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Contents

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Implementing Regulation (EU) 2017/39 of 3 November 2016 on rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments** 1
- ★ **Commission Delegated Regulation (EU) 2017/40 of 3 November 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments and amending Commission Delegated Regulation (EU) No 907/2014** 11
- Commission Implementing Regulation (EU) 2017/41 of 9 January 2017 establishing the standard import values for determining the entry price of certain fruit and vegetables 20

DECISIONS

- ★ **Council Decision (EU, Euratom) 2017/42 of 19 December 2016 appointing a member, proposed by the Italian Republic, of the European Economic and Social Committee** 22

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2017/39

of 3 November 2016

on rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments

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 Articles 25 and 223(3) thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ⁽²⁾, and in particular Articles 62(2)(a) to (d) and 64(7)(a) thereof,

Having regard to Council Regulation (EU) No 1370/2013 of 16 December 2013 determining measures on fixing certain aids and refunds related to the common organisation of the markets in agricultural products ⁽³⁾, and in particular Article 5(5) thereof,

Whereas:

- (1) Section I of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013 provides for two aid schemes intended to improve the distribution of agricultural products to children in educational establishments. The first scheme concerns the supply of fruit and vegetables, processed fruit and vegetables and banana products (school fruit and vegetables scheme) and the second concerns the supply of milk and milk products (school milk scheme). Those two schemes are replaced by one single scheme introduced by Regulation (EU) 2016/791 of the European Parliament and of the Council ⁽⁴⁾ with effect from the 2017/2018 school year. This single scheme provides for a new common framework for the Union aid for the supply of fruit and vegetables, processed fruit and vegetable products, fresh products of the banana sector ('school fruit and vegetables') and for the supply of milk and milk products ('school milk') to children in educational establishments (the 'school scheme'). Regulation (EU) No 1308/2013 as amended by Regulation (EU) 2016/791 also empowers the Commission to adopt delegated and implementing acts. In order to ensure the smooth functioning of the school scheme in accordance with the new framework, certain rules are to be adopted by means of such acts. Those acts should replace

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 347, 20.12.2013, p. 549.

⁽³⁾ OJ L 346, 20.12.2013, p. 12.

⁽⁴⁾ Regulation (EU) 2016/791 of the European Parliament and of the Council of 11 May 2016 amending Regulations (EU) No 1308/2013 and (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in educational establishments (OJ L 135, 24.5.2016, p. 1).

Commission Delegated Regulations (EU) No 1047/2014 ⁽¹⁾ and (EU) 2016/247 ⁽²⁾, Commission Implementing Regulation (EU) 2016/248 ⁽³⁾ and Commission Regulation (EC) No 657/2008 ⁽⁴⁾. Those acts are repealed by Commission Delegated Regulation (EU) 2017/40 ⁽⁵⁾.

- (2) In accordance with Article 23(8) of Regulation (EU) No 1308/2013, Member States wishing to participate in the school scheme should draw up a strategy for its implementation. In order to be able to evaluate the implementation of the school scheme, the elements of the strategy should be defined. To limit the administrative burden, it is appropriate to distinguish those elements that should be included in the strategy from those that should be made available to the Commission upon request, namely in case of audits, if not included in the strategy.
- (3) In the interest of sound administration and budget management, Member States implementing the school scheme should submit a request for Union aid on an annual basis. In addition, the content of such request should be defined.
- (4) The content and frequency of applications for aid submitted by aid applicants should be determined as well as the rules concerning the submission of those applications. In addition, the evidence required to support the applications for aid should be specified. Penalties to be applied by the competent authority in case of late submission of applications for aid should also be laid down.
- (5) The conditions for payment of the aid should be further clarified to take account of the distinction between aid for the supply and distribution of products and aid for carrying out accompanying educational measures, monitoring, evaluation and publicity. The content of the documentary evidence required in support of each application for the payment of the aid should also be specified.
- (6) The deadlines for transfers between the financial allocations for school fruit and vegetables and for school milk, and the submission, format and content of transfer notifications to the Commission should be defined.
- (7) In order to maximise the full potential of available funds, the Commission should adopt the measures to reallocate unrequested Union aid between the Member States participating in the school scheme that have notified their willingness to use more than their available allocation, according to Article 5(5) of Regulation (EU) No 1370/2013. The conditions for those transfers of funds between Member States should be defined.
- (8) In order to assess the effectiveness of the school scheme and to help Member States to further improve their national and regional strategies, Member States should notify the Commission of the results and findings of their monitoring and evaluation of the scheme. For the sake of clarity, it is appropriate to fix a date for the notification of the results of the annual monitoring exercise and of the evaluation report to the Commission. The Commission should publish those documents.
- (9) To protect the financial interests of the Union, effective control measures should be adopted to combat irregularities and fraud. These control measures should involve systematic administrative checking of all aid applications supplemented by on-the-spot checks. The scope, content, timing and reporting of those control measures should be specified so as to ensure an equitable and uniform approach between Member States, taking account of their different implementation of the school scheme.

⁽¹⁾ Commission Delegated Regulation (EU) No 1047/2014 of 29 July 2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national or regional strategy to be drawn up by Member States for the purpose of the school milk scheme (OJ L 291, 7.10.2014, p. 4).

⁽²⁾ Commission Delegated Regulation (EU) 2016/247 of 17 December 2015 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetables and banana products within the framework of the school fruit and vegetables scheme (OJ L 46, 23.2.2016, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2016/248 of 17 December 2015 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetables and banana products within the framework of the school fruit and vegetables scheme and fixing the indicative allocation for that aid (OJ L 46, 23.2.2016, p. 8).

⁽⁴⁾ Commission Regulation (EC) No 657/2008 of 10 July 2008 laying down detailed rules for applying Council Regulation (EC) No 1234/2007 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments (OJ L 183, 11.7.2008, p. 17).

⁽⁵⁾ Commission Delegated Regulation (EU) 2017/40 of 3 November 2016 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments and amending Commission Delegated Regulation (EU) No 907/2014 (see page 11 of this Official Journal).

- (10) Amounts unduly paid should be recovered in accordance with Commission Implementing Regulation (EU) No 809/2014 ⁽¹⁾.
- (11) In accordance with Article 23(10) of Regulation (EU) No 1308/2013, the public should be made sufficiently aware of the Union's financial contribution to the school scheme. Further to the provision on the poster provided for in Delegated Regulation (EU) 2017/40, it is appropriate to lay down rules on publicising the school scheme and on the use of the Union emblem.
- (12) 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:

Article 1

Scope and definition

1. This Regulation lays down rules for the application of Regulations (EU) No 1308/2013 and (EU) No 1370/2013 as regards Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetable products and fresh products of the banana sector ('school fruit and vegetables') and of milk and milk products ('school milk') to children in educational establishments, for accompanying educational measures and for certain related costs in the framework of the scheme referred to under Article 23 of Regulation (EU) No 1308/2013 ('the school scheme').
2. For the purposes of the school scheme, 'school year' means a period running from 1 August until 31 July of the following year.

Article 2

Member States' strategies

1. A Member State's strategy as referred to in Article 23(8) of Regulation (EU) No 1308/2013 and in Article 2 of Delegated Regulation (EU) 2017/40 shall include the following elements:
- (a) the administrative level at which the school scheme will be implemented;
 - (b) the needs to be addressed through implementation of the school scheme and their ranking in terms of priorities;
 - (c) the results expected to be achieved through implementation of the school scheme and the indicators to measure their achievement;
 - (d) the initial situation in relation to which progress in achieving the results will be measured, based on available data;
 - (e) the estimated budget for the main elements of the school scheme with regard to the school fruit and vegetables and the school milk, as well as the budget for elements concerning the entire school scheme;
 - (f) the target group;
 - (g) the list of products, by product groups listed in Article 23(3), (4), (5) and, if applicable, (7) of Regulation (EU) No 1308/2013, that will be supplied under the school scheme;
 - (h) if products are not made available free of charge under the school scheme, the arrangements put in place to ensure that the amount of Union aid is duly reflected in the price of those products;

⁽¹⁾ Commission Implementing Regulation (EU) No 809/2014 of 17 July 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to the integrated administration and control system, rural development measures and cross compliance, (OJ L 227, 31.7.2014, p. 69).

- (i) if standard scales of unit costs, flat-rate financing and/or lump sums are authorised, the fair, equitable and verifiable calculation method used for their establishment; if a cost-based system is used, the arrangements to assess the reasonableness of the costs submitted by aid applicants;
 - (j) the objectives and the content of the accompanying educational measures;
 - (k) the procedures for involving relevant authorities and stakeholders;
 - (l) the procedures for selecting the suppliers of products, materials and services under the school scheme;
 - (m) the arrangements put in place for publicising the provision of Union aid under the school scheme.
2. Member States shall make available to the Commission upon request the following information, if not included in the strategy:
- (a) the criteria for the choice of the products that will be supplied under the school scheme and the priority or priorities referred to under Article 23(11) of Regulation (EU) No 1308/2013;
 - (b) the arrangements for the supply and/or distribution of the products, including with regard to the eligible costs, the envisaged frequency and timing of distribution and, in case distribution is allowed in the framework of regular school meals, the measures taken to comply with Article 11 of Delegated Regulation (EU) 2017/40;
 - (c) if maximum prices to be paid by beneficiaries for the products, materials and services made available under the school scheme are set, the fair, equitable and verifiable calculation method used for their establishment;
 - (d) the amount of national aid if such aid is granted in addition to Union aid for the school scheme;
 - (e) if existing national schemes are extended or made more effective through Union aid under the school scheme, the arrangements put in place to ensure the added value of the school scheme;
 - (f) if products referred to in Article 23(5) of Regulation (EU) No 1308/2013 are distributed, the arrangements to ensure that Union aid shall be paid only for the milk component of those products and shall not exceed the amount referred to in Article 5(3) of Regulation (EU) No 1370/2013;
 - (g) the structures, arrangements and forms put in place for the monitoring and evaluation of the school scheme in accordance with Article 9 of Delegated Regulation (EU) 2017/40 and for checks in accordance with Articles 9 and 10 of this Regulation.
3. The Commission shall publish the Member States' strategies.

Article 3

Member States' request for Union aid

Member States shall submit by 31 January each year their request for Union aid relating to the next school year and, if applicable, update the request for Union aid relating to the ongoing school year. The request shall contain the following information:

- (a) information relating to the next school year:
 - (i) the indicative allocation of aid for school fruit and vegetables and for school milk set out in Annex 1 to Regulation (EU) No 1370/2013;
 - (ii) the willingness to transfer part of the indicative allocation for school fruit and vegetables or for school milk to the other indicative allocation, up to the maximum percentage referred to in Article 23a(4) of Regulation (EU) No 1308/2013, and the percentage and the amount of the transfer;
 - (iii) the willingness to use more than the indicative allocation for school fruit and vegetables and/or for school milk and the maximum additional amount requested, should an additional allocation be available;

- (iv) the amount of the indicative allocation that is not requested, if there is no willingness to use the entire amount of the indicative allocation for school fruit and vegetables and/or for school milk;
- (v) the total amount requested for school fruit and vegetables and for school milk;
- (b) information relating to the ongoing school year:
 - (i) the transfer between the definitive allocations referred to in Article 23a(4)(b) of Regulation (EU) No 1308/2013;
 - (ii) if there is no willingness to use the entire amount of the definitive allocation of aid for school fruit and vegetables and/or for school milk for the ongoing school year, the amount which will not be requested for school fruit and vegetables and/or for school milk;
 - (iii) the willingness to use more than the entire amount of the definitive allocation of aid for school fruit and vegetables and/or for school milk available to them in the ongoing school year should an additional allocation be available.

The amounts referred to in this Article shall be expressed in EUR.

Article 4

Aid application submitted by aid applicants

1. Member States shall determine the form, content and frequency of aid applications in accordance with their strategy and the rules laid down in paragraphs 2 to 6.
2. Aid applications relating to the supply and distribution of products shall include at least the following information:
 - (a) the quantities of products distributed by groups of products as referred to in paragraphs 3, 4, 5 and, if applicable, 7 of Article 23 of Regulation (EU) No 1308/2013;
 - (b) the identification of the applicant and the name and address or a unique identification number of the educational establishment or educational authority to which those quantities were distributed;
 - (c) the number of children in the school register at the beginning of the school year in the educational establishment(s) due to receive the products covered by the school scheme during the period covered by the aid application.
3. Aid applications relating to the supply and distribution of products and to accompanying educational measures may cover periods from 2 weeks to the entire school year.
4. Aid applications shall be submitted within 3 months of the end of the period they cover or, in case of aid applications relating to monitoring, evaluation and publicity, of the date of delivery of the material or service.
5. If the time limit referred to in paragraph 4 is exceeded by less than 60 calendar days, the aid shall be paid but reduced as follows:
 - (a) by 5 % if the time limit is exceeded by 1 to 30 calendar days;
 - (b) by 10 % if the time limit is exceeded by 31 to 60 calendar days.

Once the time limit is exceeded by more than 60 calendar days, the aid shall be further reduced by 1 % per each additional day, calculated over the remaining balance.

6. The amounts claimed in the aid applications shall be supported by documentary evidence showing the price of the products, material or services delivered together with a receipt or proof of payment or equivalent. Member States shall specify the documents that shall be submitted in support of aid applications.

In the case of aid applications relating to accompanying educational measures; monitoring, evaluation and publicity, the documentary evidence shall also contain the financial breakdown by activity and details of the related costs.

Article 5

Payment of the aid

1. Aid relating to the supply and distribution of products shall only be paid:
 - (a) on presentation of a receipt for the quantities actually supplied and/or distributed; or
 - (b) if the Member State authorises the use of standard scales of unit costs, flat-rate financing and/or lump sums, on presentation of alternative proof that the quantities have been supplied and/or distributed for the purposes of the school scheme and paid for.
2. Aid relating to the accompanying educational measures, monitoring, evaluation and publicity shall only be paid upon delivery of the material or services concerned and upon submission of the related documentary evidence as required by the competent authority or, if the Member State authorises the use of standard scales of unit costs, flat-rate financing and/or lump sums, on presentation of alternative proof that the material or services have been delivered and paid for.
3. Aid shall be paid by the competent authority within 3 months of the date of submission of the aid application unless administrative inquiries have been initiated.
4. Any aid concerning school year 2017/2018 shall not be paid by the competent authority prior to the beginning of this school year.

Article 6

Transfers between allocations

1. Transfers between indicative allocations, according to Article 23a(4)(a) of Regulation (EU) No 1308/2013, shall be made in the request for Union aid referred to in Article 3 of this Regulation.
2. Transfers between definitive allocations, according to Article 23a(4)(b) of Regulation (EU) No 1308/2013, where no transfers between indicative allocations have been made, may be made in the request for Union aid referred to in Article 3 of this Regulation.

Member States shall notify to the Commission the amount of any such transfers by the 31 January of the school year in which they are made.

Article 7

Reallocation of Union aid

1. On the basis of the amounts of Union aid requested pursuant to Article 3 of this Regulation, the Commission shall reallocate unrequested indicative allocations or unrequested parts thereof in accordance with Article 5(5) of Regulation (EU) No 1370/2013.

No additional amount shall be granted to a Member State for the group of products from which the Member State concerned has made a transfer to the other product group according to Article 6(1).

If a Member State does not submit a request pursuant to Article 3, the indicative allocations of this Member State shall be regarded as unrequested.

2. The Commission may redistribute any unrequested definitive allocations or unrequested parts thereof for the ongoing school year as notified in accordance with Article 3(b) among those Member States who have notified their willingness to use more than their definitive allocations.

No additional amount shall be granted to a Member State for the group of products from which the Member State concerned has made a transfer to the other product group according to Article 6(2).

This redistribution shall be made within the allocation for school fruit and vegetables or for school milk, based on the indicative allocations of the requesting Member States. If applicable, amounts not requested by Member States within the same allocation may be distributed to Member States who requested additional amounts for the other allocation.

3. The amount of definitive allocation that may be reallocated to another Member State pursuant to paragraph 1 shall be based on the level of use of the definitive allocation of Union aid in the previous school year for school fruit and vegetables and for school milk respectively by that Member State. Taking into account the declarations of expenditure sent to the Commission by 31 December prior to the aid application in accordance with Article 10 of Commission Implementing Regulation (EU) No 908/2014 ⁽¹⁾, the amount of the definitive allocation shall be calculated as follows:

- (a) when the use of the definitive allocation is below or equal to 50 %, no additional allocation shall be granted;
- (b) when the use of the definitive allocation is higher than 50 % but lower or equal to 75 %, the maximum additional allocation shall be capped at 50 % of the indicative allocation;
- (c) when the use of the definitive allocation is higher than 75 %, the maximum additional allocation shall not be capped.

The calculation described in the first subparagraph shall not apply for the calculation of the definitive allocations for the 2017/2018 and 2018/2019 school years, as well as for Member States newly applying the school scheme or one of its components during the first 2 years of implementation.

Article 8

Monitoring and evaluation

1. Monitoring as referred to in Article 9 of Delegated Regulation (EU) 2017/40 shall draw upon the data originating from management and control obligations, including those set out in Articles 4 and 5 of this Regulation.

Member States shall notify the Commission of the results of the monitoring exercise by 31 January following the end of the school year concerned.

2. For each 6-year period covered by the strategy drawn up according to Article 23(8) of Regulation (EU) No 1308/2013, Member States shall submit to the Commission an evaluation report containing the results of the evaluation provided for in Article 9 of Delegated Regulation (EU) 2017/40 of the implementation period covering the first 5 school years by 1 March in the year following the end of that period.

The first evaluation report shall be submitted on or before 1 March 2023.

3. The Commission shall publish the results of the Member States' annual monitoring exercise and the evaluation reports.

⁽¹⁾ Commission Implementing Regulation (EU) No 908/2014 of 6 August 2014 laying down rules for the application of Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, rules on checks, securities and transparency (OJ L 255, 28.8.2014, p. 59).

*Article 9***Administrative checks**

1. Member States shall take all necessary measures to comply with this Regulation. Those measures shall include systematic administrative checking of all aid applications under the school scheme.
2. Member States shall define the supporting documents relating to the supply and distribution of products which must be submitted with the aid application in accordance with Article 5. Member States shall conduct checks on all aid applications, including a representative sample of the supporting documents submitted with the aid application.
3. Administrative checks conducted with respect to aid applied for relating to monitoring, evaluation, publicity and accompanying educational measures shall include verifying the delivery of the material and services and the veracity of the claimed expenditure.
4. In case of aid applied for relating to the supply and distribution of products and accompanying educational measures, the administrative checks shall be supplemented by on-the-spot checks in accordance with Article 10.

*Article 10***On-the-spot checks**

1. In case of aid relating to the supply and distribution of products, on-the-spot checks shall in particular include verification of:
 - (a) the records referred to in Article 6 of Delegated Regulation (EU) 2017/40, including financial records such as purchase and sales invoices, delivery notes or bank extracts;
 - (b) the use of the products in accordance with this Regulation.
2. On-the-spot checks shall be carried out during the school year period running from 1 August to 31 July to which they relate (period N) and/or during the following 8 months (period N+1).

On-the-spot checks may take place during the implementation of the accompanying educational measures.

Each on-the-spot check shall be considered completed once the corresponding control report, as referred to in paragraph 6, is issued.

3. The total number of on-the-spot checks shall cover at least 5 % of the aid claimed at national level and at least 5 % of all aid applicants dealing with the supply and distribution of products and with accompanying educational measures in respect of each school year.

When the number of aid applicants in a Member State is less than 100, on-the-spot checks shall be carried out on the premises of not less than five applicants.

When the number of aid applicants in a Member State is less than five, on-the-spot checks shall be carried out on the premises of all the applicants.

Where the applicant, not being an educational establishment, applies for aid relating to the supply and distribution of products, the on-the-spot check carried out on the premises of that applicant shall be supplemented by on-the-spot checks on the premises of at least two educational establishments or at least 1 % of the educational establishments recorded by the applicant in accordance with Article 6 of Delegated Regulation (EU) 2017/40, whichever is the greater.

Where the applicant applies for aid relating to accompanying educational measures, on-the-spot checks on the premises of the applicant may be replaced, based on a risk analysis, by on-the-spot checks at the places where accompanying measures are carried out. Based on a risk analysis, Member States shall fix the level of such on-the-spot checks.

4. On the basis of a risk analysis, the competent authority shall select those applicants to be subjected to on-the-spot checks.

For that purpose, the competent authority shall take particular account of:

- (a) the different geographical areas;
- (b) the recurrent nature of errors and the findings of checks carried out in past years;
- (c) the amount of aid involved;
- (d) the type of applicants;
- (e) the type of accompanying educational measure, if any.

5. Provided that the purpose of the checks is not jeopardised, advance notice, strictly limited to the minimum time period necessary, may be given.

6. The competent control authority shall draw up a control report on each on-the-spot check. The report shall describe precisely the different items controlled.

The control report shall be divided into the following parts:

- (a) a general part containing, in particular, the following information:
 - (i) the period covered, the aid application(s) checked, the quantities of products for which the aid was applied for in case of applications relating to the supply and distribution of products, the participating educational establishments, an estimate based on the available data of the number of children for which aid was paid and the financial amount involved;
 - (ii) the responsible persons present;
- (b) a part describing separately the checks carried out and containing, in particular, the following information:
 - (i) the documents checked;
 - (ii) the nature and extent of checks carried out;
 - (iii) remarks and findings.

All control reports shall be completed no later than 8 months after the end of the school year.

7. Member States shall notify the Commission of the on-the-spot checks carried out and the related findings by 31 October of the calendar year subsequent to the concerned school year.

Article 11

Recovery of undue payments

For recovery of unduly paid amounts, Article 7 of Implementing Regulation (EU) No 809/2014 shall apply *mutatis mutandis*.

Article 12

Publicity

1. Where Member States decide not to make use of the poster referred to in Article 12 of Delegated Regulation (EU) 2017/40, they shall clearly explain in their strategy how they will inform the public about the Union's financial contribution to the school scheme.

2. Means of communication and publicity measures referred to in Article 12 of Delegated Regulation (EU) 2017/40, as well as educational materials and tools to be used within the accompanying educational measures, shall exhibit the European flag and mention the 'School scheme' and unless the size of the materials and tools exclude this, the financial contribution of the Union.
3. References to the financial contribution of the Union shall receive at least the same visibility as contributions from other private or public entities supporting a Member State's school scheme.
4. Member States may continue to use existing stocks of posters and other publicity tools produced in accordance with Regulations (EU) 2016/248 and (EC) No 657/2008.

Article 13

Notifications

1. The notifications from the Member States to the Commission shall be made by electronic means using the technical specifications for the transfer of data made available by the Commission.
2. The form and content of those notifications shall be defined on the basis of models made available by the Commission to the Member States, after informing the Committee for the Common Organisation of the Agricultural Markets.

Article 14

Entry into force and application

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

It shall apply to aid for the 2017/2018 school year and subsequent school years.

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

Done at Brussels, 3 November 2016.

For the Commission
The President
Jean-Claude JUNCKER

COMMISSION DELEGATED REGULATION (EU) 2017/40**of 3 November 2016****supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments and amending Commission Delegated Regulation (EU) No 907/2014**

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 24 and Article 223(2) thereof,

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008 ⁽²⁾, and in particular Articles 64(6)(a) and 106(5) thereof,

Whereas:

- (1) Section I of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013 provides for two aid schemes intended to improve the distribution of agricultural products to children in educational establishments. The first scheme concerns the supply of fruit and vegetables, processed fruit and vegetables and banana products (school fruit and vegetables scheme) and the second concerns the supply of milk and milk products (school milk scheme). Those two schemes are replaced by one single scheme introduced by Regulation (EU) 2016/791 of the European Parliament and of the Council ⁽³⁾ with effect from the 2017/2018 school year. This single scheme provides for a new common framework for the Union aid for the supply of fruit and vegetables, processed fruit and vegetable products, fresh products of the banana sector ('school fruit and vegetables') and for the supply of milk and milk products ('school milk') to children in educational establishments (the 'school scheme'). Regulation (EU) No 1308/2013 as amended by Regulation (EU) 2016/791 also empowers the Commission to adopt delegated and implementing acts. In order to ensure the smooth functioning of the school scheme in accordance with the new framework, certain rules are to be adopted by means of such acts. Those acts should replace Commission Delegated Regulations (EU) No 1047/2014 ⁽⁴⁾ and (EU) 2016/247 ⁽⁵⁾, Commission Implementing Regulation (EU) 2016/248 ⁽⁶⁾ and Commission Regulation (EC) No 657/2008 ⁽⁷⁾. Those acts should therefore be repealed but they should continue to apply until the current school fruit and vegetables scheme and school milk scheme come to an end.
- (2) In accordance with Article 23(8) of Regulation (EU) No 1308/2013, as a condition for participating in the school scheme, Member States are to draw up a strategy at national or regional level for the implementation of the

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 347, 20.12.2013, p. 549.

⁽³⁾ Regulation (EU) 2016/791 of the European Parliament and of the Council of 11 May 2016 amending Regulations (EU) No 1308/2013 and (EU) No 1306/2013 as regards the aid scheme for the supply of fruit and vegetables, bananas and milk in educational establishments (OJ L 135, 24.5.2016, p. 1).

⁽⁴⁾ Commission Delegated Regulation (EU) No 1047/2014 of 29 July 2014 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council as regards the national or regional strategy to be drawn up by Member States for the purpose of the school milk scheme (OJ L 291, 7.10.2014, p. 4).

⁽⁵⁾ Commission Delegated Regulation (EU) 2016/247 of 17 December 2015 supplementing Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetables and banana products within the framework of the school fruit and vegetables scheme (OJ L 46, 23.2.2016, p. 1).

⁽⁶⁾ Commission Implementing Regulation (EU) 2016/248 of 17 December 2015 laying down rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetables and banana products within the framework of the school fruit and vegetables scheme and fixing the indicative allocation for that aid (OJ L 46, 23.2.2016, p. 8).

⁽⁷⁾ Commission Regulation (EC) No 657/2008 of 10 July 2008 laying down detailed rules for applying Council Regulation (EC) No 1234/2007 as regards Community aid for supplying milk and certain milk products to pupils in educational establishments (OJ L 183, 11.7.2008, p. 17).

school scheme prior to participation in the school scheme. A new strategy is to be drawn up every 6 years. Where Member States decide to implement the school scheme at regional level, they are to draw up a strategy for each region and provide for a coordination framework, according to their provisions or procedures. They are to establish a single contact point for the exchange of information with the Commission in order to facilitate the Commission in assessing the strategies and in monitoring and evaluating the implementation in the Member State concerned. It is also appropriate to establish provisions defining the deadlines by which the strategy and any consequent amendments are to be submitted to the Commission.

- (3) Specific conditions should be established for the design and application of the accompanying educational measures, in particular as regards the need to support distribution of products. The possibility that those measures could also involve teachers and parents should be allowed, with a view to enhancing the effectiveness of those measures and the overall effectiveness of the school scheme.
- (4) In the interest of legal certainty, it is appropriate to specify the costs incurred for the implementation of the school scheme that are eligible for Union aid.
- (5) In the interest of sound administration, budget management and supervision, the conditions for granting aid and for the selection and approval of aid applicants should be specified.
- (6) Specific conditions should be established for the suspension and withdrawal of approval and for the administrative penalties to be imposed on aid applicants that fail to comply with the obligations laid down under the school scheme.
- (7) In order to assess the effectiveness of the school scheme, to allow peer review and the exchange of good practices, Member States should monitor and evaluate the implementation of the school scheme on a regular basis and send their results to the Commission. For that purpose, the nature and the type of information in the monitoring reports should be specified. Furthermore, a failure by the Member States to comply with the monitoring and evaluation requirements may jeopardise the assessment of the effectiveness of the school scheme and the assurance on the correct management of Union aid. Provisions should therefore be established for a dissuasive reduction in aid to be applied by the Commission where a Member State is late in submitting the evaluation report.
- (8) With a view to an effective monitoring and evaluation of the school scheme, the nature and type of information to be notified to the Commission by the Member States should be specified.
- (9) In order to ensure that products distributed under the school scheme meet the objectives of promoting healthy eating habits and ensuring children become accustomed to the natural taste of those products, it is appropriate to specify that the maximum level of added sugar in products referred to in Article 23(4) of Regulation (EU) No 1308/2013, for which the addition of sugar is not technically necessary to prepare or manufacture them, should be zero.
- (10) In order to ensure that products distributed under the school scheme meet the objectives of promoting healthy eating habits, it is appropriate to specify the maximum level of added sugar and/or honey in products listed in Annex V to Regulation (EU) No 1308/2013 that Member States may allow. Member States may provide for lower limits.
- (11) Specific conditions should be established to ensure there is added value and visibility of the Union school scheme when products receiving Union aid under the school scheme are distributed with regular school meals in educational establishments.
- (12) In accordance with Article 23a(8) of Regulation (EU) No 1308/2013, Member States are to publicise their involvement in the school scheme and the fact that it is subsidised by the Union. For that purpose, Member States should be able to use a poster to be exhibited in participating educational establishments. The poster should be produced in compliance with certain minimum requirements.

- (13) Chapter V of Commission Delegated Regulation (EU) No 907/2014 ⁽¹⁾ lays down rules concerning the operative event for the exchange rate applicable for the amounts and payments of Union aid. It is therefore necessary to include rules as regards the aid linked to the implementation of the school scheme. Delegated Regulation (EU) No 907/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL RULES ON THE SCHOOL SCHEME

Article 1

Scope and definitions

1. This Regulation lays down rules supplementing Regulation (EU) No 1308/2013 as regards Union aid for the supply and distribution of fruit and vegetables, processed fruit and vegetable products and fresh products of the banana sector ('school fruit and vegetables'), and for the supply and distribution of milk and milk products ('school milk') to children in educational establishments, for accompanying educational measures and for certain related costs in the framework of the scheme referred to under Article 23 of that Regulation ('the school scheme').
2. For the purposes of this Regulation, the definition of the school year laid down in Article 1(2) of Commission Implementing Regulation (EU) 2017/39 ⁽²⁾ shall apply.

Article 2

Member States' strategy

1. When drawing up the strategy referred to in Article 23(8) of Regulation (EU) No 1308/2013, Member States may choose the administrative level at which they wish to implement the school scheme. If a Member State decides to implement the school scheme at a regional level, it shall draw up a strategy for each region and an accompanying coordination framework at Member State level. The Member State shall establish a single contact point for the exchange of information with the Commission.
2. If a Member State does not make products under the school scheme available free of charge, it shall explain in its strategy the arrangements it has put in place to ensure that Union aid under the school scheme is reflected in the price at which those products are made available.
3. Member States wishing to participate in the school scheme shall notify the Commission of their strategy by 30 April preceding the first school year covered by the strategy. However, Member States shall notify the Commission of their strategy covering the 6-year period starting with the 2017/2018 school year by 1 August 2017.
4. A Member State may amend its strategy. The Member State shall notify the Commission of its amended strategy within 2 months of the amendment.

Article 3

Accompanying educational measures

1. The accompanying educational measures referred to in Article 23(10) of Regulation (EU) No 1308/2013 shall be directly linked to the objectives of the school scheme.

⁽¹⁾ Commission Delegated Regulation (EU) No 907/2014 of 11 March 2014 supplementing Regulation (EU) No 1306/2013 of the European Parliament and of the Council with regard to paying agencies and other bodies, financial management, clearance of accounts, securities and use of euro (OJ L 255, 28.8.2014, p. 18).

⁽²⁾ Commission Implementing Regulation (EU) 2017/39 of 3 November 2016 on rules for the application of Regulation (EU) No 1308/2013 of the European Parliament and of the Council with regard to Union aid for the supply of fruit and vegetables, bananas and milk in educational establishments (see page 1 of this Official Journal).

2. Accompanying educational measures shall support the distribution of school fruit and vegetables and school milk and, in the event that they include agricultural products other than those referred to in Article 23(3), (4) and (5) of Regulation (EU) No 1308/2013, the measures shall provide for the tasting of those other products.
3. Accompanying educational measures may involve also parents and teachers.

Article 4

Eligible costs

1. The following costs are eligible for Union aid:
 - (a) the costs of the products supplied under the school scheme and distributed to children in educational establishments referred to in Article 22 of Regulation (EU) No 1308/2013, which may include the costs of purchasing, renting, hiring and leasing of equipment used in the supply and distribution of products, as provided for in the strategy of the Member State;
 - (b) the costs of accompanying educational measures, including:
 - (i) costs of organising tasting classes, setting up and maintaining school gardens, organising visits to farms and similar activities aimed at reconnecting children with agriculture;
 - (ii) costs of measures aimed at educating children about agriculture, healthy eating habits, local food chains, organic production, sustainable production, and combating food waste;
 - (c) the costs of publicity for the school scheme, which shall be directly aimed at informing the wider public about the school scheme, including:
 - (i) the cost of the poster referred to in Article 12 of this Regulation;
 - (ii) the cost of information campaigns by means of broadcasting, electronic communications, newspapers and similar means of communication;
 - (iii) the cost of information sessions, conferences, seminars and workshops dedicated to informing the wider public about the school scheme and similar events;
 - (iv) the cost of information and promotion material such as letters, leaflets, brochures, gadgets and similar;
 - (d) the costs of networking measures to exchange experiences and best practices on implementation of the school scheme;
 - (e) the costs relating to the obligation for Member States to monitor and evaluate the effectiveness of their school scheme;
 - (f) the costs of transport and distribution of the products supplied under the school scheme, insofar as they are not covered by point (a) of this paragraph.
2. The costs referred to in paragraph 1 shall not be financed under any other Union aid scheme, programme, measure or operation.
3. Value added tax (VAT) is not eligible for Union aid.
4. Expenditure relating to personnel costs is not eligible for Union aid if those personnel costs are financed from public funds of the Member State.

*Article 5***General conditions for the granting of aid and selection of aid applicants**

1. Aid granted to a Member State under the school scheme shall be distributed to those applicants for aid that have been approved by the competent authority of the Member State in accordance with Article 6 and whose application relates to the implementation of one or more of the following:

- (a) the supply or distribution of products to children in educational establishments under the school scheme;
- (b) accompanying educational measures;
- (c) monitoring or evaluation actions;
- (d) publicity.

2. Member States shall select aid applicants from among the following bodies:

- (a) educational establishments;
- (b) educational authorities;
- (c) suppliers or distributors of products;
- (d) organisations acting on behalf of one or more educational establishments or educational authorities that are specifically established for the purpose of management and provision of any of the activities referred to in paragraph 1;
- (e) any other public or private body which is engaged in the management and provision of any of the activities referred to in paragraph 1.

*Article 6***Conditions for approval of aid applicants**

1. Aid applicants shall be approved by the competent authority of the Member State in which the educational establishment to which the products are supplied and/or distributed is located. Approval shall be subject to the following written commitments made by the applicants:

- (a) to ensure the products financed by the Union under the school scheme are made available for consumption by the children in educational establishment or establishments in respect of which they will apply for aid;
- (b) to use the aid allocated for accompanying educational measures, monitoring, evaluation, and publicity, in accordance with the objectives of the school scheme;
- (c) to reimburse any aid unduly paid for the quantities concerned, if it has been found that the products have not been distributed to the children or are not eligible for Union aid;
- (d) to reimburse any aid unduly paid for accompanying educational measures, monitoring, evaluation, publicity measures, if it has been found that those measures or activities have not been properly carried out;
- (e) to make supporting documents available to the competent authority on request;
- (f) to permit the competent authority to conduct any necessary checks, in particular the scrutiny of records and physical inspection.

Where applications for aid concern activities subject to public procurement procedures, Member States may consider approval as granted where the commitments set out at the first subparagraph are included in the conditions for participating in the public procurement procedures.

2. In the case of aid applications relating to the supply and/or distribution of products only, points (b) and (d) of paragraph 1 shall not apply. Applicants shall make an additional written commitment to keep a record of the names and addresses of the educational establishments or educational authorities in receipt of their products and a record of the quantities of the specific products sold or supplied.

3. In the case of aid applications relating to accompanying educational measures only, points (a) and (c) of paragraph 1 shall not apply. Competent authorities may specify any additional written commitments to be undertaken by applicants, in particular as regards:

- (a) accompanying educational measures carried out in schools, when those schools are not aid applicants;
- (b) accompanying educational measures that include the distribution of products.

4. In the case of aid applications relating to monitoring, evaluation and publicity only, points (a) and (c) of paragraph 1 shall not apply.

5. Member States may consider the approvals granted under the school fruit and vegetables scheme according to Delegated Regulation (EU) 2016/247 and/or under the school milk scheme according to Regulation (EC) No 657/2008 valid if the criteria and the conditions are not changed.

Article 7

Suspension and withdrawal of approval

1. If an approved aid applicant fails to comply with the obligations laid down under the school scheme, the competent authority shall suspend the approval of the applicant for a period of between 1 and 12 months or withdraw it, depending on the seriousness of the non-compliance and according to the principle of proportionality.

2. Suspension and withdrawal shall not be imposed in cases referred to in points (a) to (d) of Article 64(2) of Regulation (EU) No 1306/2013 or if the non-compliance was of a minor nature.

3. At the applicant's request and if the reasons for withdrawal have been remedied, the competent authority may restore the approval of the applicant for aid after a minimum period of 12 months from the date on which the reasons for withdrawal have been remedied.

Article 8

Administrative penalties

In cases of non-compliance with the obligations laid down under the school scheme, except those referred to in points (a) to (d) of Article 64(2) of Regulation (EU) No 1306/2013, the applicant shall, in addition to the recovery of unduly paid amounts, pay an administrative penalty equal to the difference between the amount initially claimed and the amount the applicant is entitled to.

Article 9

Monitoring and evaluation

1. Member States shall provide for appropriate structures and forms to ensure an annual monitoring of the implementation of the school scheme.

2. Member States shall evaluate the implementation of the school scheme in order to assess its effectiveness against its objectives.

3. The annual monitoring reports by Member States shall include information about the funds used for the supply and distribution of each of the product groups listed in Article 23(3), (4) and (5) of Regulation (EU) No 1308/2013 and for the accompanying educational measures, the number of educational establishments and children participating in the school scheme, the average portion size and the average price per portion, the frequency of delivery of products, the quantities of products supplied broken down by product groups and, if applicable, of products other than those listed in Article 23(3), (4) and (5) of Regulation (EU) No 1308/2013 that are included under the accompanying educational measures according to Article 23(7) of that Regulation, the types of communication and accompanying measures implemented, and the authorities and stakeholders involved in the design and implementation of the school scheme.

4. The annual control reports by Member States on the on-the-spot checks carried out and the related findings shall include information on the amount of aid claimed, paid and subject to on-the-spot checks, the reduction of aid after administrative checks, the reduction of aid due to late submission of applications, the amount of aid recovered following on-the-spot checks, and the administrative penalties applied.

5. Where a Member State does not submit to the Commission an evaluation report containing the results of the evaluation provided for in paragraph 2 of this Article by the time limits referred to in Article 8(2) of Implementing Regulation (EU) 2017/39, the amount of the next definitive allocation shall be reduced as follows:

- (a) by 5 % if the time limit is exceeded by 1 to 30 days;
- (b) by 10 % if the time limit is exceeded by 31 to 60 days.

Once the time limit is exceeded by more than 60 days, the definitive allocation shall be reduced by 1 % per additional day, calculated over the remaining balance.

Article 10

Maximum levels of added ingredients

1. The maximum level of added sugar which may be allowed by Member States under the second subparagraph of Article 23(6) in products referred to in Article 23(4) of Regulation (EU) No 1308/2013 is zero.

2. The maximum level of added sugar and/or honey which may be allowed by Member States pursuant to the second subparagraph of Article 23(6) of Regulation (EU) No 1308/2013 in products listed in Annex V to Regulation (EU) No 1308/2013 is 7 %. For the purpose of this paragraph, sugar shall mean the items listed under CN codes 1701 and 1702. The sugar added to the fruit shall be included in the maximum level of 7 % of added sugar.

3. Cheese may contain maximum 10 % of non-lactic ingredients.

Article 11

Distribution of products in conjunction with regular school meals

In duly justified cases where Member States consider it more effective for the achievement of the objectives of their strategy, they may allow schools to distribute products receiving Union aid under the school scheme in conjunction with regular school meals.

In such cases, Member States shall ensure that those products:

- (a) are not used in the preparation of the regular school meals;
- (b) are not used to replace products that are part of the regular school meals through the financial contribution from public and/or private entities;
- (c) remain at all times clearly recognisable as part of the school scheme, through suitable communication and publicity measures.

Paragraph (b) shall not apply where educational establishments distribute regular school meals free of charge.

*Article 12***Publicity**

For the purposes of Article 23a(8) of Regulation (EU) No 1308/2013, Member States may use a poster fulfilling the minimum requirements laid down in the Annex to this Regulation, which shall be permanently situated at a clearly visible place at the main entrance of the participating educational establishment.

CHAPTER II

AMENDMENTS, REPEALS AND FINAL PROVISIONS*Article 13***Amendments to Delegated Regulation (EU) No 907/2014**

In Delegated Regulation (EU) No 907/2014, the following Article is inserted:

*'Article 32a***Amounts and payments of aid linked to implementation of the School scheme**

For aid granted for the implementation of the school scheme referred to in Section I of Chapter II of Title I of Part II of Regulation (EU) No 1308/2013, the operative event for the exchange rate shall be 1 January preceding the school year concerned.'

*Article 14***Repeals**

Regulation (EC) No 657/2008, Delegated Regulations (EU) No 1047/2014 and (EU) 2016/247 and Implementing Regulation (EU) 2016/248 are repealed. However, those Regulations continue to apply to the school milk scheme and the school fruit and vegetables scheme for the school years prior to the 2017/2018 school year until those schemes come to an end.

*Article 15***Entry into force and application**

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

It shall apply to aid for the 2017/2018 school year and subsequent school years.

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

Done at Brussels, 3 November 2016.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

Minimum requirements for the poster referred to in Article 12

Poster size: A3 or bigger

Letters: 1 cm or bigger

Title: European Union 'School Scheme'

Content: At least the following wording:

Our [specify the type of educational establishment (e.g. nursery/pre-school/primary or secondary-level school)] participates in the European Union 'School Scheme' with the financial support of the European Union.

The poster shall bear the emblem of the Union.

COMMISSION IMPLEMENTING REGULATION (EU) 2017/41**of 9 January 2017****establishing the standard import values for determining the entry price of certain fruit and vegetables**

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⁾,

Having regard to Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 in respect of the fruit and vegetables and processed fruit and vegetables sectors ⁽²⁾, and in particular Article 136(1) thereof,

Whereas:

- (1) Implementing Regulation (EU) No 543/2011 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in Annex XVI, Part A thereto.
- (2) The standard import value is calculated each working day, in accordance with Article 136(1) of Implementing Regulation (EU) No 543/2011, taking into account variable daily data. Therefore this Regulation should enter into force on the day of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 136 of Implementing Regulation (EU) No 543/2011 are fixed 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*.

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

Done at Brussels, 9 January 2017.

*For the Commission,
On behalf of the President,*

Jerzy PLEWA

Director-General

Directorate-General for Agriculture and Rural Development

⁽¹⁾ OJ L 347, 20.12.2013, p. 671.

⁽²⁾ OJ L 157, 15.6.2011, p. 1.

ANNEX

Standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)		
CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	IL	269,9
	MA	102,0
	SN	188,2
	TR	114,3
	ZZ	168,6
0707 00 05	MA	85,5
	TR	164,9
	ZZ	125,2
0709 91 00	EG	144,1
	ZZ	144,1
0709 93 10	MA	244,2
	TR	175,5
	ZZ	209,9
0805 10 20	EG	49,1
	MA	54,3
	TR	72,5
	ZZ	58,6
0805 20 10	IL	175,1
	MA	73,2
	ZZ	124,2
0805 20 30, 0805 20 50, 0805 20 70, 0805 20 90	IL	157,1
	JM	119,0
	TR	74,4
	ZZ	116,8
0805 50 10	TR	85,9
	ZZ	85,9
0808 10 80	CN	96,3
	US	116,9
	ZZ	106,6
0808 30 90	CL	282,6
	CN	84,1
	TR	133,1
	ZZ	166,6

⁽¹⁾ Nomenclature of countries laid down by Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament and of the Council on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries and territories (OJ L 328, 28.11.2012, p. 7). Code 'ZZ' stands for 'of other origin'.

DECISIONS

COUNCIL DECISION (EU, Euratom) 2017/42

of 19 December 2016

appointing a member, proposed by the Italian Republic, of the European Economic and Social Committee

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 302 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 106a thereof,

Having regard to the proposal of the Italian Government,

Having regard to the opinion of the European Commission,

Whereas:

- (1) On 18 September 2015 and 1 October 2015, the Council adopted Decisions (EU, Euratom) 2015/1600 ⁽¹⁾ and (EU, Euratom) 2015/1790 ⁽²⁾ appointing the members of the European Economic and Social Committee for the period from 21 September 2015 to 20 September 2020.
- (2) A member's seat on the European Economic and Social Committee has become vacant following the end of the term of office of Mr Carmelo CEDRONE,

HAS ADOPTED THIS DECISION:

Article 1

Ms Ester VITALE, *Segretaria Generale aggiunta UIL Caltanissetta e Enna*, is hereby appointed as a member of the European Economic and Social Committee for the remainder of the current term of office, which runs until 20 September 2020.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 19 December 2016.

For the Council

The President

L. SÓLYMOS

⁽¹⁾ Council Decision (EU, Euratom) 2015/1600 of 18 September 2015 appointing the members of the European Economic and Social Committee for the period from 21 September 2015 to 20 September 2020 (OJ L 248, 24.9.2015, p. 53).

⁽²⁾ Council Decision (EU, Euratom) 2015/1790 of 1 October 2015 appointing the members of the European Economic and Social Committee for the period from 21 September 2015 to 20 September 2020 (OJ L 260, 7.10.2015, p. 23).

