Commission Delegated Regulation (EU) 2016/1166 of 17 May 2016 amending Annex X to Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards purchase terms for beet in the sugar sector as from 1 October 2017

COMMISSION DELEGATED REGULATION (EU) 2016/1166

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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 125(4)(b) thereof,

Whereas:

(1) In accordance with Article 125 of Regulation (EU) No 1308/2013, sugar beet growers and sugar undertakings are to conclude written agreements within the trade. Annex XI to that Regulation sets out certain purchase terms for beet until the end of the 2016/2017 marketing year, while Annex X to that Regulation sets out those terms as from 1 October 2017, when the quota system will have ended.

(2) In order to take account of the specific characteristics of the sugar sector and the expected development of the sector in the period following the end of the quota system, the purchase terms for beet referred to in Annex X should be amended.

(3) As from 1 October 2017 the beet sugar sector will need to adapt to the end of the quota system, including the end of the minimum beet price and regulation of domestic production quantities. Therefore, the sector needs a clear legal framework in this transition from a highly regulated sector to a more liberalised one. Growers and sugar undertakings have requested further legal certainty as regards the applicable rules for value sharing mechanisms, including market bonuses and losses based on relevant market prices.

(4) The Union beet sugar supply chain is characterised by many mostly small sugar beet growers and a limited number of mostly large sugar undertakings. Given the need for the beet suppliers to plan and organise their beet supplies to sugar factories during beet harvesting periods, there is an interest for growers to negotiate certain terms relating to value sharing clauses for the purchase of beet by the concerned undertakings. This is an inherent feature of the sugar supply chain, which continues to exist independently of whether there is a quota system in place or not. The value sharing clauses referred to in Point XI of Annex XI to Regulation (EU) No 1308/2013 currently enable beet

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2016/1166. (See end of Document for details)*

growers and sugar undertakings to secure their supplies on pre-defined purchase terms with certainty of sharing the profits and costs generated by the supply chain to the benefit of the beet growers. The benefit of value sharing also transmits the price signals in the market directly to the growers.

(5) The expected development of the sector in the period following the end of the quota system in combination with the relatively low sugar prices recently observed, are unlikely to lead to new beet sugar processors entering the market, because the investments necessary for creating a sugar processing facility would require a higher sugar price than the market price foreseen in the next marketing years to be profitable. The Commission's medium-term outlook foresees prices adjusting rather to the downside after the end of the quota system. Thus, the current structure of the EU sugar industry, including the relationship between beet growers and sugar undertakings, is expected to persist in the marketing years following the abolition of the quota system since it is foreseeable that few new undertakings will enter the market.

(6) In the absence of the preservation of the value sharing clauses, the position of beet growers in the food chain could be compromised. When losing the possibility of negotiating value sharing clauses, and especially in a situation of low prices, beet growers could be in a clear economic disadvantage.

(7) Therefore, the rationale for amending Annex X to Regulation (EU) No 1308/2013 to allow the negotiation of value sharing clauses remains valid. Consequently, the possibility of negotiating such clauses would continue to be necessary after 1 October 2017.

(8) In order to facilitate the negotiation of the value sharing clauses, it is appropriate that such negotiations are only possible between one undertaking and its current or potential suppliers.

(9) In order to ensure a flexible negotiation process, the introduction of a value sharing clause should be optional.

(10) Annex X to Regulation (EU) No 1308/2013 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

In Point XI of Annex X to Regulation (EU) No 1308/2013, the following point 5 is added:

5. A sugar undertaking and the beet sellers concerned may agree on value sharing clauses, including market bonuses and losses, determining how any evolution of relevant market prices of sugar or other commodity markets is to be allocated between them.

Article 2

This Regulation shall enter into force on the seventh 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.