

## COMMISSION REGULATION (EEC) No 1562/85

of 7 June 1985

laying down detailed rules for the application of measures to encourage the processing of oranges and the marketing of products processed from lemons

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

tion of measures to encourage the marketing of products processed from lemons ;

Having regard to the Treaty establishing the European Economic Community,

Whereas, for the purposes of operating the system, any processors wishing to receive financial compensation for the processing of fresh oranges and lemons should make themselves known to the authorities ; whereas processors should communicate to the authorities the particulars necessary to ensure the correct operation of the system ;

Having regard to Council Regulation (EEC) No 2601/69 of 18 December 1969 laying down special measures to encourage the processing of certain varieties of oranges <sup>(1)</sup>, as last amended by Regulation (EEC) No 987/84 <sup>(2)</sup>, and in particular Article 3 (2) thereof,

Whereas the financial compensation system is based on contracts between growers and processors ; whereas the particulars to be included in such contracts should be specified ;

Having regard to Council Regulation (EEC) No 1035/77 of 17 May 1977 laying down special measures to encourage the marketing of products processed from lemons <sup>(3)</sup>, as last amended by Regulation (EEC) No 1318/85 <sup>(4)</sup>, and in particular Article 3 thereof,

Whereas processing contracts for fresh oranges must be concluded before the beginning of the marketing year ; whereas, in order to ensure regular supplies of fresh lemons to processors, taking into consideration the duration of the marketing year, such contracts are concluded for a period of six months ; whereas, however, in order to ensure maximum efficiency of the system, the contracting parties should be allowed up to certain limits to increase the quantities of fruit originally contracted for by supplementary agreement ;

Having regard to Council Regulation (EEC) No 1223/83 of 20 May 1983 on the exchange rates to be applied in agriculture <sup>(5)</sup>, as last amended by Regulation (EEC) No 1297/85 <sup>(6)</sup>, and in particular Article 4 (3) thereof,

Whereas Commission Regulation (EEC) No 208/70 <sup>(7)</sup>, as last amended by Regulation (EEC) No 272/85 <sup>(8)</sup>, lays down detailed rules for the application of measures to encourage the processing of oranges ;

Whereas, under Article 6 of Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy <sup>(11)</sup>, the time when a transaction is carried out is to be considered as the date of the event, as defined by Community rules or, in the absence of and pending adoption of such rules, by the rules of the Member State concerned, as a result of which the sum involved in the transaction becomes due and payable ; whereas, however, Article 4 (3) of Regulation (EEC) No 1223/83 allows exceptions to be made to this provision ; whereas establishing the date on which each batch of fruit has been processed presents difficulties ; whereas, to ensure uniform application of the compensation

Whereas Commission Regulation (EEC) No 1045/77 <sup>(9)</sup>, as last amended by Regulation (EEC) No 3482/80 <sup>(10)</sup>, lays down detailed rules for the applica-

<sup>(1)</sup> OJ No L 324, 27. 12. 1969, p. 21.  
<sup>(2)</sup> OJ No L 103, 16. 4. 1984, p. 10.  
<sup>(3)</sup> OJ No L 125, 19. 5. 1977, p. 3.  
<sup>(4)</sup> OJ No L 137, 27. 5. 1985, p. 37.  
<sup>(5)</sup> OJ No L 132, 21. 5. 1983, p. 33.  
<sup>(6)</sup> OJ No L 137, 27. 5. 1985, p. 1.  
<sup>(7)</sup> OJ No L 28, 5. 2. 1970, p. 12.  
<sup>(8)</sup> OJ No L 28, 1. 2. 1985, p. 46.  
<sup>(9)</sup> OJ No L 125, 19. 5. 1977, p. 23.  
<sup>(10)</sup> OJ No L 363, 31. 12. 1980, p. 89.

<sup>(11)</sup> OJ No L 188, 1. 8. 1968, p. 1.

system, the rate for converting the compensation into national currency should be the rate at the beginning of the marketing year in the case of oranges and the rate on 1 June or 1 December each year in the case of lemons; whereas, in view of the link between financial compensation and the minimum price to be paid to growers, the conversion rate applied to that price should be the same as that applied to the financial compensation;

Whereas, under Article 2 of Regulation (EEC) No 1035/77, financial compensation is paid to processing undertakings in the Community on 85 % of the quantity of Community-grown lemons purchased at the minimum price; whereas, however, compensation can be paid to processors on a higher percentage where evidence is provided that a quantity of lemon juice exceeding the said percentage is sold outside Italy; whereas the method of proving that the said percentage has been exceeded should therefore be defined;

Whereas applications for financial compensation must include all the information needed to verify that an application is justified;

Whereas, to ensure that the compensation system is properly applied, processors should be required to keep relevant, up-to-date documentation; whereas, to prevent irregularities in the operation of the scheme, processors should be subject to such inspection and monitoring as is considered necessary;

Whereas the measures provided for in this Regulation replace the provisions of Regulation (EEC) No 208/70 and (EEC) No 1045/77; whereas the latter should therefore be repealed;

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

HAS ADOPTED THIS REGULATION:

#### TITLE I

### Scope of the Regulation

#### Article 1

This Regulation lays down detailed rules for applying the financial compensation schemes to encourage the processing of oranges and lemons which are provided for in Regulations (EEC) No 2601/69 and (EEC) No 1035/77 respectively.

#### Article 2

For the purposes of Regulation (EEC) No 2601/69 and (EEC) No 1035/77:

- 'the industry' means undertakings commercially operating, on their own responsibility, one or more plants equipped to process oranges and/or lemons,
- 'producer' means any natural or legal person growing on their own holding the fruit which is to be processed.

#### TITLE II

### Information required of processors

#### Article 3

1. Processors wishing to receive financial compensation shall inform the competent authorities of the Member State in which processing is to take place at least 45 days before the start of the marketing year during which they intend to apply for such aid and shall at the same time transmit all the information required by the Member State for proper management and monitoring of the financial compensation scheme.

Member States may stipulate that this information:

- (a) need only be transmitted by new processors if the requisite information is already available from other applicants;
- (b) should relate to a single marketing year, several marketing years or an unlimited period.

2. In exceptional cases for which proper justification satisfying the Member State concerned is provided, Member States may accept information received after expiry of the period laid down in paragraph 1 where there is no adverse impact on the financial compensation scheme.

In respect of the 1985/86 marketing year, the information required by paragraph 1 relating to lemons may be transmitted within 15 days following the publication of this Regulation.

#### Article 4

1. In respect of each marketing year, processors shall inform the competent authorities of the week in which processing is to commence. This information must reach the authorities at the latest five working days before the start of processing.

2. In exceptional cases for which proper justification satisfying the Member State concerned is provided, Member States may accept information received after the time limit set in paragraph 1; however, no aid shall be granted in such cases in respect of fruit already processed or in the course of being processed if the necessary checks on the qualification for financial compensation cannot be carried out to the satisfaction of the competent authorities.

## TITLE III

## Processing contracts

## Article 5

1. Individual contracts as referred to in Article 2 of Regulation (EEC) No 2601/69 and Article 1 of Regulation (EEC) No 1035/77, hereinafter referred to as 'processing contracts', shall be concluded in writing between, on the one hand, producers or producers' groups and associations thereof legally recognized in the Community and, on the other, processors or legally recognized groups of processors and associations thereof.

A processing contract may also take the form of a commitment by one or several producers to supply fruit to the recognized group or association to which they belong where it is acting as a processor.

2. Processing contracts must contain :

- (a) the name and address of the producer or recognized producers' group or association thereof ;
- (b) the name and address of the processor or the recognized group of processors or association thereof ;
- (c) the quantity of fruit covered ;
- (d) the timetable of deliveries to the processor ;
- (e) the price to be paid to the other contracting party for the fruit, not including costs relating to packing, loading, transport and unloading and the payment of fiscal charges which must, where relevant, be detailed separately.

3. Member States may specify further requirements concerning processing contracts, in particular with regard to deadlines, the terms of payments of the minimum price and penalties to be paid by the processor or producer if either fails to fulfil his contractual obligations.

## Article 6

Where a producer is also the processor, a processing contract as referred to in Article 5 shall be deemed to exist if a schedule has been drawn up showing :

- the total area devoted to fruit-growing,
- an estimate of the total crop,
- the quantity to be sent for processing,
- the timetable of deliveries for processing.

## Article 7

1. Processing contracts shall be concluded :
  - before 20 January in the case of oranges,

- before 20 May or 20 November in the case of lemons, which must be delivered to the industry during the periods 1 June to 30 November and 1 December to 31 May respectively.

However,

- Member States may apply for authorization in exceptional circumstances to defer the indicated date in respect of certain varieties of oranges, in accordance with the procedure provided for in Article 33 of Regulation (EEC) No 1035/72,
- contracts for the delivery of lemons to the industry between 1 June and 30 November 1985 may be concluded up to 31 July 1985.

2. The contracting parties may increase the quantities of fruit initially specified in a contract by means of a supplementary agreement in writing.

Supplementary agreements shall be concluded at the latest by :

- (a) 30 April in the case of oranges ;
- (b) 31 August or 28/29 February in the case of lemons, depending on which of the periods referred to in paragraph 1 is involved.

In respect of the first part of the 1985/86 marketing year, supplementary agreements may be concluded up to 30 September 1985.

However, such supplementary agreements may cover :

- no more than 40 % of the original quantity of oranges if the supplementary agreement is concluded before 15 March and no more than 15 % of the original quantity if the supplementary agreement is concluded between 15 March and 30 April,
- no more than 40 % of the quantity of lemons originally specified in a contract.

3. Where the minimum price to be paid to producers for a given type of fruit has not been published in the *Official Journal of the European Communities* at least 21 days before one of the dates given in paragraph 1, the final date for the conclusion of contracts for that product shall, by way of derogation from paragraph 1, be the 21st day following publication of the said price.

## Article 8

1. Processors and groups or associations of processors shall forward copies of each processing contract as well as any supplementary agreements to a body designated by the Member State where the fruit has been grown and, where relevant, the corresponding body in the Member State where processing takes place. These copies must reach the competent authorities within 10 working days of the conclusion of the contract or supplementary agreement.

2. In exceptional cases for which proper justification satisfying the Member State concerned has been provided, Member States may validate processing contracts and supplementary agreements reaching their authorities at a later date, provided that the validation is compatible with the aims of the financial compensation scheme and does not adversely affect the means of monitoring it.

#### TITLE IV

##### Raw materials

###### Article 9

Fruit supplied to processors under processing contracts must :

- in the case of oranges, satisfy at least the minimum quality and size requirements laid down for Class III,
- in the case of lemons, satisfy the minimum quality requirements laid down in Title II B (i) of the common standard, although up to 15 % of the fruit by weight may be substandard provided it is suitable for processing.

###### Article 10

1. At the time each batch of oranges or lemons is delivered to the processing plant under a processing contract, competent authorities designated by the Member State in which processing takes place shall verify the weight of fruit delivered, the variety in the case of oranges and the conformity of the fruit with the quality requirements indicated in Article 9.

When these checks have been completed, a certificate shall be issued to the processor in respect of each batch stating :

- the names and addresses of the contracting parties,
- conformity of the fruit with quality and net weight requirements, by variety in the case of oranges.

A copy of this certificate shall be given to the producer. One copy shall be kept by the competent authorities.

2. Where the checks referred to in paragraph 1 show that all or part of the fruit does not conform with Article 9, the authorities specified in paragraph 1 shall notify the contracting parties of the fact and indicate the consequences with regard to payment of financial compensation.

#### TITLE V

##### Currency conversion

###### Article 11

1. The event creating entitlement to financial compensation shall be deemed to occur :

- (a) in the case of oranges, on 1 October of the marketing year in which the fruit is sent for processing ;
- (b) in the case of lemons,
  - on either 1 June and 1 December of the marketing year, depending on which of the periods referred to in Article 7 (1) is the period during which the fruit is sent for processing,
  - on 1 December of the marketing year where the fruit is eligible for supplementary financial compensation.

2. The conversion rate applying to the minimum price in ECU shall be the representative rate valid :

- on the first day of the marketing year in which the oranges are sent for processing,
- on either 1 June and 1 December of the marketing year, depending on which of the periods referred to in Article 7 (1) is the period during which the lemons are sent for processing.

#### TITLE VI

##### Applications for financial compensation

###### Article 12

Processors shall submit applications for financial compensation to the competent body in the Member State where processing takes place :

- (a) in the case of oranges, within 90 days at the latest after
  - 15 February for fruit processed prior to that date,
  - the completion of processing ;
- (b) in the case of lemons, within 90 days at the latest after either 30 November or 31 May.

Processors wishing to avail themselves of the second subparagraph of Article 2 (2) of Regulation (EEC) No 1035/77 in respect of a given marketing year shall enter applications for supplementary compensation by 31 December of the year in which the marketing year ends.

*Article 13*

1. Applications for financial compensation must include :

- (a) the name and address of the applicant ;
- (b) an indication of the total quantities of
  - fresh oranges purchased during the marketing year both up to 15 February and from 16 February, and/or
  - fresh lemons purchased during each of the periods referred to in Article 7 (1) ;
- (c) an indication of the corresponding quantities of fruit purchased under a processing contract or supplementary agreement, by variety in the case of oranges ;
- (d) an indication of the total quantities of products processed from fresh oranges and/or lemons ;
- (e) an indication of the total quantities of products processed from fresh oranges or lemons purchased under processing contracts ;
- (f) where relevant, an indication of the quantities of lemon juice purchased during each of the periods referred to in Article 7 (1) ;
- (g) a statement by the processor that a price not less than the minimum price has been paid for the fresh fruit.

2. Applications for financial compensation shall be accompanied in particular by :

- (a) invoices for the quantities of fresh oranges or lemons referred to in paragraph 1 (c), duly receipted by the other contracting party, showing that the price paid was not less than the minimum price referred to in Article 2 (2) of Regulation (EEC) No 2601/69 and Article 1 (3) of Regulation (EEC) No 1035/77, or
- (b) where growers have entered into a commitment to supply the fruit, a statement by them that the processor has paid or credited to them a price not less than the minimum price ;
- (c) the certificate referred to in Article 10.

3. In addition to the above particulars, undertakings processing lemons outside Italy as well as in Italy wishing to avail themselves of the second subparagraph of Article 2 (2) of Regulation (EEC) No 1035/77 shall include in their applications the following information relating to the marketing year concerned :

- the total quantity of lemon juice marketed by the applicant,
- the quantity of lemon juice marketed outside Italy by the applicant.

*Article 14*

Evidence that lemon juice has been sold outside Italy shall be provided in the following manner :

- 1. Undertakings processing lemons in Italy shall show that the lemon juice manufactured has left the said country by presenting an export or shipping declaration, to which shall be appended a certificate issued by the customs authorities referred to in point 3 certifying that the lemon juice has left Italy.
- 2. Undertakings processing lemons in Member States other than Italy shall show :
  - (a) either that the lemon juice has been marketed in the Member State in which processing has taken place by presenting duly receipted invoices ;
  - (b) or that the lemon juice has been exported to a country outside the Community or shipped to another Member State except Italy by presenting a copy of the export or shipping declaration, to which shall be appended a certificate issued by the customs authorities referred to in point 3 certifying that the lemon juice has left the Member State concerned.
- 3. The Community transit procedure is compulsory for shipping to another Member State or exporting to a country outside the Community in order that a certificate as referred to in points 1 and 2 (b) may be issued by the customs office of departure. The latter shall, upon applications, endorse the certificate after receiving the return copy of the transit document.

In the case of lemon juice shipped under one of the documents named below, being equivalent to the T 2 form :

- an international consignment note,
- an international express parcel dispatch note,
- a Community transit transfer note,

the certificate shall be issued, upon application, by the customs office of departure after the latter has been presented with a consignment note, dispatch note or transfer note showing that the products covered by that document have been accepted for shipping by the railway authorities. The office of departure may authorize such changes to the shipping contract as have the effect of terminating the consignment in the Member State where it originates only if the said certificate has not been or will not be issued.

In the case of exportation to a country outside the Community without the other goods passing through the territory of a Member State other than that in which the office of departure is located, the

certificate referred to in points 1 and 2 (b) shall be issued, upon application, by the office of departure once the lemon juice has left the Member State concerned.

## TITLE VII

### Monitoring

#### Article 15

1. Processors shall keep records containing the following minimum information, broken down for lemons by the periods referred to in Article 7 (1) and for oranges by those referred to in the first indent of Article 13 (1) (b):

- the batches of fruit purchased or entering an undertaking each day, with separate entries for processing contracts and written supplementary agreements, together with the serial numbers of any receipts issued for such batches,
- the weight of each batch and the name and address of the other contracting party,
- the quantities of finished products manufactured each day from the fruit, identifying the quantities eligible for financial compensation,
- the quantities of products leaving the processing plant, identified by batch and indicating the consignee. Entries in the records may consist of references to supporting documents where these contain the prescribed particulars.

In the case of lemons, the records shall also include the following additional information:

- the quantities of lemon juice purchased,
- where relevant, the quantities of lemon juice returned to the undertaking,
- an indication of the total quantity of lemon juice marketed,
- an indication of the quantity of lemon juice marketed outside Italy.

2. Processors shall keep proof of payment in respect of all fruit purchased under a processing contract or supplementary agreement for five years after the end of the marketing year in which processing is carried out.

3. Processors shall be subject to any inspection or monitoring considered necessary and shall keep such additional records as are prescribed by the national authorities to enable them to carry out the checks that they consider necessary.

#### Article 16

Quantities of lemon juice as referred to in Article 15 shall also be recorded in terms of the weight of fresh fruit processed.

#### Article 17

1. In respect of each marketing year, the competent authorities shall examine the records of processors and verify in particular, at a minimum by random checks:

- (a) that the quantities of fresh oranges and lemons purchased under a processing contract and processed by an undertaking correspond to those given in the application for financial compensation;
- (b) that the quantities given in the application for financial compensation correspond to those for which endorsed certificates as referred to in Article 10 have been issued;
- (c) that the price paid for the abovementioned fruit intended for processing is not less than the minimum price laid down, and
- (d) that the quality requirements have been observed.

Additionally, in the case of undertakings wishing to avail themselves of the second subparagraph of Article 2 (2) of Regulation (EEC) No 1035/77, monitoring shall include verifying quantities of lemon juice marketed outside Italy.

2. In respect of each marketing year, the competent authorities shall also make random checks on the signatures borne by the invoices referred to in Article 13 (2) and on the correctness of such invoices, together with checks on the payments relating thereto, for example by confrontation of the contracting parties.

3. The competent authorities designated by Member States shall carry out physical checks at least twice a year on the stocks of processed products held by processing undertakings.

4. Verifications undertaken pursuant to this Article shall be without prejudice to either additional verification by the competent authorities or the possible consequences of applying the provisions in force.

5. Member States shall take all necessary steps to prevent and punish fraud in connection with the financial compensation system and to ensure its correct implementation.

## TITLE VIII

### Quotas

#### Article 18

Undertakings which process oranges shall qualify for financial compensation in respect of the total quantity manufactured under processing contracts, subject to Article 10 (2) and provided that an undertaking has actually processed all the fruit purchased.

Where the latter condition is not met, except in cases of *force majeure*, compensation shall be reduced in proportion to the quantity actually processed in relation to the total quantity purchased.

*Article 19*

1. Undertakings which process lemons shall qualify for financial compensation in respect of 85 % of the quantity of fruit purchased under processing contracts, subject to Article 10 (2) and provided that an undertaking has actually processed all the fruit purchased.

Where the latter condition is not met, except in cases of *force majeure*, compensation shall be reduced in proportion to the quantity actually processed in relation to the total quantity purchased.

2. Undertakings in the situation defined in Article 2 (3) (b) of Regulation (EEC) No 1035/77 shall qualify for financial compensation in respect of a percentage of the quantity of fruit purchased under contract which corresponds to the percentage of products marketed outside Italy as a proportion of the total quantity marketed.

However, where an undertaking has not processed all the fruit purchased, the said percentage shall be reduced in proportion to the quantity actually processed as a percentage of the total quantity purchased, except in case of *force majeure*.

## TITLE IX

## Communications to the Commission

*Article 20*

Each Member State shall notify to the Commission by 31 January at the latest following the end of a marketing year :

1. the combined net weight of finished products resulting from the processing of all oranges and lemons by the processing industry ;
2. the combined net weight of finished products manufactured from the oranges and lemons which have qualified for financial compensation ;
3. the total quantities of oranges and lemons processed ;

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

Done at Brussels, 7 June 1985.

4. the total quantities of oranges and lemons covered by processing contracts as referred to in Article 5 ;
5. the total quantities of oranges, by variety, and of lemons, to be broken down by the periods referred to either in the first indent of Article 13 (1) (b) or in Article 7 (1), which are stated in applications for financial compensation to have been used to manufacture the products referred to in (2) ;
6. the expenditure, given in national currency, incurred in relation to the financial compensation paid in respect of the quantities referred to in (5) ;
7. the combined net weight of products not sold and remaining in store at the end of the marketing year in which processing takes place ;
8. in respect of lemon-processing undertakings, an indication of :
  - (a) the total quantity of lemon juice purchased during each of the periods referred to in Article 7 (1) ;
  - (b) the total quantity of lemon juice marketed by processors ;
  - (c) the total quantities of lemon juice marketed outside Italy in the periods referred to in Article 7 (1).

## TITLE X

## Final provisions

*Article 21*

Regulations (EEC) No 208/70 and (EEC) No 1045/77 are hereby repealed.

The said Regulations shall, however, remain valid for products processed before the date of entry into force of this Regulation.

*Article 22*

This Regulation shall enter into force on the 10th day following its publication in the *Official Journal of the European Communities*.

*For the Commission*

Frans ANDRIESEN

*Vice-President*