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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 29.8.2014
laying down temporary exceptional support measures for producers of
certain fruit and vegetables and amending Delegated Regulation (EU) No
913/2014

Delegations will find attached document C(2014) 6232 final.

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Brussels, 29.8.2014
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COMMISSION DELEGATED REGULATION (EU) No .../..

of 29.8.2014

**laying down temporary exceptional support measures for producers of certain fruit and
vegetables and amending Delegated Regulation (EU) No 913/2014**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The Delegated Act establishes a support measure for the Union's producers of tomatoes, carrots, cabbages, peppers, cauliflowers and headed broccoli, cucumbers and gherkins, mushrooms, apples, pears, plums, soft fruit, fresh table grapes and kiwifruit. These sectors have been hit hard by the import ban introduced by Russia on 7 August 2014.

Following the announcement and implementation of the ban one important export market for the Union's producers of fruits and vegetables disappeared. A serious threat for significant price falls appeared in the Union's market. This threat of market disturbances is of particular relevance for those fruits and vegetables for which a large amount of products are harvested at this time of the year and which are perishable. It is therefore proposed to act urgently and to mitigate the impact of a sudden drop in prices by temporarily granting exceptional Union financial assistance for market withdrawals, including for free distribution to organisations such as charitable organisations or schools, and for non-harvesting and green harvesting.

The Russian import ban will affect the single market as a whole. Disturbances in a particular Member State will have consequences on the other Member States. Therefore the support measures should be taken at the level of the Union.

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

For the sake of budgetary discipline, it is necessary to provide for a ceiling for the expenditure to be financed by the Union. This ceiling is fixed at EUR 125 000 000 based on the average exported quantities of the products concerned to Russia during three and a half months. In order to avoid an unbalanced distribution between the different products the total amount should be divided in two sub-amounts to reflect the different times of harvest and the share of product quantities affected by the Russian ban. A notification and monitoring system is set up to enable the Commission's services to ensure that the amount is not exceeded.

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 18 August 2014 that the measure should apply as of the date of its announcement by the Commission on 18 August 2014.

Commission Delegated Regulation (EU) No 913/2014 provided for temporary exceptional support measures for producers of peaches and nectarines. While taking into account the pressure put on the peach and nectarine markets by the import ban announced by Russia, the exceptional measures were taken mostly to address the specific situation of the peaches and nectarines sectors. Further developments make it necessary to address the markets for peaches and nectarines in a similar way as the other products covered by this Regulation. It is

proposed that the amendment should apply as 11 August 2014, the date of application of Delegated Regulation (EU) No 913/2014.

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 was carried out. DG AGRI has carried out internal consultation and convened a fast-track Inter Service Consultation meeting on 27 August 2014. A technical meeting to discuss the situation with experts from Member States took 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 delegated act should in addition have retroactive effect since it should apply as of the date of its announcement by the Commission on 18 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 29.8.2014

laying down temporary exceptional support measures for producers of certain fruit and vegetables and amending Delegated Regulation (EU) No 913/2014

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

Whereas:

- (1) On 7 August the Russian government introduced a ban on imports of certain products from the Union to Russia, including fruits and vegetables. This ban has created a serious threat of market disturbances caused by significant price falls due to the fact that an important export market has suddenly become unavailable.
- (2) That threat of market disturbances is of particular relevance for the fruit and vegetable sector where large quantities of perishable products are harvested at this time of the year.
- (3) Accordingly, a situation has arisen on the market for which the normal measures available under Regulation (EU) No 1308/2013 appear to be insufficient.
- (4) 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 temporary exceptional support measures for producers of perishable fruit and vegetables which have been affected most by the sudden loss of the export market at this stage of the harvest. Those temporary exceptional support measures should cover the period from 18 August to 30 November 2014 and should take the form of Union financial assistance for tomatoes, carrots, cabbages, sweet peppers, cauliflowers and headed broccoli, cucumbers and gherkins, mushrooms, apples, pears, plums, soft fruit, fresh table grapes and kiwifruit.
- (5) Pursuant to the estimated quantities affected by the ban, Union financial assistance should be granted at the maximum amount of EUR 125 million. This total maximum amount should be divided into two sub-amounts, one being allocated to apples and

¹ OJ L 347, 20.12.2013, p. 671.

pears, and one to all other products covered by the support measures. This allocation should avoid an unbalanced distribution between producers of different products and reflect the different time of harvest and the share of product quantities affected by the Russian import ban.

- (6) Market withdrawals, non-harvesting and green harvesting are effective crisis management measures in case of surplus of fruit and vegetables due to temporary and unpredictable circumstances.
- (7) In order to mitigate the impact of a drop in prices, the existing restriction of 5% as a proportion of the volume of marketed production for supported market withdrawals should be temporarily lifted. The Union financial assistance should therefore be granted even when withdrawals exceed the 5 % ceiling.
- (8) Financial assistance granted for market withdrawals should be based on the respective amounts set out in Annex XI to Commission Implementing Regulation (EU) No 543/2011² for withdrawals for free distribution and for withdrawals for other destinations, unless no amount has been fixed in this Regulation. For those products for which no amount is fixed in Annex XI to Implementing Regulation (EU) No 543/2011, maximum amounts should be laid down in this Regulation.
- (9) Taking into account that the amounts for tomatoes set out in Annex XI to Implementing Regulation (EU) No 543/2011 refer to the marketing year of tomatoes for processing and tomatoes for fresh consumption, it is adequate to clarify that the maximum amount applicable for tomatoes for fresh consumption for the purpose of this Regulation is the one concerning the period from 1 November until 31 May.
- (10) In the light of the exceptional market disturbances and in order to ensure that all producers of fruit and vegetables are supported by the Union, Union financial assistance for market withdrawals should be extended to producers of fruit and vegetables who are not members of a recognised producer organisation.
- (11) In order to encourage the free distribution of withdrawn fruit and vegetables to certain organisations, such as charitable organisations and schools and any other equivalent destinations approved by the Member States, 100% of the maximum amounts fixed in Annex XI to Implementing Regulation (EU) No 543/2011 or in Annex I to this Regulation should also be applicable to producers who are not members of a recognised producer organisation. In the case of withdrawals for destinations other than free distribution, they should receive 50% of the maximum amounts fixed. In this context, producers who are not members of a recognised producer organisation should fulfil the same or similar conditions as producer organisations. Therefore, they should be subject, like recognised producer organisations, to the relevant provisions of Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011.
- (12) Producer organisations are the basic actors of the fruit and vegetables sector and are the most suited entities to ensure that Union financial assistance for market withdrawals is paid to producers who are not members of a recognised producer

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).

organisation. They should ensure that such assistance is paid to the producers who are not members of a recognised producer organisation through the conclusion of a contract. As not all Member States have the same degree of organisation on the supply side of the fruit and vegetables market, it is appropriate to allow the competent authority of the Member States to pay the support directly to the producers where this is duly justified.

- (13) In order to mitigate the effect of the price falls, Union financial assistance should also be granted in respect of non-harvesting and green harvesting operations.
- (14) The amounts of the support for non-harvesting and green harvesting should be fixed by Member States per hectare at a level to cover not more than 90 % of the maximum amounts for market withdrawals applicable to withdrawals for destinations other than free distribution as set out in Annex XI to Implementing Regulation (EU) No 543/2011 or, for products for which no amount has been fixed in that Annex, in this Regulation. For tomatoes for fresh consumption the amount to be taken into account by Member States should be the one set in Annex XI to Implementing Regulation (EU) No 543/2011 for the period from 1 November until 31 May. Non-harvesting should be supported even where commercial production has been taken from the producing area concerned during the normal production cycle.
- (15) Producer organisations concentrate the supply and are able to act faster than producers who are not members of such organisations when having to cope with greater quantities with an immediate impact on the market. Therefore, in order to make the implementation of the exceptional support measures provided for in this Regulation more efficient and to speed up the stabilisation of the market, it is appropriate, in respect of producers who are members of recognised producer organisations to increase the Union financial assistance for withdrawals for destinations other than free distribution, non-harvesting and green harvesting to 75% of the relevant maximum amounts set for the support for withdrawals for other destinations.
- (16) As for withdrawals, Union financial assistance for non-harvesting and green harvesting operations should be extended to producers who are not members of a recognised producer organisation. The financial assistance should be 50% of the maximum amounts of support set for producer organisations.
- (17) Given the high number of producers who are not members of a producer organisation and the need to carry out checks that are reliable but feasible, Union financial assistance should not be granted for green harvesting of fruit and vegetables for which the normal harvest has already begun, and for non-harvesting measures where commercial production has been taken from the producing area concerned during the normal production cycle for producers who are not members of a producer organisation. In this context, producers who are not members of a recognised producer organisation should be subject, like recognised producer organisations, to the relevant provisions of Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011.
- (18) For producers who are not members of a producer organisation, the payment of the Union financial assistance for non-harvesting and green harvesting operations should be done directly by the competent authority of the Member State. That competent authority should pay the relevant amounts to the producers in accordance with

Implementing Regulation (EU) No 543/2011 and the relevant national rules and procedures.

- (19) In order to guarantee that the Union financial assistance to producers of certain fruits and vegetables is used for the intended purposes and to ensure the efficient use of the Union budget, Member States should carry out a reasonable level of checks. In particular, documentary, identity and physical checks as well as on-the-spot checks should be carried that cover a reasonable amount of products, areas, producer organisations and producers not being members of recognised producer organisation. Member States should ensure that withdrawals, green harvesting and non-harvesting operations for tomatoes only concern varieties intended for fresh consumption.
- (20) For the sake of sound budgetary management, it is necessary to control the ceiling for the expenditure to be financed by the Union and to set up a notification and monitoring system to avoid that the total amount is exceeded. Member States should inform the Commission about the state of play of the operations notified by producer organisations and producers non-members twice a week. The eligibility of Union financial assistance should be brought to an end when the amounts concerned are reached. If the amounts notified exceed those amounts, an allocation coefficient should be applicable.
- (21) 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 18 August 2014.
- (22) Commission Delegated Regulation (EU) No 913/2014³ provided for temporary exceptional support measures for producers of peaches and nectarines. While taking into account the pressure put on the peach and nectarine markets by the import ban announced by Russia, the exceptional measures were taken mostly to address the specific situation of the peaches and nectarines sectors. Further developments make it necessary to address the markets for peaches and nectarines in a similar way as the other products covered by this Regulation. In order to improve the effect of the support measure and its potential to stabilise the market, it is appropriate to allow withdrawals for destinations other than free distribution up to 10% of the value of the marketed production. Furthermore, it is also appropriate to increase the percentage of the Union financial assistance in respect of producers of peaches and nectarines who are not members of producer organisations and allow for withdrawals to be managed by the Member States without the intervention of the producer organisations.
- (23) Delegated Regulation (EU) No 913/2014 should be amended accordingly. Those amendments should apply retroactively from the date of application of Delegated Regulation (EU) No 913/2014,

³ 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)

HAS ADOPTED THIS REGULATION:

Chapter I

Temporary exceptional support for certain fruit and vegetables

Article 1 *Subject matter and scope*

1. This Chapter lays down rules for temporary exceptional Union support measures to be granted to producer organisations in the fruit and vegetable sector recognised in accordance with Article 154 of Regulation (EU) No 1308/2013 and to producers who are not members of such organisations.

These temporary exceptional Union support measures shall cover withdrawal, non-harvesting and green harvesting operations.

2. The support referred to in paragraph 1 shall be granted in relation to the following products of the fruit and vegetable sector intended for fresh consumption:
 - (a) tomatoes of CN code 0702 00 00;
 - (b) carrots of CN code 0706 10 00;
 - (c) cabbages of CN code 0704 90 10;
 - (d) sweet peppers of CN code 0709 60 10;
 - (e) cauliflowers and headed broccoli of CN code 0704 10 00;
 - (f) cucumbers of CN code 0707 00 05;
 - (g) gherkins of CN code 0707 00 90;
 - (h) mushrooms of the genus *Agaricus* of CN code 0709 51 00;
 - (i) apples of CN code 0808 10;
 - (j) pears of CN code 0808 30;
 - (k) plums of CN code 0809 40 05;
 - (l) soft fruit of CN codes 0810 20, 0810 30 and 0810 40;
 - (m) fresh table grapes of CN code 0806 10 10; and
 - (n) kiwifruit of CN code 0810 50 00.
3. The support referred to in paragraph 1 shall cover activities carried out in the period from 18 August until 30 November 2014.

Article 2
Maximum amount of Union financial assistance

Total Union expenditure incurred for the purposes of this Chapter shall not exceed EUR 125 000 000. Within this amount, EUR 82 000 000 shall be allocated for Union financial assistance related to products referred to in Article 1(2)(i) and (j) and EUR 43 000 000 for assistance related to other products referred to in Article 1(2).

Article 3
Financial assistance for withdrawals to producer organisations

1. Union financial assistance shall be granted for market withdrawals for free distribution as referred to in Article 34(4) of Regulation (EU) No 1308/2013 and for destinations other than free distribution carried out in relation to the products referred to in Article 1(2) of this Regulation and during the period referred to in Article 1(3) of this Regulation.
2. The 5 % ceiling referred to in Article 34(4) of Regulation (EU) No 1308/2013 and in Article 79(2) of Implementing Regulation (EU) No 543/2011 shall not apply in respect of the products referred to in Article 1(2) of this Regulation when those products are withdrawn during the period referred to in Article 1(3) of this Regulation.
3. For products referred to in Article 1(2) of this Regulation, but not listed in Annex XI to Implementing Regulation (EU) No 543/2011, the maximum amounts of support shall be those set out in Annex I to this Regulation.
4. For tomatoes the maximum amount shall be the amount set out in Annex XI to Implementing Regulation (EU) No 543/2011 for the period 1 November to 31 May.
5. By way of derogation from Article 34(1) of Regulation (EU) No 1308/2013, the Union financial assistance for market withdrawals for destinations other than free distribution shall be 75% of the maximum amounts of the support for other destinations referred to in Annex XI to Implementing Regulation (EU) No 543/2011 and in Annex I to this Regulation.
6. 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.
7. 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.
8. 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 of products referred to in Article 1(2) of this Regulation when

those products are withdrawn during the period referred to in Article 1(3) of this Regulation.

9. Expenditure incurred in accordance with this Article shall form part of the operational fund of the producer organisations.

Article 4

Financial assistance for withdrawals to producers not being members of producer organisations

1. Union financial assistance shall be granted to producers of fruit and vegetables who are not members of a recognised producer organisation in accordance with this Article for:
 - (a) market withdrawals for free distribution as referred to in Article 34(4) of Regulation (EU) No 1308/2013;
 - (b) market withdrawals for destinations other than free distribution.

For market withdrawals referred to in point (a) of the first subparagraph, the maximum amounts of the financial assistance shall be the amounts set out in Annex XI to Implementing Regulation (EU) No 543/2011 and in Annex I to this Regulation.

For tomatoes that maximum amount shall be the amount set out in Annex XI to Implementing Regulation (EU) No 543/2011 for the period 1 November to 31 May.

For market withdrawals referred to in point (b) of the first subparagraph, the maximum amounts of the financial assistance shall be 50% of the amounts set out in Annex XI to Implementing Regulation (EU) No 543/2011 and in Annex I to this Regulation.

For tomatoes that maximum amount shall be 50% of the amount set out in Annex XI to Implementing Regulation (EU) No 543/2011 for the period 1 November to 31 May.

2. The financial assistance referred to in paragraph 1 shall be available for the withdrawal of the products referred to in Article 1(2) when those products are withdrawn during the period referred to in Article 1(3).
3. Producers shall conclude a contract with a recognised producer organisation for the entire quantity to be delivered under this Article. Producer organisations shall accept all reasonable requests from producers who are not members of a recognised producer organisation. The quantities delivered by producers not being members shall be consistent with the regional yields and surface concerned.
4. The financial assistance shall be paid to producers not being members of a recognised producer organisation by the producer organisation with which they signed such a contract.

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 those costs shall be provided by means of invoices.

5. For duly justified reasons, such as the limited degree of organisation of the producers in the Member State concerned, and in a non-discriminatory way, Member States may authorise that a producer not being a member of a recognised producer organisation makes a notification to the competent authority of the Member State, instead of signing the contract referred to in paragraph 3. For such notification, Article 78 of Implementing Regulation (EU) No 543/2011 shall apply *mutatis mutandis*. The quantities delivered by producers not being members shall be consistent with the regional yields and surface concerned.

In such cases, the competent authority of the Member State shall pay the Union financial assistance directly to the producer. Member States shall adopt new or apply existing national rules or procedures for this purpose.

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. Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011, as well as Article 3(6) to (9) of this Regulation shall apply *mutatis mutandis* in respect of this Article.

Article 5

Financial assistance for non-harvesting and green harvesting to producer organisations

1. Union financial assistance shall be granted in respect of non-harvesting and green harvesting operations carried out in relation to the products referred to in Article 1(2) and during the period referred to in Article 1(3).
2. Support for green harvesting shall cover only the products which are physically on the fields and which are actually green harvested. By way of derogation from Article 85(4) of Implementing Regulation (EU) No 543/2011, Member States shall set the amounts of the support, comprising both the Union financial assistance and the producer organisation contribution for non-harvesting and green harvesting, per hectare at a level to cover not more than 90 % of the amounts fixed for market withdrawals for destinations other than free distribution in Annex XI to Implementing Regulation (EU) No 543/2011 and in Annex I to this Regulation. For tomatoes that amount shall be 90% of the amount set out in Annex XI to Implementing Regulation (EU) No 543/2011 for the period 1 November to 31 May for market withdrawals for destinations other than free distribution.

By way of derogation from Article 34(4) of Regulation (EU) No 1308/2013, the Union financial assistance for non-harvesting and green harvesting shall be 75% of the amounts fixed by the Member States in accordance with the first subparagraph.

3. By way of derogation from the first subparagraph of Article 85(3) of Implementing Regulation (EU) No 543/2011, non-harvesting measures referred to in Article

84(1)(b) of that Regulation may, in respect of products referred to in Article 1(2) of this Regulation and during the period referred to in Article 1(3) of this Regulation, be undertaken even where commercial production has been taken from the producing area concerned during the normal production cycle. In such cases, the amounts of support referred to in paragraph 2 of this Article shall be proportionally reduced, taking into account the production already harvested, as established on the basis of stock records and financial accounts of the producer organisations concerned.

4. The Union financial assistance shall be granted even if producer organisations do not provide for those operations in the framework of their operational programmes. Article 32(2) of Regulation (EU) No 1308/2013 shall not apply in relation to Union financial assistance under this Article.
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 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 measures referred to in paragraph 1 of this Article and related to products referred to in Article 1(2) of this Regulation and during the period referred to in Article 1(3) of this Regulation.
6. The Union financial assistance 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.
7. Expenditure incurred in accordance with this Article shall form part of the operational fund of the producer organisations.

Article 6

Financial assistance for non-harvesting and green harvesting to producers not being members of producer organisations

1. Union financial assistance shall be granted to producers who are not members of a recognised producer organisation to carry out non-harvesting and green harvesting operations in respect of the products referred to in Article 1(2) and during the period referred to in Article 1(3).

By way of derogation from Article 85(3) of Implementing Regulation (EU) No 543/2011, the following shall apply:

- (a) support for green harvesting shall cover only the products which are physically on the fields, which are actually green harvested and for which normal harvest has not begun;
- (b) non-harvesting measures shall not be undertaken where commercial production has been taken from the area concerned during the normal production cycle;
- (c) green harvesting and non-harvesting shall in no circumstances both be applied to the same product and the same given area.

2. The amounts of Union financial assistance for non-harvesting and green harvesting operations shall be 50% of the amounts set by Member States in accordance with Article 5(2).
3. Producers not being members of a recognised producer organisation shall make the appropriate notification to the competent authority of the Member State in accordance with the detailed provisions adopted by the Member State pursuant to Article 85(1)(a) of Implementing Regulation (EU) No 543/2011.

In such cases, the competent authority of the Member State shall pay the Union financial assistance directly to the producer. Member States shall adopt new or apply existing national rules or procedures for this purpose.

4. 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.
5. Regulation (EU) No 1308/2013 and Implementing Regulation (EU) No 543/2011 shall apply *mutatis mutandis* in respect of this Article.

Article 7

Checks on withdrawal, non-harvesting and green harvesting operations

1. The withdrawal operations referred to in Articles 3 and 4 shall be subject to first-level checks in accordance with Article 108 of Implementing Regulation (EU) No 543/2011. However, those checks shall cover at least 10 % of the quantity of products withdrawn from the market and at least 10% of producer organisations benefiting from the Union financial assistance referred to in Article 3 of this Regulation.

However, for withdrawal operations referred to in Article 4(5), the first-level checks shall cover 100 % of the quantity of products withdrawn.

2. Non-harvesting and green harvesting operations as referred to in Articles 5 and 6 shall be subject to the checks and conditions provided for in Article 110 of Implementing Regulation (EU) No 543/2011, except as regards the requirement that no partial harvest has taken place where the derogation provided for in Article 5(3) of this Regulation is applied. Checks shall cover at least 25 % of the producing areas concerned.

For non-harvesting and green harvesting operations referred to in Article 6, the checks shall cover 100 % of the producing areas concerned.

3. The withdrawal operations referred to in Articles 3 and 4 shall be subject to second-level checks in accordance with Article 109 of Implementing Regulation (EU) No 543/2011. However, the on-the-spot checks shall cover at least 40% of the entities subject to the first-level checks and at least 5% of the quantity of products withdrawn from the market.

4. Member States shall take the appropriate control measures to ensure that withdrawals, non-harvesting and green harvesting operations for tomatoes only cover varieties intended for fresh consumption.

Article 8

Notifications of intended operations to the Commission

1. Member States shall notify the Commission from the day of entry into force of this Regulation:
 - (a) every Monday (before noon, Brussels time) of the notifications received in accordance with Articles 78(1) and 85(2) of Implementing Regulation (EU) No 543/2011 from Monday to Wednesday of the previous week; and
 - (b) every Thursday (before noon, Brussels time) of the notifications received in accordance with Articles 78(1) and 85(2) of Implementing Regulation (EU) No 543/2011 from Thursday to Sunday of the previous week.

Those notifications shall relate to the operations to be undertaken for the purposes of this Chapter, in terms of quantities, surface and maximum Union expenditure for each of the products referred to in Article 1(2).

For those notifications Member States shall use the template set out in Annex II.

2. Member States shall notify the Commission on the first Monday or Thursday, whichever is the later, following the day of entry into force of this Regulation, of the information referred to in the paragraph 1, using the template set out in Annex II, in relation to withdrawal, non-harvesting or green harvesting operations notified from 18 August 2014 until the date of entry into force of this Regulation, inclusive. To avoid double counting, that information shall not be included in the first notification made to the Commission in accordance with paragraph 1.
3. When making their first notification, Member States shall notify the Commission of the amounts of support fixed by them in accordance with Article 79(1) or 85(4) of Implementing Regulation (EU) No 543/2011 and Articles 3 and 4 of this Regulation, using the templates set out in Annex III.

Article 9

Monitoring of the respect of the maximum amounts

On the basis of the notifications received in accordance with Article 8, the Commission shall satisfy itself that the Union financial assistance arising from those notifications will not exceed one or more of the amounts established in Article 2.

Where the Commission determines, on the basis of those notifications, that the Union financial assistance to be granted as a result of those notifications will exceed one or more of the amounts established in Article 2, it shall immediately inform all Member States that it will receive no further notifications relating to all products or further notifications relating to the products for which the allocated amount has been exceeded, as the case may be.

Where a notification has not been received by the Commission before it informs the Member States of its determination in accordance with the second paragraph, no Union financial assistance shall be granted for the withdrawal, non-harvesting or green harvesting operations concerned.

Article 10

Notifications to producer organisations and producers

1. Where producer organisations and producers not being members of a producer organisation have submitted notifications to the Member States in accordance with Articles 78(1) and 85(2) of Implementing Regulation (EU) No 543/2011, of which Member States have notified the Commission, the Member States shall inform the producer organisations and producers concerned no earlier than two calendar days following the notification to the Commission, that the notifications in question have been received by the Commission and that they may be eligible for the payment of the Union financial assistance in accordance with Article 11 in relation to those notifications.
2. Where the Commission has informed the Member States that it will receive no further notifications relating to all products or further notifications relating to the products for which the allocated amount has been exceeded, Member States shall inform producer organisations and producers accordingly. In particular, Member States shall inform producer organisations and producers of the fact that the notifications concerning their operations will not be received by the Commission pursuant to the second paragraph of Article 9 and that they are not eligible for the payment of the Union financial assistance in accordance with Article 11 in relation to those notifications.

Article 11

Application for and payment of Union financial assistance

1. Producer organisations shall apply for the payment of the Union financial assistance referred to in Articles 3, 4 and 5 by a date to be determined by the Member State. That date shall be fixed by the Member State and it shall be at least one week before the latest date for the notification to the Commission of the information referred to in Article 12(1).
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 Union financial assistance referred to in Article 3 and 5 of this Regulation in accordance with the procedure referred to in Article 72 of Implementing Regulation (EU) No 543/2011 by the date referred to in paragraph 1 of this Article.

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

3. Producers not being members of a recognised producer organisation and not having signed a contract with a recognised producer organisation shall, by the date referred

to in paragraph 1, apply themselves to the competent authorities designated by the Member States for the payment of Union financial assistance for the purposes of Articles 4 and 6.

4. The applications referred to in paragraphs 1, 2 and 3 shall be accompanied by supporting documents justifying the amount of Union financial assistance concerned and contain a written undertaking that the applicant has not received and will not receive any double Union or national funding or compensation under an insurance policy in respect of the operations qualifying for Union financial assistance under this Chapter.

Article 12

Notification of the total amount of Union financial assistance applied for and allocation coefficient

1. Member States shall notify the Commission of the information on the total quantities withdrawn, the total areas on which non-harvesting or green harvesting operations have been undertaken and the total amounts of Union financial assistance for the corresponding withdrawal, non-harvesting and green harvesting operations, based on the notifications made to the Commission in accordance with Article 8. That information shall be notified to the Commission within six weeks from the date on which the Commission informs all Member States that it will receive no further notifications relating to all products or further notifications relating to the products for which the allocated amount has been exceeded, as provided for in the second paragraph of Article 9.

For those notifications Member States shall use the template set out in Annex II.

2. Where the amounts notified pursuant to paragraph 1 exceed one or more of the amounts established in Article 2, the Commission shall fix one or two allocation coefficients for the grant of Union financial assistance, limiting total Union expenditure to those amounts.

The Commission shall fix the allocation coefficients referred to in the first subparagraph by means of implementing acts adopted without applying the procedure referred to in Article 229(2) and (3) of Regulation (EU) No 1308/2013.

Member States shall apply uniformly the allocation coefficient(s) to all applications for payment referred to in Article 9.

3. Where the notifications referred to in paragraph 1 do not exceed the amounts established in Article 2, the Commission shall inform the Member States that no allocation coefficient will be set.

Article 13

Payment of Union financial assistance

The competent authorities of the Member States shall not make payments before the allocation coefficient referred to in Article 12(2) has been set or they have been informed by the Commission that no such allocation coefficient will be set. Member States' expenditure in

relation to those payments shall only be eligible for Union financial assistance if it has been paid by 30 June 2015.

Chapter II Amendments

Article 14 *Amendment of Delegated Regulation (EU) No 913/2014*

Delegated Regulation (EU) No 913/2014 is amended as follows:

1. Article 2 is amended as follows:

(a) Paragraph 1 is replaced by the following.

"1. For the withdrawal operations referred to in Article 1(2)(a) Union financial assistance shall be available as follows:

- (a) for market withdrawals for free distribution under Article 34(4) of Regulation (EU) No 1308/2013 Union financial assistance shall be available for a maximum of 10% of the volume of marketed production of each producer organisation;
- (b) by way of derogation from the first subparagraph of Article 79(2) of Implementing Regulation (EU) No 543/2011, for market withdrawals for destinations other than free distribution Union financial assistance shall be available for a maximum of 10% of the volume of marketed production of peaches and nectarines of each producer organisation. However, amounts that are disposed of in one of the ways referred to in Article 34(4) of Regulation (EU) No 1308/2013 or any other way approved by Member States under Article 80(2) of Implementing Regulation (EU) No 543/2011 shall not be taken into account in that proportion.

The third subparagraph of Article 79(2) of Implementing Regulation (EU) No 543/2011 shall not apply for the purposes of point (b) of the first subparagraph of this paragraph."

(b) The following paragraph 1a is inserted:

"1a. By way of derogation from Article 34(1) of Regulation (EU) No 1308/2013, the Union financial assistance for withdrawal operations referred to in Article 1(2)(a) of this Regulation for destinations other than free distribution shall be 75% of the maximum amounts of the support for other destinations referred to in Annex XI to Implementing Regulation (EU) No 543/2011."

2. Article 3 is amended as follows:

(a) Paragraphs 1 and 2 are replaced by the following:

"1. Union financial assistance shall be granted to producers of peaches and nectarines who are not members of a recognised producer organisation in accordance with this Article for:

- (a) market withdrawals for free distribution as referred to in Article 34(4) of Regulation (EU) No 1308/2013;
- (b) market withdrawals for destinations other than free distribution.

For market withdrawals referred to in point (a) of the first subparagraph, the maximum amounts of the financial assistance shall be the amounts set out in Annex XI to Implementing Regulation (EU) No 543/2011.

For market withdrawals referred to in point (b) of the first subparagraph, the maximum amounts of the financial assistance shall be 50% of the amounts set out in Annex XI to Implementing Regulation (EU) No 543/2011.

2. The Union financial assistance referred to in paragraph 1 shall be available to producers of peaches and nectarines who are not members of a recognised producer organisation for the delivery of products which are subsequently withdrawn from the market, subject to respecting the lower of the ceilings set out in the first subparagraph of paragraph 3 of this Article."

- (b) The following paragraph 4a is inserted:

"4a. For duly justified reasons, such as the limited degree of organisation of the producers in the Member State concerned, and in a non-discriminatory way, Member States may authorise that a producer not being member of a recognised producer organisation makes a notification to the competent authority of the Member State, instead of signing the contract referred to in paragraph 3. For such notification, Article 78 of Implementing Regulation (EU) No 543/2011 shall apply *mutatis mutandis*. The quantities delivered by producers not being members shall comply with the conditions of paragraph 3 of this Article.

In such cases, the competent authority of the Member State shall pay the Union financial assistance directly to the producer. Member States shall adopt new or apply existing national rules or procedures for this purpose."

- 3. In Article 4, the following second paragraph is added:

"However, for withdrawal operations referred to in Article 3(4a), the first level checks shall cover 100% of the quantity of products withdrawn."

Chapter III

Final provisions

Article 15

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*.

Chapter I shall apply from 18 August 2014.

Chapter II shall apply from 11 August 2014.

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

Done at Brussels, 29.8.2014

For the Commission
The President
José Manuel BARROSO