

**COMMISSION REGULATION (EC) No 489/97****of 17 March 1997****laying down detailed rules for the application of the specific measures adopted in respect of fresh fruit and vegetables, plants and flowers for the benefit of the French overseas departments (FOD)**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3763/91 of 16 December 1991 introducing specific measures in respect of certain agricultural products for the benefit of the French overseas departments<sup>(1)</sup>, as last amended by Regulation (EC) No 2598/95<sup>(2)</sup>, and in particular Articles 13 (4) and 16 thereof,

Whereas Article 13 of Regulation (EEC) No 3763/91 introduces aid for the supply of the regional market of the French overseas departments (hereinafter referred to as 'FOD') with fruits, vegetables, flowers and live plants, and for the production of green vanilla and essential geranium and vetiver oils; whereas detailed rules for the application of this Article should be adopted;

Whereas, pursuant to the provisions of the above-mentioned Article 13, the amount of the aid for the supply of the regional market of the FOD is fixed on a flat-rate basis for each of the product categories to be determined, based on the average value of the products so covered, within the limits of annual quantities established for each product category; whereas the list of products eligible for aid should be established as a function of the supply needs of the regional market, and the categories should be determined on the basis of the average value of the products covered, so as to fix a maximum quantity for the FOD as a whole, providing for the apportionment of quantities by the national authorities to ensure the best match between available resources and regional needs; whereas this requirement justifies the supply of products in a FOD other than the one where the product was harvested;

Whereas special arrangements should be adopted for monitoring compliance with the quantities fixed and the conditions for granting aid; whereas, to this end, it would appear that satisfactory management of the supply arrangements can be ensured by a procedure for approving, as parties to supply contracts, operators in the distribution sector, enterprises in the catering sector or mass caterers who agree to comply with certain rules;

Whereas for aid for the production of green vanilla of ECU 6,04 per kilogram on the one hand, and for aid for the production of essential geranium and vetiver oils of ECU 44,68 per kilogram on the other, satisfactory application of these measures in the framework of existing marketing structures can be ensured by procedures for approving, in the first case, processors preparing dried vanilla or vanilla extracts and, in the second, local collection and marketing bodies which undertake in particular to transfer to the producers the full amount of aid and to allow any checks or inspections required; whereas the quantities fixed in the abovementioned Article 13 (2) and (3) are upper limits which, according to the latest estimates notified by the French authorities, will not be reached in the medium term; whereas for the sake of good management, in view of the needs of the very remote regions concerned, it seems advisable to use the resources thereby made available for the purposes of the abovementioned supply arrangements in the regional markets;

Whereas, in order to simplify the legislation, the body of this Regulation should include the provisions adopted for implementing the marketing aid scheme, based on the conclusion of annual contracts, introduced by Article 15 of Regulation (EEC) No 3763/91; whereas this means incorporating the provisions of Title III of Commission Regulation (EEC) No 667/92<sup>(3)</sup>, as last amended by Regulation (EC) No 1363/95<sup>(4)</sup>, into this Regulation, and repealing that Regulation;

Whereas such a measure makes it necessary to define the notion of annual contracts and to specify the base for the calculation of the amount of aid, which is set by the aforementioned Article 15 at 10 % of the value of the production marketed, free at destination, or at 13 % in the conditions specified in paragraph 4 of that Article; whereas provision should be made for a mechanism to apportion quantities eligible for aid where the limits laid down in that Article are exceeded;

Whereas general provisions applicable to these measures as a whole, especially those concerning control and notification, should be set out in a final chapter;

<sup>(1)</sup> OJ No L 356, 24. 12. 1991, p. 1.

<sup>(2)</sup> OJ No L 267, 9. 11. 1995, p. 5.

<sup>(3)</sup> OJ No L 71, 18. 3. 1992, p. 13.

<sup>(4)</sup> OJ No L 132, 16. 6. 1995, p. 8.

Whereas the main features of aid to the production of green vanilla and essential geranium and vetiver oils were set out in the new Article 13 (2) and (3) of Regulation (EEC) No 3763/91, which came into force in November 1995; whereas consequently provision should be made for paying this aid for 1996 in accordance with specific transitional conditions determined by the French authorities;

Whereas in order to ensure the management of all the measures on the basis of calendar years, the provisions of this Regulation should apply, unless an explicit exception is made, from 1 January 1997;

Whereas the measures provided for in this Regulation are in accordance with the joint opinion of the Management Committee for Fruit and Vegetables and the Management Committee for Live Plants,

HAS ADOPTED THIS REGULATION:

#### CHAPTER I

### Aid for supplying the regional market

#### Article 1

The aid provided for in Article 13 of Regulation (EEC) No 3763/91 shall be granted in respect of fresh fruit and vegetables with the exception of bananas other than plantains falling within CN code 0803 00 11, flowers and live plants listed in Chapters 6, 7 and 8 of the Combined Nomenclature, pepper and fruits of the genera *Capiscum* and *Pimenta* falling within CN code 0904 and the spices falling within CN code 0910, for supply to the FOD market under the conditions laid down in this Chapter.

#### Article 2

1. The aid shall be granted to the producers referred to in Article 3 in respect of the products listed in Annex I under three categories A, B and C:

- (a) which comply with the standards established pursuant to Title I of Commission Regulation (EC) No 2200/96<sup>(1)</sup> as regards fruit and vegetables or, where such standards have not been established for the products concerned, with the quality specifications in the supply contracts referred to below; however, products presenting special characteristics linked to tropical production conditions shall not be excluded;
- (b) and which are covered by supply contracts between the types of operator referred to in Article 3 for one or more marketing periods, concluded before the commencement of the relevant period, or before a date fixed by the competent authorities.

2. The amounts of aid applicable to each category of product shall be those set out in Annex II.

3. The aid shall be paid up to the annual quantities for each category of product set out in Part 1 of Annex I.

The competent authorities shall determine for each FOD the products and quantities thereof in respect of which aid may be granted. They shall adjust the apportionment in the light of specific needs and available quantities.

4. Where justified by the supply needs for one or more products, the competent authorities may grant the aid for supply to a FOD other than the one in which the product concerned was harvested.

#### Article 3

1. Supply contracts shall be concluded between individual producers or producer groups on the one hand and, on the other, operators in the distribution sector, enterprises in the catering sector or mass caterers established in the production region and approved by the national authorities, without prejudice to Article 2 (4).

The increase in aid provided for in the sixth subparagraph of Article 13 (1) of Regulation (EEC) No 3763/91 shall apply to contracts concluded by producers' organizations recognized in accordance with Article 11 of Regulation (EC) No 2200/96 or producer groups recognized under Council Regulation (EEC) No 1360/78<sup>(2)</sup> with operators in the distribution sector, enterprises in the catering sector or mass caterers.

2. The national authorities shall grant approval, upon application, to the distributors, enterprises and mass caterers referred to in paragraph 1 which undertake in writing to:

- (a) supply the regional market with the products covered by the supply contracts;
- (b) keep separate accounts for the supply contracts;
- (c) provide the competent authorities, when the latter so request, with all supporting documentation concerning the implementation of the contracts and fulfilment of the undertakings made pursuant to this Regulation.

#### Article 4

1. Producers wishing to benefit from the aid arrangements shall send to the administration designated by the competent authorities, not later than the deadline set by those authorities, a declaration accompanied by a copy of a supply contract or preliminary contract as referred to in Article 3 (1), giving at least the following information:

<sup>(1)</sup> OJ No L 29, 7. 2. 1996, p. 3.

<sup>(2)</sup> OJ No L 166, 23. 6. 1978, p. 1.

- business names of the parties to the supply contract,
- a precise description of the products covered by the supply contract,
- an indication of the quantities to be supplied during the marketing period(s),
- the forecast supply schedule.

2. The competent authorities may set a minimum quantity for each aid application. Where the total quantities in the abovementioned declarations exceed, in respect of one or more categories of products, the quantities in respect of which aid may be granted, the competent authorities may fix, for that category or those categories of products, a percentage corresponding to the proportion of the supply contract for which an aid application may be submitted.

#### Article 5

Where the quantities for which aid applications are submitted exceed the maximum quantities set for a product or category of products, the competent authorities shall set a coefficient of reduction to be applied to all aid applications in respect of that product or category of products.

### CHAPTER II

#### Aid for the production of green vanilla and essential oils of geranium and vetiver

#### Article 6

1. Production aid for green vanilla falling within CN code ex 0905 intended for the production of dried (black) vanilla or vanilla extracts as provided for in Article 13 (2) of Regulation (EEC) No 3763/91 shall be paid to the green vanilla producer via the processors approved by the competent authorities.

Where necessary for the proper application of the measure, the authorities shall specify the technical characteristics of the green vanilla, production of which is eligible for aid.

2. The competent authorities shall grant approval to processors established in the production region:

- (a) whose plant and equipment is suitable for the preparation of dried (black) vanilla or vanilla extracts;
- (b) and who undertake in writing:
  - to transfer the full amount of ECU 6,04 per kg to the green vanilla producer pursuant to one or more supply contracts not later than one month

from the date of payment of the aid by the competent authorities,

- to keep separate accounts for transactions connected with the application of this Article,
- to allow any checks or inspections required by the competent administrations and to notify all information relating to the application of this Article.

#### Article 7

1. Production aid for essential oils of geranium and vetiver falling within CN codes 3301 21 and 3301 26 as provided for in Article 13 (3) of Regulation (EEC) No 3763/91 shall be paid to producers through local collection and marketing bodies approved by the competent authorities.

The aid shall be paid for finished products obtained in accordance with recognized manufacturing procedures and having the technical characteristics published by the competent authorities.

2. The competent authorities shall grant approval to the bodies referred to in paragraph 1 established in the production region which undertake in writing:

- (a) to transfer to the producers the full amount of ECU 44,68 per kg of essential oils of geranium and vetiver pursuant to one or more supply contracts not later than one month from the date of payment of the aid by the competent authorities;
- (b) to keep separate accounts for transactions connected with the application of this Article;
- (c) to allow any checks or inspections required by the competent administrations and to notify all information relating to the application of this Article.

#### Article 8

1. Where the quantities for which aid applications are made under Article 6 or 7 exceed the annual quantities laid down in Part 2 of Annex I, the competent authorities shall set a percentage reduction to be applied to all applications.

2. The competent authorities shall adopt the necessary additional administrative provisions for the application of Articles 6 and 7, in particular as regards the submission of aid applications, and shall carry out the necessary checks on green vanilla producers, dried vanilla and vanilla extract processors, producers of geranium and vetiver oils and the collection and marketing bodies for these products.

They may make payment of the aid conditional upon the presentation of delivery notes jointly signed by the producer and, as the case may be, the processors or the approved collection and marketing bodies.

## CHAPTER III

**Aid for marketing under annual contracts***Article 9*

1. For the purposes of Article 15 of Regulation (EEC) No 3763/91, 'annual contract' means a contract by which an operator, either a natural or legal person established elsewhere in the Community, outside the FOD, undertakes, before the beginning of the marketing period for the product or products in question, to purchase all or part of the production of an individual producer, producer's association or union in the FOD, with a view to marketing it elsewhere.

2. Operators who intend to submit an application for aid shall send the annual contract to the competent French authorities before the start of the marketing period for the product or products in question.

The contract shall at the very least include the following information:

- (a) the business names of the contracting parties and their places of establishment;
- (b) the description of the product or products;
- (c) the quantities concerned;
- (d) the duration of the commitment;
- (e) the marketing schedule;
- (f) the packaging and presentation method and information relating to transport (conditions and costs);
- (g) the exact delivery stage.

3. The competent administrations shall assess the contracts for conformity with Article 15 of Regulation (EEC) No 3763/91 and with this Regulation. They shall verify that the contracts contain all the information specified in paragraph 2 above.

They shall inform the operator whether paragraph 6 is likely to be applied.

4. For the purpose of calculating the aid, the value of marketed production, delivered to destination zone, shall be evaluated on the basis of the annual contract, the particular transport documents and any other supporting documents submitted to justify the application for payment.

The value of the marketed production to be taken into account shall be equivalent to that of a delivery at the first port or airport of unloading.

The competent authorities may request any information or additional supporting documentation required to calculate the aid.

5. Applications for aid shall be submitted by the buyer who entered into the commitment to market the product in the month following the end of the marketing period.

Where the management of the aid scheme so requires, the competent administrations may specify marketing periods or years for each product.

6. Where, for a given product and for a given overseas department, the quantities for which aid is requested exceed the volume of 3 000 tonnes laid down in Article 15 of Regulation (EEC) No 3763/91, or, in the case of melons falling within CN code ex 0807 10 90, the limit laid down in paragraph 5 of the above Article, the national authorities shall determine a uniform percentage reduction to be applied to all aid applications.

7. The increase in aid provided for in Article 15 (4) of Regulation (EEC) No 3763/91 shall be paid on presentation of the commitments entered into by the partners to pool, for a period of not less than three years, the knowledge and know-how required to achieve the objective of the joint venture. These commitments shall include a clause prohibiting cancellation of the contract before the end of the aforementioned three-year period.

Where the aforementioned commitments are broken, the buyer may not submit an application for aid for the marketing year concerned.

## CHAPTER IV

**General provisions***Article 10*

1. Applications for aid for supplying the regional market as referred to in Chapter I, for the production aid referred to in Chapter II and for the marketing aid referred to in Chapter III shall be submitted to the administrations designated by the French authorities in accordance with the models established by the latter and within the period(s) prescribed by them.

2. The applications shall be accompanied by invoices and all other supporting documents relating to the measures undertaken, in particular the reference of the supply contracts for the aid referred to in Chapters I and III.

3. The competent administrations, having verified the applications for aid and the relative supporting documents, shall pay out, in the two months following the end of the period for lodging applications for aid referred to in paragraph 1, the aid determined in accordance with Chapters I, II, and III.

*Article 11*

1. The national authorities shall take all the necessary measures to guarantee compliance with the conditions to which the grant of the aid provided for in Articles 13 and 15 of Regulation (EEC) No 3763/91 is subject.

To that end, they shall carry out random on-the-spot checks on aid applications representing at least 20 % of the quantities and 10 % of the beneficiaries.

They shall withdraw the approvals referred to in Articles 3 (2), 6 (2) and 7 (2) where the commitments to which they are subject are not fulfilled.

They may suspend the payment of aid according to the seriousness of the irregularities discovered.

2. Where aid has been paid out unduly, the competent administrations shall recover the sums paid out, with interest from the date on which the aid was paid out to the date on which it was repaid by the beneficiary.

Where the undue payment has been made because of a false declaration, false documents or serious negligence on the part of the recipient, a penalty equal to the amount paid out unduly, with interest calculated in accordance with the above subparagraph, shall be imposed.

The interest rate shall be that applied by the European Monetary Cooperation Fund to its transactions in ecus as published in the C series of the *Official Journal of the European Communities*, in force on the date of the undue payment and increased by three percentage points.

3. The aid recovered shall be paid to the paying authorities or agencies and deducted by them from the expenditure financed by the European Agricultural Guidance and Guarantee Fund.

#### *Article 12*

France shall send the Commission, within three months of the entry into force of this Regulation, the additional detailed rules adopted for the application of Articles 13, 14 and 15 of Regulation (EEC) No 3763/91.

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

Done at Brussels, 17 March 1997.

#### *Article 13*

For the purposes of Article 13 (2) and (3) of Regulation (EEC) No 3763/91, aid applications for 1996 shall be submitted to the administration designated by the competent authorities under the conditions adopted by the latter.

The aid shall be paid on presentation, to the satisfaction of the competent authorities, of evidence that the products in respect of which the right to aid arises have actually been, as appropriate, harvested with a view to the production of dried (black) vanilla or vanilla extract or manufactured in compliance with customary technical procedures and collected by the bodies responsible for marketing them.

The competent authorities shall ensure, using appropriate checks, that the aid applications and supporting documents are true and exact.

#### *Article 14*

Regulation (EEC) No 667/92 is hereby repealed.

#### *Article 15*

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

It shall apply from 1 January 1997, with the exception of Article 14 which shall apply from its entry into force.

*For the Commission*

Franz FISCHLER

*Member of the Commission*

## ANNEX I

## 1. Products referred to in Article 2 (1)

Maximum quantities referred to in Article 2 (3)

Category A		
CN code	Product	Quantity
0701	potatoes	10 350 (tonnes)
ex 0706 10	carrots	
ex 0707	cucumbers	
0709 90 90	chouchous/christophines	
0803 00 11	plantains	
0804 30	pineapples	
0807 11 00	watermelons	
ex 0603	tropical flowers (standard anthurium, alpinas, heliconias)	6 600 000 (units)
Category B		
CN code	Product	Quantity
0702	tomatoes	12 400 (tonnes)
ex 0703 10	onions	
ex 0704	cabbages	
ex 0705	lettuce	
0709 90 10	salad vegetables other than lettuce	
0709 30 00	aubergines	
0714 20 10	sweet potatoes	
ex 0714 90 11	yams, dachines or taro	
ex 0714 90 19	yams, dachines or taro	
ex 0709 90 90	turban squash	
0804 40	avocados	
ex 0804 50 00	mangoes	
ex 0805	citrus fruit (oranges, mandarins, lemons and limes, grapefruit and pomelos)	
0807 19 00	melons	
0807 20 00	papayas	
ex 0810 90 30	lychees	
Category C		
CN code	Product	Quantity
0703 20	garlic	375 (tonnes)
0708 20	green beans	
ex 0710 30 10	turmeric	
0810 10	strawberries	
ex 0810 90 40	passion fruit, maracuja, granadilla	
ex 0810 90 85	rambutan	
ex 0603 10	tropical flowers (hybrid anthurium, orchids, Canna indica)	500 000 (units)
0603 10 11	roses	
0603 10 51	roses	

## 2. Maximum quantities referred to in Article 8

CN code	Product	Quantity (kilograms)
ex 0905	green vanilla	45 000
3301 21	essential oil of geranium	12 500
3301 26	essential oil of vetiver	2 500

## ANNEX II

Amounts of aid referred to in Article 2 (2) and increased aid referred to in the second subparagraph of Article 3 (1)

## Category A

CN code	Product	Aid (Article 2)	Increased aid (Article 3)
0701	potatoes	ECU 0,15/kg	ECU 0,1575/kg
ex 0706 10	carrots		
ex 0707	cucumbers		
0709 90 90	chouchous/christophines		
0803 00 11	plantains		
0804 30	pineapples		
0807 11 00	watermelons		
ex 0603	tropical flowers (standard anthurium, alpinas, heliconias)	ECU 0,15/unit	ECU 0,1575/unit

## Category B

CN code	Product	Aid (Article 2)	Increased aid (Article 3)
0702	tomatoes	ECU 0,23/kg	ECU 0,2415/kg
ex 0703 10	onions		
ex 0704	cabbages		
ex 0705	lettuce		
0709 90 10	salad vegetables other than lettuce		
0709 30 00	aubergines		
0714 20 10	sweet potatoes		
ex 0714 90 11	yams, dachines or taro		
ex 0714 90 19	yams, dachines or taro		
ex 0709 90 90	turban squash		
0804 40	avocados		
ex 0804 50 00	mangoes		
ex 0805	citrus fruit (oranges, mandarins, lemons and limes, grapefruit and pomelos)		
0807 19 00	melons		
0807 20 00	papayas		
ex 0810 90 30	lychees		

## Category C

CN code	Product	Aid (Article 2)	Increased aid (Article 3)
0703 20	garlic	ECU 0,30/kg	ECU 0,3150/kg
0708 20	green beans		
ex 0710 30 10	turmeric		
0810 10	strawberries		
ex 0810 90 40	passion fruit, maracuja, granadilla		
ex 0810 90 85	rambutan	ECU 0,30/unit	ECU 0,3150/unit
ex 0603 10	tropical flowers (hybrid anthurium, orchids, Canna indica)		
0603 10 11	roses		
0603 10 51	roses		