Commission Delegated Regulation (EU) 2016/921 of 10 June 2016 laying down further temporary exceptional support measures for producers of certain fruit and vegetables

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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) in conjunction with Article 228 thereof,

Whereas:

(1) On 7 August 2014 the Russian government introduced a ban on imports of certain products from the Union to 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 24 June 2015 this ban was extended until August 2016. In January 2016, it was extended to Turkey too. Turkey exported huge quantities of fruit and vegetables to Russia. With the extension of the ban, the risk exists that products originating in Turkey will be redirected to the Union or to third countries' markets where they will compete with Union products. This is particularly the case in some Member States where there is a low degree of organisation of the sector. In such circumstances, threats of Union market disturbances remain real and adequate measures need to be adopted and implemented as long as the Russian ban remains in force.

(2) That 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. Uncertainty as regards the renewal of the ban may negatively affect the start of the season for many products of that sector.

(3) 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.

(4) 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)] and (EU) 2015/1369[(5)] provided for maximum amounts of support for withdrawal, non-harvesting and green harvesting operations, calculated on the basis of traditional exports to Russia.

As the threat of market disturbance continues to exist, the measures initially introduced by those Regulations need to be adapted.

(5) The temporary exceptional support measures should therefore be prolonged for a further year, or until trade situation between the Union and Russia changes, for all the products that were covered by Delegated Regulation (EU) No 1031/2014. In addition, sweet cherries and persimmons should be added to the list of products eligible for support, since those products used to be exported to Russia by some Member States.

(6) The temporary Union financial assistance should be granted taking into account the estimated quantities affected by the ban. The calculation of those quantities should be made for each Member State in accordance with the level of those established in Annex I to Delegated Regulation (EU) 2015/1369. In addition, the quantities should be significantly reduced to take into account the fact that producers have had more time to adapt and source new outlets.

(7) Where the uptake of these 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 these measures.

(8) It is expected that products covered by this Regulation, which would have been exported to Russia, have already been or 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 accordingly, be faced with a significant market disturbance and a fall in prices. Therefore, in order to further stabilise the market, the temporary Union financial assistance should also be available for 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 3 000 tonnes per Member State.

(9) Member States should remain free to decide not to use the quantity of 3 000 tonnes. Where they do so, they should inform the Commission in time to allow the Commission to decide on a possible re-allocation of the quantities that have not been used.

(10) Market withdrawal, non-harvesting and green harvesting are effective crisis management measures where there exists a surplus of fruit and vegetables 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.

(11) 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.

(12) The temporary 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[(6)] for withdrawals for free distribution and for withdrawals for other destinations. For those products for which no amount is fixed in

Annex XI to Implementing Regulation (EU) No 543/2011, maximum amounts should be laid down in this Regulation.

(13) Taking into account that the amounts for tomatoes set out in Annex XI to Implementing Regulation (EU) No 543/2011 refer to the marketing year of tomatoes for processing and tomatoes for fresh consumption, it is adequate to clarify that the maximum amount applicable for tomatoes for fresh consumption for the purpose of this Regulation is the one concerning the period from 1 November until 31 May.

(14) In light of the exceptional market disturbances and in order to ensure that all producers of fruit and vegetables are supported by the Union, the temporary Union financial assistance for market withdrawals should be extended to producers of fruit and vegetables who are not members of a recognised producer organisation.

(15) In order to encourage the free distribution of withdrawn fruit and vegetables 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.

(16) Producer organisations are the basic actors of the fruit and vegetables sector and are the most suited entities to ensure that the temporary 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.

(17) 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. For tomatoes for fresh consumption the amount to be taken into account by Member States should be the one set in Annex XI to Implementing Regulation (EU) No 543/2011 for the period from 1 November until 31 May. Non-harvesting should be supported even where commercial production has been taken from the producing area concerned during the normal production cycle.

(18) 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

Changes to legislation: *There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2016/921. (See end of Document for details)*

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 temporary 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.

(19) As for withdrawals, the temporary 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.

(20) 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 temporary Union financial assistance should not be granted, for producers who are not members of a producer organisation, for green harvesting of fruit and vegetables 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.

(21) For producers who are not members of a producer organisation, the payment of the temporary 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.

(22) In order to guarantee that the temporary Union financial assistance to producers of certain fruit and vegetables 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. Member States should ensure that withdrawal, green harvesting and non-harvesting operations for tomatoes only concern varieties intended for fresh consumption.

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

(24) In order to prevent a severe and prolonged market disturbance and effectively guarantee the stabilisation of prices, a seamless continuation of those support measures currently in force, which are due to expire on 30 June 2016, is required. Therefore, this Regulation should enter into force on the day of its publication, and should apply as from that day or from 1 July 2016, whichever is later,

HAS ADOPTED THIS REGULATION:

***Changes to legislation:** There are currently no known outstanding effects for the Commission Delegated Regulation (EU) 2016/921. (See end of Document for details)*

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 and vegetables 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 and vegetables sector intended for fresh consumption:

a tomatoes of CN code 0702 00 00;
b carrots of CN code 0706 10 00;
c cabbages of CN code 0704 90 10;
d sweet peppers of CN code 0709 60 10;
e cauliflowers and headed broccoli of CN code 0704 10 00;
f cucumbers of CN code 0707 00 05;
g gherkins of CN code 0707 00 90;
h mushrooms of the genus *Agaricus* of CN code 0709 51 00;
i apples of CN code 0808 10;
j pears of CN code 0808 30;
k plums of CN code 0809 40 05;
l soft fruit of CN codes 0810 20, 0810 30 and 0810 40;
m fresh table grapes of CN code 0806 10 10;
n kiwi fruit of CN code 0810 50 00;
o sweet oranges of CN code 0805 10 20;
p clementines of CN code 0805 20 10;
q mandarins (including tangerines and satsumas), wilking and similar citrus hybrids of CN codes 0805 20 30, 0805 20 50, 0805 20 70 and 0805 20 90;
r lemons of CN code 0805 50 10;
s peaches and nectarines of CN code 0809 30;
t sweet cherries of CN code 0809 29 00;
u persimmons of CN code 0810 70 00.

3 The support referred to in paragraph 1 shall cover activities carried out in the period from 1 July 2016 or the date of entry into force of this Regulation, whichever is later, until the date on which the quantities set out in Article 2(1) have been exhausted in each Member State concerned or 30 June 2017, whichever is earlier.

4 Where the import situation of certain products from the Union to Russia changes before 30 June 2017, the Commission may amend or repeal this Regulation accordingly.