



EUROPEAN
COMMISSION

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2016/0181 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products, as regards the applicable quantitative limitation for buying-in skimmed milk powder

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The milk and milk products sector is experiencing a prolonged period of severe market imbalance. Global demand for milk and milk products has deteriorated in the course of 2015, notably due to the introduction and prolongation of the Russian import ban and the weakening of imports in China, the main world importer of dairy products. At the same time milk supply has generally increased in the main exporting regions.

Milk production is particularly increasing in the Union as investments in milk production capacity were made in view of milk quota expiry and positive medium term prospects on the world market. Milk deliveries in the Union increased by 2.5% in 2015, representing more than 3.5 million tonnes of raw milk in addition. Milk volumes produced in excess have to be processed into long term storable products such as butter and skimmed milk powder (SMP). Indeed, production increased by 8.1% for SMP and by 4.7% for butter in 2015. DG AGRI estimates point to a further increase by 1.4% of EU milk deliveries in 2016.

Prices of SMP in the Union have consequently declined in years 2014 and 2015, when they hit the public intervention price. Downward pressure is also observed on butter prices but they are still above the public intervention price.

Article 3 of Council Regulation (EU) No 1370/2013 sets quantitative limitations for buying-in butter and skimmed milk powder at the fixed price referred to in Article 2 of the same Regulation (50 000 tonnes for butter and 109 000 tonnes for SMP). Once those limits are reached, buying-in is to be carried out by way of a tendering procedure to determine the maximum buying-in price.

In order to help the milk and milk products sector find a new balance under the prevailing severe market situation, and preserve confidence in the effectiveness of intervention mechanisms, the Council decided to increase the quantitative limitations for buying-in butter and skimmed milk powder at fixed price in the year 2016.

The 109 000 t initial quantitative limitation for skimmed milk powder was reached on 31 March 2016. A tender procedure took place pending the above mentioned Council decision and some 27 000 t skimmed milk powder were bought-in through that procedure.

Since the resumption of buying-in at fixed price under the doubled ceiling, quantities of skimmed milk powder purchased each week have been considerably higher than at the beginning of the year. In all likelihood, the new ceiling will be quickly reached.

For the same reason as the initial Council decision, it is therefore appropriate to further increase the quantitative limitation for the buying-in of skimmed milk powder at fixed price. An increase of the quantitative limitation for butter is not necessary, as no offer has been received so far for butter.

As it is possible that, by the time this Regulation enters into force, a tendering procedure for buying-in might have been automatically triggered, it is necessary not to take into account the volumes bought-in under that procedure so that they are not deducted from the new available ceiling.

In order to ensure that the measure provided for in this Regulation has an immediate impact on the market and contributes to stabilise prices, this Regulation should enter into force on the day following that of its publication.

- **Consistency with existing policy provisions in the policy area**

This proposal is consistent with the spirit of the common organisation of the markets in agricultural products, aiming at stabilising markets and ensuring a fair standard of living for the agricultural community.

The proposal is consistent with Article 43(3) of the TFEU by which the Council, on a proposal from the Commission, shall adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.

- **Consistency with other Union policies**

N/A

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 43(3) of the Treaty on the Functioning of the European Union.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under shared competence between the EU and the Member States and complies with the subsidiarity principle.

- **Proportionality**

The proposal complies with the proportionality principle.

- **Choice of the instrument**

N/A

3. RESULTS OF EX-POST EVALUATIONS, CONSULTATIONS AND IMPACT ASSESSMENTS STAKEHOLDER

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

N/A

- **Collection and use of expertise**

N/A

- **Impact assessment**

N/A

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

The budgetary impact of this proposal is limited to the price difference between the fixed price referred to Article 2 of Council Regulation (EU) No 1370/2013 and the price that would have been eventually determined under a tendering procedure. Under current circumstances (and based on past experiences), it is likely that the latter would have been set at a level close to the fixed price, so that the actual budgetary implication would be negligible.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

N/A

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The milk and milk products sector is experiencing a prolonged period of severe market imbalance. While world import demand for milk and milk products remained overall stable in 2015 compared to 2014, production significantly increased in the Union and other main exporting regions.
- (2) Milk production in the Union is steadily increasing as investments in milk production capacity were made in the Union in view of milk quota expiry and positive medium term prospects on the world market. Milk volumes produced in excess are processed into long term storable products such as butter and skimmed milk powder.
- (3) Prices of skimmed milk powder in the Union have consequently declined in years 2014 and 2015, when they hit the public intervention price.
- (4) Article 3 of Council Regulation (EU) No 1370/2013¹ sets quantitative limitations for buying-in butter and skimmed milk powder at the fixed price referred to in Article 2 of that Regulation. Once those limits are reached, buying-in is to be carried out by way of a tendering procedure to determine the maximum buying-in price.
- (5) The 109 000 t initial quantitative limitation for buying-in skimmed milk powder at fixed price set by Regulation (EU) No 1370/2013 was reached on 31 March 2016.
- (6) In order to help the milk and milk products sector to find a new balance under the prevailing severe market situation, and to preserve confidence in the effectiveness of public intervention mechanism, the quantitative limitations for buying-in butter and skimmed milk powder at fixed price were doubled for the year 2016 by Council Regulation (EU) 2016/591².

¹ Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products (OJ L 346, 20.12.2013, p. 12).

² Council Regulation (EU) 2016/591 of 15 April 2016 amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products, as regards applicable quantitative limitations for the buying-in of butter and skimmed milk powder (OJ L 103, 19.4.2016, p. 3).

- (7) A tender procedure took place before the entry in force of Regulation (EU) 2016/591 and 27 000 t skimmed milk powder were bought-in under that procedure.
- (8) Since the resumption of buying-in at fixed price under the new quantitative limitation, quantities of skimmed milk powder purchased each week have been considerably higher than at the beginning of the year. It is therefore expected that the new quantitative limitation will be quickly reached.
- (9) In the event that a tendering procedure is operated before the entry into force of this Regulation, it is appropriate to ensure that possible volumes bought-in under that procedure are not taken into account to determine the available volumes for buying-in skimmed milk powder at fixed price in 2016.
- (10) In order to ensure that the temporary measure provided for in this Regulation have an immediate impact on the market and contribute to stabilise prices, this Regulation should enter into force on the day following that of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

In Article 3(1) of Regulation (EU) No 1370/2013, the second subparagraph is replaced by the following:

'By way of derogation from the first subparagraph, in the year 2016, the quantitative limitations for buying-in butter and skimmed milk powder at fixed price shall be 100 000 tonnes for butter and 350 000 tonnes for skimmed milk powder. In the event that a tendering procedure be operated before [date of entry into force], volumes bought-in under that procedure shall not be deducted from those quantitative limitations.'

Article 2

This Regulation shall enter into force on the 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,

*For the Council
The President*

FINANCIAL STATEMENT		FS/16/CM/aj 2770087 agri.ddg2.c.3(2016) 2751015 6.142.2016.1 DATE: 11.05.2016	
1. BUDGET HEADING: 05 02 12 02		APPROPRIATIONS: in EUR million 17,0	
2. TITLE: Draft REGULATION OF THE COUNCIL amending Regulation (EU) No 1370/2013 determining measures on fixing certain aids and refunds to the common organisation of the markets in agricultural products, as regards the applicable quantitative limitation for buying-in skimmed milk powder			
3. LEGAL BASIS: Article 43 (3) of the Treaty on the Functioning of the European Union			
4. AIMS: This draft regulation increases the quantitative limitations for buying-in of skimmed milk powder at fixed price in the year 2016.			
5. FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	CURRENT FINANCIAL YEAR 2016 (EUR million)	FOLLOWING FINANCIAL YEAR 2017 (EUR million)
5.0 EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER	-	-	-
5.1 REVENUE - OWN RESOURCES OF THE EU (LEVIES/CUSTOMS DUTIES) - NATIONAL			
5.0.1 ESTIMATED EXPENDITURE 5.1.1 ESTIMATED REVENUE	2018	2019	2020
5.2 METHOD OF CALCULATION:	2021		
6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?	YES		
6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?	YES		
6.2 WILL A SUPPLEMENTARY BUDGET BE NECESSARY?	NO		
6.3 WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?	NO		
OBSERVATIONS:			
A further increase is proposed for the quantitative limitations for buying-in into public intervention at fixed price for skimmed milk powder (350 000 tonnes instead of 218 000 tonnes). There is a strong likelihood that the present limit will be reached and buying-in would have to be carried out by way of a tendering procedure that would determine the maximum buying-in price. Past experiences with tendering suggest that buying-in prices determined as a result of a tendering procedure would be very close to the fixed intervention price, and therefore it is expected that the financial impact of the proposal is negligible compared to buying in through tender.			