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# 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)

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# COMMISSION DELEGATED REGULATION (EU) No 913/2014

## of 21 August 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 1234/2007 [1], 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 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.

[1] OJ L 347, 20.12.2013, p. 671.

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(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 543/2011 ([1]).

(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

([1]) 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).

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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

(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**

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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.

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.

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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.

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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**

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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.

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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

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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.

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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.

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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.

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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.

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operations referred to in Article 3(4a), the first level checks shall cover 100 % of the quantity of products withdrawn.

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*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.

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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.

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*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.

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*ANNEX*

Maximum amounts allocated to Member States for the additional support for promotion activities as referred to in Article 5(1):

| Member State | Maximum support (EUR) |
|---|---|
| Greece | 317 215 |
| Spain | 1 132 495 |
| France | 262 089 |
| Italy | 1 288 201 |
| Total | 3 000 000 |