EUROPEAN
COMMISSION

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COM(2017) 692 final

2017/0310 (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 quantitative limitation for buying-in skimmed milk powder

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Close to 400 000 t skimmed milk powder (SMP) are currently held in public stocks. This volume is equivalent to one third of total world trade in SMP in the first half of 2017. The mere existence of these stocks is weighing on the market.

The fat-protein price gap is wider than ever, as reported by the Milk Market Observatory's Economic Board. The ratio butter/SMP price oscillated for ten years around an average of 1.4 (min 0.8 and max 1.7) and since May 2016 has grown to reach current levels close to 4/1. Against this unprecedented disconnection between butter and SMP prices, offers to public intervention tend to occur in a situation where there is no market justification for safety net instruments to be mobilised.

Public intervention at fixed price will resume in March 2018 until September 2018, as provided for in the Common Market Organisation Regulation, within a quantitative limit of 109 000 tonnes per year.

High demand for butterfat being assessed by market experts as a structural phenomenon, SMP will continue to be de facto a by-product with lower valorisation unless new outlets materialise. In this scenario, the risk of having to buy SMP into public intervention as from next March is real. Should this occur, while farm gate milk prices are at satisfactory levels, public intervention would clearly drift away from its objective of ensuring a fair standard of living for the agricultural community.

A solution is therefore needed to prevent buying-in of SMP at fixed price in 2018 without market justification to do so. To this end, the limit at which public intervention takes place at fixed price in 2018 should be set at zero. This would lead to opening a tendering procedure from 1st March 2018, when the public intervention period starts, where the Commission, with a vote at the Committee for the Common Organisation of the Agricultural Markets, would decide on a case by case basis what volumes should be bought-in and at what buying-in price.

In order to ensure that the measure provided for in this Regulation has an immediate impact on the market and to allow market operators to be informed in due time before the start of the next intervention campaign, 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, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

• 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 financial impact depends on the quantities/prices of skimmed milk powder (SMP) offered and the quantities/prices accepted, between March and September 2018, which depends on the evolution of the SMP market.

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) Public intervention stocks of skimmed milk powder in the Union were reported to be at 357 359 tonnes by the end of July 2017. 22 710 tonnes were in addition offered for buying-in at fixed price until the intervention period closed on 30 September 2017.

(2) The milk and milk products sector is experiencing an unprecedented disconnection between fat and protein prices following particular high demand for butter.

(3) Milk deliveries in the Union are expected to increase in 2018, resulting in more butter and more skimmed milk powder production.

(4) Raw milk prices paid to farmers are likely to stay in 2018 at a level which renders dairy farming remunerative because of the current strong demand for butter and cheese despite the relatively low prices commanded by dairy protein.

(5) These market elements are creating an exceptional situation for the year 2018 that needs to be specifically taken into account with regard to the operation of the public intervention mechanism for dairy products.

(6) Article 3 of Council Regulation (EU) No 1370/2013[1] sets a quantitative limitation for buying-in skimmed milk powder at the fixed price referred to in Article 2 of that Regulation. Once this limit is reached, buying-in is to be carried out by way of a tendering procedure to determine the maximum buying-in price.

(7) In order to avoid skimmed milk powder being bought-in at fixed price in a situation where this would not be in keeping with the objectives of the safety net, all public intervention for skimmed milk powder should be operated under a tendering procedure. To that end, the quantitative limitation for buying-in skimmed milk powder at fixed price should be set to zero for the year 2018.

(8) Regulation (EU) No 1370/2013 should therefore be amended accordingly.

(9) In order to ensure that the temporary measure provided for in this Regulation has an immediate impact on the market and to allow market operators to be informed in due

[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).

time before the start of the next intervention campaign, 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 following third subparagraph is added:

'By way of derogation from the first subparagraph, in the year 2018, the quantitative limitation for buying-in skimmed milk powder at fixed price shall be 0 tonne.'.

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

LEGISLATIVE FINANCIAL STATEMENT

# FINANCIAL STATEMENT	FS/17/MvD/aj Ares (2017) 5672905 6.142.2017.1 agri.ddg3.g.3(2017)5670846 DATE: 13.10.2017

1.	BUDGET HEADING: See budgetary forecast below. 05 02 12 02 (Storage measures for skimmed milk powder)		APPROPRIATIONS: Budget 2017: EUR 19 million; Draft Budget 2018: EUR 12 million	
2.	TITLE: 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 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: to avoid skimmed milk powder being bought-in at fixed price where this would not be necessary to achieve the objectives of the safety net due to high prices for other dairy products. Public intervention for skimmed milk powder should be operated under a tendering procedure.			
5.	FINANCIAL IMPLICATIONS	12 MONTH PERIOD (EUR million)	FINANCIAL YEAR 2018 (EUR million)	FINANCIAL YEAR 2019 (EUR million)
5.0	EXPENDITURE - CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS) - NATIONAL AUTHORITIES - OTHER	p.m.	p.m.	p.m.
5.2	METHOD OF CALCULATION: See observations			
6.0	CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET?			n.a.
6.1	CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET?			No
6.2	WILL A SUPPLEMENTARY BUDGET BE NECESSARY?			No
6.3	WILL APPROPRIATIONS NEED TO BE ENTERED IN FUTURE BUDGETS?			See observation

OBSERVATIONS:

The financial impact depends on the quantities/prices of skimmed milk powder (SMP) offered and the quantities/prices accepted, between March and September 2018, which depends on the evolution of the SMP market.