

## COMMISSION REGULATION (EU) No 479/2010

of 1 June 2010

## laying down rules for the implementation of Council Regulation (EC) No 1234/2007 as regards Member States' notifications to the Commission in the milk and milk products sector

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) <sup>(1)</sup>, and in particular Article 192(2) in conjunction with Article 4 thereof,

Whereas:

- (1) Article 192(1) of Regulation (EC) No 1234/2007 provides for the exchange between the Member States and the Commission of any information necessary for the application of that Regulation. Commission Regulation (EC) No 562/2005 <sup>(2)</sup> lays down rules for the implementation of Council Regulation (EC) No 1255/1999 <sup>(3)</sup> as regards communications between the Member States and the Commission in the milk and milk products sector.
- (2) Since Regulation (EC) No 562/2005 has already been amended and some further amendments are needed, notably to update references to other Regulations, it is appropriate, for reasons of clarity, to repeal Regulation (EC) No 562/2005 and to replace it by a new Regulation.
- (3) Export refunds and the aid for skimmed milk processed into casein can be fixed only on the basis of information on changes in prices both in the internal market and in international trade.
- (4) It is necessary to be able to compare price quotations for products, particularly for the purposes of calculating refunds and aid amounts. It is also necessary to enhance the reliability of those price quotations by weighting the data.
- (5) In order to simplify and alleviate the administrative burden of the national authorities, notifications of prices every week should be limited to products for

which the information is necessary for the close monitoring of the dairy market. Notifications every month should be provided for other products while notifications for products for which the information is not essential should be abolished.

- (6) The notification of the prices for products produced by less than three producers per Member State should be marked as confidential and should be used only by the Commission and should not be disclosed elsewhere.
- (7) For the better surveillance of the dairy market, the information on imports of products for which import licence is required, is essential. In accordance with Article 2 of Commission Regulation (EC) No 2535/2001 of 14 December 2001 laying down detailed rules for applying Council Regulation (EC) No 1255/1999 as regards the import arrangements for milk and milk products and opening tariff quotas <sup>(4)</sup>, import licences are from 1 July 2008 required only for preferential imports.
- (8) Article 11(1)(b) and (c) of Commission Regulation (EC) No 1301/2006 of 31 August 2006 laying down common rules for the administration of import tariff quotas for agricultural products managed by a system of import licences <sup>(5)</sup> provides for notifications to the Commission of the quantities covered by import licences issued and the quantities covered by unused or partly used import licences under import tariff quotas. Those horizontal provisions relate to the same information as that covered so far by Article 7(1) and (6) of Regulation (EC) No 562/2005. The obligation to notify that information should therefore not be included in the new Regulation.
- (9) Article 1(2)(a)(i) of Commission Regulation (EC) No 376/2008 of 23 April 2008 laying down common detailed rules for the application of the system of import and export licences and advance fixing certificates for agricultural products <sup>(6)</sup> provides for the cases and the products for which the presentation of an import licence is required. Part K of Annex II to that Regulation sets out a list of the dairy products imported under preferential conditions, other than tariff quotas, and submitted to an import licence. For those products, notifications should be made to the Commission.

<sup>(1)</sup> OJ L 299, 16.11.2007, p. 1.

<sup>(2)</sup> OJ L 95, 14.4.2005, p. 11.

<sup>(3)</sup> OJ L 160, 26.6.1999, p. 48.

<sup>(4)</sup> OJ L 341, 22.12.2001, p. 29.

<sup>(5)</sup> OJ L 238, 1.9.2006, p. 13.

<sup>(6)</sup> OJ L 114, 26.4.2008, p. 3.

- (10) Chapter III of Title 2 of Regulation (EC) No 2535/2001 provides for certain import quotas to be administered by means of inward-monitoring arrangement IMA 1 certificates issued by the authorities of third countries. The Member States inform the Commission of the quantity of products for which import licences are issued on the basis of IMA 1 certificates. Experience has shown that such notification is not always sufficient to allow such imports to be monitored closely at every stage. Provision should be laid down for the notification of additional information.
- (11) The accurate and regular monitoring of trade flows to assess the effect of refunds requires information on exports of products for which refunds are fixed, particularly the quantities awarded under tendering procedures.
- (12) The implementation of the Agreement on Agriculture concluded under the Uruguay Round of multilateral trade negotiations (hereinafter referred to as 'the Agreement on Agriculture'), approved by Council Decision 94/800/EC <sup>(1)</sup> requires a wide range of detailed information to be provided on imports and exports, in particular with regard to licence applications and the way licences are used, in order to ensure compliance with undertakings under the Agreement on Agriculture. Rapid information on export trends is needed in order to make maximum use of those undertakings.
- (13) Commission Regulation (EC) No 1187/2009 of 27 November 2009 laying down special detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards export licences and export refunds for milk and milk products <sup>(2)</sup> lays down special rules for the export of certain milk products to Canada, the United States and the Dominican Republic. Provision should be made for the relevant information to be notified.
- (14) Regulation (EC) No 1187/2009 introduces specific arrangements for the grant of refunds on ingredients of EU origin in processed cheese manufactured under the inward processing arrangements. Provision should be made for the notification of the relevant information.
- (15) Experience gained over the years in processing the information received by the Commission has shown that the frequency of some notifications might be reduced without losing essential information.
- (16) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

CHAPTER I

**MEASURES RELATING TO AID FOR SKIMMED MILK AND SKIMMED-MILK POWDER**

*Article 1*

1. In the case of aid granted under Article 99(1) of Regulation (EC) No 1234/2007 for skimmed milk and skimmed-milk powder used in feeding stuffs, Member States shall notify to the Commission not later than the 20th of each month for the previous month the following information:

- (a) the quantities of skimmed milk used in the manufacture of compound feeding stuffs covered by aid applications submitted during the month concerned;
- (b) the quantities of denatured skimmed-milk powder covered by aid applications submitted during the month concerned;
- (c) the quantities of skimmed-milk powder used in the manufacture of compound feeding stuffs covered by aid applications submitted during the month concerned.

2. In the case of aid granted under Article 100 of Regulation (EC) No 1234/2007 for skimmed milk processed into casein and caseinates, Member States shall notify to the Commission, not later than the 20th of each month the quantities of skimmed milk covered by aid applications submitted during the previous month. Such quantities shall be broken down according to the quality of the casein or caseinates produced.

CHAPTER II

**PRICES**

*Article 2*

1. Not later than each Wednesday 12 a.m. (Brussels time), and in respect of ex-factory prices recorded in the previous week for the products listed in Annex I.A, Member States shall notify to the Commission:

- (a) prices for each of the products referred to in points 1 to 6, where the national production represents 1 % or more of the EU production;
- (b) prices for cheeses representing 4 % or more of the total national cheese production.

<sup>(1)</sup> OJ L 336, 23.12.1994, p. 1.

<sup>(2)</sup> OJ L 318, 4.12.2009, p. 1.

The national and EU production of butter referred to in points 4 and 5 of Annex I.A to be taken into account for the purposes of the first subparagraph, point (a), shall be the total production for both products referred to in those points.

2. Not later than the 10th of each month and in respect of ex-factory prices recorded in the previous month for the products listed in Annex I.B, Member States shall notify to the Commission:

- (a) prices for each product, other than cheeses, where the national production represents 2 % or more of the EU production;
- (b) prices for cheeses, by type, other than those referred to in paragraph 1(b), representing 8 % or more of the total national cheese production.

3. Member States shall notify to the Commission as soon as possible but no later than the end of the month:

- (a) the price of raw milk, at real fat and protein content, paid to milk producers in their territory, for deliveries in the preceding month;
- (b) the estimated price for deliveries in the running month, if available.

4. For the purpose of this Article, 'ex-factory price' means the price at which the product is purchased from the enterprise, excluding taxes (VAT) and any other cost (transport, loading, handling, storage, pallets, insurance, etc.). The price shall refer to the sales that have been invoiced in the reference period.

#### Article 3

1. The prices notified in accordance with Article 2 shall be expressed as weighted averages, in national currency per 100 kg.

2. Member States shall take the necessary steps to ensure that the notified information on the prices is representative, accurate and complete. To this end, the Member States shall submit to the Commission, by 15 August 2010, a report on the basis of the model set out in Annex II. A new report shall be submitted each time where an element of the previous report needs to be updated.

3. The Member States shall take the measures necessary to ensure that the economic operators concerned provide them with the information required within the relevant time limits.

4. Before 15 August 2010, the Member States shall transmit to the Commission the following information using the models set out in the Annexes I.A and I.B:

- (a) where a price to be notified relates to a product produced by less than three producers in a Member State, the word 'confidential' shall appear in the column 'remarks' of the Annexes I.A and I.B. Such information shall be considered confidential and shall be used only for aggregate purposes;
- (b) for the cheeses, the representative packing unit for which the price is reported;
- (c) for the products other than cheeses, where a price corresponds to a different packing unit of the product than the one shown in the column 'representative packing unit', the actual packing unit of the product for which the price is reported shall appear in the column 'remarks' of the Annexes I.A and I.B.

Member States shall inform the Commission each time where one of the elements referred to in the first subparagraph points (a), (b) and (c) needs to be updated.

### CHAPTER III

#### TRADE

#### SECTION 1

#### Imports

#### Article 4

Member States shall notify to the Commission, not later than the 10th of each month for the previous month, the quantities of milk and milk products imported under preferential conditions other than tariff quotas, as referred to in Part K of Part I of Annex II to Regulation (EC) No 376/2008 for which import licences have been issued, broken down by CN code and by country of origin code.

The notifications shall include nil returns.

#### Article 5

By 31 March at the latest in respect of the previous year, Member States shall notify to the Commission the following data, broken down by CN code, concerning the import licences issued on presentation of an IMA 1 certificate, in accordance with Title 2, Chapter III, Section 1 of Regulation (EC) No 2535/2001, specifying the IMA 1 certificate numbers:

- (a) the quantity of products covered by the certificate and the date of issue of the import licences;

(b) the quantity of products in respect of which the security has been released.

The notifications shall include nil returns.

## SECTION 2

### **Exports**

#### *Article 6*

1. Member States shall notify to the Commission, by 6 p.m. on each working day, the following information:

(a) the quantities, broken down by code of the export refund nomenclature for milk products and by destination code, covered by applications submitted that day for licences:

(i) as referred to in Article 1(2)(b)(ii) of Regulation (EC) No 376/2008, with the exception of those referred to in Articles 15 and 29 of Regulation (EC) No 1187/2009;

(ii) as referred to in Article 15 of Regulation (EC) No 1187/2009;

(b) where appropriate, that no applications have been submitted on that day, except of the case where no refund or 0 rate refund is fixed for any of the products referred to in Part 9 of Annex I to Commission Regulation (EEC) No 3846/87 <sup>(1)</sup>;

(c) the quantities, broken down by application and by code of the export refund nomenclature for milk products and by destination code, covered by applications submitted on that day for provisional licences referred to in Article 8 of Regulation (EC) No 1187/2009, indicating:

(i) the closing date for submitting tenders, accompanied by a copy of the document confirming the invitation to tender for the quantities applied for;

(ii) the quantity of products covered by the invitation to tender;

(d) the quantities, broken down by code of the export refund nomenclature for milk products and by destination code, for which the provisional licences referred to in Article 8 of Regulation (EC) No 1187/2009 were definitively issued or cancelled that day, the date of the provisional licence and the quantity it covers;

(e) where appropriate, the revised quantity of products covered by the invitation to tender referred to in point (c) of this paragraph;

(f) the quantities, broken down by code of the export refund nomenclature for milk products, covered by licences with a refund issued under Article 32(1) of Regulation (EC) No 1187/2009.

2. As regards the notification referred to in paragraph 1(c)(i), where several applications have been submitted for the same invitation to tender, one notification per Member State shall suffice.

#### *Article 7*

1. Member States shall notify to the Commission, before the 16th of each month for the previous month, the following information:

(a) the quantities, broken down by code of the export refund nomenclature for milk products, covered by licence applications cancelled under the second subparagraph of Article 10(2) of Regulation (EC) No 1187/2009;

(b) the unused quantities on licences expired and returned in the previous month and which have been issued since 1 July of the current GATT-year, broken down by code of the export refund nomenclature for milk products;

(c) the quantities of milk products, broken down by CN code and by country of origin code, which are not in one of the situations referred to in Article 28(2) of the Treaty and are imported for use in the manufacture of products falling within CN code 0406 30, in accordance with Article 12(5)(c) of Commission Regulation (EC) No 612/2009 <sup>(2)</sup> and for which the authorisation referred to in Article 15 of Regulation (EC) No 1187/2009 has been granted;

(d) the quantities broken down by CN code, for which licences have been issued and where no refund is applied for, as referred to in Article 18 of Regulation (EC) No 1187/2009.

2. Member States shall notify to the Commission before 31 December the quantities broken down by CN code for which licences have been issued for the following quota year, in accordance with Article 25 of Regulation (EC) No 1187/2009.

## CHAPTER IV

### **GENERAL AND FINAL PROVISIONS**

#### *Article 8*

1. The notifications to the Commission under this Regulation shall be made by the Member States by electronic means using the methods made available to them by the Commission.

<sup>(1)</sup> OJ L 366, 24.12.1987, p. 1.

<sup>(2)</sup> OJ L 186, 17.7.2009, p. 1.

2. The form and content of the notifications shall be defined on the basis of models or methods made available to the competent authorities by the Commission. Those models and methods shall be adapted and updated after the Committee referred to in Article 195(1) of Regulation (EC) No 1234/2007 and the competent authorities concerned, as appropriate, have been informed.

*Article 9*

The Commission shall keep available for the Member States the data, information and documents transmitted by them.

*Article 10*

Regulation (EC) No 562/2005 is repealed.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 1 June 2010.

However, Regulation (EC) No 562/2005 shall continue to apply to transmission of data, information and documents relating to the period before the application of this Regulation.

References made to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III to this Regulation.

*Article 11*

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 August 2010.

*For the Commission*  
*The President*

José Manuel BARROSO

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## ANNEX I.A

**WEEKLY NOTIFICATION**

Article 2(1) of Regulation (EU) No 479/2010

EUROPEAN COMMISSION — DG AGRIC.4 — ANIMAL PRODUCTS UNIT

Member State: .....

Person to contact: .....

Telephone: .....

Fax: .....

E-mail: .....

Product	CN code	Representative packing unit	Remarks
1. Whey powder	0404 10 02	25 kg	
2. Skimmed-milk powder complying with the intervention quality requirements	0402 10 19	25 kg	
3. Whole milk powder	0402 21 19	25 kg	
4. Butter — unsalted	0405 10 19	25 kg	
5. Butter — unsalted	0405 10 11	250 g	
6. Butter oil	0405 90 10	200 kg	
7. Cheddar, 45 to 50 % fat in the dry matter	0406 90 21	( <sup>1</sup> )	
8. Gouda, 45 to 50 % fat in the dry matter	0406 90 78	( <sup>1</sup> )	
9. Edam, 40 to 45 % fat in the dry matter	0406 90 23	( <sup>1</sup> )	
10. Emmental, 45 to 50 % fat in the dry matter	0406 90 13	( <sup>1</sup> )	

(<sup>1</sup>) For cheeses the notification shall refer to the most representative packing unit.

## ANNEX I.B

**MONTHLY NOTIFICATION**

Article 2(2) of Regulation (EU) No 479/2010

EUROPEAN COMMISSION — DG AGRIC.4 — ANIMAL PRODUCTS UNIT

Member State: .....

Person to contact: .....

Telephone: .....

Fax: .....

E-mail: .....

Product	CN code	Representative packing unit	Remarks
1. Skimmed-milk powder for animal feed	0402 10 19 ANIM	20 t	
2. Casein	3501 10	25 kg (bags)	
3. Cheeses:			
—		( <sup>1</sup> )	
—		( <sup>1</sup> )	
—		( <sup>1</sup> )	
—		( <sup>1</sup> )	
—		( <sup>1</sup> )	

(<sup>1</sup>) For cheeses the notification shall refer to the most representative packing unit.

## ANNEX II

**Elements to be included in the report on the price for raw milk and dairy products to be submitted to the Commission (\*) in accordance with Article 3**

1. Organisation and structure of the market:  
general overview of the market structure for the product in question.
  2. Product definition:  
composition (fat content, dry matter content, water content in the non-fatty matter), quality class, age or maturing stage, presentation and packing conditions (e.g. in bulk, in 25 kg sacks), other characteristics.
  3. Place and procedure of recording:
    - (a) the body responsible for the price statistics (address, fax, e-mail);
    - (b) the number of recording points and the geographical area or region to which prices apply;
    - (c) the survey method (e.g. direct survey of the first buyers). If prices are established by a marketing board, an indication should be given as to whether they are based on opinion or fact. If secondary material is used, the sources should be stated (e.g. use of market reports);
    - (d) statistical processing of prices, including conversion factors used to convert the weight of products into the representative weight, laid down in Annex I.
  4. Production:  
annual (estimated) production in the Member State.
  5. Representativeness:  
the share of the volume recorded (e.g. in % of the annual production).
  6. Other relevant aspects
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(\*) The report shall be sent to the following address: European Commission — DG AGRIC.4 — Animal Products.



## ANNEX III

## CORRELATION TABLE

Regulation (EC) No 562/2005	Present Regulation
Article 1	—
Article 2	—
Article 3	—
Article 4	—
Article 5	Article 1
Article 6(1)	Article 2(1)
—	Article 2(2)
Article 6(2)	Article 2(3), 3(1)
Article 6(3)	Article 3(2)
Article 6(4)	Article 3(3)
Article 6(5)	Article 2(4)
—	Article 3(4)
Article 7(1)	—
Article 7(2)	—
Article 7(3)	—
Article 7(4)	Article 4
Article 7(5)	Article 4
Article 7(6)	—
Article 8	Article 5
Article 9(1)	Article 6(1)
Article 9(2)	Article 6(2)
Article 9(3)	—
Article 10	—
Article 11(a)	Article 7(1)(a)
Article 11(b)	Article 7(1)(b)
Article 11(c)	—
Article 11(d)	Article 7(1)(c)
Article 11(e)	Article 7(1)(d)
Article 11(e)	Article 7(2)

Regulation (EC) No 562/2005	Present Regulation
Article 12	—
Article 13	—
Article 14	Article 8
Article 15	Article 9
Article 16	Article 10
Article 17	Article 11
Annex I	—
Annex II	—
Annex III	—
Annex IV	—
Annex V	—
Annex VI	Annex I.A and I.B
Annex VII	—
Annex VIII	—
Annex IX	—
Annex X	—
Annex XI	—
Annex XII	Annex II
Annex XIII	Annex III