



Brussels, 8.9.2016
C(2016) 5681 final

COMMISSION DELEGATED REGULATION (EU) .../...
of 8.9.2016
providing aid for milk production reduction

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 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, generating significant economic losses for milk producers.

Farm gate milk prices declined in 2015 by 8% and by a further 15% in the first 5 months of 2016. The EU average milk price in May was 22% lower than the average of the last 5 years for the month of May. In parallel, the gap between Member States further widened, with some Member States reporting prices 30% lower than the EU average.

The safety net for the milk sector (intervention and private storage aid for both butter and skimmed milk powder) has remained available without disruption since September 2014. It helped mitigate the crisis' impact by setting a floor to the continuous deterioration of commodity prices (notably milk powder) but global imbalance persisted.

Voluntary agreements and decisions on the planning of production in the milk and milk products sector have been authorised for recognised producer organisations, their associations, recognised interbranch organisations, cooperatives and other forms of producer organisations in the milk and milk products sector for a period of six months from 13 April to 12 October 2016. No joint agreement/decision has been reported so far, as the sector needs time to organise itself to benefit from this new instrument, and for lack of financial incentive at Union level.

In order to cater for a situation where continuous production increases would further deepen market disturbances, it is essential that support is made available to EU milk producers who

voluntarily engage in milk production reduction. The outlook for 2016 is that EU milk deliveries would increase by 2.1 million t, out of which 1 million t would be absorbed by exports and domestic consumption. It is therefore appropriate to design a measure with the objective of reducing EU milk deliveries by some 1.1 million t.

In order to assure a timely and effective impact, the support measure should be adopted as quickly as possible and on the basis of the urgency procedure provided for in Article 219(1) 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 219(1) second subparagraph and Article 228 of Regulation (EU) No 1308/2013. This means that the delegated act enters immediately into force without delay.

The aid provided for in this delegated Act should be deemed to be a measure supporting agricultural markets within the meaning of Article 4(1)(a) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008.

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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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,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008², and in particular Article 106(5) thereof,

Whereas:

- (1) The milk sector is confronted with market disturbance due to a worldwide supply-demand imbalance, in which the prolongation until the end of 2017 of the Russian ban on the import of agricultural products and foodstuffs originating in the Union plays a role.
- (2) Global demand for milk and milk products slightly increased in 2015 and in the first months of 2016, but at a much lower rate than production.
- (3) Global milk supply generally increased throughout 2015, with a combined production growth in the Union, the United States and New Zealand amounting to some 4.5 million t, while total exports from the Union and those two third countries in milk equivalent decreased by some 200 000 t.
- (4) In the first four months of 2016, milk production in the Union, the United States and New Zealand increased by some 3.6 million t, with less than 1% of that volume being absorbed by additional exports.
- (5) Voluntary agreements and decisions on the planning of production in the milk and milk products sector have been authorised for recognised producer organisations, their associations and recognised interbranch organisations by Commission Implementing Regulation (EU) 2016/559³ and for cooperatives and other forms of producer organisations in the milk and milk products sector by Commission Delegated

¹ OJ L 347, 20.12.2013, p. 671.

² OJ L 347, 20.12.2013, p. 549.

³ Commission Implementing Regulation (EU) 2016/559 of 11 April 2016 authorising agreements and decisions on the planning of production in the milk and milk products sector (OJ L 96, 12.4.2016, p. 20).

Regulation (EU) 2016/558⁴ for a period of six months starting on 13 April 2016. That period was extended by Commission Implementing Regulation (EU) 2016/xxxx⁵.

- (6) Market intervention instruments in the form of public intervention and private storage for butter and skimmed milk powder have remained available without interruption since September 2014.
- (7) Those instruments have mitigated the crisis' impact and set a floor to the continuous deterioration of dairy product prices but global imbalance persists.
- (8) In order to help the milk and milk products sector find a new balance under the prevailing severe market situation and given that, on the basis of available market analysis, no significant decrease in production volumes is expected until the end of 2017, it is appropriate that aid is made available to milk producers in the Union who voluntarily engage in milk production reduction.
- (9) As milk production in the Union is predominantly characterised by cow milk deliveries, while direct sales and milk from other species only represent a marginal share of the Union milk production, it is appropriate that aid is made available for a reduction in cow milk deliveries only.
- (10) In order to achieve an effective reduction in cow milk deliveries, the eligibility of applicants should be limited to those who were delivering cow milk to first purchasers in July 2016, the most recent time period for which applicants can provide evidence of such deliveries.
- (11) With the same aim of effectiveness, Union aid should not cover more than a 50% reduction of cow milk deliveries compared to the relevant reference period.
- (12) The aid provided for in this Regulation should be granted as a measure supporting agricultural markets in accordance with Article 4(1)(a) of Regulation (EU) No 1306/2013.
- (13) It should be allowed to cumulate that aid with other support financed by the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development.
- (14) As the financial grant is fixed in euro, it is necessary, in order to ensure a uniform and simultaneous application, to fix a date for the conversion of the amount allocated to Member States not having adopted the euro into their national currencies. It is therefore appropriate to determine the operative event for the exchange rate in accordance with Article 106 of Regulation (EU) No 1306/2013. In view of the principle referred to in paragraph (2)(b) of that Article and the criteria laid down in paragraph (5)(c) of that Article, the operative event should be the date of the entry into force of this Regulation.
- (15) In order for the scheme to run effectively without exceeding the maximum total volume of cow milk delivery reduction covered by the aid, notifications should be provided for with regard to applications for aid and applications for payment.

⁴ Commission Delegated Regulation (EU) 2016/558 of 11 April 2016 authorising agreements and decisions of cooperatives and other forms of producer organisations in the milk and milk products sector on the planning of production (OJ L 96, 12.4.2016, p. 18).

⁵ Commission Implementing Regulation (EU) 2016/xxxx of [...] amending Implementing Regulation (EU) 2016/559 as regards the period in which agreements and decisions on the planning of production in the milk and milk products sector are authorised (OJ L ..., ..., p. ...).

- (16) In order to maximise use of the scheme, a number of application periods should be provided for until the total volume of cow milk delivery reduction corresponding to the available budget is exhausted by aid applications. To ensure that applications are efficiently dealt with, they should preferably be submitted by electronic means.
- (17) In order for applications to involve a meaningful cow milk delivery reduction and to avoid a disproportionate administrative burden, a minimum quantity of cow milk delivery reduction should be fixed per application.
- (18) In order to ensure uniform treatment of applications throughout the Union, a standard conversion factor should be set for converting litres into kg.
- (19) Member States should not only check the admissibility of aid applications but also their plausibility. For instance, an aid application for which the total volume of cow milk to be delivered to first purchasers in the reduction period is bigger than the total volume delivered in the reference period should not be considered plausible.
- (20) In order to ensure that beneficiaries receive the aid as soon as possible and production reduction can start without delay, this Regulation should enter into force on the day following that of its publication,

HAS ADOPTED THIS REGULATION:

Article 1

1. Union aid shall be available to eligible applicants reducing cow milk deliveries for a three month period, hereinafter referred to as 'the reduction period', compared with the same period in the previous year, hereinafter referred to as 'the reference period', under the conditions laid down in this Regulation.

Union aid shall be fixed at EUR 14/100 kg of cow milk for the volume corresponding to the difference between the cow milk delivered during the reference period and the cow milk delivered during the reduction period. Union aid shall not cover more than a total volume of cow milk delivery reduction corresponding to EUR 150 000 000.

Per eligible applicant, Union aid shall cover a quantity of cow milk delivery reduction that is no more than 50% of the total quantity of cow milk delivered to first purchasers in the reference period.

2. For the purposes of this Regulation, 'eligible applicants' means milk producers who delivered cow milk to first purchasers in July 2016.

3. In respect of eligible applicants established in Bulgaria, the Czech Republic, Denmark, Croatia, Hungary, Poland, Romania, Sweden and the United Kingdom, the operative event for the exchange rate as regards the amounts paid under this Regulation shall be the date of entry into force of this Regulation.

4. The aid provided for in this Regulation may be cumulated with other support financed by the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development.

Article 2

1. The aid shall be granted on the basis of applications.

The minimum quantity of cow milk delivery reduction covered by an aid application shall be 1 500 kg.

Where the quantity of cow milk delivery reduction is expressed in litres, it shall be multiplied by the coefficient 1,03 to be expressed in kg.

2. Aid applications shall be submitted by eligible applicants with the Member State where the applicant is established, using the method established by the Member State concerned. Aid applications shall be submitted in such a way that they are received by the Member State by the time limits for receipt set out in the third subparagraph.

Member States may decide that aid applications may be submitted on behalf of eligible applicants by recognised producer organisations or by cooperatives. In that case, Member States shall ensure that the aid is passed on in full to those eligible applicants who have actually reduced their cow milk deliveries under the conditions laid down in this Regulation.

The time limits for the receipt of complete applications shall be:

(a) 21 September 2016 at 12.00 (Brussels time) for the first reduction period covering October, November and December 2016;

(b) 12 October 2016 at 12.00 (Brussels time) for the second reduction period covering November and December 2016 and January 2017;

(c) 9 November 2016 at 12.00 (Brussels time) for the third reduction period covering December 2016 and January and February 2017;

(d) 7 December 2016 at 12.00 (Brussels time) for the fourth reduction period covering January, February and March 2017.

Applicants for aid shall not submit more than one aid application under this Regulation. Where an applicant submits more than one application, none of his applications shall be admissible. However, applicants who submitted an application for the first reduction period may also submit an application for the fourth reduction period.

3. In order to be admissible, an aid application shall include:

(a) the following information on a form made available by the Member State:

(i) the eligible applicant's name and address;

(ii) the total quantity of cow milk delivered to first purchasers in the reference period;

(iii) the total quantity of cow milk planned to be delivered in the reduction period;

(iv) the planned quantity of cow milk delivery reduction for which the aid is applied for and which shall be no more than 50% of the total quantity referred to in point (ii) and no less than 1 500 kg;

(b) documents indicating the total quantity of cow milk referred to in point (a)(ii);

(c) documents indicating that the application relates to a milk producer who delivered cow milk to first purchasers in July 2016.

4. Aid applications covering a quantity of cow milk delivery reduction that is less than 1 500 kg shall be rejected.

Aid applications covering a quantity of cow milk delivery reduction that is more than 50% of the total quantity referred to in point (a)(ii) of paragraph 3 shall be deemed to have been submitted for a quantity of cow milk delivery reduction equal to 50% of the total quantity referred to in that point.

Article 3

After having completed a plausibility and admissibility check, Member States shall notify the Commission in accordance with Commission Regulation (EC) No 792/2009⁶ of all admissible and plausible aid applications by 16.00 (Brussels time) on the third working day following the relevant time limit for the receipt of applications as referred to in Article 2(2).

Article 4

1. On the basis of the notifications referred to in Article 3, the Commission shall inform Member States to what extent authorisations for quantities applied for may be granted in view of the maximum total volume referred to in Article 1(1).

Member States shall communicate the authorisations to the applicants within seven working days following the relevant time limit for the receipt of applications as referred to in Article 2(2), subject to paragraph 2 of this Article.

Authorisations shall be issued for all admissible and plausible applications notified to the Commission pursuant to Article 3.

2. Where the aggregated volume covered by aid applications notified pursuant to Article 3 exceeds the maximum total volume referred to in Article 1(1), the Commission shall, by means of an implementing act to be adopted without applying the procedure referred to in Article 229 of Regulation (EU) No 1308/2013, fix an allocation coefficient, which Member States shall apply to the quantity covered by each aid application.

Where an allocation coefficient is fixed for the reduction period concerned, aid applications submitted for subsequent reduction periods as referred to in Article 2(2) shall be rejected and it shall no longer be possible to submit applications for the next reduction periods.

Authorisations shall be issued for the quantities covered by aid applications, multiplied by the allocation coefficient.

Article 5

1. The aid shall be paid on the basis of an application for payment.

2. Applications for payment shall be submitted by eligible applicants who were granted authorisations referred to in Article 4 with the Member State where the applicant is established, using the method established by the Member State concerned. Applications for payment shall be submitted in such a way that they are received by the Member State within 45 days after the end of the reduction period.

Member States may decide that applications for payment may be submitted on behalf of eligible applicants by recognised producer organisations or by cooperatives. In that case, Member States shall ensure that the payment is passed on in full to those eligible applicants who have actually reduced their cow milk deliveries under the conditions laid down in this Regulation.

3. In order to be admissible, an application for payment shall include:

(a) the following information on a form made available by the Member State:

⁶ Commission Regulation (EC) No 792/2009 of 31 August 2009 laying down detailed rules for the Member States' notification to the Commission of information and documents in implementation of the common organisation of the markets, the direct payments' regime, the promotion of agricultural products and the regimes applicable to the outermost regions and the smaller Aegean islands (OJ L 228, 1.9.2009, p. 3).

- (i) the eligible applicant's name and address;
 - (ii) the total quantity of cow milk actually delivered to first purchasers in the reduction period;
 - (iii) the actual quantity of cow milk delivery reduction for which payment of the aid is applied for and which shall be no more than 50% of the total quantity of cow milk delivered to first purchasers in the reference period and, where applicable, no more than the quantity resulting from the application of the allocation coefficient referred to in Article 4(2).
- (b) documents indicating the total quantity referred to in point (a)(ii).

4. Payment of the aid shall be carried out once Member States have checked, in compliance with Articles 58 and 59 of Regulation (EU) No 1306/2013, that the cow milk delivery reduction for which Union aid is paid has actually taken place under the conditions laid down in this Regulation. Payment shall be made no later than the 90th day following the end of the reduction period, unless an administrative inquiry is ongoing.

5. The aid amount shall cover the actual cow milk delivery reduction referred to in point (a)(iii) of paragraph 3 for each eligible applicant.

Where the actual cow milk delivery reduction is higher than the quantity resulting from the application of Article 4, the aid amount shall correspond to the latter quantity ('the authorised quantity'). Where the actual cow milk delivery reduction is 80% or more of the authorised quantity, the aid amount shall correspond to the actual cow milk delivery reduction referred to in point (a)(iii) of paragraph 3, provided that the authorised quantity is not exceeded. Where the actual cow milk delivery reduction is 50% or more but less than 80% of the authorised quantity, the aid amount shall be multiplied by a coefficient of 0.8. Where the actual cow milk delivery reduction is 20% or more but less than 50% of the authorised quantity, the aid amount shall be multiplied by a coefficient of 0.5. Where the actual cow milk delivery reduction is less than 20% of the authorised quantity, no aid shall be paid.

6. Member States' expenditure in relation to the payments under this Regulation shall only be eligible for Union aid if the relevant payments have been made by 30 September 2017 at the latest.

Article 6

By 8 March, 5 April, 3 May and 7 June 2017 at 16.00 (Brussels time) Member States shall notify the Commission in accordance with Regulation (EC) No 792/2009 of all admissible applications for payment received for the first, second, third and fourth reduction period, respectively.

Article 7

Member States shall notify the Commission by 30 June 2017 of the following:

- (a) the number of eligible applicants and the actual total volume of cow milk delivery reduction covered by the aid applications and applications for payment received by them;
- (b) the aggregated Union aid amount expected to be paid.

Article 8

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