Reform of the Common Agricultural Policy

Taking responsibility for the market, society and cohesion in the EU

Concept paper of the European Milk Board

Important elements for reform of the agricultural & dairy sector

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European Milk Board

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I) Introduction

The aim of the new Common Agricultural Policy (CAP) must be to initiate a turnaround in the agricultural sector in order to achieve stable, safe and fair food production in the EU. This requires important reforms that address both the market and market participants. The unequal distribution of margins in the value chain and the sector's dependence on taxpayer money must end. Agriculture must be transformed into a balanced sector with profitable farm-level production.

Farmers are leaving the sector in droves: Between 2005 and 2020, the number of farms in the EU fell by 4.6 million to just 9.1 million farms (DG Agriculture). The reason for this is the great inequality in the value chain, which leads to unprofitable and loss-making food production at producer level. As a result, young people do not see any possibility to enter the profession. Which is why only every tenth EU farmer is under the age of 44 years (2020).

It is simple and it is devastating for EU food production: Agricultural producers are constantly receiving prices that are far below production costs – while other players in the chain are making good profits. The position of producers on the market is not strong enough – the market is working against them. Their weak position vis-à-vis processors does not allow them to claim their production costs. Farmers have no real contractual freedom and bargaining power. Even the possibility of producer pooling or the highly piecemeal articles of the CMO regulation on contracts have not changed this situation. In addition, there are constant crises, especially in the dairy sector, which aggravate the already precarious financial situation even further and increase the number of dropouts.

The agricultural sector lacks a regulatory framework that can address these major shortcomings. In this concept paper, the European Milk Board puts forth reforms that can provide EU agriculture with this necessary framework. **In addition to the explanations regarding individual reforms, this paper also contains concrete proposals for legislative articles that should be included, for example, in the CAP/ CMO.**

The ABCs of the CAP reform

A. Adjustment of the Milk Market Observatory (MMO)

More than 10 years ago, the creation of the Milk Market Observatory (MMO) in the EU fostered the hope that, in addition to greater transparency, it would lead to an instrument to actively combat crises on the basis of more knowledge and information. A decade later, these hopes have not (yet) materialised and so it is now up to the new CAP reform to finally set the course. In addition to more and better transparency along the entire value chain, there is also the need for significant improvement when it comes to *crisis management and market stabilisation*.

The past few years have clearly shown that the market is not stabilizing itself! An adjustment of production to demand is necessary in times of crisis in order to maintain stable milk

production in Europe. This market-driven production would also eliminate the need for EU subsidies and millions in emergency aid for recurring milk crises. Although the first steps with regard to a crisis instrument have been taken in the last CAP reform – Article 219 of the CMO mentions the instrument of voluntary production reduction – important additions and extensions still have to be made for this instrument to actually work. See pages 4 ff. on concrete reform proposals for this instrument.

The following keywords must be mentioned at this point:

- **automation of the instrument**, so that it is automatically triggered in the event of an emerging overproduction crisis,
- **capping**, i.e. avoiding overproduction, for producers who do not participate in the voluntary production reduction scheme while the programme is running,
- the possibility of activating **mandatory production reduction** in the event of very serious crises.

In addition, it should be noted that any crisis measures that Member States may use within the framework of the national strategic plans are far from sufficient. EU-wide provisions are important, because the common market also requires a common framework. These should be EU instruments that apply to all Member States and thus have the necessary EU-wide effect on the dairy market.

B. Cost-covering prices through EU legislation "Prices above costs"

Farmers must be able to rely on cost-covering producer prices. This is also important with regard to climate-related financial losses in agriculture, which are increasingly expected in the future. Producer prices that at least cover production costs are the essential prerequisite for any strategies pursued in the EU agricultural sector. Ecological sustainability is impossible without social and economic sustainability, the **Green Deal and the Farm to Fork strategy are doomed to fail without cost-covering or profitable prices for producers.**

The European Milk Board asbl also presents important reform proposals with regard to cost-covering producer prices: **EU legislation that makes it obligatory to pay prices that are higher than the invested production costs** would initiate the necessary turnaround in the agricultural sector and lay the foundation for economically and socially fair farming. See pages 10 ff. The discussion on this matter has already reached the EU institutions in connection with the Directive on unfair trade practices. It should continue under all circumstances and ultimately result in legal provisions that guarantee farmers a fair income.

C. Optimising EU contracting

Article 148 of the CMO deals with contracts in the agricultural sector. There is an urgent need for reform, especially in the following areas:

- Prices paid to producers must reflect full production costs,
- Additional services provided by producers must be financially compensated to at least cover costs,
- EU contractual clauses must refer to quantities and cost-covering prices before milk delivery,

- Cooperatives and their members must be equally covered by the contract legislation. The current exemption of cooperatives must end, as the unfair prices also affect cooperative members.

See a detailed reform proposal on pages 14 f.

D. Strengthening producer pooling

Although the CAP includes possibilities for producer pooling, they are not sufficient to positively change the situation of farmers. Therefore, on the one hand, **pooling thresholds must be increased, producer organisations must be actively promoted, and measures must be taken to motivate far more producers to join these organisations**. On the other hand, **it must also be possible for producers in cooperatives to be represented by producer organisations** in negotiations with their processor. See a detailed reform proposal on pages 16 ff.

E. Introducing mirror clauses in trade policy and removing agriculture from free trade agreements

As long as EU farmers comply with EU standards, e.g. in the social and environmental area, that do not apply to imported products, unfair competition will drive producers out of their own EU market. In addition, consumers in the European Union are confronted with products that fall short of important standards. **Strict mirror clauses for imports and reliable compliance monitoring are necessary to put an end to this imbalance.**
Due to its great importance, which has become particularly evident in recent years during economic and geopolitical crises**, EU agriculture should no longer be part of free trade agreements** as it is a strategically essential sector. See pages 20 f.

F. Public promotion and recognition of Fair Milk

Over the past few years, producers have traced the difficult political path and have developed important concepts, presented them to politicians, and constantly campaigned for essential improvements in the sector. They have also launched important projects on the market itself to ensure fair income and prospects for farmers. The Fair Milk project demonstrates on a daily basis that cost-covering prices, which include a fair income, can be paid to farmers. Even though Fair Milch projects already exist in countries such as France, Germany, Belgium, Luxembourg and Switzerland, they are not yet reaching enough consumers and producers. In addition, these projects are severely slowed down in some countries due to faulty regulations. Many more producers should benefit from the positive impact that Fair Milk has on the lives and incomes of farmers and the project should not face unnecessary legal obstacles. The EU and each of its Member States can actively contribute to this by recognising the value and important contribution of these projects when it comes to social fairness and by officially supporting them. **Public recognition and promotion of Fair Milk** at EU and national level could give an important boost to this market-oriented and sector-specific solution.

II) Necessary reforms of the CAP in detail

In order to stabilise milk production and agriculture in Europe in the long term and to take sufficient account of crises due to geopolitical reasons, framework conditions must be created at European level – in particular through (A) expansion and further development of the Milk Market Observatory and automation and extension of the voluntary production reduction scheme, (B) EU legislation requiring prices to be higher than production cost, (C) a reform of EU contracting, (D) expansion of the pooling in producer organisations with the inclusion of producers from cooperatives, (E) ensuring compliance with EU standards for imported products with mirror clauses and removing agriculture from free trade agreements, and (F) public recognition and promotion of Fair Milk projects.

In this chapter, Points A to F are explained in more detail as well as suitable proposals for reforming the CAP are made.

A. Expansion and further development of the Milk Market Observatory and automation and expansion of the voluntary production reduction scheme

The expansion and further development of the Milk Market Observatory (MMO) and the automation and expansion of the voluntary production reduction scheme are necessary for sustainable stabilisation of the crisis-prone milk market:

- **Inclusion of total production costs including producer income** on the basis of realistic cost calculations (e.g. BAL study to calculate production costs - based on FADN data and collective bargaining and wage standards for labour costs in the respective countries)
- Complementing the MMO data with a **clear definition of a market crisis** based on an indicator
- Extending the MMO to include a **crisis mechanism with an early-warning feature and automatic activation of appropriate crisis measures** (including voluntary production reduction, which was already successfully implemented in the 2016 EU volume reduction scheme and as set out in Article 219 of the CMO) in order to react immediately to market distortions. *See new article on Milk Market Observatory (and reduction programs) in CMO below.*

Proposed amendments in point A for the Common Market Organisation (CMO)

As part of the new CAP, it is recommended that the following article be included in the EU's Common Market Organisation.

Proposal for amendment: New Article - Milk Market Observatory

New article on Milk Market Observatory could, for example, be placed in the Common Market Organisation (Regulation (EU) No 1308/2013) in:

- *Part II, Title II, Chapter II, Section 3, Milk and milk products – around Articles 148 to 151;*
- *Part II, Title II, Chapter III, Section 2, Additional rules for specific sectors – around Articles 159 to 163.*

***New:* Article on Milk Market Observatory (in CMO)**

1. In order to ensure that the milk market is monitored and in balance, the European Commission should expand the competences of the existing Milk Market Observatory (MMO) to include the following elements:

    a. A market balance index, based on current development in product quotations, milk prices and production costs (margin). The index provides information on the current state of balance regarding the EU milk market. The state "balanced market" corresponds to a situation where supply and demand of raw milk meet at a level where producer prices cover total production costs.

    b. A crisis mechanism, which is activated when the index leaves the "balanced market" state. The crisis mechanism works as follows:

        i. The current market state deviates by -7.5 percent from the "balanced market" state:
            - The Milk Market Observatory proclaims an early warning phase, private storage is opened and/or incentive programmes are activated for a defined period of time.
            - This phase is maintained until the market returns to the "balanced" state or until a programme according to paragraph 1.b.ii or paragraph 1.b.iii is activated. This phase might also be maintained during the activation of a programme according to paragraph 1.b.ii or paragraph 1.b.iii, if deemed necessary.

        ii. The current market state deviates by -15 percent from the "balanced market" state:
            - The Milk Market Observatory proclaims that there is a crisis and launches the voluntary production reduction scheme:
                - It is a programme whereby the Commission financially compensates producers, who, during a defined period and on a voluntary basis, have reduced their production compared to the same period of the previous year (reference period).
                - Each producer who supplies a larger volume than during the reference period has to pay a market responsibility penalty according to the extent of their oversupply.

- The voluntary production reduction scheme is prolonged until the market returns to the "balanced" state, except in the case where the voluntary production reduction scheme is directly followed by the universal production reduction scheme according to paragraph 1.b.iii.

iii. The current market state deviates by -25 percent from the "balanced market" state:
- Milk Market Observatory launches the universal production reduction scheme:
  - It is a program where the supply of raw milk is reduced by a defined percentage during a set period of time compared to the same period of the previous year (reference period) for all producers.
  - A market responsibility penalty is applied to all producers who do not take part in the reduction programme.
  - This phase is maintained until the market returns to the "balanced" state.

c. The sources of funding of the crisis mechanism are the following:
- Public crisis fund
- The market responsibility penalties of the farmers increasing their production volumes during the voluntary production reduction scheme, according to paragraph 1.b.ii
- The market responsibility penalties of the producers who do not participate in the reduction programme according to paragraph 1.b.iii
- A possible producer contribution per kilogram of supplied milk that is paid during a defined period of the year in which the crisis takes place. An additional collection period can be set in case more financial resources are necessary.

2. In this context, the Commission shall be empowered to adopt delegated acts concerning:

a. The calculation of the market balance index as well as the determination of the "balanced market" state, i.e. the situation where supply and demand of raw milk meet at a level where producer prices cover total production costs. The calculation of costs must take into account all costs of milk production, including a fair income for producers.

b. The lengths of the following periods:
i. Early warning phase according to paragraph 1.b.i. and its possible extension(s)
ii. Voluntary reduction phase according to paragraph 1.b.ii and its possible extension(s)
iii. Universal reduction phase according to paragraph 1.b.iii and its possible extension(s)
iv. Phase of collection of the producer contribution according to paragraph 1.c.

c. The following elements of the voluntary production reduction scheme according to paragraph 1.b.ii:
i. Determining the maximum supply volumes to be reduced at EU level in the framework of the voluntary reduction scheme
ii. Determining the amount to be paid to producers for reducing their volumes as well as of the financial details
iii. Determining the amount of the market responsibility penalty to be paid by

producers who increase their supply during the reduction phase

iv. Determining the criteria producers need to fulfil in order to be eligible for the reduction bonus as well as of the criteria for approving submitted applications

v. Determining specific conditions for implementing the programme.

d. The following elements of the universal production reduction scheme according to paragraph 1.b.iii:

i. The percentage of the volume at EU level to be reduced during the universal reduction phase

ii. The amount of the market responsibility penalty to be paid by all producers who do not take part in the universal reduction programme.

e. The amount of the possible contribution by producers per kilogram of milk delivered, which can be used to finance the crisis mechanism, in accordance with paragraph 1.c.

Proposal for amendment to Article 219 CMO regarding production reduction

Market Organization

Part V, Chapter I, Section 1: Market disturbance – Article 219

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products ...	***EMB amendment proposal***
Section 1 **Market disturbance** *Article 219* **Measures against market disturbance**	Section 1 **Market disturbance** *Article 219* **Measures against market disturbance**
1. In order to react efficiently and effectively against threats of market disturbance caused by significant price rises or falls on internal or external markets or other events and circumstances significantly disturbing or threatening to disturb the market concerned, where that situation, or its effects on the market, is likely to continue or deteriorate, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to take the measures necessary to address that market situation, while respecting any obligations resulting from international agreements concluded in accordance with the TFEU and provided that any other measures available under this Regulation appear to be insufficient or not suitable.	1. In order to react efficiently and effectively against threats of market disturbance caused by significant price rises or falls on internal or external markets or other events and circumstances significantly disturbing or threatening to disturb the market concerned, where that situation, or its effects on the market, is likely to continue or deteriorate, the Commission shall be empowered to adopt delegated acts in accordance with Article 227 to take the measures necessary to address that market situation, while respecting any obligations resulting from international agreements concluded in accordance with the TFEU and provided that any other measures available under this Regulation appear to be insufficient or not suitable.
Where, in the cases of threats of market disturbances referred to in the first subparagraph of this paragraph, imperative grounds of urgency so require, the procedure provided for in Article 228 shall apply to delegated acts adopted pursuant to the first subparagraph of this paragraph.	Where, in the cases of threats of market disturbances referred to in the first subparagraph of this paragraph, imperative grounds of urgency so require, the procedure provided for in Article 228 shall apply to delegated acts adopted pursuant to the first subparagraph of this paragraph.
Those imperative grounds of urgency may include the need to take immediate action to address or prevent market disturbance, where threats of market disturbance occur so swiftly	Those imperative grounds of urgency may include the need to take immediate action to address or prevent market disturbance, where threats of market disturbance occur so swiftly

or unexpectedly that immediate action is necessary to efficiently and effectively address the situation, or where action would prevent such threats of market disturbance from materialising, continuing or turning into a more severe or prolonged disturbance, or where delaying immediate action would threaten to cause or aggravate the disturbance or would increase the extent of the measures which would later be necessary to address the threat or disturbance or would be detrimental to production or market conditions. Such measures may to the extent and for the time necessary to address the market disturbance or threat thereof extend or modify the scope, duration or other aspects of other measures provided for under this Regulation, adjust or suspend import duties in whole or in part including for certain quantities or periods as necessary, or take the form of a temporary voluntary production reduction scheme, in particular in cases of oversupply. (…)	or unexpectedly that immediate action is necessary to efficiently and effectively address the situation, or where action would prevent such threats of market disturbance from materialising, continuing or turning into a more severe or prolonged disturbance, or where delaying immediate action would threaten to cause or aggravate the disturbance or would increase the extent of the measures which would later be necessary to address the threat or disturbance or would be detrimental to production or market conditions. Such measures may to the extent and for the time necessary to address the market disturbance or threat thereof extend or modify the scope, duration or other aspects of other measures provided for under this Regulation, adjust or suspend import duties in whole or in part including for certain quantities or periods as necessary, or take the form of a temporary ~~voluntary~~ production reduction scheme – for the dairy sector in accordance with Article ??? (New Article - Milk Market Observatory), in particular in cases of oversupply. (…)

B. EU legislation requiring prices to be higher than production costs

An important basis for the fair distribution of margins in the value chain is a **legal provision that ensures that *the destruction of value at producer level by prices that do not cover production costs* is put to an end.** This legislation must include the following key points:

- Regarding the relationship between producer and processor: obligation that prices are higher than costs.
- Regarding the relationship between processor and retailer: obligation that prices are not below costs.
- Regarding retail level: consumer prices must not be lower than the actual purchase price of the product.
- Cost calculation: provided by the EU on a quarterly basis (national, regional per sector) - all cost items (see BAL calculation) must be included (among others, it must also include an adequate income for farm managers and family members/workers). See also: https://www.europeanmilkboard.org/milk-production-costs.html
- Cost figures to be considered a guideline above which prices must lie
- Also applies to cooperatives/their members
- For contracts: price must be flexibly adjusted to current cost figures (upwards, but can also be adjusted downwards)
- Additional services must also be paid for at an amount that at least covers costs
- Quantities are to be freely negotiated
- EU must align its trade policy accordingly so that regulation/EU prices are not undermined by imports
- Checks and sanctions for non-compliance -> important that they are effective

Reform proposal in point B for EU agricultural legislation

Proposal: New article for EU legislation - Producer price must be higher than production costs -

Possible location for new article:
- In UTP Directive (EU Directive 2019/633)
- In Common Market Organisation (Regulation (EU) No 1308/2013)

Explanation of paragraphs	Draft article
(1) Price must be higher than production costs. **All items that are included in the BAL study must be considered as costs.** **Not all subsidies should be deducted (e.g., subsidies for additional environmental measures should not be deducted)**	(1) The price received by an agricultural producer for a primary product must be higher than total production costs. These production costs include all costs incurred in relation with the production of the primary product. They include, among others, costs for bought-in feed, fodder crop cultivation (seeds, fertilisers, plant protection products, others), animal husbandry costs (veterinary costs, insemination, etc.), maintenance of machinery and buildings, contract work, paid wages as well as remuneration for farm managers and unpaid workers (if not included under wages), overheads, rent, depreciation, interest and taxes. Should new cost items become relevant for production in the future, they shall be included as well. Furthermore, only production support measures may be deducted from costs as subsidies.
(2) EU cost calculation **Priority for collective agreements when it comes to remuneration calculation. If not available, then recommendation: twice the minimum wage**	(2) Production costs shall be determined on the basis of a quarterly market-appropriate cost calculation using the EU Farm Accountancy Data Network (***FADN***) for the area of each Member State for each agricultural sector based on region, farm type and farm size. This refers to total costs as stipulated in the paragraph above. The averages shall be made available to the Member States as well as to primary producers and buyers of primary products in each agricultural sector as price reference values to be respected. The price paid for a primary product must be higher than the relevant reference value in the respective region. The labour costs for farm managers and family workers that are not included under wages shall be determined on the basis of country-specific collective agreements with due consideration of type of qualification. Should such an agreement not exist, these income costs shall be deemed at least twice the minimum wage in the country in question.
(3) When - for example in the milk sector - dairies pay their suppliers/farmers in (e.g. monthly) instalments of an estimated price amount (and for which the balance of the actual total amount is settled at the end of the year), they must refer for their (e.g. monthly) payments to the current/latest (quarterly) reference value. It is not possible to only refer to a current reference value when the balancing payments are to be made at the end of the year.	(3) When it comes to determining prices that must be higher than production costs, the latest – as far as possible regional – costs reported by the EU that are available when the price is determined must serve as the basis. Even in the case of payment in (e.g. monthly) instalments, the latest applicable reference value must be taken into account to ensure that prices paid to the primary producers always lie above the amount of the reference value.

Costs changes must be taken into account. Therefore price adjustments in contracts must be possible.	The following applies for contract-based sales: When the contract period is longer than ??? months, a flexible pricing model that is based on the applicable latest quarterly price reference value is obligatory, insofar as the price is always adjusted when it is no longer above the latest quarterly reference value. The price can also be adjusted downwards when the latest reference value has decreased as compared to the previous one. In this case as well, the price must compulsorily remain above the latest value.
Paragraph on additional measures is important to ensure that processors do not simply look at the reference value in isolation and receive additional measures for free.	Should the price above the reference value fail to reflect certain additional measures, at least the cost of this added value must be compensated for by the price as well. An overview of costs for each additional measure will be provided annually by the European Commission for each Member State at national level for each sector and each primary product.
Paragraph on volume so that processors are not obliged to buy an unrestricted volume. This means that producers will also not produce an unrestricted amount (at a high/appropriate price).	The volume of the primary product to be sold at this price shall be freely negotiated between buyer and seller.
	(4) Paragraphs 1-3 expressly apply to cooperatives and their members as well.
(5) Here onwards, other stakeholders after the processor are also made responsible.	(5) The following applies for all other stakeholders along the value chain: Each buyer shall pay the entrepreneur directly before them in the food supply chain a price that at least corresponds to the real incurred costs or the costs borne for the production of the product in question. Attestation of the same must be provided in the form of legally-accepted documentary proof.
(6) Especially prohibit retailers from setting very low final prices.	(6) Entrepreneurs that sell foodstuffs to end consumers shall not offer retail prices that are below the real purchase price of said product. The sale of easily perishable foodstuffs or foodstuffs that are close to their use-by date to the public is not considered unlawful as long as this condition is clearly indicated to the consumer.
	(7) Entrepreneurs that act as final points of sale for products to consumers shall not pass on the business risk, arising from their business policy in relation to publicly-offered prices, to one or any of the above-mentioned entrepreneurs.
(8) Paragraph on monitoring/sanctions so that the legal act is actually enforced and infringements are penalised. Member States are responsible.	(8) Member States shall monitor compliance with the price requirements enshrined in this article and shall sanction violations in such a way that the concerned buyer and seller are clearly penalised for this infringement. To this aim, a complaints office shall be set up in each country, where nominative or anonymous complaints can be

	filed and which is compulsorily in charge of examining and sanctioning infringements.
(9) In principle, the EU must, for example, introduce mirror clauses/duties on imports (primary products as well as processed products), so that, for example, in the milk sector dairies do not import cheap milk powder for processing (instead of using local milk purchased at a decent price) and retailers do not import any products that were produced outside the EU without cost coverage.	(9) The EU shall define its trade policy to ensure that the prices determined in the EU according to this legal act are not undermined in any way at any production or processing stage by imported products, thus ensuring that the effectiveness of this legal act is not decreased.

C. Reforming EU contracting

Contracts can only be expected to be fair if both sides are on an equal footing. Otherwise, the weaker contractual partner loses out.

It is essential to ensure:
1) a cost-covering price including both fair producer income as well as full cost coverage regarding the provision of additional services and
2) that cooperatives and their members are not exempt from contractual obligations.

Proposals for amendments in point C for Regulation on the Common Market Organisation

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products ...	***EMB amendment proposal***
Section 3 **Milk and milk products** *Article 148* **Contractual relations in the milk and milk products sector** (…) 2. The contract and/or the offer for a contract referred to in paragraphs 1 and 1a 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 be set out in the contract and/or - be calculated by combining various factors set out in the contract, which may include objective indicators, indices and methods of calculation of the final price that are easily accessible and comprehensible and that reflect changes in market conditions, the volume delivered and the quality or composition of the raw	Section 3 **Milk and milk products** *Article 148* **Contractual relations in the milk and milk products sector** (…) 2. The contract and/or the offer for a contract referred to in paragraphs 1 and 1a 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 be set out in the contract and cover at least total production costs including fair remuneration of producers and total costs for additional services and/or - be calculated by combining various factors set out in the contract and cover at least total production costs including fair remuneration of producers and total costs for additional services~~,~~; ~~which~~ these factors may include objective

milk delivered; those indicators may be based on relevant prices, production and market costs; 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, (…)	indicators, indices and methods of calculation of the final price that are easily accessible and comprehensible and that reflect changes in market conditions, the volume delivered and the quality or composition of the raw milk delivered; those indicators may be based on relevant prices, production and market costs; 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, (…)

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products ...	***EMB amendment proposal***
Article 148 (…) 3. By way of derogation from paragraphs 1 and 1a, a contract and/or an offer for a contract shall not be required where raw milk is delivered by a member of a cooperative to the cooperative of which he is a member if the statutes of that 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 2. (…)	*Article 148* (…) 3. ~~By way of derogation from paragraphs 1 and 1a~~, A ~~a~~ contract and/or an offer for a contract shall also ~~not~~ be required where raw milk is delivered by a member of a cooperative to the cooperative of which he is a member ~~if the statutes of that 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 2~~. (…)

Justification: Members of cooperative dairies must also be entitled to formal written contracts.

D. Expansion of pooling in producer organisations with the inclusion of producers from cooperatives

Producer organisations that pool dairy farmers can place producers on an equal footing with processors – **but only if the degree of pooling is sufficiently high.**

- In percentage terms, this means a possible **EU-wide pooling totalling 30 percent** of the EU milk volume.
- At **national level**, there should be **no restrictions** at all. Processors have often reached a very high concentration on the market. Without adequate pooling on the producer side, this results in imbalanced market powers, putting farmers at a disadvantage.
- In addition, there should be strong support from the EU side, so that producers actually become members of producer organisations to a far greater extent.
- It is very important that members of cooperatives can also be represented by producer organisations in negotiations with their cooperative – the exception of cooperatives must be removed.

Proposals for amendments in point D for Regulation on the Common Market Organisation

Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products ...	***EMB amendment proposal***
Article 149 **Contractual negotiations in the milk and milk products sector**	*Article 149* **Contractual negotiations in the milk and milk products sector**
1. A producer organisation in the milk and milk products sector which is recognised under Article 161(1) may negotiate on behalf of its farmer members, in respect of part or all of their joint production, contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector within the meaning of the third subparagraph of Article 148(1).	1. A producer organisation in the milk and milk products sector which is recognised under Article 161(1) may negotiate on behalf of its farmer members, in respect of part or all of their joint production, contracts for the delivery of raw milk by a farmer to a processor of raw milk, or to a collector within the meaning of the third subparagraph of Article 148(1).
2. The negotiations by the producer organisation may take place:	2. The negotiations by the producer organisation may take place:
(a) whether or not there is a transfer of ownership of the raw milk by the farmers to the producer organisation; (b) whether or not the price negotiated is the same as regards the joint production of some or all of the farmer members;	(a) whether or not there is a transfer of ownership of the raw milk by the farmers to the producer organisation; (b) whether or not the price negotiated is the same as regards the joint production of some or all of the farmer members;

(c) provided that, for a particular producer organisation, all of the following conditions are fulfilled: (i) the volume of raw milk covered by such negotiations does not exceed 4 % of total Union production, (ii) the volume of raw milk covered by such negotiations which is produced in any particular Member State does not exceed 33 % of the total national production of that Member State, and (iii) the volume of raw milk covered by such negotiations which is delivered in any particular Member State does not exceed 33 % of the total national production of that Member State;	(c) provided that, for a particular producer organisation, ~~all of~~ the following condition~~s are~~ is fulfilled: ~~(i)~~ the volume of raw milk covered by such negotiations does not exceed ~~4~~ 30 % of total Union production, ~~(ii) the volume of raw milk covered by such negotiations which is produced in any particular Member State does not exceed 33 % of the total national production of that Member State, and~~ ~~(iii) the volume of raw milk covered by such negotiations which is delivered in any particular Member State does not exceed 33 % of the total national production of that Member State;~~
(d) provided that the farmers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf; however, Member States may derogate from this condition in duly justified cases where farmers hold two distinct production units located in different geographic areas;	~~(d) provided that the farmers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf; however, Member States may derogate from this condition in duly justified cases where farmers hold two distinct production units located in different geographic areas;~~
(e) provided that the raw milk is not covered by an obligation to deliver arising from the farmer's membership of a cooperative in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and	~~(e) provided that the raw milk is not covered by an obligation to deliver arising from the farmer's membership of a cooperative in accordance with the conditions set out in the cooperative's statutes or the rules and decisions provided for in or derived from these statutes; and~~
(f) provided that the producer organisation notifies the competent authorities of the Member State or Member States in which it operates of the volume of raw milk covered by such negotiations.	(~~f~~ d) provided that the producer organisation notifies the competent authorities of the Member State or Member States in which it operates of the volume of raw milk covered by such negotiations.
3. Notwithstanding the conditions set out in of point (c)(ii) and (iii) of paragraph 2, a producer organisation may negotiate pursuant to paragraph 1 provided that, with regard to that producer organisation, the volume of raw milk covered by the negotiations which is produced in or	~~3. Notwithstanding the conditions set out in of point (c)(ii) and (iii) of paragraph 2, a producer organisation may negotiate pursuant to paragraph 1 provided that, with regard to that producer organisation, the volume of raw milk covered by the negotiations which is produced in or~~

delivered in a Member State having a total annual raw milk production of less than 500 000 tonnes does not exceed 45 % of the total national production of that Member State.	~~delivered in a Member State having a total annual raw milk production of less than 500 000 tonnes does not exceed 45 % of the total national production of that Member State.~~
4. For the purposes of this Article, references to producer organisations include associations of such producer organisations.	~~4.~~ 3. For the purposes of this Article, references to producer organisations include associations of such producer organisations.
5. For the purposes of applying point (c) of paragraph 2 and paragraph 3, the Commission shall publish, by such means as it considers appropriate, the amounts of raw milk production in the Union and the Member States using the most up-to-date information available.	~~5.~~ 4. For the purposes of applying point (c) of paragraph 2 ~~and paragraph 3~~, the Commission shall publish, by such means as it considers appropriate, the amounts of raw milk production in the Union and the Member States using the most up-to-date information available.
6. By way of derogation from point (c) of paragraph 2 and paragraph 3, even where the thresholds set out therein are not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition from being excluded or in order to avoid seriously damaging SME processors of raw milk in its territory. For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate. The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.	~~6.~~ 5. By way of derogation from point (c) of paragraph 2 ~~and paragraph 3~~, even where the threshold~~s~~ set out therein ~~are~~ is not exceeded, the competition authority referred to in the second subparagraph of this paragraph may decide in an individual case that a particular negotiation by the producer organisation should either be reopened or should not take place at all if it considers that this is necessary in order to prevent competition from being excluded or in order to avoid seriously damaging SME processors of raw milk in its territory. For negotiations covering more than one Member State, the decision referred to in the first subparagraph shall be taken by the Commission without applying the procedure referred to in Article 229(2) or (3). In other cases, that decision shall be taken by the national competition authority of the Member State to which the negotiations relate. The decisions referred to in this paragraph shall not apply earlier than the date of their notification to the undertakings concerned.
(…)	(…)

Explanation:

The pooling of producers – the collective negotiation of prices – is not making sufficient progress in the EU. It is therefore necessary to effectively promote producer pooling by

increasing the pooling thresholds. Dairy farmers must be allowed to join together in an appropriate way so that they are able to act on the market with the same power as processors. This means a potential pooling of 30% of EU volume and at national level, there should be no limits at all. This is because processors have achieved concentrations on the market that cannot be countered with the same market force without appropriate pooling on the part of producers. For example, the Arla Foods dairy in Denmark already has a national market share of 95 percent. Producer organisations with a national level of pooling of 33 percent would not be able to negotiate with this overpowering market opponent as equals and obtain fair prices. For this reason, dairy farmers in the EU should be given the opportunity to get support during negotiations from similarly strong producer organisations.

The inclusion of cooperative milk in collective bargaining is absolutely necessary, because producers of cooperative dairies must also have the opportunity to be represented by producer organisations. Like producers who deliver to private dairies, they do not receive cost-covering prices. The most important cooperative processors (e.g. Arla, FrieslandCampina, DMK) are also organised in the private sector. It is important to give producers of cooperatives the opportunity to pool – because more than 50 percent of the EU milk volume is processed in cooperatives. It is not only the producers of private dairies who suffer from unfair market conditions, but also the farmers in cooperatives.

It is recommended that similar EU legislation be adopted for other agricultural sectors, i.e. that the relevant articles in the CMO be adapted.

E. Ensuring compliance with EU standards for imported products with mirror clauses and protecting the strategically important agricultural sector by removing it from free trade agreements

Mirror clauses must be part of EU trade policy so that imported products do not undermine EU standards. That is important in order to:

- ensure equal social, ecological and health standards;
- ensure that domestic EU products, which are produced at higher costs, are not replaced by "cheaper" imports;
- prevent further products from being produced externally using environmentally more-harmful methods; emissions are thus only outsourced and environmentally harmful consumption in the EU is permitted;
- motivate external producers to improve their production methods so that they are comparable with EU standards;
- enable the same social standards or an improvement in social standards worldwide (fair income, fair working conditions, etc.).

It is important that these mirror clauses are developed to a sufficient extent and for all agricultural products. Furthermore, the controlling of standards/imported products must be carried out and guaranteed by EU entities. Partial or complete controlling by non-EU entities or authorities of third countries would not be appropriate.

With regard to the issue of "sufficient standards", for example, we warn against setting limits for imported products that are too low. The appropriate and comparable level plays an important role in the effectiveness of the standards and thus also in the effectiveness of the sustainability measures of the Green Deal.

With regard to competitiveness, one should refrain from referring only to the better quality of EU products as a sufficient reason for consumers to buy them. Lower manufacturing costs due to lower standards and the resulting lower prices for imported products are a relevant reason for purchase. This not only seriously harms EU producers, it also runs counter to sustainability efforts. Without such standards and the assurance of compliance, producers in the dairy sector, for example, will experience a major competitive disadvantage - especially with regard to internal measures based on the Green Deal/Farm to Fork strategy. The positive climate effects of the sustainability measures implemented by EU farmers will be cancelled out by climate-damaging external production. And, in addition to price dumping, the consumption of these climate-damaging dairy products in the EU will be promoted.

With regard to WTO rules, it should be noted that it is not just a matter of adapting the EU's approach to standards to the current WTO, but that WTO rules must be reformed to allow for appropriate standards. For example, the grounds for import restrictions in the WTO rules would have to be expanded. The aim must be the possibility to ban the import of agricultural products in the event of suspected health or environmental damage and not only after lengthy scientific investigations.

In particular, with regard to its free trade agreements, the EU should refrain from bringing agriculture to the negotiating table. This strategically important sector is too valuable in terms

of food security and social peace to be sold off as a bargaining chip for access to external markets for EU goods from other sectors.

F. Public recognition and promotion of Fair Milk projects

The producers of the Fair Milk projects have found a way to combat unfair behaviour in the value chain and have created fair, cost-covering structures directly on the market. These projects are therefore not only an exception, but a role model for socially-sustainable management.

At a time when the distance between consumer and producer is increasing, Fair Milk is also sending an important signal. The direct relationship between farmers and consumers is intensively fostered in the Fair Milk projects and thus contributes to greater social cohesion.

It is important that the socially-beneficial nature of Fair Milk projects is not only recognised, but also publicly acknowledged and promoted. **To this end, current and future legislation must not put obstacles in the way of these projects, for example, by increasing the regulatory, administrative and financial burden.**

The Fair Milk producers are not backed by large corporations, but by producers who have successfully taken the marketing of milk products into their own hands, in addition to the time-consuming and demanding work on the farm. This is to show an entire sector that cost-covering prices for farmers are definitely possible. However, these authentic projects need to be expanded, not restricted**. With this in mind, EU policy and the EU Member States must take action to promote Fair Milk so that the sector can come a lot closer to a cost-covering future by expanding this inspiring project.**