Commission Implementing Regulation (EU) 2017/295 of 20 February 2017 on exceptional market support measures for the poultry meat sector in France

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on exceptional market support measures for the poultry meat 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 24 November 2015 and 5 August 2016, numerous outbreaks of highly pathogenic avian influenza of subtype H5 were confirmed and notified by France. In total, 81 outbreaks were confirmed in the South-West of France. The species affected are ducks, geese, laying hens, turkeys, breeding fowls of the species *Gallus domesticus*, cockerels and chickens, Guinea fowls and quails.

(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, French authorities took control, monitoring and preventive measures and established protection, surveillance and further restricted zones pursuant to Commission Implementing Decisions (EU) 2015/2239[(3)], (EU) 2015/2460[(4)], (EU) 2016/42[(5)], (EU) 2016/237[(6)] and (EU) 2016/447[(7)]. In order to control and prevent the spread of the disease, French authorities imposed the following measures:

   (a) a prohibition of placing in ducks and geese holdings located in the further restricted zone and in the protection and surveillance zones established following the last four outbreaks of highly pathogenic avian influenza which occurred on 15 July, 18 July, 25 July and 5 August 2016. The prohibition of placing in ducks and geese holdings in the further restricted zone aimed in particular to ensure a 16-week period of depopulation;

   (b) a prohibition of movements on large proportions of the susceptible poultry population and of trade of live poultry outside the further restricted zone;

   (c) prolonged fallowing periods in susceptible poultry holdings other than ducks and geese located in the protection zones, surveillance zones and in the further restricted zone including the protection and surveillance zones established following the last four outbreaks of highly pathogenic avian influenza which occurred on 15 July, 18 July, 25 July and 5 August 2016.

(4) In applying those measures, the French authorities managed to eradicate the threat. The Union and national animal health and veterinary measures were applied until 15 September 2016 in all relevant holdings except for the poultry holdings located in the protection and surveillance zones established following the last four outbreaks of highly pathogenic avian influenza which occurred on 15 July, 18 July, 25 July and 5 August 2016, in which measures applied respectively until 25 August, 25 September and 3 October 2016.

(5) French authorities 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[8].

(6) On 20 April, 20 September and 24 October 2016, the Commission received formal requests from French authorities 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, placing of birds in all holdings with ducks and geese located in the further restricted zone and in the protection and surveillance zones established following the last four outbreaks of highly pathogenic avian influenza which occurred on 15 July, 18 July, 25 July and 5 August 2016 was forbidden. This led to a loss of production of poultry meat in these ducks and geese holdings. It is therefore appropriate to compensate these losses.

(8) As a result of animal health and veterinary measures, laying hens at the end of their production cycle and breeding fowls of the species *Gallus domesticus* could not be transported outside of the further restricted zone to be slaughtered for meat production in specialized slaughterhouses. This led to the killing and destruction in slaughterhouses or on farms of animals and a loss of production for laying hens and breeding fowls of the species *Gallus domesticus* producers located in the further restricted zone. It is therefore appropriate to compensate these losses.

(9) As a result of animal health and veterinary measures, fallowing periods were prolonged in holdings of standard, organic, Label Rouge or free range chickens, cockerels, Label Rouge and free range Guinea fowls, turkeys and quails located in the protection zones, surveillance zones and in the further restricted zone including the protection and surveillance zones established following the last four outbreaks of highly pathogenic avian influenza which occurred on 15 July, 18 July, 25 July and 5 August 2016. This led to a loss of production of poultry meat in these holdings. It is therefore appropriate to compensate these losses.

(10) As a result of animal health and veterinary measures, live chickens, laying hens, Guinea fowls and turkeys could not be sold outside the further restricted zone. This led to a loss of production for producers of live chickens, laying hens, Guinea fowls and turkeys located in the further restricted zone. It is therefore appropriate to compensate these losses.

(11) 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.

(12) To avoid any risk of over compensation, 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 production cycle, i.e. long cycle for geese and duck producers who only produce live animals, short cycle for geese and duck producers who produce live animals and transform them into processed products.

(13) To avoid any risk of double funding, losses suffered should not have been compensated by state aids or insurances 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.

(14) 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 meat 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 81 outbreaks of highly pathogenic avian influenza.

(15) For the sake of a sound budgetary management of these exceptional market support measures, only those payments made by France to the beneficiaries by 30 September 2017 at the latest, should be eligible for Union part-financing. Article 5(2) of Commission Delegated Regulation (EU) No 907/2014[(9)] should not be applicable.

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

(17) To allow the Union to perform its financial control, French authorities should communicate to the Commission the clearance of the payments.

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

(19) 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:

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/295. (See end of Document for details)*

Article 1

The Union shall provide part-financing equivalent to 50 % of the expenditure borne by France to support the market of poultry meat seriously affected by the 81 outbreaks of highly pathogenic avian influenza of subtype H5 which were detected and notified by France between 24 November 2015 and 5 August 2016.

Expenditure shall be eligible for Union part-financing only for the duration of the application of animal health and veterinary measures referred to in Union and French legislation listed in the Annex.

Expenditure shall be eligible for Union part-financing only for those poultry holdings being subject to the animal health and veterinary measures and located within the parts of France referred to in Union and French legislation listed in the Annex.

Expenditure shall only be eligible for Union part-financing if it has been paid by France to the beneficiaries by 30 September 2017 at the latest. Article 5(2) of Delegated Regulation (EU) No 907/2014 shall not apply.

Article 2

The maximum levels of Union part-financing shall be as follows:

(a) For the loss of production of geese and ducks located in the further restricted zone and in the protection and surveillance zones established following the last four outbreaks of highly pathogenic avian influenza which occurred on 15 July, 18 July, 25 July and 5 August 2016, the following flat rates shall apply per animal up to a maximum amount of EUR 40 000 002:

(i) For producers with a short cycle of production of:

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

EUR 0,24 per animal for a maximum of 724 512 animals;

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

EUR 1,13 per animal for a maximum of 606 172 animals;

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

EUR 4,41 per animal for a maximum of 690 431 animals;

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

EUR 2,20 per animal for a maximum of 664 261 animals;

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

EUR 4,275 per animal for a maximum of 578 814 animals;

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

EUR 19,055 per animal for a maximum of 321 019 animals;

— Starter geese covered by CN code 0105 99 20:

EUR 2,455 per animal for a maximum of 15 769 animals;

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

EUR 10,595 per animal for a maximum of 14 560 animals;

— Geese covered by CN code 0105 99 20 processed:

EUR 23,33 per animal for a maximum of 11 024 animals;

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

EUR 1,37 per animal for a maximum of 25 831 animals;

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

EUR 2,855 per animal for a maximum of 7 156 animals;

(ii) For producers with a long cycle of production of:

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

EUR 0,0487 per animal for a maximum of 668 427 animals;

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

EUR 0,24 per animal for a maximum of 10 115 677 animals;

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

EUR 0,515 per animal for a maximum of 646 195 animals;

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

EUR 0,68 per animal for a maximum of 8 737 557 animals;

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

EUR 0,81 per animal for a maximum of 808 848 animals;

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

EUR 1,48 per animal for a maximum of 900 255 animals;

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

EUR 1,645 per animal for a maximum of 7 818 392 animals;

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

EUR 2,63 per animal for a maximum of 559 637 animals;

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

EUR 0,48 per animal for a maximum of 71 331 animals;

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

EUR 0,585 per animal for a maximum of 7 579 animals;

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

EUR 0,625 per animal for a maximum of 28 344 animals;

— Mallard ducks covered by CN code 0105 99 10:

EUR 1,1325 per animal for a maximum of 7 392 animals;

— Geese fattened covered by CN code 0105 99 20:

EUR 2,855 per animal for a maximum of 50 179 animals;

— Geese finished covered by CN code 0105 99 20:

EUR 5,54 per animal for a maximum of 49 500 animals;