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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union

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Subject:	COMMISSION DELEGATED REGULATION (EU) No .../.. of 21.8.2014 laying down temporary exceptional support measures for producers of peaches and nectarines

Delegations will find attached document C(2014) 6049 final.

Encl.: C(2014) 6049 final



Brussels, 21.8.2014
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COMMISSION DELEGATED REGULATION (EU) No .../..

of 21.8.2014

laying down temporary exceptional support measures for producers of peaches and nectarines

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The Delegated Act is proposed as a support measure for the Union's peaches and nectarine sectors. These sectors have been hit hard by unfavourable weather conditions, with additional pressure following the import ban introduced by Russia.

There has been a recent decline in prices on the peach and nectarine markets. Although there is always a seasonal variability on the market due to weather conditions, this year has seen a particularly negative impact on the market. Weather conditions in spring/early summer saw both an increase in production, and also an advanced maturity leading to a much more intense availability of products at the start of the season than usual – rather than a more even spread of supply over several weeks. Thereafter, the cooler and more humid conditions of June and July in Southern Europe slowed down consumption. The ban announced by Russia on imports of fruit and vegetables from the Union to Russia risks to aggravate the situation in the peach and nectarines market. It is therefore proposed to act urgently and to mitigate the impact of a sudden drop in prices by temporarily increasing the existing Union financial assistance for market withdrawals to be freely distributed to certain organisations, such as charitable organisations and schools. Union financial assistance should therefore be granted up to a maximum of 10% of the volume of marketed production of each producer organisation.

In order to ensure that all producers of peaches and nectarines are supported by the Union, Union financial assistance should be extended to producers of peaches and nectarines who are not members of a recognised producer organisation.

Moreover, additional Union support should be given to producer organisations as regards promotion campaigns in order to increase consumption of peaches and nectarines and to help to stabilise rapidly the market.

In order to have an immediate impact on the market and to help stabilise prices, the temporary exceptional support measures should be adopted as quickly as possible and on the basis of the urgency procedure provided for in Article 219 in conjunction with Article 228 of 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. It is proposed and has already been announced in a press release of 11 August 2014 that the measures should apply as of the date of the announcement of those measures by the Commission on 11 August 2014.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

As the measure is an urgency procedure to be adopted on the basis of Article 219 of Regulation (EU) No 1308/2013 no impact assessment was carried out. DG AGRI has carried out internal consultation and convened a fast-track Inter Service Consultation meeting on 14 August 2014. A technical meeting to assess the situation with certain Member States took place on 6 August 2014. Another technical meeting to explain the details of the measure to all Member States is planned to take place on 22 August 2014.

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 without delay. The proposed delegated act should in addition have retroactive effect since it should apply as of the date of the announcement of those measures by the Commission on 11 August 2014.

It will apply as long as no objection is expressed by the European Parliament or the Council within period of two (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) No .../..

of 21.8.2014

laying down temporary exceptional support measures for producers of peaches and nectarines

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 1234/2007¹, and in particular Article 219(1) in conjunction with Article 228 thereof,

Whereas:

- (1) The seasonally high supply levels in peaches and nectarines and the slowdown in consumption due to adverse weather conditions at the peak of the harvest created a difficult market situation with significant price falls for those fruits. The limited storage possibility for those perishable fruits does not allow for a rapid improvement in such a situation. Furthermore, the ban announced by Russia on imports of fruits and vegetables from the Union to Russia risks to aggravate the situation in the peach and nectarine markets. Accordingly, a situation has arisen on the market which the normal measures available under Regulation (EU) No 1308/2013 appear to be insufficient to address.
- (2) In order to prevent the existing market situation from turning into a more severe or prolonged market disturbance, urgent action is needed to provide for exceptional support measures for producers of peaches and nectarines at this stage of the harvest.
- (3) Market withdrawals are an effective crisis management measure in case of surplus of fruit and vegetables due to temporary and unpredictable circumstances.
- (4) In order to mitigate the impact of a sudden drop in prices this summer, the existing Union financial assistance for market withdrawals to be freely distributed to certain organisations, such as charitable organisations and schools, should be temporarily increased. Union financial assistance should therefore be granted up to a maximum of 10% of the volume of marketed production of each producer organisation.
- (5) In the light of the exceptional market disturbances and in order to ensure that all producers of peaches and nectarines are supported by the Union, Union financial

¹ OJ L 347, 20.12.2013, p. 671.

assistance should be extended to producers of peaches and nectarines who are not members of a recognised producer organisation.

- (6) Producers who are not members of a producer organisation should receive 50% of the amounts provided for under the existing Union financial assistance. However, they should fulfil the same or similar conditions as producer organisations. Therefore, in this context, they should be subject, like recognised producer organisations, to the relevant provisions of Regulation (EU) No 1308/2013 and Commission Implementing Regulation (EU) No 543/2011².
- (7) Moreover, increased consumption of peaches and nectarines should help to stabilise the market situation more rapidly. Promotion campaigns should be used to encourage consumption. Therefore, additional Union support should be given to producer organisations as regards promotion campaigns.
- (8) That additional support for promotion activities should be distributed between the Member States on the basis of their production of peaches and nectarines in 2012. Most production is concentrated in four Member States. Twenty-four Member States together account for only 3.7% of the Union production of peaches and nectarines. In order to ensure an efficient use of the available budget, no allocation should be granted to Member States with a share of the Union production below 1%.
- (9) It should be left to the Member States concerned to determine how they will allocate the additional support provided for in this Regulation in accordance with Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011, except where derogations to those Regulations are provided in this Regulation.
- (10) In order to have an immediate impact on the market and to contribute to stabilise prices, the temporary exceptional support measures provided for in this Regulation should apply as of the date of the announcement of those measures by the Commission on 11 August 2014,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter and scope

1. This Regulation lays down rules for temporary exceptional support measures for peaches and nectarines of CN code 0809 30 intended for fresh consumption.
2. The support measures referred to in paragraph 1 shall cover:
 - (a) withdrawal operations carried out from 11 August until 30 September 2014 by producer organisations in the fruit and vegetable sector recognised in accordance with Article 154 of Regulation (EU) No 1308/2013 as well as by producers who are not members of such organisations; and

² 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 (OJ L 157, 15.6.2011, p. 1).

- (b) promotion activities as referred to in Article 33(3)(c) of Regulation (EU) No 1308/2013 carried out from 11 August until 31 December 2014 by producer organisations in the fruit and vegetable sector recognised in accordance with Article 154 of that Regulation.

Article 2

Financial assistance to producer organisations for withdrawals

1. For the withdrawal operations referred to in Article 1(2)(a), Union financial assistance for market withdrawals for free distribution under Article 34(4) of Regulation (EU) No 1308/2013 shall be available for a maximum of 10% of the volume of marketed production of each producer organisation.
2. The Union financial assistance referred to in paragraph 1 shall be available to producer organisations even if they do not provide for such market withdrawal operations in their operational programmes. Article 32(2) of Regulation (EU) No 1308/2013 shall not apply in relation to Union financial assistance under this Article.
3. The Union financial assistance referred to in paragraph 1 shall not be taken into account for the purpose of calculating the ceilings referred to in Article 34(2) of Regulation (EU) No 1308/2013.
4. The ceiling of one third of expenditure referred to in the fourth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 and the 25 % maximum ceiling for the increase of the operational fund referred to in Article 66(3)(c) of Implementing Regulation (EU) No 543/2011 shall not apply in respect of expenditure incurred for withdrawal operations referred to in Article 1(2)(a) of this Regulation.
5. Expenditure incurred in accordance with this Article shall form part of the operational fund of the producer organisations.

Article 3

Financial assistance to producers not being members of producer organisations

1. Union financial assistance of 50% of the amounts set out in Annex XI to Implementing Regulation (EU) No 543/2011 shall be granted in accordance with this Article to producers of fruit and vegetables who are not members of a recognised producer organisation.
2. The Union financial assistance referred to in paragraph 1 shall be available for the delivery of products which are subsequently withdrawn from the market by a producer organisation in accordance with Article 34(4) of Regulation (EU) No 1308/2013, subject to respecting the lower of the ceilings set out in the first subparagraph of paragraph 3 of this Article.
3. Producers shall conclude a contract with a recognised producer organisation for the entire quantity of products to be delivered under this Article. Producer organisations shall accept all reasonable requests from producers who are not members of a recognised producer organisation. Before signing the contract, the producer

organisation shall verify that the quantity to be delivered under the contract does not exceed the lower of the following ceilings:

- (a) 10% of the producer's total production in 2012, on the basis of written documents of probative value to be provided by the producer; and
- (b) the producer organisation's and its members' average production yield per hectare for peaches and nectarines respectively in 2012, multiplied by 10% of the area used by the producer for the production of peaches and nectarines respectively in 2014 on the basis of written documents of probative value to be provided by the producer.

Member States shall establish a production yield for peaches and nectarines respectively to be used by producer organisations which did not market peaches and/or nectarines in 2012. In case Member States establish regional yields, the regions shall be the ones defined under Article 91(4) of Implementing Regulation (EU) No 543/2011, if applicable.

4. The Union financial assistance shall be paid to producers not being members of producer organisations by the producer organisation with which the non-member producer signed a contract in accordance with paragraph 3.
5. The amounts that correspond to the real costs incurred by the producer organisation for withdrawing the respective products shall be retained by the producer organisation. Evidence of the costs shall be provided by means of invoices.
6. Where the recognition of a producer organisation has been suspended in accordance with Article 114(2) of Implementing Regulation (EU) No 543/2011, its members shall be deemed to be producers not being members of a recognised producer organisation for the purpose of this Article.
7. The conditions for market withdrawal and the corresponding penalties for non-compliance with those conditions as laid down in Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011, as well as Article 2(2) to (5) of this Regulation shall apply *mutatis mutandis* for the purposes of this Article.

Article 4

Checks on withdrawal operations

The withdrawal operations referred to in Articles 2 and 3 shall be subject to first-level checks in accordance with Article 108 of Implementing Regulation (EU) No 543/2011. The checks shall cover at least 10% of the quantity of products withdrawn from the market and 10% respectively of producer organisations and producers who are not members of a producer organisation who benefit from the support measures.

Article 5

Additional support to producer organisations for promotion activities

1. Union expenditure incurred for the additional support for promotion activities referred to in Article 1(2)(b) shall not exceed EUR 3 000 000.

This amount shall be allocated to Member States in accordance with the Annex.

2. Producer organisations shall submit initial requests for the additional support referred to in paragraph 1 to the Member States by 15 October 2014. Member States shall decide on the requests and on the distribution of the additional support to producer organisations as follows:
 - (a) in case the approved requests exceed the maximum amount allocated to a Member State in accordance with the Annex, the Member State shall set an allocation coefficient on the basis of received requests;
 - (b) in case the approved requests do not exceed the maximum amount of support, the allocation coefficient shall be set at 100%.
3. The additional support referred to in paragraph 1 shall be available to producer organisations even if they do not provide for such promotion activities in their operational programmes. Article 32(2) of Regulation (EU) No 1308/2013 shall not apply to additional support under this Article.
4. The additional support referred to in paragraph 1 shall not be taken into account for the purpose of calculating the ceilings referred to in Article 34(2) of Regulation (EU) No 1308/2013.
5. The ceiling of one third of expenditure referred to in the fourth subparagraph of Article 33(3) of Regulation (EU) No 1308/2013 and the 25% maximum ceiling for the increase of the operational fund referred to in Article 66(3)(c) of Implementing Regulation (EU) No 543/2011 shall not apply in respect of expenditure incurred for promotion activities referred to in Article 1(2)(b) of this Regulation.
6. Expenditure incurred in accordance with this Article shall form part of the operational fund of the producer organisations.

Article 6

Application for and payment of Union support

1. Producer organisations shall apply for the payment of the Union financial assistance to be paid to them and/or to producers not being members of a producer organisation and for the payment of the additional support to be paid to them as follows:
 - (a) by 31 October 2014 for the Union financial assistance for the withdrawal operations referred to in Article 1(2)(a); and
 - (b) by 30 January 2015 for the additional support for the promotion activities referred to in Article 1(2)(b).
2. By way of derogation from the first and second paragraphs of Article 72 of Implementing Regulation (EU) No 543/2011, producer organisations shall apply for the payment of the total amounts of the Union financial assistance and additional support referred to in paragraph 1 of this Article by the respective dates referred to in that paragraph.

3. The ceiling of 80% of the initially approved amount of aid in respect of an operational programme laid down in the third subparagraph of Article 72 of Implementing Regulation (EU) No 543/2011 shall not apply.

Article 7
Notifications and declarations of expenditure

1. Member States shall notify the Commission:
 - (a) by 28 November 2014 of the total quantities withdrawn and the applications for total Union financial assistance for the withdrawal; and
 - (b) by 27 February 2015 of the promotion activities and the applications for the total additional support for the corresponding promotion activities.
2. Member States shall declare to the Commission by 27 February 2015 the expenditure incurred for the withdrawal operations and/or promotion activities referred to in Article 1.

Article 8
Entry into force and application

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

It shall apply from 11 August 2014.

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

Done at Brussels, 21.8.2014

For the Commission
The President
José Manuel BARROSO