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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2200/96

of 28 October 1996

on the common organization of the market in fruit and vegetables

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

- (1) Whereas at the present time various changes are placing the fruit and vegetable sector in a new situation to which producers must adjust; whereas, accordingly, a reorientation of the basic rules of the market organization for the sector is warranted; whereas, in view of the numerous changes made to that market organization since it was first adopted, a new regulation should, for reasons of clarity, be adopted;
- (2) Whereas it is desirable to insert in that new regulation the main provisions of Council Regulation (EEC) No 3285/83 of 14 November 1983 laying down general rules for the extension of certain rules issued by producers' organizations in the fruit and vegetables sector⁽⁴⁾, of Council Regulation (EEC) No 1319/85 of 23 May 1985 on the reinforcement of supervision of the application of Community rules on fruit and vegetables⁽⁵⁾, of Council Regulation (EEC) No 2240/88 of 19 July 1988 fixing, for peaches, lemons and oranges, the rules for applying Article 16b of Regulation (EEC) No 1035/72 on the common organization of the

market in fruit and vegetables⁽⁶⁾, of Council Regulation (EEC) No 1121/89 of 27 April 1989 on the introduction of an intervention threshold for apples and cauliflowers⁽⁷⁾, and of Council Regulation (EEC) No 1198/90 of 7 May 1990 establishing a Community register of citrus cultivation⁽⁸⁾; whereas these Regulations should therefore be repealed;

- (3) Whereas classification using common obligatory standards for fruit and vegetables both marketed within the Community and exported to third countries provides a reference framework that encourages fair trading and market transparency and also eliminates products of unsatisfactory quality from the market; whereas compliance with these standards thus also helps to improve the profitability of production;
- (4) Whereas it would be desirable, for reasons of simplicity, to adopt standards for fruit and vegetables having a relatively large impact on the market which take account of the standards adopted by the United Nations Economic Commission for Europe (UN/ECE); whereas it is necessary to set the terms on which these international standards can be adjusted to the specific requirements of the Community;
- (5) Whereas standardization cannot be fully effective unless it is applied, subject to exemption, at all marketing stages and on departure from the production region; whereas exemption may, nevertheless, be provided for in the case of certain operations which either are very marginal and specific or take place at the start of the distribution chain, or in the case of products intended for processing; whereas account should also be taken of the possibility of shortages and of exceptionally plentiful supply; whereas in order to guarantee the

⁽¹⁾ OJ No C 52, 21. 2. 1996, p. 1.

⁽²⁾ OJ No C 96, 1. 4. 1996, p. 269.

⁽³⁾ OJ No C 82, 19. 3. 1996, p. 21.

⁽⁴⁾ OJ No L 325, 22. 11. 1983, p. 8. Regulation as last amended by Regulation (EEC) No 220/92 (OJ No L 24, 1. 2. 1992, p. 7).

⁽⁵⁾ OJ No L 137, 27. 5. 1985, p. 39. Regulation as amended by Regulation (EEC) No 404/93 (OJ No L 47, 25. 2. 1993, p. 1).

⁽⁶⁾ OJ No L 198, 26. 7. 1988, p. 9. Regulation as last amended by Regulation (EC) No 1327/95 (OJ No L 128, 13. 6. 1995, p. 8).

⁽⁷⁾ OJ No L 118, 29. 4. 1989, p. 21. Regulation as last amended by Regulation (EC) No 1327/95 (OJ No L 128, 13. 6. 1995, p. 8).

⁽⁸⁾ OJ No L 119, 11. 5. 1990, p. 59.

quality required by the standards, the holder of the product must be responsible for compliance, whereas in particular, consumer requirements as regards the characteristics of fruit and vegetables mean that the origin of products should be included in the labelling up to and including the final retail stage;

- (6) Whereas the production and marketing of fruit and vegetables should take full account of environmental concerns, including cultivation practices, the management of waste materials and the destruction of products withdrawn from the market, in particular as regards the protection of water quality, the maintenance of biodiversity and the upkeep of the countryside;
- (7) Whereas producer organizations are the basic elements in the common market organization, the decentralized operation of which they ensure at their level; whereas, in the face of ever greater concentration of demand, the grouping of supply through these organizations is more than ever an economic necessity in order to strengthen the position of producers in the market; whereas such grouping must be effected on a voluntary basis and must prove its utility by the scope and efficiency of the services offered by producer organizations to their members; whereas the delivery of products to specialist producer organizations existing before the entry into force of this Regulation is not brought into question;
- (8) Whereas a producer organization cannot be recognized by its Member State as able to contribute to achievement of the objectives of the common market organization unless its articles of association impose certain requirements on it and its members; whereas producer groups wishing to acquire the status of producer organizations in accordance with this Regulation should be allowed the benefit of a transitional period during which national and Community financial support can be given against certain commitments by the group;
- (9) Whereas a transitional period should be allowed to producer organizations already recognized under Regulation (EEC) No 1035/72⁽¹⁾ which cannot immediately meet the requirements of this Regulation for recognition; whereas such organizations must be able to show themselves able to make the necessary changes;
- (10) Whereas in order to give producer organizations greater responsibility for their financial decisions in

particular and to gear the public resources assigned to them towards future requirements, terms should be set for the use of these resources; whereas joint financing of operational funds set up by producer organizations presents itself as an appropriate solution;

- (11) Whereas the establishment and proper functioning of operational funds requires that producer organizations should take charge of the whole of the relevant fruit and vegetable production of their members;
- (12) Whereas in order to control Community expenditure, there should be a cap on assistance granted to producer organizations that establish operational funds;
- (13) Whereas in regions where the organization of production is weak the grant of additional, national, financial contributions should be allowed; whereas in the case of Member States which are at a particular disadvantage with regard to structures, those contributions should be reimbursable by the Community via the Community Support Framework;
- (14) Whereas, in order to further boost the impact of producer organizations and associations thereof and ensure the market as much stability as is desirable, Member States should be allowed on certain conditions to extend to non-member producers in their region the rules, particularly on production, marketing and environmental protection, adopted for its members by the organization or association for the region concerned; whereas, where proper justification is given, certain costs arising from this extension of the rules should be chargeable to the producers concerned since they will benefit from the extension;
- (15) Whereas interbranch organizations set up on the initiative of individual or already grouped operators can, if they account for a significant proportion of the members of the various occupational categories of the fruit and vegetable sector, contribute to behaviour taking closer account of market realities and facilitate a commercial approach that will improve production reporting, that is to say the organization of production, product presentation and marketing; whereas since the work of these organizations is able to contribute in general to attaining the objectives of Article 39 of the Treaty and in particular to those of this Regulation it should, once the relevant forms of action are defined, be possible to grant specific recognition to those organizations which provide proof of sufficient representativeness and carry out practical action in regard to the abovementioned objectives; whereas the provisions on extending the rules

⁽¹⁾ Regulation (EEC) No 1035/72 of the Council of 18 May 1972 on the common organization of the market in fruit and vegetables (OJ No L 118, 20. 5. 1972, p. 1). Regulation as last amended by Regulation (EC) No 1363/95 (OJ No L 132, 16. 6. 1995, p. 1).

- adopted by producer organizations and their associations and on sharing the costs resulting from such extension should, given the similarity of the objectives pursued, also apply to interbranch organizations;
- (16) Whereas to stabilize prices it is desirable that producer organizations should be able to intervene on the market, in particular by deciding not to put up for sale particular quantities at particular periods; whereas these withdrawal operations must not be regarded as an alternative outlet to the market itself; whereas Community financing of withdrawals should therefore be restricted to a set percentage of production and the Community compensation granted at a reduced level, though use of the operational funds for this purpose should be permitted; whereas for simplicity Community compensation should be at a single flat rate for each product; whereas, to achieve a comparable reduction for all products, certain differentiations are required;
- (17) Whereas intervention can be fully effective only if the products withdrawn from the market are not reintroduced into the normal marketing channel again; whereas various alternative uses to which they may be put should be specified so that their destruction is avoided wherever possible;
- (18) Whereas this new way of managing withdrawals will allow the provisions in force on the implications of threshold overruns to be repealed immediately; whereas it is, however, reasonable to retain the underlying principle of those provisions for a transitional period and to give the Commission authority to take action on the basis of that principle if the need arises;
- (19) Whereas by Regulation (EC) No 3290/94⁽¹⁾ the Council has adopted the adjustments and transitional arrangements required in the agricultural sector in order to implement the agreements concluded in the context of the Uruguay Round of multilateral trade negotiations, in particular the new trading arrangements with third countries in the fruit and vegetable sector; whereas the provisions in Annex XIII to Regulation (EC) No 3290/94 have been inserted in this Regulation; whereas, however, where products are imported into the Community for industrial processing, they are not sold on consignment; whereas verification of the entry price can therefore be made on other bases than a flat rate value; whereas the relevant provisions should therefore be supplemented in this regard;
- (20) Whereas the rules of the common market organization should be complied with by all operators to whom they apply, otherwise their impact will be distorted with all the resulting consequences in terms of both the use of public resources and the interplay of competition; whereas a special corps of Community inspectors should be set up for this sector; whereas for both budget reasons and effectiveness the corps should consist of Commission officials and possibly other staff; whereas it is also necessary to make provision for Community penalties in order to ensure that the new rules are uniformly applied throughout the Community;
- (21) Whereas one of the indispensable elements for the proper management of the common organization of the market is detailed knowledge of the market; whereas measures should therefore be provided for to this end;
- (22) Whereas the granting of certain aid would compromise the functioning of the single market; whereas, therefore, the provisions of the Treaty enabling aid granted by Member States to be examined and enabling aid which is incompatible with the common market to be prohibited, should be extended to cover the sector referred to in this Regulation;
- (23) Whereas the common organization of the market in that sector must take proper and simultaneous account of the objectives set out in Articles 39 and 110 of the Treaty;
- (24) Whereas, to facilitate the implementation of the provision of this Regulation, a procedure for close cooperation between the Member States and the Commission by means of a management committee should be set up;
- (25) Whereas in order to deal with a particularly unfavourable situation in the hazelnut sector, flat-rate aid should be granted for hazelnuts harvested in the 1997/1998, 1998/1999 and 1999/2000 marketing years,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation sets up a common organization of the market in fruit and vegetables.
2. The common organization shall cover the following products:

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 105. Regulation as amended by Regulation (EC) No 1193/96 (OJ No L 161, 29. 6. 1996, p. 1).

CN code	Description
0702 00	Tomatoes, fresh or chilled
0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled
0705	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium spp.</i>), fresh or chilled
0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled
0707 00	Cucumbers and gherkins, fresh or chilled
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
ex 0709	Other vegetables, fresh or chilled, excluding vegetables of subheadings 0709 60 91, 0709 60 95, 0709 60 99, 0709 90 31, 0709 90 39 and 0709 90 60
ex 0802	Other nuts, fresh or dried, whether or not shelled or peeled, excluding areca (or betel) and cola nuts of subheading 0802 90 30
0803 00 11	Fresh plantains
ex 0803 00 90	Dried plantains
0804 20 10	Figs, fresh
0804 30 00	Pineapples
0804 40	Avocados
0804 50 00	Guavas, mangos and mangosteens
0805	Citrus fruit, fresh or dried
0806 10 21	Fresh table grapes
0806 10 29	
0806 10 30	
0806 10 40	
0806 10 50	
0806 10 61	
0806 10 69	
0807	Melons (including watermelons) and pawpaws (papayas), fresh
0808	Apples, pears and quinces, fresh
0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
0810	Other fruit, fresh
0813 50 31	Mixtures exclusively or dried nuts of CN Nos 0801 and 0802
0813 50 39	
1212 10 10	Carobs

3. The marketing years for the products listed in paragraph 2 shall be determined, if necessary, in accordance with the procedure laid down in Article 46.

TITLE I

Classification of products

Article 2

1. Products to be delivered fresh to the consumer may be classified by reference to a set of standards.

2. The standards for fresh fruit and vegetables contained in Annex I shall be adopted, by the procedure laid down in Article 46, for implementing the common organization of the markets. To this end, account shall be taken of the UN/ECE standards recommended by the Economic Commission for Europe's Working Party on perishable product standardization and quality.

Until new standards are adopted, the standards drawn up pursuant to Article 2 of Regulation (EEC) No 1035/72 shall continue to apply.

3. The Commission acting in accordance with the procedure laid down in Article 46 may add other products to the list in Annex I.

Article 3

1. The holder of products covered by the quality standards adopted may not display such products or offer them for sale, or deliver or market them in any other manner within the Community than in conformity with those standards. The holder shall be responsible for observing such conformity.

However, Member States may exempt the following from the requirement of complying with the quality standards or with some of their provisions:

- (a) products displayed or offered for sale, sold, delivered or marketed in any other manner by the grower on wholesale markets, in particular on producer markets, situated in the production area;
- (b) products shipped from those wholesale markets to preparation and packaging stations and storage facilities situated in the same production area.

Where the second subparagraph is applied, the Member State concerned shall inform the Commission and shall notify it of the measures taken.

2. The following shall not be required to conform to the quality standards within a given production area:

- (a) products sold or delivered by the grower to preparation and packaging stations or storage

facilities, or shipped from his holding to such stations;

- (b) products shipped from storage facilities to preparation and packaging stations.

3. The following shall not be required to conform to the quality standards:

- (a) products shipped to processing plants, unless minimum quality criteria for products intended for industrial processing are set in accordance with the procedure laid down in Article 46;
- (b) products transferred by the producer on his holding to consumers for their personal use;
- (c) on a Commission Decision taken at the request of a Member State using the procedure referred to in Article 46 for products of a given region which are sold by the retail trade of the region for well-established traditional local consumption.

4. Evidence must be supplied that the products covered by paragraphs 2 and 3 (a) fulfil the conditions laid down, in particular with regard to their intended use.

Article 4

Where, following extreme shortage or exceptionally plentiful supply, the supply of products conforming to the quality standards is insufficient to meet or appreciably exceeds consumer demand, measures derogating from their application for a limited period shall be adopted in compliance with the Community's international obligations and in accordance with the procedure laid down in Article 46.

Article 5

1. The information particulars required by the quality standards must be shown legibly in an obvious position on one side of the packaging, either indelibly printed directly onto the package or on a label which is an integral part of or firmly affixed to the package.

2. For goods shipped in bulk and loaded directly onto a means of transport, the particulars referred to in paragraph 1 shall be given in a document accompanying the goods or shown on a notice placed in an obvious position inside the means of transport.

Article 6

At the retail stage, where products are packaged the information particulars required shall be legible and conspicuous.

For pre-packaged products within the meaning of Directive 79/112/EEC⁽¹⁾, the net weight shall be indicated, in addition to all the information provided for in the common quality standards. However, in the case of products normally sold by number, the requirement to indicate the net weight shall not apply if the number of items can be clearly seen and easily counted from the outside or, failing that, if the number is indicated on the label.

Products may be presented unpackaged, provided that the retailer displays with the goods offered for sale a card showing prominently and legibly the information particulars specified in the quality standards relating to:

- variety,
- origin of the product,
- class.

Article 7

To establish whether products covered by quality standards conform to the provisions of Articles 3 to 6, checks shall be made in accordance with Title VI by sampling at all marketing stages and during transport by the authorities appointed by each Member State.

These checks shall preferably be made prior to dispatch from production areas when the products are being packed or loaded.

Member States shall communicate to the other Member States and to the Commission the names of the authorities which they have appointed to be responsible for checking.

Article 8

1. Products covered by quality standards shall be accepted for importation from third countries only if they conform to the quality standards or to standards at least equivalent to them.

2. Articles 3 to 7 shall apply to products imported into the Community, after completion of the import formalities in accordance with current Community rules.

Article 9

1. Products covered by quality standards shall be accepted for export to third countries only if they conform to those standards.

⁽¹⁾ Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs (OJ No L 33, 8. 2. 1979, p. 1). Directive as last amended by the 1994 Act of Accession.

Derogations may, however, be granted in accordance with the procedure laid down in Article 45 to suit the requirements of the intended markets.

2. Products for export to third countries shall be subject to a Check for compliance with quality standards before they leave the customs territory of the Community.

Article 10

Measures to ensure uniform application of the provisions of this Title shall be adopted in accordance with the procedure laid down in Article 46.

For products intended to be imported into the Community, such measures may consist in approval of the official inspection authorities of the exporting third country.

TITLE II

Producer organizations

Article 11

1. For the purposes of this Regulation, 'producer organization' means any legal entity:

- (a) which is formed on the own initiative of growers of the following categories of product listed in Article 1 (2):
 - (i) fruit and vegetables
 - (ii) fruit
 - (iii) vegetables
 - (iv) products intended for processing
 - (v) citrus fruit
 - (vi) nuts
 - (vii) mushrooms;
- (b) which has in particular the aim of:
 - (1) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
 - (2) promoting concentration of supply and the placing on the market of the products produced by its members;
 - (3) reducing production costs and stabilizing producer prices;
 - (4) promoting the use of cultivation practices, production techniques and environmentally sound waste-management practices in particular to protect the quality of water, soil and landscape and preserve and/or encourage biodiversity;
- (c) the rules of association of which require its producer members, in particular, to:
 - (1) apply the rules adopted by the producer organization relating to production reporting,

production itself, marketing and protection of the environment;

- (2) belong to only one of the producer organizations referred to in point (a) in respect of a given holding's production of one of the categories of product listed in point (a);
- (3) market their entire production concerned through the producer organization.

However, where the producer organization so authorizes and in compliance with the terms and conditions it lays down, the producer members may:

- sell not more than 25 % of their production if they are members of fruit and vegetable producer organizations as referred to in point (a) (i) and not more than 20 % of their production if they are members of other types of producer organization directly on their holdings to consumers for their personal needs, and furthermore;
- market themselves or through another producer organization designated by their own organization, quantities of products which are marginal in relation to the volumes marketable by their organization;
- market through another producer organization designated by their own organization products which, because of their characteristics, are not normally covered by the commercial activities of the organization concerned;
- in accordance with the procedure laid down in Article 46 be authorized for certain products to conclude by way of derogation direct contracts with processing undertakings degressively and for a transitional period until 31 December 1999;

- (4) provide the information requested by the producer organization for statistical purposes, in particular on growing areas, quantities cropped, yields and direct sales;
 - (5) to pay the financial contributions provided for in its rules of association for the establishment and replenishment of the operational fund provided for in Article 15;
- (d) the rules of association of which provide for:
- (1) procedures for determining, adopting and amending the rules referred to in point (c) (1);
 - (2) the imposition on members of financial contributions needed to finance the producer organization;
 - (3) rules enabling the producer members democratically to scrutinize their organization and its decisions;

(4) penalties for infringement of obligations under the rules of association, particularly non-payment of financial contributions, or of the rules laid down by the producer organization;

(5) rules on the admission of new members, particularly a minimum membership period; and

(6) the accounting and budgetary rules necessary for the operation of the organization;

(e) which has been recognized by the Member State concerned pursuant to paragraph 2.

2. Member States shall recognize as producer organizations for the purposes of this Regulation all producer groups applying for such recognition, on condition that:

- (a) they meet the requirements laid down in paragraph 1 and provide the relevant evidence, including proof that they have a minimum number of members and cover a minimum volume of marketable production, to be determined in accordance with the procedure laid down in Article 45;
- (b) there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness;
- (c) they effectively enable their members to obtain technical assistance in using environmentally-sound cultivation practices;
- (d) they effectively provide their members with the technical means for storing, packaging and marketing their produce and ensure proper commercial and budgetary management of their activities.

3. Member States may also recognize as producer organizations for the purposes of this Regulation producer organizations other than those referred to in paragraph 1 (a) existing before the entry into force of this Regulation and recognized under Regulation No 1035/72 before the date of application of this Regulation.

Where pursuant to the previous subparagraph Member States recognize those producer organizations, the requirements laid down in paragraph 1, except for paragraph 1 (a), and, if appropriate, paragraph 1 (c) (2), and in paragraph 2 shall apply.

Article 12

1. Member States shall:

- (a) decide whether to grant recognition to a producer organization within three months of the lodging of an application with all supporting documents;

- (b) carry out checks at regular intervals to ascertain that producer organizations comply with the terms and conditions for recognition, impose in the event of non-compliance the penalties to apply to such organizations and decide, where necessary, to withdraw recognition;
- (c) notify the Commission, within two months, of every decision to grant, refuse or withdraw recognition.

2. The terms and conditions under which and the frequency with which the Member States are to report to the Commission on the activities of producer organizations shall be laid down in accordance with the procedure laid down in Article 46.

The Commission shall check that Articles 11 and paragraph (1) (b) of this Article are complied with by carrying out checks in accordance with Title VI and in the light of such checks shall, where appropriate, call on Member States to withdraw recognition.

Article 13

1. Producer organizations recognized under Regulation (EEC) No 1035/72 before the entry into force of this Regulation and which are unable to qualify for recognition under Article 11 of this Regulation without a transitional period may continue to operate under the provisions of Title IV for two years after its entry into force, provided that they remain in compliance with the requirements of the said Articles of Regulation (EEC) No 1035/72.

2. The period of two years referred to in paragraph 1 may be extended to five years provided that the producer organization concerned:

- (a) by a set date falling before the end of the two-year period referred to in paragraph 1, presents to the relevant Member State, which must either accept or reject it, a plan of action with a view to attaining recognition under Article 11 (2);
- (b) can show, when presenting its plan of action, that it has set up the operational fund referred to in Article 15;
- (c) undertakes, on pain of penalties to be determined by the Member State, to complete the implementation of its action plan before the end of the five-year period.

3. Producer organizations which no longer meet the conditions laid down in paragraph 2, whatever the reason and at whatever moment, shall lose their status as such on the terms set out in Article 12 (1) (b).

However, the first subparagraph shall apply without prejudice to any individual rights which the producer organization may have acquired in accordance with Regulation (EEC) No 1035/72.

Article 14

1. New producer organizations or those which have not been recognized under Regulation (EEC) No 1035/72 before the entry into force of this Regulation may be allowed a transitional period of no more than five years in which to meet the conditions for recognition laid down in Article 11.

In order to qualify, they shall present a phased recognition plan to the relevant Member State, acceptance of which shall signal the start of the five-year period referred to in the first subparagraph and shall constitute a preliminary recognition.

2. During the four years following the date of preliminary recognition, Member States may grant to the producer organizations referred to in paragraph 1:

- (a) aid to encourage their formation and facilitate their administrative operation;
- (b) aid, provided either directly or through credit institutions, in the form of special loans to cover part of the investments required to attain recognition and set out in the recognition plan referred to in the second subparagraph of paragraph 1.

3. The aid referred to in paragraph 2 shall be reimbursed by the Community in accordance with Article 51 (2) and (3).

4. Before granting preliminary recognition, Member States shall inform the Commission of their intentions and the financial implications thereof.

5. Presentation of a recognition plan by a producer organization to a Member State shall entail a commitment by the organization to submit to national and Community checks in accordance with Title VI, in particular with regard to proper management of public funds.

6. Member States shall impose the applicable penalties on producer organizations which do not fulfil their undertakings.

7. Detailed rules for application adopted under Article 48 for the implementation of this Article shall include provisions ensuring that aid paid to Portuguese producer organizations is not less, expressed as a percentage of the value of the marketed production of the producer organization, than that resulting from Regulation (EEC) No 746/93⁽¹⁾.

⁽¹⁾ Council Regulation (EEC) No 746/93 of 17 March 1993 on the granting of aid to encourage the formation and facilitate the operation of producer organizations as provided for in Regulations (EEC) No 1035/72 and (EEC) No 1360/78 in Portugal.

Article 15

1. Community financial assistance shall be granted on the terms set out in this Article to producer organizations setting up an operational fund.

This fund shall be maintained by financial contributions levied on member producers on the basis of the quantities or value of fruit and vegetables actually marketed and from the financial assistance referred to in the first subparagraph.

2. Operational funds as indicated in paragraph 1 shall be used to:

- (a) finance both market withdrawals and processing of citrus fruit on the terms set out in paragraph 3;
- (b) finance an operational programme submitted to the competent national authorities and approved by them under Article 16 (1).

Such funds may also be used in whole or in part to finance an action plan submitted by a producer organization as referred to in Article 13.

3. Use of the operational fund to finance market withdrawals and/or the processing of citrus fruit shall be permissible only if an operational programme has been approved by the competent national authorities. Financing shall take one or more of the following forms:

- (a) withdrawal compensation for products not listed in Annex II which comply with the standards in force if such standards have been laid down pursuant to Article 2;
- (b) a supplement to the Community withdrawal compensation.

Member States may set a maximum level for the compensation or supplement but the amount of the supplement thus fixed added to the amount of the Community withdrawal compensation may not exceed the maximum level of withdrawal prices applying in the 1995/1996 marketing year in accordance with Article 16 (3) (a), Article 16 (a), Article 16 (b) and the first indent of Article 18 (1) (a) of Regulation (EEC) No 1035/72.

The proportion of the operational fund which may be used to finance withdrawals may not exceed 60% in the first year, 55% in the second, 50% in the third, 45% in the fourth, 40% in the fifth and 30% from the sixth year onwards commencing from the date of approval by the competent national authorities of the first operational programme submitted by the producer organization and approved by them.

The limits laid down in Article 22 (3), (4) and (5) shall apply to the withdrawals referred to in point (a) of the first subparagraph of this paragraph.

4. Operational programmes as indicated in paragraph 2 (b) shall:

- (a) have several of the objectives referred to in Article 11 (1) (b) and others, including in particular: the improvement of product quality, boosting products' commercial value, promotion of the products targeted at consumers, creation of organic product lines, the promotion of integrated production or other methods of production respecting the environment and the reduction of withdrawals;
- (b) include action to develop the use of environmentally sound techniques by the producer members with regard to both cultivation practices and the management of waste materials.

'Environmentally sound techniques' shall mean, in particular, those which help to achieve the aims of Article (1) (a), (b) and (c) of Regulation (EEC) No 2078/92⁽¹⁾;
- (c) make financial provision for the technical and human resources required to ensure compliance with plant-health standards and rules, and maximum permitted levels of residues.

5. The financial assistance referred to in paragraph 1 shall be equal to the amount of the financial contributions indicated in that paragraph as actually paid but limited to 50% of the actual expenditure incurred under paragraph 2.

This percentage shall be 60% where an operational programme or part of an operational programme is submitted by:

- (a) either several Community producer organizations operating in different Member States on transnational schemes, except for operations as referred to in paragraph 2 (a);
- (b) or one or more producer organizations engaged in schemes operated on an interbranch basis.

However the financial assistance shall be capped at 4% of the value of the marketed production of each producer organization, provided that the total amount of financial assistance represents less than 2% of the total turnover of all producer organizations. In order to ensure that this limit is complied with, an advance payment of 2% shall be made and the remainder of the assistance shall be granted once the total amount of aid applications is known. From 1999 onwards the figure of 4% shall be

⁽¹⁾ Council Regulation (EEC) No 2078/92 of 30 June 1992 on agricultural production methods compatible with the requirements of the protection of the environment and the maintenance of the countryside (OJ No L 215, 30. 7. 1992, p. 85). Regulation as last amended by Commission Regulation (EC) No 2722/95 (OJ No L 288, 1. 12. 1995, p. 35).

raised to 4,5 % and the percentage of total turnover shall be raised from 2 % to 2,5 %.

6. In regions of the Community where the degree of organization of producers is particularly low, Member States may be authorized, upon duly substantiated request, to pay producer organizations national financial assistance equal to half the financial contributions of producers. This assistance shall be additional to the operational fund.

For Member States less than 15 % of whose fruit and vegetable production is marketed by producer organizations and whose fruit and vegetable production represents at least 15 % of their total agricultural output, the assistance referred to in the first subparagraph may be reimbursed by the Community at the request of the Member State concerned via the Community Support Framework.

Article 16

1. Operational programmes as referred to in Article 15 (2) (b) shall be submitted to the competent national authorities, who shall approve or reject them or request their modification in line with the provisions of this Regulation.

Member States shall establish a national framework for drawing up the general conditions relating to the measures referred to in Article 15 (4) (b). They shall submit their proposed framework to the Commission which may request modifications within three months if it finds that the proposal does not enable the aims set out in Article 130r of the Treaty and in the Community programme of policy and action in relation to the environment and sustainable development to be attained.

2. By the end of each year at the latest, producer organizations shall communicate to the Member State the estimated amount of the operational fund for the next year and shall submit appropriate reasons based on operational programme estimates, expenditure for the current year and possible for previous years and, if necessary, on estimated production quantities for the next year. The Member State shall, before 1 January of the following year, notify the producer organization of the estimated amount of financial assistance in line with the limits set out in Article 15 (5).

Financial assistance payments shall be made on the basis of expenditure incurred for the schemes covered by the operational programme. Advances may be made in respect of the same schemes subject to the provision of a guarantee or security.

At the beginning of each year and by 31 January at the latest, the producer-organization shall notify the Member State of the final amount of expenditure for the previous year, accompanied by the necessary supporting

documents, so that it may receive the balance of the Community financial assistance.

3. An association of producer organizations recognized by a Member State may replace its members for the purposes of managing their operational fund within the meaning of Article 15 (1) and for establishing, implementing and submitting operational programmes as referred to in Article 15 (2) (b). In such cases the association shall receive the financial assistance and make the notification referred to in paragraph 2 of this Article.

4. Operational programmes and their financing by producers and producer organizations on the one hand and by Community funds on the other shall have a minimum duration of three and a maximum duration of five years.

5. Submission of an operational programme to a Member State by a producer organization or, if the option indicated in paragraph 3 is taken up, an association of producer organizations, shall imply a commitment by the organization or association to submit to national and Community checks in accordance with Title VI, in particular as regards proper management of public resources.

Article 17

Should the general instruments of the common organization of the market prove inadequate or inappropriate with regard to the products listed in Article 1 (2) which are of major local or regional importance in economic or ecological terms and which face lasting difficulties on the Community market due, in particular, to strong international competition, specific measures to improve the competitiveness of these products and to promote them may be taken in accordance with the procedure laid down in Article 46.

Article 18

1. In cases where a producer organization or an association of producer organizations which have adopted the same rules, which operates in a specific economic area is considered, in respect of a specific product, to be representative of production and producers in that area, the Member State concerned may, at the request of the organization or association, make the following rules binding on producers established in the area who do not belong to one of the organizations referred to above:

- (a) the rules referred to in point (1) of Article 11 (1) (c),
- (b) the rules adopted by the organization or association relating to market withdrawals,

on condition that the rules:

- have been in force for at least one marketing year,
- are included in the exhaustive list in Annex III,
- are made binding for no more than three marketing years.

2. For the purposes of this Article, 'economic area' means a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous.

3. A producer organization or association of organizations shall be deemed representative within the meaning of paragraph 1 where its members account for at least two thirds of the producers in the economic area in which it operates and it covers at least two thirds of the production of that area.

4. The rules which are made binding on all producers in a specific economic area:

- (a) must not cause any harm to other producers in the Member State or in the Community;
- (b) shall not apply, unless they expressly cover them, to products delivered for processing under a contract signed before the beginning of the marketing year, with the exception of the rules on reporting production referred to in paragraph 1 (a);
- (c) must not clash with Community and national rules in force.

5. Member States shall notify the Commission forthwith of the rules which they have made binding on all producers in a specific economic area. These rules shall be published in the 'C' series of the Official Journal.

The Commission shall decide that a Member State must repeal an extension of the rules decided on by that Member State:

- (a) if it finds that the extension in question to other producers excludes competition in a substantial part of the internal market or jeopardizes free trade, or that the objectives of Article 39 of the Treaty are endangered;
- (b) if it finds that Article 85 (1) of the Treaty applies to the agreement, decision or concerted practice which it has been decided to extend to other producers. The Commission's decision with regard to that agreement, decision or concerted practice shall apply only from the date of such a finding;

- (c) where, following ex-post checks under Title VI, it finds that this Article has not been complied with.

6. Where paragraph 1 is applied, the Member State concerned may decide, on scrutiny of evidence presented, that non-member producers shall be liable to the organization, or where appropriate, the association, for the part of the financial contributions paid by the producer members, insofar as these are used to cover:

- (a) administrative costs resulting from applying the rules referred to in paragraph 1;
- (b) the cost of research, market studies and sales promotion undertaken by the organization or association and benefiting all producers in the area.

7. Member States shall notify a list of economic areas as referred to in paragraph 2 to the Commission. Within one month of notification, the Commission shall approve the list or shall, after consultation with the Member State concerned, decide on the amendments which the latter must make to it. The approved list shall be published in the 'C' series of the *Official Journal of the European Communities*.

TITLE III

Interbranch organizations and agreements

Article 19

1. For the purposes of this Regulation, 'recognized interbranch organizations', hereinafter referred to as 'interbranch organizations', means legal entities which:

- (a) are made up of representatives of economic activities linked to the production of and/or trade in and/or processing of the products referred to in Article 1 (2);
- (b) are established at the initiative of all or some of the organizations or associations which constitute them;
- (c) carry out several of the following measures in one or more regions of the Community, taking account of the interests of consumers:
 - improving knowledge and the transparency of production and the market,
 - helping to coordinate better the way fruit and vegetables are placed on the market, in particular by means of research and market studies,
 - drawing up standard forms of contract compatible with Community rules,
 - exploiting more fully the potential of the fruit and vegetables produced,

- providing the information and carrying out the research necessary to adjust production towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment,
 - seeking ways of restricting the use of plant-health products and other inputs and ensuring product quality and soil and water conservation,
 - developing methods and instruments for improving product quality,
 - exploiting the potential of and protecting organic farming as well as designations of origin, quality labels and geographical indications,
 - promoting integrated production or other environmentally sound production methods,
 - laying down rules, as regards the production and marketing rules set out in Annex III, which are stricter than Community or national rules.
- (d) have been recognized by the Member State concerned on the terms set out in paragraph 2.
2. If warranted by the Member State's structures, Member States may recognize as interbranch organizations within the meaning of this Regulation all organizations established on their territory which make an appropriate application, on condition that:
- (a) they carry out their activity in one or more regions in that territory;
 - (b) they represent a significant share of the production of and/or trade in and/or processing of fruit and vegetables and products processed from fruit and vegetables in the region or regions in question and, where more than one region is involved, they can demonstrate a minimum level of representativeness in each region for each of the branches that they group;
 - (c) they carry out several of the measures referred to in paragraph 1 (c);
 - (d) they are not themselves engaged in the production or processing or marketing of fruit and vegetables or products processed from fruit and vegetables;
 - (e) they do not carry out any of the activities referred to in Article 20 (3).
3. Before granting recognition Member States shall notify the Commission of the interbranch organizations which have applied for recognition, providing all relevant information about their representativeness and their various activities, together with all other information needed for an assessment.
- The Commission may object to recognition within a time limit of two months after notification.
4. Member States shall:
- (a) decide whether to grant recognition within three months of the lodging of an application with all relevant supporting documents;
 - (b) carry out checks at regular intervals to ascertain that interbranch organizations meet the terms and conditions for recognition, impose the applicable penalties to such organizations in the event of their failure to do so and, if necessary, decide to withdraw their recognition;
 - (c) withdraw recognition if:
 - (i) the terms and conditions for recognition laid down in this Regulation are no longer met;
 - (ii) the interbranch organization contravenes one or other of the prohibitions imposed in Article 20 (3), without prejudice to any other penalties otherwise incurred pursuant to national law;
 - (iii) the interbranch organizations fails to comply with the notification obligation referred to in Article 20 (2);
 - (d) notify the Commission, within two months, of any decision to grant, refuse or withdraw recognition.
5. The terms and conditions on which and the frequency with which the Member States are to report to the Commission on the activities of interbranch organizations shall be drawn up in accordance with the procedure laid down in Article 46.
- The Commission shall check that paragraphs 2 and 4 (b) are complied with by carrying out checks in accordance with Title VI and may, as a result of these checks, ask a Member State to withdraw recognition.
6. Recognition shall constitute an authorization to carry out the measures listed in point (c) of paragraph 1, consistent with the terms of this Regulation.
7. The Commission shall publish in the 'C' series of the *Official Journal of the European Communities* a list of the interbranch organizations recognized, indicating the economic sphere or the area of their activities and the activities carried out within the meaning of Article 21. Withdrawals of recognition shall also be published.

Article 20

1. Notwithstanding Article 1 of Regulation No 26⁽¹⁾, Article 85 (1) of the Treaty shall not apply to the

⁽¹⁾ Regulation No 26, applying certain rules of competition to production of and trade in agricultural products (OJ No 30, 20. 4. 1962, p. 993/62). Regulation as amended by Regulation No 49 (OJ No 53, 1. 7. 1962, p. 1571/62).

agreements, decisions and concerted practices of recognized interbranch organizations intended to implement the measures referred to in Article 19 (1) (c).

2. Paragraph 1 shall apply only provided that:

- the agreements, decisions and concerted practices have been notified to the Commission, and that
- within two months of receipt of all the details required the Commission has not found that the agreements, decisions or concerted practices are incompatible with Community rules.

The agreements, decisions and concerted practices may not be implemented until the period indicated in the second indent of the first subparagraph has elapsed.

3. Agreements, decisions and concerted practices which:

- may lead to the partitioning of markets in any form within the Community,
- may affect the sound operation of the market organization,
- may create distortions of competition which are not essential in achieving the objectives of the common agricultural policy pursued by the interbranch organization measure,
- entail the fixing of prices, without prejudice to measures taken by interbranch organizations in the application of specific provisions of Community rules,
- may create discrimination or eliminate competition in respect of a substantial proportion of the products in question, shall in any case be declared contrary to Community rules.

4. If, following expiry of the two-month period referred to in the second indent of the first subparagraph of paragraph 2, the Commission finds that the conditions for applying this Regulation have not been met, it shall take a decision declaring that Article 85 (1) of the Treaty applies to the agreement, decision or concerted practice in question.

That Commission decision shall not come into effect earlier than the date of notification to the interbranch organization concerned, unless that interbranch organization has given incorrect information or abused the exemption provided for in paragraph 1.

5. In the case of multiannual agreements, the prior notification for the first year shall be valid for the subsequent years of the agreement; however, in that event, the Commission may, on its own initiative or at

the request of another Member State, issue a finding of incompatibility at any time.

Article 21

1. In cases where an interbranch organization operating in a specific region or regions of a Member State is considered to be representative of the production of and/or trade in and/or processing of a given product, the Member State concerned may, at the request of the organization, make some of the agreements, decisions or concerted practices agreed on within that organization binding for a limited period on other operators operating in the region or regions in question, whether individuals or groups, who do not belong to the organization.

2. An interbranch organization shall be deemed representative within the meaning of paragraph 1 where it accounts for at least two thirds of the production and/or trade in and/or processing of the product or products concerned in the region or regions concerned of a Member State. Where the application for extension of its rules to other operators covers more than one region, the interbranch organization must demonstrate a minimum level of representativeness for each of the branches it groups in each of the regions concerned.

3. The rules for which extension to other operators may be requested:

(a) must concern one of the following aims:

- production and market reporting,
- stricter production rules than any laid down in Community or national rules,
- drawing up of standard contracts which are compatible with Community rules,
- rules on marketing,
- rules on protecting the environment,
- measures to promote and exploit the potential of products,
- measures to protect organic farming as well as designations of origin, quality labels and geographical indications.

The rules referred to in the second, fourth and fifth indents must not be other than those which appear in Annex III;

(b) must have been in force for at least one marketing year;

(c) may be made binding for no more than three marketing years;

(d) must not cause any harm to other operators in the Member State or the Community.

Article 22

1. Member States shall notify the Commission forthwith of the rules which they have made binding on all operators in one or more specific regions. Those rules shall be published in the 'C' series of the *Official Journal of the European Communities*.

Before that publication takes place, the Commission shall inform the Committee provided for in Article 45 of any notification of the extension of interbranch agreements.

The Commission shall decide that a Member State must repeal an extension of the rules decided on by that Member State in the cases referred to in the second subparagraph of Article 18 (5).

2. In cases where rules for one or more products are extended and where one or more of the activities referred to in Article 21 (3) (a) are pursued by a recognized interbranch organization and are in the general economic interest of those persons whose activities relate to one or more of the products concerned, the Member State which has granted recognition may decide that individuals or groups which are not members of the organization but which benefit from those activities shall pay the organization all or part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.

TITLE IV

Intervention arrangements*Article 23*

1. Producer organizations and their associations may choose not to put up for sale products listed in Article 1 (2) contributed by their members, both in quantities and for periods which they consider appropriate.

2. The destination of products withdrawn from the market under paragraph 1 must be fixed by the producer organization or association in such a way as not to disturb the normal disposal of the products in question and must respect the environment, particularly as regards water and landscape quality.

3. Where paragraph 1 is applied to any one of the products listed in Annex II which meet the relevant standards, producer organizations and their associations shall pay their producer members the Community withdrawal compensation fixed under Article 26, up to a ceiling of 10% of the marketed quantity.

The 10% limit set in the first subparagraph shall apply to the marketed quantity of each product of only the members of the producer organization concerned, or of

another organization in cases of application of Article 11 (1) (c), withdrawals under Article 24 excluded.

4. The 10% ceiling referred to in paragraph 3 shall apply from the sixth marketing year following the date of entry into force of this Regulation. Withdrawals carried out during the transitional period covering the five previous marketing years may not exceed the following percentages of marketed production as defined in accordance with the procedure laid down in Article 46: 50% in the first marketing year, 45% in the second, 40% in the third, 30% in the fourth and 20% in the fifth.

However, in the case of each citrus fruit these percentages shall be: 35% in the first marketing year, 30% in the second, 25% in the third, 20% in the fourth and 15% in the fifth.

The second subparagraph of paragraph 3 shall apply to this paragraph.

5. The figure of 10% referred to in paragraphs 3 and 4 shall be an annual average over a three-year period, with a 3% annual margin of overrun.

6. For apples and pears the ceiling of 10% referred to in paragraphs 3, 4 and 5 of this Article and in Article 24 shall be replaced by 8,5%.

For melons and water melons, the 10% ceiling shall apply as of the 1997/1998 marketing year.

Article 24

In connection with products listed in Annex II, producer organizations shall allow the benefits of Article 23 to growers who are not members of any of the collective structures provided for in this Regulation, if they so request. However, the Community withdrawal compensation shall be reduced by 10%. In addition, the amount paid shall take account, on scrutiny of the evidence, of the overall withdrawal costs borne by the members. The compensation may not be granted on a volume greater than 10% of the grower's marketed production.

Article 25

Producer organizations and their associations shall notify full details concerning the implementation of Articles 23 and 24, and in particular the measures taken to ensure environmentally sound practice in connection with withdrawals, to their competent national authorities, which shall forward the information to the Commission.

The information to be notified shall be determined, as necessary, in accordance with the procedure laid down in Article 46.

Member States shall establish a national framework for drawing up the general conditions relating to the

withdrawal methods which respect the environment. They shall submit their proposed framework to the Commission which may request modifications within three months if it finds that the proposal does not enable the aims set out in Article 130r of the Treaty and in the Community programme of policy and action in relation to the environment and sustainable development to be attained.

Article 26

1. The Community withdrawal compensation for each product is set out in Annex V.
2. The Community withdrawal compensation shall be a single amount valid throughout the Community.

Article 27

1. If the market in a product listed in Annex II is suffering or at risk of suffering from widespread structural imbalances giving or liable to give rise to too large a volume of the withdrawals referred to in Article 23, an intervention threshold shall be set before the beginning of the marketing year for that product in accordance with the procedure laid down in Article 46 and the consequences of any overrun, assessed for the product on the basis of withdrawals made during a marketing year or an equivalent period or of the average of the volume of intervention over several marketing years, shall be borne financially by the producers.

An overrun of the intervention threshold shall give rise to a reduction in the Community withdrawal compensation in the following marketing year. This reduction shall not be carried over to subsequent marketing years.

2. The following shall be determined in accordance with the procedure laid down in Article 46:

- (a) the implications for each product of an overrun of the threshold;
- (b) where necessary, the reduced Community withdrawal compensation and measures for the application of this Article.

3. This Article shall apply only during the first five marketing years following entry into force of this Regulation.

Article 28

1. Member States shall notify the Commission for each marketing day during each of the relevant marketing years of the prices recorded on their representative producer markets for certain products of defined commercial characteristics such as variety or type, class, size and packaging.

2. A list of these markets and products and the frequency with which data is to be communicated shall

be drawn up in accordance with the procedure laid down in Article 46.

Markets in Member States on which a substantial part of the national output of a given product is marketed throughout the marketing year or during one of the periods into which the year is divided shall be regarded as representative within the meaning of paragraph 1.

Article 29

1. Member States shall pay the Community withdrawal compensation fixed in Article 26 to producer organizations or their associations which have carried out withdrawals under the terms of Articles 23 and 24 and are required to pay the compensation to their members or to non-member growers.

Payments shall be made in a manner to be determined in accordance with the procedure laid down in Article 46.

2. The Community withdrawal compensation shall be paid without prejudice to any financial implications resulting from overrun of an intervention threshold.

The compensation shall, in addition, be reduced by the net receipts earned by producer organizations and their associations from the products withdrawn from the market.

3. Where producer organizations and their associations are unable to direct products to one of the destinations referred to in Article 30 (1), the Community withdrawal compensation shall be granted only if the products have a destination in accordance with the instructions issued by the Member State under the other provisions of Article 30.

Article 30

1. Products withdrawn from the market under Article 23 (1) which remain unsold shall be disposed of as follows:

- (a) all products:
 - free distribution to charitable organizations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognized in national law, in particular because they lack the necessary means of subsistence,
 - free distribution to penal institutions and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments,

- free distribution outside the Community, through charitable organizations approved to that effect by the Member States, to the populations of third countries in need,
- and, secondarily,
- use for non-food purposes,
 - use in animal feed, either fresh or after processing by the feedingstuffs industry;
- (b) fruit: free distribution to school children, other than as part of the meals served in school canteens, and to pupils in schools which do not have canteens providing meals,
- (c) apples, pears, peaches and nectarines: processing into alcohol of a strength of more than 80 % volume by direct distillation of the product,
- (d) all products: disposal of certain classes of product to the processing industry on condition that there is no resulting distortion of competition for the industries concerned within the Community or for imported products. The implementation of this provision shall be decided in accordance with the procedure laid down in Article 46.

2. In cases where none of the destinations referred to in paragraph 1 is possible, products withdrawn may be destined for composting or for biodegradation processes authorized by the Member State concerned.

3. The free distribution provided for in the first, second and third indents of point (a) of paragraph 1 and point (b) of paragraph 1 shall be organized by the producer organizations concerned, under the supervision of the Member States.

However, with regard to the free distribution of fruit to school children, the Commission may take the initiative of and responsibility for implementing local pilot projects within the framework of research and promotion measures.

4. Member States shall help to establish contacts between producer organizations and charitable organizations and other bodies which may be interested in using products withdrawn from the market within their territory, with a view to one of the forms of free distribution referred to in points (a) and (b) of paragraph 1.

5. The disposal of products to the feedingstuffs industry shall be carried out by the most appropriate procedure by an agency designated by the Member State concerned.

The distillation referred to in point (c) of paragraph 1 shall be carried out by distilleries either on their own account or on behalf of a body designated by the

Member State concerned. In both cases this body shall carry out the operations in question using the most appropriate procedure.

6. The Community shall defray, on terms and conditions to be determined in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70⁽¹⁾, transport costs in connection with free distribution as provided for in point (a) of paragraph 1 and sorting and packaging costs in connection with free distribution of apples and citrus fruit where the latter is staggered under contractual agreements concluded between producer organizations and charitable organizations or establishments referred to in paragraph 3.

7. Detailed rules for the application of this Article, and in particular those relating to free distribution and the disposal of products withdrawn, and those designed to avoid disruption of the alcohol market as a result of the distillation of products withdrawn, shall be adopted in accordance with the procedure laid down in Article 46.

TITLE V

Trade with third countries

Article 31

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (2) may be subject to presentation of an import or export licence.

Licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 36 and 37.

Import and export licences shall be valid throughout the Community. The issue of such licences may be subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of *force majeure*, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

2. The term of validity of import and export licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 46.

⁽¹⁾ Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy (OJ No L 94, 28. 4. 1970, p. 13). Regulation as last amended by Regulation (EC) No 1287/95 (OJ No L 125, 8. 6. 1995, p. 1).

Article 32

1. Save as otherwise provided for in this Regulation, the rates of duty in the common customs tariff shall apply to the products listed in Article 1 (2).

2. Should application of the common customs tariff duty rate depend on the entry price of the imported consignment, the veracity of this price shall be checked using a flat-rate import value calculated by the Commission, by product and by origin, on the basis of the weighted average of prices for the product on Member States' representative import markets or on other markets, where appropriate.

Specific provisions may, however, be adopted for verifying the entry price of products imported primarily for processing, in accordance with the procedure laid down in Article 46.

3. Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set in accordance with paragraph 5 which may not exceed the flat-rate value by more than 10%, the lodging of a security equal to the import duty determined on the basis of the flat-rate import value shall be required.

4. If the entry price of the consignment in question is not declared at the time of customs clearance, the common customs tariff duty rate applied shall depend on the flat-rate import value or be arrived at by application of the relevant customs legislation provisions under conditions to be determined in accordance with paragraph 5.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 46.

Article 33

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1 (2), imports of one or more of such products at the rate of duty laid down in the common customs tariff shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on agriculture⁽¹⁾ concluded in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled, unless the imports are unlikely to disturb the Community market, or the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those notified by the Community to the World Trade Organization.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined in

particular on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment concerned.

The cif import prices shall be verified for this purpose on the basis of representative prices for the product in question on the world market or on the Community import market for the product.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 46. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied under Article 5 of the Agreement on agriculture referred to in paragraph 1 of this Article;
- (b) the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the said Agreement on agriculture.

Article 34

1. Tariff quotas for the products listed in Article 1 (2) resulting from agreements concluded within the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted in accordance with the procedure laid down in Article 46.

2. Quotas may be administered by applying one of the following methods or a combination thereof:

- (a) a method based on the chronological order in which applications are lodged ('first come, first served' basis);
- (b) a method of allocating quotas in proportion to quantities requested when applications are lodged (using the 'simultaneous examination' method);
- (c) a method based on taking traditional trade flows into account (using the 'traditional importers/new arrivals' method).

Other appropriate methods may be adopted. They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, take account of the supply needs of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time drawing on methods applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to rights arising from agreements

⁽¹⁾ OJ No L 336, 23. 12. 1994, p. 22.

concluded in the framework of the Uruguay Round of trade negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, shall determine the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a), and
- (c) the conditions under which import licences are issued and their term of validity.

Article 35

1. To the extent necessary to enable economically significant quantities of the products listed in Article 1 (2) to be exported on the basis of the prices of these products in international trade but within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

2. The method to be adopted for allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allows the most efficient possible use of the resources available and takes due account of the efficiency and structure of Community exports, without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, administration requirements taken into account;
- (c) avoids any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

Where the international trade situation or the specific requirements of certain markets make this necessary, the refund for a given product may vary according to the destination of the product.

Refunds shall be fixed in accordance with the procedure laid down in Article 46. Refunds shall be fixed periodically.

Refunds fixed periodically may, where necessary, be adjusted in the interval by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and likely trends with regard to:
 - prices and availability of fruit and vegetables on the Community market,
 - prices for fruit and vegetables in international trade;
- (b) marketing costs and minimum transport charges from Community markets to ports and other Community export points, and forwarding costs to the country of destination;
- (c) the economic aspect of the proposed exports;
- (d) the limits resulting from agreements concluded in accordance with Article 228 of the Treaty.

5. The Community market prices referred to in paragraph 1 shall be determined using the prices which are most favourable from the exportation point of view.

The world market prices referred to in paragraph 1 shall be determined using:

- (a) prices recorded on third-country markets;
- (b) the most favourable prices in third countries for imports from other third countries;
- (c) producer prices recorded in exporting third countries;
- (d) free-at-Community-frontier offer prices.

6. Refunds shall be granted only on application and on presentation of the relevant export licence.

7. The refund shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence, or
- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 (2) on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 46.

9. The refund shall be paid upon proof that the products:

- have been exported from the Community,
- are of Community origin, and
- in the case of a differentiated refund, have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to point (b) of paragraph 7. Exceptions may be made to this rule in accordance with the procedure laid down in Article 46, provided conditions are laid down which offer equivalent guarantees.

10. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export licences issued for the reference periods provided for therein and applicable to the products concerned.

With regard to compliance with the obligations arising under the agreements concluded in the Uruguay Round trade negotiations, the ending of a reference period shall not affect the validity of export licences.

11. Detailed rules for the application of this Article, including provisions for the redistribution of unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 46.

Article 36

1. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited when importing the products listed in Article 1 (2) from third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

2. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the common customs tariff.

Article 37

1. Appropriate measures may be taken when trading with third countries if, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (2) is affected by, or is threatened with, serious disturbance likely to jeopardize achievement of the objectives set out in Article 39 of the Treaty.

Such measures may be applied only until, depending on the case, the disturbance or threat of disturbance has ceased or the quantities withdrawn or bought in have diminished appreciably.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt general rules for application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of these and they shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority confirm, amend or rescind the measure in question.

4. This Article shall be applied having regard to the obligations arising from international agreements concluded in accordance with Article 228 (2) of the Treaty.

TITLE VI

National and Community checks

Article 38

1. Member States shall take the necessary measures to ensure compliance with Community rules in the fruit and vegetable sector, particularly in the fields referred to in Annex IV.

2. Where it is appropriate to carry out checks by sampling, Member States shall ensure, by their nature and frequency and on the basis of risk analysis, that the checks are appropriate to the measure concerned both in terms of their territory as a whole and in terms of the volume of fruit and vegetable sector products marketed or held with a view to marketing.

The recipients of public funds must be systematically checked, without prejudice to the implementation of systematic checks in other fields.

3. The Commission and the Member States shall ensure that the competent authorities have a sufficient number of suitably qualified and experienced staff to carry out the checks effectively, particularly in the fields referred to in Annex IV.

Article 39

1. Without prejudice to the checks carried out by the national authorities pursuant to Article 38, the Commission may, in collaboration with the competent authorities of the Member State concerned, carry out or ask a Member State to carry out on-the-spot checks in order to ensure uniform application of Community rules in the fruit and vegetable sector, particularly in the fields referred to in Annex IV.

2. The Commission shall inform the relevant Member State in advance and in writing about the subject, purpose and location of the checks it envisages, the date on which they are to commence and the identity and status of its inspectors.

Article 40

1. In order to implement the provisions of Article 39, the Commission shall establish a special corps of inspectors in the fruit and vegetable sector consisting of Commission officials with suitable qualifications, technical knowledge and experience and possibly of staff appointed at the request of the Commission and with the agreement of the Member State concerned, from the staff referred to in Article 38 (3) to take part in specific enquiries.

2. The special corps of inspectors shall, under the Commission's direction, discharge the following tasks:

- (a) participate in the checks planned and carried out by the competent authorities of the Member States;
- (b) carry out the checks referred to in Article 39 at the Commission's initiative, in which the officials of the Member State are invited to participate;
- (c) assess the national verification arrangements set up, the procedures followed and the results obtained;
- (d) ascertain the measures, legislative and otherwise, taken by the competent authorities to improve compliance with Community rules in the fruit and vegetable sector;
- (e) develop collaboration and the exchange of information between the competent bodies of the Member States in order to contribute to the uniform application of the rules in the fruit and vegetable sector and facilitate free movement of the products of the sector.

3. With regard to the checks to be carried out under point (b) of paragraph 2, the Commission shall, in good time before the start of operations, inform the competent authority of the Member State on whose territory these operations are to take place.

4. The Commission shall itself determine the most appropriate places for its checks to be carried out and shall, in collaboration with the Member States concerned, establish the practical arrangements.

Article 41

1. The checks pursuant to Article 40 (2) (b) shall be carried out in accordance with Article 9 (2) of Regulation (EEC) No 729/70.

The Commission's inspectors shall, in the course of checks, adopt an attitude compatible with the rules and professional practices which officials of the Member State must follow. They shall observe professional confidentiality.

2. The Commission shall establish appropriate links with the competent authorities of the Member States in order to draw up control programmes jointly. Member States shall collaborate with the Commission to facilitate its accomplishment of this task.

3. The Commission shall communicate the results of the visits made by its inspectors to the competent authority of the Member State concerned as soon as possible. That communication shall record any difficulties encountered and infringements noted of the rules governing the market in fruit and vegetables.

4. The Member State concerned shall inform the Commission as soon as possible of the steps it has taken to put an end to the difficulties or infringements in question.

Article 42

Any irregularity which is noted during checks and may have a financial effect on the Guarantee Section of the EAGGF shall be dealt with in accordance with the provisions of Regulation (EEC) No 595/91⁽¹⁾. The Member State on whose territory the irregularity was noted must make the declaration provided for in Article 3 of this Regulation.

Any failure to comply in the application of Community rules by a Member State which is noted during

⁽¹⁾ Council Regulation (EEC) No 595/91 of 4 March 1991 concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy and the organization of an information system in this field (OJ No L 67, 14. 3. 1991, p. 11).

Commission checks and may have a financial effect on the Guarantee Section of the EAGGF shall be dealt with in accordance with the provisions of Article 5 (2) (c) of Regulation (EEC) No 729/70.

TITLE VII

General provisions

Article 43

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the production of and trade in the products referred to in Article 1 (2).

Article 44

1. Member States and the Commission shall communicate to each other the information necessary for applying this Regulation. The data to be communicated shall be determined in accordance with the procedure laid down in Article 45. Rules for the communication and distribution of such information shall be adopted in accordance with the same procedure.

2. The data referred to in paragraph 1 shall include at least information on cultivated areas and quantities harvested, marketed or not put up for sale under Article 23.

This information shall be collected by:

— producer organizations in the case of their members, without prejudice to Articles 11 and 19,

— the relevant services of the Member States in the case of producers who do not belong to any of the collective structures provided for in this Regulation. The Member State in question may entrust this task in whole or in part to one or more producer organizations.

3. Member States shall take all measures necessary to ensure the collection of the data referred to in paragraph 2, their accuracy, their statistical processing and their regular communication to the Commission. They shall provide for penalties in cases of unjustified delays or systematic negligence in the proper performance of the tasks in question. They shall inform the Commission of those measures.

4. The Commission shall regularly communicate to the Member States by the most appropriate means the data referred to in paragraph 1 and the conclusions which it draws from such data. The rules for application shall be adopted in accordance with the procedure laid down in Article 46.

Article 45

A management committee for fresh fruit and vegetables, hereinafter referred to as 'the Committee', shall be set up, consisting of representatives of the Member States and chaired by a representative of the Commission.

Article 46

1. Where reference is made to the procedure laid down in this Article, the chairman shall refer the matter to the Committee either on his/her own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt measures which shall apply immediately.

(b) However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 47

The Committee may consider any other question referred to it by its chairman either on his/her own initiative or at the request of the representative of a Member State.

Article 48

The detailed rules for the application of this Regulation, including financial or non-financial administrative penalties, shall be adopted in the light of the specific requirements of the sector in accordance with the procedure laid down in Article 46.

Article 49

This Regulation shall be so applied that appropriate account is simultaneously taken of the objectives set out in Articles 39 and 110 of the Treaty.

Article 50

Member States shall take all appropriate measures to penalize infringements of the provisions of this Regulation and to forestall and bring to an end any fraud.

Article 51

The laws, regulations and administrative provisions adopted by Member States for the application or in application of this Regulation shall be communicated to the Commission no later than one month after their adoption. The same shall apply to any modification of the said provisions.

Article 52

1. Expenditure relating to the payment of the Community withdrawal compensation and to Community financing of the operational fund, the specific measures referred to in Article 17 and Articles 53, 54 and 55 and checks by experts of the Member States made available to the Commission in application of Article 40 (1) shall be deemed to be intervention to stabilize the agricultural markets within the meaning of point (b) of Article 1 (2) of Regulation (EEC) No 729/70.

2. The aid granted by the Member States in accordance with Article 14 and the second subparagraph of Article 15 (6) shall be considered a common measure within the meaning of Article 2 (1) of Regulation (EEC) No 4256/88⁽¹⁾. It shall be covered by the annual expenditure forecasts referred to in Article 31 (1) of Regulation (EEC) No 2328/91⁽²⁾.

Article 1 (3) of Regulation (EEC) No 2328/91 shall apply to the aid provided for in this paragraph.

Aid shall be paid in accordance with Article 21 of Regulation (EEC) No 4253/88. However, payment of the balance or reimbursement shall, in addition to the requirements specified in paragraph 4 of that Article, be based on:

- (a) a declaration of expenditure incurred by the Member States during the calendar year, and
- (b) a report on the application of the measures during the calendar year concerned, drawn up in accordance with Article 25 (4) of that Regulation,

⁽¹⁾ Council Regulation (EEC) No 4256/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section (OJ No L 374, 31. 12. 1988, p. 25). Regulation as amended by Regulation (EEC) No 2085/93 (OJ No L 193, 31. 7. 1993, p. 44).

⁽²⁾ Council Regulation (EEC) No 2328/91 of 15 July 1991 on improving the efficiency of agricultural structures (OJ No L 218, 6. 8. 1991, p. 1). Regulation as last amended by Commission Regulation No 2387/95 (OJ No L 244, 12. 10. 1995, p. 50).

to be presented to the Commission before 1 July of the following year.

3. The Commission shall adopt rules for the application of paragraph 2 of this Article after consulting the committee referred to in Article 29 of Regulation (EEC) No 4253/88⁽³⁾.

4. The provisions of Title VI shall apply without prejudice to the application of Regulation (EEC) No 4045/89⁽⁴⁾.

Article 53

Any rights acquired by producer organizations before the entry into force of this Regulation in application of Article 14 and Title IIa of Regulation (EEC) No 1035/72 shall be maintained until exhausted.

Article 54

1. The Community shall contribute 50% of the financing of measures to develop and improve the consumption and use in the Community of nuts.

2. The aim of the measures referred to in paragraph 1 shall be to:

- encourage product quality, in particular by carrying out market studies and seeking new uses, including ways of adapting production accordingly,
- develop new methods of packaging,
- disseminate marketing advice to the various economic operators in the sector,
- organize and participate in fairs and other trade events.

3. The Commission shall, following the procedure in Article 46, specify the measures referred to in paragraph 2 or define new measures.

⁽³⁾ Council Regulation (EEC) No 4253/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards coordination of the activities of the different Structural Funds between themselves and with the operations of the European Investment Bank and the other existing financial instruments (OJ No L 374, 31. 12. 1988, p. 1). Regulation as last amended by Regulation (EC) No 3193/94 (OJ No L 337, 24. 12. 1994, p. 11).

⁽⁴⁾ Council Regulation (EEC) No 4045/89 of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (OJ No L 388, 30. 12. 1989, p. 18). Regulation as last amended by Regulation (EC) No 3235/94 (OJ No L 338, 28. 12. 1994, p. 16).

Article 55

For hazelnuts harvested during the 1997/1998, 1998/1999 and 1999/2000 marketing years, aid of ECU 15/100 kg shall be granted to producer organizations, recognized pursuant to Regulation (EEC) No 1035/72 or to this Regulation, which implement a quality improvement plan within the meaning of Article 14d of Regulation (EEC) No 1035/72 or an operational plan within the meaning of this plan in 1997.

Article 56

By 31 December 2000 the Commission shall send the Council a report on the operation of this Regulation, accompanied by any proposals that may be required.

Article 57

If measures are needed to facilitate the transition from the previous arrangements to those established by this

Regulation, such measures shall be adopted in accordance with the procedure laid down in Article 46.

Article 58

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

It shall apply from 1 January 1997. However, Title IV shall apply only, for each of the products referred to in Annex I, from the beginning of the 1997/1998 marketing year.

2. Regulations (EEC) No 1035/72, (EEC) No 3285/83, (EEC) No 1319/85, (EEC) No 2240/88, (EEC) No 1121/89 and (EEC) No 1198/90 are hereby repealed as from the date of application of the corresponding provisions of this Regulation.

References to the repealed Regulations shall be understood as references to this Regulation and are to be read in conjunction with the correlation tables in Annex VI.

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

Done at Luxembourg, 28 October 1996.

For the Council
The President
I. YATES

ANNEX I

Products which are to be supplied fresh to the consumer and are subject to standards

Almonds	Hazelnuts
Apples and pears	Kiwis
Apricots	Leeks
Artichokes	Lettuce, curly and escarole chicory
Asparagus	Melons
Aubergines	Onions
Avocados	Peaches and nectarines
Beans	Peas for shelling
Brussels sprouts	Plums
Cabbage	Spinach
Carrots	Strawberries
Cauliflowers	Sweet peppers
Celery	Table grapes
Cherries	Tomatoes
Citrus fruit	Walnuts
Courgettes	Water melons
Cucumbers	Witloof chicory
Garlic	

ANNEX II

List of products eligible for Community withdrawal compensation under Article 23 (3)

Cauliflowers
Tomatoes
Aubergines
Apricots
Peaches
Nectarines
Lemons
Pears (other than perry pears)
Table grapes
Apples (other than cider apples)
Satsumas
Mandarins
Clementines
Oranges
Melons
Water melons

ANNEX III

**Exhaustive list of rules applied by producer organizations that may be extended to non-member producers
Article 18 (1)**1. *Rules on production information*

- (a) notification of growing intentions, by product and where appropriate variety;
- (b) notification of sowings and plantings;
- (c) notification of total areas grown, by product and if possible variety;
- (d) notification of anticipated tonnages and probable cropping dates by product and if possible variety;
- (e) periodic notification of quantities cropped and available stocks, by variety;
- (f) information on storage capacities.

2. *Production rules*

- (a) choice of seed to be used according to intended destination (fresh market/industrial processing);
- (b) thinning in orchards.

3. *Marketing rules*

- (a) specified dates for commencement of cropping, staggering of marketing;
- (b) minimum quality and size requirements;
- (c) preparation, presentation, packaging and marking at first marketing stage;
- (d) indication of product origin.

4. *Rules on the protection of the environment*

- (a) use of fertilizer and manure;
- (b) use of plant-health products and other crop protection methods;
- (c) maximum residue content in fruit and vegetables of plant-health products and fertilizers;
- (d) rules on disposal of by-products and used material;
- (e) rules on destruction of products withdrawn from the market.

5. *Withdrawals*

- rules adopted under Article 23 in accordance with the terms of Article 25.

ANNEX IV

Non-exhaustive list of matters that may be covered by national and Community inspection

Conformity with product standards (Articles 7 and 8)

Compliance with terms of recognition of producer organizations (Article 12)

Implementation of action plan (Article 13)

Implementation of recognition plan and utilization of aid (Article 14)

Management of operational fund and implementation of operational programme (in particular close scrutiny of use of public funds) (Article 15)

Compliance with terms governing the extension of rules to non-producers (Article 18)

Compliance with terms governing interbranch organizations and agreements and extension of rules (Articles 19, 20 and 21)

Withdrawal operations (Articles 23 *et seq.*)

Proper payment of Community withdrawal compensation (Article 29)

Disposal of products withdrawn from market (Article 30)

Application of rules on trade with third countries (Articles 31 *et seq.*).

ANNEX V

Community withdrawal compensation

(ECU/100 kg)

Marketing years	1997/1998	1998/1999	1999/2000	2000/2001	2001/2002	As from 2002
Cauliflowers	9,34	8,88	8,41	7,94	7,48	7,01
Tomatoes	6,44	6,12	5,80	5,47	5,15	4,83
Apples	10,69	10,32	9,94	9,56	9,18	8,81
Grapes	10,69	10,15	9,62	9,08	8,55	8,02
Apricots	18,90	17,95	17,01	16,06	15,12	14,17
Nectarines	17,39	16,52	15,65	14,78	13,91	13,04
Peaches	14,65	13,92	13,18	12,45	11,72	10,99
Pears	10,18	9,82	9,46	9,10	8,75	8,39
Aubergines	5,29	5,02	4,76	4,49	4,23	3,97
Melons	4,00	4,00	4,00	4,00	4,00	4,00
Water melons	4,00	4,00	4,00	4,00	4,00	4,00
Oranges	14,33	14,26	14,20	14,13	14,07	14,00
Mandarins	16,15	15,52	14,89	14,26	13,63	13,00
Clementines	12,74	12,79	12,84	12,90	12,95	13,00
Satsumas	10,49	10,99	11,49	12,00	12,50	13,00
Lemons	13,37	13,30	13,22	13,15	13,07	13,00

ANNEX VI

Correlation table

Regulation (EEC) No 1035/75	This Regulation	Regulation (EEC) No 1035/75	This Regulation
Article 1	Article 1	Article 17	Article 28
Article 2	Article 2	Article 18	Article 29
Article 3	Article 3	Article 18a	Article 24
Article 4	—	Article 19	—
Article 5	Article 4	Article 19a	—
Article 6	Article 5	Article 19b	—
Article 7	Article 6	Article 19c	—
Article 8	Article 7	Article 20	—
Articles 9 and 11	Article 8	Article 21	Article 30
Article 10	Article 10	Article 22	Article 31
Article 12	Article 9	Article 23	Article 32
Article 13	Article 11	Article 24	Article 33
Article 13a	—	Article 25	Article 34
Article 13b	—	Article 26	Article 35
Article 14	Article 14	Article 27	Article 36
Article 14a	—	Article 31	Article 43
Article 14b	—	Article 32	Article 45
Article 14c	—	Article 33	Article 46
Article 14d	—	Article 34	Article 47
Article 14e	Article 54	Article 35	—
Article 14f	—	Article 36	Article 52
Article 14g	—	Article 36a	Article 52
Article 15	Article 23	Article 37	Article 49
Article 15a	—	Article 38	Article 44
Article 15b	Article 18	Article 40	—
Article 16	—	Article 41	Article 58
Article 16a	—	Article 42	Article 58
Article 16b	Article 27		

COUNCIL REGULATION (EC) No 2201/96

of 28 October 1996

on the common organization of the markets in processed fruit and vegetable products

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

- (1) Whereas various changes are taking place in the fruit and vegetable sector in general of which the Community must take account by a reorientation of the basic rules of the market organization of this sector; whereas as regards certain processed products, account should also be taken of the international market situation; whereas, in view of the numerous changes to which the common organization of the market in fruit and vegetables has been subject since its initial adoption, a new Regulation should, for reasons of clarity, be adopted;
- (2) Whereas certain processed products are of particular importance in the Mediterranean regions of the Community where production prices are noticeably higher than those in third countries; whereas the production aid system based on the signing of contracts guaranteeing regular supplies for the industry in return for the payment of a minimum price to producers, as applied in the past, has stood the test of time and should be continued; whereas, however, like for fresh products, the role of producers' organizations should be strengthened in order to guarantee greater concentration of supply, to manage supply more rationally and lastly, to facilitate monitoring of compliance with the minimum price to producers;
- (3) Whereas, because of the link which exists between the prices of products intended for fresh consumption and of those intended for processing, it should be enacted that the minimum price to the

producer must be determined taking account of market price fluctuations in the fruit and vegetable sector and of the need to maintain a proper balance between the various outlets for the fresh product;

- (4) Whereas the amount of aid must compensate for the difference between the prices paid to producers in the Community and prices paid in third countries; whereas, therefore, a basis of calculation must be laid down which takes account of this difference and of the impact of changes in the minimum price, without prejudice to the application of certain technical elements;
- (5) Whereas, because of the large availability of raw materials and the elasticity of processing capacity, the granting of production aid may in certain cases lead to a considerable expansion of production; whereas, in order to avoid the disposal difficulties which could result from this, limitations should be set on the granting of aid, either in the form of a guarantee threshold or a quota system, according to product;
- (6) Whereas, in view of past experience with regard to tomato-based processed products, a flexible system should be adopted, aimed at increasing the dynamism of undertakings and the competitiveness of Community industry; whereas the quotas per group of products and Member State must be fixed on a flat-rate basis for the first two years of implementation of the new system; whereas the amount of aid for concentrates and their derivatives must be lowered to offset the increased expenditure resulting from the increase in quotas for tomato concentrate and the other products in relation to the old system;
- (7) Whereas the dried grape sector has some special features which have led to the implementation of a specialized acreage aid system; whereas this system, together with the guaranteed maximum acreage system aimed at avoiding a disproportionate extension of the growing of grapes for the production of dried grapes, must be kept as in the past in the same Regulation;
- (8) Whereas replanting schemes to combat phylloxera are continuing; whereas, in order to avoid this operation ceasing while large areas still remain to be replanted, the system of aid to producers who replant their vineyards to combat phylloxera should be continued;

⁽¹⁾ OJ No C 52, 21. 2. 1996, p. 23.

⁽²⁾ OJ No C 96, 1. 4. 1996, p. 276.

⁽³⁾ OJ No C 82, 19. 3. 1996, p. 30.

- (9) Whereas, to facilitate the disposal of processed products and better adapt their quality to market demands, the possibility of laying down standards should be provided for;
- (10) Whereas, for the dried grape and dried fig sectors, the carryover storage system, limited to a certain quantity of dried grapes, must be maintained without prejudice to certain adjustments; whereas purchase price levels should be determined for these two products taking account of the specific features of each of them;
- (11) Whereas the possibility should be provided of implementing specific measures in favour of certain sectors facing international competition, where their production has major local or regional importance; whereas such measures must include structural improvements aimed at increasing competitiveness and promoting the use of the products in question; whereas for a transitional period provision should be made for aid in a lump sum for area on which asparagus intended for processing is currently grown, given the state of the sector;
- (12) Whereas in Regulation (EC) No 3290/94⁽¹⁾ the Council adopted the adjustments and transitional arrangements required in the agricultural sector in order to implement the agreements concluded in the context of the Uruguay Round of multilateral trade negotiations, in particular the new trading arrangements with third countries in the processed fruit and vegetable products sector; whereas the provisions of Annex XIV to Regulation (EC) No 3290/94 should be inserted in this Regulation; whereas, however, for the sake of simplicity, recourse should be had to the Commission's exercise of its powers for the implementation of certain technical provisions relating to possible sugar shortages;
- (13) Whereas the granting of certain aid would compromise the functioning of the single market;
- whereas, therefore, the provisions of the Treaty whereby aid granted by Member States may be examined and aid which is incompatible with the common market may be prohibited should be extended to cover the sector referred to in this Regulation;
- (14) Whereas Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables⁽²⁾ should be applied to the processed fruit and vegetable products sector in order to avoid duplication of standards and monitoring bodies; whereas it is necessary also to provide for sanctions to guarantee uniform application of the new system throughout the Community;
- (15) Whereas the common organization of the markets in processed fruit and vegetable products must take proper and simultaneous account of the objectives set out in Articles 39 and 110 of the Treaty;
- (16) Whereas, to facilitate the implementation of the provisions of this Regulation, a procedure for close cooperation between the Member States and the Commission by means of a management committee should be set up,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall set up a common organization of the markets in processed fruit and vegetables.
2. That common organization shall cover the following products:

CN code	Description
(a) ex 0710	Vegetables (uncooked or cooked by steaming or boiling in water) frozen, excluding sweet corn of subheading 0710 40 00, olives of subheading 0710 80 10 and fruits of the genus <i>Capsicum</i> or the genus <i>Pimenta</i> of subheading 0710 80 59
ex 0711	Vegetables provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption, excluding olives of subheading 0711 20, fruits of the genus <i>Capsicum</i> or of the genus <i>Pimenta</i> of subheading 0711 90 10 and sweet corn of subheading 0711 90 30

⁽¹⁾ OJ No L 349, 31. 12. 1994, p. 105. Regulation as last amended by Regulation (EC) No 1193/96 (OJ No L 161, 29. 6. 1996, p. 1).

⁽²⁾ See page 1 of this Official Journal.

CN code	Description
ex 0712	Dried vegetables, whole, cut, sliced, broken or in powder, but not further prepared, excluding potatoes dehydrated by artificial heat-drying and unfit for human consumption falling within subheading ex 0712 90 05, sweet corn falling within the subheadings ex 0712 90 11 and 0712 90 19 and olives falling within subheading ex 0712 90 90
0804 20 90	Dried figs
0806 20	Dried grapes
ex 0811	Fruit and nuts, uncooked or cooked by boiling or steaming in water, frozen, not containing added sugar or other sweetening matter, excluding frozen bananas falling within subheading ex 0811 90 95
ex 0812	Fruit and nuts, provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption, excluding bananas provisionally preserved falling within subheading ex 0812 90 95
ex 0813	Fruit, dried, other than that of heading Nos 0801 to 0806; mixtures of nuts or dried fruits of this chapter excluding mixtures exclusively of nuts of heading Nos 0801 and 0802 falling within subheadings 0813 50 31 and 0813 50 39
0814 00 00	Peel of citrus fruit or melons (including watermelons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions
0904 20 10	Dried sweet peppers, neither crushed nor ground
(b) ex 0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, containing added sugar or other sweetening matter
1302 20	Pectic substances and pectinates
ex 2001	Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid, excluding: <ul style="list-style-type: none"> — Fruit of the genus <i>Capsicum</i> other than sweet peppers or pimentos of subheading 2001 90 20 — Sweet corn (<i>Zea mays var. saccharata</i>) of subheading 2001 90 30 — Yams, sweet potatoes and similar edible parts of plants containing 5 % or more by weight of starch of subheading 2001 90 40, and — Palm hearts of subheading 2001 90 60 — Olives of subheading 2001 90 65 — Vine leaves, hop shoots and other similar edible parts of plants falling within subheading ex 2001 90 96
2002	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid
2003	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid
ex 2004	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than the products of No 2006, excluding sweet corn (<i>Zea mays var. saccharata</i>) of subheading ex 2004 90 10, olives of subheading ex 2004 90 30 and potatoes prepared or preserved in the form of flour, meal or flakes of subheading 2004 10 91
ex 2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than the products of No 2006, excluding olives of subheading 2005 70, sweet corn (<i>Zea mays var. saccharata</i>) of subheading 2005 80 00 and fruit of the genus <i>Capsicum</i> other than sweet peppers or pimentos of subheading 2005 90 10 and potatoes prepared or preserved in the form of flour, meal or flakes of subheading 2005 20 10

CN code	Description
ex 2006 00	Fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized), excluding bananas preserved by sugar falling within headings ex 2006 00 38 and ex 2006 00 99
ex 2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter, excluding: <ul style="list-style-type: none"> — Homogenized preparations of bananas of subheading ex 2007 10 — Jams, jellies, marmalades, purée or pastes of bananas of subheadings ex 2007 99 39, ex 2007 99 58 and ex 2007 99 98
ex 2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included, excluding: <ul style="list-style-type: none"> — Peanut butter of subheading 2008 11 10 — Palm hearts of subheading 2008 91 00 — Maize of subheading 2008 99 85 — Yams, sweet potatoes and similar edible parts of plants, containing 5 % or more by weight of starch of subheading 2008 99 91, and — Vine leaves, hop shoots, and other similar edible parts of plants falling within subheading ex 2008 99 99 — Mixtures of banana otherwise prepared or preserved of subheadings ex 2008 92 59, ex 2008 92 78, ex 2008 92 93 and ex 2008 92 98 — Bananas otherwise prepared or preserved of subheadings ex 2008 99 49, ex 2008 99 68 and ex 2008 99 99
ex 2009	Fruit juices (excluding grape juice and grape must of subheading 2009 60 and banana juice of subheading 2009 80) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.

3. The marketing years for the products referred to in paragraph 2 shall be fixed, if necessary, in accordance with the procedure laid down in Article 29.

less than the minimum price under contracts between, on the one side, producer organizations recognized or provisionally authorized under Regulation (EC) No 2200/96, and processors on the other.

TITLE I

System of aid

However, during the five marketing years following the application of this Regulation, contracts may also be between processors and individual producers, for a quantity not exceeding, for each year respectively, 75 %, 65 %, 55 %, 40 % and 25 % of the quantity giving entitlement to production aid.

Article 2

1. A system of production aid shall apply to the products listed in Annex I obtained from fruit and vegetables harvested in the Community.

The producer organizations shall extend the benefit of the provisions of this Article to operators not affiliated to any of the collective structures provided for in Regulation (EC) No 2200/96, who undertake to market through such structures all their output intended for the manufacture of the products referred to in Annex I and who pay a contribution towards the overall management costs of this system borne by the organization.

2. Production aid shall be granted to processors who have paid producers for their raw materials a price not

Contracts must be signed before the start of the marketing year.

Article 3

1. The minimum price to be paid to producers shall be calculated on the basis of:
 - (a) the minimum price applying during the previous marketing year;
 - (b) the movement of market prices in the fruit and vegetables sector;
 - (c) the need to ensure normal market disposal of basic fresh products for the various uses, including supply to the processing industry.
2. Minimum prices shall be fixed before the start of each marketing year.
3. Minimum prices and detailed rules for the application of this Article shall be adopted in accordance with the procedure provided for in Article 29.

Article 4

1. The production aid may not exceed the difference between the minimum price paid to the producer in the Community and the price of the raw material in the main producing and exporting third countries.
2. The amount of production aid shall be so fixed as to enable the Community product to be disposed of within the limit set in paragraph 1. In establishing the amount of the aid, without prejudice to the application of Article 5, account shall be taken in particular of:
 - (a) the difference between the price of the raw material in the Community and that obtaining in the major competing third countries;
 - (b) the amount of the aid fixed or calculated before the reduction provided for in paragraph 10, if applicable, for the previous marketing year; and
 - (c) where Community production of a product accounts for a substantial share of the market, trends in the volume of external trade and in the prices obtaining in such trade, where the latter criterion results in a reduction in the amount of the aid.
3. The production aid shall be fixed in terms of the net weight of the processed product. The coefficients expressing the relationship between the weight of raw material used and the net weight of the processed product shall be defined on a standardized basis. They shall be regularly updated on the basis of experience.
4. Production aid shall be granted to processors only for processed products which:
 - (a) have been produced from raw materials harvested in the Community, for which the applicant has paid at least the minimum price referred to in Article 3;

- (b) meet minimum quality requirements.

5. The price of the raw material in main competing third countries shall be determined mainly on the basis of the prices actually applying at the farm-gate stage for fresh products of a comparable quality used for processing, weighted on the basis of the quantities of finished products exported by those third countries.

6. Where Community production accounts for at least 50% of the quantities of a product making up the Community consumption market, the trends in prices and the quantities of imports and exports shall be assessed by comparing the data for the calendar year preceding the start of the marketing year with the data for the previous calendar year.

7. In the case of products processed from tomatoes, the production aid shall be calculated for:

- (a) tomato concentrate falling within CN code 2002 90;
- (b) whole peeled tomatoes obtained from the San Marzano variety or similar varieties and falling within CN code 2002 10;
- (c) whole peeled tomatoes obtained from the Roma or similar varieties and falling within CN code 2002 10;
- (d) tomato juice falling within CN code 2009 50.

8. The production aid for other products processed from tomatoes shall be derived, as appropriate, either from the aid calculated for tomato concentrate, with account being taken in particular of the dry extract content of the product, or from the aid calculated for whole peeled tomatoes obtained from the Roma or similar varieties, with account being taken in particular of the commercial characteristics of the product.

9. The Commission shall fix the amount of the production aid before the start of each marketing year, in accordance with the procedure laid down in Article 29. The coefficients referred to in paragraph 3, the minimum quality requirements and the other detailed rules for the application of this Article shall be adopted in accordance with the same procedure.

10. For products processed from tomatoes, the overall expenditure must not exceed, for each marketing year, the amount that would have been reached if the French and Portuguese quotas for concentrates for the 1997/1998 marketing year had been set as follows:

France:	224 323 tonnes
Portugal:	670 451 tonnes.

To that end, the aid fixed for tomato concentrates and their derivatives in accordance with paragraph 9 shall be reduced by 5,37%. A supplement may be paid after the marketing year if the increase in French and Portuguese quotas is not entirely used up.

Article 5

1. A guarantee threshold for the whole Community is hereby introduced for each marketing year for the products referred to below. When the guarantee threshold is exceeded, the production aid shall be reduced. The guarantee threshold shall be:

- (a) 582 000 tonnes net weight for peaches in syrup and/or natural fruit juice,
- (b) 102 805 tonnes net weight for Williams and Rocha pears in syrup and/or natural fruit juice.

2. The amount by which the thresholds referred to in paragraph 1 are exceeded shall be calculated on the basis of the average quantities produced in the three marketing years preceding the marketing year for which the production aid is to be fixed. Where the guarantee threshold is exceeded, the aid for the following marketing year shall be reduced in proportion to the amount by which the threshold is exceeded.

Article 6

1. A quota system is hereby introduced for granting production aid for products processed from tomatoes. The production aid shall be limited to a volume of processed products corresponding to a weight of 6 836 262 tonnes of fresh tomatoes.

2. The volume of processed products referred to in paragraph 1 shall be apportioned every five years among three separate product groups, namely tomato concentrate, tinned whole peeled tomatoes and other products, on the basis of the average quantities of products in each group produced in compliance with minimum prices during the five marketing years preceding the marketing year for which the apportionment is made.

However, the first apportionment, for the 1997/1998 marketing year and for the subsequent four marketing years, shall be as follows:

- tomato concentrate: 4 585 253 tonnes
- tinned whole peeled tomatoes: 1 336 119 tonnes
- other products: 914 890 tonnes.

3. The quantity of fresh tomatoes, determined in accordance with paragraph 2 for each product group, shall be shared out each year among the Member States according to the average quantities produced in compliance with minimum prices during the three marketing years preceding the marketing year for which the allocation is made.

However, the apportionment for the 1997/1998 and 1998/1999 marketing years shall be as indicated in Annex III to this Regulation.

For the 1999/2000 marketing year, the apportionment shall be on the basis of the average quantities produced

in compliance with minimum prices during the 1997/1998 and 1998/1999 marketing years.

From the 1999/2000 marketing year onward, no apportionment under this paragraph may result in a variation, by Member State and by product group, of more than 10% from one marketing year to the next. Where an apportionment is made under paragraph 2, that percentage shall be calculated on the basis of the quantities in the previous marketing year adjusted by the coefficients of variation resulting, for each group of products, from that apportionment.

4. Member States shall share out the quantities allocated to them between the processing undertakings established on their territory according to the average quantities produced in compliance with minimum prices during the three marketing years preceding the marketing year for which the allocation is made, excluding 1996/1997, which shall not be taken into consideration.

However, for the first three apportionments, for the marketing years 1997/1998, 1998/1999 and 1999/2000, the quantities taken into account in respect of the marketing years 1993/1994, 1994/1995 and 1995/1996, shall be the quantities actually produced.

5. From the marketing year 1999/2000 onward, the apportionments referred to in paragraphs 2 and 3 shall be carried out in accordance with the procedure laid down in Article 29. The detailed rules for the application of this Article shall be adopted in accordance with the same procedure. They shall include, in particular, rules applying to undertakings that have been in business for less than three years, to new undertakings and in cases of mergers or transfers of undertakings.

Article 7

1. Aid shall be granted for the cultivation of grapes intended for the production of dried grapes of the sultana and Moscatel varieties and currants.

The amount of the aid shall be fixed per hectare of specialized area harvested on the basis of the average yield per hectare of the area concerned. In addition, the amount of the aid shall be fixed to take account of:

- (a) the need to ensure that the areas traditionally used to grow the said crops are maintained;
- (b) the outlets available for these dried grapes.

The amount of aid may be differentiated according to grape variety and other factors which may affect yield.

2. A maximum guaranteed Community area is hereby introduced for each marketing year equal to the average of the areas in the Community used for the crops referred to in paragraph 1 in the marketing years 1987/1988, 1988/1989 and 1989/1990. If the specialized areas used for the production of dried grapes exceed the maximum guaranteed Community area, the amount of the aid shall

be reduced for the following marketing year according to the extent by which that area is exceeded.

3. The aid shall be granted once the areas have been harvested and the products have been dried for processing.

4. Producers who replant their vineyards to combat phylloxera and who are not in receipt of aid provided for under structural measures against that disease chargeable to the Guidance Section of the EAGGF shall be entitled, during three marketing years, to aid of an amount determined in the light of the amount of the aid referred to in paragraph 1 and of the amount of aid granted under the said structural measures. In this case, paragraph 3 shall not apply.

5. Before the beginning of each marketing year, the Commission shall fix the amount of the aid in accordance with the procedure laid down in Article 29. In accordance with the same procedure, it shall lay down the detailed rules for the application of this Article and determine, as necessary, the extent to which the maximum guaranteed area has been exceeded and the consequent reduction in the amount of aid.

Article 8

Common standards may be introduced for the products listed in Article 7 (1) and those listed in Annex I, intended either for consumption in the Community or for export to third countries, in accordance with the procedure laid down in Article 29.

Article 9

1. During the last two months of a marketing year, the agencies approved by the Member States concerned, hereinafter referred to as 'storage agencies', may buy in sultanas, currants and dried figs produced in the Community during the current marketing year provided the products comply with quality standards to be determined.

The quantities of sultanas and currants bought in under paragraph 2 may not exceed 27 370 tonnes.

2. The buying-in price at which storage agencies buy in the products referred to in paragraph 1 shall be:

- (a) in the case of dried figs, the minimum price for the lowest quality class, less 5 %;
- (b) in the case of sultanas and currants, the buying-in price in force during the 1994/1995 marketing year, adjusted each year in line with the change in the minimum import price referred to in Article 13 or, from the year 2000, in world prices.

3. The products bought in by the storage agencies shall be disposed of on terms which do not jeopardize the balance of the market and which ensure equal access to the products for sale and equal treatment of purchasers.

Where products cannot be disposed of on normal terms, special measures may be taken. In that case, a special security may be required to ensure that undertakings entered into are fulfilled, in particular those relating to the destination of the product. The security shall be forfeit, in full or in part, if undertakings are not fulfilled or are fulfilled only in part.

4. Storage aid shall be granted to storage agencies for the quantities of products which they have bought in and for the actual duration of storage. However, the aid shall cease to be granted at the end of a period of eighteen months following the end of the marketing year during which the product was bought in.

5. Financial compensation equal to the difference between the buying-in price paid by storage agencies and the selling price shall be granted to storage agencies. This compensation shall be reduced by the amount of any profits resulting from the difference between the buying-in price and the selling price.

6. For the purposes of applying paragraph 1, Member States shall approve storage agencies which provide adequate guarantees both that they can store products under satisfactory technical conditions and that they can satisfactorily manage the products bought in.

These agencies shall be required in particular to store products bought in on separate premises and to keep separate accounts for those products.

7. The sale of products bought in under paragraph 1 shall be organized by invitation to tender or at a price fixed in advance.

Tenders submitted shall be taken into account only where a security is lodged.

8. The buying-in price referred to in paragraph 2 and detailed rules for the application of this Article, in particular the arrangements for storage aid, financial compensation and the buying-in and sale of products by storage agencies shall be adopted in accordance with the procedure laid down in Article 29.

Article 10

1. In the case of products covered by Article 1 (2) which are of major economic or ecological importance at local or regional level and are facing, in particular, strong international competition, special measures to promote them and enhance their competitiveness may be taken in accordance with the procedure laid down in Article 29.

Such measures may include, in particular:

- (a) action to improve the suitability for processing of products harvested and to adapt their characteristics to the needs of the processing industry;

- (b) action to perfect the scientific and technical aspects of new operational methods and procedures with a view to improving quality and/or reducing production costs for processed products;
- (c) action relating to the development of new products and/or new uses for processed products;
- (d) the carrying out of economic and market studies;
- (e) action to promote the consumption and use of the products concerned.

2. The measures provided for in paragraph 1 shall be carried out by producer organizations or their associations recognized under Regulation (EC) No 2200/96, in association with organizations representing operators which process and/or market the product(s) in the sector concerned.

3. To facilitate the introduction of the specific measures aimed at improving competitiveness referred to in paragraph 1 with regard to asparagus, a flat-rate aid of ECU 500 per hectare for a maximum of 9 000 hectares shall be granted under this Article during the first three years after the implementation of those measures.

4. Detailed rules for the application of this Article, and in particular for ensuring the compatibility and complementarity of the measures provided for in this Article with those adopted under Article 17 of Regulation (EC) No 2200/96, on the one hand, and with the measures financed under Articles 2, 5 and 8 of Regulation (EEC) No 4256/88⁽¹⁾, on the other, shall be adopted in accordance with the procedure laid down in Article 29.

TITLE II

Trade with third countries

Article 11

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (2) may be subject to presentation of an import or export licence.

Licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the

Community and without prejudice to measures taken for the application of Articles 15, 16, 17 and 18.

The licences shall be valid throughout the Community. The issue of such licences may be subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of *force majeure*, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.

2. The term of validity of import and export licences and other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 12

1. Save as otherwise provided for in this Regulation, the rates of duty in the common customs tariff shall apply to the products listed in Article 1 (2).

2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 13

1. A minimum import price for the 1997/1998, 1998/1999 and 1999/2000 marketing years shall be fixed for the products listed in Annex II. The minimum import price shall be determined having regard in particular to:

- the free-at-frontier prices on import into the Community,
- the prices obtaining on world markets,
- the situation on the internal Community market, and
- the trend of trade with third countries.

Where the minimum import price is not observed, a countervailing charge in addition to customs duty shall be imposed, based on the prices of the main supplier third countries.

2. The minimum import price for dried grapes shall be fixed before the beginning of the marketing year.

A minimum import price shall be fixed for currants and for other dried grapes. For each of the two groups of products, that price may be fixed for products in immediate packing of a net weight to be determined and for products in immediate packing of a net weight exceeding that weight.

⁽¹⁾ Council Regulation (EEC) No 4256/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section (OJ No L 374, 31. 12. 1977, p. 25). Regulation as amended by Regulation (EEC) No 2085/93 (OJ No L 193, 31. 7. 1993, p. 44).

3. The minimum import price for processed cherries shall be fixed before the beginning of the marketing year. The price may be fixed for products in immediate packing of a determined net weight.

4. The minimum import price to be observed for dried grapes shall be that applicable on the day of importation. The countervailing charge to be levied, if any, shall be that which is applicable on the same day.

5. The minimum import price to be observed for processed cherries shall be that applicable on the day of acceptance of entry for free circulation.

6. Countervailing charges for dried grapes shall be fixed by reference to a scale of import prices. The difference between the minimum import price and each step of the scale shall be:

- 1% of the minimum price for the first step,
- 3, 6 and 9%, respectively, of the minimum price for the second, third and fourth steps.

The fifth step of the scale shall cover all cases where the import price is lower than that applied for the fourth step.

The maximum countervailing charge to be fixed for dried grapes shall not exceed the difference between the minimum price and an amount determined on the basis of the most favourable prices applied on the world market for significant quantities by the most representative non-member countries.

7. Where the import price for processed cherries is less than the minimum price for those products, a countervailing charge equal to the difference between those prices shall be levied.

8. The minimum import price, the amount of the countervailing charge and the other rules for the implementation of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 14

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1 (2), imports of one or more of such products at the rate of duty laid down in the common customs tariff shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on agriculture⁽¹⁾ concluded in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled, unless the imports are unlikely to disturb the Community market, or the effects would be disproportionate to the intended objective.

2. The trigger prices below which an additional duty may be imposed shall be those notified by the Community to the World Trade Organization in accordance with its offer tabled during the Uruguay Round of multilateral trade negotiations.

The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined in particular on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.

3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment concerned.

The cif import prices shall be verified for this purpose on the basis of the representative prices for the product in question on the world market or on the Community import market for the product.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29. Such detailed rules shall specify in particular:

- (a) the products to which additional import duties may be applied under Article 5 of the Agreement on agriculture referred to in paragraph 1 of this Article;
- (b) the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the Agreement on agriculture.

Article 15

1. Tariff quotas for the products listed in Article 1 (2) resulting from agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted in accordance with the procedure laid down in Article 29.

2. Quotas may be administered by applying one of the following methods or a combination thereof:

- (a) a method based on the chronological order in which applications are lodged (on a 'first come, first served' basis);
- (b) a method allocating quotas in proportion to the quantities requested when applications are lodged (using the 'simultaneous examination' method);
- (c) a method based on taking traditional trade flows into account (using the 'traditional/new arrivals' method).

Other appropriate methods may be adopted. They must avoid discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, take account of the supply needs of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time

⁽¹⁾ OJ No L 336, 23. 12. 1994, p. 22.

drawing on methods applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to rights arising from agreements concluded in the framework of the Uruguay Round of trade negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, shall determine the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in point (a); and
- (c) the conditions under which import licences are issued and their term of validity.

Article 16

1. To the extent necessary to enable export of:

- (a) economically significant quantities of the products without added sugar referred to in Article 1 (2);
- (b) — white and raw sugar falling within CN code 1701:
 - glucose and glucose syrup falling within CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99 and 1702 40 90,
 - isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30, and
 - beet and cane syrups falling within CN code ex 1702 90 99,
 used in the products listed in Article 1 (2) (b),

on the basis of prices for those products in international trade and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices applying in the Community may be covered by export refunds.

2. The method to be adopted for the allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allowing the most efficient possible use of the resources available and takes due account of the efficiency and structure of Community exports, without, however, creating discrimination between large and small operators;

- (b) is least cumbersome administratively for operators, administration requirements taken into account;
- (c) avoids any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

Where the international trade situation or the specific requirements of certain markets make this necessary, the refund on a given product may vary according to the destination of the product.

Refunds shall be fixed in accordance with the procedure laid down in Article 29. Refunds shall be fixed at regular intervals.

Refunds fixed at regular intervals, may, if necessary, be amended in the interval by the Commission at the request of a Member State or on its own initiative.

4. Refunds shall be granted only on application and on presentation of the relevant export licence.

5. The refund applicable shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence; or
- (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.

Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

6. Paragraphs 4 and 5 may be waived in the case of products on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 29.

7. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export certificates issued for the reference periods provided for therein and applicable to the products concerned. With regard to compliance with the obligations arising under the agreements concluded in the framework of the Uruguay Round of multilateral trade negotiations, the ending of a reference period shall not affect the validity of export licences.

8. Detailed rules for the application of this Article, including provisions on redistribution of unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 29.

Article 17

1. This Article shall apply to the refund referred to in Article 16 (1) (a).
2. The following shall be taken into account when the refund is being fixed:
 - (a) the existing situation and future trends with regard to:
 - prices and availability on the Community market of products processed from fruit and vegetables,
 - prices ruling in international trade;
 - (b) minimum marketing and transport costs from the Community markets to ports or other points of export in the Community, as well as costs of shipment to the countries of destination;
 - (c) the economic aspect of the proposed exports;
 - (d) limits resulting from the agreements concluded in accordance with Article 228 of the Treaty.
3. When prices on the Community market are being determined for the products referred to in Article 16 (1) (a), account shall be taken of the ruling prices which are most favourable from the point of view of exportation.

The following shall be taken into account when prices in international trade are being determined:

- (a) prices ruling on third-country markets;
- (b) the most favourable prices in third countries of destination for imports from third countries;
- (c) producer prices recorded in exporting third countries;
- (d) offer prices at the Community frontier.

4. The refund shall be paid upon proof that:
 - the products have been exported from the Community,
 - the products are of Community origin, and
 - in the case of a differentiated refund the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to Article 16 (5) (b). However, exceptions may be made to this rule in accordance with the procedure laid down in Article 29, provided conditions are laid down which offer equivalent guarantees.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 18

1. This Article shall apply to the refunds referred to in of Article 16 (1) (b).
 2. The amount of the refund shall equal:
 - for raw sugar, white sugar and beet and cane syrup, the amount of the export refund for such products in the unprocessed state, fixed in accordance with Article 17 of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector⁽¹⁾, and its implementing provisions,
 - for isoglucose, the amount of the export refund for that product in its unprocessed state, fixed in accordance with Article 17 of Regulation (EEC) No 1785/81 and its implementing provisions,
 - for glucose and glucose syrup, the amount of the export refund for such products in their unprocessed state, fixed for each of those products in accordance with Article 13 of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals⁽²⁾, and its implementing provisions.
 3. In order to benefit from the refund, processed products must be accompanied, upon export, by a declaration from the applicant stating the quantities of raw and white sugar and beet and cane syrups, isoglucose, glucose and glucose syrup used in manufacture.
- The accuracy of the declaration referred to in the first subparagraph shall be subject to checking by the competent authorities of the Member States concerned.
4. If the refund is insufficient to allow export of the products listed in Article 1 (2) (b), the provisions laid down for the refund referred to in Article 16 (1) (a) shall apply to those products instead of those in Article 16 (1) (b).

5. The refund shall be granted on exports of products:

- (a) which are of Community origin;
- (b) which have been imported from third countries and on which the import duties referred to in Article 12 have been paid, provided the exporter proves:
 - that the product to be exported and the product previously imported are one and the same, and

⁽¹⁾ OJ No L 177, 1. 7. 1981, p. 4. Regulation as last amended by Regulation (EC) No 1599/96 (OJ No L 206, 16. 8. 1996, p. 43).

⁽²⁾ OJ No L 181, 1. 7. 1992, p. 21. Regulation as last amended by Commission Regulation (EC) No 923/96 (OJ No L 126, 24. 5. 1996, p. 37).

- that the import duties were collected on importation.

In the case covered by point (b), the refund on each product shall be equal to the duties collected on importation where the latter are lower than the refund applicable; where the duties collected on importation are higher than that refund, the latter shall apply.

6. The refund shall be paid upon proof that:

- the products fulfil either of the two conditions set out in paragraph 5,
- the products have been exported from the Community, and
- in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to Article 16 (5) (b). However, exceptions may be made to this rule in accordance with the procedure laid down in Article 29, provided conditions are laid down which offer equivalent guarantees.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 19

1. To the extent necessary for the proper working of the common organization of the markets in cereals, sugar and fruit and vegetables, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in particular cases, prohibit in whole or in part the use of inward processing arrangements in respect of:

- the products referred to in Article 16 (1) (b), and
- fruit and vegetables intended for the manufacture of the products listed in Article 1 (2).

2. However, by way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. The Commission's decision may be referred to the Council by any Member State within a week of the day on which it was notified. The Council, acting by a

qualified majority, may confirm, amend or repeal the Commission's decision. If the Council has not acted within three months, the Commission's decision shall be deemed to have been repealed.

Article 20

1. Where under Article 20 of Regulation (EEC) No 1785/81 a levy exceeding ECU 5 per 100 kilograms is charged on exports of white sugar, the imposition of a charge on exports of the products listed in Article 1 (2) containing a minimum of 35% added sugar may be decided in accordance with the procedure laid down in Article 29.

2. The amount of the export charge shall be fixed taking into account:

- the nature of the product processed from fruit and vegetables which contains added sugar,
- the added sugar content of the product in question,
- the prices of white sugar in the Community and on the world market,
- the export levy applicable to white sugar,
- the economic implications of applying the said charge.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 21

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the common customs tariff.

2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

Article 22

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (2) is affected by, or is threatened with, serious disturbance likely to jeopardize the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries

until such disturbance or threat of disturbance has ceased.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt the general rules for the application of this paragraph and shall determine the cases in which and limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of such measures, which shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority, confirm, amend or annul the measure in question.

4. This Article shall be applied having regard to the obligations arising from international agreements concluded in accordance with Article 228 (2) of the Treaty.

TITLE III

General provisions

Article 23

Articles 92, 93 and 94 of the Treaty shall apply to the production of and trade in the products referred to in Article 1 (2).

Article 24

Title VI (National and Community checks) of Regulation (EC) No 2200/96 shall apply to checks on compliance with the Community rules concerning the market in processed fruit and vegetable products.

Article 25

Financial or other administrative penalties shall be adopted as appropriate for the specific needs of the sector in accordance with the procedure laid down in Article 29.

Article 26

If measures are required to facilitate the transition from the old arrangements to those established by this

regulation, they shall be adopted in accordance with the procedure laid down in Article 29.

Article 27

1. Member States and the Commission shall communicate to each other the information necessary for the application of this Regulation. The data to be communicated shall be determined in accordance with the procedure laid down in Article 29. Detailed rules for the communication and distribution of such information shall be adopted in accordance with the same procedure.

2. The laws, regulations and administrative provisions adopted by Member States for the application of this Regulation, including any amendments thereto, shall be communicated to the Commission no later than one month after their adoption.

3. Member States shall take all appropriate measures to penalize infringements of the provisions of this Regulation and to forestall and bring to an end any fraud.

Article 28

A management committee for processed fruit and vegetables, hereinafter referred to as 'the Committee', shall be set up, consisting of representatives of the Member States and chaired by a representative of the Commission.

Article 29

1. Where reference is made to the procedure laid down in this Article, the chairman shall refer the matter to the Committee either on his/her own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt measures which shall apply immediately.

(b) However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by qualified majority, may take a different decision within one month.

Article 30

The Committee may consider any other question referred to it by its chairman either on his/her own initiative or at the request of the representative of a Member State.

Article 31

Expenditure incurred under Article 2, Article 7, Article 9 (4) and (5) and Article 10 (3) shall be deemed to be intervention to stabilize the agricultural markets within the meaning of point (b) of Article 1 (2) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽¹⁾.

Article 32

This Regulation shall be so applied that appropriate account is simultaneously taken of the objectives set out in Articles 39 and 110 of the Treaty.

Article 33

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

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

Done at Luxembourg, 28 October 1996.

For the Council

The President

I. YATES

It shall apply as from 1 January 1997. However, Title I shall not apply, for each product concerned, until the beginning of the 1997/1998 marketing year.

2. The following Regulations are hereby repealed with effect from the date of application of the corresponding provisions of this Regulation:

- Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables⁽²⁾,
- Council Regulation (EEC) No 2245/88 of 19 July 1988 introducing guarantee threshold systems for peaches and pears in syrup and/or in natural fruit juice⁽³⁾,
- Council Regulation (EEC) No 1206/90 of 7 May 1990 laying down general rules for the system of production aid for processed fruit and vegetables⁽⁴⁾,
- Council Regulation (EEC) No 668/93 of 17 March 1993 on the introduction of a limit to the granting of production aid for processed tomato products⁽⁵⁾.

References to the repealed Regulation shall be understood as references to this Regulation and are to be read in accordance with the correlation tables in Annex IV.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/95 (OJ No L 125, 8. 6. 1995, p. 1).

⁽²⁾ OJ No L 49, 27. 2. 1986, p. 1. Regulation as last amended by Commission Regulation (EC) No 2314/95 (OJ No L 233, 30. 9. 1995, p. 69).

⁽³⁾ OJ No L 198, 27. 7. 1988, p. 18. Regulation as last amended by Commission Regulation (EC) No 1032/95 (OJ No L 105, 9. 5. 1995, p. 3).

⁽⁴⁾ OJ No L 119, 11. 5. 1990, p. 74. Regulation as last amended by Commission Regulation (EEC) No 2202/90 (OJ No L 201, 31. 7. 1990, p. 4).

⁽⁵⁾ OJ No L 72, 25. 3. 1993, p. 1.

ANNEX I

Products referred to in Article 2

CN code	Description
ex 0710 80 70	Peeled tomatoes, whole or in pieces, frozen
ex 0712 90 30	Tomato flakes
0804 20 90	Dried figs
ex 0813 20 00	Prunes derived from dried 'd'Ente' plums
2002 10 10	Peeled tomatoes, whole or in pieces
2002 10 90	Unpeeled tomatoes, whole or in pieces
ex 2002 10 90	Crush or pizza sauce
ex 2002 90	Other (crush or pizza sauce)
ex 2002 90 11	Tomato juice (including <i>passata</i>)
ex 2002 90 19	
ex 2002 90 31	Tomato concentrate
ex 2002 90 39	
ex 2002 90 91	
ex 2002 90 99	
ex 2008 40 51	Williams and Rocha pears in syrup and/or in natural fruit juice
ex 2008 40 59	
ex 2008 40 71	
ex 2008 40 79	
ex 2008 40 91	
ex 2008 40 99	
ex 2008 70 61	Peaches in syrup and/or in natural fruit juice
ex 2008 70 69	
ex 2008 70 71	
ex 2008 70 79	
ex 2008 70 92	
ex 2008 70 94	
ex 2008 70 99	
2009 50	Tomato juice

ANNEX II

Products referred to in Article 13

CN code	Description
0806 20	Dried grapes
ex 0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter:
ex 0811 90	— Other:
	— — Containing added sugar or other sweetening matter
	— — — With a sugar content exceeding 13% by weight
ex 0811 90 19	— — — — Other:
	— — — — — Sour cherries (<i>Prunus cerasus</i>):
	— — — — — — Unstoned
	— — — — — — Other
	— — — — — Other cherries:
	— — — — — — Unstoned
	— — — — — — Other
ex 0811 90 39	— — — — Other:
	— — — — — Sour cherries (<i>Prunus cerasus</i>):
	— — — — — — Unstoned
	— — — — — — Other
	— — — — — Other cherries:
	— — — — — — Unstoned
	— — — — — — Other
	— — — Other:
	— — — Cherries:
0811 90 75	— — — — Sour cherries (<i>Prunus cerasus</i>):
	— — — — — Unstoned
	— — — — — Other
0811 90 80	— — — — Other:
	— — — — — Unstoned
	— — — — — Other
ex 0812	Fruit and nuts provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions) but unsuitable in that state for immediate consumption:
0812 10 00	— Cherries:
ex 0812 10 00	— — Sour cherries (<i>Prunus cerasus</i>)
ex 0812 10 00	— — Other
2008	Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:
2008 60	— Cherries:
	— — Not containing added spirit:
	— — — Containing added sugar, in immediate packings of a net content exceeding 1 kg:
2008 60 51	— — — — Sour cherries (<i>Prunus cerasus</i>)

CN code	Description
2008 60 59	— — — — Other — — — — Containing added sugar, in immediate packings of a net content not exceeding 1 kg:
2008 60 61	— — — — Sour cherries (<i>Prunus cerasus</i>)
2008 60 69	— — — — Other — — — — Not containing added sugar, in immediate packings of a net content: — — — — of 4,5 kg or more:
2008 60 71	— — — — — Sour cherries (<i>Prunus cerasus</i>)
2008 60 79	— — — — — Other — — — — — Of less than 4,5 kg:
2008 60 91	— — — — — Sour cherries (<i>Prunus cerasus</i>)
2008 60 99	— — — — — Other

ANNEX III

Allocation of fresh tomatoes by Member State and by product groups for the 1997/1998 and 1998/1999 marketing years

(tonnes)

Member State	Tomato concentrate	Tinned whole peeled tomatoes	Other products	Total
France	278 691	51 113	39 804	369 608
Greece	999 415	17 355	32 161	1 048 931
Italy	1 758 499	1 090 462	622 824	3 471 785
Spain	664 056	166 609	175 799	1 006 464
Portugal	884 592	10 580	44 302	939 474
TOTAL	4 585 253	1 336 119	914 890	6 836 262

ANNEX IV

Correlation Table

Preceding Regulation (EEC) Numbers			Present Regulation	
426/86,	Article 1,	paragraph 1	Article 1,	paragraph 2
	Article 2,	paragraph 2	Article 1,	paragraph 3
426/86,	Article 2,	paragraph 1	Article 2,	paragraph 1
	Article 2,	paragraph 2	—	
	Article 2,	paragraph 3	—	
426/86,	Article 3,	paragraph 1	Article 2,	paragraph 2
	Article 3,	paragraph 1a	—	
	Article 3,	paragraph 2	—	
	Article 3,	paragraph 3	—	
	Article 3,	paragraph 4	Article 4,	paragraph 9
426/86,	Article 4,	paragraph 1	Article 3,	paragraph 1
	Article 4,	paragraph 2	—	
	Article 4,	paragraph 3	Article 3,	paragraph 2
	Article 4,	paragraph 4	Article 3,	paragraph 3
426/86,	Article 5,	paragraph 1	Article 4,	paragraph 2
	Article 5,	paragraph 2	Article 4,	paragraph 3
	Article 5,	paragraph 3	Article 4,	paragraph 4
	Article 5,	paragraph 4	—	
	Article 5,	paragraph 5	Article 4,	paragraph 9
426/86,	Article 6,	paragraph 1	Article 7,	paragraph 1
	Article 6,	paragraph 2	Article 7,	paragraph 2
	Article 6,	paragraph 3	Article 7,	paragraph 3
	Article 6,	paragraph 4	Article 7,	paragraph 4
	Article 6,	paragraph 5	—	
	Article 6,	paragraph 6	Article 7,	paragraph 5
	Article 6,	paragraph 7	Article 7,	paragraph 5
426/86,	Article 6a		—	
426/86,	Article 7,	paragraph 1	Article 8	
	Article 7,	paragraph 2	—	
426/86,	Article 8,	paragraph 1	Article 9,	paragraph 1
	Article 8,	paragraph 2	Article 9,	paragraph 2
	Article 8,	paragraph 3	Article 9,	paragraph 3
	Article 8,	paragraph 4	Article 9,	paragraph 4
	Article 8,	paragraph 5	Article 9,	paragraph 5
	Article 8,	paragraph 6	—	
	Article 8,	paragraph 7	Article 9,	paragraph 6
426/86,	Article 9,	paragraph 1	Article 11,	paragraph 1
	Article 9,	paragraph 2	Article 11,	paragraph 2
	Article 9,	paragraph 1	Article 12,	paragraph 1
	Article 9,	paragraph 2	Article 12,	paragraph 2

Preceding Regulation (EEC) Numbers	Present Regulation
426/86, Article 10	—
426/86, Article 10a, paragraph 1 Article 10a, paragraph 2 Article 10a, paragraph 3 Article 10a, paragraph 4 Article 10a, paragraph 5 Article 10a, paragraph 6 Article 10a, paragraph 7 Article 10a, paragraph 8	Article 13, paragraph 1 Article 13, paragraph 2 Article 13, paragraph 3 Article 13, paragraph 4 Article 13, paragraph 5 Article 13, paragraph 6 Article 13, paragraph 7 Article 13, paragraph 8
426/86, Article 11, paragraph 1 Article 11, paragraph 2 Article 11, paragraph 3 Article 11, paragraph 4	Article 14, paragraph 1 Article 14, paragraph 2 Article 14, paragraph 3 Article 14, paragraph 4
426/86, Article 12, paragraph 1 Article 12, paragraph 2 Article 12, paragraph 3 Article 12, paragraph 4	Article 15, paragraph 1 Article 15, paragraph 2 Article 15, paragraph 3 Article 15, paragraph 4
426/86, Article 13, paragraph 1 Article 13, paragraph 2 Article 13, paragraph 3 Article 13, paragraph 4 Article 13, paragraph 5 Article 13, paragraph 6 Article 13, paragraph 7 Article 13, paragraph 8	Article 16, paragraph 1 Article 16, paragraph 2 Article 16, paragraph 3 Article 16, paragraph 4 Article 16, paragraph 5 Article 16, paragraph 6 Article 16, paragraph 7 Article 16, paragraph 8
426/86, Article 14, paragraph 1 Article 14, paragraph 2 Article 14, paragraph 3 Article 14, paragraph 4 Article 14, paragraph 5	Article 17, paragraph 1 Article 17, paragraph 2 Article 17, paragraph 3 Article 17, paragraph 4 Article 17, paragraph 5
426/86, Article 14a, paragraph 1 Article 14a, paragraph 2 Article 14a, paragraph 3 Article 14a, paragraph 4 Article 14a, paragraph 5 Article 14a, paragraph 6 Article 14a, paragraph 7	Article 18, paragraph 1 Article 18, paragraph 2 Article 18, paragraph 3 Article 18, paragraph 4 Article 18, paragraph 5 Article 18, paragraph 6 Article 18, paragraph 7
426/86, Article 15, paragraph 1 Article 15, paragraph 2 Article 15, paragraph 3	Article 19, paragraph 1 Article 19, paragraph 2 Article 19, paragraph 3
426/86, Article 16, paragraph 1 Article 16, paragraph 2 Article 16, paragraph 3 Article 16, paragraph 4 Article 16, paragraph 5	Article 20, paragraph 1 Article 20, paragraph 2 — — Article 20, paragraph 3

Preceding Regulation (EEC) Numbers	Present Regulation
426/86, Article 17, paragraph 1 Article 17, paragraph 2	Article 21, paragraph 1 Article 21, paragraph 2
426/86, Article 18, paragraph 1 Article 18, paragraph 2 Article 18, paragraph 3 Article 18, paragraph 4	Article 22, paragraph 1 Article 22, paragraph 2 Article 22, paragraph 3 Article 22, paragraph 4
426/86, Article 19,	Article 23
426/86, Article 20,	Article 24, paragraph 1
426/86, Article 21, paragraph 1 Article 21, paragraph 2	Article 25 —
426/86, Article 22, paragraph 1 Article 22, paragraph 2 Article 22, paragraph 3	Article 26, paragraph 1 Article 26, paragraph 2 Article 26, paragraph 3
426/86, Article 23, Article 24, Article 25 Article 26	Article 27 Article 29 Article 30 Article 31
426/86, Annex I A Annex I B Annex III	Annex I Annex II —
2245/88, Article 1, paragraph 1 Article 1, paragraph 2 Article 1, paragraph 3	Article 5, paragraph 1 Article 5, paragraph 2 Article 5, paragraph 3
1206/90, Article 2, paragraph 1 Article 2, paragraph 2 Article 2, paragraph 3	Article 4, paragraph 7 Article 4, paragraph 8 Article 4, paragraph 8
1206/90, Article 3, paragraph 2 Article 3, paragraph 3 Article 3, paragraph 4	Article 4, paragraph 1 Article 4, paragraph 5 Article 4, paragraph 6
1206/90, Article 6, paragraph 1 Article 6, paragraph 2 Article 6, paragraph 4	Article 9, paragraph 6 Article 9, paragraph 8 Article 9, paragraph 7
668/93, Article 1, paragraph 1 Article 1, paragraph 2 Article 1, paragraph 3	Article 6, paragraph 1 Article 6, paragraph 4 Article 6, paragraph 5
Article 3	Article 6, paragraph 1

COUNCIL REGULATION (EC) No 2202/96

of 28 October 1996

introducing a Community aid scheme for producers of certain citrus fruits

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Economic and Social Committee⁽³⁾,

Whereas the present situation in the citrus fruit sector continues to be marked by serious difficulties in the disposal of Community production; whereas these difficulties are attributable mainly to the varietal aspects of production, production surpluses and marketing conditions for fresh and processed citrus fruit;

Whereas the Community supply of lemons, grapefruit, oranges and mandarins continues to keep pace with demand on the market in fresh fruit products for some varieties of products; whereas production of clementines has increased considerably in recent years to the extent that surpluses are being created; whereas satsumas, which are being replaced by clementines on the market in fresh fruit products, are also in surplus; whereas a system of support for producers should therefore provide an incentive for the disposal of the citrus fruit concerned with a view to their processing into juice and segments;

Whereas it seems appropriate to implement this system by means of contracts concluded between processors and producer organizations in order to ensure, firstly, regular supplies for processing industries and, secondly, effective checks on the products to be delivered and on the fact that they have actually been processed by the industry; whereas the system should guarantee supplies to consumers at reasonable prices and quality;

Whereas this new system must be able to function with a sufficient number of producer organizations from the outset; whereas, to that end, 'producer organizations granted preliminary recognition' within the meaning of this Regulation means not only the producer organizations referred to in Article 14 of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and

vegetables⁽⁴⁾, but also those referred to in Article 13 of that Regulation;

Whereas, in order to encourage producers to present their products for processing rather than withdrawal, provision should be made for the grant of an aid to producer organizations which deliver citrus fruit to the processing industries; whereas the amounts of the aid should be established for a transitional period of six years after which they should be a fixed sum; whereas those amounts are to be calculated on the basis of the ratio existing in 1995/96 between the financial compensation and the minimum price and be subject to an annual gradual reduction over the transitional period, except in the case of clementines and satsumas, in order to meet the general objectives of the common organization of the market in fresh products; whereas in the case of grapefruit, the aid to be applied is that established for lemons;

Whereas the production of citrus fruit features structural shortcomings in terms of marketing which are demonstrated by the excessive dispersal of supply; whereas therefore individual producers who deliver all their citrus fruit for processing through producer organizations should qualify under the system established by this Regulation; whereas for that reason and in order to ensure equality of treatment with the fresh products sector, provision should be made for the amount of the aid to be reduced; whereas, for the same structural reasons, it would be justified to grant an increase in the aid for producer organizations which conclude a contract for more than one year and in respect of minimum quantities;

Whereas the quantities that may be withdrawn from the market are limited by Regulation (EC) No 2200/96; whereas in cases where production is rising steps should be taken to prevent systematic recourse to processing as an alternative outlet; whereas the fixing of a threshold for processing, the overrunning of which, calculated on the basis of an average over three marketing years, would entail a reduction in aid in the current marketing year, would seem to be an appropriate measure to that end; whereas fixed thresholds should be laid down, based on the average quantity eligible for financial compensation during a reference period; whereas, provision should be made for introducing a system of advances, as aid may be reduced at the end of a marketing year as a result of overrunning of the threshold for processing;

Whereas the provisions of Regulation (EC) No 2200/96 should be applied to the processed citrus fruit sector to avoid duplication of rules and control bodies; whereas provision should also be made for penalties to guarantee uniform application of the new scheme throughout the Community,

⁽¹⁾ OJ No C 191, 2. 7. 1996, p. 7.

⁽²⁾ OJ No C 277, 23. 9. 1996.

⁽³⁾ OJ No C 212, 22. 7. 1996, p. 88.

⁽⁴⁾ See page 1 of this Official Journal.

HAS ADOPTED THIS REGULATION:

Article 1

A Community aid scheme is hereby established for producer organizations which deliver for processing certain citrus fruits harvested in the Community. The scheme shall cover:

- (a) lemons, grapefruit, oranges, mandarins and clementines processed into juice;
- (b) clementines and satsumas processed into segments.

Article 2

1. The scheme referred to in Article 1 shall be based on contracts between, on the one hand, producer organizations recognized or provisionally admitted under Regulation (EC) No 2200/96 and, on the other, processors or legally constituted associations or unions of processors.

2. Such contracts shall be concluded before a specified date and for a minimum duration determined in accordance with the procedure laid down in Article 45 of Regulation (EC) No 2200/96. They must, *inter alia*, specify the quantities to which they relate, the phasing of deliveries to processors, and the prices to be paid to producer organizations, and state that the processor is under an obligation to process the products covered by the contracts.

3. Once they have been concluded, contracts shall be sent to the competent authorities of the Member States concerned responsible for carrying out qualitative and quantitative checks on:

- (a) products delivered to processors by producer organizations;
- (b) the actual processing of the quantities delivered.

Article 3

1. Aid shall be granted to producer organizations for the quantities delivered for processing under the contracts referred to in Article 2.

2. The amount of the aid is set out in Table 1 of the Annex hereto.

However:

- (a) where the contract referred to in Article 2 (1) covers more than one marketing year and a minimum quantity of citrus fruit, to be determined in accordance with the procedure laid down in Article 45 of Regulation (EC) No 2200/96, the amount of the aid shall be that indicated in Table 2 of the Annex hereto;
- (b) for quantities delivered under the provisions of Article 4, the amount of the aid shall be that indicated in Table 3 of the Annex hereto.

3. Without prejudice to the application of Article 5, the aid shall be paid by the Member States to producer organizations which apply therefor as soon as the inspecting authorities of the Member State in which processing is undertaken have established that the products covered by the contracts have been delivered to the processing industry.

The amount of the aid received by producer organizations shall be paid to their members.

4. Measures shall be adopted in accordance with the procedure laid down in Article 45 of Regulation (EC) No 2200/96 to ensure that the processing industry meets its obligation to process the products delivered by the producer organizations.

Article 4

1. Producer organizations shall pass on the benefit of the scheme established in this Regulation to individual producers who are not members of any such organizations who undertake to market through them their entire output of citrus fruit intended for processing and who pay a subscription to cover the extra management costs borne by the organization because of the application of this paragraph.

2. Where paragraph 1 is applied,

- (a) the amount of the aid received by the producer organization shall be paid to the individual producer concerned;
- (b) the quantities supplied by individual producers may not be included in the multiannual contracts referred to in Article 3 (2) (a).

Article 5

1. Processing thresholds shall be established, on the one hand, for lemons, grapefruit and oranges separately, and, on the other hand, for mandarins, clementines and satsumas taken together, as follows:

- lemons:
444 000 tonnes,
- grapefruit:
6 000 tonnes,
- oranges:
1 189 000 tonnes,
- mandarins, clementines and satsumas:
320 000 tonnes.

2. For each marketing year, overrunning of the processing thresholds shall be assessed on the basis of the average quantity processed under the scheme established by this Regulation over the last three marketing years, including the current marketing year.

3. Where an overrun has been established in accordance with paragraph 2, the aid fixed for the current marketing year in accordance with Article 3 (2) for the products in question shall be reduced by 1 % per tranche of the overrun.

Overrun tranches shall be equal 1 % of the level of each threshold indicated in paragraph 1.

Article 6

Detailed rules for the application of this Regulation, and in particular for a system of advances, payment of aid, monitoring measures and penalties, the marketing years, the minimum characteristics of the raw materials delivered for processing and the financial consequences of exceeding the threshold shall be adopted in accordance with the procedure laid down in Article 45 of Regulation (EC) No 2200/96.

Article 7

The provisions of Title VI relating to national and Community checks in Regulation (EC) No 2200/96 shall apply to the monitoring of compliance with this Regulation.

Article 8

If measures are needed to facilitate the transition from the previous arrangements to those established by this Regulation or to apply mechanisms not abolished by this Regulation, such measures shall be adopted in accordance with the procedure laid down in Article 45 of Regulation (EC) No 2200/96.

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

Done at Luxembourg, 28 October 1996.

For the Council

The President

I. YATES

Article 9

The Commission shall submit to the Council, on the basis of two years' operation, a report on the application of this scheme, together with appropriate proposals, if necessary.

Article 10

The measures provided for in this Regulation shall be regarded as intervention intended to stabilize the agricultural markets within the meaning of Article 3 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy⁽¹⁾. They shall be financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF).

Article 11

The following are hereby repealed, with effect from the date of application of this Regulation:

- Council Regulation (EEC) No 1035/77 of 17 May 1977 laying down special measures to encourage the marketing of products processed from lemons⁽²⁾, and
- Council Regulation (EC) No 3119/93 of 8 November 1993 laying down special measures to encourage the processing of certain citrus fruits⁽³⁾.

Article 12

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

It shall apply from the 1997/98 marketing year.

⁽¹⁾ OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/95 (OJ No L 125, 8. 6. 1995, p. 1).

⁽²⁾ OJ No L 125, 19. 5. 1977, p. 3. Regulation as last amended by Regulation (EEC) No 1199/90 (OJ No L 119, 11. 5. 1990, p. 61).

⁽³⁾ OJ No L 279, 12. 11. 1993, p. 17.

ANNEX

Amounts of aid referred to in Article 3 (1)

TABLE 1

(ECU/100 kg net)

	1997/98 marketing year	1998/99 marketing year	1999/2000 marketing year	2000/01 marketing year	2001/02 marketing year	2002/03 and subsequent marketing years
Lemons	9,36	9,31	9,25	9,21	9,15	9,10
Grapefruit	9,36	9,31	9,25	9,21	9,15	9,10
Oranges	10,03	9,98	9,94	9,89	9,85	9,80
Mandarins	11,31	10,86	10,42	9,98	9,54	9,10
Clementines	8,90	8,95	8,99	9,03	9,07	9,10
Satsumas	7,34	7,69	8,04	8,40	8,75	9,10

TABLE 2

(ECU/100 kg net)

	1997/98 marketing year	1998/99 marketing year	1999/2000 marketing year	2000/01 marketing year	2001/02 marketing year	2002/03 and subsequent marketing years
Lemons	10,76	10,70	10,64	10,59	10,52	10,47
Grapefruit	10,76	10,71	10,64	10,59	10,52	10,47
Oranges	11,54	11,48	11,43	11,37	11,33	11,27
Mandarins	13,00	12,49	11,99	11,48	10,97	10,47
Clementines	10,26	10,30	10,34	10,38	10,42	10,47
Satsumas	8,44	8,85	9,25	9,66	10,06	10,47

TABLE 3

(ECU/100 kg net)

	1997/98 marketing year	1998/99 marketing year	1999/2000 marketing year	2000/01 marketing year	2001/02 marketing year	2002/03 and subsequent marketing years
Lemons	8,42	8,38	8,33	8,28	8,23	8,19
Grapefruit	8,42	8,38	8,33	8,28	8,23	8,19
Oranges	9,03	8,98	8,95	8,90	8,86	8,82
Mandarins	10,17	9,78	9,38	8,98	8,59	8,19
Clementines	8,03	8,06	8,09	8,13	8,16	8,19
Satsumas	6,61	6,92	7,24	7,56	7,88	8,19