



**COUNCIL OF THE
THE EUROPEAN UNION**

**Brussels, 24 February 2012 (27.02)
(OR. en,fr)**

**Interinstitutional File:
2010/0362 (COD)**

**6726/12
ADD 1 REV 2**

**CODEC 436
AGRI 95
AGRIORG 35
OC 75**

REVISED ADDENDUM TO THE "I/A" ITEM NOTE

from : General Secretariat of the Council
to : COREPER/COUNCIL

No. Cion prop.: 17582/10 AGRI 538 AGRIORG 64 CODEC 1508

Subject : 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 (**first reading**)
– Adoption of the legislative act (**LA + S**)
= Statements
COMMON GUIDELINES
Consultation deadline: 27.2.2012

Council declaration

The Council declares that the choice made in this Regulation not to use the option provided for in point (b) of the second subparagraph of Article 5(4) of Regulation (EU) No 182/2011 is without prejudice to any future position to be taken on a case-by-case basis as regards other legislative acts, notably in the agricultural field, since the said point (b) allows the legislator to decide, in each basic act that it is called to adopt, whether it is appropriate to provide that draft implementing acts may not be adopted by the Commission where no opinion is delivered by the competent committee.

Commission declaration

The Commission declares that:

1. as regards Article 126c(6), in order to prevent competition being excluded or in order to avoid seriously damaging SME processors of raw milk in its territory, the relevant competition authority may in an individual case decide either before or after the closing of a negotiation that the negotiation by the producer organisation should either be reopened or not take place at all.

2. it will inform the Member States concerned and seek their view when taking decisions on the incompatibility with Union competition rules as set out in the Regulation (EC) No 1234/2007 of the following activities in the milk and milk products sector:

- (a) whether certain agreements, decisions and concerted practices of interbranch organisations are incompatible with Union rules [ref. Article 177a];
- (b) whether the negotiations by a producer organisation relating to more than one Member State should not take place or be reopened [para 6 of Article 126c];
- (c) whether a Member State should repeal the rules laid down by that Member State which regulates the supply of such PDO/PGI cheese produced in the defined geographical area, in case rules are not in compliance with the required conditions or prevent or distort competition in a substantial part of the internal market, or jeopardises free trade or that the objectives of Article 39 of the TFEU are endangered [ref. para 8 of Article 126d];

3. as regards Article 126d on the supply management of PDO and PGI, the Commission would like to point out, that this is only allowed if there is a large representation of milk producers and cheese producers and under the condition that the rules shall not create discrimination, constitute a barrier for new entrants, or adversely affect small producers. [ref. para 2 and para 4 letter (h) of Article 126d]

Declaration by Ireland and the Netherlands

Neither Ireland nor the Netherlands can support the Proposal for a Regulation of the European Parliament and the Council amending Council Regulation (EC) No 1234/2007 as regards contractual relations in the milk and milk products sector, because it does not contain a measure to ensure a soft landing for dairy farmers in all Member States in the run up to the abolition of dairy quota in 2015. It is clear at this point that the ameliorating measures agreed in the context of the CAP Health check are insufficient in some Member States.

In the discussion on the dairy package proposal, Ireland and the Netherlands as well as other Member States have continued to emphasise the need to ensure a smooth transition to the new system in all Member States. This could be achieved through a variety of mechanisms, including quota expansion, or a change in the fat correction factors. As the proposed legislative package currently stands it is lacking such a measure and does little or nothing to improve the position of dairy farmers in our countries and for that reason Ireland and the Netherlands are not able to support the proposed regulation.

Declaration by Luxembourg

Luxembourg takes note of the adoption of the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1234/2007 as regards contractual relations in the milk and milk products sector. This Regulation reflects certain recommendations made by the High Level Expert Group on Milk, adopted in July 2010. One of the aims of these recommendations was to re-establish an equilibrium between the respective positions of producers and processors in the dairy sector. Luxembourg supported the conclusions of this High Level Group and welcomes their inclusion in this Regulation.

Moreover, Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation), amended following the CAP Health Check by Council Regulation (EC) No 72/2009 of 19 January 2009, provides in Article 184(6) that the Commission should present a report before 31 December 2010 and 31 December 2012 to the European Parliament and Council regarding the evolution of the market situation and the consequent conditions for smoothly phasing out the milk quota system, accompanied if necessary by appropriate proposals.

The Commission presented the first of these two reports on 8 December 2010.

Although the European Commission acknowledges in this report that the current state of the market does not guarantee a soft landing ahead of the abolition of the dairy quota system in all Member States in 2015, it does not make any suggestions for resolving this issue.

Luxembourg therefore expresses its disappointment that the Regulation on contractual relations in the milk and milk products sector does not include practical measures which would ensure a soft landing in all Member States.

Luxembourg asks the Commission to continue to analyse possible ways of adapting the current legislation in order to resolve this difficult situation for all the milk producers concerned, and to make appropriate and timely proposals.

Consequently, Luxembourg cannot support the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1234/2007 as regards contractual relations in the milk and milk products sector, and must regrettably vote against this proposal.
