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ORGANIZATIONS AND AGREEMENTS LINKING DIFFERENT BRANCHES WITHIN THE AGRICULTURAL SECTOR

Commission Communication to the Council

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BRANCHES WITHIN THE AGRICULTURAL SECTOR

1. INTRODUCTION

When the Agriculture Council of Ministers met on 21 to 25 April 1986, to review prices and related measures for 1986/87, the Commission announced its intention to submit a report, with proposals, on the creation of a Community framework for joint organizations and agreements involving different branches within the agriculture sector broadly defined.

At the European Council meeting of 12 and 13 February 1988, the Commission confirmed its intention to draw up a report on inter-branch cooperation and to present its conclusions to the Council.(2)

In accordance with these undertakings, the Commission outlines in this communication its thinking on problems connected with these agreements and organizations under the common agricultural policy.

The concept of "inter-branch arrangements" - in French, the "interprofession" - may be defined in practical terms as that of the relationships woven between the various occupational categories involved in the production, marketing and - where appropriate - processing of any given agricultural product or product group. The relations are vertical rather than horizontal, and this is the main feature of this area of activity.

Vertical relations distinguish inter-branch arrangements from horizontal-type action such as that of producers' groups developed by Community regulations with the objective, among others, of promoting the concentration of supply of agricultural products and its adaptation to market requirements.

However, it is a fact that while Community regulations have drawn fairly heavily on the operations of agricultural producers' groups among the instruments mobilized for the implementation of the CAP, they have so far provided for action between entities having different functions in agriculture only on a limited, if not restrictive, scale, although, in practice, there are schemes linking different branches within agriculture in the Member States.

2. A CLEAR ROLE FOR PRODUCER GROUPS

The adoption of Community regulations on producer groups(3) has been shown to be the right approach to tackling serious structural defects hampering the supply of agricultural products - defects serious enough to jeopardize the achievement of CAP objectives.

(1) See point L "inter-trade ('interprofession')" in the final compromise adopted by the Council: "The Council noted a statement by the Commission announcing its intention of submitting a report accompanied by proposals on the creation of a Community inter-trade framework".

(2) See point D "Inter-professional cooperation" in Annex IV to the conclusions of the European Council (SN/461/1/88).

(3) Council Regulation (EEC) No 1360/78 on producers' groups and their associations.

Council Regulation No 136/66/EEC on the establishment of a common organization of the market in oils and fats (Article 20c).

Council Regulation (EEC) No 1696/71 on the common organization of the market in hops (Article 7).

Council Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables (Article 13).

Council Regulation (EEC) No 707/76 on the recognition of producer groups of silkworm rearers.

Council Regulation (EEC) No 389/82 on producer groups and associations thereof in the cotton sector.

The task of the producer groups has thus naturally been that of promoting concentration of supply and adaptation of production to market requirements through appropriate disciplines as regards production and marketing, worked out and applied by their members(1). The constitution, recognition and operation of producer groups are, of course, in line with clear Community criteria. Beyond this structural work, the producer groups have, as regards certain sectors, been given duties linked more directly to the management of the market organizations.

- Thus, for olive oil, the groups have been asked to carry out, among other things, some work connected with the operation of the production aid scheme(2).
- For hops, the groups can be asked to manage the production aid scheme, which may enable them to finance some market stabilization operations(3).
- However, the products for which most powers of initiative as regards market stabilizations have been entrusted to the groups are fruit and vegetables, the operation of the groups being dovetailed into intervention schemes: where there is a crisis on the market, the fruit and vegetable producer groups, acting on behalf of their members, withdraw produce from the marketing channels and make reimbursements under Community regulations(4).

3. OUTLINE FOR A ROLE FOR INTER-BRANCH INITIATIVE

In certain circumstances, cooperation and joint action between firms operating in different areas of agriculture, subject to the conditions outlined in Regulation No 26 of Council(5), subject to compliance with the competition rules of the Treaty, in particular Article 85, which prohibits agreements, decisions and practices between undertakings liable to affect trade between Member States or to markedly interfere with competition. Exemptions from these rules are available. However, in this case, where inter-branch arrangements do not comply with the existing conditions of exemption, special measures will be needed based on Articles 42 and 43 of the Treaty(6).

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- (1) For fruit and vegetables, in order to strengthen the work of the producer groups and thus facilitate greater market stability, the rules adopted for its members by a group in a given region can, in certain circumstances, be extended to non-member producers as well in that region (Article 15b of Regulation (EEC) No 1035/72).
 - (2) Article 5 of Regulation No 136/66/EEC and Council Regulation (EEC) No 2261/84 lay down rules on the payment of olive oil production aid and on producers' organizations.
 - (3) Article 7(1)(e) of Regulation (EEC) No 1696/71.
 - (4) Article 15 of Regulation (EEC) No 1035/72.
 - (5) Council Regulation No 26 of 20 April 1962 applying certain rules of competition to production of and trade in agricultural products.
 - (6) See in Annex 1, the rules of competition applying to inter-branch agreements.

So far, there are only very few cases of specific provision in Community regulations for inter-branch action under Articles 42 and 43.

It is true that, under various market organizations(1), the Council may, using the procedure of Article 43(2) of the Treaty, take action to encourage the initiatives not only of single branches but also initiatives involving more than one such branch. Such initiatives must, in particular, be designed to facilitate the adaptation of supply to market requirements and to improve the organization of production, and, according to case, processing and marketing.

However, the number of product groups for which action of this type has actually been taken, referring explicitly to agreements between different branches, is very small:

- for flax and hemp, Community regulations authorize the retention of agreements between differing branches operating before the market organization was set up and has provided framework provisions covering these agreements(2);
- for sugar, Community regulations have also authorized the retention of very detailed inter-branch agreements entered into before the market organization was set up and have provided a framework for these agreements in framework rules leaving a great deal of freedom of action to the contracting parties, subject to minimum guarantees prescribed under the market organizations(3);
- as regards processed tomato products, the Community regulations have recently introduced inter-branch agreements, as a source of decisions on restricting production, alternative to the Community establishment of guarantee thresholds which have become necessary to achieve control of mounting production(4).

(1) Council Regulation (EEC) No 234/68 on the establishment of a common organization of the market in live trees and other plants (Article 2).
Council Regulation (EEC) No 805/68 on the common organization of the market in beef and veal (Article 2).
Council Regulation (EEC) No 1308/70 on the common organization of the market in flax and hemp (Article 2).
Council Regulation (EEC) No 2759/75 on the common organisation of the market in pigmeat (Article 2).
Council Regulation (EEC) No 2771/75 on the common organization of the market in eggs (Article 2).
Council Regulation (EEC) No 2777/75 on the common organization of the market in poultrymeat (Article 2).
Council Regulation (EEC) No 1837/80 on the common organization of the market in sheepmeat and goatmeat (Article 2).

(2) See Annex 2.

(3) See Annex 3.

(4) See Annex 4.

In practice, however, inter-branch machinery and agreements are operated in many Member States, although numbers vary a good deal from Member State to Member State (1).

4. THE FITTING OF INTER-BRANCH ARRANGEMENTS INTO THE NEW PROCESS OF ADAPTATION OF COMMUNITY AGRICULTURE

The CAP has moved through several stages since its inception, and ongoing adaptation has been needed to solve the various problems that have arisen over the years. Those the Community now has to contend with have already been discussed in full by the Commission: they are due to the relentless build-up of surpluses of many products, disposal of which, whether within the Community or on the world markets, is becoming increasingly difficult and increasingly costly(2).

In this connection, the Commission has already made it clear that it believes that Community agriculture is bound to lose drive and efficiency if it is alienated or shielded from the laws of the market and from socio-economic change in the world in general.

As a result, the Commission has proposed the following priorities in the work to press through adaptation(3).

- gradual cut-back of production of surplus products and moderation of the cost to be borne by the taxpayer;
- promotion of diversification and qualitative improvements in production on the basis of the internal and external markets and the desiderata of users;
- more effective and systematic handling of problems connected with the incomes of small farms;
- support of farming in areas where it is vital to regional development, the protection of social equilibria and the safeguard of the environment and the countryside;
- promotion of increased awareness among farmers of environmental problems;
- contribution to the development, in the Community's territory, of firms and industries processing agricultural products, so that agriculture can be properly involved in the major technical changes now occurring.

(1) See Annex 5

(2) Perspectives of the common agricultural policy, COM(85)333 final, 13 July 1985.

(3) A future for European agriculture, COM(85)750 final of 18 December 1985, p. 5.

As the disequilibrium between supply and demand is the key to the problems now besetting the CAP, it is only natural that the main instrument used to restore order on the markets has been policy on prices and markets(1). Wishing to ensure mutual consistency between, and convergence of, the policy on prices and markets and the policy on structures, the Commission has also proposed a set of supplementary measures of a socio-structural character.(2) These proposals were the outcome of its tentative studies in this connection following the wide-ranging debate on the "Green Paper"(3).

Among the main objectives of these measures, the Commission stressed that they should:

- help farmers to adapt to new conditions on the markets by, in particular, diversifying production or improving its quality and by active research for outlets, and by taking more systematic guidance from medium- and long-term market trends;
- give increased support to structures that can facilitate disposal of production through better organization of production and development of processing.

More recently, in the Explanatory Memoranda attached to its proposals for the 1987/88 prices(4), the Commission stated that "the aim of the introduction of more flexible institutional instruments for market support is not to replace order by anarchy but to stimulate the establishment of new structures, in the preparation and operation of which farmers and their organizations will play a more active role".

The Commission stated its preparedness in certain circumstances to facilitate a developing trend in contractual relationships between farming and processing, in particular in the form of inter-branch agreements. It stressed that the aim was not to build something out of nothing, as there were already good models in the Community, but there was a need to make a start in this direction.

As institutional market support instruments are rendered more flexible, the Commission reaffirms its view that in some sectors, flexible machinery for concerted discussion and cooperation between the various types of firms involved in production, processing and marketing of agricultural products must also be developed.

(1) Memorandum on cereals, COM(85)700 final, 14 November 1985.
Memorandum on beef/veal, COM(85)834 final, 18 December 1985.
Proposals on the 1985/87 prices, COM(86)20 final, 6 February 1986.
(2) COM(86)199 final, 21 April 1986.
(3) They were supplemented by proposals on aids to income and incentives to stock farming, COM(87)166 final, 15 April 1987.
(4) COM(87)1 final, 18 February 1987, p. 16, point 30.

Such a structure should help correct the dispersion of supply which is endemic in certain agricultural product sectors. The establishment of producer groups has for some sectors and in some regions, brought good results. However, the trend towards the concentration of marketing and processing activities, together with the imbalances between supply and demand which now prevail in certain markets, suggest that the policy on producer groups should be pursued by action in support of voluntary inter-branch cooperation in case existing instruments are insufficient to achieve the objectives of Article 39 of the Treaty.

The Commission also takes the view that developing inter-branch cooperation and integrating it within the process of adapting Community agriculture is in line with the need, already stressed⁽¹⁾:

- "gradually to reduce production in the sectors which are in surplus and to alleviate the resulting burden on the taxpayer",
- "to increase the diversity and improve the quality of production by reference to the internal and external markets and the desires of consumers",
- "to contribute to the development in the Community of industries which process agricultural produce, and thus involve agriculture in the profound technological changes which are taking place".

The possibility of guiding or "modulating" production, marketing and processing under joint agreements on the basis of outlets and of the new CAP guidelines should provide timely and valuable support for the efforts being made to bring supply more closely in line with demand, and thus achieve market equilibrium: for adjustment of production, marketing and processing in this way should make it possible to:

- ensure that operators handling the product groups concerned assume greater responsibility for their decisions;
- achieve qualitative improvement in output because farmers will allow for changes entailed by changes in consumption or processing techniques once they are informed of - or have a stake in - the future of their products, in the economic process, once they leave the farm;
- achieve an adjustment, and perhaps even conversion, of production as a result of a tighter approach to real conditions as regards outlets on the basis of a closer link between the various stages of production, marketing and processing;
- facilitate, through inter-branch cooperation itself, efforts to find new types of product and new outlets.

(1) A future for Community agriculture, COM(85)750 final, 18 December 1985, p. 5.

The creation of machinery for inter-branch cooperation would also, in the Commission's view, be in line with its policy of maintaining and promoting quality agricultural products, which could be of great benefit to rural society.(1)

As announced, the Commission is drawing up a package of proposals covering labels, and the protection of indications of geographical origin for agricultural and food products. A draft Council regulation(2) concerning organic farming methods and the use of this description has already been forwarded.

Cooperation between the various categories involved in production processing and marketing would probably encourage the development of policies emphasising quality by providing:

- a suitable framework for identifying product characteristics and for laying down precise rules regarding their production or composition;
- an instrument for implementing and overseeing such rules which would be all the more effective in that they had been agreed to voluntarily.

5. CONCLUSIONS

The Commission is convinced that developing inter-branch cooperation in agriculture can help to:

- improve the profitability of farming by strengthening marketing coordination and exploiting qualitative and/or regional characteristics;
- optimize trading potential through increased knowledge of markets and market trends (volume, and quality/varieties demanded);
- curtail public intervention in the form of withdrawals from the market.

It is not possible at this stage to envisage the extension to all agricultural sectors of the possibility of setting up inter-branch organizations, and of developing contractual relations between farmers, processors and traders in the form of inter-branch agreements. The experience of the Commission in this field has been positive but limited to particular sectors (see point 3 above).

(1) The future of rural society (COM(88)501 final, 29.7.1988, p. 40).

(2) COM(89)552 final of 6 December 1989.

The Commission consequently takes the view that a Community framework for inter-branch organizations and agreements in agriculture is best operated on a sectoral and pragmatic basis. The Community should focus its attention chiefly on sectors where integrating inter-branch activities with CAP instruments would be for the economic characteristics of the market organization and/or on sectors with specific problems which cannot be satisfactorily dealt with under the existing rules. This means concentrating on:

- sectors in which the contractual economy is of special significance (whether or not there is a common organization of the market);
- sectors in which the common organization of the market does not provide for any direct instruments of intervention.

The Commission will present to the Council appropriate sectoral proposals based on Member States' reactions to this communication and its own analysis of economic requirements.

At present, the Commission takes the view that associating inter-branch activities with CAP instruments for the sectors concerned should in any case be carried out in accordance with certain principles:

- (1) inter-branch organizations should provide, within their production area, - a forum where farmers, processors and traders can meet and exchange information on a voluntary basis as their objective should be, in particular, to seek a fair balance of advantages and obligations among the different professional categories; the creation and operation of these organisations should be undertaken on a basis of equal participation;
- (2) inter-branch action should consist primarily of:
 - steps to improve market transparency (price trends, forecasts regarding the means of production, supply, demand, and so on);
 - the organization of sectoral relations, e.g. standard contracts, approval of conformity with norms, (monitoring observance of Community quality control standards);
 - the promotion of the sector's products on domestic and foreign markets;
 - research (new uses, research and development programmes);
- (3) parallel steps should be taken to ensure that:
 - markets inside the Community are not compartmentalized;
 - the proper functioning of the various market organizations is respected;
 - the following do not occur:
 - a) distortion of competition which is not necessary to achieve the CAP objectives of inter-branch activities;
 - b) price and quota fixing;
 - c) discrimination; and
 - d) elimination of competition in most of the product sectors concerned.

(1) Without prejudice to the controls undertaken by the competent authorities.

(4) without surrendering the principle of voluntary participation by the economic operators concerned by the establishment of an inter-branch organisation, it should nevertheless be possible to examine one possibility of strengthening and of enhancing the value of inter-branch activity, while respecting the rules of the Treaty : the possibility, under certain conditions and in keeping with strict criteria, of extending certain inter-branch disciplines to operators who are not members of the organisation.

In addition, a series of provision and procedures will be needed to cover the recognition of inter-branch organizations by national authorities, and the Commission should be vested with permanent supervisory powers to ensure the above principles are respected.

ANNEX 1

Rules of competition
applicable in certain circumstances
to inter-branch agreements in agriculture

Article 42 of the EEC Treaty stipulates that the Chapter relating to rules on competition applies to production of and trade in agricultural products only to the extent determined by the Council within the framework of Article 43 and in accordance with the procedure laid down in that Article, having due regard to the objectives set out in Article 39

Among measures forming the first steps in the creation of the CAP, the Council adopted Regulation No 26 on 4 April 1962, applying certain rules of competition to the production of and trade in agricultural products.

Regulation No 26 lays down the principle that Articles 85 to 90 of the EEC Treaty - i.e. the rules on restrictive agreements, cartels and dominant positions, including public undertakings and monopolies, and provisions implementing these articles - apply to the production of and trade in items listed in Annex II to the Treaty, as well.

The first sentence of Article 2(1) of this Regulation concedes, however, two exceptions(1) to this rule:

- the first exception is in favour of agreements, decisions and practices which form an integral part of a national market organization. In view of the development of the EEC market organizations, the scope of this first waiver has now become very limited in practice;
- the second exception concerns agreements, decisions and practices which are necessary to the achievement of the objectives of Article 39 of the Treaty. The third recital in the preamble to Regulation No 26 indicates that the intention was to prevent application of Article 85(1) of the Treaty (ban on agreements) only in such cases where application would prevent the CAP from achieving its goals.

As a particular case, the second sentence of Article 2(1) provided a waiver for certain agreements, decisions or practices of farmers (those concerned are mainly cooperatives) where they meet the de facto conditions specified therein, provided the Commission does not issue a formal finding that the agreement jeopardizes the objectives of Article 39 or eliminates competition completely.

(1) The exceptions concern only Article 85 of the Treaty, i.e. agreements, decisions and concerted practices, and not Article 86, on the improper exploitation of dominant positions.

The Commission can also always apply Article 85(3) of the Treaty (decision, for categories of agreements, exempting them from the requirements of Article 85(1)) to agreements not ranking for the exemptions of Article 2(1) of Regulation No 26, provided, of course, that the conditions under which this clause can be invoked are met.

It is important to note that Regulation No 26 does not apply if there are subsequent Council Regulations which contain specific rules (eg. inter-branch agreements in the common organisation of the sugar market).

ANNEX 2

The framework for inter-branch agreements in the
flax and hemp market organization

The Community regulations stipulate that contractual relations between purchasers and growers of hemp and flax straw should be governed by framework provisions with a view to stabilizing the market and facilitating the disposal of the relevant products(1).

The framework provisions adopted in this connection allowed for the fact that before the EEC market organization was set up there were already, in certain regions of the Community, inter-branch agreements with standard contracts with which the parties had to comply. The right to conclude such standard contracts was therefore retained.

For this purpose, the Community regulations(2):

- defined inter-branch agreements as being agreements concluded between a producers' organization and a purchasers' organization before the conclusion of individual contracts of sale of flax or hemp by the grower himself
- laid down the principle of recognition of the producers' and purchasers' organizations to be effected by the Member State concerned;
- recognized the possibility of the definition, under inter-branch agreements, of a price which can be used as reference on the conclusion of individual contracts;
- restricted the scope of inter-branch agreements to the definition of standard contracts complying with the provisions relating to the sector and with the principle of non-discrimination among contracting parties.

(1) Article 6 of Council Regulation (EEC) No 1308/70 on the common organization of the markets for flax and hemp.

(2) Council Regulation (EEC) No 620/71 establishing framework provisions for contracts concerning the sale of flax and hemp straw.

ANNEX 3

The framework for inter-branch agreements in the
sugar market organization(1)

The Community regulations include a set of clear and exhaustive provisions organizing the market in sugar, which is seen as a processed product. For the basic products (sugar cane and sugar beet), the regulations have laid down rules ensuring that arrangements similar to the measures taken as regards sugar would be passed on to these products. For this purpose, contractual relations are regulated between refiners and cane and beet growers. The rules, however, are not the same for beet and cane.

- a) As regards contractual relations between refiners and cane growers, the Community regulations merely refer, in principle, to the inter-branch agreements(2), and there is no particular framework. Only where there is no inter-branch agreement are the terms of purchase of sugar cane by refiners to be fixed by the Commission, acting under the "management committee" procedure. Such intervention by the Commission has so far proved necessary on only two occasions(3).
- b) On the other hand, as regards contractual relations between refiners and beet growers, there is a substantial set of framework provisions both for the inter-branch agreements themselves and for contracts concluded between beet sellers and purchasers, in particular as regards terms of purchase, delivery, receipt and payment for beet(4).

As regards the inter-branch agreements, it should be noted that the beet planters and the refiners were, in most Community regions, members of organizations which had traditionally handled, in great detail, the terms of purchase and delivery of beet. The framework provisions adopted (5) therefore had the objective of maintaining for these groups the greatest possible freedom of manoeuvre in their efforts to defend the interests of planters and refiners.

It is interesting to note that the Community legislation defined the concept of inter-branch agreement in very broad terms(6). There are no less than 4 typical cases:

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- (1) Council Regulation (EEC) No 1785/81, 30 June 1981.
 - (2) Article 7(2) of Regulation (EEC) No 1785/81.
 - (3) During the 1970/71 and 1977/78 marketing years in Réunion; see Regulation (EEC) No 1609/70, 6 August 1970, and Regulation (EEC) No 69/78, 13 January 1978 respectively.
 - (4) Article 7(1) of Regulation (EEC) No 1785/81.
 - (5) Council Regulation (EEC) No 206/68, 20 February 1968, laying down outline provisions for contracts and inter-branch agreements for the purchase of beet. (The Regulation uses the expression "inter-trade".
 - (6) Article 1(3) of Regulation (EEC) No 206/68.

- i) an agreement concluded at Community level between a group of national manufacturers' organizations on the one hand and a group of national sellers' organizations on the other, prior to the conclusion of individual contracts for sale of beet;
- ii) an agreement concluded at national level between manufacturers or an organization of manufacturers and an association of sellers, again prior to the conclusion of individual sales contracts (it being understood that it is for each Member State concerned to proceed to recognition of the manufacturers' organizations and sellers' associations). This agreement must include an arbitration clause(1);
- iii) the provisions of company law or of the law on cooperatives, where the provisions normally included in the above agreements or the arrangements referred to below have already been included in the company or cooperative contract formed by the beet growers for the manufacture of sugar under their own responsibility ;
- iv) arrangements made by the sugar manufacturer with his sellers, before the conclusion of the delivery contracts, provided the sellers accepting the arrangement supply at least 60% of the total beet bought by the manufacturer.

The scope for action of the inter-branch agreements defined in this way leaves a great deal of freedom to the contracting parties in so far as the framework provisions set out a wide range of possibilities in a list which is not exhaustive(2). However, the clauses in the joint agreements may in no circumstances encroach on matters governed by the framework provisions as regards individual contracts, and in particular the obligation, for these contracts, to comply with minimum guarantees required both for the plant and for the processor(3).

But it should be noted that Community regulations:

- where there is no arrangement in the form of inter-branch agreements on the distribution between sellers of quantities of beet which the refiner proposes to buy before sowings for the manufacture of sugar within the basic quota, have conferred upon the Member States concerned the responsibility for laying down rules on distribution(4);
- have required the Member States to verify, on a regular basis, the consistency of the inter-branch agreements with Community provisions, notably as regards the purchasing of and payment for beet(5).

(1) Article 13(1) of Regulation (EEC) No 206/68.

(2) Article 13(3) of Regulation (EEC) No 206/68.

(3) For example: normal period of delivery of beet and staggering over time, collection centres, intake places, formal verification of sugar content on intake etc.

(4) Council Regulation (EEC) No 741/75, 18 March 1975, establishing particular rules concerning the purchase of sugar beet.

(5) Commission Regulation (EEC) No 1516/74, 18 June 1974.

ANNEX 4

The contribution of inter-branch agreements to the control of
the production of tomato products

For certain processed products based on fruit or vegetables, a production aid system has been introduced by Community Regulation (1). For some of these products, a supplementary scheme of guarantee thresholds at Community level corresponding to scope for disposal has been added(2). The guarantee thresholds system has the effect of reducing production aid whenever the threshold is exceeded.

This is the case for tomato products. Output of this item, however, soared during 1983/84 and 1984/85, and the overrun beyond the thresholds was so wide, that the authorities were obliged to activate more restrictive measures for a limited period.

These temporary measures restrict, for each processing firm, the production of aid to those quantities grown during a reference market year. The measures have, however, been relaxed in the case where the output of the firms concerned has attracted a restrictive measure at national level. In this case, the quantities assigned may, to some extent, exceed the reference quantities, but the aid is then reduced pro rata with the overrun of these quantities.

The limitation measure may be a result either of a national measure or an inter-branch agreement. As regards the inter-branch agreements, the Community regulations merely provide for clauses ensuring that the quantities are allocated by firm on the basis of similar criteria in the various Member States (4). The inter-branch agreements themselves are not more clearly defined either; it is simply stipulated that they must have been endorsed by the Member States concerned before they can take effect.

(1) Article 2 of Council Regulation (EEC) No 426/86 on the common organization of the market in products processed from fruit and vegetables.

(2) Council Regulation (EEC) No 989/84, of 31 March 1984 introducing a system of guarantee thresholds for certain processed fruit and vegetable products.

(3) Council Regulation (EEC) No 1320/85 of 23 May 1985 on temporary measures for production aid to processed tomato products.

(4) Article 10 of Commission Regulation (EEC) No 2233/85 of 31 July 1985.

ANNEX 5

Inter-branch agreements in the Member States(1)

Belgium

The Belgian authorities have stated that the National Office for Agricultural and Horticultural outlets is, in some respects, an organization sponsoring cooperation between producers, processors and dealers.

This office has "marketing funds" and "consultative sections" organized by sector, the purpose of which is to promote outlets for Belgian agricultural and horticultural products. The objective of this machinery consists in involving all those working in a given area in marketing policy, either through co-determination of marketing policy, or through co-financing, or both.

The Belgian authorities have also reported the existence of inter-branch agreements or contracts between producers and processors under the various frameworks provided for in Community regulations (e.g. for sugar, or as regards contracts related to the grant of Community aids).

Germany

The German authorities have reported that there are groupings representing inter-branch interests, but that their work is restricted, essentially, to advisory services for their members without such work entailing cooperation in the definition and implementation of production or marketing rules.

The Germany authorities stress that cooperation of the latter kind, if it were designed - for example, through application of such rules to an entire sector - to restrict competition and freedom of movement, would conflict with the legal principles in Germany.

Spain

The Spanish authorities have reported that there is inter-branch machinery for sugar, milk, cotton and fruit and vegetables for processing.

The legal basis for the agreements is a Law of 26 May 1982 on contracts relating to agricultural products. The purpose of the policy on contracting is to create order in the pattern of contractual relationships between farms and industrial and commercial firms.

This Law tends to give a special status as an instrument to inter-branch agreements having the following objectives:

(1) The information given here is based on replies sent by the Belgian, German, Spanish, French, Portuguese and United Kingdom authorities to a questionnaire sent out on 7 August 1986 by the Commission to all the Member States.

- promotion of market stability by adaptation of production in qualitative and quantitative terms to domestic and export demand,
- regularization of transactions by the determination of prices to be paid, terms of delivery and assurances of mutual compliance with obligations, to underpin the proper operation and the "transparency" of the market.

This policy is supported by a procedure for official approval of the agreements which provides access to various official credit and collective insurance schemes.

France

The French authorities have stressed in particular the Law of 10 July 1975 (amended in 1980) on agricultural inter-branch organization, on the basis of which about 25 inter-branch agencies have been set up at the initiative of the private sector itself. These private-law agencies do not include representatives of the authorities.

The agreements concluded under a recognized inter-branch organization can be extended, by inter-ministerial decree, to the entire sector concerned, for a given period. The agreements must then be the outcome of a unanimous decision taken by the various branches concerned and have the effect of improving information flow on supply and demand, the adaptation and stabilization of supply, and inter-branch relations by the application of standard contracts and the implementation of "common measures".

The French authorities have also reported that there are other inter-branch agencies set up before the Law of 1975, the status of which was endorsed by this subsequent Law. They are inter-branch committees dealing mainly in wines of designated origin and spirituous beverages.

Italy

The Italian Parliament is studying a bill, sponsored by agricultural interests, on inter-branch agreements. The objectives of these agreements, which are to form part of a national agricultural plan, will include:

- the re-ordering and rationalization of production (in terms of quantity and quality) on the basis of domestic and export demand,
- the determination in advance of the prices of products and the establishment of cropping schedules,
- the stabilization of general production and terms of sale of products and of supply of services.

The bill includes an incentive in that operators working under such joint agreements would qualify on a priority basis for access to various modernization and reorganization aid schemes.

Netherlands

The "produktschappen", "vertical" inter-branch groups with a status in public law were set up between 1954 and 1956. Membership is compulsory.

They have two types of responsibility:

- autonomous responsibility in sectors specified by the Law which set them up. Essentially this refers to the economic organization of the activity (statistics, quality rules, etc.) but also welfare problems (working conditions, vocational training),
- responsibilities for co-management, i.e. the authorities can also entrust implementation of a government decision to a "produktschap"; for the purposes of application of the common agricultural policy, they generally do so.

Portugal

The Portuguese authorities have stated that there are no institutionalized inter-branch arrangements in Portugal.

United Kingdom

The United Kingdom authorities have stated that while it is true that there are in Britain some organizations comprising representatives, at different levels, of the production/processing/marketing channel, there is no inter-branch organization entailing vertical cooperation within the sector. Among the organizations of some size, the United Kingdom authorities have mentioned:

- an agreement on sugar pursuant to Community regulations,
- the statutory Meat and Livestock Board, set up to improve the efficiency of the stockfarming and meat industries,
- "Food from Britain", an organization set up to promote marketing of food and beverages.

The United Kingdom authorities have not included the "marketing boards", agencies responsible for controlling the markets, on the grounds that they do not have an inter-branch character.