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WORKING PAPER

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From:	General Secretariat of the Council
To:	Delegations
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Subject:	Regulation on common market organisation (CMO) of agricultural products - Presidency discussion paper on producer organisations

With a view to the meeting of the Working Party on Agricultural Products on 13 March 2020, delegations will find in Annex the Presidency discussion paper on producer organisations.

PRESIDENCY DISCUSSION PAPER ON PRODUCER ORGANISATIONS

The Proposal for an Amending Regulation¹ did not envisage amendments of CMO provisions on producer organisations (POs) and associations and interbranch organisations². The reason for such approach in the preparation of the amendments to the CMO was the relatively recent adoption of Regulation (EU) 2017/2393³ (Omnibus Regulation). However, during ongoing discussion on the CAP reform package some delegations took the opportunity to express their concerns and ideas on the provisions related to POs. Therefore, the Presidency is of the opinion that there is a need to reflect and exchange views on those issues, to consider the possible obstacles that could be tackled and to explore if there might be some additional solutions for improvement of the relevant provisions.

To help to steer the debate the Presidency would like to draw your attention to the following.

- I) Article 152(1) of Regulation (EU) No 1308/2013 provides that Member States may recognise POs which are constituted, controlled by and formed at the initiative of producers in a specific sector listed in Article 1(2) of the Regulation. The list of agricultural products in the specific sector is laid down in Annex I to the Regulation. For example, the pigmeat sector (Part XVII of Annex I) includes a wide list of products ranging from live animals to meat and processed products, such as dried or smoked meat (e.g. smoked ham). It implies that producers of smoked meat would be able to form a PO even if they were not producing live animals for processing into meat. Such interpretation would not be in line with the objective to strengthen the bargaining power of farmers in the food supply chain because meat processor would be a secondary link in that chain compared to a producer of live animals. Nevertheless, we should have in mind that producers of live animals should have the possibility to have processed products included in the sector because such extended coverage strengthens producers' position by getting more added value from the supply chain.

Question: Do Member states think that there is a need to clarify which producers should be granted the right to constitute and, even more importantly, control POs?

¹ Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatised wine products, (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union and (EU) No 229/2013 laying down specific measures for agriculture in favour of the smaller Aegean islands.

² Part II, Title II, Chapter III of Regulation (EU) 1308/2013 (CMO).

³ Regulation (EU) 2017/2393 of the European Parliament and of the Council of 13 December 2017 amending Regulations (EU) No 1305/2013 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD), (EU) No 1306/2013 on the financing, management and monitoring of the common agricultural policy, (EU) No 1307/2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy, (EU) No 1308/2013 establishing a common organisation of the markets in agricultural products and (EU) No 652/2014 laying down provisions for the management of expenditure relating to the food chain, animal health and animal welfare, and relating to plant health and plant reproductive material.

- II) Article 152(1)(c) of Regulation (EU) No 1308/2013 lists the objectives that can be pursued by POs and limits the possibility for POs to manage mutual funds to the funds managed by POs in the fruit and vegetable sector. However, the work on CAP Strategic Plans Regulation in the context of types of interventions in certain sectors opened up the possibility for setting up mutual funds by POs recognised under Regulation 1308/2013 in the following sectors: fruit and vegetables, hops, olive oil and table olives, and other sectors (set out in points (a) to (h), (k), (m), (o) to (t) and (w) of Article 1(2) of Regulation (EU) No 1308/2013 and sectors covering products listed in Annex [X] to the CAP Strategic Plan Regulation). Therefore, it is reasonable to consider if there is a need to harmonise those provisions.

Question: *Do Member states think that there is a need to extend provisions related to the management of mutual funds in fruit and vegetable sector to other sectors?*

- III) In accordance with Article 160 of Regulation (EU) No 1308/2013, POs in the fruit and vegetables sector shall require their producer members to market their entire production concerned through the PO. The main activity of a PO relates to the concentration of supply and the placing on the market of the products of its members. The placing on the market carried out by the PO includes, among others, the decision on the product to be sold, the way of selling and the negotiation of its quantity and price. Due to the trends in the market and increasing consumer demand for information on the food products, primary producers have become more visible to consumers. Consequently, retailers increasingly ask for the information about the producers in order to link that information with the product for sale. It brings new challenges to POs and raises question on how to get producers more involved without jeopardising the role of POs and undermining the objective of concentration of supply and placing on the market of the products. It should be noted that the Commission is empowered to adopt delegated acts concerning the derogations from the obligation to market the entire production through the PO (see Article 173(1)(b) of the CMO Regulation).

Question: *What type of marketing activities could a PO member perform, under the control of POs, without jeopardising the role of POs and undermining the principle of concentration of supply and joint placing on the market of products?*