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**COVER NOTE**

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from:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	28 June 2012
to:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) No .../... of 28.6.2012 supplementing Council Regulation (EC) No 1234/2007 as regards transnational cooperation and contractual negotiations of producer organisations in the milk and milk products sector

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Delegations will find attached Commission document C(2012) 4297 final.

Encl.: C(2012) 4297 final



EUROPEAN COMMISSION

Brussels, 28.6.2012  
C(2012) 4297 final

**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of 28.6.2012**

**supplementing Council Regulation (EC) No 1234/2007 as regards transnational co-operation and contractual negotiations of producer organisations in the milk and milk products sector**

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE DELEGATED ACT**

Regulation (EU) No 261/2012 of the European Parliament and of the Council amending Council Regulation (EC) No 1234/2007 as regards contractual relations in the milk and milk products sector<sup>1</sup> empowers the Commission to adopt delegated acts in accordance with Article 196a of Regulation (EC) No 1234/2007.

The purpose of this delegated act is to lay down rules on:

- (a) the recognition of transnational producer organisations and transnational associations of producer organisations;
- (b) the establishment and the conditions of administrative assistance to be given by the relevant competent authorities in the case of transnational cooperation;
- (c) the calculation of the volume of raw milk covered by the negotiations between recognised producer organisations and processors or collectors of raw milk.

### **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

Consultations, involving experts from all the 27 Member States and from the European Parliament, have been carried within the Expert Group for Agricultural Markets. Two meetings were organised for the specific purpose of exchanging expert views on the present act: on 22 March 2012 and on 19 April 2012. Both meetings allowed for a full presentation of the Commission's draft provisions and a thorough exchange of views on all aspects of the draft. The exercise consisted in clarifying the Commission's approach, hearing experts' views and further refining the draft text accordingly.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The act provides for the headquarters of a transnational producer organisation or a transnational association of producer organisations to be established in the Member State where it has a significant number of members and/or a significant volume of marketable production.

The Member State in which the above mentioned headquarters are located shall be responsible for recognising the organisation/association, for establishing the necessary administrative collaboration with the other Member States and for providing all relevant information to the other Member States in which the members are located.

Where a producer organisation or an association of producer organisations conducts contractual negotiations in a Member State other than the one in which its headquarters are established, the Member States involved shall give all necessary assistance to one another.

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<sup>1</sup> OJ L 94, 30.3.2012, p. 38.

Additional rules are laid down regarding the calculation of the volume of raw milk covered by the negotiations between recognised producer organisations and processors or collectors of raw milk.

**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of 28.6.2012**

**supplementing Council Regulation (EC) No 1234/2007 as regards transnational co-operation and contractual negotiations of producer organisations in the milk and milk products sector**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)<sup>2</sup>, and in particular Article 126e(1) thereof,

Whereas:

- (1) Section IIA of Chapter II of Title II of Part II of Regulation (EC) No 1234/2007 inserted by Regulation (EU) No 261/2012 of the European Parliament and of the Council<sup>3</sup> contains rules on producer organisations and their associations in the milk and milk products sector, in particular with respect to their recognition and contractual negotiations. Those rules need to be supplemented as regards the conditions for recognising transnational producer organisations and transnational associations of recognised producer organisations, clarifying the responsibility of the Member States involved and, while respecting the freedom of establishment, ensuring that the applicable rules are those of the Member State where a significant share of the activities of such organisations or associations takes place.
- (2) In addition, rules should be laid down relating to the establishment and the conditions of administrative assistance to be given in the case of transnational co-operation. Such assistance should in particular include the transfer of information that would allow the competent Member State to assess whether a producer organisation or association of recognised producer organisations complies with the terms of recognition. Such information is necessary to allow the competent Member State to take action in case of non-compliance.
- (3) Additional rules should be laid down regarding the calculation of the volume of raw milk covered by the negotiations between recognised producer organisations and processors or collectors of raw milk. To take into account the seasonal variability of milk production, the calculation should compare the milk volume covered by the negotiation for the time period of delivery with the estimated volume of milk

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<sup>2</sup> OJ L 299, 16.11.2007, p. 1.

<sup>3</sup> OJ L 94, 30.3.2012, p. 38.

production representative for that period, to assess compliance with the maximum ceilings laid down in Article 126c of Regulation (EC) No 1234/2007.

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Headquarters*

1. A transnational producer organisation shall establish its headquarters in the Member State in which it has a significant number of members or a significant volume of marketable production.
2. A transnational association of recognised producer organisations, hereinafter referred to as "transnational association", shall establish its headquarters in the Member State where it has a significant number of member organisations or a significant volume of marketable production.

*Article 2*  
*Responsibilities of the Member States*

1. The Member State in which the headquarters of the transnational producer organisation or transnational association are established shall be responsible for the following:
  - (a) recognising the transnational producer organisation or the transnational association in accordance with Article 126a of Regulation (EC) No 1234/2007 and carrying out the tasks referred to in Article 126a(4) of that Regulation;
  - (b) establishing the necessary administrative collaboration with the other Member States in which the members or member organisations are located with respect to verifying compliance with the terms of recognition referred to in Article 126a of Regulation (EC) No 1234/2007;
  - (c) providing, on request of the other Member States, all relevant information and documentation to the other Member States in which the members or member organisations are located.
2. For the purposes of point (b) of paragraph 1, the other Member States shall give all necessary administrative assistance to the Member State in which the headquarters of the transnational producer organisation or transnational association are established, including the transfer of all relevant information.
3. Where a producer organisation or an association of recognised producer organisations conducts negotiations as referred to in Article 126c of Regulation (EC) No 1234/2007 in a Member State other than that in which its headquarters are established, the Member States involved shall ensure that all necessary mutual administrative assistance is given.

*Article 3*  
*Calculation of amounts of raw milk for negotiation*

For the purposes of Article 126c(2)(c) and (3) of Regulation (EC) No 1234/2007, the negotiation ceilings shall be calculated taking into account the delivery period of the raw milk covered by contractual negotiations and the seasonal variability in milk production, where that variability is significant.

*Article 4*  
*Entry into force*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 28.6.2012

*For the Commission*  
*The President*  
*José Manuel BARROSO*