

COMMISSION REGULATION (EC) No 398/2000**of 22 February 2000****amending Regulations (EC) No 659/97 and (EC) No 921/1999 as regards the calculation of the marketed quantity of producer organisations, production prices and the list of representative markets and the free distribution arrangements in the fruit and vegetables sector and repealing Regulation (EEC) No 1559/70**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1257/1999 ⁽²⁾, and in particular Article 10 and Article 30(7) thereof,

Whereas:

- (1) Commission Regulation (EC) No 659/97 of 16 April 1997 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards intervention arrangements in the fruit and vegetables sector ⁽³⁾, as last amended by Regulation (EC) No 729/1999 ⁽⁴⁾, can usefully be amended in the light of a study evaluating food-aid programmes implemented under Commission auspices.
- (2) In order to bring Regulation (EC) No 659/97 into line with the other provisions in force on the common organisation of the markets, the components of marketed production of producer organisations should be altered to exclude quantities for direct sale, as these do not involve any work on the part of the producer organisations.
- (3) In view of the large number of products and representative markets to be included in the weekly notifications of production prices, exclusive use should be made of the IDES system to ensure rapid and efficient data processing.
- (4) In view of the complexity of the free distribution arrangements as shown by experience gained in recent years and in order to make monitoring more effective, the regulatory provisions and the information requested of the Member States should be simplified.
- (5) The minimum intervals at which Member States must notify the Commission of the lists of approved charitable organisations should be set.
- (6) With a view to disposing of additional quantities of products withdrawn from the market through free distribution as referred to in the first and third indents of

Article 30(1)(a) of Regulation (EC) No 2200/96, arrangements should be laid down for their processing. In addition, in the case of the free distribution operations referred to in the first indent mentioned above, provision should be made for an invitation to tender, with the possibility of payment being made in kind to processors so as to avoid expenditure on processing. Member States should be free to choose whether or not to launch such a tender. Where appropriate, charitable organisations should notify Member States of their requirements for products processed from fresh fruit and vegetables. The successful tenderer should be the one applying for the smallest quantity of fresh product to supply a given quantity of the processed product. The quantity of the fresh product in excess of the quantity required to produce the processed product intended for free distribution should constitute the payment in kind to the tenderer. The tenderer must process this quantity also.

- (7) The arrangements for meeting transport, sorting and packaging costs should be simplified and the amounts increased.
- (8) In order to indicate clearly that a Community free-distribution measure is involved, the European emblem should be shown on the packaging.
- (9) The list of representative markets should be updated.
- (10) Errors have been found in Annexes III and IV to Regulation (EC) No 659/97. They should be corrected.
- (11) Commission Regulation (EC) No 921/1999 of 30 April 1999 providing for special measures to distribute fruit and vegetables withdrawn from the market to people originating in Kosovo ⁽⁵⁾, as amended by Regulation (EC) No 2134/1999 ⁽⁶⁾, refers to Regulation (EC) No 659/97. Those references should be updated to take account of the amendments to the Regulation referred to.
- (12) Commission Regulation (EEC) No 1559/70 of 31 July 1970 laying down conditions for the supply to the animal feeding-stuffs industry of fruit and vegetables withdrawn from the market ⁽⁷⁾, as last amended by Regulation (EC) No 771/95 ⁽⁸⁾, has become obsolete and should be repealed.

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.⁽²⁾ OJ L 160, 26.6.1999, p. 80.⁽³⁾ OJ L 100, 17.4.1997, p. 22.⁽⁴⁾ OJ L 93, 8.4.1999, p. 11.⁽⁵⁾ OJ L 114, 1.5.1999, p. 46.⁽⁶⁾ OJ L 262, 8.10.1999, p. 3.⁽⁷⁾ OJ L 169, 1.8.1970, p. 55.⁽⁸⁾ OJ L 77, 6.4.1995, p. 9.

- (13) The Management Committee for Fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

ucts from the market and the charitable organisation responsible for taking delivery of them;'

(c) the fifth indent is replaced by the following:

'— where appropriate, the name of the undertaking responsible for processing the fresh products in accordance with Article 14a.'

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 659/97 is amended as follows:

1. Article 3(1) is amended as follows:

- (a) point (b) of the first subparagraph is deleted;
- (b) the second subparagraph is replaced by the following:
- 'The marketed quantity referred to in the first subparagraph shall not include the production of members of producer organisations marketed in accordance with the first, second and third indents of Article 11(1)(c)(3) of Regulation (EC) No 2200/96.'

2. Article 7(2) is replaced by the following:

'2. For the products and during the periods listed in Annex III, Member States shall send the Commission not later than 12.00 noon (Brussels time) on the Wednesday of each week information concerning, for each marketing day, the prices recorded on their representative markets. The Commission shall forward this information to the Member States.

The information shall be sent to the Commission using the Interactive Data Entry System (IDES).'

3. Article 11 is amended as follows:

- (a) the following subparagraph is added to paragraph 1:
- 'These products may be processed under the terms laid down in Articles 14a or 14b;'
- (b) the second subparagraph of paragraph 3 is replaced by the following:
- 'From March 2000 and at intervals of three years, Member States shall notify lists of approved charitable organisations as referred to in points (b) and (c) to the Commission, which shall send those lists to all Member States.'

4. The second paragraph of Article 13 is deleted.

5. In Article 14(3):

- (a) the third indent is replaced by the following:
- '— the names of the charitable organisations involved in the operation and their respective roles;'
- (b) the fourth indent is replaced by the following:
- '— the substance of the agreements between the producer organisation which withdraws the prod-

6. The following Articles 14a and 14b are inserted:

Article 14a

The charitable organisation can process or have processed at its expense the products withdrawn from the market with a view to their free distribution either to persons recognised as entitled to public assistance under their national legislation or to the needy in third countries. All the resulting products must be distributed free of charge.

Article 14b

1. In line with the requirements of the charitable organisations, indicated in accordance with paragraph 3, Member States may organise one or more invitations to tender for the processing by a successful tenderer of the products withdrawn from the market.

The successful tenderer must process all the products withdrawn from the market and offered to him. The quantities of products withdrawn from the market in excess of the quantities required for the manufacture of processed products for free distribution shall constitute the payment in kind to compensate him for the manufacturing costs he must incur.

The processed products for free distribution shall then be distributed by the charitable organisations to those recognised as entitled to public assistance under the legislation of the Member State.

2. Member States wishing to implement the invitation to tender procedure referred to in paragraph 1 shall undertake the appropriate publicity and inform the Commission of the type of fruit or vegetable involved and the period covered by the procedure. This period must not exceed the marketing year for the product in question.

3. No later than the date fixed by the competent national authority, the charitable organisations involved shall notify it of their requirements for products processed from fresh fruits or vegetables as referred to in paragraph 2 and shall give an undertaking to take them over and distribute them all, free of charge. Taking over must be completed no later than one month after the processing period covered by the procedure referred to in paragraph 2.

4. Member States shall, where appropriate, group together the requirements as expressed in paragraph 3 into lots of processed products and shall draw up a draft invitation to tender.

This shall contain at least the following information for each lot:

- the fresh product involved and the period during which the products withdrawn from the market are likely to be available,
- the geographical areas in which they are likely to be stored,
- a detailed description of the product processed from fruit or vegetables to be supplied and its packaging, the deadline for its supply, together with the quantity the tenderer must undertake to produce, if the products withdrawn from the market are available.

The tendering security shall be EUR 20/tonne net weight of final product processed.

5. The draft invitation to tender referred to in paragraph 4 shall be sent to the Commission for approval. It shall be published in the *Official Journal of the European Communities*. Once the Commission has taken a favourable decision, published in the *Official Journal of the European Communities*, the invitation to tender shall be launched. At least two tenders for each lot must be submitted in response to each invitation to tender. The lot shall be awarded to the tenderer applying for the smallest quantity of fresh product against supply of the processed product. Where the same amount is sought by more than one tender, the award shall be made by drawing lots. Where all the tenders submitted involve excessively high quantities of fresh products, the Member State may decide not to make an award under the tender for the lot in question.

The Member State shall inform the Commission of the outcome of the invitation to tender. The Commission shall publish this information in the *Official Journal of the European Communities*. It may ask for details of the offers from tenderers.

6. The Member State shall inform the successful tenderer for each lot, as withdrawals are made, of producer organisations where he may obtain supplies of fresh products withdrawn from the market with priority over other beneficiaries as referred to in Articles 11 and 12 of this Regulation.

7. Upon manufacture, the processed product shall be made available to the charitable organisations at the earliest opportunity, in proportion to the quantity of fresh product made available to the successful tenderer.

8. To ensure performance of the tender, the successful tenderer must provide a security. This shall be based on the net weight of fresh product requested against the processed product manufactured. It shall be equivalent:

- in the case of the products listed in Annex II to Regulation (EC) No 2200/96, to five times the Community withdrawal compensation referred to in Article 26 of that Regulation,
- in the case of the other products, an amount set out in the notice of invitation to tender.

The security shall be released as supplies of the processed product are delivered and once the successful tenderer has provided evidence that all the fresh products made available to him against the delivery of the processed product have been processed.'

7. In Article 15(1), the words 'point 1 of Annex V' are replaced by the words 'Annex V'.
8. Article 15a is deleted.
9. Article 16 is replaced by the following:

'Article 16

1. The costs of sorting and packaging fresh fruit and vegetables withdrawn from the market for free distribution referred to in Article 30(1) of Regulation (EC) No 2200/96 shall be borne by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), at the flat-rate amount of EUR 132 per tonne net weight, in the case of products put up in packages of less than 25 kilograms net weight. The cost of fresh products intended for the manufacture of processed products as referred to in Articles 14a and 14b shall not be so borne.

2. Packages of products for free distribution shall display the European emblem, together with one or more of the following entries:

- Producto destinado a su distribución gratuita (Reglamento (CE) n° 659/97)
- Produkt til gratis uddeling (forordning (EF) nr. 659/97)
- Zur kostenlosen Verteilung bestimmtes Erzeugnis (Verordnung (EG) Nr. 659/97)
- Προϊόν προοριζόμενο για δωρεάν διανομή (κανονισμός (ΕΚ) αριθ. 659/97)
- Product for free distribution (Regulation (EC) No 659/97)
- Produit destiné à la distribution gratuite (règlement (CE) n° 659/97)
- Prodotto destinato alla distribuzione gratuita (regolamento (CE) n. 659/97)
- Voor gratis uitreiking bestemd product (Verordening (EG) nr. 659/97)
- Produto destinado a distribuição gratuita (Regulamento (CE) n.º 659/97)
- Ilmaisjakeluun tarkoitettu tuote (asetus (EY) N:o 659/97)
- Produkt för gratisutdelning (förordning (EG) nr 659/97).

Where distribution is to take place outside the Community, the entry shall also be shown in the language(s) of the third countries concerned.

Where applicable, packages of fresh products to be used in the manufacture of the processed products referred to in Articles 14a and 14b shall not show these entries.

3. The costs of sorting and packaging shall be paid to the producer organisation which performed the sorting and packaging.

Payment shall be subject to the presentation of supporting documents certifying in particular:

- the names of the beneficiary organisations,
- the quantity of the products concerned,
- acceptance by the beneficiary organisations.

10. In Annex II:

- (a) the representative markets in Germany are replaced by the following markets:
 - for cauliflowers: Straelen, Maxdorf, Erzeugergroßmarkt Thüringen-Sachsen
 - for apples: Stade, Centralmarkt Rheinland, Bodenseemarkt
 - for pears: Stade, Bodenseemarkt
 - for tomatoes: Straelen, Heidelberg, Kitzingen, Reichenau;
- (b) the representative market for strawberries in Belgium is the market at Sint-Truiden;
- (c) the following representative markets in Portugal are deleted:
 - for clementines: Alcácer do Sal
 - for sweet oranges: Santiago do Cacém
 - for peaches and nectarines: Montargil
 - for pears: Cova da Beira;
- (d) the following representative markets in Portugal are replaced:
 - for strawberries: Oeste is replaced by Ribatejo/Oeste
 - for melons and watermelons: Ribatejo is replaced by Ribatejo/Oeste;

(e) the following representative markets in Portugal are added:

- for melons: Moura and Algarve
- for sweet oranges: Vidigueira
- for watermelons: Grandola.

11. In the introduction to Annex III, 'Article 6(2)' is replaced by 'Article 7(2)'.

12. In Annex IV, 'Article 30 of Regulation (EC) No 659/97' is replaced by 'Article 30 of Regulation (EC) No 2200/96'.

13. Annex V is replaced by Annex I hereto.

14. Annex VI is replaced by Annex II hereto.

Article 2

In Article 1 of Regulation (EC) No 921/1999, 'and Article 16(2)' is deleted.

Article 3

Regulation (EEC) No 1559/70 is repealed.

Article 4

This Regulation shall enter into force on 1 March 2000.

However:

- Article 1(1) shall not apply until the beginning of the next marketing year for each product starting after the date of entry into force referred to in the first paragraph,
- Article 1(2) shall not apply until 1 June 2000.

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

Done at Brussels, 22 February 2000.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX I

ANNEX V

TRANSPORT COSTS UNDER FREE DISTRIBUTION ARRANGEMENTS
(referred to in Article 15)

Distance between the point of withdrawal and the place of delivery ⁽¹⁾	Transport costs (EUR/tonnes)
Less than 25 km	14,4
25 km or more but less than 200 km	30
200 km or more but less than 350 km	42
350 km or more but less than 500 km	60
500 km or more	78

Supplement for refrigerated transport: EUR 7,2/tonne

⁽¹⁾ In the case referred to in Article 14a, the distance between the point of withdrawal and the place of delivery of the processed product, passing through the place of processing.

In the case referred to in Article 14a, the distance between the point of withdrawal and the place of delivery of the processed product (the fresh products referred to in Article 14b do not qualify for the transport allowance).'

ANNEX II

'ANNEX VI

INFORMATION CONCERNING FREE DISTRIBUTION OUTSIDE THE COMMUNITY
(referred to in Article 14)

Member State:

Commission Decision number (*):

Quantity distributed (by product):

Name and headquarters of the producer organisation making the withdrawals:

Name and headquarters of the charitable organisations involved in the operation:

Name and headquarters of the undertaking responsible for processing the products (where applicable):

Means of transport and name and headquarters of the transporter:

Country and place of final destination:

Population group for which the products are intended, with the estimated number of beneficiaries:

Dates of withdrawal, departure and delivery of the products:

(*). Save for operations carried out under Regulation (EC) No 921/1999.
