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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 3.3.2017 amending Delegated Regulation (EU) 2016/921 as regards re-allocation of unused quantities notified pursuant to Article 2(4) of that Regulation

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Delegations will find attached document C(2017) 1373 final.

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Encl.: C(2017) 1373 final



Brussels, 3.3.2017  
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**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 3.3.2017**

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

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

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. In response, the Commission adopted a series of exceptional support measures. On 29 June 2016 that ban was extended until end of 2017. The volume of the production which was exported to Russia prior to the ban was so high that it has been impossible to redirect all the affected production to other destinations. Therefore, a situation continues to exist on the market for which the normal measures available under Regulation (EU) No 1308/2013 appear to be insufficient.

Commission Delegated Regulation (EU) 2016/921 currently provides for temporary exceptional support measures for producers of certain fruit and vegetables. This regulation provides for a possible re-allocation of the quantities that have not been used under the reserve of 3 000 tonnes per Member State. Member States may decide not to make use of the quantity of 3 000 t, or part thereof and in such circumstances the Member States concerned shall notify the Commission of any quantities that they have decided not to use by 31 October 2016. As from the moment of the notification, withdrawal, non-harvesting and green harvesting operations carried out for the given category of products in that Member State are not eligible for financial assistance under the regulation. These notifications allow the Commission to determine the quantities that have not been used and decide on their possible re-allocation.

By 31 October 2016, Slovakia notified the Commission that 2 140 t of its 3000 t allocation would not be used, while Germany, Denmark, Luxembourg, Austria and the United Kingdom each notified the Commission that their entire 3 000 t allocations would not be used, and finally Slovenia, notified the Commission that 538 t of its allocation would not be used. At the same time, Italy, Belgium, Portugal and Greece formally requested the Commission to re-allocate to them any quantities not used by other Member States that were notified to the Commission.

Given that the disturbances linked to the Russian import ban have been more profound in some Member State than in other Member States, for example prices for apples in Poland remained well below seasonal levels, it is appropriate to re-allocate the unused quantities. This will, to some extent, help mitigate the loss of income to producers which is caused by these disturbances.

Therefore, it is proposed to immediately re-allocate the unused quantities of the reserves of 3000 t as notified by the aforesaid Member States. Accordingly, the total quantity available for re-allocation is 17 678 t (2 140 t notified by Slovakia, 3 000 t notified by Germany, Denmark, Luxembourg, Austria and the United Kingdom each, and 538 t notified by Slovenia).

In order to allow the immediate re-allocation of the notified unused quantities, the urgency procedure provided for in Article 228 of Regulation (EU) No 1308/2013 shall be applied.

In view of this, Commission Delegated Regulation (EU) 2016/921 needs to be amended accordingly.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

As the measure is to be adopted on the basis of Article 219 of Regulation (EU) No 1308/2013 and in an urgency procedure, no impact assessment has to be carried out. DG AGRI has carried out internal inter-service consultation. Member States experts from Member States have also been consulted.

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

The delegated act is based on Article 219(1) of Regulation (EU) No 1308/2013. It should be adopted by means of the urgency procedure according to Article 219(1) second subparagraph and Article 228 of Regulation (EU) No 1308/2013. This means that the delegated act enters immediately into force. It will apply as long as no objection is expressed by the European Parliament or the Council within a period of two months (or - if one of the institutions asks for an extension for two additional months - within a period of 4 months). If objections are expressed, the Commission shall repeal the act without delay.

## COMMISSION DELEGATED REGULATION (EU) .../...

of 3.3.2017

### amending Delegated Regulation (EU) 2016/921 as regards re-allocation 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<sup>1</sup>, 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<sup>2</sup>, (EU) No 932/2014<sup>3</sup>, (EU) No 1031/2014<sup>4</sup> (EU)

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<sup>1</sup> OJ L 347, 20.12.2013, p. 671.

<sup>2</sup> Commission Delegated Regulation (EU) No 913/2014 of 21 August 2014 laying down temporary exceptional support measures for producers of peaches and nectarines (OJ L 248, 22.8.2014, p. 1).

<sup>3</sup> Commission Delegated Regulation (EU) No 932/2014 of 29 August 2014 laying down temporary exceptional support measures for producers of certain fruit and vegetables and amending Regulation (EU) No 913/2014 (OJ L 259, 30.8.2014, p. 2).

<sup>4</sup> Commission Delegated Regulation (EU) No 1031/2014 of 29 September 2014 laying down temporary exceptional support measures for producers of certain fruit and vegetables (OJ L 284, 30.9.2014, p. 22).

2015/1369<sup>5</sup> and (EU) 2016/921<sup>6</sup> 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 to stabilize 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 re-allocation 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 re-allocation 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:

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<sup>5</sup> Commission Delegated Regulation (EU) 2015/1369 of 7 August 2015 laying down temporary exceptional support measures for producers of certain fruit and vegetables (OJ L 211, 8.8.2015, p. 17).

<sup>6</sup> Commission Delegated Regulation (EU) 2016/921 of 10 June 2016 laying down temporary exceptional support measures for producers of certain fruit and vegetables (OJ L 154, 11.6.2016, p. 3).

(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 re-allocated among the Member States as set out in Annex V.'

These re-allocated 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, 3.3.2017

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*