Commission Implementing Regulation (EU) 2017/647 of 5 April 2017 adopting exceptional support measures for the pigmeat market in Poland in respect of certain sows and other pigs slaughtered from 1 August to 30 November 2016

COMMISSION IMPLEMENTING REGULATION (EU) 2017/647

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adopting exceptional support measures for the pigmeat market in Poland in respect of certain sows and other pigs slaughtered from 1 August to 30 November 2016

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 August and 30 September 2016 a series of outbreaks of African swine fever related to the human factor were confirmed and notified to the Commission by Poland. The epidemic was particularly severe because the virus circulation was confirmed at several holdings with domestic pigs in a relatively wide geographic area.

(2) Poland immediately took the necessary animal health measures in accordance with Council Directive 2002/60/EC[(2)], which lays down the minimum measures to be applied within the Union for the control of African swine fever. In particular, Poland took control, monitoring and preventive measures in accordance with Commission Implementing Decision 2014/709/EU[(3)] as amended by Commission Implementing Decisions (EU) 2016/1236[(4)], (EU) 2016/1372[(5)], (EU) 2016/1405[(6)] and (EU) 2016/1900[(7)] and established protection and surveillance zones in accordance with Commission Implementing Decisions (EU) 2016/1367[(8)] and (EU) 2016/1406[(9)].

(3) Furthermore, with a view to preventing the spread of African swine fever and in order to prevent any further disturbance of trade within Poland and abroad, Poland implemented some additional preventive measures in the areas concerned. In particular, the movement and transport of pigs has been subject to stricter surveillance measures and the marketing of pigs has been subject to restrictions within the domestic market beyond those established in Implementing Decision 2014/709/EU.

(4) In applying those measures, Poland managed to prevent the further spread of the disease. The Union and national health measures were applied until 18 November 2016 in all relevant holdings.

(5) Poland informed the Commission that those measures affected a very large number of pig holdings and that the producers concerned suffered income losses not eligible for Union financial contribution under Regulation (EU) No 652/2014 of the European

Parliament and of the Council[10]. On 4 November 2016, the Commission received a formal request from Poland for part-financing of certain exceptional support measures pursuant to Article 220(3) of Regulation (EU) No 1308/2013.

(6) For the pigs reared in the areas concerned, the aid should be granted only as regards animals slaughtered. The aid amount to be paid for the animals slaughtered should be expressed as an amount per kilogram for a limited number of animals. The aid amount should be set taking into account prices as collected by Poland as well as information from invoices as regards the prices actually paid to producers from areas under animal health measures.

(7) In view of the information provided by Poland, the maximum number of animals eligible for financing should be fixed on the basis of the request received from that Member State.

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

(9) 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 *ex-ante* checks as regards the eligibility and the correctness of the application for aid.

(10) 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 pigs in the holdings located in the relevant delimited areas subject to the animal health measures laid down in Union and Polish legislation relevant to the outbreaks of African swine fever, in the period from 1 August to 18 November 2016.

(11) Restrictions on the movement and transport of pigs have applied for several weeks in the areas concerned and this situation has led to market disturbance, an important price reduction and losses for producers, as well as to a substantial increase in the animals' weight, which has consequently brought about an intolerable animal welfare situation. Therefore, the measures provided for in this Regulation should cover the animals delivered to a slaughterhouse from 1 August to 30 November.

(12) For the sake of a sound budgetary management of these exceptional market support measures and of a timely payment to the producers, Article 5(2) of Commission Delegated Regulation (EU) No 907/2014[11] should not be applicable and payments made by Poland to the beneficiaries after 30 September 2017 should not be eligible for Union part-financing.

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

(14) Since the restrictions related to the outbreaks of African swine fever came into force at different dates in the areas concerned and since this Regulation does not provide for a deadline for the submission of the applications for aid, it is appropriate to consider

the date of entry into force of this Regulation as the date referred to in Article 29(4) of Delegated Regulation (EU) No 907/2014.

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

(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 Poland is authorised to grant aid to producers in the pigmeat sector whose holdings were subject to animal health measures for the control of African swine fever and are located in the areas of Poland referred to in Union and Polish legislation listed in the Annex. That aid shall only be granted in respect of the slaughtering of the following animals*:*

a sows covered by CN code 0103 92 11;

b other pigs covered by CN code 0103 92 19.

2 The aid referred to in paragraph 1 shall only be granted if the following conditions are met:

a the animals were reared in the areas of Poland referred to in paragraph 1 and were subject to certain marketing restrictions due to African swine fever in any period from 1 August 2016 to 18 November 2016;

b the animals were present in one of the areas referred to in paragraph 1 on the date on which it came under restriction or they were born and reared after that date in those areas;

c the animals were slaughtered in the period from 1 August 2016 to 30 November 2016;

d the producer who applies for the aid (‘applicant’) does not benefit, for the same animals, from state aids, insurances or aid financed by a Union contribution under Regulation (EU) No 652/2014.

Article 2

1 For the sows referred to in Article 1(1)(a), the aid shall be EUR 0,34 per kilogram of carcass weight.

2 For the other pigs referred to in Article 1(1)(b), the aid shall be calculated per kilogram on the price difference between the price reported by Poland for the area in which the holding of the producer is located for the week of the delivery of the pigs to a slaughterhouse and the price actually paid to the producer proven by means of an invoice. The aid per kilogram shall not exceed the following amounts:

a EUR 0,23 per kilogram per pig with a carcass weight of 93 kilograms or less;

b EUR 0,34 per kilogram per pig with a carcass weight of more than 93 kilograms but not exceeding 105 kilograms;

c EUR 0,46 per kilogram per pig with a carcass weight of more than 105 kilograms.

Article 3

1 Poland shall take all necessary measures, including exhaustive administrative and on-the-spot checks in accordance with Articles 58 and 59 of Regulation (EU) No 1306/2013 of the

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/647. (See end of Document for details)*

European Parliament and of the Council[12], to ensure compliance with the conditions laid down in this Regulation. In particular, Poland shall verify:

a the eligibility of the applicant;

b for each eligible applicant, the quantity and the price difference referred to in Article 2(2);

c that funding has not been received by any eligible applicant from any other sources to compensate the losses related to the slaughtering of the animals;

d that the animals for which aid is granted comply with the conditions linked to the restrictions applicable to the areas referred to in Article 1(1).

2 For eligible applicants for which administrative checks are completed, aid may be paid without waiting for all checks being made, notably those on applicants selected for on-the-spot checks.

3 In cases where the eligibility of an applicant was not confirmed, the aid shall be recovered and penalties applied.

Article 4

1 Expenditure shall only be eligible for Union part-financing if it has been paid by Poland to the beneficiaries by 30 September 2017 at the latest.

2 Article 5(2) of Delegated Regulation (EU) No 907/2014 shall not apply.

Article 5

The Union shall provide part-financing equivalent to 50 % of the expenditure borne by Poland for the aid referred to in Article 1 covering a maximum total of 50 000 animals.

Article 6

1 Poland shall inform the Commission of the measures taken in accordance with Article 3 not later than 10 days after the entry into force of this Regulation.

2 No later than 30 October 2017, Poland shall send to the Commission a detailed report on the implementation of this Regulation, including details as regards the execution of the measures taken and checks carried out in accordance with Article 3.

3 Poland shall communicate to the Commission the clearance of payments.

Article 7

For the purposes of Article 29(4) of Delegated Regulation (EU) No 907/2014, the operative event for the exchange rate as regards the amounts set out in Article 2 shall be the entry into force of this Regulation.

Article 8

The aid referred to in Article 1 shall be considered to be exceptional market support measures as provided for in Article 4(1)(a) of Regulation (EU) No 1306/2013.

Article 9

This Regulation shall enter into force on the third 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.