COMMISSION REGULATION (EC) No 1082/1999

of 26 May 1999

amending Regulation (EC) No 1169/97 laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits [1], as last amended by Regulation (EC) No 858/1999 [2], and in particular Articles 2(2), 3(4), 6 and 8 thereof,

(1) Whereas Article 5(2) of Regulation (EC) No 2202/96, lays down that the financial consequences of exceeding the processing thresholds laid down in paragraph 1 of that Article are postponed to the marketing year following that in which the overrun occurs; whereas the detailed rules for the application of Commission Regulation (EC) No 1169/97 [3], as amended by Regulation (EC) No 1145/98 [4], should be amended to reflect this new situation;

(2) Whereas the equivalent period of 12 consecutive months referred to in Article 5 of Regulation (EC) No 2202/96, used to assess whether or not there has been an overrun of the processing threshold, must be laid down;

(3) Whereas, in order to make the administration of multiannual contracts more flexible, the transfer should be permitted of a limited percentage of the quantity to be delivered in a delivery period to the previous or the subsequent delivery period in the same marketing year, provided that the total quantity provided for in the contract for that marketing year is respected;

(4) Whereas experience with processing contracts has shown that, in order to achieve the objectives of the scheme, financial penalties need to be imposed where producer organisations do not supply the quantities provided for in a contract and, in particular, where they cancel a contract or fail to make any deliveries at all;

(5) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1169/97 is hereby amended as follows:

1. the following paragraph 3 is added to Article 2:

'3. In a given marketing year, "the equivalent period" referred to in Article 5(2) of Regulation (EC) No 2202/96 shall run from:

— 1 August of the preceding marketing year to 31 July of the current marketing year for oranges,

— 1 October to 30 June of the current marketing year for mandarins, clementines and satsumas,

— 1 August of the preceding marketing year to 31 July of the current marketing year for grapefruit and pomelos,

— 1 April of the preceding marketing year to 31 March of the current marketing year for lemons.';

2. in Article 3(7), '1 June' is replaced by '1 July';

3. Article 5 is amended as follows:

— paragraph 1(b) is replaced by the following:

'(b) 1 July for lemons;'

— in paragraph 2, the first subparagraph is replaced by the following:

'2. In the case of contracts covering one marketing year, the quantity for each delivery period, within the meaning of Article 3(3)(d), may be amended by means of a written amendment, except for the quantity for the first delivery period,'

— paragraph 3 is replaced by the following:

'3. In the case of multiannual contracts, the quantity for each marketing year, within the meaning of Article 3(3)(c), may be amended by means of a written amendment. Such amendments shall show the identification number of the contract to which they relate. They shall be concluded before 1 July of the marketing year in question in the case of lemons and before 1 November of the marketing year in question in the case of other products. The quantities to be delivered in each marketing year as stipulated in such amendments may not differ by more than

[1] OJ L 297, 21.11.1996, p. 49.
[2] OJ L 108, 27.4.1999, p. 8.
[3] OJ L 169, 27.6.1997, p. 15.
[4] OJ L 159, 3.6.1998, p. 29.

40 % from those originally laid down in the contract for that marketing year. The quantity to be delivered shall be broken down by delivery quarter from the start of the marketing year concerned.

A maximum of 25 % of the quantity to be delivered in each delivery period may be transferred to either the preceding or the subsequent delivery period by means of a single written agreement between the parties concerned for each period, provided that the total quantity for the marketing year concerned is respected.

The producer organisation shall forward the agreement to the body referred to in Article 6(1), ensuring that it reaches that body before the end of the period concerned in the case of transfer to the subsequent period and 30 days before the end of the preceding period in the case of transfer to the preceding period.';

4. Article 8(4) is replaced by the following:

'4. No later than 30 days after the start of the marketing year, the information specified in paragraphs l and 2 and a copy of the agreements referred to in paragraph 3 shall be forwarded to the body designated by the Member State in which the raw materials are harvested.';

5. Article 12 is replaced by the following:

'Article 12

Aid applications shall be submitted by the producer organisation per product and per delivery period to the body designated by the Member State on whose territory the raw materials were harvested.

A single aid application may be submitted per delivery period for a given basic product. In the case of clementines, separate aid applications must be drawn up for each potential use, that is for juice or segments.';

6. Article 13 is replaced by the following:

'Article 13

Each aid application for each product and for each delivery period, shall include *inter alia* the following:

(a) the applicant's name and address;

(b) the identification numbers of the contracts under which the product is delivered, specifying whether the contracts relate to one or more marketing years;

(c) the quantity of product delivered under the contracts, including any amendments thereto, during the period concerned. That quantity shall be broken down by contract and according to the amount of the corresponding aid;

(d) the quantity of product delivered otherwise than under contracts during the same period;

(e) the average prices applying, on the one hand, to products delivered under contracts, distinguishing between multiannual contracts and contracts covering one marketing year, and, on the other hand, to other products delivered otherwise than under contracts during the period concerned;

(f) a declaration by the producer organisation to the effect that products referred to in point (c) meet the quality criteria laid down in Article 9.';

7. Article 14 is replaced by the following:

'Article 14

Aid applications referred to in Article 13 shall be submitted to the competent body not later than 45 days following the end of the period concerned.';

8. Article 15 is replaced by the following:

'Article 15

1. The aid shall be paid by the competent body of the Member State in which the raw material was harvested once the supervisory body of the Member State in which processing takes place has established that the products covered by the application for the aid have been delivered to the processor.

Where processing takes place in another Member State, that Member State shall provide the Member State where the product is harvested with proof that the product has in fact been delivered.

No aid shall be granted for quantities in respect of which the requisite checks on the conditions under which the aid is granted have not been conducted.

2. Within 15 working days of receipt of the aid, the producer organisation shall pay in full by bank or postal transfer the amounts received to its members or, where the second and third indents of Article 11(1)(c)(3) of Regulation (EC) No 2200/96 apply, to the members of the other producer organisations and/or to the individual producers concerned. In cases as provided for in Article 4 of this Regulation, such payments may be credited.';

9. Article 18(2) is amended as follows:

— in the first subparagraph, point (e) is replaced by:

'(e) aid applications for each delivery period,'

— in point (a) in the second subparagraph, 'or an advance' is deleted;

10. Article 20 is amended as follows:

— paragraphs 1 and 2 are replaced by the following:

'1. If the aid for a product applied for by a producer organisation in respect of a delivery period is found to be greater than the amount due, the latter shall be reduced where the difference is the result of false declarations, false documents or serious negligence on the part of the producer organisation. That reduction shall be equal to twice the difference, plus interest calculated on the period elapsing between payment

and reimbursement of the amount unduly received by the recipient.

The rate of interest shall be that applied by the European Monetary Institute to transactions in euros, as published in the "C" series of the *Official Journal of the European Communities*, in force on the date of undue payment; plus three percentage points.

2. Where paragraph 1 is applied, if the difference between the aid actually paid and the aid due exceeds 20 % of the latter, the recipient shall reimburse the total aid paid, plus interest calculated in accordance with that paragraph; if that difference exceeds 30 %, the producer organisation shall also forfeit any entitlement to production aid in the following marketing year.',

— in paragraph 7, 'or advance' is deleted,

— the following paragraph 8 is added:

'8. Where a processing contract is cancelled, either in full or in part, before its expiry, the signatory producer organisation shall reimburse 40 % of the aid received for that contract, plus interest calculated in accordance with the second subparagraph of paragraph 1.

In addition, in the case of multiannual contracts:

— a producer organisation which cancels, in full or in part, rivo or more contracts during the same marketing year may not conclude a multiannual contract pursuant to Regulation (EC) No 2206/96 for three marketing years from the time the competent body of the Member State concerned notes such cancellation,

— failure to deliver a product during one of the marketing years covered by a contract shall imply cancellation of that contract.';

11. Article 22(1) is replaced by the following:

'1. Each Member State concerned shall notify the Commission of:

(a) the quantity of each product covered by contracts for the current marketing year, broken down by delivery period and type of contract, by:

(i) 15 August in the case of lemons;

(ii) 15 December in the case of other products;

(b) the quantity of each product delivered for processing pursuant to Regulation (EC) No 2202/96 during the periods referred to in Article 2(3), by:

(i) 1 May of the current marketing year in the case of lemons;

(ii) 1 September of the current marketing year in the case of other products.';

12. Article 23 is replaced by the following:

'Article 23

As regards grapefruit and pomelos, whether or not the processing threshold laid down in Article 5 of Regulation (EC) No 2202/96 for the 1999/2000 marketing year has been exceeded shall be assessed on the basis of the average quantities processed pursuant to Regulation (EC) No 2202/96 during the 1997/98 and 1998/99 marketing years.'

Article 2

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 the 1999/2000 marketing year.

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

Done at Brussels, 26 May 1999.

For the Commission

Franz FISCHLER

Member of the Commission