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COMMISSION DELEGATED REGULATION (EU) 2017/1165

of 20 April 2017

laying down temporary exceptional support measures for producers of certain fruits

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COMMISSION DELEGATED REGULATION (EU) 2017/1165

of 20 April 2017

laying down temporary exceptional support measures for producers of certain fruits

Article 1

Subject matter and scope

1. This Regulation lays down rules on Union financial assistance ('the financial assistance') for temporary support measures to be granted to producer organisations in the fruit 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 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 sector intended for fresh consumption:

(a) apples of CN code 0808 10;

(b) pears of CN code 0808 30;

(c) plums of CN code 0809 40 05;

(d) sweet oranges of CN codes 0805 10 22, 0805 10 24 and 0805 10 28;

(e) clementines of CN code 0805 22 00;

(f) mandarins (including tangerines and satsumas), wilking and similar citrus hybrids of CN codes 0805 21 10, 0805 29 00 and 0805 21 90;

(g) lemons of CN code 0805 50 10;

(h) peaches and nectarines of CN code 0809 30;

(i) sweet cherries of CN code 0809 29 00;

(j) persimmons of CN code 0810 70 00.

3. The support measures referred to in paragraph 1 shall cover activities carried out in the period from the date of entry into force of this Regulation, until the date on which the quantities set out in Article 2(1) have been exhausted in each Member State concerned or on 30 June 2018, whichever date is earlier.

4. Where the import situation of certain products from the Union to Russia changes before 30 June 2018, the Commission may amend or repeal this Regulation accordingly.

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Article 2

Allocation of maximum quantities to Member States

1. The financial assistance for support measures referred to in Article 1(1) shall be made available to Member States for the quantities of products set out in Annex I.

The financial assistance shall also be available to Member States for withdrawal, green harvesting or non-harvesting operations, with respect to one or more of the products referred to in Article 1(2) as determined by the Member State, provided that the additional quantity involved does not exceed 2 000 tonnes per Member State.

2. With respect to the total quantities per Member State referred to in paragraph 1, Member States may determine for each product referred to in Article 1(2):

(a) the quantities for market withdrawals for free distribution;

(b) the quantities for market withdrawals for destinations other than free distribution;

(c) the equivalent area for green harvesting and non-harvesting.

3. Where the quantities actually withdrawn in a Member State between 1 July 2016 and 30 June 2017 in accordance with Delegated Regulation (EU) 2016/921 for a category of products as defined in Annex I to that Regulation are less than 5 % of the total quantities allocated to that Member State for that category of products, the Member State may decide not to make use of the quantity allocated to that Member State for that category of products in accordance with Annex I. In that event, the Member State concerned shall notify the Commission of its decision by 31 October 2017. As from the moment of notification, withdrawal, non-harvesting and green harvesting operations carried out for that category of products in that Member State shall not be eligible for financial assistance.

4. Member States may decide not to make use of the quantity of 2 000 tonnes, or part thereof, referred to in the second subparagraph of paragraph 1. In that event, the Member State concerned shall notify the Commission of its decision by 31 October 2017. As from the moment of this notification, withdrawal, non-harvesting and green-harvesting operations carried out within the quantity of 2 000 tonnes referred to in the second subparagraph of paragraph 1 in that Member State shall not be eligible for financial assistance.

Article 3

Allocation of the quantities to producers

Member States shall allocate the quantities referred to in Article 2(1) between producer organisations and producers who are not members of producer organisations following the first come, first served system.

However, Member States may decide to set up a different system for the allocation of quantities, provided the system established is based on objective and non-discriminatory criteria. For this purpose, Member States may take into account the extent of the effects of the Russian import ban on the producers concerned.

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Article 4

Common provisions to withdrawal, non-harvesting and green harvesting measures of producer organisations

1. The support for withdrawal, non-harvesting and green harvesting operations undertaken in accordance with this Regulation by producer organisations shall be granted to producer organisations even if their operational programmes and the national strategies of Member States do not provide for such operations.

The support referred to in the first subparagraph 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.

Article 32(2) of Regulation (EU) No 1308/2013 and Article 55(4) of Implementing Regulation (EU) No 543/2011 shall not apply to financial assistance under this Regulation.

2. 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, non-harvesting and green harvesting operations under this Regulation.

3. Expenditure incurred in accordance with Articles 5 and 7 shall form part of the operational fund of the producer organisations.

4. Where the recognition of a producer organisation has been suspended in accordance with Article 114(2) of Implementing Regulation (EU) No 543/2011, members of that producer organisation shall be deemed to be producers not being members of a recognised producer organisation for the purpose of Articles 6 and 8.

Article 5

Financial assistance for withdrawals to producer organisations

1. 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 to operations under this Regulation.

2. The maximum amounts of the financial assistance for withdrawals to producer organisations shall be those set out in Annex II.

3. By way of derogation from Article 34(1) of Regulation (EU) No 1308/2013, the financial assistance for withdrawals for destinations other than free distribution shall be 75 % of the maximum amounts of the support for other destinations referred to in Annex II to this Regulation.

Article 6

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

1. The maximum amounts of the financial assistance granted to producers, who are not members of a recognised producer organisation, for market withdrawals for free distribution shall be those set out in Annex II.

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The maximum amounts of the financial assistance granted to producers who are not members of a recognised producer organisation for market withdrawals for destinations other than free distribution shall be 50 % of the amounts set out in Annex II.

2. Producers who are not members of a recognised producer organisation shall conclude a contract with such an organisation for the entire quantity of products to be delivered. 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.

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 that organisation. Evidence of those costs shall be proved by means of invoices.

3. 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 who is not a member of a recognised producer organisation may, instead of signing the contract referred to in paragraph 2, make a notification to the competent authority of the Member State about the quantity to be delivered. 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 financial assistance directly to the producer. Member States shall adopt new or apply existing national rules or procedures for this purpose.

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

Article 7

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

1. 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 and at a level to cover not more than 90 % of the amounts fixed for market withdrawals for destinations other than free distribution as set out in Annex II to this Regulation. 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 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.

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2. 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 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 1 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.

Article 8

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

1. 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 the 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 the financial assistance for non-harvesting and green harvesting operations shall be 50 % of the amounts set by Member States in accordance with Article 7(1).

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.

4. The competent authority of the Member State shall pay the financial assistance directly to the producer. Member States shall adopt new or apply existing national rules or procedures for this purpose.

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

Article 9

Checks on withdrawal, non-harvesting and green harvesting operations

1. The withdrawal operations referred to in Articles 5 and 6 shall be subject to:

(a) first-level checks in accordance with Article 108 of Implementing Regulation (EU) No 543/2011. 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 financial

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assistance referred to in Article 5 of this Regulation. However, for withdrawal operations referred to in Article 6(3), the first-level checks shall cover 100 % of the quantity of products withdrawn.

(b) second-level checks in accordance with Article 109 of Implementing Regulation (EU) No 543/2011. 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.

2. Non-harvesting and green harvesting operations as referred to in Articles 7 and 8 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 7(2) 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 8, the checks shall cover 100 % of the producing areas concerned.

Article 10

Application for and payment of the financial assistance

1. Producer organisations shall apply for the payment of the financial assistance referred to in Articles 5 and 7 by 31 July 2018.

2. Producers not being members of a recognised producer organisation and not having signed a contract with a recognised producer organisation shall, by 31 July 2018, apply themselves to the competent authorities designated by the Member States for the payment of the financial assistance referred to in Articles 6 and 8.

3. The applications for payment shall be accompanied by supporting documents justifying the amount of the 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 the financial assistance granted in accordance with this Regulation.

Article 11

Notifications

1. On the first day of each month until 1 October 2018, Member States shall notify the Commission of the following information for each product:

(a) the quantities withdrawn for free distribution;

(b) the quantities withdrawn for destinations other than free distribution;

(c) the equivalent area for green harvesting and non-harvesting;

(d) the total expenditure incurred for the quantities and areas referred to in points (a), (b) and (c).

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Only operations that have been implemented shall be included in the notifications.

For those notifications Member States shall use the templates set out in Annex III, as appropriate.

2. 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 5 to 8 of this Regulation, using the templates set out in Annex IV, as appropriate.

Article 12

Payment of Union financial assistance

Member States' expenditure in relation to the payments under this Regulation shall only be eligible for the financial assistance if it has been paid by 30 September 2018.

Article 13

Entry into force

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.

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ANNEX I

Maximum quantities of products allocated per Member State as referred to in Article 2(1)

(tonnes)

Member State	Apples and pears	Plums	Oranges, clementines, mandarins and lemons	Peaches and nectarines
Belgium	21 845			
Germany	1 615			
Greece	680	4 165	2 040	16 065
Spain	1 955	1 275	14 110	29 325
France	3 060			
Croatia	510		850	
Italy	4 505	3 910	850	7 140
Cyprus			3 060	
Netherlands	5 865			
Austria	510			
Poland	75 565	425		510
Portugal	935			

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ANNEX II

Maximum amounts of support for market withdrawals as referred to in Articles 5 and 6

Product	Maximum support (EUR/100 kg)	
	Free distribution	Other destinations
Apples	16,98	13,22
Nectarines	26,90	26,90
Peaches	26,90	26,90
Pears	23,85	15,90
Oranges	21,00	21,00
Mandarins	19,50	19,50
Clementines	22,16	19,50
Satsumas	19,50	19,50
Lemons	23,99	19,50
Plums	34,00	20,40
Persimmons	21,02	14,01
Cherries	48,14	32,09

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ANNEX III

Templates for notifications as referred to in Article 11(1)

NOTIFICATION ON WITHDRAWALS — FREE DISTRIBUTION

Member State:… Period covered:… Date:…

Product	Producer organisations					Producer non-members					Total quantities (t)	Total Union financial assistance (EUR)
	Quantities (t)	Union financial assistance (EUR)				Quantities (t)	Union financial assistance (EUR)					
		withdrawal	transport	sorting and packing	Total		withdrawal	transport	sorting and packing	Total		
	(a)	(b)	(c)	(d)	(e) = (b) + (c) + (d)	(f)	(g)	(h)	(i)	(j) = (g) + (h) + (i)	(k) = (a) + (f)	(l) = (e) + (j)
Apples												
Pears												
Total Apples and Pears												
Plums												
Total Plums												
Oranges												
Clementines												
Mandarins												
Lemons												
Total Citrus												

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Product	Producer organisations					Producer non-members					Total quantities (t)	Total Union financial assistance (EUR)
	Quantities (t)	Union financial assistance (EUR)				Quantities (t)	Union financial assistance (EUR)					
		with-drawal	transport	sorting and packing	Total		with-drawal	transport	sorting and packing	Total		
	(a)	(b)	(c)	(d)	(e) = (b) + (c) + (d)	(f)	(g)	(h)	(i)	(j) = (g) + (h) + (i)	(k) = (a) + (f)	(l) = (e) + (j)
Peaches												
Nectarines												
Total Peaches and Nectarines												
Cherries												
Persimmons												
Total Others												
TOTAL												

Note: one different Excel sheet shall be completed for every notification.

NOTIFICATION ON WITHDRAWALS — OTHER DESTINATIONS

Member State:… Period covered:… Date:…

Product	Producer organisations		Producer non-members		Total quantities (t)	Total Union financial assistance (EUR)
	Quantities (t)	Union financial assistance (EUR)	Quantities (t)	Union financial assistance (EUR)		
	(a)	(b)	(c)	(d)	(e) = (a) + (c)	(f) = (b) + (d)
Apples						
Pears						

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Product	Producer organisations		Producer non-members		Total quantities (t)	Total Union financial assistance (EUR)
	Quantities (t)	Union financial assistance (EUR)	Quantities (t)	Union financial assistance (EUR)		
	(a)	(b)	(c)	(d)	(e) = (a) + (c)	(f) = (b) + (d)
Total Apples and Pears						
Plums						
Total Plums						
Oranges						
Clementines						
Mandarins						
Lemons						
Total Citrus						
Peaches						
Nectarines						
Total Peaches and Nectarines						
Cherries						
Persimmons						
Total Others						
TOTAL						

Note: one different Excel sheet shall be completed for every notification.

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NOTIFICATION ON NON-HARVESTING AND GREEN HARVESTING

Member State:… Period covered:… Date:…

Product	Producer organisations			Producer non-members			Total quantities (t)	Total Union financial assistance (EUR)
	Area (ha)	Quantities (t)	Union financial assistance (EUR)	Area (ha)	Quantities (t)	Union financial assistance (EUR)		
	(a)	(b)	(c)	(d)	(e)	(f)	(g) = (b) + (e)	(h) = (c) + (f)
Apples								
Pears								
Total Apples and Pears								
Plums								
Total Plums								
Oranges								
Clementines								
Mandarins								
Lemons								
Total Citrus								
Peaches								
Nectarines								

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Product	Producer organisations			Producer non-members			Total quantities (t)	Total Union financial assistance (EUR)
	Area (ha)	Quantities (t)	Union financial assistance (EUR)	Area (ha)	Quantities (t)	Union financial assistance (EUR)		
	(a)	(b)	(c)	(d)	(e)	(f)	(g) = (b) + (e)	(h) = (c) + (f)
Total Peaches and Nectarines								
Cherries								
Persimmons								
Total Others								
TOTAL								

Note: one different Excel sheet shall be completed for every notification.

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ANNEX IV

Templates to be sent with the first notification as referred to in Article 11(2)

WITHDRAWALS — OTHER DESTINATIONS

Maximum amounts of support fixed by the Member State in accordance with Article 79(1) of Implementing Regulation (EU) No 543/2011 and Article 5 of this Regulation

Member State:…	Date:…

Product	Producer organisation's contribution (EUR/100 kg)	Union financial assistance (EUR/100 kg)
Apples		
Pears		
Plums		
Oranges		
Clementines		
Mandarins		
Lemons		
Peaches		
Nectarines		
Cherries		
Persimmons		

NON-HARVESTING AND GREEN HARVESTING

Maximum amounts of support fixed by the Member State in accordance with Article 85(4) of Implementing Regulation (EU) No 543/2011 and Article 7 of this Regulation

Member State:…	Date:…

Product	Open air		Greenhouse	
	Producer organisation's contribution (EUR/ha)	Union financial assistance (EUR/ha)	Producer organisation's contribution (EUR/ha)	Union financial assistance (EUR/ha)
Apples				
Pears				
Plums				
Oranges				

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Product	Open air		Greenhouse	
	Producer organisation's contribution (EUR/ha)	Union financial assistance (EUR/ha)	Producer organisation's contribution (EUR/ha)	Union financial assistance (EUR/ha)
Clementines				
Mandarins				
Lemons				
Peaches				
Nectarines				
Cherries				
Persimmons				