Commission Implementing Regulation (EU) 2018/252 of 19 February 2018 on exceptional market support measures for the poultry sector in France

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on exceptional market support measures for the poultry sector in France

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 1234/2007[(1)], and in particular Article 220(1)(a) thereof,

Whereas:

(1) Between 1 December 2016 and 30 June 2017, numerous outbreaks of highly pathogenic avian influenza of subtype H5 were confirmed and notified by France. In total, 486 outbreaks were confirmed in France. The species affected are ducks, geese, turkeys, Guinea fowls, quails, and *Gallus domesticus* chicks, chickens, cockerels, capons, poulards, young hens and laying hens.

(2) France immediately and efficiently took all the necessary animal health and veterinary measures required in accordance with Council Directive 2005/94/EC[(2)].

(3) In particular, France took control, monitoring and preventive measures and established protection and surveillance zones ('the regulated zones') pursuant to Commission Implementing Decisions (EU) 2017/247[(3)], (EU) 2017/417[(4)], (EU) 2017/554[(5)], (EU) 2017/696[(6)], (EU) 2017/780[(7)] and (EU) 2017/1139[(8)]. In order to control and prevent the spread of the disease, France imposed two sets of measures, the first being restrictions to movements of birds, prohibition of placing of birds and prolonged fallowing periods in poultry holdings in the regulated zones established following an outbreak of highly pathogenic avian influenza of subtype H5; and the second being the implementation, in the ducks and geese holdings located in the zones regulated on 31 March 2017, of a further extension of fallowing periods and a prohibition of placing of birds until 28 May 2017.

(4) In applying those measures, France managed to contain and eradicate the spread of the disease. The Union and national animal health and veterinary measures were applied until 29 September 2017 in all relevant holdings.

(5) France informed the Commission that the necessary health and veterinary measures, which had been applied to contain and eradicate the spread of the disease, had affected a very large number of operators and that those operators suffered income losses not

eligible for Union financial contribution under Regulation (EU) No 652/2014 of the European Parliament and of the Council[9].

(6) On 12 April, 3 August and 13 November 2017, the Commission received formal requests from France for part-financing of certain exceptional measures pursuant to Article 220(3) of Regulation (EU) No 1308/2013.

(7) As a result of the animal health and veterinary measures applied, fallowing periods were prolonged, placing of birds was prohibited and movements were restricted on holdings of all types of poultry in the regulated zones established following outbreaks of highly pathogenic avian influenza of subtype H5. This concerned the following species: ducks, geese, turkeys, Guinea fowls, quails and *Gallus domesticus* chicks, chickens, cockerels, capons, poulards, young hens and laying hens. This led to a loss of production of poultry in these holdings. It is therefore appropriate to compensate these losses.

(8) As a result of the animal health and veterinary measures applied, the placing of ducks and geese in all holdings located in the regulated zones was forbidden until 28 May 2017. This led to a loss of production of poultry meat in these ducks and geese holdings. It is therefore appropriate to compensate these losses.

(9) In accordance with Article 220(5) of Regulation (EU) No 1308/2013, the Union part-financing has to be equivalent to 50 % of the expenditure borne by France for the exceptional market support measures. The maximum quantities eligible for financing in respect of each exceptional market support measure should be fixed by the Commission after scrutinising the request received from France.

(10) To avoid any risk of overcompensation, the flat rate amount of part-financing should be based on technical and economic studies or accounting documents and fixed at an appropriate level for each animal and product according to the categories of animals produced in terms of species but also in terms of the production method, i.e. standard production, free range production, certified production under national scheme, certified production under the Label Rouge scheme, production covered by a Protected Geographical Indication (PGI), and, finally, in terms of the length of the supply chain, i.e. long supply chain for poultry producers who only produce live animals, short supply chain for poultry producers who produce live animals and transform them into processed products.

(11) To avoid any risk of double funding, losses suffered should not have been compensated by state aid or insurance and the Union part-financing under this Regulation should be limited to eligible animals and products for which no Union financial contribution has been received under Regulation (EU) No 652/2014.

(12) The extent and duration of the exceptional market support measures provided for in this Regulation should be limited to what is strictly necessary to support the market. In particular, the exceptional market support measures should apply only to the production of poultry in the holdings located in the regulated zones and for the duration of the animal health and veterinary measures laid down in the Union and French legislation relevant to the 486 outbreaks of highly pathogenic avian influenza confirmed between 1 December 2016 and 30 June 2017, and to the zones regulated on 31 March 2017.

(13) To ensure flexibility in case the numbers of animals not produced and eligible for compensation differ from the maximum numbers set in this Regulation which are based on estimates, compensation may be adjusted within certain limits, as long as the maximum amount of expenditure part-financed by the Union is respected.

(14) For the sake of a sound budgetary management of these exceptional market support measures, only those payments made by France to beneficiaries by 30 September 2018 at the latest, should be eligible for Union part-financing. Article 5(2) of Commission Delegated Regulation (EU) No 907/2014[(10)] should not be applicable.

(15) In order to ensure the eligibility and the correctness of the payments, France should carry out *ex-ante* checks.

(16) To allow the Union to perform its financial control, France should communicate to the Commission the clearance of payments.

(17) In order to ensure an immediate implementation of the measures laid down in this Regulation by France, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.

(18) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Common Organisation of the Agricultural Markets,

HAS ADOPTED THIS REGULATION:

Article 1

The Union shall provide part-financing equivalent to 50 % of the expenditure borne by France to support the market of poultry seriously affected by the 486 outbreaks of highly pathogenic avian influenza of subtype H5 which were detected and notified by France between 1 December 2016 and 30 June 2017.

Article 2

Expenditure borne by France shall be eligible for Union part-financing only:

(a) for the duration of the application of animal health and veterinary measures referred to in Union and French legislation listed in the Annex; and

(b) for those poultry holdings that have been subject to the animal health and veterinary measures and located in the zones referred to in Union and French legislation listed in the Annex (‘the regulated zones’); and

(c) if it has been paid by France to the beneficiaries by 30 September 2018 at the latest. Article 5(2) of Delegated Regulation (EU) No 907/2014 shall not apply; and

(d) if the animal or product, for the period referred to in paragraph a), has not benefitted from any compensation by means of state aid or insurance and for which no Union financial contribution has been received under Regulation (EU) No 652/2014.

Article 3

1 The maximum level of Union part-financing shall be EUR 32 500 000, detailed as follows:

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2018/252. (See end of Document for details)*

a for loss of production of geese and ducks located in the regulated zones, the following flat rates shall apply per animal:

(i) for producers with a short supply chain:

— Mulard ducks starter covered by CN code 0105 99 10:

EUR 0,24 per animal for a maximum of 420 877 animals,

— Mulard ducks fattened covered by CN code 0105 99 10:

EUR 1,13 per animal for a maximum of 469 483 animals,

— Mulard ducks finished covered by CN code 0105 99 10:

EUR 4,41 per animal for a maximum of 596 122 animals,

— Mulard ducks covered by CN code 0105 99 10 whole carcases:

EUR 2,20 per animal for a maximum of 624 494 animals,

— Mulard ducks covered by CN code 0105 99 10 cut in pieces:

EUR 4,275 per animal for a maximum of 434 960 animals,

— Mulard ducks covered by CN code 0105 99 10 processed:

EUR 19,055 per animal for a maximum of 152 038 animals,

— Starter geese covered by CN code 0105 99 20:

EUR 2,455 per animal for a maximum of 5 625 animals,

— Geese covered by CN code 0105 99 20 whole carcases:

EUR 10,595 per animal for a maximum of 9 832 animals,

— Geese covered by CN code 0105 99 20 processed:

EUR 23,33 per animal for a maximum of 3 004 animals,

— Ducks covered by CN code 0105 99 10 for roasting:

EUR 5,16 per animal for a maximum of 215 animals,

— Geese covered by CN code 0105 99 20 for roasting:

EUR 11,505 per animal for a maximum of 215 animals;

(ii) for producers with a long supply chain:

— Mulard ducks starter standard, PGI and Label Rouge covered by CN code 0105 99 10:

EUR 0,24 per animal for a maximum of 7 681 851 animals,

— Mulard ducks fattened standard covered by CN code 0105 99 10:

EUR 0,515 per animal for a maximum of 456 754 animals,

— Mulard ducks fattened PGI covered CN code 0105 99 10:

EUR 0,68 per animal for a maximum of 6 464 618 animals,

— Mulard ducks fattened Label Rouge covered by CN code 0105 99 10:

EUR 0,81 per animal for a maximum of 724 618 animals,

— Mulard ducks finished standard covered by CN code 0105 99 10:

EUR 1,48 per animal for a maximum of 776 279 animals,

— Mulard ducks finished PGI covered by CN code 0105 99 10:

EUR 1,645 per animal for a maximum of 5 929 395 animals,

— Mulard ducks finished Label Rouge covered by CN code 0105 99 10:

EUR 2,63 per animal for a maximum of 633 228 animals,

— Muscovy ducks standard covered by CN code 0105 99 10:

EUR 0,48 per animal for a maximum of 104 958 animals,

— Muscovy ducks certified covered by CN code 0105 99 10:

EUR 0,585 per animal for a maximum of 215 animals,

— Muscovy ducks Label Rouge covered by CN code 0105 99 10:

EUR 0,625 per animal for a maximum of 215 animals,

— Mallard ducks covered by CN code 0105 99 10:

EUR 1,1325 per animal for a maximum of 2 000 animals,

— Geese fattened covered by CN code 0105 99 20:

EUR 2,855 per animal for a maximum of 26 572 animals,

— Geese finished covered by CN code 0105 99 20:

EUR 5,54 per animal for a maximum of 19 082 animals;

b for loss of production of poultry other than ducks and geese located in the regulated zones, the following flat rates shall apply per animal and per day:

(i) for producers with a short supply chain:

— Chickens covered by CN code 0105 94 00, whole carcasses:

EUR 0,02459 per animal and per day for a maximum of 178 319 animals,

— Chickens covered by CN code 0105 94 00, cut in pieces:

EUR 0,03776 per animal and per day for a maximum of 2 097 animals,

— Chickens covered by CN code 0105 94 00, processed:

EUR 0,086 per animal and per day for a maximum of 705 animals,

— Guinea fowls covered by CN code 0105 99 50, whole carcasses:

EUR 0,021335 per animal and per day for a maximum of 4 181 animals,

— Guinea Fowls covered by CN code 0105 99 50, cut in pieces:

EUR 0,032765 per animal and per day for a maximum 215 animals,

— Turkeys covered by CN code 0105 99 30, whole carcasses:

EUR 0,045895 per animal and per day for a maximum of 215 animals,

— Turkeys covered by CN code 0105 99 30, cut in pieces:

EUR 0,070485 per animal and per day for a maximum of 215 animals,