



Brussels, **XXX**
[...](2022) **XXX** draft

COMMISSION DELEGATED REGULATION (EU) .../...

of **XXX**

providing for exceptional adjustment aid to producers in the agricultural sectors

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Russia's invasion of Ukraine on 24 February 2022 was condemned in the strongest possible terms by the European Council. While the most urgent needs are for Russia to immediately cease its military actions, unconditionally withdraw from Ukraine and allow safe and unhindered humanitarian access and assistance to all persons in need, the war is also impacting on farmers in the Union.

The primary concern in trade between Ukraine and the EU is the availability of transport. Ukrainian airports were the first to suffer under the Russian attack and all commercial shipping operations in Ukrainian ports have been suspended.

The crisis is likely to have serious consequences on the supply of grain and vegetable oils from Ukraine to the EU, leading to a strong increase in feed prices that adds to current soaring prices for energy and fertilisers. The combined impact of those cost increases is hardest felt by livestock farming, in particular the grain-based pig and poultry sectors. Other sectors are also impacted through their dependence on energy and fertilisers. Ukraine is the EU's fourth biggest external food supplier and a key supplier of cereals (52% of EU maize imports, 19% soft wheat), vegetable oils (23%) and oilseeds (22%, especially rapeseed: 72%). Global food prices are already high and could still increase in view of the situation.

A second concern is the impossibility for EU products to continue to flow to Ukraine and potentially also to Russia and Belarus for logistics and financial reasons. This would affect mainly the sectors of wines and spirits, processed foods (including processed fruits and vegetables), infant formula, and pet food in the case of Russia, fruits and vegetables in the case of Belarus, animal products in the case of Ukraine.

There is an acute threat of market disturbance caused by significant cost rises and trade disruptions that requires effective and efficient action.

Market intervention measures available under Regulation (EU) No 1308/2013 in the form of public intervention, private storage aid or market withdrawals may be effective in restoring certain market balance by removing temporarily or permanently products from the market, but are not of a nature that can help counter cost rises. While the market needs to gradually adjust to new circumstances, support is needed for producers in sectors where input costs are rising to unsustainable levels and where products cannot find their normal market outlet.

In order to react efficiently and effectively against this threat of a market disturbance, it is essential that aid is made available to producers in the agricultural sectors in the Union affected by such market disturbance. Member States should choose one or more of the sectors concerned, or part of them, to support producers who suffer the most from market disturbance.

It is therefore appropriate to provide Member States with a financial grant to support producers engaging in activities fostering food security by means of financial support allowing for the necessary adjustment. The amount available to each Member State should take into account their respective weight in the Union's agricultural sector, on the basis of the net ceilings for direct payments set out in Annex III of Regulation (EU) No 1307/2013 of the European Parliament and of the Council.

Member States should design measures which contribute to food security or address market imbalances. Farmers should be eligible to support under these measures provided that they engage in one or more of the following activities pursuing these goals: circular economy,

nutrient management, efficient use of resources, and environmental and climate friendly production methods.

Member States should distribute the aid through the most effective channels on the basis of objective and non-discriminatory criteria that take account of the extent of the market disturbance in the different sectors, while ensuring that farmers are the ultimate beneficiaries of the aid, and avoiding any market and competition distortion.

As the amount allocated to each Member State would compensate only part of the actual loss suffered by producers in the agricultural sectors, Member States should be allowed to grant additional support to those producers, under the same conditions of objectiveness, non-discrimination and non-distortion of competition. Given the magnitude of the current crisis, provoked by a war in a neighbouring country that has very strong agricultural ties with the EU, this additional national support may exceptionally amount to a maximum of twice the respective amounts set out in the Annex to this Regulation.

In order to give Member States the flexibility to distribute the aid as circumstances require coping with the market disturbance, Member States should be allowed to cumulate it with other support financed by the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development.

The aid provided for in this Regulation should be granted as a measure supporting agricultural markets in accordance with Article 4(1)(a) of Regulation (EU) No 1306/2013.

As the Union aid is fixed in euro, it is necessary, in order to ensure a uniform and simultaneous application, to fix a date for the conversion of the amount allocated to Member States not having adopted the euro into their national currencies. It is therefore appropriate to determine the operative event for the exchange rate in accordance with Article 106 of Regulation (EU) No 1306/2013. In view of the principle referred to in paragraph (2)(b) of that Article and the criteria laid down in paragraph (5)(c) of that Article, the operative event should be the date of the entry into force of this Regulation.

For budgetary reasons, the Union should finance the expenditure incurred by Member States only where such expenditure is made by a certain eligibility date.

In order to ensure transparency, monitoring and proper administration of the amounts available to them, Member States should inform the Commission of the concrete measures to be taken, the criteria used to establish them, the rationale for distributing the aid across the different sectors, the measures taken to avoid distortion of competition in the markets concerned, the intended impact of the measures and the methods to check that it is achieved. These notifications will be analysed and compiled by the Commission, and will serve as a basis for assurance and audit purposes.

The difficulties to access inputs and the logistic problems derived from an abrupt stop of commercial shipments is an immediate market disturbance and consequently immediate action is necessary to efficiently and effectively address the situation. Therefore, imperative grounds of urgency require the adoption of this Regulation under the procedure provided for in Article 228 of Regulation (EU) No 1308/2013.

In order to ensure that producers receive aid as soon as possible, Member States should be enabled to implement this Regulation without delay. Therefore, this Regulation should apply from the day following that of the publication in the Official Journal of a Communication of the Commission stating that the transfer from the Reserve to the budget lines financing the necessary measure is made in accordance with the Financial Regulation.

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 an Inter Service Consultation in March 2022. The technical meeting to discuss the situation with experts from Member States took place on 17 March 2022.

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.

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

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

Having regard to Regulation (EU) No 1306/2013 of the European Parliament and of the Council of 17 December 2013 on the financing, management and monitoring of the common agricultural policy and repealing Council Regulations (EEC) No 352/78, (EC) No 165/94, (EC) No 2799/98, (EC) No 814/2000, (EC) No 1290/2005 and (EC) No 485/2008¹, and in particular Article 106(5) thereof,

Whereas:

- (1) Russia's invasion of Ukraine on 24 February 2022 is impacting on farmers in the Union.
- (2) The primary concern in trade between Ukraine and the Union is the availability of transport. Ukrainian airports were the first to suffer under the Russian attack and all commercial shipping operations in Ukrainian ports have been suspended.
- (3) The crisis is likely to have serious consequences on the supply of grain and vegetable oils from Ukraine to the Union, leading to a strong increase in feed prices that adds to current soaring prices for energy and fertilisers. The combined impact of those cost increases is hardest felt by livestock farming, in particular the grain-based pig and poultry sectors. Other sectors are also impacted through their dependence on energy and fertilisers.
- (4) A second concern is the impossibility for the Union products to continue to flow to Ukraine and potentially also to Russia and Belarus for logistics and financial reasons, generating trade disruptions in some sectors that would translate in market imbalances in the internal market. This would affect mainly the sectors of wines and spirits, processed foods (including processed fruits and vegetables), infant formula, and pet food in the case of Russia, fruits and vegetables in the case of Belarus, animal products in the case of Ukraine.
- (5) There is therefore an acute threat of market disturbance caused by significant cost rises and trade disruptions that requires effective and efficient action.
- (6) Market intervention measures available under Regulation (EU) No 1308/2013 in the form of public intervention, private storage aid or market withdrawals may be effective in restoring certain market balance by removing temporarily or permanently products from the market, but are not of a nature that can help counter the threat of market

¹ OJ L 347, 20.12.2013, p. 549.

disturbance caused by cost rises. While the market needs to gradually adjust to new circumstances, support is needed for producers in sectors where input costs are rising to unsustainable levels and where products cannot find their normal market outlet.

- (7) In order to react efficiently and effectively against the threat of a market disturbance, it is essential that aid is made available to producers in the agricultural sectors in the Union affected by such market disturbance. Member States should choose one or more of the sectors concerned, or part of them, to support producers who suffer the most from market disturbance.
- (8) It is therefore appropriate to provide Member States with a financial grant to support producers engaging in activities fostering food security or addressing market imbalances, allowing for the necessary adjustment. The amount available to each Member State should be set out, taking into account the respective weight of each Member State in the Union's agricultural sector, on the basis of the net ceilings for direct payments set out in Annex III to Regulation (EU) No 1307/2013 of the European Parliament and of the Council².
- (9) Member States should design measures which contribute to food security or address market imbalances. Farmers should be eligible to support under these measures provided that they engage in one or more of the following activities pursuing these goals: circular economy, nutrient management, efficient use of resources, and environmental and climate friendly production methods.
- (10) Member States should distribute the aid through the most effective channels on the basis of objective and non-discriminatory criteria that take account of the extent of the market disturbance in the different sectors, while ensuring that farmers are the ultimate beneficiaries of the aid, and avoiding any market and competition distortion.
- (11) As the amount allocated to each Member State would compensate only part of the actual loss suffered by producers in the agricultural sectors, Member States should be allowed to grant additional national support to those producers, under the same conditions of objectiveness, non-discrimination and non-distortion of competition. Given the magnitude of the current crisis, this additional national support may exceptionally amount to a maximum of twice the respective amounts set out in the Annex to this Regulation.
- (12) In order to give Member States the flexibility to distribute the aid as circumstances require coping with the market disturbance, Member States should be allowed to cumulate it with other support financed by the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development.
- (13) The aid provided for in this Regulation should be granted as a measure supporting agricultural markets in accordance with Article 4(1), point (a), of Regulation (EU) No 1306/2013, following the transfer of funds from the reserve for crisis in the agricultural sector provided for in Article 25 of that Regulation.
- (14) As the Union aid is fixed in euro, it is necessary, in order to ensure a uniform and simultaneous application, to fix a date for the conversion of the amount allocated to Member States not having adopted the euro into their national currencies. It is therefore appropriate to determine the operative event for the exchange rate in accordance with

² Regulation (EU) No 1307/2013 of the European Parliament and of the Council of 17 December 2013 establishing rules for direct payments to farmers under support schemes within the framework of the common agricultural policy and repealing Council Regulation (EC) No 637/2008 and Council Regulation (EC) No 73/2009 (OJ L 347, 20.12.2013, p. 608).

Article 106 of Regulation (EU) No 1306/2013. In view of the principle referred to in paragraph 2, point (b), of that Article and the criteria laid down in paragraph 5, point (c), of that Article, the operative event should be the date of the entry into force of this Regulation.

- (15) For budgetary reasons, the Union should finance the expenditure incurred by Member States only where such expenditure is made by a certain eligibility date.
- (16) In order to ensure transparency, monitoring and proper administration of the amounts available to them, Member States should inform the Commission of the concrete measures to be taken, the criteria used to establish them, the rationale for distributing the aid across the different sectors, the measures taken to avoid distortion of competition in the markets concerned, the intended impact of the measures and the methods to check that it is achieved.
- (17) The difficulties to access inputs and the logistic problems derived from an abrupt stop of commercial shipments is an immediate market disturbance and consequently immediate action is necessary to efficiently and effectively address the situation.
- (18) In order to ensure that producers receive aid as soon as possible, Member States should be enabled to implement this Regulation without delay. Therefore, this Regulation should enter into force on the day following that of the publication in the *Official Journal of the European Union*. It should apply on condition that the transfer of EUR 350 000 000 from the reserve to the budget lines financing the necessary measure is made in accordance with Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council³; from the day of the publication in the *Official Journal of the European Union* of a communication of the Commission stating that the transfer has been made,

HAS ADOPTED THIS REGULATION:

Article 1

1. Union aid of a total amount of EUR 500 000 000 shall be available to Member States to provide exceptional adjustment aid to producers in the sectors listed in Article 1(2) of Regulation (EU) No 1308/2013 subject to the conditions set out in this Regulation.
2. Member States shall use the amounts available to them as set out in the Annex for measures referred to in paragraph 3 in sectors affected by market disturbance due to increased input costs or trade restrictions. The measures shall be taken on the basis of objective and non-discriminatory criteria that take account of the extent of the market disturbance in the different sectors, provided that the resulting payments do not cause distortion of competition.
3. The measures taken by the Member States shall contribute to food security or to address market imbalances and shall support farmers who engage in one or more of the following activities:
 - (a) circular economy;
 - (b) nutrient management;

³ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- (c) efficient use of resources;
 - (d) environmental and climate friendly production methods.
4. Member States shall ensure that, when farmers are not the direct beneficiaries of the payments of the Union aid, the economic benefit of the Union aid is passed on to them in full.
5. Member States' expenditure in relation to the payments for the measures referred to in paragraph 3 shall only be eligible for Union aid if those payments have been made by 30 September 2022.
6. In respect of Member States not having adopted the euro into their national currencies, the operative event for the exchange rate referred to in Article 106 of Regulation (EU) No 1306/2013 as regards the amounts set out in the Annex to this Regulation shall be the date of entry into force of this Regulation.
7. Measures under this Regulation may be cumulated with other support financed by the European Agricultural Guarantee Fund and the European Agricultural Fund for Rural Development.

Article 2

Member States may grant additional national aid for the measures taken under Article 1 up to a maximum of 200 % of the corresponding amount set out for each Member State in the Annex, on the basis of objective and non-discriminatory criteria, provided that the resulting payments do not cause distortion of competition.

Member States shall pay the additional support by 30 September 2022.

Article 3

Member States shall notify the Commission of the following:

- (a) without delay and no later than 30 June 2022:
 - (i) a description of the measures to be taken;
 - (ii) the criteria used to determine the methods for granting the aid and the rationale for distributing the aid across the different sectors;
 - (iii) the intended impact of the measures in view of food security and stabilising the market;
 - (iv) the actions taken to check that the intended impact is reached;
 - (v) the actions taken to avoid distortion of competition;
 - (vi) the level of additional support granted pursuant to Article 2;
- (b) no later than 15 May 2023, the total amounts paid per measure, when applicable, broken down by Union aid and additional national aid, the number and type of beneficiaries and the assessment of the effectiveness of the measure.

Article 4

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

This Regulation shall apply on condition that the transfer of EUR 350 000 000 from the reserve to the budget lines financing the necessary measure is made in accordance with I Regulation

(EU, Euratom) 2018/1046. It shall apply from the day of publication in the *Official Journal of the European Union* of a communication of the Commission stating that the transfer has been made.

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

Done at Brussels,

For the Commission
The President
Ursula von der Leyen