in Article 1(2) of this Regulation, provided that such agreements and decisions do not undermine the proper functioning of the internal market, strictly aim to stabilise the sector concerned and fall under one or more of the following categories:

(a) market withdrawal or free distribution of their products;

(b) transformation and processing;

(c) storage by private operators;

(d) joint promotion measures;

(e) agreements on quality requirements;

(f) joint purchasing of inputs necessary to combat the spread of pests and diseases in animals and plants in the Union or of inputs necessary to address the effects of natural disasters in the Union;

(g) temporary planning of production taking into account the specific nature of the production cycle;

Where the Commission adopts implementing acts in accordance with the first subparagraph of this Article, it may decide to make Union support from the agricultural reserve referred to in Article 16 of Regulation (EU) 2021/2116 available to the Member States concerned. Such financial support shall provide the means necessary for the implementation of these agreements and decisions by the operators concerned.

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The Commission shall specify in implementing acts the scope of the derogation of the first subparagraph, subject to paragraph 3 of this Article, the period for which the derogation applies, and, where applicable, the amount of the agricultural reserve allocated to the Member State concerned under the second subparagraph.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 229(2).';

(9) Annex X is amended as follows:

(a) in Point I, point 1 is replaced by the following:

'1. Delivery contracts shall be made in advance of the delivery, in writing for a specified quantity of beet.';

(b) in Point I, point 2 is replaced by the following:

'2. The duration of the delivery contracts may be pluriannual. In the case of contracts with a minimum duration longer than six months, the contract shall include a revision clause that may be triggered by the farmer, **including a farmers' association, or** a producer organisation or an association of producer organisations.';

(c) in Point II, point 2, the following paragraph is added:

'The price shall be calculated by combining various factors set out in the contract, which shall include objective indicators, indices or methods of calculation of the final price, that are easily accessible and comprehensible and that reflect changes in market conditions and production costs, the quantities delivered and the quality or composition of sugar beet delivered. To that effect, Member States may determine indicators, in accordance with objective criteria based on studies carried out on production and the food supply chain. The parties to the contracts are free to refer to these indicators or any other indicators which they deem relevant.';

(d) in Point III, the following paragraph is added:

'Delivery contracts shall contain rules applicable in the event of force majeure.';

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(e) the following Point IXa is inserted:

‘POINT IXa

‘Member States may require the sugar undertaking to register the written delivery contracts prior to the delivery of the sugar beet.’.

Article 2

Amendments to Regulation (EU) 2021/2115

Regulation (EU) 2021/2115 is amended as follows:

(1) Article 52 is amended as follows:

(a) in paragraph 3, the following point (i) is added:

‘(i) the producer organisation or association of producer organisations implements an operational programme in a Member State in which the degree of organisation of producers in the fruit and vegetables sector has been less than 10 % for three consecutive years preceding the implementation of the operational programme. The degree of organisation shall be calculated as the value of fruit and vegetable production that was obtained in the Member State concerned and marketed by producer organisations or associations of producer organisations recognised under Regulation (EU) No 1308/2013, divided by the total value of the fruit and vegetable production that was obtained in that Member State.’;

(b) the following paragraph 5a is inserted:

‘5a. The 50 % limit provided for in paragraph 1 shall be increased to 60 % for expenditure linked to the objectives referred to in Article 46, points (a), (b) or (c), if the following conditions are fulfilled:

(a) the expenditure is related to investments in tangible and intangible assets as referred to in Article 47(1), point (a), made by young farmers or new farmers, who join a producer organisation recognised under Regulation (EU) No 1308/2013 for the first time;

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(b) the investments referred to in point (a) are made at the premises of these young farmers or new farmers as part of their first operational programme.';

(c) the following paragraph 7 is added:

'7. The 50 % limit provided for in paragraph 1 shall be increased to 70 % of the actual expenditure incurred in a given year for operational programmes implemented by producer organisations or associations of producer organisations and affected in this given year by adverse climatic events, natural disasters, plant diseases or pest infestations to be identified by the Member States.';

(2) in Article 68, the following paragraph 2a is inserted:

'2a. Article 52(3), points (a) to (d) and (f) to (h), and Article 52(5a) of this Regulation shall apply mutatis mutandis.';

(3) in Article 88, paragraph 7 is replaced by the following:

'7. As of 2025, Member States may review their decisions referred to in paragraph 6 as part of a request for amendment of their CAP Strategic Plans made in accordance with Article 119 and decide to use up to 6 % of their allocations for direct payments set out in Annex V, where relevant after deduction of the allocations for cotton set in Annex VIII, for types of intervention in other sectors referred to in Title III, Chapter III, Section 7.

The amount corresponding to the percentage of Member States' allocations for direct payments referred to in the first subparagraph of this paragraph and used for types of intervention in other sectors for a certain financial year shall be considered to be Member States' allocations per financial year for types of intervention in other sectors.'.

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Article 3

Amendment of Regulation (EU) 2021/2116

In Article 16(1), second subparagraph, of Regulation (EU) 2021/2116, point (b) is replaced by the following:

‘(b) exceptional measures under Articles 219, 220, 221 and 222 of Regulation (EU) No 1308/2013.’.

Article 4

Entry into force and application

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 1, point (1), shall apply from [**entry into force** +2 years].

Article 1, points (2) and (6), shall apply from [**entry into force** +18 months].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

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