Commission Delegated Regulation (EU) 2017/376 of 3 March 2017 amending Delegated Regulation (EU) 2016/921 as regards reallocation of unused quantities notified pursuant to Article 2(4) of that Regulation

COMMISSION DELEGATED REGULATION (EU) 2017/376

of 3 March 2017

amending Delegated Regulation (EU) 2016/921 as regards reallocation of unused quantities notified pursuant to Article 2(4) of that Regulation

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) in conjunction with Article 228 thereof,

Whereas:

(1) On 7 August 2014 the government of the Russian Federation ('Russia') introduced a ban on imports of certain products from the Union to Russia, including fruit and vegetables. This import 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. This import ban is extended until end of 2017. In such circumstances, threats of market disturbances in the Union remain real for certain specific products such as apples and pears and adequate measures need to be adopted and implemented for as long as the Russian ban remains in force.

(2) The threat of market disturbances is of particular relevance for the fruit and vegetables sector where large quantities of perishable products used to be exported to Russia. It has proved difficult to redirect the entire production to other destinations. 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.

(3) In order to prevent a severe and prolonged market disturbance, Commission Delegated Regulations (EU) No 913/2014[(2)], (EU) No 932/2014[(3)], (EU) No 1031/2014[(4)] (EU) 2015/1369[(5)] and (EU) 2016/921[(6)] provided for maximum amounts of support for withdrawal, non-harvesting and green harvesting operations, calculated on the basis of traditional exports to Russia.

(4) Delegated Regulation (EU) 2016/921 also recognised that products covered by the scheme established by that Regulation, which were exported to Russia, could be diverted to the markets of other Member States. Producers of the same products within the Member States which did not traditionally export their products to Russia could therefore face significant market disturbance, in particular a price fall. In order

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2017/376. (See end of Document for details)*

to stabilise the market, Union financial assistance was therefore made available for producers in all Member States in respect of one or more of the products covered by that Regulation, but the quantity of the products concerned was not to exceed 3 000 tonnes per Member State.

(5) Member States remained free to decide to what extent they would use the quantity of 3 000 tonnes. Where they chose not to use this quantity, they were to notify the Commission of the unused quantity by 31 October 2016.

(6) By 31 October 2016, Germany, Denmark, Luxembourg, Slovakia, Slovenia, Austria and the United Kingdom formally notified the Commission that they decided not to use their quantities or parts thereof.

(7) The quantities not used should therefore be reallocated. The reallocation should be based on transparent, objective and fair criteria. This should be best ensured by using as the basis for reallocation the share of each Member State in the total quantity as currently allocated in Annex I to Delegated Regulation (EU) 2016/921. To ensure that the allocation per Member State reaches at least 300 tonnes, for Cyprus, Croatia and Portugal the allocations should be increased from 85 tonnes to 300 tonnes, respectively. This measure is required as reallocation of quantities below 85 tonnes would create an undue administrative burden for national authorities, in particular as regards the checks and at the same time would not significantly affect the situation of the producers and that of the market.

(8) To ensure immediate impact on the market and to help stabilise prices in the Member States concerned, this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union* and should apply as from that day until 30 June 2017,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) 2016/921 is amended as follows:

(1) Article 2 is amended as follows:

(a) In paragraph 1, the first subparagraph is replaced by the following:

> 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 Annexes I and V.

(b) The new paragraph 5 is added:

> 5. Following the notifications referred to in paragraph 4, the notified unused quantities shall be reallocated among the Member States as set out in Annex V.
>
> These reallocated quantities set out in Annex V shall be in addition to the quantities set out in the second subparagraph of paragraph 1.

(2) In Article 3, the first paragraph is replaced by the following:

Member States shall allocate the quantities referred to in Article 2(1) and (5) between producer organisations and producers who are not members of producer organisations following the first-come, first-served system.

(3) Annex V is added, the text of which is set out in the Annex to this Regulation.

Article 2

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

It shall apply as from the day of its publication in the *Official Journal of the European Union* until 30 June 2017.

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

Done at Brussels, 3 March 2017.

For the Commission

The President

Jean-Claude JUNCKER