Commission Delegated Regulation (EU) 2017/1165 of 20 April 2017 laying down temporary exceptional support measures for producers of certain fruits

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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 1234/2007[(1)], and in particular Article 219(1) thereof,

Whereas:

(1) On 7 August 2014, the Russian government introduced a ban on imports of certain products from the Union to the Russian Federation ('Russia'), including fruit and vegetables. This ban created a serious threat of market disturbances caused by significant price falls due to the fact that an important export market was no longer available. On 29 June 2016, this ban was extended until the end of 2017.

(2) In response to the import ban, the Commission adopted a series of temporary exceptional support measures. These measures were included in Commission Delegated Regulation (EU) No 913/2014[(2)] and subsequently prolonged and reinforced by Commission Delegated Regulations (EU) No 932/2014[(3)], (EU) No 1031/2014[(4)], (EU) 2015/1369[(5)] and (EU) 2016/921[(6)].

(3) The production of non-permanent crops can be easier adapted and therefore the producers of these crops can adapt more quickly to the market situation. Based on the regular monitoring and assessment of the situation in the Union market, the Commission concludes that the situation in the market with non-permanent crops (vegetables and some fruits) has improved as most of the production affected by the Russian import ban is redirected and the prices have therefore stabilised.

(4) As the permanent crops (certain fruit) are more rigid and their adaptation takes a longer time, the situation in the markets for certain permanent crops has not yet sufficiently improved.

(5) In such circumstances, threats of Union market disturbances remain real for certain permanent crops such as stone fruit, citrus fruit, apples and pears and adequate measures need to be adopted and implemented as long as this situation lasts.

(6) Accordingly, a situation continues to exist on the Union market for which the normal measures available under Regulation (EU) No 1308/2013 appear to be insufficient.

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/1165. (See end of Document for details)*

(7) The temporary exceptional support measures therefore continue to be needed and should be prolonged for a further year for certain permanent crops.

(8) The Union financial assistance should be granted taking into account the estimated quantities still affected by the ban. The calculation of those quantities should be made for each Member State in accordance with the level of withdrawn products since the entry into force of these temporary exceptional support measures. In addition, the quantities should be significantly reduced to take into account the fact that producers have had more time to adapt and to redirect the production.

(9) Products for which the quantities withdrawn were particularly low in 2016 compared to the historical quantities withdrawn since mid-2014 should be excluded from the measures laid down in this Regulation. The temporary exceptional support measures should therefore only concern apples, pears, stone fruit and citrus fruit.

(10) Where the uptake of the temporary exceptional support measures within a Member State has been very low for a particular product and the administrative costs of providing support are therefore disproportionately high, that Member State should have the option to choose not to implement the measures laid down in this Regulation.

(11) Products covered by this Regulation, which would have been exported to Russia, have already been diverted or it is expected that they will be diverted to the markets of other Member States. Producers of the same products within those Member States, which do not traditionally export their products to Russia, may still be faced with a significant market disturbance and a fall in prices. Therefore, in order to further stabilise the market, the Union financial assistance should also be available for those producers in all Member States in respect of one or more of the products covered by this Regulation, but the quantity involved should not exceed 2 000 tonnes per Member State.

(12) Market withdrawal, non-harvesting and green harvesting are effective crisis management measures where there exists a surplus of fruits due to temporary and unpredictable circumstances. Member States should have the possibility to allocate the quantities made available to them to one or more of those measures in order to make the most efficient use of the amounts available.

(13) As provided for in Delegated Regulation (EU) No 932/2014, the restriction of 5 % as a proportion of the volume of marketed production for supported market withdrawals should be temporarily lifted. The Union financial assistance should therefore be granted even when withdrawals exceed the 5 % ceiling.

(14) The Union financial assistance granted for market withdrawals should be based on the respective amounts set out in Annex XI to Commission Implementing Regulation (EU) No 543/2011[7] for withdrawals for free distribution and for withdrawals for other destinations. For those products for which no amount is fixed in that Annex XI, maximum amounts should be laid down in this Regulation.

(15) In light of the exceptional market disturbances and in order to ensure that all producers of fruits are supported by the Union, the Union financial assistance for market

withdrawals should be extended to producers of certain fruits who are not members of a recognised producer organisation.

(16) In order to encourage the free distribution of withdrawn fruits to certain organisations, such as charitable organisations and schools or any other equivalent destinations approved by the Member States, 100 % of the maximum amounts fixed in Annex XI to Implementing Regulation (EU) No 543/2011 should also be applicable to producers who are not members of a recognised producer organisation. In the case of withdrawals for destinations other than free distribution, they should receive 50 % of the maximum amounts fixed. In this context, producers who are not members of a recognised producer organisation should fulfil the same or similar conditions as producer organisations. Therefore, they should be subject, like recognised producer organisations, to the relevant provisions of Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011.

(17) Producer organisations are the basic actors of the fruit sector and are the most suited entities to ensure that the Union financial assistance for market withdrawals is paid to producers who are not members of a recognised producer organisation. They should ensure that such assistance is paid to the producers who are not members of a recognised producer organisation through the conclusion of a contract. As not all Member States have the same degree of organisation on the supply side of the fruit and vegetables market, it is appropriate to allow the competent authority of the Member States to pay the support directly to the producers where this is duly justified.

(18) The amount of the support for non-harvesting and green harvesting should be fixed by Member States per hectare at a level to cover not more than 90 % of the maximum amount for market withdrawals applicable to withdrawals for destinations other than free distribution as set out in Annex XI to Implementing Regulation (EU) No 543/2011 or, for products for which no amount has been fixed in that Annex, in this Regulation. Non-harvesting should be supported even where commercial production has been taken from the producing area concerned during the normal production cycle.

(19) Producer organisations concentrate the supply and are able to act faster than producers who are not members of such organisations, in coping with greater quantities and thereby providing an immediate impact on the market. Therefore, in order to make the implementation of the exceptional support measures provided for in this Regulation more efficient and to speed up the stabilisation of the market, it is appropriate, in respect of producers who are members of recognised producer organisations to increase the Union financial assistance for withdrawals for destinations other than free distribution to 75 % of the relevant maximum amounts set for the support for withdrawals for other destinations.

(20) As for withdrawals, the Union financial assistance for non-harvesting and green harvesting operations should be extended to producers who are not members of a recognised producer organisation. The financial assistance should be 50 % of the maximum amounts of support set for producer organisations.

(21) Given the high number of producers who are not members of a producer organisation and the need to carry out checks that are reliable but feasible, the Union financial

assistance should not be granted for producers who are not members of a producer organisation, for green harvesting of fruits for which the normal harvest has already begun or for non-harvesting measures where commercial production has been taken from the producing area concerned during the normal production cycle. In this context, producers who are not members of a recognised producer organisation should be subject, like recognised producer organisations, to the relevant provisions of Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011.

(22) For producers who are not members of a producer organisation, the payment of the Union financial assistance for non-harvesting and green harvesting operations should be done directly by the competent authority of the Member State. That competent authority should pay the relevant amounts to the producers in accordance with Implementing Regulation (EU) No 543/2011 and the relevant national rules and procedures.

(23) In order to guarantee that the Union financial assistance to producers of certain fruits is used for the intended purposes and to ensure the efficient use of the Union budget, Member States should carry out a reasonable level of checks. In particular, documentary, identity and physical checks as well as on-the-spot checks should be carried out that cover a reasonable amount of products, areas, producer organisations and producers not being members of recognised producer organisation.

(24) Member States should notify the Commission of the operations that have been implemented by producer organisations and producers non-members at regular intervals.

(25) In order to have an immediate impact on the market and to help stabilise prices, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1 This Regulation lays down rules on Union financial assistance (‘the financial assistance’) for temporary support measures to be granted to producer organisations in the fruit sector, recognised in accordance with Article 154 of Regulation (EU) No 1308/2013, and to producers who are not members of such organisations.

These temporary support measures shall cover withdrawal, non-harvesting and green harvesting operations.

2 The support referred to in paragraph 1 shall be granted in relation to the following products of the fruit sector intended for fresh consumption:

a apples of CN code 0808 10;
b pears of CN code 0808 30;
c plums of CN code 0809 40 05;
d sweet oranges of CN codes 0805 10 22, 0805 10 24 and 0805 10 28;
e clementines of CN code 0805 22 00;

f mandarins (including tangerines and satsumas), wilking and similar citrus hybrids of CN codes 0805 21 10, 0805 29 00 and 0805 21 90;

g lemons of CN code 0805 50 10;

h peaches and nectarines of CN code 0809 30;

i sweet cherries of CN code 0809 29 00;

j persimmons of CN code 0810 70 00.

3 The support measures referred to in paragraph 1 shall cover activities carried out in the period from the date of entry into force of this Regulation, until the date on which the quantities set out in Article 2(1) have been exhausted in each Member State concerned or on 30 June 2018, whichever date is earlier.

4 Where the import situation of certain products from the Union to Russia changes before 30 June 2018, the Commission may amend or repeal this Regulation accordingly.

Article 2

Allocation of maximum quantities to Member States

1 The financial assistance for support measures referred to in Article 1(1) shall be made available to Member States for the quantities of products set out in Annex I.

The financial assistance shall also be available to Member States for withdrawal, green harvesting or non-harvesting operations, with respect to one or more of the products referred to in Article 1(2) as determined by the Member State, provided that the additional quantity involved does not exceed 2 000 tonnes per Member State.

2 With respect to the total quantities per Member State referred to in paragraph 1, Member States may determine for each product referred to in Article 1(2):

a the quantities for market withdrawals for free distribution;

b the quantities for market withdrawals for destinations other than free distribution;

c the equivalent area for green harvesting and non-harvesting.

3 Where the quantities actually withdrawn in a Member State between 1 July 2016 and 30 June 2017 in accordance with Delegated Regulation (EU) 2016/921 for a category of products as defined in Annex I to that Regulation are less than 5 % of the total quantities allocated to that Member State for that category of products, the Member State may decide not to make use of the quantity allocated to that Member State for that category of products in accordance with Annex I. In that event, the Member State concerned shall notify the Commission of its decision by 31 October 2017. As from the moment of notification, withdrawal, non-harvesting and green harvesting operations carried out for that category of products in that Member State shall not be eligible for financial assistance.

4 Member States may decide not to make use of the quantity of 2 000 tonnes, or part thereof, referred to in the second subparagraph of paragraph 1. In that event, the Member State concerned shall notify the Commission of its decision by 31 October 2017. As from the moment of this notification, withdrawal, non-harvesting and green-harvesting operations carried out within the quantity of 2 000 tonnes referred to in the second subparagraph of paragraph 1 in that Member State shall not be eligible for financial assistance.