



Council of the
European Union

Brussels, 8 September 2016
(OR. en)

12047/16

AGRI 469
AFRIFIN 97
AGRIORG 72
DELECT 185

COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 8 September 2016

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: C(2016) 5675 final

Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 8.9.2016
laying down temporary exceptional measures for the milk and milk
products sector in the form of extending the public intervention period for
skimmed milk powder in 2016 and advancing the public intervention period
for skimmed milk powder in 2017 and derogating from Delegated
Regulation (EU) 2016/1238 as regards the continued application of
Regulation (EC) No 826/2008 with respect to aid for private storage under
Implementing Regulation (EU) No 948/2014 and of Regulation (EU) No
1272/2009 with respect to public intervention under this Regulation

Delegations will find attached document C(2016) 5675 final.

Encl.: C(2016) 5675 final



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COMMISSION DELEGATED REGULATION (EU) No .../..

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laying down temporary exceptional measures for the milk and milk products sector in the form of extending the public intervention period for skimmed milk powder in 2016 and advancing the public intervention period for skimmed milk powder in 2017 and derogating from Delegated Regulation (EU) 2016/1238 as regards the continued application of Regulation (EC) No 826/2008 with respect to aid for private storage under Implementing Regulation (EU) No 948/2014 and of Regulation (EU) No 1272/2009 with respect to public intervention under this Regulation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The milk sector is confronted with market disturbance due to worldwide supply-demand imbalance.

While global demand for milk and milk products slightly increased in year 2015 (+0.2%) and in the first months of 2016 (+0.1% in January-April 2016), it was more than outpaced by milk production growth. In addition, the Russian ban on imports of dairy products, in force since August 2014, has been extended until the end of 2017. EU dairy product exports to Russia represented the equivalent of some 2.2 million t milk on an annual basis before the ban came into force.

After a limited increase in global production in 2013 due to unfavourable weather conditions, major exporters (EU, US, New Zealand) increased their supply by some 10 million t in 2014 and some 4.5 million t in 2015. This increase in supply coincided with the introduction of the Russian import ban in August 2014 and a strong decrease in Chinese purchases. Therefore, despite significant increases in domestic use and good exports in 2013 and 2014, the surplus of milk originating from these 3 regions cumulated to close to 6 million t in 3 years.

While global milk supply was increasing throughout 2015, total exports by the main three world exporting regions in milk equivalent decreased by some 200 000 t. In the first 4 months of 2016, milk production in the EU, the US and New Zealand increased by some 3.6 million t, with less than 1% of that volume being absorbed by additional exports.

Unlike previous years, when production increase concentrated mostly in New Zealand and the US, the EU contributed recently much more to the increase in global supply: high dairy product prices in 2013, in a context of milk quotas soon to be removed (as of April 2015), gave a strong incentive to EU farmers to invest and in the last 3 years EU milk deliveries increased by 11 million t.

As a consequence, pressure on milk and milk product prices increased throughout the year 2015 and in the first months of 2016.

Public intervention for butter and skimmed milk powder (SMP) has remained available since March 2014 and will expire by the end of September 2016. During this period, no offers were made for butter, as prices remained above intervention levels, supported by a robust domestic and global demand. As regards SMP, on the contrary, 40 280 t were offered in 2015 and 298 386 t so far in 2016 (219 861 t at fixed intervention price, and 78 525 t by tendering). In view of the serious market imbalance, the ceiling for buying-in SMP at fixed price was increased twice (first to 218 000 t in April, then to 350 000 t in June).

So far in 2016 (for the period January-April), EU production of SMP increased by 18% while exports declined by 8% (the EU exports traditionally some 40 to 50% of total SMP production). In order to secure continuous availability of the safety net for the milk sector, public intervention for SMP should be extended.

As measures available under Regulation (EU) No 1308/2013 appear to be insufficient and in order to cater for a situation where prices would further deteriorate and deepen market disturbances, it is essential that public intervention for skimmed milk powder remains

available without disruption until the next "normal" date for opening intervention on 1 March 2017, as provided for in Regulation (EU) No 1308/2013.

As a rapid decision is necessary, due to the need to have the measure in place by 30 September 2016, the temporary exceptional measure should be adopted as quickly as possible and on the basis of the urgency procedure provided for in Article 219 in conjunction with Article 228 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The measure is to be adopted on the basis of Article 219(1) of Regulation (EU) No 1308/2013 and in an urgency procedure. DG AGRI has carried out an Inter-Service Consultation. Technical meetings to discuss the situation with experts from Member States took place on 20 July 2016 and 25 August 2016.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Act is based on Article 219(1) of Regulation (EU) No 1308/2013. It should be adopted by means of the urgency procedure according to Article 228 of Regulation (EU) No 1308/2013. This means that the delegated act enters into force without delay.

It will apply as long as no objection is expressed by the European Parliament or the Council within a period of two months (or - if one of the institutions asks for an extension for two additional months - within a period of 4 months). If objections are expressed, the Commission shall repeal the act without delay.

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laying down temporary exceptional measures for the milk and milk products sector in the form of extending the public intervention period for skimmed milk powder in 2016 and advancing the public intervention period for skimmed milk powder in 2017 and derogating from Delegated Regulation (EU) 2016/1238 as regards the continued application of Regulation (EC) No 826/2008 with respect to aid for private storage under Implementing Regulation (EU) No 948/2014 and of Regulation (EU) No 1272/2009 with respect to public intervention under this Regulation

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013 establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007¹, and in particular Article 219(1) in conjunction with Article 228 thereof,

Whereas:

- (1) The milk and milk products sector is confronted with market disturbance due to a strong supply-demand imbalance.
- (2) The production of skimmed milk powder in the Union increased by 18% in the period from January to April 2016 as a result of increased milk production, while exports declined by 8% in the same period. Exports of skimmed milk powder traditionally represent some 40 to 50% of the total skimmed milk powder production in the Union.
- (3) As a consequence, prices of skimmed milk powder in the Union are under downward pressure.
- (4) Article 12(d) of Regulation (EU) No 1308/2013 provides that public intervention for skimmed milk powder is to be available from 1 March to 30 September. In accordance with Commission Delegated Regulation (EU) 2015/1549², in 2016 public intervention for skimmed milk powder was made available from 1 January to 30 September.
- (5) In order to provide for the possibility to swiftly use all possible market measures and cater for a situation where the prices of skimmed milk powder would further

¹ OJ L 347, 20.12.2013, p. 671.

² Commission Delegated Regulation (EU) 2015/1549 of 17 September 2015 laying down temporary exceptional measures for the milk and milk product sector in the form of extending the public intervention period for butter and skimmed milk powder in 2015 and advancing the public intervention period for butter and skimmed milk powder in 2016 (OJ L 242, 18.9.2015, p. 28).

deteriorate and market disturbances would deepen, it is essential that public intervention remains available for skimmed milk powder without interruption until the start of the next intervention period on 1 March 2017.

- (6) It is therefore appropriate to extend the intervention buying-in period for skimmed milk powder in 2016 until 31 December 2016, and to fix the start of the intervention buying-in period in 2017 at 1 January.
- (7) The extension of the intervention buying-in period from 30 September 2016 to 31 December 2016 coincides with the date of application of Commission Delegated Regulation (EU) 2016/1238³ and Commission Implementing Regulation (EU) 2016/1240⁴, which replace Commission Regulation (EC) No 826/2008⁵ and Commission Regulation (EU) No 1272/2009⁶ as from 1 October 2016. In the interest of continuity and legal certainty, it is appropriate to provide for a derogation to the effect that Regulation (EC) No 826/2008 continues to apply to applications for private storage aid for skimmed milk powder submitted under Commission Implementing Regulation (EU) No 948/2014⁷ and that Regulation (EU) No 1272/2009 continues to apply to offers or tenders submitted under this Regulation.
- (8) In order to ensure that the temporary measures 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
Derogation from Regulation (EU) No 1308/2013

By way of derogation from Article 12(d) of Regulation (EU) No 1308/2013, the period during which public intervention for skimmed milk powder is available in 2016 shall be extended to 31 December 2016.

By way of derogation from Article 12(d) of Regulation (EU) No 1308/2013, in 2017 public intervention for skimmed milk powder shall be available from 1 January to 30 September.

³ Commission Delegated Regulation (EU) 2016/1238 of 18 May 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to public intervention and aid for private storage (OJ L 206, 30.7.2016, p. 15).

⁴ Commission Implementing Regulation (EU) 2016/1240 of 18 May 2016 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to public intervention and aid for private storage (OJ L 206, 30.7.2016, p. 71).

⁵ Commission Regulation (EC) No 826/2008 of 20 August 2008 laying down common rules for the granting of private storage aid for certain agricultural products (OJ L 223, 21.8.2008, p. 3).

⁶ Commission Regulation (EU) No 1272/2009 of 11 December 2009 laying down common detailed rules for the implementation of Council Regulation (EC) No 1234/2007 as regards buying-in and selling of agricultural products under public intervention (OJ L 349, 29.12.2009, p. 1).

⁷ Commission Implementing Regulation (EU) No 948/2014 of 4 September 2014 opening private storage for skimmed milk powder and fixing in advance the amount of aid (OJ L 265, 5.9.2014, p. 18).

Article 2
Derogation from Delegated Regulation (EU) 2016/1238

By way of derogation from Articles 10 and 11 of Delegated Regulation (EU) 2016/1238, Regulation (EC) No 826/2008 shall continue to apply in respect of applications for private storage aid for skimmed milk powder submitted before 1 March 2017 under Implementing Regulation (EU) 948/2014.

By way of derogation from Articles 10 and 11 of Delegated Regulation (EU) 2016/1238, Regulation (EU) No 1272/2009 shall continue to apply in respect of offers or tenders for skimmed milk powder submitted before 1 January 2017 under the first paragraph of Article 1 of this Regulation.

Article 3
Entry into force

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, 8.9.2016

For the Commission
The President
Jean-Claude JUNCKER