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from: Presidency
to: Delegations

No. prev. doc.: 10784/1/13 REV 1
No. Cion prop.: 15397/2/11 REV 2 - COM(2011) 626 final/3
14477/12 - COM(2012) 535 final

Subject: Proposal for a Regulation of the European Parliament and of the Council
establishing a common organisation of the markets in agricultural products
(Single CMO Regulation) (*CAP Reform*)
- Presidency consolidated draft regulation reflecting state of play in trilogues

With a view to the Council ("Agriculture and Fisheries") on 24-25 June 2013, delegations will find attached in Annex further text prepared by the Presidency amending and supplementing the consolidated draft regulation (doc 10784/1/13 REV 1) in order to reflect progress in the informal trilogue on 20 June 2013.

All changes compared to the Commission proposal are marked in ***bold and italics*** and **~~strikethrough~~**.

New text compared to doc 10784/1/13 REV 1 is shaded in **yellow**.

[...] indicates that the existing text has not been changed.

Outstanding issues appear in [brackets].

PART II
INTERNAL MARKET

TITLE I
MARKET INTERVENTION

CHAPTER I

SECTION 3A

Article 17a

Coordination of operations involving temporary withdrawal from the market

[Falls]

SECTION 4
COMMON PROVISIONS ON PUBLIC INTERVENTION AND AID FOR PRIVATE
STORAGE

Article 18

Delegated powers

9a. [Falls]

CHAPTER II
AID SCHEMES

SECTION 3
AID IN THE FRUIT AND VEGETABLES SECTOR

Article 31

Operational programmes

1. [...]

*1a. Associations of producer organisations may also present **an entire or partial operational programme composed of measures identified, but not carried out, by member organisations under their operational programmes. These operational programmes shall be subject to the same rules as other operational programmes and shall be considered at the same time as the operational programmes of member organisations.***

To that end, the Member States shall ensure that:

- (a) measures under operational programmes **of associations of producer organisations** are entirely financed by the contributions of the member organisations of the association in question and that this funding is collected from the operational funds of those member organisations;*
- (b) the measures and their corresponding financial share are identified in the operational programme of each member organisation;*
- (c) there is no duplication of funding.*

2.-4. [...]

SECTION 4
SUPPORT PROGRAMMES IN THE WINE SECTOR
SUBSECTION 2
SPECIFIC SUPPORT MEASURES

Article 44

Restructuring and conversion of vineyards

1.-2. [...]

3. Support for the restructuring and conversion of vineyards ***which could also contribute to improving sustainable production systems and the environmental footprint of the wine sector,*** may only cover one or more of the following activities:

- (a) varietal conversion, including by means of grafting-on;
- (b) relocation of vineyards,

(ba) replanting of vineyards where that is necessary following mandatory grubbing-up for health/phytosanitary reasons on the instruction of the Member State competent authority;

- (c) improvements to vineyard management techniques, ***notably the introduction of advanced systems of sustainable production.***

The normal renewal of vineyards ***which, means the replanting of the same parcel of land with the same variety according to the same system of vine cultivation, when vines*** have come to the end of their natural life shall not be supported.

Member States may lay down further specifications, especially as regards the age of the vineyards replaced.

4.-6. [...]

PART II, TITLE I

CHAPTER III

Scheme of authorisations for new vine plantings

SECTION 1

Management of the scheme of authorisations for new vine plantings

Article 54i

Delegated powers

The Commission shall be empowered to adopt delegated acts in accordance with Article 160 on:

(a)-(d) [...]

[(e) The grounds for Member State decisions under Article 54e(3).]

PART II
INTERNAL MARKET

TITLE II
RULES CONCERNING MARKETING AND PRODUCER ORGANISATIONS

CHAPTER I
RULES CONCERNING MARKETING

SECTION 1
MARKETING STANDARDS

SUBSECTION 3
MARKETING STANDARDS BY SECTORS OR PRODUCTS

Recital on "Article 59 Establishment and content" to be inserted to clarify that the consumers' well established perception of the product should be taken into account and that any derogation or exemption from them should not entail additional costs for the producer.

PART II
INTERNAL MARKET

TITLE II
RULES CONCERNING MARKETING AND PRODUCER ORGANISATIONS

CHAPTER II
SPECIFIC PROVISIONS FOR INDIVIDUAL SECTORS

SECTION I
SUGAR

SUBSECTION 1
SPECIFIC MEASURES

Article 101

Sugar sector agreements

1.-2. [...]

3. [...]

4. *In order to take into account the specificities of the sugar sector and the development of the sector in the period following the ending of production quotas, the Commission shall be empowered to adopt delegated acts in accordance with Article 160 to:*

- (a) **update the terms referred to** in Section A of Part 1a of Annex II;
- (b) **update the purchase terms for agreements** within the trade laid down in Annex IIIe;
- (c) *lay down further rules on the determination of gross weight, tare and sugar content of sugar delivered to an undertaking and on sugar pulp.*

5. [...]

SUBSECTION II

***REQUIREMENTS APPLYING TO THE SUGAR SECTOR DURING THE PERIOD
REFERRED TO IN ARTICLE 100a***

Article 101e

Delegated powers

[...]

(a) [...]

(a1) ***updating the purchase terms for agreements*** within the trade laid down in Annex III d;

(b) [...]

Article 101ea

Implementing powers

[...]

SUBSECTION IIa
SYSTEM OF PRODUCTION REGULATION

Article 101p
Delegated powers

- 1 [Deleted]
- 2 [...]
- 3 *Given the need to take into account the special characteristics of the sugar sector and to ensure that the interests of all parties are duly taken into account, the Commission shall be empowered to adopt delegated acts, in accordance with Article 160, **on the meaning of terms for the operation of the quota system,** as well as laying down the conditions governing sales to outermost regions.*
- 4 [...]
- 5 [To be completed]

[DECLARATION BY THE COMMISSION ON SUGAR

In order to aim for a balanced market and a fluid supply of sugar to the Union market during the remaining period of sugar quotas, the Commission will have regard to the interests of both Union sugar beet growers and raw cane refiners in applying the temporary market management mechanism laid down in Article 101da of the sCMO Regulation.

TITLE II
RULES CONCERNING MARKETING AND PRODUCER ORGANISATIONS

CHAPTER III
PRODUCER ORGANISATIONS AND ASSOCIATIONS, INTERBRANCH ORGANISATIONS,
OPERATOR ORGANISATIONS

SECTION 1
DEFINITION AND RECOGNITION

Article 106

Producer organisations

- I.** Member States **may shall** recognise, on request, producer organisations, which:
- (a) are constituted **and controlled in accordance with Article 106a(2)(c)** by producers in any of the sectors listed in Article 1(2);
 - (b) are formed on the initiative of the producers;
 - (c) **pursue a specific aim which may include at least one of the following objectives:**
 - (i)-(viib) [...]
 - (viic) **[Falls]**
 - (viid) [...]
 - (viie) [To be completed]
 - (viif) [To be completed]
 - (d) **[do not hold a dominant position on a given market unless this is necessary in pursuance of the objectives of Article 39 of the Treaty.]**

[(da) replaced by:

A producer organisation recognised under this Article may continue to be recognised if it engages in the marketing of products covered by CN code ex 2208, other than those referred to in Annex I to the Treaty, provided that the proportion of such products does not exceed 49% of the total value of marketed production of the PO and where such products do not benefit from Union support and do not count, for producer organisations in the fruit and vegetables sector, towards the calculation of the value of marketed production for the purposes of Article 32(2).]

[2. By way of derogations from paragraph 1, Member States shall recognise producer organisations, constituted by producers in the milk and milk products sector, which:

- (a) are formed on the initiative of the producers;*
- (b) pursue a specific aim which may include one or more of the following objectives:*
 - (i) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;*
 - (ii) concentration of supply and the placing on the market of the products produced by its members;*
 - (iii) optimising production costs and stabilising producer prices.]*

Article 106a

Statute of producer organisations

1. The statute of a producer organisation shall require its producer members, in particular, to:

- (a) apply the rules adopted by the producer organisation relating to production reporting, production, marketing and protection of the environment;*
- (b) be members of only one producer organisation for any given product of the holding, without prejudice to any derogation granted by the Member State concerned in duly justified cases where producer members hold two distinct production units located in different geographical areas;*
- (c) provide the information requested by the producer organisation for statistical purposes.*

2. The statute of a producer organisation shall also provide for:

- (a) procedures for laying down, adopting and amending the rules referred to in paragraph 1;**
- (b) the imposition on members of financial contributions needed to finance the producer organisation;**
- (c) rules enabling the producer members to scrutinise democratically their organisation and its decisions;**
- (d) penalties for infringement of obligations under the articles of association, particularly for non-payment of financial contributions, or of the rules laid down by the producer organisation;**
- (e) rules on the admission of new members, and in particular the minimum period of membership which may not be less than one year;**
- (f) the accounting and budgetary rules necessary for the operation of the organisation.**

3. [To be completed]

Article 106b

Recognition of producer organisations

1. Where a Member State recognises a producer organisation, the producer organisation applying for such recognition must be a legal entity or clearly defined part of a legal entity, which:

- (a) meet the requirements laid down in points (a), (b) and (c) of the first paragraph of Article 106;**
- (b) have a minimum number of members and/or cover a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where they operate;**
- (c) provide sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness, provision of human, material and technical support to their members, and concentration of supply;**
- (d) have rules of association that are consistent with points (a), (b) and (c) of this paragraph.**

2. *Member States may decide that producer organisations which have been recognised before 1 January 2014 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are deemed to be recognised as producer organisations pursuant to Article 106.*
3. *Producer organisations which have been recognised before 1 January 2014 on the basis of national law and which do not fulfil the conditions laid down in paragraph 1 of this Article may continue to exercise their activities under national law until 1 January 2015.*
4. *Member States shall:*
 - (a) *decide whether to grant recognition to a producer organisation within four months of the lodging of an application accompanied by all the relevant supporting evidence; this application shall be lodged with the Member State where the organisation has its headquarters;*
 - (b) *carry out, at intervals to be determined by them, checks to verify that recognised producer organisations are complying with the provisions in this Chapter;*
 - (c) *in the event of non-compliance or irregularities in the implementation of the measures provided for in this Chapter, impose on those organisations and associations the applicable penalties they have laid down and decide whether, if necessary, recognition should be withdrawn;*
 - (d) *inform the Commission once a year and no later than 31 March of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.*

Article 106c

Outsourcing

Member States may permit a recognised producer organisation or a recognised association of producer organisations in the sectors specified by the Commission in accordance with Article 114 paragraph [to be completed] to outsource any of its activities other than production, including to subsidiaries, provided that the producer organisation or association of producer organisations remains responsible for ensuring the carrying out of the outsourced activity and overall management control and supervision of the commercial arrangement for the provision of the activity.

Article 107

Associations of producer organisations

1. Member States **may shall** recognise, on request, associations of producer organisations in ~~any of the a specific~~ sectors listed in Article 1(2) which are formed on the initiative of recognised producer organisations.

Subject to the rules adopted pursuant to Article 114, associations of producer organisations may carry out any of the activities or functions of producer organisations.

- [2. *By way of derogations from paragraph 1, in response to an application, Member States may recognise an association of recognised producer organisations in the milk and milk products sector if the Member State concerned considers that this association is capable of carrying out effectively any of the activities of a recognised producer organisation and that it fulfils the conditions laid down in Article 109c(1).]*

Article 108

Interbranch organisations

1. Member States **may shall** recognise, on request, interbranch organisations in any of the sectors listed in Article 1(2) which:
 - (a)-(b) [...]
 - (ba)** [To be completed]
 - (c) [...]
 - (i)-(xi) [...]
 - (xia)** [Falls]
 - (xib)** [...]

2. ~~For interbranch organisations in the olive oil and table olive and tobacco sectors, the specific aim referred to in point (c) of paragraph 1 may also include at least one of the following objectives:~~
 - ~~(a) concentrating and co-ordinating supply and marketing of the produce of the members;~~
 - ~~(b) adapting production and processing jointly to the requirements of the market and improving the product;~~
 - ~~(c) promoting the rationalisation and improvement of production and processing.~~

[By way of derogations from paragraph 1, as regards the milk and milk products sector, Member States may recognise interbranch organisations which:

 - (a) have formally requested recognition and are made up of representatives of economic activities linked to the production of raw milk and linked to at least one of the following stages of the supply chain: processing of or trade in, including distribution of, products of the milk and milk products sector;**
 - (b) are formed on the initiative of all or some of the representatives referred to in point (a);**

- (c) *carry out, in one or more regions of the Union, taking into account the interests of the members of those interbranch organisations and of consumers, one or more of the following activities:*
- (i) *improving the knowledge and the transparency of production and the market, including by publication of statistical data on the prices, volumes and durations of contracts for the delivery of raw milk which have been previously concluded, and by providing analyses of potential future market developments at regional, national and international level;*
 - (ii) *helping to coordinate better the way the products of the milk and milk products sector are placed on the market, in particular by means of research and market studies;*
 - (iii) *promoting consumption of, and providing information on, milk and milk products in both internal and external markets;*
 - (iv) *exploring potential export markets;*
 - (v) *drawing up standard forms of contract compatible with Union rules for the sale of raw milk to purchasers and/or the supply of processed products to distributors and retailers, taking into account the need to achieve fair competitive conditions and to avoid market distortions;*
 - (vi) *providing the information and carrying out the research necessary to adjust production in favour of products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment;*
 - (vii) *maintaining and developing the production potential of the dairy sector, inter alia, by promoting innovation and supporting programmes for applied research and development in order to exploit the full potential of milk and milk products, especially in order to create value-added products which are more attractive to the consumer;*
 - (viii) *seeking ways of restricting the use of animal-health products, improving the management of other inputs and enhancing food safety and animal health;*
 - (ix) *developing methods and instruments for improving product quality at all stages of production and marketing;*

- (x) *exploiting the potential of organic farming and protecting and promoting such farming as well as the production of products with designations of origin, quality labels and geographical indications; and*
- (xi) *promoting integrated production or other environmentally sound production methods.]*

Article 108a

Recognition of interbranch organisations

1. *Member States may recognise interbranch organisations applying for such recognition, provided that they **must**:*
 - (a) *meet the requirements laid down in Article 108;*
 - (b) *carry out their activities in one or more regions in the territory concerned;*
 - (c) *account for a significant share of the economic activities referred to in Article 108(1)(a);*
 - (d) *with the exception of the cases laid down in Article 108(2), do not themselves engage in production, processing and/or trade.*

2. *Member States may decide that interbranch organisations which have been recognised before 1 January 2014 on the basis of national law and which fulfil the conditions laid down in paragraph 1 are deemed to be recognised as interbranch organisations pursuant to Article 108.*

3. *Interbranch organisations which have been recognised before 1 January 2014 on the basis of national law and which do not fulfil the conditions laid down in paragraph 1 of this Article may continue to exercise their activities under national law until 1 January 2015.*

- 3a. *By way of derogation from paragraph 3, Member States may recognise interbranch organisations existing prior to the entry into force of this Regulation, whether they were recognised on request or established by law, even though they do not fulfil the condition laid down in point (b) of paragraph 1 of Article 108.*

4. *Where Member States recognise an interbranch organisation in accordance with paragraph 1 and/or 2, they shall:*
- (a) decide whether to grant recognition within four months of the lodging of an application with all relevant supporting documents; this application shall be lodged with the Member State where the organisation has its headquarters;*
 - [(b) carry out, at intervals to be determined by them, checks to verify that recognised interbranch organisations are complying with the conditions governing their recognition;]*
 - [(c) in the event of non-compliance or irregularities in the implementation of the measures provided for in this Regulation, impose on those organisations the applicable penalties they have laid down and decide whether, if necessary, recognition should be withdrawn;]*
 - [(d) withdraw recognition if the requirements and conditions for recognition laid down in this Article are no longer met;]*
 - (e) inform the Commission each year, by 31 March, of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.*

For AM 254 "Article 109a Role of groups" see Article 113c.

SECTION IA
ADDITIONAL RULES FOR SPECIFIC SECTORS

Article 109a

Obligatory recognition

By way of derogation from Articles 106 to 108 Member States shall recognise, on request:

- (a) producer organisations in:**
 - (i) the fruit and vegetables sector,**
 - (ii) the olive oil and table olives sector,**
 - (iii) the silkworm sector,**
 - (iv) the hops sector;**
- (b) interbranch organisations in the olive oil and table olives sector and the tobacco sector.**

Article 109b

Producer organisations in the fruit and vegetables sector

In the fruit and vegetables sector producer organisations shall pursue at least one of the objectives set out in Article 106 (1) (c) (i) to (iii).

The statutes of a producer organisation in the fruit and vegetables sector shall require its producer members to market their entire production concerned through the producer organisation.

Producer organisations in the fruit and vegetables sector shall be deemed to be acting in the name and on behalf of their members in economic matters within their terms of reference.

Article 109c

Recognition of producer organisations and their associations in the milk and milk products sector

1. Member States shall recognise as producer organisations in the milk and milk products sector all legal entities or clearly defined parts of legal entities applying for such recognition, provided that:

(a) they meet the requirements laid down in Article 106(2);

(b) they have a minimum number of members and/or cover a minimum volume of marketable production, to be laid down by the Member State concerned, in the area where they operate;

(c) there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness and concentration of supply;

(d) they have a statute that is consistent with points (a), (b) and (c) of this paragraph.

2. Member States may decide that producer organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 of this Article are to be considered to be recognised as producer organisations pursuant to Article 106(2).

3. Member States shall:

- (a) decide whether to grant a recognition to a producer organisation within four months of the lodging of an application accompanied by all the relevant supporting evidence. This application shall be lodged with the Member State where the organisation has its headquarters;**
- (b) carry out, at intervals to be determined by them, checks to ascertain that recognised producer organisations and associations of producer organisations are complying with the provisions of this Chapter;**
- (c) in the event of non-compliance or irregularities in the implementation of the measures provided for in this Chapter, impose on those organisations and associations the applicable penalties they have laid down and decide whether, if necessary, recognition should be withdrawn;**
- (d) inform the Commission once a year, and no later than 31 March, of every decision to grant, refuse or withdraw recognition which they have taken during the previous calendar year.]**

Article 109d

Interbranch organisations in the olive oil and table olive and tobacco sectors

For interbranch organisations in the olive oil and table olive and tobacco sectors, the specific aim referred to in point (c) of Article 108(1) may also include at least one of the following objectives:

- (a) concentrating and co-ordinating supply and marketing of the produce of the members;**
- (b) adapting production and processing jointly to the requirements of the market and improving the product;**
- (c) promoting the rationalisation and improvement of production and processing.**

[Article 109e

Recognition of interbranch organisations in the milk and milk products sector

- 1. Member States may recognise interbranch organisations in the milk and milk products sector provided that such organisations:**
 - (a) meet the requirements laid down in Article 108(2);**
 - (b) carry out their activities in one or more regions in the territory concerned;**
 - (c) account for a significant share of the economic activities referred to in point (a) of Article 108(2);**
 - (d) do not themselves engage in the production of, processing of, or the trade in, products in the milk and milk products sector.**

- 2. Member States may decide that interbranch organisations which have been recognised before 2 April 2012 on the basis of national law and which fulfil the conditions laid down in paragraph 1 are to be considered to be recognised as interbranch organisations under Article 108(2).**

- 3. Where Member States make use of the option to recognise an interbranch organisation in accordance with paragraph 1 and/or 2, they shall:**
 - (a) decide whether to grant recognition to the interbranch organisation within four months of the lodging of an application accompanied by all the relevant supporting evidence. This application shall be lodged with the Member State where the organisation has its headquarters;**
 - (b) carry out, at intervals to be determined by them, checks to verify that recognised interbranch organisations are complying with the conditions governing their recognition;**
 - (c) in the event of non-compliance or irregularities in the implementation of the measures provided for in this Regulation, impose on those organisations the applicable penalties they have laid down and decide whether, if necessary, recognition should be withdrawn;**
 - (d) withdraw recognition if:**
 - (i) the requirements and conditions for recognition laid down in this Article are no longer met;**

- (ii) the interbranch organisation engages in any of the agreements, decisions and concerted practices referred to in Article 145a(4), without prejudice to any other penalties to be imposed pursuant to national law;**
- (iii) the interbranch organisation fails to comply with the notification obligation referred to in Article 145a(2);**
- (e) inform the Commission once a year, and no later than 31 March, of every decision to grant, refuse or withdraw recognition taken during the previous calendar year.]**

SECTION 2

EXTENSION OF RULES AND COMPULSORY CONTRIBUTIONS

Article 110

Extension of rules

1.-2. [...]

3. [...]

[(ba) replaced by

However, in the case of interbranch organisations, where the determination of the proportion of the volume of production, or of trade in, or of processing of the product or products concerned gives rise to practical difficulties, a Member State may lay down national rules for determining the specified level of representativeness referred to in (ii) of point (a) above.]

[...]

4. [...]

(n) rules on the management of by-products.

[...]

4a.-4b [...]

[5. This Article shall not apply to the organisations referred to in Articles 106(2), 107(2) and 108(2), and shall, as regards these organisations, be without prejudice to applicable national rules.]

SECTION 3A

CONTRACT SYSTEMS

Article 113a

Contractual Relations

- 1. Without prejudice to Articles [104a and 105a] concerning the milk and milk products sector and [Article 101] concerning the sugar sector, if a Member State decides that every delivery in its territory of agricultural products from a sector, [other than milk and milk products] and sugar, listed in Article 1(2) of this Regulation, by a producer to a processor or distributor must be covered by a written contract between the parties and/or decides that the first purchasers must make a written offer for a contract for the delivery of agricultural products by the producer, such a contract and/or such an offer for a contract shall fulfil the conditions laid down in paragraphs 2 and 4.***

Where the Member State decides that deliveries of the products covered by this Article by a producer to a processor must be covered by a written contract between the parties, it shall also decide which stage or stages of the delivery shall be covered by such a contract if delivery of the products concerned is made through one or more intermediaries.

Member States shall ensure that the provisions that they set in place under this Article do not impair the proper functioning of the internal market.

In the case described in the second paragraph of this Article, the Member State may establish a mediation mechanism to cover cases in which no such contract can be concluded by mutual agreement, thereby ensuring fair contractual relations.

2. The contract and/or the offer for a contract 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 market indicators reflecting changes in market conditions, the quantities delivered and the quality or composition of the agricultural products delivered,

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

(iii) the duration of the contract, which may include either a definite duration or an indefinite duration with termination clauses,

(iv) details regarding payment periods and procedures,

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

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

3. By way of derogation from paragraph 1, a contract and/or an offer for a contract shall not be required where the products concerned are delivered by a producer to a purchaser being a cooperative of which the producer 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.

4. All elements of contracts for the delivery of agricultural products concluded by producers, collectors, processors or distributors, including those elements referred to in paragraph 2(c), shall be freely negotiated between the parties.

Notwithstanding the first subparagraph,

(i) where a Member State decides to make written contracts for the delivery of agricultural products compulsory in accordance with paragraph 1 of this Article, it may establish a minimum duration, applicable only to written contracts between a producer and the first purchaser of the agricultural products. Such a minimum duration shall be at least six months and shall not impair the proper functioning of the internal market; and/or

(ii) where a Member State decides that the first purchaser of agricultural products must make the producer a written offer for a contract in accordance with paragraph 1, it may provide that the offer must 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.

The second subparagraph shall be without prejudice to the producer's right to refuse such a minimum duration provided that he does so in writing. In this case, the parties shall be free to negotiate all elements of the contract, including those elements referred to in paragraph 2(c).

5. Member States which make use of the options referred to in this Article shall ensure that the provisions set in place do not impair the proper functioning of the internal market.

Member States must accordingly notify the Commission of how they apply any measures introduced under this Article.

6. The Commission may adopt implementing acts laying down measures necessary for the uniform application of paragraph 2(a) and (b) and paragraph 3 of this Article and measures relating to notifications to be made by the Member States in accordance with this Article.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).]

[Article 113b

Contractual negotiations in the olive oil sector (extension to other sectors under consideration)

1. A producer organisation in the olive oil sector which is recognised under Article 106 and which pursues one or more of the objectives of concentrating supply, the placing on the market of the products produced by its members and optimising production costs, may negotiate on behalf of its members, in respect of part or all of the aggregate production of their members, contracts for the supply of olive oil.

A producer organisation fulfils the objectives mentioned in this paragraph provided that the pursuit of these objectives leads to the integration of activities and this integration is likely to generate significant efficiencies so that the activities of the producer organisation overall contribute to the fulfilment of the objectives of Article 39 of the Treaty.

This could be realised provided that:

(a) the producer organisation carries out at least one of the following activities:

(i) joint distribution, including joint selling platform or joint transportation;

(ii) joint packaging, labelling or promotion;

(iii) joint organising of quality control;

(iv) joint use of equipment or storage facilities;

(v) joint processing;

(vi) joint management of waste directly related to the production of olive oil;

(vii) joint procurement of inputs.

(b) These activities are significant in terms of volume of olive oil concerned and in terms of cost of the production and placing of the product on the market.

2. The negotiations by the recognised producer organisation may take place:

(a) whether or not there is a transfer of ownership of the olive oil in question by the producers to the producer organisation;

(b) whether or not the price negotiated is the same as regards the aggregate production of some or all of the members;

(c) provided that, for a particular producer organisation the volume of olive oil production covered by such negotiations which is produced in any particular Member State does not exceed 15 % of the total national production of that Member State;

- (d) provided that for the volume of olive oil covered by such negotiations, the producer organisation concentrates supply and places the product of its members on the market;*
- (e) provided that the producers concerned are not members of any other producer organisation which also negotiates such contracts on their behalf;*
- (f) provided that the olive oil in question is not covered by an obligation to supply arising from the producer's membership of a cooperative which is not itself member of the concerned producer organisation 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*
- (g) provided that the producer organisation notifies the competent authorities of the Member State in which it operates of the volume of olive oil production covered by such negotiations.*

3. For the purposes of this Article, references to producer organisations shall also include associations of such producer organisations recognised under Article 107.

4. For the purposes of applying point (c) of paragraph 2, the Commission shall publish, by such means as it considers appropriate, the volume of olive oil production in Member States.

5. By way of derogation from point (c) of paragraph 2, 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 being excluded or if it finds that the objectives of Article 39 of the Treaty are jeopardised.

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 162(2). 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.

For the purposes of this Article the definitions in Article 126c (7) of Regulation 1234/2007 [to be updated] shall apply.

6. *The Member States in which negotiations take place in accordance with this Article shall notify the Commission of the application of point (g) of paragraph 2 and paragraph 5.]*

AM 254 "Article 109a Role of groups"

[Article 113c

Regulation of supply for ham with a protected designation of origin or protected geographical indication

1. *Upon the request of a producer organisation recognised under Article 106, an interbranch organisation recognised under Article 108 or a group of operators referred to in Article 5(1) of Regulation (EC) No 510/2006, Member States may lay down, for a limited period of time, binding rules for the regulation of the supply of ham benefiting from a protected designation of origin or from a protected geographical indication under Article 2(1)(a) and (b) of Regulation (EC) No 510/2006.*
2. *The rules referred to in paragraph 1 shall comply with the conditions set out in paragraph 4 and shall be subject to the existence of a prior agreement between the parties in the geographical area referred to in Article 4(2)(c) of Regulation (EC) No 510/2006. Such an agreement shall be concluded between at least two thirds of the processors of that ham representing at least two thirds of the production of that ham in the geographical area referred to in Article 4(2)(c) of Regulation (EC) No 510/2006 and, if considered appropriate by the Member State, at least two thirds of the pig producers in the geographical area referred to in Article 4(2)(c) of Regulation (EC) No 510/2006.*

3. The rules referred to in paragraph 1:

- (a) shall only cover the regulation of supply of the product concerned and/or its raw material and shall have the aim of adapting the supply of that ham to demand;**
- (b) shall have effect only on the product concerned;**
- (c) may be made binding for no more than 3 years and be renewed after this period, following a new request, as referred to in paragraph 1;**
- (d) shall not damage the trade of products other than those concerned by the rules referred to in paragraph 1;**
- (e) shall not relate to any transaction after the first marketing of the ham concerned;**
- (f) shall not allow for price fixing, including where prices are set for guidance or recommendation;**
- (g) shall not render unavailable an excessive proportion of the product concerned that would otherwise be available;**
- (h) shall not create discrimination, constitute a barrier for new entrants in the market, or lead to small producers being adversely affected;**
- (i) shall contribute to maintaining the quality and/or the development of the product concerned;**

4. The rules referred to in paragraph 1 shall be published in an official publication of the Member State concerned.

5. Member States shall carry out checks in order to ensure that the conditions laid down in paragraph 4 are complied with, and, where it has been found by the competent national authorities that such conditions have not been complied with, shall repeal the rules referred to in paragraph 1.

6. Member States shall notify the Commission forthwith of the rules referred to in paragraph 1 which they have adopted. The Commission shall inform Member States of any notification of such rules.

7. The Commission may at any time adopt implementing acts requiring that a Member State repeal the rules laid down by that Member State pursuant to paragraph 1 if the Commission finds that those rules do not comply with the conditions laid down in paragraph 4, prevent or distort competition in a substantial part of the internal market or jeopardise free trade or the attainment of the objectives of Article 39 TFEU. Those implementing acts shall be adopted without applying the procedure referred to in Article 162(2).]

"Article 114 Delegated powers", "Article 115 Implementing powers in accordance with the examination procedure", "Article 116 Other implementing powers" to be adjusted in the light of the political agreement on Articles 106c, 113a, 113b, 113c.

AM 264 "Article 116a European Price Monitoring Tool" possibly replaced by

Draft Commission declaration on the European Price Monitoring Tool

The Commission recognises the importance of collecting and disseminating available data on price developments in the different steps of the food chain. To this end, the Commission has developed a Food Prices Monitoring Tool for Food Products, which draws from the combined food related price index data collected by National Statistical Offices. This tool aims at bringing together and making available price development along the food chain, and allows comparison of price developments for relevant agricultural products, for food industries and the relevant consumer products. This tool is under constant improvement and will aim to expand the range of food chain products it covers and in general to meet farmers' and consumers' need for more transparency and food price building.]

PART III
TRADE WITH THIRD COUNTRIES

CHAPTER IV
SPECIAL IMPORT PROVISIONS FOR CERTAIN PRODUCTS

Article 130a

Import of raw sugar for refining: exclusive 3-month period for full-time refiners

1.-3. [...]

4. *Taking into account the need to ensure that imported sugar for refining is refined in accordance with this sub-section, the Commission shall be empowered to adopt delegated acts, in accordance with Article 160, laying down the following:*

- (a) the use of terms for the operation of the import arrangements referred to in paragraph 1;*
- (b) the conditions and eligibility requirements that an operator has to fulfil to lodge an application for an import licence, including the lodging of a security;*
- (c) rules on administrative penalties to be charged.*

5. [...]

PART IV
COMPETITION RULES

CHAPTER I
RULES APPLYING TO UNDERTAKINGS

Recital on Article 143:

[In view of the specificities of the agricultural sector and its reliance on the good functioning of the entire food supply chain, including effective application of competition rules on all related sectors, which can be highly concentrated, special attention should be dedicated to the application of competition rules as set out in Article 42 of the Treaty. To that end, there is a need for close cooperation between the Commission and the competition authorities of the Member States. Moreover, Guidelines adopted by the Commission, where appropriate, are a suitable instrument to provide guidance to undertakings and other stakeholders concerned.]

Article 143

Commission Guidelines on the Application of Articles 101 to 106 of the Treaty competition rules to agriculture

Save as otherwise provided in this Regulation, ***in accordance with Article 42 of the Treaty***, Articles 101 to 106 of the Treaty and implementing provisions thereof shall, subject to ***[Articles 144, 143a to 145[a]]*** of this Regulation, apply to all agreements, decisions and practices referred to in Article 101(1) and Article 102 of the Treaty which relate to the production of, or trade in, agricultural products.

In order to ensure the functioning of the internal market and the uniform application of Union competition rules, the Commission and the competition authorities of the Member States shall apply the Union competition rules in close cooperation.

In addition, the Commission shall, where appropriate, publish guidelines to assist the national competition authorities, as well as undertakings.

Article 143 a

The relevant market

The definition of the relevant market is a tool to identify and define the boundaries of competition between firms, and is founded on two cumulative elements:

- (a) the relevant product market: for the purposes of this Chapter, 'product market' means the market comprising all those products which are regarded as interchangeable or substitutable by the consumer by reason of the products' characteristics, their prices and their intended use;**
- (b) the relevant geographic market: for the purposes of this Chapter, 'geographic market' means the market comprising the area in which the firms concerned are involved in the supply of the relevant products, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas, particularly because the conditions of competition are appreciably different in those areas.**

Article 143b

Dominant position

For the purposes of this Chapter, 'dominant position' means a position of economic strength enjoyed by an undertaking which enables it to prevent effective competition being maintained in the relevant market by giving it the power to behave to an appreciable extent independently of its competitors, customers and ultimately of consumers.

Article 144

Exceptions for the objectives of the CAP and farmers and their associations

1. [Article 101(1) of the Treaty shall not apply to the agreements, decisions and *concerted* practices referred to in Article 143 of this Regulation necessary for the attainment of the objectives set out in Article 39 of the Treaty.]

~~In particular,~~ Article 101(1) of the Treaty shall not apply to agreements, decisions and *concerted* practices of farmers, farmers' associations, or associations of such associations, or producer organisations recognised under Article 106 of this Regulation, or associations of producer organisations recognised under Article 107 of this Regulation, which concern the production or sale of agricultural products or the use of joint facilities for the storage, treatment or processing of agricultural products, ~~and under which there is no obligation to charge identical prices, unless competition is thereby excluded or unless~~ the objectives of Article 39 of the Treaty are jeopardised.

The present paragraph shall not apply to agreements, decisions and concerted practices which entail an obligation to charge an identical price or by which competition is excluded.

2. *Agreements, decisions and concerted practices which fulfil the conditions referred to in paragraph 1 shall not be prohibited, nor prior decision to that effect been required. [In any national or Union proceedings for the application of Article 101 of the Treaty, the burden of proving an infringement of Article 101(1) of the Treaty shall rest on the party or the authority alleging the infringement. The party claiming the benefit of the exemptions provided in paragraph 1 shall bear the burden of proving that the conditions of that paragraph are fulfilled.]*

~~2. After consulting the Member States and hearing the undertakings or associations of undertakings concerned and any other natural or legal person that it considers appropriate, the Commission shall have sole power, subject to review by the Court of Justice, to determine, by adopting, by means of implementing acts, a Decision which shall be published, which agreements, decisions and practices fulfil the conditions specified in paragraph 1.~~

~~The Commission shall undertake such determination either on its own initiative or at the request of a competent authority of a Member State or of an interested undertaking or association of undertakings.~~

~~3.— The publication of the Decision referred to in the first subparagraph of paragraph 2 shall state the names of the parties and the main content of the decision. It shall have regard to the legitimate interest of undertakings in the protection of their business secrets.~~

Article 145

Agreements and concerted practices of recognised interbranch organisations

1-3 [...]

3a. [Falls]

4-6 [...]

[Article 145a

Agreements, decisions and concerted practices in the milk and milk product sector

1a. By way of derogation from Article 145, the following provisions shall apply to the milk and milk product sector.

1. Article 101(1) TFEU shall not apply to the agreements, decisions and concerted practices of recognised interbranch organisations recognised for the purpose of carrying out the activities referred to in point (c) of Article 108(2) of this Regulation.

2. Paragraph 1 shall only apply if:

(a) the agreements, decisions and concerted practices have been notified to the Commission; and

(b) within three months of receipt of all the details required the Commission, without applying the procedure referred to in Article 162(2) or (3), has not found that the agreements, decisions or concerted practices are incompatible with Union rules.

3. *The agreements, decisions and concerted practices referred to in paragraph 1 may not be put into effect before the period referred to in point (b) of paragraph 2 elapses.*
4. *Agreements, decisions and concerted practices shall in any case be declared incompatible with Union rules if they:*
 - (a) *may lead to the partitioning of markets in any form within the Union;*
 - (b) *may affect the sound operation of the market organisation;*
 - (c) *may create distortions of competition and are not essential to achieving the objectives of the CAP pursued by the interbranch organisation activity;*
 - (d) *entail the fixing of prices;*
 - (e) *may create discrimination or eliminate competition in respect of a substantial proportion of the products in question.*
5. *If, after the period referred to in point (b) of paragraph 2 has expired, the Commission finds that the conditions for applying paragraph 1 have not been met, it shall without applying the procedure referred to in Article 162(2) or (3) take a decision declaring that Article 101(1) TFEU applies to the agreement, decision or concerted practice in question.*

That Commission decision shall not apply earlier than the date of its notification to the interbranch organisation concerned, unless that interbranch organisation has given incorrect information or has abused the exemption provided for in paragraph 1 of this Article.

6. *In the case of multiannual agreements, the notification for the first year shall be valid for the subsequent years of the agreement. However, the Commission may, on its own initiative or at the request of another Member State, issue a finding of incompatibility at any time.*
7. *The Commission may adopt implementing acts laying down measures necessary for the uniform application this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).**]***

[AM 312 "Article 156a Measures to address severe imbalanced in the market for milk and milk products " possibly replaced by the following recital

(134a) *Reacting efficiently and effectively against threats of market disturbance may be of particular importance for the milk sector. Similarly, specific problems in case of emergency may arise. It is therefore necessary to emphasise that the adoption by the Commission of the above mentioned measures in case of market disturbance, including market imbalance, or those needed to solve specific problems in case of emergency may address in particular the milk sector.*

Recital linked to Article 156c:

[In order to respond to periods of severe market imbalances, as exceptional measures specific categories of collective actions by private operators may be appropriate in order to stabilise the concerned sectors, subject to precise safeguards, limits and conditions. Where such actions could fall under the scope of Article 101(1) of the Treaty, the Commission should be enabled to provide a time-limited derogation. These actions should however be complementary to Union action in the framework of public intervention and private storage or of exceptional measures envisaged by this Regulation, and should not impair the functioning of the single market.]

Article 156c

Application of Article 101(1) of the Treaty

- 1. During periods of severe imbalance in markets, the Commission may adopt implementing acts to the effect that Article 101(1) of the Treaty shall not apply to agreements and decisions of recognised producer organisations, associations thereof 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 single 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 European Union or of inputs necessary to address the effects of natural disasters in the European Union;**
 - (g) temporary planning of production taking into account the specific nature of the production cycle.**

The Commission shall specify in its implementing act the substantive and geographic scope of this derogation and, subject to paragraph 3, the timeframe for its operation.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).

2. *Paragraph 1 shall apply only if the Commission has already adopted one of the measures referred to in this chapter or if products have been bought in under public intervention or if aid for private storage has been granted, as referred to in Chapter I of Title I of Part II.*
3. *The agreements and decisions referred to in paragraph 1 shall only be valid for a period of up to six months. However, the Commission may adopt implementing acts, authorising such agreements and decision and concerted practices for a further period of up to six-months. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 162(2).*

Article 158

Reporting obligation of the Commission

The Commission shall present a report to the European Parliament and to the Council:

(a) [...]

(b) [...]

[(c) *by 31 December 2014 on the possibility of extending the scope of the school schemes to include olive oil and table olives.*]

ANNEX II

DEFINITIONS REFERRED TO IN ARTICLE 3(1)

*Part Ia: **Technical** definitions concerning the sugar sector*

Section A: general definitions

1.-2. [...]

Insert 2a and 2b (moved up from Section B) as follows

2a. 'Isoglucose' means the product obtained from glucose or its polymers, with a content by weight in the dry state of at least 10 % fructose;

2b. 'Inulin syrup' means the immediate product obtained by hydrolysis of inulin or oligofructoses, containing in the dry state at least 10 % fructose in free form or as sucrose, and expressed as sugar/isoglucose equivalents. In order to avoid restrictions on the market for products with low sweetening power produced by inulin fibre processors without inulin syrup quota, this definition may be amended by the Commission;

3. [...]

4. **'Agreement within the trade'** means one of the following:

(a) [...]

(b) *in the absence of any agreement as referred to in **point (a)**, the law on companies and the law on cooperatives, in so far as they govern the delivery of sugar beet by the shareholders or members of a company or cooperative manufacturing sugar.*

Section B: definitions applying during the period referred to in Article 100a

Is renumbered as follows:

1. **'Quota sugar'**, [...]

2. **'Industrial sugar'** [...]

3. **'Industrial isoglucose' and 'industrial inulin syrup'** [...]

4. **'Surplus sugar', 'surplus isoglucose' and 'surplus inulin syrup'** [...]

5. **'Quota beet'** [...]

6. **'Full-time refiner'** [...]

ANNEX III d

PURCHASE TERMS FOR BEETS, DURING THE PERIOD REFERRED TO IN

ARTICLE 100a (change to the title)

[...]

ANNEX III e

PURCHASE TERMS FOR BEETS, DURING THE PERIOD REFERRED TO IN

ARTICLE 101(3) (change to the title)

POINT I

For the purposes of this Annex ‘Contracting Parties’ means:

- (a) sugar undertakings (hereinafter referred to as ‘manufacturers’), and*
- (b) beet sellers (hereinafter referred to as ‘sellers’).*

POINT II

1. [...]

1a. The duration of the delivery contracts may be pluriannual.

2. [...]

POINT III

1. [...]

1a. The price referred to in paragraph 1 shall apply to sugar beet of a standard quality as defined in point B of Annex III.

The price shall be adjusted by price increases or reductions, agreed by the parties in advance, to allow for deviations from the standard quality.

2. [...]

POINT IV

[...]

POINT V

1.-2. [...]

3. **Delivery contracts shall provide that the costs incumbent upon each party are clearly specified.**

POINT VI

[...]

POINT VII

1. **Delivery contracts shall provide for the sugar content to be determined using the polarimetric method or, in order to take into account technological developments, another method agreed between the two parties.** A sample of the beet shall be drawn at the time of reception.

2. [...]

POINT VIII

Delivery contracts shall provide for the gross weight, tare and sugar content to be determined using procedures agreed:

(a) jointly, by the manufacturer and the beet growers' trade organisation, if an agreement within the trade so provides;

(b) by the manufacturer, under the supervision of the beet growers' trade organisation;

(c) by the manufacturer, under the supervision of an expert recognised by the Member State concerned, provided the seller defrays the costs thereof.

POINT IX

[...]

POINT X

[...]

POINT XI

[...]

POINT XII

1.-2 [...]]

2a. Agreements in the trade may lay down a standard template for delivery contracts compatible with this Regulation and Union rules.

3. Agreements referred to in paragraph 2 lay down, in particular:

(c)-(h) [...]]

(i) the removal of the pulp by the seller;

(j) rules on how any difference between the price fixed in point III(1) and a relevant market price for the sugar at the time of delivery is to be allocated between the parties;

(k) rules on adapting prices in cases where pluriannual contracts are agreed;

(l) rules on sampling and methods for determining gross weight, tare and sugar content.
