



Brussels, 16.7.2018
COM(2018) 533 final

2018/0286 (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**

Council Regulation 1370/2013 sets a ceiling of 109 000 t under which skimmed milk powder has to be bought in at fixed price (169.8 €/100 kg) during the public intervention period (1 March to 30 September). Once that ceiling is reached, public intervention continues but under a tendering procedure until the end of the intervention period.

That ceiling was set at zero in 2018 to avoid public intervention for skimmed powder at fixed price taking place with no market justification (e.g. while both butter prices and farm gate milk prices were at reasonably high levels), in the light of the long standing disconnection between dairy fat and protein prices.

Public intervention is therefore operated in 2018 through a tendering procedure. The Commission, with a vote at the Committee for the Common Organisation of the Agricultural Markets, decides on a case by case basis what volumes should be bought in and at what buying-in price.

In 2018, EU market prices for skimmed milk powder have remained on average some 19% below the public intervention level, and butter prices 117% above public intervention level. The fat-protein price gap is wider than ever. The ratio butter/SMP price in 2017-2018 has tripled from the levels between 2007 and 2016. At the same time raw milk prices paid to farmers have been above 34 c/kg in average (higher than the last 5-year average)

The procedure in place has allowed avoiding unjustified buying-in of 109 000 tonnes of skimmed milk powder (which would have piled up above existing stocks).

As market conditions have not substantially changed and the experience gained in 2018 proves the correctness of the approach, it is appropriate repeating the initiative and setting to zero the ceiling in 2019.

In order 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 2019, 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.

Proposal for a

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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

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) Article 3 of Council Regulation (EU) No 1370/2013¹ 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.
- (2) Council Regulation (EU) 2018/147² amended Regulation (EU) No 1370/2013 by setting to zero for the year 2018 the quantitative limitation for buying-in skimmed milk powder at fixed price. This was done 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.
- (3) The milk and milk products sector is still experiencing a disconnection between dairy fat and protein prices. In 2018, Union market prices for skimmed milk powder have remained below the public intervention level, while butter prices are more than double the public intervention level.
- (4) Raw milk prices paid to farmers in 2018 are at a level that renders dairy farming remunerative because of the current strong demand for butter and cheese despite the relatively low prices for dairy protein. The operation of public intervention in 2018 under a tendering procedure has not prevented raw milk prices to maintain these levels.
- (5) The fundamentals for the milk and milk products market in terms of supply, demand and price evolution are not expected to change substantially in 2019, notably as regards the disconnection between dairy fat and protein prices. It is therefore appropriate setting to zero for the year 2019 the quantitative limitation for buying-in skimmed milk powder at fixed price.
- (6) Regulation (EU) No 1370/2013 should therefore be amended accordingly.

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) 2018/147 of 29 January 2018 amending Regulation (EU) No 1370/2013 as regards the quantitative limitation for buying-in skimmed milk powder (OJ L 26, 31.1.2018, p. 6).

- (7) 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 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 fourth subparagraph is added:

'By way of derogation from the first subparagraph, in the year 2019, the quantitative limitation for buying-in skimmed milk powder at fixed price shall be 0 tonnes.'

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/18/CM/pl Ares (2018)3208595	
		6.142.2018.1 agri.ddg3.g.3(2018)33 70117	
		DATE: 01.06.2018	
1.	BUDGET HEADING: See budgetary forecast below.	APPROPRIATIONS:	
	05 02 12 02 (Storage measures for skimmed milk powder)	B2018 EUR 12 mio; DB2019 EUR 9 mio	
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	FINANCIAL YEAR 2018	FINANCIAL YEAR 2019
		(EUR million)	(EUR million)
5.0	EXPENDITURE		
	- CHARGED TO THE EU BUDGET (REFUNDS/INTERVENTIONS)	-	p.m.
	- NATIONAL AUTHORITIES		p.m.
	- OTHER		
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 2019. The draft budget 2019 foresees no new quantities of SMP into intervention.			