

## **EMB – EUROPEAN MILK BOARD**

# **PROPOSAL FOR A BLOCK EXEMPTION REGULATION FOR MILK PRODUCERS**

### **EXECUTIVE SUMMARY**

#### **1. BACKGROUND**

The Common Agricultural Policy is one of the core policy areas of the European Union (EU). The Treaty on the Functioning of the EU (TFEU), the basic treaty renewed in 2009, states in Art. 39 (1): The objectives of the Common Agricultural Policy shall be [...] to ensure a fair standard of living for the agricultural community, in particular by raising the individual earnings of persons engaged in agriculture; to stabilise markets; to ensure the availability of supplies [...].

Disastrous sales revenues throughout Europe in 2008 and 2009 have created a situation that threatens the livelihood of the majority of dairy farmers in Europe. The current farm-gate price still fails to cover production costs. The same applies both to small and expanding farms – profit or even “raising individual earnings” is out of the question.

#### **2. CAUSES**

One of the causes of the price collapse is oversupply. The EU has a rate of self-sufficiency of milk that is in excess of 110%. This oversupply weakens the milk producers’ market position. The problem is exacerbated by the goods, raw milk, being highly perishable and produced continually (every day). The milk producers cannot vary the volume of their supply at short notice or store it to market it strategically.

Secondly, the present structure of the milk market and its players is not in the producers’ favour. The 950,000 milk producers in the EU (2009) are generally small and micro-enterprises. They barely appear in unison and act only on a regional basis. Opposite them there are some 5,400 dairies (Eurostat 2008:4). The ten biggest dairies process about 30% of milk produced (LEI Wageningen 2006:13). The cross-border transport of raw milk from producers to the dairy or between dairies within the EU is quite common. On top of that the current configuration of milk supply contracts gives the raw milk producers hardly any opportunity to exert direct influence on the milk price, and as they are long term they make it harder for flexible market behaviour.

### 3. POSSIBLE SOLUTIONS

The German Federal Cartel Office is currently studying the milk market, and in its Interim Report of December 2009 stated that the milk producers in Germany were at a disadvantage vis-à-vis the dairies. The report proposes strengthening the producers' position by greater pooling. The Market Structure Act has been in force in Germany since 1969; it enables the position of the producers to be strengthened in conformity with cartel legislation by the formation of Milk Producer Organisations (MPOs). It is upon this basis that the MEG Milch Board w.V. was established in 2007, enabling producers to unite for the first time on a nationwide basis with the aim of co-determining marketing rules.

Under current EU competition legislation, European MPOs are limited to a 5% or 15% market share. The High Level Group Milk regards this as inadequate. At its meeting on 16 March 2010, the majority of the member states voted in a tour-de-table in favour of a specific exception under cartel legislation for milk sector producers. This demand was also included in the Final Report of 15 June 2010 (2<sup>nd</sup> Recommendation).

The block exemption regulation provides the ideal legal basis for creating a specific exception from EU competition legislation for horizontal collaboration by milk producers with the possibility of configuring common marketing rules. Such legal exceptions were frequently granted in the past for medium-sized enterprises. As the majority of European milk producers are farms usually run exclusively by family members, they are to be classified as small and medium-sized enterprises (SMEs) as defined in European law. For them, horizontal co-operation represents a major means of adapting to the changing market conditions.

### 4. SUMMARY

Owing to its structural specificities, the farming sector in general and associations of agricultural producers in particular enjoy special privileges with regard to EU rules on competition. However, the on-going crisis in the dairy sector shows that the existing framework is still inadequate for the milk producers.

To balance out the marketing disadvantages with raw milk and to ensure future undistorted competition between milk producers and dairies, a block exemption regulation for milk producers is a suitable measure. With common marketing rules (e.g. regarding recommended price, quality or volume) within an EU milk producers' organisation, milk producers can prevent being played off against one another by large dairy companies. As before, EU legislation on competition will prevent misuse of a dominant market position.

A block exemption regulation for EU milk producer organisations enables intelligent market regulation by the parties involved themselves. It incurs no additional cost either, and renders the politicians' financial emergency schemes superfluous.

*We would be pleased to send you the entire text of the Proposal of a Block Exemption Regulation for Milk Producers. Please do not hesitate to contact our office.*