15 February 2011: The French ovine sector concludes an inter-branch agreement

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The *Autorité de la concurrence* issues a positive opinion on the first inter-branch agreement concluded within the ovine sector.

To make such contractualization fully effective, the *Autorité* calls industry players to set a schedule to implement a second level agreement between intermediaries and retailers.

> Version française

While the law on the modernization of agriculture and fishing of 27 July 2010 advocates written agreements between sheep farmers and buyers to protect farmers from the downward trend of their incomes, the ovine sector, the *Association nationale interprofessionnelle du bétail et des viandes* (Interbev), which represents all industry players, signed an agreement on 1 December 2010.

Prior to the homologation of the agreement, and as required in the provisions of the French code of rural and sea fishing law (*Code rural et de la pêche maritime*), the French Minister of economy sought the opinion of the *Autorité de la concurrence* to check if such an agreement was complying with competition law.

A business sector first commits itself in contractualization through an inter-branch agreement.

To tackle with a major crisis in their sector, similar to what are facing other farming sectors (low profitability of breeding farms, low farmers' incomes, prices volatility, etc), sheep farmers and their clients (butchers, slaughters and the

processing industry) voluntarily committed themselves in the way to contractualization.

In line with the arguments stressed in her previous opinions regarding fruits, vegetables and dairy farms sectors , the *Autorité de la concurrence* has always welcomed contractualization and taken the opportunity to encourage market players to involve themselves in this way. Such arrangement reinforces farmers' bargaining power towards their clients. It guarantees them determined sales volumes and incomes, while securing supply from a buyer's perspective.

Therefore, the *Autorité de la concurrence* warmly welcomes the initiative taken by the ovine sector. It still formulates two recommendations regarding the scope of the contractual agreement and price clauses.

To make the agreement fully effective, the *Autorité de la concurrence* recommends that market players should agree shortly on a second level agreement.

The inter-branch agreement covers the first placing on the market: transactions between breeding farms and their buyers. However, to turn the agreement into a fully effective one, the *Autorité* believes that all market players within the ovine sector should be involved in the agreement: farmers, intermediaries and retailers. If contractualization was limited to breeding farms and intermediaries, that would not guarantee market opportunities (at the level of retailers). To ensure a protection across the whole chain, the *Autorité* encourages buyers and retailers to conclude agreements and invites public authorities to facilitate the implementation of a second level agreement, which is by the way called by market players.

The *Autorité* calls for some precautions regarding the determination of prices. It recommends that the Observatoire de la formation des prix et des marges should support the ovine sector during the contractualization process through the production of reliable price indexes.

Regarding the procedures to determine prices, the agreement provides that

they could be based on price indexes designed by the industry. The *Autorité* points out that the publication of such price indexes should under no circumstances lead to price recommendations. Besides the fact that a price recommendation would have no economic efficiency – a too high price may encourage buyers to favor imports –, it could also infringe competition law.

Each farmer must determine freely its own price, taking into account its charges and costs, and using where appropriate trend indicators, since their use is not binding.

The *Autorité* acknowledges that the challenge of contractualization at sector level is to define reliable trend indicators that can help farmers fix their selling price from objective factors. To help the ovine industry in this task, the *Autorité* therefore recommends that a technical support should be provided by the Observatoire de la formation des prix et des marges. These indicators could e.g. reflect the costs included in the price of production, as well as indexes of retail prices and meat prices abroad.

[1]*Please refer to press releases and Opinions 08-A-07, 09-A-48 et 10-A-28.*

> For further details, please consult the full text of Opinion 11-A-03 of 15 February 2011, relative to an inter-branch agreement in the ovine sector (in French)

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