

**COMMISSION REGULATION (EC) No 1467/1999**

**of 5 July 1999**

**amending Regulation (EEC) No 1858/93 laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the aid scheme to compensate for loss of income from marketing in the banana sector**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organisation of the market in bananas<sup>(1)</sup>, as last amended by Regulation (EC) No 1257/1999<sup>(2)</sup>, and in particular Articles 12 and 14 thereof,

Having regard to Council Regulation (EC) No 2799/98 of 15 December 1998 establishing agrimonetary arrangements for the euro<sup>(3)</sup>, and in particular Article 3(2) thereof,

- (1) Whereas Commission Regulation (EEC) No 1858/93<sup>(4)</sup>, as last amended by Regulation (EC) No 1062/1999<sup>(5)</sup>, lays down detailed rules for applying the system of compensatory aid for loss of income from the marketing of bananas;
- (2) Whereas the average production income is established on the basis of the average of prices at the stage of delivery at first port of unloading in the rest of the Community less the average costs of transport and delivery fob; whereas experience has shown that in practice the average costs deducted from the average value of bananas at the stage of delivery at the first port of unloading (goods not unloaded) have remained relatively stable to date; whereas, this being the case, administration of the scheme could be greatly simplified by providing for a flat-rate amount to be deducted, while complying with the criteria laid down in the rules; whereas the average production income for bananas produced and marketed in their producer region as defined in Article 12 of Regulation (EEC) No 404/93 must be established separately on the basis of the selling prices on local markets, less a flat-rate amount for the forwarding costs to the markets concerned;
- (3) Whereas such flat-rate amounts must be reviewed to ensure that they keep pace with real costs, in particular transport costs;
- (4) Whereas experience has shown that the dates by which operators are to submit their applications for advances to the competent authorities of the Member States

should be extended to give operators enough time to prepare their applications;

- (5) Whereas, for the purposes of calculating the compensatory aid, it is justified to break down all the information on the marketing of bananas forwarded to the Commission by bananas dispatched to the Community outside their producer region and bananas placed on the market in a producer region as defined in Article 12 of Regulation (EEC) No 404/93;
- (6) Whereas the definition of the operative event for the aid for the purposes of payment of advances and payment of the balance of the aid should be adapted;
- (7) Whereas, with a view to appreciably simplifying the administration of these arrangements, this Regulation should apply during 1999; whereas the inclusion of certain costs, in particular for forwarding and transport, by means of flat-rate amounts is based directly on information obtained by Member States during the marketing of the products;
- (8) Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Bananas,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 1858/93 is amended as follows:

1. Article 3 is replaced by the following:

*'Article 3*

1. The average production income for bananas produced and marketed in the Community as referred to in Article 12(5) of Regulation (EEC) No 404/93 shall be calculated for the ex-packing shed stage.

2. In the case of bananas marketed in the Community outside their producer region as defined in Article 12 of Regulation (EEC) No 404/93, the average production income shall be determined for each year on the basis of the average of the prices of bananas from the producer regions at the stage of delivery at first port of unloading (goods not unloaded), less a flat-rate amount of EUR 18,7/100 kg net weight corresponding to average costs of transport and delivery fob.

<sup>(1)</sup> OJ L 47, 25.2.1993, p. 1.

<sup>(2)</sup> OJ L 160, 26.6.1999, p. 80.

<sup>(3)</sup> OJ L 349, 24.12.1998, p. 1.

<sup>(4)</sup> OJ L 170, 13.7.1993, p. 5.

<sup>(5)</sup> OJ L 129, 22.5.1999, p. 24.

In the case of bananas produced and marketed in a producer region as defined in Article 12 of Regulation (EEC) No 404/93, the average production income shall be determined on the basis of the average selling prices on local markets, less a flat-rate amount of EUR 0,29/100 kg net weight corresponding to the forwarding costs to the markets concerned.

3. The flat-rate amounts referred to in paragraph 2 shall be reviewed if the average costs of transport, delivery fob or forwarding change substantially'.

2. The second paragraph of Article 5 is deleted.

3. Article 7(2)(a) is amended as follows:

'(a) in the case of advances, at the latest on 30 March, 30 May, 30 July, 30 September and 30 November for bananas marketed during the two-month period preceding the month of application'.

4. The third indent of Article 7(3) is replaced by the following:

— the quantities of bananas produced and marketed during the period in question. Such quantities shall be broken down into the bananas referred to in the first subparagraph of Article 3(2) and those referred to in the second subparagraph of this paragraph. Applications for the balance shall cover the total quantities marketed during the year in question, broken down in the same way'.

5. Article 8 is replaced by the following:

'Article 8

1. Member States shall inform the Commission, without delay at the end of each period laid down for the payment of advances, of the quantities marketed for which applications for payment have been submitted. These quantities shall, be broken down as indicated in the third indent of Article 7(3).

2. Within 20 days of the end of the period for lodging applications for payment of the balance as referred to in Article 7(2)(b), they shall forward to the Commission, for each two-month period:

— in the case of bananas as referred to in the first subparagraph of Article 3(2), the quantities in question, the average selling prices for green bananas and the average prices at the stage of delivery at first port of unloading (goods not unloaded),

— in the case of bananas as referred to in the second subparagraph of Article 3(2), the quantities in question and the average selling prices on local markets'.

6. Article 10 is replaced by the following:

'Article 10

1. After verifying aid applications and supporting documents, the competent national authorities shall pay the amount of the advance or the balance of the aid, as the case may be, within two months of the month in which the application was lodged.

2. Advances and the balance of the aid shall be paid to beneficiaries in full'.

7. Article 11 is replaced by the following:

'Article 11

For application of the compensatory aid scheme, the operative event for the exchange rate shall, in the case of payment of advances, be the first day of the two-month marketing period in question as defined in Article 7(2), and in the case of payment of the balance of the aid, 31 December of the year in respect of which the aid is set'.

8. Article 12(1) is replaced by the following:

'1. Where aid is paid unduly in respect of bananas which have not been marketed in accordance with Article 1, the competent authorities shall recover the amounts paid, plus interest calculated from the date of payment of the aid up to actual recovery thereof.

The rate of interest to be applied by the producer Member States with the exception of Greece shall be that fixed by the European Central Bank and published in the *Official Journal of the European Communities*.

The rate of interest to be applied by Greece shall be that in force for similar recovery operations under national law. This rate may not be lower than the yield on three-month Treasury bonds as applied on the day of payment, plus one percentage point.

Member States may decide not to collect interest if it amounts to EUR 20 or less'.

9. Article 13 is replaced by the following:

'Article 13

On request, producer Member States shall inform the Commission of the following:

— the development of Community production and marketing,

— the development of the real costs of transport and delivery fob,

— the situation regarding the quantities available in ripening depots,

— the development of the price of Community bananas at the various stages of the chain of production up to the wholesale and retail stages, and of bananas originating in third countries from the cif stage up to the retail stage'.

10. The following Article 13a is inserted:

*'Article 13a*

If Community bananas are marketed in a producer region during a given two-month period at prices significantly below the average price for bananas marketed in that producer region during the same period, Member States shall intensify the checks on compliance with quality standards provided for in Commission Regulation (EC) No 2898/95 (\*).

(\*) OJ L 304, 16.12.1995, p. 17'.

11. The Annex is deleted.

*Article 2*

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

Article 1(1) shall apply from 1 January 1999 for determination of the aid for 1999.

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

Done at Brussels, 5 July 1999.

*For the Commission*  
Franz FISCHLER  
*Member of the Commission*

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