Commission Implementing Regulation (EU) 2017/1536 of 11 September 2017 on an emergency measure in the form of aid to holdings with no more than 50 animals of the porcine species located in certain areas of Poland when ceasing pigmeat production due to new requirements in relation to African swine fever

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1536

of 11 September 2017

on an emergency measure in the form of aid to holdings with no more than 50 animals of the porcine species located in certain areas of Poland when ceasing pigmeat production due to new requirements in relation to African swine fever

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 221 thereof,

Whereas:

(1) African swine fever is one of the most important infectious diseases for animals of the porcine species. Outbreaks both in wild animals and in holdings have occurred at the eastern border of the Union since 2014 and, in order to control the disease, severe sanitary restrictions have been adopted at Union level.

(2) In order to increase the overall level of biosecurity in the geographical area that is under high risk of African swine fever and to avoid new outbreaks in holdings, Poland has laid down new national requirements for holdings which go beyond existing Union requirements, by means of the Regulation of the Minister of Agriculture and Rural Development of 5 July 2017 amending the Regulation on measures taken in connection with the occurrence of African swine fever[(2)]. The new requirements concern in particular the handling and feeding of animals, construction, disinfection, and control of access to holdings. Certain holdings will be forced to discontinue pigmeat production within a certain deadline fixed by the Polish authorities.

(3) The pigmeat market at national and Union level has been severely affected by the sanitary restrictions adopted following outbreaks of African swine fever and, as a consequence, exceptional market measures have been adopted in the recent past pursuant to Article 220 of Regulation (EU) No 1308/2013. Furthermore, given the high dependence on exports of the Union pigmeat sector, further cases of African swine fever in holdings could seriously destabilise the market if trade restrictions were to be applied.

(4) In this context, the measures voluntarily adopted by Poland are necessary to reduce the risk of further cases of African swine fever and, as a consequence, those measures ultimately contribute to the stability of the Union pigmeat market in the future.

(5) Since most outbreaks of African swine fever in holdings on the Polish territory have taken place in holdings keeping small numbers of animals of the porcine species, and, in the zones at risk, 50 % of the holdings have less than 10 pigs and 90 % have less than 50, it is particularly desirable and in the Union's interest that Poland applies those measures to such holdings. However, those holdings cannot bear the burden and costs required to comply with the new requirements and, as a consequence, the application of those requirements will force them in most cases to discontinue pigmeat production, implying that the producers concerned will be deprived of a significant part of their income in the future.

(6) The fact that it is in the interest of the Union, from the Union market stability perspective, that the new Polish measures apply precisely to those holdings which will lose income as a result of the relevant requirements, constitutes a specific problem within the meaning of Article 221 of Regulation (EU) No 1308/2013. This specific problem cannot be addressed by measures taken pursuant to Article 219 or 220 of that Regulation. On the one hand, it is not specifically linked to an existing market disturbance or a currently precise threat thereof. On the other hand, the Polish measures do not impose trade restrictions as referred to in Article 220 of Regulation (EU) No 1308/2013 and do not aim at combatting directly the spread of current outbreaks of African swine fever.

(7) Having regard to the relation between the size of a holding and its capability to adapt to the new requirements and to the data on past outbreaks, this emergency measure should be subject to a maximum herd size. In order to avoid the risk of fraud, the holdings' relevant herd size should be capped to the average size in the recent past. With a view to preventing sudden increases in the supply of pigmeat in the areas concerned and any possible negative impacts on the market, a time period for the animals to leave the holding following the issue of an order to cease pigmeat production should be fixed, taking into account the normal cycle of production. For administrative purposes, the holder should be given a maximum time period to lodge an application for aid after ceasing pigmeat production.

(8) To avoid any risk of double funding, the relevant loss of income should not have been compensated by state aid or insurances and the aid should be limited to eligible animals for which no Union financial contribution has been received otherwise.

(9) In order to avoid any risk of overcompensation, beneficiaries should also be allowed to restart production after a period of time, upon evidence that they comply with the new requirements.

(10) The aid should be limited to what is strictly necessary to address the emergency both as regards the beneficiaries and the total amount of the aid. The aid granted to the beneficiary should be equivalent to a flat rate per animal covering the short term loss of income from production. The total amount of the aid and the overall budget allocation should be based on information received from Poland and correspond to the income from pigmeat production for the holdings' relevant average herd size. As the aid will compensate only a limited portion of the loss of future income borne by holders ceasing

production, Poland should be allowed to grant additional support to those holders, under the same conditions.

(11) Provision should be made for the competent authorities in Poland to take all necessary measures and carry out all checks required and to inform the Commission accordingly. In particular, those checks should include checks as regards the eligibility and the correctness of the application for aid. The number of eligible animals should be established on the basis of all appropriate means available to the competent authorities, including in particular on-farm checks, historical records and the obligatory holding register as laid down in Council Directive 2008/71/EC[(3)].

(12) In accordance with Article 221 of Regulation (EU) No 1308/2013, the measure should be limited to a period of maximum 12 months starting from the date of entry into force of this Regulation. Payments made by Poland to the beneficiaries after that period should not be eligible for Union financing.

(13) For the sake of a sound budgetary management of the measure and of a timely payment to the producers, Article 5(2) of Commission Delegated Regulation (EU) No 907/2014[(4)] should not be applicable.

(14) To allow the Union to monitor the efficiency of this emergency measure, Poland should communicate to the Commission detailed information on its execution. To allow the Union to perform its financial control, Poland should communicate to the Commission the clearance of the payments.

(15) Since applications for aid can be submitted on different dates depending on the date of ceasing production by each applicant during a time period that can extend to up to 12 months after the date of entry into force of this Regulation, it is appropriate, in the interest of clarity and legal certainty, to consider the date of entry into force of this Regulation as the operative event for the exchange rate as regards the amount of the aid.

(16) 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

1 Aid shall be available for holders of animals of the porcine species who have been ordered by the competent authorities to cease the production of pigmeat in accordance with the Polish Regulation of the Minister of Agriculture and Rural Development of 6 May 2015 on measures taken in connection with the occurrence of African swine fever[(5)] as amended by the Regulation of 5 July 2017 (‘the Polish Regulation’), and who comply with the following conditions:

a at the time the order is issued their holding is located in one of the areas of Poland subject to animal health measures for the control of African swine fever as listed in the Annex to Commission Implementing Decision 2014/709/EU[(6)] as amended by Implementing Decision 2017/1481/EU[(7)];

b they held no more than 50 animals of the porcine species on average in the period from 1 July 2016 till 30 June 2017 and at least one such animal at the time of the inspection visit that led to issuing the order to cease pigmeat production;