

English edition

Legislation

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⁽¹⁾ Text with EEA relevance

I

(Acts whose publication is obligatory)

COMMISSION REGULATION (EC) No 1425/2003
of 11 August 2003
amending Regulation (EC) No 466/2001 as regards patulin
(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 315/93 of 8 February 1993 laying down Community procedures for contaminants in food⁽¹⁾, and in particular Article 2(3) thereof,

After consulting the Scientific Committee for Food (SCF),

Whereas:

- (1) Commission Regulation (EC) No 466/2001⁽²⁾, as last amended by Regulation (EC) No 563/2002⁽³⁾, sets maximum levels for certain contaminants in foodstuffs. Maximum levels have been established for nitrates, aflatoxins, ochratoxin A, lead, cadmium, mercury, 3-MCPD and dioxins.
- (2) Some Member States have adopted, or plan to adopt, maximum levels for patulin in fruit juices in particular apple juice, solid apple products such as apple compote and apple puree and in such products intended for infants and young children. In view of the disparities between Member States and the consequent risk of distortion of competition, Community measures are necessary in order to ensure market unity while abiding by the principle of proportionality.
- (3) Patulin is a mycotoxin produced by fungi belonging to several genera, including *Penicillium*, *Aspergillus*, and *Byssoschlamys* species. Although patulin can occur in many mouldy fruits, grains and other foods, the major sources of patulin contamination are apple products.
- (4) The Scientific Committee for Food endorsed in its meeting on 8 March 2000 the provisional maximum tolerable daily intake (PMTDI) of 0,4 µg/kg body weight (bw) for patulin.

- (5) In 2001, a specific task 'Assessment of the dietary intake of patulin by the population of EU Member States' in the framework of Council Directive 1993/5/EEC of 25 February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food⁽⁴⁾ (SCOOP) has been performed. It can be concluded from the assessment that the average exposure seems to be quite below the PMTDI of 0,4 µg/kg bw. Nevertheless taking into consideration specific groups of consumers, especially small children, and assuming worst cases, the exposure to patulin is more significant but still below the PMTDI.
- (6) Regulation (EC) No 466/2001 should therefore be amended accordingly.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 466/2001 is amended as follows:

1. In Article 5, the following paragraph is added:
'4. The Commission shall review the maximum levels for patulin laid down in points 2.3.1 and 2.3.2 of section 2 of Annex I by 30 June 2005 at the latest with a view to reducing them to take account of the progress in scientific and technological knowledge and the implementation of the "Code of practice for the prevention and reduction of patulin contamination in apple juice and apple juice ingredients in other beverages".'
2. Annex I shall be amended as set out in the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 November 2003.

⁽¹⁾ OJ L 37, 13.2.1993, p. 1.

⁽²⁾ OJ L 77, 16.3.2001, p. 1.

⁽³⁾ OJ L 86, 3.4.2002, p. 5.

⁽⁴⁾ OJ L 52, 4.3.1993, p. 18.

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

Done at Brussels, 11 August 2003.

For the Commission
David BYRNE
Member of the Commission

ANNEX

In Section 2 (Mycotoxins) of Annex I, the following point 2.3 is inserted:

Products	Patulin: maximum levels (µg/kg or ppb)	Sampling method	Reference analysis method
2.3. Patulin			
2.3.1. — Fruit juices and fruit nectar, in particular apple juice, and fruit juice ingredients in other beverages ⁽¹⁾ — Concentrated fruit juice ⁽¹⁾ after reconstitution as instructed by the manufacturer	50,0	Directive 2003/78/EC	Directive 2003/78/EC
2.3.2. Spirit drinks ⁽²⁾ , cider and other fermented drinks derived from apples or containing apple juice	50,0	Directive 2003/78/EC	Directive 2003/78/EC
2.3.3. Solid apple products, including apple compote, apple puree intended for direct consumption	25,0	Directive 2003/78/EC	Directive 2003/78/EC
2.3.4. — Apple juice and solid apple products, including apple compote and apple puree, for infants and young children ⁽³⁾ and labelled and sold as intended for infants and young children — other baby food ⁽⁵⁾	10,0 ⁽⁴⁾	Directive 2003/78/EC	Directive 2003/78/EC

⁽¹⁾ Fruit juices, including fruit juices from concentrates, concentrated fruit juice and fruit nectar as defined in Annex 1 and 2 to Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption (OJ L 10, 12.1.2002, p. 58).

⁽²⁾ Spirit drinks as defined in Article 1 of Council Regulation (EEC) No 1576/89 of 29 May 1989 laying down general rules on the definition, description and presentation of spirit drinks (OJ L 160, 12.6.1989, p. 1), as last amended by Regulation (EC) No 3378/94 of the European Parliament and of the Council of 22 December 1994 (OJ L 366, 31.12.1994, p. 1).

⁽³⁾ Infants and young children as defined in Article 1 of Commission Directive 91/321/EEC of 14 May 1991, on infant formulae and follow-on formulae (OJ L 175, 4.7.1991, p. 35), as last amended by Directive 2003/14/EC (OJ L 41, 14.2.2003, p. 37) and Article 1 of Commission Directive 96/5/EC of 16 February 1996 on processed cereal based foods and baby foods for infants and young children (OJ L 49, 28.2.1996, p. 17), as last amended by Directive 2003/13/EC (OJ L 41, 14.2.2003, p. 33).

⁽⁴⁾ A method of analysis will be validated by an international collaborative ring trial which will be performed before 1 November 2003 in order to demonstrate that the level of 10 µg/kg patulin can be reliably determined. In case there is no evidence by 1 November 2003 that the level of 10 µg/kg patulin can be reliably determined, the level of 25 µg/kg will apply.

⁽⁵⁾ Baby food as defined in Article 1 of Commission Directive 96/5/EC of 16 February 1996 on processed cereal based foods and baby foods for infants and young children (OJ L 49, 28.2.1996, p. 17), as last amended by Directive 2003/13/EC (OJ L 41, 14.2.2003, p. 33).

COMMISSION REGULATION (EC) No 1426/2003
of 11 August 2003
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1947/2002 ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 12 August 2003.

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

Done at Brussels, 11 August 2003.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 299, 1.11.2002, p. 17.

ANNEX

to the Commission Regulation of 11 August 2003 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	060	34,6
	999	34,6
0709 90 70	052	83,4
	999	83,4
0805 50 10	382	58,2
	388	54,1
	524	48,6
	528	58,7
	999	54,9
0806 10 10	052	114,4
	220	126,8
	400	181,4
	600	117,2
	999	135,0
0808 10 20, 0808 10 50, 0808 10 90	039	65,0
	388	66,5
	400	78,9
	508	60,7
	512	75,9
	528	55,0
	720	99,2
	800	202,7
	804	87,9
	999	88,0
0808 20 50	052	100,7
	388	94,6
	512	116,3
	528	87,4
	800	122,9
	999	104,4
0809 30 10, 0809 30 90	052	93,0
	094	68,0
	999	80,5
0809 40 05	064	74,5
	066	66,4
	093	63,0
	094	66,4
	999	67,6

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2020/2001 (OJ L 273, 16.10.2001, p. 6). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 1427/2003
of 11 August 2003
correcting Regulation (EC) No 1143/2003 fixing the aid for unginned cotton from 1 July 2002 to
31 March 2003 for the 2002/03 marketing year

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Greece, and in particular Protocol 4 thereof on cotton, as last amended by Council Regulation (EC) No 1050/2001 ⁽¹⁾,

Having regard to Council Regulation (EC) No 1051/2001 of 22 May 2001 on production aid for cotton ⁽²⁾, and in particular Article 2(1) thereof,

Whereas:

A check has revealed an error in the Annex to Commission Regulation (EC) No 1143/2003 ⁽³⁾ as regards the amount of aid to be paid to Spain in the period covered by Commission Regulation (EC) No 2339/2002 ⁽⁴⁾. A correction must therefore be made,

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Regulation (EC) No 1143/2003 is hereby corrected as follows:

in the column headed 'Spain', the amount of EUR 63,050, corresponding to Regulation (EC) No 2339/2002, is replaced by EUR 62,942.

Article 2

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

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

Done at Brussels, 11 August 2003.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 148, 1.6.2001, p. 1.

⁽²⁾ OJ L 148, 1.6.2001, p. 3.

⁽³⁾ OJ L 160, 28.6.2003, p. 41.

⁽⁴⁾ OJ L 349, 24.12.2002, p. 33.

COMMISSION REGULATION (EC) No 1428/2003
of 11 August 2003

supplementing the Annex to Regulation (EC) No 2400/96 on the entry of certain names in the Register of protected designations of origin and protected geographical indications provided for in Council Regulation (EEC) No 2081/92 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs 'ΦΑΣΟΛΙΑ ΠΙΓΑΝΤΕΣ — ΕΛΕΦΑΝΤΕΣ ΚΑΣΤΟΡΙΑΣ (Fasolia Gigantes — Elefantas Kastorias)'

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2081/92 of 14 July 1992 on the protection of geographical indications and designations of origin for agricultural products and foodstuffs ⁽¹⁾, as last amended by Regulation (EC) No 806/2003 ⁽²⁾, and in particular Article 6(3), (4) and (5) thereof,

- (1) Under Article 5 of Regulation (EEC) No 2081/92, Greece has sent the Commission an application for the registration of the name 'ΦΑΣΟΛΙΑ ΠΙΓΑΝΤΕΣ — ΕΛΕΦΑΝΤΕΣ ΚΑΣΤΟΡΙΑΣ (Fasolia Gigantes — Elefantas Kastorias)' as a geographical indication.
- (2) In accordance with Article 6(1) of that Regulation, the application has been found to meet all the requirements laid down therein and in particular to contain all the information required in accordance with Article 4 thereof.
- (3) Following publication of the summary of the application in accordance with Article 6(2) of Regulation (EEC) No 2081/92, the Hellenic Republic requested two minor amendments to elaborate on point 4.2 (description) and to delete the statement that the vehicles of the applicant group are used for distribution purposes. A revised summary of the application is included in Annex II.

(4) The name should therefore be entered in the Register of protected designations of origin and protected geographical indications and hence be protected throughout the Community as a protected geographical indication.

(5) The Annex to this Regulation supplements the Annex to Commission Regulation (EC) No 2400/96 ⁽³⁾, as last amended by Regulation (EC) No 1298/2003 ⁽⁴⁾,

HAS ADOPTED THIS REGULATION:

Article 1

The name in the Annex hereto is added to the Annex to Regulation (EC) No 2400/96 and entered as a protected geographical indication (PGI) in the Register of protected designations of origin and protected geographical indications provided for in Article 6(3) of Regulation (EEC) No 2081/92. The main elements of the product specification are included in Annex II. These replace the summary application published in the *Official Journal of the European Communities* ⁽⁵⁾.

Article 2

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Brussels, 11 August 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 208, 24.7.1992, p. 1.

⁽²⁾ OJ L 122, 16.5.2003, p. 1.

⁽³⁾ OJ L 327, 18.12.1996, p. 11.

⁽⁴⁾ OJ L 184, 23.7.2003, p. 3.

⁽⁵⁾ OJ C 120, 23.5.2002, p. 5.

ANNEX I

PRODUCTS LISTED IN ANNEX I TO THE EC TREATY, INTENDED FOR HUMAN CONSUMPTION

Fruit, vegetables and cereals*Vegetable*

GREECE

— 'ΦΑΣΟΛΙΑ ΓΙΓΑΝΤΕΣ — ΕΛΕΦΑΝΤΕΣ ΚΑΣΤΟΡΙΑΣ (Fasolia Gigantes — Elefantas Kastorias)' (PGI)

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ANNEX II

COUNCIL REGULATION (EEC) No 2081/92
APPLICATION FOR REGISTRATION: ARTICLE 5

PDO () PGI (X)

National application No: EL-04/00-5

1. Responsible department in the Member State

Name : Δ/ση Π.Α.Π — Φυτών Μεγάλης Καλλιέργειας
(Directorate for Field Crop Production and Exploitation)

Address: Μενάνδρου 22 — ΑΘΗΝΑ Τ.Κ 105 52
(Menandrou 22, GR-10552 Athens)

Tel. (30-210) 212 51 19 or (30-210) 212 51 21

Fax (30-210) 524 51 95

2. Applicant group

2.1. Name: 'ΑΓΡΟΤΙΚΗ ΚΑΣΤΟΡΙΑΣ Α.Ε.' με διακριτικό τίτλο AGROKA S.A.
(ΑΓΡΟΤΙΚΗ ΚΑΣΤΟΡΙΑΣ ΑΕ (business name AGROKA SA))

2.2. Address: Οικισμός Λακκωμάτων — Δήμου Ορεστίδος Ν.Καστοριάς
(Lakkomata, Orestida, Prefecture of Kastoria)

2.3. Composition: Producers/processors (x) other ().

With 212 member bean growers of the Prefecture of Kastoria from all areas growing the product (memorandum of association No 65/7.4.97) who hold 65 % by value of the shares. The remaining 35 % is a contribution of the Commune of Lakkomata, now a constituent part of the Municipality of Orestida. The company's structure is governed by Article 2 of PD 410/95 (GG321).

3. Type of product: class 1.6.**4. Specification**

(Summary of requirements under Article 4(2))

4.1. **Name:** ΦΑΣΟΛΙΑ ΓΙΓΑΝΤΕΣ — ΕΛΕΦΑΝΤΕΣ ΚΑΣΤΟΡΙΑΣ.

(Fasolia Gigantes — Elefantas Kastorias)

4.2. **Description:** Beans are annual climbing plants with long slender stems and compound leaves reaching a final height of more than two metres. They belong to the *Papilionaceae* family (legumes). The *Phaseolus* genus contains 250 species. The varieties grown in the Prefecture of Kastoria belong to the species *Phaseolus coccineus* (*multiflorus*).

— The symbiotic association of the nitrogen-fixing *Bacterium radicola* with the fleshy nodular roots permits absorption of up to 40 kg/ha of atmospheric nitrogen.

— The stem is slender, pliant and cylindrical and twines continuously from left to right.

— The compound leaves consist of three leaflets.

— The flowers comprise a five-part calyx, a five-part white corolla, ten stamens and a pistil. They are produced in large axillary clusters opening successively from the base to the tip of the plant.

— The elephant/giant beans are cross-pollinated plants.

- The fruit is a white kidney-shaped pod. A legume of large size, it is consumed cooked in the oven or stewed with added plant products (oil, onion, tomato, celery, carrot) that complete the 'Mediterranean character' of the dish.
- Nutritional value very high, excellent source of protein, starch, iron, etc., and low fat content.

Elephant/giant beans must comply with the quality standards set out in Articles 2, 3 and 5 of Joint Decision 37227/25.9.87 of the Ministers for Agriculture and Trade (Government Gazette 541/B/9.10.87):

Pre-packaged products must meet at least the following requirements:

1. the beans should be whole, ripe, of a natural colour, not shrivelled, without holes caused by insects, free of insects, free of dangerous diseases, not showing any deterioration or increase in temperature;
2. they must be cleaned by sieving or hand-sorted;
3. they may not contain other grades of bean, as stipulated in Article 3 of this Decision;
4. they must be practically free of foreign matter;
5. their macroscopic and organoleptic characteristics must be characteristic of each kind and must comply with the requirements of healthy keeping and handling in general, as laid down in the Food Code;
6. they may not have a moisture content of more than 14 %.

Grading of beans (Article 3)

The beans shall be graded according to their shape, weight per thousand beans or the percentage which pass through a sieve of a specific gauge for each type and grade as follows:

- (a) elephant beans: weight per 1 000 beans; at least 1 800 g or 90 % of beans do not pass through a sieve with round holes 13 mm in diameter;
- (b) giant beans: weight per 1 000 beans; between 1 200 and 1 800 g or 90 % of beans do not pass through a sieve with round holes 12 mm in diameter.

Packaging and presentation (Article 5)

In prepackaged beans, the following tolerances apply:

- (a) broken beans: less than half the whole bean in size: up to 2 %;
- (b) shrivelled/discoloured beans: up to 0,5 %;
- (c) foreign matter: up to 0,05 % (maximum earth 0,02 %).

4.3. Geographical area

Bean cultivation in the Prefecture of Kastoria is located on the banks of the River Aliakmonas and its tributaries, and in areas where land consolidation has occurred that have organised irrigation networks guaranteeing supply of the abundant water that cultivation requires. Of secondary importance is cultivation on the banks of Lake Kastoria.

About 900 ha of ground within the cultivation zone is used to grow Kastoria elephants/giants. The zone's altitude ranges from 630 to 900 metres. The soils are alluvial, light, free draining and on the whole slightly acid.

The climate of the cultivation zone is continental with cool summers owing to its altitude and proximity to the waters of Lake Kastoria and the River Aliakmonas. In addition the presence of the lake conduces to a mild spring. An average annual rainfall of around 600 mm completes the requirements of the water-loving bean plant.

The 'special' climate that conduces to the excellence of the product is however in large measure due to an exceptional phenomenon. The whole area is an extensive plateau protected by the Vitsi mountain and the Grammos mountain range. It is a basin in which, even when there are winds, they are always light..

The cultivation zone is:

1. the entire municipality of Ion Dragoumis;
2. the entire municipality of Makedna;
3. the entire municipality of Agioi Anarguroi;
4. the entire municipality of Korestia;
5. the entire municipality of Kastoria;

6. the entire municipality of Vitsio;
7. the entire municipality of Aliakmonas;
8. the entire municipality of Agia Triada;
9. part of the municipality of Orestida
(formerly municipality of Argos Orestiko and formerly communes of Ammoudara, Asprokklesia, Dialekto, Kastanofito, Lakkomata, Melanthi and Spilea);
10. part of the municipality of Nestori (formerly commune of Ptelea);
11. part of the commune of Kastraki (formerly commune of Dendrokhor).

The actual cultivation areas adjoin one another.

4.4. Proof of origin

Beans originated in Southern Mexico and Central America. According to radioactive carbon studies *Phaseolus coccineus* (*multiflorus*) was domesticated in Mexico around 2000 B.C. It is believed that beans were brought to Europe in the middle of the sixteenth century, first to England and Spain, and reached Greece at the end of that century. They first appeared around lowland urban centres but, given their physiology, cultivation quickly spread to remote upland areas. One of these is the Prefecture of Kastoria, where ideal soil, ideal climate and excellent cultivation techniques cooperate in the creation of varieties and a product that wins the markets. A product that on account of the Greeks' partiality for it and its special place in their diet has been described as a 'national food'.

Area and cultivation data within the delimited zone are recorded under and their accuracy is guaranteed by:

- (a) the compensatory allowance scheme;
- (b) the integrated control system for agricultural holdings;
- (c) the remote surveillance programme.

All three are regulated by Community legislation and implemented by the Agriculture Directorate.

Control procedures and certification of the product will be carried out by the designated State agencies on the basis of the legislation in force for designated origin and geographical indication products.

The detailed checking will involve chemical analysis by these agencies, which will also exercise a control function in regard to labelling in that they will attest the veracity of the indications compulsory under the national and Community legislation in force (e.g. lot numbering, possible use of the Community symbol, etc.).

In Greece elephants and giants are the only dried beans with a 1 000 bean weight above 1 200 grams.

4.5. Method of production

4.5.1. Harvesting

Harvesting of the pods by hand starts at the beginning of September and lasts for up to three months. A crop is taken from the plant up to three times, since ripening of the pods is progressive from the base of the plant to the tip. The pods are spread out on floors for natural drying in the sun to the stage when they separate easily from the seeds on being beaten with pliant rods.

4.5.2. Conservation

The separated seeds are if necessary spread out in the sun until they reach the desirable moisture content of around 12%. They are then sorted through by hand for removal of foreign bodies, broken and damaged seeds and seeds foreign to the variety, put into sacks and stored under hygienic conditions without any particular problem owing to their durable nature.

4.5.3. Market preparation and disposal

At the new grading/packing station of Agrotiki Kastorias grading and packaging will be done using state-of-the-art machines and methods guaranteeing the select quality of the product.

Polypropylene bags holding 1/2 kg and 1 kg will be filled automatically and then put into 10 to 20 kg boxes.

The whole procedure will be electronically controlled and use automatic measuring equipment.

Grading involves automatic separation of the product into three size categories as indicated in the application for recognition, following a check on varietal authenticity and cleaning and disinfection using mild procedures (physical separation/ECOGEN system).

The product will be distributed direct to food shops.

The immediate aims are the commercial security of the product, protection of the consumer and also penetration of foreign markets, which will be possible only through the PGI recognition procedure.

4.6. Link

The soil and climate of the area contribute decisively to production of the exceptional elephant/giant beans of Kastoria. The medium-textured slightly acid soil with excellent drainage and the 'Mediterranean-continental' climate of the area are harmoniously collaborating factors in production of the beans that have been part of the life of the inhabitants of the area for 300 years.

The cultivation technique applied is a tradition handed down from generation to generation. To grow a product of such excellent quality is not a matter of expedients but of longstanding experience put into practice by growers using their 'eye' and their own hands.

In this area bean cultivation is part of the economy and its importance is reflected in tradition, customs and festivals.

- Annual bean fair at Lakkomata.
- Dish of beans served to the guests at the festival on the anniversary of the death of the Macedonian freedom fighter Pavlos Melas at the place bearing his name.
- Bean festivals at various locations at harvest time with associated local cultural and folklore events.

These events show the inhabitants' historical and social links with the product.

4.7. Inspection body

Name: Νομαρχιακή Αυτοδιοίκηση Καστοριάς
Δ/ση Γεωργίας
Διοικητήριο 521 00 — ΚΑΣΤΟΡΙΑ
(Agriculture Directorate Prefectural Administration of Kastoria)

Address: 521 00 — ΚΑΣΤΟΡΙΑ
Διοικητήριο
(GR-52100 Kastoria)

4.8. Labelling

It is compulsory for the packaging of the product to carry the indication Fasolia Gigantes-Elefantes Kastorias PGI and those specified in Article 4(7) of PD 81/93.

4.9. National requirements

The general provisions of PD 81/93 on PDO and PGI production procedures apply.

EC No: G/EL/00123/2000.04.05

Date of receipt of the full application: 14.12.2000

**COMMISSION REGULATION (EC) No 1429/2003
of 11 August 2003**

amending Regulation (EC) No 2090/2002 laying down detailed rules for applying Council Regulation (EEC) No 386/90 as regards physical checks carried out when agricultural products qualifying for refunds are exported

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 386/90 of 12 February 1990 on the monitoring carried out at the time of export of agricultural products receiving refunds or other amounts ⁽¹⁾, as amended by Regulation (EC) No 163/94 ⁽²⁾, and in particular Article 6 thereof,

Whereas:

- (1) Article 10 of Commission Regulation (EC) No 2090/2002 ⁽³⁾, as amended by Regulation (EC) No 444/2003 ⁽⁴⁾, provides for a substitution check to be performed where the export declaration is accepted at a customs office of export which is not the customs office of exit or the office to which the T5 control copy is sent.
- (2) To ensure that customs offices of exit or the offices to which the T5 control copy is sent follow a uniform practice, and to avoid doubts as to the identity of the goods, which is a precondition for the granting of refunds, there should be provision for a specific substitution check in cases where these customs offices have found that the seals affixed on departure have been removed other than under customs supervision or have been broken or that no dispensation from sealing has been granted. Since in those cases there is clear suspicion of substitution, the specific substitution checks require increased attention which may include, where appropriate, a physical check on the goods.
- (3) To ensure that an adequate number of substitution checks is carried out on all the goods to be exported, there should be provision for the specific substitution checks carried out in cases where the seals have been removed other than under customs supervision or have been broken or no dispensation from sealing has been granted to be taken into account to a limited extent only in calculating the minimum number of substitution checks.
- (4) To improve the monitoring of substitution checks, there should be provision for the information on the number of specific substitution checks carried out in cases where the seals have been removed other than under customs supervision or have been broken or that no dispensation from sealing has been granted should be made available at any time by the customs offices concerned and that all substitution checks should be the subject of a report listing the checks carried out.

(5) Regulation (EC) No 2090/2002 should be amended in consequence.

(6) The measures provided for in this Regulation are in accordance with the opinions of all the Management Committees concerned,

HAS ADOPTED THIS REGULATION:

Article 1

Article 10 of Regulation (EC) No 2090/2002 is amended as follows:

1. The first subparagraph of paragraph 2 is replaced by the following:

'If the customs office of export has not sealed the means of transport or the packaging, then substitution checks shall be carried out, wherever possible in the light of a risk analysis, without prejudice to paragraph 2a and to checks carried out under other provisions.'

2. The following paragraph 2a is inserted:

'2a. Where the customs office of exit or the office to which the T5 control copy is sent finds that the seals affixed on departure have been removed other than under customs supervision or have been broken or that the dispensation from sealing under Article 357(4) of Regulation (EEC) No 2454/93 has not been granted, a specific substitution check shall be carried out.

The number of specific substitution checks carried out pursuant to the preceding subparagraph shall, subject to a limit of 50 %, be taken into account for the purposes of the calculation of the substitution checks under the second subparagraph of paragraph 2.'

3. The first subparagraph of paragraph 4 is replaced by the following:

'The substitution check referred to in paragraph 2 shall be carried out by means of a visual check that the goods correspond to the document which accompanied them from the office of exportation to the customs office of exit or the office to which the T5 control copy is sent.'

4. The following paragraph 4a is inserted:

'4a. In the event of a substitution check referred to in paragraph 2a, the customs office of exit or the office to which the T5 control copy is sent shall decide in the light of a risk analysis whether the check shall comprise simply the visual check referred to in paragraph 4 or shall entail a physical check pursuant to Article 5(1) and (4).'

⁽¹⁾ OJ L 42, 16.2.1990, p. 6.

⁽²⁾ OJ L 24, 29.1.1994, p. 2.

⁽³⁾ OJ L 322, 27.11.2002, p. 4.

⁽⁴⁾ OJ L 67, 12.3.2003, p. 3.

5. The first subparagraph of paragraph 5 is replaced by the following:

'Every customs office of exit or office to which the T5 control copy is sent shall take steps to make available at any time:

- (a) the number of export declarations taken into account for the purposes of the substitution checks referred to in paragraph 2;
- (b) the number of substitution checks referred to in paragraph 2 carried out;
- (c) the number of substitution checks referred to in paragraph 2a carried out.'

6. A paragraph 5a is inserted:

'5a. Every substitution check referred to in paragraphs 2 and 2a shall be the subject of a report drawn up by the competent official who carries it out. The report shall permit monitoring of the checks carried out and shall bear the date and the name of the official.'

It shall be retained by the customs office of exit or the office to which the T5 control copy is sent for three years following the year of export in a form which allows it to be consulted easily.'

Article 2

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

It shall apply from 1 January 2004 for declarations accepted from that date.

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

Done at Brussels, 11 August 2003.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 1430/2003**of 11 August 2003****revising the maximum amount for the B production levy and amending the minimum price for B beet in the sugar sector for the 2003/04 marketing year**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector ⁽¹⁾, as amended by Commission Regulation (EC) No 680/2002 ⁽²⁾, and in particular the second and third indents of Article 15(8) thereof,

Whereas:

- (1) Article 15(3) and (4) of Regulation (EC) No 1260/2001 provide that the losses resulting from the obligation to export surpluses of Community sugar are to be covered, within certain limits, by production levies on the production of A and B sugar, of A and B isoglucose and of inulin syrup A and B.
- (2) Article 15(5) of Regulation (EC) No 1260/2001 provides that, where the receipts expected from the basic production levy and the B levy, which must not exceed 2 % and 30 %, respectively, of the intervention price for white sugar for that marketing year, may well fail to cover the foreseeable total loss for the current marketing year, the maximum percentage of the B levy is to be adjusted to the extent necessary to cover the said total loss but without exceeding 37,5 %.
- (3) According to the provisional data currently available, the receipts, before adjustment, of the levies to be collected in respect of the 2003/04 marketing year are likely to be below the equivalent of the average loss multiplied by the exportable surplus. The maximum amount of the B levy for 2003/04 should therefore be raised to 37,5 % of the intervention price for the white sugar concerned.

(4) Article 4(1)(b) of Regulation (EC) No 1260/2001 fixes the minimum price for B beet at EUR 32,42 per tonne, subject to Article 15(5) of that Regulation, which provides for the corresponding adjustment of the price for B beet in the event of adjustment of the maximum amount of the B levy.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

For the 2003/04 marketing year, the maximum amount of the B levy referred to in the first indent of Article 15(4) of Regulation (EC) No 1260/2001 shall be increased to 37,5 % of the intervention price for white sugar.

Article 2

For the 2003/04 marketing year, the minimum price for B beet referred to in Article 4(1)(b) of Regulation (EC) No 1260/2001 shall be fixed, in accordance with Article 15(5) of that Regulation, at EUR 28,84 per tonne.

Article 3

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

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

Done at Brussels, 11 August 2003.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 178, 30.6.2001, p. 1.

⁽²⁾ OJ L 104, 20.4.2002, p. 26.

COMMISSION REGULATION (EC) No 1431/2003
of 11 August 2003
amending Regulation (EC) No 1501/95 as regards the conditions for the payment of export refunds
on cereal products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organisation of the market in cereals ⁽¹⁾, as last amended by Regulation (EC) No 1104/2003 ⁽²⁾, and in particular Article 13(11) thereof,

Whereas:

- (1) The second indent of Article 3 of Commission Regulation (EC) No 800/1999 of 15 April 1999 laying down common detailed rules for the application of the system of export refunds on agricultural products ⁽³⁾, as last amended by Regulation (EC) No 444/2003 ⁽⁴⁾, stipulates that, when a differentiated refund applies for a specific third country, entitlement to the refund is acquired on importation into that third country. Articles 14, 15 and 16 of that Regulation lay down the conditions for the payment of the refund when a differentiated refund applies and in particular the documents to be presented to prove the arrival of the products at destination.
- (2) When a differentiated refund applies, Article 18(1) and (2) of Regulation (EC) No 800/1999 stipulates that part of the refund, calculated using the lowest refund rate, is paid on application by the exporter once proof is furnished that the product has left the customs territory of the Community.
- (3) Article 13a of Commission Regulation (EC) No 1501/95 of 29 June 1995 laying down certain detailed rules for the application of Council Regulation (EEC) No 1766/92 on the granting of export refunds on cereals and the measures to be taken in the event of disturbance on the market for cereals ⁽⁵⁾, as last amended by Regulation (EC) No 1163/2002 ⁽⁶⁾, provides for derogations from Regulation (EC) No 800/1999 as a result of trade agreements concluded with Bulgaria, the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Romania, Slovenia and Slovakia, providing for the abolition of refunds for those destinations.
- (4) Commission Regulation (EC) No 934/2003 ⁽⁷⁾ opens an invitation to tender for the refund on common wheat exports to all third countries, except for the 10 countries

accessing to the Community on 1 May 2004, and Bulgaria and Romania, so requiring the refund rate to be differentiated, depending on the destination. Those destinations are also excluded when the export refunds are fixed at regular intervals. As there is no trade agreement with Cyprus or Malta and these countries are not therefore listed among the destinations referred to in Article 13a of Regulation (EC) No 1501/95, the derogation regarding proof of arrival at destination and calculation of the amount of the advance provided for in that Article does not apply to the invitation to tender opened by Regulation (EC) No 934/2003, nor to the fixing of export refunds at regular intervals.

- (5) Based on the statistical data available, there are no exports of Community cereal products to Cyprus or Malta. So as not to hamper most Community exports by requiring proof of arrival at destination, the scope of the derogations provided for in Article 13a of Regulation (EC) No 1501/95 should be extended to cases where a refund is not fixed for those two destinations.
- (6) Regulation (EC) No 1501/95 should therefore be amended.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Cereals,

HAS ADOPTED THIS REGULATION:

Article 1

The following paragraph 3 is hereby added to Article 13a of Regulation (EC) No 1501/95:

‘3. The derogations laid down in paragraphs 1 and 2 shall also apply where refunds are not fixed for exports of the products referred to in Article 1(1) of Regulation (EEC) No 1766/92 to Cyprus or Malta.’

Article 2

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

⁽¹⁾ OJ L 181, 1.7.1992, p. 21.

⁽²⁾ OJ L 158, 27.6.2003, p. 1.

⁽³⁾ OJ L 102, 17.4.1999, p. 11.

⁽⁴⁾ OJ L 67, 12.3.2003, p. 3.

⁽⁵⁾ OJ L 147, 30.6.1995, p. 7.

⁽⁶⁾ OJ L 170, 29.6.2002, p. 46.

⁽⁷⁾ OJ L 133, 29.5.2003, p. 42.

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

Done at Brussels, 11 August 2003.

For the Commission
Franz FISCHLER
Member of the Commission

**COMMISSION REGULATION (EC) No 1432/2003
of 11 August 2003**

laying down detailed rules for the application of Council Regulation (EC) No 2200/96 regarding the conditions for recognition of producer organisations and preliminary recognition of producer groups

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 47/2003 ⁽²⁾, and in particular Article 11(2)(a) and Article 48 thereof,

Whereas:

- (1) In the light of the experience acquired in recent years, it is proving necessary to amend the provisions of Commission Regulation (EC) No 412/97 of 3 March 1997 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards the recognition of producer organisations ⁽³⁾, as last amended by Commission Regulations (EC) No 43/2003 ⁽⁴⁾ and No 478/97 of 14 March 1997 laying down detailed rules for the application of Regulation (EC) No 2200/96 as regards preliminary recognition of producer organisations ⁽⁵⁾ as amended by Commission Regulation (EC) No 243/1999 ⁽⁶⁾.
- (2) In the interests of clarity and rationality, the provisions of the above regulations and their amendments should be concentrated in a single regulation replacing them.
- (3) Commission Regulations (EC) No 412/97 and (EC) No 478/97 should therefore be repealed.
- (4) Article 11(1)(a) and (3) of Regulation (EC) No 2200/96 make provision for different types of producer organisations. All producer organisations for which an application for recognition is submitted should, as a rule, fall into one of the categories laid down. Provision should however be made to enable a producer organisation to be recognised for some categories of product, for one or several of these categories.
- (5) A minimum number of members and a minimum volume of marketable production needs to be laid down. Member States should therefore be allowed to lay down minimum conditions more stringent than those provided for by this Regulation.
- (6) In order to help achieve the goals of the common organisation of markets and to ensure that producer organisations carry out their work in a sustainable and effective

way, there should be the utmost stability within producer organisations. Membership of a producer organisation should therefore be for a minimum period, particularly with regard to the obligations relating to an operational programme as referred to in Article 15 of Regulation (EC) No 2200/96. It should be left up to the Member States to lay down the notice periods and the dates on which resignation from membership are to take effect.

- (7) A producer organisation may not be able to ensure directly in an efficient manner that all its activities take place. Member States should be authorised to lay down appropriate rules.
- (8) The main and essential activities of a producer organisation should relate to the production of its members. However, producer organisations should be allowed to engage in other activities, whether or not of a commercial nature, within certain limits. Cooperation between producer organisations should be encouraged by allowing the marketing of fruit and vegetables bought exclusively from another recognised producer organisation to be left out of the calculations both for the purposes of the principal activity and for other activities.
- (9) Producer organisations may hold shares in subsidiaries which help to increase the added value of their production of their members. In the case in point, rules should be fixed for calculating the value of marketed production.
- (10) In view of the nature of the products, their production and their marketing, the holdings of members of a producer organisation may be located in Member States other than that in which the producer organisation has its head office.
- (11) To promote the concentration of supply in the Community, the functions of associations of producer organisations and minimum criteria for their recognition should be laid down, together with certain rules where these associations are transnational in nature.
- (12) In order to facilitate the concentration of supply, the merger of existing producer organisations to form new ones should be encouraged and rules determined for the operational programmes of the organisations resulting from mergers.

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 7, 11.1.2003, p. 64.

⁽³⁾ OJ L 62, 4.3.1997, p. 16.

⁽⁴⁾ OJ L 7, 11.1.2003, p. 25.

⁽⁵⁾ OJ L 75, 15.3.1997, p. 4.

⁽⁶⁾ OJ L 27, 2.2.1999, p. 8.

- (13) While upholding the respect for principles whereby a producer organisation must be formed on the own initiative of producers and scrutinised by the producers, it should be left up to the Member States to establish the conditions whereby other natural or legal persons are accepted as members of a producer organisation.
- (14) In order to ensure that producer organisations genuinely represent a minimum number of producers, Member States should take steps to ensure that a minority of members who may account for the bulk of production in the producer organisation do not unduly dominate its management and operation.
- (15) Article 14 of Regulation (EC) No 2200/96 provides for the possibility of a transitional period of preliminary recognition to enable new producer groups or those which have not been recognised under Regulation (EC) No 2200/96 to satisfy the conditions for recognition laid down in Article 11 of Regulation (EC) No 2200/96. As a result, in order to take account of different production and marketing circumstances in the various Member States, the latter should lay down certain conditions for the grant of preliminary recognition to producer groups which submit a recognition plan.
- (16) To promote the setting-up of stable producer organisations capable of making a lasting contribution to the attainment of the objectives of the common market organisation, preliminary recognition should be granted only to producer organisations which can demonstrate their ability to meet all the requirements of Article 11 of Regulation (EC) No 2200/96 within a specified time limit.
- (17) To enable producer groups to submit a recognition plan in accordance with Article 14 of Regulation (EC) No 2200/96, the information which producer groups must provide in the plan should be laid down.
- (18) To enable producer groups better to meet the recognition conditions, there is a need to authorise changes to recognition plans. To that end, provision should be made for each Member State to be able to request the producer organisation to take corrective action to ensure that the plan is implemented.
- (19) The producer group may satisfy the conditions laid down in Article 11 of Regulation (EC) No 2200/96 before the recognition plan is completed. Provision should be made to allow such organisations to submit applications for recognition under this Regulation. For the sake of consistency, the grant of such recognition to a producer organisation must signify the termination of its recognition plan.
- (20) To give producer groups granted preliminary recognition the opportunity to implement an operational programme in accordance with Commission Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational programmes, operational funds and Community financial aid⁽¹⁾ as soon as recognition has been granted, it should be possible for such organisations to submit a draft operational programme when they submit their application for recognition.
- (21) In order to ensure the sound operation of the market organisation, Member States should keep the Commission regularly informed about the situation regarding the granting of preliminary recognition.
- (22) In order to make it more efficient, the system of checks and penalties needs to be clarified as do the consequences which arise from a decision to withdraw recognition, or non-recognition, from a producer organisation.
- (23) The provisions of Commission Regulation (EC) No 412/97 in regard to the minimum number of members and minimum volume of marketed production should continue to apply until 31 December 2003 so as to leave the Member States time to lay down new provisions.
- (24) 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:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope

This Regulation lays down detailed rules for the application of Regulation (EC) No 2200/96 regarding the conditions for recognition of producer organisations and preliminary recognition of producer groups referred to in Articles 11 and 14 respectively of that Regulation.

Article 2

Definitions

For the purposes of this Regulation:

- (a) 'producer' means any individual or legal person who is a member of a producer organisation and delivers production to it for marketing in accordance with Regulation (EC) No 2200/96;

⁽¹⁾ See page 25 of this Official Journal.

- (b) 'value of marketed production' means the value of marketed production as defined in Article 3 of Regulation (EC) No 1433/2003;
- (c) 'value of marketable production' means the value of marketed production;
- (d) 'producer group' means all organisations which have lodged an application and are granted preliminary recognition under Article 14 of Regulation (EC) No 2200/96;
- (e) 'subsidiary' means a company in which one or more producer organisations or associations thereof have taken shares and which helps to increase the added value of the production of their members;
- (f) 'associations of producer organisations' means the associations as referred to in Article 16(3) of Regulation (EC) No 2200/96;
- (g) 'transnational producer organisation' means any organisation where at least one of the producers' holdings is located in a Member State other than where the organisation has its head office;
- (h) 'transnational association of producer organisations' means any association of producer organisations in which at least one of the associated organisations is located in a Member State other than where the association has its head office.

CHAPTER II

PRODUCER ORGANISATIONS

Article 3

Categories of producer organisations

1. Producer organisations may be recognised, at their request, for one or more of the categories of products referred to in Article 11(1)(a)(ii) to (vii) of Regulation (EC) No 2200/96.

With regard to the category of products referred to in Article 11(1)(a)(i) of Regulation (EC) No 2200/96 only individual recognition is possible.

2. Member States shall determine the procedures for individual or multiple recognition of producers in accordance with Article 11 of Regulation (EC) No 2200/96.

Article 4

Minimum size of producer organisations

1. The minimum number of members referred to in Article 11(2)(a) of Regulation (EC) No 2200/96 is hereby fixed at five producers by category.

The minimum volume of marketable production referred to in Article 11(2)(a) of Regulation (EC) No 2200/96 is hereby fixed at EUR 100 000.

2. Member States may fix minimum numbers of producers and minimum volumes of marketable production greater than those laid down in paragraph 1.

They shall forthwith inform the Commission thereof.

3. Where a producer organisation is wholly or partly made up of members which are themselves organisations with legal personality made up of producers, the minimum number of producers referred to in the first indent of the first paragraph shall be calculated on the basis of the number of producers associated with each of the organisations with legal personality.

Article 5

Minimum length of membership

1. The minimum membership period of a producer shall not be less than one year. However, where an operational programme pursuant to Regulation (EC) No 2200/96 has been submitted, no member may renounce their obligations under that programme while it is still running, unless the producer organisation concerned gives its approval.

The Member States may set longer periods for the minimum length of membership provided for in the previous paragraph.

2. Resignation from membership shall be notified to the organisation in writing. The Member States shall lay down the notice periods, which shall not exceed six months, and the dates on which resignation shall take effect.

Article 6

Structures and activities of producer organisations

1. Member States shall satisfy themselves that producer organisations have at their disposal the staff, infrastructure and equipment necessary to achieve the aims laid down in Article 11 of Regulation (EC) No 2200/96 and ensure their essential functioning, in particular:

- the knowledge of their members' production,
- sorting, storing and packaging the production of their members,
- commercial and budgetary management,
- centralised bookkeeping and a system of invoicing.

2. Member States shall determine the conditions on which a producer organisation may entrust to third parties the performance of the tasks set out in Article 11 of Regulation (EC) No 2200/96.

*Article 7***Producer organisations' main activity**

1. The main activity of a producer organisation shall relate to the marketing of the products of its members for which it is recognised.

2. The value of a producer organisation's marketed production shall not be less than the value of its other activities.

'Other activities' shall mean selling products included in the category or categories of recognition which do not come from its own members.

3. The following activities shall be excluded both from the calculation of the principal activity and that of other activities:

- (a) the marketing of fruit and vegetables not belonging to the category or categories of recognition,
- (b) the marketing of fruit and vegetables, whether relating or not to the recognition category, bought directly from another producer organisation recognised under Regulation (EC) No 2200/96,
- (c) activities relating to the production of other agricultural products and their packaging, including processing,
- (d) supply of services,
- (e) producer organisations' non-farming activities.

*Article 8***Producer organisations' subsidiaries**

The value of marketable production may be calculated at the ex-subsidiary stage providing the producer organisations or their associations own at least 90 % of the capital.

*Article 9***Associations of producer organisations**

1. Member States shall determine the procedures and criteria for the recognition of associations of producer organisations in accordance with Article 11 of Regulation (EC) No 2200/96. These associations shall be set up on the initiative and under the supervision of producer organisations recognised under that Regulation.

2. Member States shall determine the conditions on which the associations of producer organisations may carry out in whole or in part the tasks of their members described in Regulation (EC) No 2200/96, Article 11, and laid down in Article 6(1) of this Regulation. They shall take the necessary steps to avoid any abuse of a dominant position and any agreement liable to restrict competition, other than those provided for by Regulation (EC) No 2200/96.

3. Legal persons who are members of a recognised association of producer organisations who are not recognised producer organisations under Regulation (EC) No 2200/96 may not:

- be considered for the recognition criteria,
- vote on decisions relating to operational funds,
- benefit directly from the measures financed by the Community.

*Article 10***Transnational producer organisations**

1. A transnational producer organisation's head office must be established in the Member State where the organisation has significant holdings or a significant number of members and/or achieves an important level of marketed production.

2. The Member State in which the head office of the transnational producer organisation is located shall be responsible for the following:

- (a) recognising the producer organisation,
- (b) approving the transnational producer organisation's operational plan,
- (c) establishing the necessary administrative collaboration with the other Member State(s) in which the members are located with respect to compliance with the terms of recognition and the system of checks and penalties.

*Article 11***Transnational association of producer organisations**

1. The head office of the transnational association of producer organisations shall be established in a Member State in which this association has a significant number of member organisations and/or the member organisations achieve an important level of marketed production.

2. The Member State in which the head office of the transnational association of producer organisations is located shall be responsible for the following:

- (a) recognising the association;
- (b) approving, where necessary, the association's operational programme;
- (c) establishing the necessary administrative collaboration with the other Member State(s) in which the associated organisations are located with respect to compliance with the terms of recognition and the system of checks and penalties.

*Article 12***Mergers of producer organisations**

1. Where producer organisations with previously different operational programmes have merged, they shall operate the programmes in parallel and separately until 1 January of the year following the merger. Such organisations shall request the merger of the operational programmes by means of a change, in accordance with the provisions of Article 14 of Regulation (EC) No 1433/2003.

2. Notwithstanding paragraph 1, the Member States may authorise the producer organisations which request it, for duly substantiated reasons, to implement separate operational programmes in parallel until they reach their natural conclusion.

*Article 13***Non-producer members**

1. The Member States may determine whether and on what conditions any individual or legal person who is not a producer may be accepted as a member of a producer organisation.

2. When setting the conditions referred to in paragraph 1, the Member States shall ensure, in accordance with Article 11(1)(a) and (d)(3) of Regulation (EC) No 2200/96, that

- (a) the rule whereby a producer organisation must be formed on the own initiative of producers is respected,
- (b) the rules of association of producer organisations shall contain rules enabling the producer members to scrutinise their organisation and its decisions democratically.

3. The natural or legal persons referred to in paragraph 1 may not:

- (a) be considered for the recognition criteria,
- (b) benefit directly from the measures financed by the Community.

Member States may restrict or prohibit access of these individuals to vote on decisions relating to operational funds, in line with the conditions laid down in paragraph 2.

*Article 14***Democratic accountability of producer organisations**

1. Member States shall take such measures as are required to avoid any abuse of power or influence by one or more members over the management and operation of a producer organisation.

2. No member of a producer organisation may have more than 20 % of the voting rights. However, the Member State may increase this percentage up to a maximum of 49 % in proportion to the member's contribution to the value of the marketed production of the producer organisation.

CHAPTER III

PRODUCER GROUPS*Article 15***Submission of recognition plans**

1. New producer groups requesting preliminary recognition in accordance with Article 14 of Regulation (EC) No 2200/96 shall submit a recognition plan for acceptance by the competent authority of the Member State in which the producer group has its head office.

2. Member States shall define:

- (a) the minimum criteria which producer groups must meet to be able to submit a recognition plan,
- (b) the rules for the drafting, content and implementation of recognition plans,
- (c) the administrative procedures for the approval, monitoring and fulfilling of recognition plans.

*Article 16***Content of recognition plans**

A draft recognition plan shall cover at least the following:

- (a) a description of the initial situation, in particular as regards the number of producer members, giving full details of members, production, marketing and infrastructure;
- (b) expected duration of the plan, which may not exceed five years;
- (c) measures to be implemented to achieve recognition.

*Article 17***Approval of recognition plans**

1. The competent national authority shall decide on a draft recognition plan within three months of receipt of the plan accompanied by all supporting documents.

2. The competent national authority shall verify by all appropriate means, including on-the-spot inspections,

- (a) the accuracy of the information provided in the recognition plan;

(b) the commercial consistency and the technical quality of the plan, the soundness of the estimates in the investment plan, and the planning of its implementation.

3. The competent national authority shall, as appropriate:

(a) accept the plan and grant preliminary recognition;

(b) request changes to the plan;

(c) reject the plan.

Acceptance may be granted, where necessary, only if the changes requested under point (b) have been incorporated in the plan.

4. It shall notify the producer group of its decision.

5. The Member State shall send the Commission, in the month following notification of acceptance of the recognition plan to the producer group, particulars of the latter, the date of preliminary recognition and the duration of the plan.

Article 18

Implementation of recognition plans

1. The recognition plan shall be implemented in annual segments starting from the date of its acceptance by the competent national authority.

2. Member States shall set the conditions on which producer groups may request changes to plans during their implementation. These requests shall be accompanied by all the necessary supporting documents.

3. The competent national authority shall decide on changes to plans within three months of receipt of the request for change, after considering the evidence supplied. Where no decision is taken on a request for change within that period, the request shall be deemed to have been rejected.

4. No later than the fourth month following the end of a year of a recognition plan, the producer group shall send the competent authority in the Member State a copy of the balance sheet for the preceding year.

Article 19

Fulfilment of recognition plans

1. Producer groups implementing a recognition plan may, at any time, submit an application for recognition under Article 11 of Regulation (EC) No 2200/96 on the terms laid down in this Regulation.

2. From the date on which such an application is lodged, the group in question may submit a draft operational programme on the terms laid down in Regulation (EC) No 1433/2003.

CHAPTER IV

CHECKS AND PENALTIES

Article 20

Checks

1. In the context of the checks referred to in Regulation (EC) No 2200/96, Articles 12(1) and 14(5), Member States shall conduct an on-the-spot visit of all new producer organisations or producer groups prior to granting recognition or preliminary recognition.

2. Member States shall check a significant sample of producer organisations and producer groups each year to monitor compliance with the recognition or preliminary recognition criteria. The sample must correspond to at least 30 % of recognised producer organisations or of producer groups granted preliminary recognition.

3. All producer organisations and groups must be checked at least once every five years.

4. The Member States shall notify the Commission of the measures taken in accordance with this Article.

Article 21

Penalties

1. Where a check carried out by the competent authorities of the Member States in accordance with Article 20(2) reveals that the conditions required for the recognition of a producer organisation have not been met, the said authority shall take a temporary decision within a time period not exceeding one month. This decision shall immediately be notified to the relevant producer organisation.

2. A recognised producer organisation which has acted in good faith shall wholly retain the rights which devolve from its recognition right up to the moment that its recognition is withdrawn and, in the case of the aid schemes referred to in Council Regulation (EC) No 2201/96, Articles 2 and 6a and also Article 1 of Council Regulation (EC) No 2202/96, until the end of the current marketing year.

Nevertheless, in the event that a producer organisation deliberately or by serious negligence fails to meet its obligations, the decision to withdraw recognition shall take effect from the date from which the conditions for recognition are no longer being fulfilled.

3. The competent national authority must call upon a producer group to take corrective action if it finds shortcomings in the implementation of the plan which may compromise its fulfilment.

4. Member States shall recover at least 50 % of the aid paid under Article 14 of Council Regulation (EC) No 2200/96 if the implementation of the recognition plan does not result in recognition, unless for duly substantiated reasons demonstrated to the satisfaction of the Member State.

Amounts recovered and interest shall be paid to the competent paying agency and deducted from expenditure financed by the European Agricultural Guidance and Guarantee Fund.

CHAPTER V

REPEAL AND FINAL PROVISIONS

Article 22

Member States' provisions

The Member States shall notify the Commission of the measures taken under Articles 4, 6, 13, 14 and 15 of this Regulation in accordance with Article 26 of Regulation (EC) No 1433/2003.

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

Done at Brussels, 11 August 2003.

Article 23

Repeal

Regulations (EC) No 412/97 and (EC) No 478/97 are hereby repealed.

References to the repealed Regulation shall be construed as referring to this Regulation.

Article 24

Entry into force

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

Nevertheless, the provisions of the first indent of Article 2(1) of Commission Regulation (EC) No 412/97 shall remain in force until the adoption by the Member States of the provisions of Article 4(2) of this Regulation, and at the latest 31 December 2003.

For the Commission

Franz FISCHLER

Member of the Commission

**COMMISSION REGULATION (EC) No 1433/2003
of 11 August 2003**

**laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards
operational funds, operational programmes and financial assistance**

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 Commission Regulation (EC) No 47/2003 ⁽²⁾, and in particular Article 48 thereof,

Whereas:

- (1) In view of the experience gained during last years, it is necessary to amend Commission Regulation (EC) No 609/2001 of 28 March 2001 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operational programmes, operational funds and Community financial assistance, and repealing Regulation (EC) No 411/97 ⁽³⁾. In the interests of clarity and rationality it is appropriate to repeal and replace that Regulation.
- (2) Article 15 of Regulation (EC) No 2200/96 provides for financial assistance to be granted to producer organisations setting up an operational fund in accordance with certain rules and within certain limits. Article 16 of that Regulation lays down certain rules for the implementation of operational programmes. Detailed rules should be laid down for the application of those provisions.
- (3) So as to promote regrouping of supply and facilitate the implementation of certain measures within operational programmes, producer organisations should be able to confer the partial or total implementation of actions in their operational programme to a recognised association of producer organisations. However, specific provisions are necessary in order to avoid abuses or duplicate aid.
- (4) To facilitate the use of the scheme, the marketed production of producer organisations should be clearly defined, including the specification of the eligibility of product and the marketing stage at which the value of production is to be calculated. To guarantee equal treatment for all products intended for processing eligible for an aid system under Council Regulation (EC) No 2201/96 on the common organisation of the markets in processed

fruit and vegetable products ⁽⁴⁾, as last amended by Commission Regulation (EC) No 453/2002 ⁽⁵⁾, and Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruit ⁽⁶⁾, as last amended by Commission Regulation (EC) No 1933/2001 ⁽⁷⁾, the aid referred to in Article 2 of Regulation (EC) No 2201/96 and Article 1 of Regulation (EC) No 2202/96 should be added to the appropriate value of marketed production. For consistency, the ceilings on aid should be calculated on the basis of the value of production marketed during a 12-month period. To ensure flexibility of this system for operators, Member States may define limited options for calculating this 12-month period. Additional methods of calculation of marketable production should also be made possible in case of yearly fluctuations or insufficient data. To prevent misuse of the scheme, producer organisations should not be permitted to change reference periods within the duration of a programme.

- (5) To ensure correct use of aid, rules should be laid down for the management of operational funds and members' financial contributions towards these funds. In particular it should be specified that the financial contributions of members of the producer organisation are based on the marketed production used to calculate the aid. Member States may authorise producer organisations to use their own funds and to set different levels of contributions, on condition that all producers contribute to and take advantage of the operational fund.
- (6) In the interests of sound management, procedures for the presentation and approval of operational programmes, including deadlines, should be laid down so as to enable the adequate evaluation of the information by the competent authorities, and measures and activities to be included in, or excluded from, the programmes. Since the programmes are managed on an annual basis, it should be stipulated that programmes not approved before a given date should be postponed for one year.

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 7, 11.1.2003, p. 64.

⁽³⁾ OJ L 90, 30.3.2001, p. 4.

⁽⁴⁾ OJ L 297, 21.11.1996, p. 29.

⁽⁵⁾ OJ L 72, 14.3.2002, p. 9.

⁽⁶⁾ OJ L 297, 21.11.1996, p. 49.

⁽⁷⁾ OJ L 262, 2.10.2001, p. 6.

- (7) There should be an annual procedure for amending operational programmes for the following year, so that they can be adjusted to take account of any new conditions which could not have been foreseen when they were initially presented. In addition, it should be possible for measures and amounts of the operational fund to be changed within the year of execution of a programme. All such changes should be subject to certain limits and conditions, to be defined by Member States and including obligatory notification of changes to the competent authorities, to ensure the approved programmes maintain their overall objectives.
- (8) For reasons of financial and legal security, lists of operations and expenditure which may or may not be covered by operational programmes should be drawn up. These lists should be exhaustive. For transparency and ease of application of Community rules, eligibility criteria of certain measures should, where appropriate, follow guidelines set in Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽¹⁾, as amended by Regulation (EC) No 1105/2003 ⁽²⁾. Certain operations and expenditure should be permitted temporarily or within certain limits.
- (9) In the case of investments on individual holdings, so as to prevent the unjustified enrichment of a private party who has severed links with the organisation during the useful life of the investment, provisions should be laid down to allow the organisation to recover the residual value of the investment, whether such an investment is owned by the member or by the organisation
- (10) In the interests of sound management of aid, a written undertaking should be made by the producer organisation, on behalf of itself and its members, not to receive duplicate aid of Community or national funding in respect of measures qualifying for Community aid under this Regulation.
- (11) To ensure the effective implementation of operational programmes, producer organisations should receive notification of the decisions of the competent authorities on operational programmes and the approved amount of aid on 15 December of the year preceding implementation of the programme at the latest.
- (12) To prevent cash-flow difficulties, a system of advance payments accompanied by appropriate securities should be available to producer organisations. It should be stipulated that, in order to prevent the systematic recovery of advances, such payments should not exceed the minimum level of aid. It should be possible for furnished securities to be progressively released as implementation of the operational programme proceeds, to the extent of up to 80 % of the advances paid, the remaining amount being retained until the balance of the aid has been paid. An alternative system should be available for the reimbursement, at periods throughout the year, of expenditure already incurred.
- (13) To ensure correct application of the scheme, the information to be included in applications for aid should be specified. To provide against unforeseen circumstances in the implementation of operational programmes, applications for advances or payment may be carried over to the following year for operations which for reasons beyond the control of the producer organisation could not be implemented within the time limits laid down. All applications should be subject to administrative checks for verification. In the interests of sound financial management, penalties should be determined for late submission of applications for aid.
- (14) The ceiling on aid should apply to all applications at the level fixed by Article 15(5) of Regulation (EC) No 2200/96.
- (15) The activities of producer organisations and their effectiveness should be monitored. This can be achieved by means of periodical reports and an assessment.
- (16) Strict control procedures should be laid down, together with deterrent penalties in the event of infringement, given the high degree of responsibility and initiative conferred on the producer organisations. These penalties should be weighted according to the severity of the infringement. To ensure fair treatment, conditions should be laid down to cover ineligible actions included in error by the producer organisation in an operational programme and approved by the Member State, whereby Member States should not be obliged to withhold aid payments or recover aid paid, in accordance with the jurisprudence of the Court of Justice.
- (17) The competent authorities responsible for verifying the eligibility of the proposed measures in operational programmes and their execution should be provided with the possibility of introducing complementary national measures to ensure the correct application of this scheme.

⁽¹⁾ OJ L 161, 26.6.1999, p. 1.

⁽²⁾ OJ L 158, 27.6.2003, p. 3.

- (18) This Regulation should apply to all operational programmes to be implemented from 2004. Programmes already approved whose application continues into 2004 should be amended unless their advanced state of implementation makes this inappropriate.
- (19) To ensure correct application of this scheme, Member States should forward all details of complementary and additional measures taken in the framework of this Regulation. An adequate record of the activities of producer organisations and use of the operational funds should be made available to the Commission for statistical, budget and control purposes.
- (20) The Management Committee for fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter and scope

1. This Regulation lays down rules applicable to Community financial assistance, hereinafter referred to as 'aid', to operational funds and to operational programmes as provided for in Articles 15 and 16 of Regulation (EC) No 2200/96.
2. Producer organisations may qualify for aid on the terms set out in Articles 15 and 16 of Regulation (EC) No 2200/96 and those laid down herein.

Article 2

Definitions

1. For the purposes of this Regulation, 'producer organisations' means those recognised pursuant to Article 11 of Regulation (EC) No 2200/96.
2. For the purposes of this Regulation, a recognised 'association of producer organisations' acting on behalf of its members for the purposes of fully or partially managing their operational funds and programmes in accordance with Article 16(3) of Regulation (EC) No 2200/96 shall be considered as a producer organisation.

CHAPTER II

VALUE OF MARKETED PRODUCTION

Article 3

Basis for calculation

1. For the purposes of this Regulation, the value of marketed production is based on the production of members of producer organisations, according to paragraphs 2 to 6.

2. The production shall include the amount of the aid as provided for in Article 2 of Regulation (EC) No 2201/96 and Article 1 of Regulation (EC) No 2202/96 received by the producer organisations for the same reference period referred to in article 4.

3. The production shall include the production of members who leave or join the producer organisation. The Member States shall determine the conditions to avoid duplicate counting.

4. The production shall include the value of products withdrawn for free distribution within the meaning of Article 30(1)(a) and (b) of Regulation (EC) No 2200/96, estimated at the average price of those products marketed by the producer organisation.

5. The production shall be disposed of in accordance with the first and second subparagraphs of Article 11(1)(c)(3) of Regulation (EC) No 2200/96.

However, the conditions laid down in the first indent of that point and, in cases of marginal quantities of product marketed fresh or to the processing industry by the producer members themselves, in the second indent thereof shall not apply.

6. The production shall be invoiced at the 'ex-producer organisation' stage:

- (a) where applicable, as 'packaged or prepared but not processed product';
- (b) excluding VAT;
- (c) excluding internal transport costs, where the distance between the centralised collection or packing points of the producer organisation and the point of distribution of the producer organisation is significant.

Member States shall provide for reductions to be applied to the invoiced value for products invoiced at different stages of processing or delivery or transport.

Article 4

Reference period

1. The annual ceiling on aid referred to in the third subparagraph of Article 15(5) of Regulation (EC) No 2200/96 shall be calculated each year on the basis of the value of marketed production during a 12-month reference period to be determined by Member States.

2. The reference period may be:

- (a) a 12-month period, starting no earlier than 1 January two years preceding the year in which the operational programme is implemented and ending no later than 1 July of the same year, or

(b) the average value of three subsequent 12-month periods starting no earlier than 1 January four years preceding the year in which the operational programme is implemented and ending no later than 1 July of the same year.

3. Member States may use different reference periods for different producer organisations to take into account various production, sales and accounting periods for different products or groups of products.

The reference period shall not vary during an operational programme except in duly justified situations.

4. Where a reduction in the value of a product has occurred due to reasons, duly justified to the satisfaction of a Member State, falling outside the responsibility and control of the producer organisation, the value of the marketed production referred to in paragraph 1 shall not be less than 65 % of the value of the product concerned in the previous reference period.

The reasons referred to in the first subparagraph shall be duly justified.

5. Where recently recognised producer organisations have insufficient historical data on marketed production for the application of paragraph 2 the value of marketed production shall be considered to be the value of marketable production provided by the producer organisation for the purposes of recognition.

6. Member States shall take the measures necessary to gather information on the value of marketed production of producer organisations which have not submitted operational programmes.

CHAPTER III

OPERATIONAL FUNDS

Article 5

Management

1. Operational funds set up by producer organisations as referred to in Article 15(1) of Regulation (EC) No 2200/96 shall be used solely for transactions connected with:

- (a) the implementation of the operational programme;
- (b) the administration of the operational fund;
- (c) Community compensation for withdrawals, in accordance with Article 15(3) of Regulation (EC) No 2200/96.

2. Member States shall ensure that operational funds are managed in such a way that it is possible for external auditors to identify, check and certify their expenditure and revenue annually.

3. Expenditures relating to the operational fund may be executed by a producer organisation's subsidiary, within the meaning of Article 2 of Regulation (EC) No 1432/2003⁽¹⁾.

Article 6

Financing of operational funds

1. The financial contributions of members to the operational fund referred to in Article 15(1) of Regulation (EC) No 2200/96 shall be determined on the basis of volume and/or value of the marketed production.

2. Member States may authorise producer organisations to:

- (a) use all or part of their own funds, generated by the sales of fruit and vegetable products of their members related to the recognition categories, with the exception of those coming from other public support;
- (b) set individual levies on producer members at different levels.

In case of application of the first subparagraph, the following conditions shall be respected:

- (a) all producers shall contribute to the operational fund;
- (b) all producers shall have the opportunity to benefit from the operational fund;
- (c) all producers shall have the opportunity to participate democratically in decisions concerning the use of funds of the producer organisation and the financial contributions to the operational funds.

Article 7

Communication of estimated amount

The producer organisations shall communicate the estimated amounts of the operational funds for the following year to the Member States by 15 September at the latest, together with the operational programmes or requests for amendments to be approved.

Calculation of the estimated amount of operational funds shall be based on the operational programmes, the estimated expenditure on withdrawals and the value of marketed production.

⁽¹⁾ See page 18 of this Official Journal.

CHAPTER IV

Article 10

OPERATIONAL PROGRAMMES**Partial operational programmes***Article 8***Contents of operational programmes**

1. Operational programmes shall include the following:
 - (a) a description of the initial situation, in particular as regards production, marketing and equipment;
 - (b) the objectives of the programme, bearing in mind the outlook for production and outlets;
 - (c) a detailed description of the measures, containing separate actions, to be taken and the means for attaining those objectives in each year of implementation of the programme;
 - (d) the duration of the programme;
 - (e) the financial aspects, namely:
 - (i) the method of calculation and the level of financial contributions;
 - (ii) the procedure for financing the operational fund;
 - (iii) information necessary to justify different levels of contribution;
 - (iv) the budget and timetable for undertaking operations for each year of implementation of the programme.
2. Operational programmes may include points not provided for in paragraph 1, in particular the points set out in Annex I.
3. Operational programmes shall not include operations or expenditure referred to in the list set out in Annex II or any other ones included in measures adopted by Member States under Article 25.

*Article 9***Documents to be submitted**

Operational programmes shall be accompanied by:

- (a) evidence of the setting-up of an operational fund;
- (b) a written undertaking from the producer organisation to comply with Regulation (EC) No 2200/96 and this Regulation;
- (c) a written undertaking from the producer organisation and its members that they have not received, directly or indirectly, duplicate Community or national funding in respect of measures and/or operations qualifying for aid under this Regulation.

1. In case of application of Article 16(3) of Regulation (EC) No 2200/96, Member States may authorise recognised associations of producer organisations to present a partial operational programme of their own, which shall consist of actions identified, but not implemented by the member producer organisations in their operational programmes.

2. The same rules shall apply to partial operational programmes as to other operational programmes and they shall be considered together with the operational programmes of the member producer organisations.

3. Member States shall ensure that:

- (a) the actions are fully financed from contributions of member producer organisations paid out of the operational funds of those organisations;
- (b) the actions and the corresponding financial participation are listed in the operational programme of each participating producer organisation;
- (c) there is no risk of duplicate aid.

*Article 11***Time limit for submission**

Operational programmes shall be submitted by the producer organisation for approval to the competent authority in the Member State in which the producer organisation has its headquarters on 15 September of the year preceding that in which they are to be implemented at the latest.

However, the Member States may postpone that date.

*Article 12***Verification**

The competent national authority shall verify by all appropriate means, including on-the-spot inspections:

- (a) the accuracy of information provided pursuant to Article 8(1)(a), (b) and (e);
- (b) compliance of the objectives of programmes with Article 15(4) of Regulation (EC) No 2200/96;
- (c) eligibility of the operations and the expenditure proposed, account being taken of Article 8(2) and (3);
- (d) the economic consistency and technical quality of programmes, the soundness of the estimates and the aid plan, and the planning of its implementation.

*Article 13***Decision**

1. The competent national authority shall, as appropriate:
 - (a) approve amounts of funds and programmes which meet the requirements of Articles 15 and 16 of Regulation (EC) No 2200/96 and those of this Chapter;
 - (b) approve the programmes, on condition that certain amendments are accepted by the producer organisation; or
 - (c) reject the programmes.
2. The competent national authority shall take decisions on programmes and funds on 15 December of the year in which they are submitted at the latest.

Member States shall notify the producer organisations of those decisions on 15 December at the latest.

*Article 14***Amendments to operational programmes for subsequent years**

1. Producer organisations may request amendments to operational programmes on 15 September at the latest to be applied from 1 January of the following year.

However, Member States may postpone the date for submitting requests.

2. Requests for amendments shall be accompanied by supporting documents giving the reason, nature and implications of the changes.
3. The competent authority shall take decisions on requests for amendments to operational programmes on 15 December at the latest, after considering the documents supplied, and in accordance with Article 12. Where a decision is not taken within that time limit, the request shall be deemed to have been rejected.

*Article 15***Amendments to operational programmes during the year**

1. Member States may authorise amendments to operational programmes during the year, under conditions to be determined by them.
2. Producer organisations may be authorised by the competent national authority, during the year to:
 - (a) implement their operational programmes in part only;
 - (b) change the contents of the operational programme, including the extension of its duration up to a total duration of five years;
 - (c) change the amount of the operational fund up to a maximum of 20 % of the amount initially approved provided the overall objectives of the operational programme are maintained.

3. Member States shall determine the conditions under which operational programmes may be amended during the year without prior approval by the competent national authority.

However, any increase in the amount of operational fund approved for aid withdrawals as in Article 15(2)(a) of Regulation (EC) No 2200/96 shall in all cases be the subject of prior approval by the competent authority.

These changes are only eligible for aid if they are communicated by the producer organisation to the competent authority without delay.

*Article 16***Operational programmes format**

1. Operational programmes shall be implemented in annual periods running from 1 January to 31 December.
2. Operational programmes approved on 15 December at the latest shall be implemented as from 1 January of the following year.

The implementation of programmes approved after 15 December shall be postponed for one year.

CHAPTER V

AID*Article 17***Approved amount of aid**

After the programmes have been approved, Member States shall establish the approved amount of aid as referred to in the first subparagraph of Article 16(2) of Regulation (EC) No 2200/96.

Member States shall notify the producer organisations on 15 December at the latest of the approved amount of aid.

*Article 18***Applications**

1. Producer organisations shall submit an application for aid or the balance thereof to the competent authority for each operational programme for which aid is requested on 31 January of the year following that for which the aid is requested at the latest.
2. Applications shall be accompanied by supporting documents showing:
 - (a) the value of the marketed production;
 - (b) the financial contributions levied on members and paid into the operational fund;
 - (c) the expenditure incurred in respect of the operational programme;

- (d) the proportion of the operational fund spent on the aid for market withdrawals;
- (e) the level of compensation and/or supplements paid to members;
- (f) compliance with the limits laid down in the third subparagraph of Article 15(3) and in Article 23(3), (4) and (5) of Regulation (EC) No 2200/96.

3. Applications may cover expenditure programmed but not incurred if the following elements are proved:

- (a) the operations concerned could not be carried out on 31 December at the latest of the year of implementation of the operational programme for reasons beyond the control of the producer organisation concerned;
- (b) those operations can be carried out on 30 April of the following year at the latest;
- (c) an equivalent contribution from the producer organisation remains in the operational fund.

The aid shall be paid and the security lodged in accordance with Article 20(3) shall be released only on condition that proof of implementation of the programmed expenditure referred to in point (b) of the first subparagraph is provided on 30 April of the year following that for which the expenditure in question was programmed at the latest, and on the basis of the entitlement to the aid actually established.

4. Where applications are submitted after the date provided for in paragraph 1, the aid shall be reduced by 1 % for each day late.

In exceptional and duly justified cases, the competent authority may accept applications after the date provided for in paragraph 1, if the checks provided for in Article 23 have been carried out and the time limit for payment provided for in Article 19 is complied with.

Article 19

Payment of the aid

Member States shall pay the aid applied for on 30 June of the year following the year of implementation of the programme at the latest.

However, Member States may postpone this date until 15 October.

Article 20

Advance payments

1. Producer organisations may apply for the advance payment of the part of the aid corresponding to the foreseeable expenditure resulting from the operational programme during the three-month period starting in the month in which the application is submitted.

2. Applications for advance payments shall be made in January, April, July and October.

Total advance payments made for a given year may not exceed 90 % of the initially approved amount of aid for the operational programme.

3. Advances shall be paid subject to the lodging of a security equivalent to 110 % thereof in accordance with Commission Regulation No 2220/85⁽¹⁾.

Conditions shall be provided for by the Member States to ensure that financial contributions to the operational fund have been levied in accordance with Article 5(2) and Article 6 and previous advance payments have actually been spent.

4. Applications for the release of securities may be submitted during the year and shall be accompanied by the relevant supporting documents.

Securities shall be released in respect of up to 80 % of advances paid.

5. The primary requirement within the meaning of Article 20 of Regulation (EC) No 2220/85 shall cover the performance of the operations set out in the operational programmes subject to the undertakings provided for in Article 9(b) and (c) of this Regulation.

In the event of failure to comply with the primary requirement or of serious failure to meet the obligations provided for in Article 9(b) and (c) the security shall be forfeited, without prejudice to other penalties to be applied in accordance with Article 24.

In the event of failure to comply with other requirements, the security shall be forfeited in proportion to the gravity of the irregularity that has been established.

Article 21

Partial payments

1. Producer organisations may apply for the payment of the part of the aid corresponding to the expenditure resulting from the operational programme incurred during the three preceding months.

Applications shall be submitted in April, July and October. They shall be accompanied by suitable supporting documents.

Total payments in respect of applications for parts of the aid may not exceed 90 % of the initially approved amount of aid for the operational programme or of the real expenditure, whichever is less.

2. Producer organisations may apply for the payment of part of the aid for market withdrawals.

Applications may be submitted together with applications referred to in paragraph 1. They shall be subject to the limits laid down in the third subparagraph of Article 15(3) and in Article 23(3), (4) and (5) of Regulation (EC) No 2200/96.

⁽¹⁾ OJ L 205, 3.8.1985, p. 5.

CHAPTER VI

GENERAL PROVISIONS

Article 22

Producer organisation reports

1. Producer organisations shall submit annual reports, accompanying applications for aid, on the implementation of operational programmes and withdrawal operations eligible for aid under an operational fund.

Those reports shall concern the following:

- (a) operational programmes implemented during the preceding year and market withdrawals;
- (b) main amendments to operational programmes;
- (c) variances between estimated aid and aid applied for.

2. For the final year of application of an operational programme, a final report shall replace the annual report referred to in paragraph 1.

Final reports shall include an assessment of the operational programmes, which may be prepared with the aid of a specialised consultancy office. They shall show to what extent the objectives pursued by the programmes have been achieved. They shall explain changes to operations and/or methods, which have been or will be considered when subsequent operational programmes are drawn up, or when existing operational programmes are amended.

Article 23

Checks

1. Member States shall carry out on-the-spot checks on producer organisations, with little or no prior notification, so as to ensure compliance with the conditions for grant of aid.

Those checks shall in particular concern:

- (a) the implementation of the measures contained in the operational programme, paying particular attention to measures relating to investments;
- (b) real costs and expenses incurred compared with declared aid.

2. The checks referred to in paragraph 1 shall relate to a significant sample of applications each year. The sample shall represent at least 20 % of the producer organisations and 30 % of the total aid amount.

If the checks reveal significant irregularities in a region or part of a region or for a specific producer organisation, the competent authority shall carry out additional checks during the year in question and shall increase the percentage of corresponding applications to be checked the following year.

3. The competent authority shall determine which producer organisations to check on the basis of a risk analysis and the representativeness of the aid.

The risk analysis shall take account of:

- (a) the amount of aid,
- (b) the trend of annual programmes in relation to the previous year,
- (c) the findings of the checks in previous years,
- (d) other parameters to be determined by Member States, in particular whether producer organisations are involved in a quality approach officially recognised by the Member States or by independent certifying bodies.

4. At least one check must be made on each producer organisation before the payment of the aid or the balance thereof relating to the final year of its operational programme.

Article 24

Recovery and penalties

1. Aid unduly paid or application for aid in accordance with paragraph 3 shall be recovered or withheld and penalties shall be applied to the beneficiary/applicant concerned, where:

- (a) the real value of marketed production is less than the amount used to calculate the aid;
- (b) the operational fund has been maintained in a manner which does not comply with the second subparagraph of Article 15(1) of Regulation (EC) No 2200/96 or has been used for purposes other than those referred to in Article 15(2) of that Regulation; or
- (c) the operational programme has been implemented in a manner which does not comply with the conditions for its approval by the Member State concerned, without prejudice to Article 14 and 15 of this Regulation.

2. Without prejudice to Article 7(4) of Council Regulation (EC) No 1258/1999 ⁽¹⁾, in the case of a measure which is subsequently found to be ineligible, and which has been implemented in conformity with an operational programme approved by the Member State, the latter may pay the relevant aid due, or not proceed to the recovery of aid already paid out, if it would proceed in such a way for comparable cases financed from the national budget and if the producer organisation has not acted negligently.

⁽¹⁾ OJ L 160, 26.6.1999, p. 103.

3. Where paragraph 1 applies, the beneficiary of the aid/applicant shall be required:

- (a) where aid has already been paid:
 - (i) in the case of obvious error, to reimburse the aid unduly paid, plus interest;
 - (ii) in the case of fraud, to reimburse double the aid unduly paid, plus interest;
 - (iii) in all other cases, to reimburse the aid unduly paid out, increased by 50 %, plus interest;
- (b) where applications for aid have been submitted but no aid has been paid:
 - (i) in the case of fraud, to pay the aid unduly applied for;
 - (ii) in all other cases other than those of obvious error, to pay 50 % of the aid unduly applied for.

4. The interest referred to in paragraph 3(a) shall be calculated:

- (a) on the basis of the period elapsing between payment and reimbursement by the beneficiary;
- (b) at the rate applied by the European Central Bank to its main refinancing operations published in the 'C' series of the *Official Journal of the European Union* and in force on the date on which the undue payment is made, plus three percentage points.

5. Aid recovered in accordance with paragraph 3 shall be paid to the responsible paying agency and deducted by it from expenditure financed by the European Agricultural Guidance and Guarantee Fund.

6. In the event of a false declaration made deliberately or by serious negligence, the producers' organisation concerned shall not receive aid for the year following that in respect of which the false declaration was discovered.

Article 25

Member State provisions

Member States may adopt complementary rules to Regulation (EC) No 2200/96 and to this Regulation concerning operations or expenditure eligible for aid.

Article 26

Member State reporting

1. By 1 June of each year, Member States shall report financial and qualitative data on producer organisations, operational funds and operational programmes and checks and penalties as set out in Annex III.

2. Member States shall communicate to the Commission all measures and conditions provided for by them in the framework of this Regulation, and in particular:

- (a) the method, procedure and information referred to in Article 8(1)(e)(i), (ii) and (iii);
- (b) estimates of operational funds referred to in Article 7;
- (c) details on applications for aid;
- (d) conditions set for allowing amendments to be made to operational programmes during the year as provided for in Article 15;
- (e) provisions made, if relevant, for the application of Article 24(2);
- (f) provisions adopted under Article 25.

CHAPTER VII

REPEAL AND FINAL PROVISIONS

Article 27

Repeal

Regulation (EC) No 609/2001 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

Article 28

Transitional provisions

Operational programmes which were approved by Member States before the entry into force of this Regulation and which continue to apply in 2004 shall comply with this Regulation. The producer organisations shall request the necessary amendments on 15 September 2003 at the latest.

Member States may provide for the retention of programmes approved before the entry into force of this Regulation.

Article 29

Entry into force

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

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

Done at Brussels, 11 August 2003.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX I

Optional contents of operational programmes

1. Costs of plants in the case of perennial crops (perennials, trees and shrubs).
2. For a maximum of 10 years per action, specific costs for:
 - (a) organic, integrated or experimental production ⁽¹⁾;
 - (b) organic plant protection materials ⁽²⁾;
 - (c) environmental measures, including costs generated by the environmental management of packaging ⁽³⁾;
 - (d) quality improvement measures, including certified seeds, mycelium and plants.

For each category of eligible specific costs referred to above, in order to calculate additional costs compared with conventional ones, Member States may fix standard flat rates in a duly justified way.

3. Overheads specifically related to the operational fund or programme ⁽⁴⁾ by means of the payment of a lump sum equal to 2 % of the approved operational fund and up to a maximum of EUR 180 000 ⁽⁵⁾. This 2 % consist of 1 % of Community aid plus 1 % from the producer organisation.

In the case of an association of producer organisations as referred to in Article 9 of Regulation (EC) No 1432/2003 ⁽⁶⁾, that lump sum may be multiplied for the number of producer organisations member of that association, up to a maximum of EUR 1 250 000.

4. Personnel costs (including charges linked to wages and salaries, if these are borne by the producer organisation) resulting from measures:
 - (a) to improve or maintain a high level of quality or environmental protection;
 - (b) to improve the level of marketing.

The implementation of those measures shall essentially involve the use of qualified personnel. If, in such cases, the producer organisation uses its own employees or member producers, the time worked shall be documented.

If a Member State wishes to provide an alternative to restricting funding to the real costs, for all the eligible personnel costs referred to above, it shall fix, *ex ante* and in a duly justified way, lump sums up to a maximum of 20 % of the approved operational fund. This percentage may be increased in duly justified cases.

In order to request those lump sums, producer organisations shall furnish proof of the implementation of the action to the satisfaction of the Member State.

5. Investments in means of transport equipped with cold-storage or controlled-atmosphere transport.
6. Additional external transport costs, compared with road haulage costs, incurred when using rail and/or ship as part of a measure to respect the environment, set by Member States per kilometre on a flat-rate basis.
7. Costs of meetings and training programmes related to implementation of actions in the operational programme, including daily allowances of participants covering transport and accommodation costs (where appropriate on a flat-rate basis).
8. Generic promotion and promotion of quality labels. Geographical names are allowed only:
 - (a) if they are a protected designation of origin or a protected geographical indication, covered by Council Regulation (EEC) No 2081/92 ⁽⁷⁾, or
 - (b) if, in all cases where the provision of point (a) does not apply, these geographical names are secondary to the principal message.

Promotional material shall bear the emblem of the European Community (in the case of visual media only) and include the following legend: 'Campaign financed with the aid of the European Community'.

⁽¹⁾ The competent national authority shall lay down the eligibility criteria for an experimental production taking account of the newness of the procedure or concept and the risk involved.

⁽²⁾ Organic plant protection materials (such as pheromones and predators), whether used in organic, integrated or conventional production.

⁽³⁾ The environmental management of packaging needs to be properly justified and follow the criteria of Annex II to Directive 94/62/EC of the European Parliament and of the Council on Packaging and Packaging waste (OJ L 365, 31.12.1994, p. 10).

⁽⁴⁾ Including management and personnel costs, reports and evaluation studies; the costs of keeping accounts and the management of accounts referred to in Article 3(1)(b).

⁽⁵⁾ Member States may restrict funding to the real costs, in which case they should define the eligible costs.

⁽⁶⁾ See page 18 of this Official Journal.

⁽⁷⁾ OJ L 27, 30.1.1997, p. 50.

9. Promotion of producer organisations brands/trademarks.
10. Legal and administrative costs of mergers of producer organisations or their acquisition, as well as legal and administrative costs related to creating transnational producer organisations or transnational associations of producer organisations; feasibility studies and proposals commissioned by producer organisations in this respect.
11. Second-hand equipment within the conditions laid down in Rule No 4 of Commission Regulation (EC) No 1685/2000 ⁽¹⁾.
12. Land not built on where purchase is necessary to carry out an investment included in the programme, within the conditions laid down in paragraphs 1(1.1)(a), (b) and (c) and 1.2 of Rule No 5 of Regulation (EC) No 1685/2000 ⁽²⁾.
13. Leasing within the limits of the net market value of the item and within the conditions laid down in paragraph 3 of Rule No 10 of Regulation (EC) No 1685/2000.
14. Financial charges within the conditions laid down in Rule No 3 of Regulation (EC) No 1685/2000.
15. Hire as an alternative to purchase where economically justified, at the satisfaction of the Member States.
16. Real estate purchase within the conditions laid down in paragraphs 2.1, 2.2 and 2.3 of Rule No 6 of Regulation (EC) No 1685/2000.
17. Investments or actions on individual holdings, on condition that they contribute to the objectives of the operational programme. Member States shall ensure that appropriate provisions are made in order to recover the investment or its residual value if the member leaves the organisation.
18. Investments in shares of companies if the investment contributes to the achievement of the goals of the operational programme.
19. Replacements for investments, provided that the residual value of the replaced investments is:
 - (a) added to the operational fund of the producer organisation, or
 - (b) subtracted from the cost of the replacement.

Investments, including those under leasing contracts, whose repayment period exceeds the length of the operational programme may be carried over to a subsequent operational programme on duly justified economic grounds, and in particular in cases where the fiscal depreciation period is longer than five years.

⁽¹⁾ OJ L 242, 27.9.2000, p. 18.

⁽²⁾ The competent national authority may set additional conditions to Rule No 5 of Regulation (EC) No 1685/2000 for the acceptance of this type of expenditure in order to avoid all speculation; these conditions may include in particular forbidding the sale of the investment/land during a minimum period and the setting of a maximum correlation between the value of the land and the value of the investment.

ANNEX II

Ineligible operations and expenditure

1. General production costs, and in particular:
 - seeds, mycelium and plants,
 - plant protection products, including integrated control materials, fertilisers and other inputs,
 - packing costs, storage costs, packaging costs, even as part of new processes, costs of packages,
 - costs of collection or transport (internal or external),
 - operating costs (in particular electricity, fuel and maintenance).
 2. Overheads.
 3. Income or price supplements.
 4. Insurance costs including individual or group insurance premiums and the creation of insurance funds within a producer organisation.
 5. Reimbursement (especially in the form of annual payments) of loans taken out for an operation carried out in full or in part before the beginning of the operational programme.
 6. Purchase of land not built on.
 7. Payments to producers, participating in meetings and training programmes, to compensate for loss of income.
 8. Operations or costs relating to the quantities produced by the members of the producer organisation outside the Community.
 9. Operations that could distort competition in the other economic activities of the producer organisation; operations or measures which profit directly or indirectly other economic activities of the producer organisation should be financed in proportion to their use by the sectors or products for which the producer organisation is recognised.
 10. Second hand equipment.
 11. Investment in means of transport to be used for marketing or distribution by the producer organisation.
 12. Hire as an alternative to purchase; the operating cost of the goods hired.
 13. Expenditure linked to leasing contracts (taxes, interest, insurance costs, etc.) and operating costs.
 14. Promotion of individual commercial labels or containing geographic references.
 15. Subcontracting contracts relating to the operations or expenditure mentioned in this list.
 16. VAT and other taxes or charges within the conditions laid down in paragraph 4 of Rule No 7 of Regulation (EC) No 1685/2000.
 17. Investments for the processing of fresh products (operations carried out by producer organisations concerning preparation of the product, in particular cleaning, cutting, trimming, drying and packaging, with a view to its marketing, are not deemed processing).
-

ANNEX III

MEMBER STATE REPORTING REQUIREMENTS**Information to be forwarded by Member States to the Commission, according to formats provided by the Commission****Part 1: Producer organisations**

1. Administrative information (including recognition number, legal form, number of physical and legal members).
2. Production information (including the calculation of the value of marketed production and information on key products).

Part 2: Operational funds and operational programmes

1. Reference period(s) used.
2. Aid estimates.
3. Applications for aid and aid payments actually made, including the percentage of operational fund spent on withdrawals.
4. Main categories of expenditure (including significant changes made in-year).

Part 3: Checks, recovery and penalties

1. Producer organisations checked.
 2. Checking authority and summary including results of checks (key points only).
 3. Updated figures relating to aid payments actually made, submitted on 15 November at the latest.
-

COMMISSION REGULATION (EC) No 1434/2003
of 11 August 2003
on the issue of system B export licences in the fruit and vegetables sector (table grapes)

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 Commission Regulation (EC) No 47/2003 ⁽²⁾,

Having regard to Commission Regulation (EC) No 1961/2001 of 8 October 2001 on detailed rules for implementing Council Regulation (EC) No 2200/96 as regards export refunds on fruit and vegetables ⁽³⁾, as last amended by Regulation (EC) No 1176/2002 ⁽⁴⁾, and in particular Article 6(6) thereof,

Whereas:

- (1) Commission Regulation (EC) No 1061/2003 ⁽⁵⁾ fixes the indicative quantities for which system B export licences may be issued.
- (2) In the light of the information available to the Commission today, there is a risk that the indicative quantities laid down for the current export period for table grapes

will shortly be exceeded. This overrun will prejudice the proper working of the export refund scheme in the fruit and vegetables sector.

- (3) To avoid this situation, applications for system B licences for table grapes after 11 August 2003 should be rejected until the end of the current export period,

HAS ADOPTED THIS REGULATION:

Article 1

Applications for system B export licences for table grapes submitted pursuant to Article 1 of Regulation (EC) No 1061/2003, export declarations for which are accepted after 11 August 2003 and before 17 September 2003, are hereby rejected.

Article 2

This Regulation shall enter into force on 12 August 2003.

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

Done at Brussels, 11 August 2003.

For the Commission
J. M. SILVA RODRÍGUEZ
Agriculture Director-General

⁽¹⁾ OJ L 297, 21.11.1996, p. 1.

⁽²⁾ OJ L 7, 11.1.2003, p. 64.

⁽³⁾ OJ L 268, 9.10.2001, p. 8.

⁽⁴⁾ OJ L 170, 29.6.2002, p. 69.

⁽⁵⁾ OJ L 154, 21.6.2003, p. 44.

COMMISSION DIRECTIVE 2003/78/EC
of 11 August 2003

laying down the sampling methods and the methods of analysis for the official control of the levels of patulin in foodstuffs

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS DIRECTIVE:

Having regard to the Treaty establishing the European Community,

Article 1

The Member States shall take all measures necessary to ensure that the sampling for the official control of the levels of patulin in foodstuffs is carried out in accordance with the methods described in Annex I to this Directive.

Having regard to Council Directive 85/591/EEC of 20 December 1985 concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs intended for human consumption ⁽¹⁾, and in particular Article 1 thereof,

Article 2

The Member States shall take all measures necessary to ensure that sample preparation and methods of analysis used for the official control of the levels of patulin in foodstuffs comply with the criteria described in Annex II to this Directive.

Whereas:

Article 3

(1) Commission Regulation (EC) No 466/2001 of 8 March 2001 setting maximum levels for certain contaminants in foodstuffs ⁽²⁾, as last amended by Commission Regulation (EC) No 1425/2003 ⁽³⁾ fixes maximum limits for patulin in certain foodstuffs.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 September 2004 at the latest. They shall forthwith inform the Commission thereof.

(2) Council Directive 93/99/EEC of 29 October 1993 on the subject of additional measures concerning the official control of foodstuffs ⁽⁴⁾ introduces a system of quality standards for laboratories entrusted by the Member States with the official control of foodstuffs.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

(3) It seems necessary to fix general criteria, which the method of analysis has to comply with in order to ensure that laboratories, in charge of the control, use methods of analysis with comparable levels of performance. It is also of major importance that analytical results are reported and interpreted in a uniform way in order to ensure a harmonised enforcement approach across the European Union. These interpretation rules are of application for the analytical result obtained on the sample for official control. In case of analysis for defence or referee purposes, the national rules apply.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive.

Article 4

This Directive shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

(4) The provisions for the sampling and methods of analysis have been drawn up on the basis of present knowledge and they may be adapted to take account of advances in scientific and technological knowledge.

Article 5

This Directive is addressed to the Member States.

(5) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health,

Done at Brussels, 11 August 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 372, 31.12.1985, p. 50.

⁽²⁾ OJ L 77, 16.3.2001, p. 1.

⁽³⁾ See page 1 of this Official Journal.

⁽⁴⁾ OJ L 290, 24.11.1993, p. 14.

ANNEX I

METHODS OF SAMPLING FOR OFFICIAL CONTROL OF THE LEVELS OF PATULIN IN CERTAIN FOOD-STUFFS**1. Purpose and scope**

Samples intended for official checking of the levels of patulin in foodstuffs shall be taken according to the methods described below. Aggregate samples thus obtained shall be considered as representative of the lots. Compliance with maximum levels laid down in Commission Regulation (EC) No 466/2001 shall be established on the basis of the levels determined in the laboratory samples.

2. Definitions

- Lot:** an identifiable quantity of a food commodity delivered at one time and having been determined by the official to have common characteristics, such as origin, variety, type of packing, packer, consignor or markings.
- Sublot:** designated part of a lot in order to apply the sampling method on that designated part. Each sublot must be physically separate and identifiable.
- Incremental sample:** a quantity of material taken from a single place in the lot or sublot.
- Aggregate sample:** the combined total of all the incremental samples taken from the lot or sublot.

3. General provisions*3.1. Personnel*

Sampling shall be performed by an authorised person as specified by the Member States.

3.2. Material to be sampled

Each lot which is to be examined must be sampled separately.

3.3. Precautions to be taken

In the course of sampling and preparation of the samples precautions must be taken to avoid any changes, which would affect the patulin content, adversely affect the analytical determination or make the aggregate samples unrepresentative.

3.4. Incremental samples

As far as possible incremental samples should be taken at various places distributed throughout the lot or sublot. Departure from this procedure must be recorded in the record.

3.5. Preparation of the aggregate sample

The aggregate sample is made up by uniting the incremental samples. It shall be at least 1 kg unless not practical e.g. when a single package has been sampled.

3.6. Replicate samples

Replicate samples for enforcement, trade (defence) and referee purposes shall be taken from the homogenised aggregate sample unless this conflicts with Member States' rules on sampling.

3.7. Packaging and transmission of samples

Each sample shall be placed in a clean, inert container offering adequate protection from contamination and against damage in transit. All necessary precautions shall be taken to avoid any change in composition of the sample, which might arise during transportation or storage.

3.8. Sealing and labelling of samples

Each sample taken for official use shall be sealed at the place of sampling and identified following the Member State's regulations.

A record must be kept of each sampling, permitting each lot to be identified unambiguously and giving the date and place of sampling together with any additional information likely to be of assistance to the analyst.

4. Sampling plans

The sampling method applied shall ensure that the aggregate sample is representative for the lot that is to be controlled.

Number of incremental samples

The aggregate sample shall be at least 1 kg (see point 3.5), except where it is not possible e.g. when sampling a single package.

The minimum number of incremental samples to be taken from the lot shall be as given in Table 1. In the case of liquid products the lot shall be thoroughly mixed insofar as possible by either manual or mechanical means immediately prior to sampling. In this case, a homogeneous distribution of patulin can be assumed within a given lot. It is therefore sufficient to take three incremental samples from a lot to form the aggregate sample.

The incremental samples shall be of similar weight. The weight of an incremental sample should be at least 100 grams, resulting in an aggregate sample of at least 1 kg. Departure from this procedure must be recorded in the record provided for under 3.8.

Table 1

Minimum number of incremental samples to be taken from the lot

Weight of lot (in kg)	Minimum number of incremental samples to be taken
< 50	3
50 to 500	5
> 500	10

If the lot consists of individual packages, then the number of packages, which shall be taken to form the aggregate sample, is given in Table 2.

Table 2

Number of packages (incremental samples) which shall be taken to form the aggregate sample if the lot consists of individual packages

Number of packages or units in the lot	Number of packages or units to be taken
1 to 25	1 package or unit
26 to 100	about 5 %, at least 2 packages or units
> 100	about 5 %, at maximum 10 packages or units

5. Compliance of the lot or subplot with the specification

The control laboratory shall analyse the laboratory sample for enforcement in duplicate analysis in case the obtained result of the first analysis is less than 20 % below or above the maximum level, and calculate the mean of the results.

The lot is accepted if the result of the first analysis is more than 20 % below the maximum level or, where duplicate analysis is necessary, if the mean does not exceed the respective maximum level as laid down in Regulation (EC) No 466/2001 taking into account the measurement uncertainty and correction for recovery.

The lot is non-compliant with the maximum level as laid down in Regulation (EC) No 466/2001, if the mean, corrected for recovery exceeds the maximum level beyond reasonable doubt taking into account the measurement uncertainty.

ANNEX II

SAMPLE PREPARATION AND CRITERIA FOR METHODS OF ANALYSIS USED IN OFFICIAL CHECKING OF THE LEVELS OF PATULIN IN CERTAIN FOODSTUFFS**1. Precautions**

As the distribution of patulin in certain foodstuffs could be non-homogeneous, samples should be prepared — and especially homogenised — with extreme care.

All the material received by the laboratory is to be used for the preparation of test material.

2. Treatment of the sample as received in the laboratory

Finely grind (insofar relevant) and mix thoroughly the complete aggregate sample using a process that has been demonstrated to achieve complete homogenisation.

3. Subdivision of samples for enforcement and defence purposes

The replicate samples for enforcement, trade (defence) and referee purposes shall be taken from the homogenised material unless this conflicts with Member States' rules on sampling.

4. Method of analysis to be used by the laboratory and laboratory control requirements**4.1. Definitions**

A number of the most commonly used definitions that the laboratory will be required to use are given below.

The most commonly quoted precision parameters are repeatability and reproducibility.

r = Repeatability, the value below which the absolute difference between two single test results obtained under repeatability conditions (i.e. same sample, same operator, same apparatus, same laboratory, and short interval of time) may be expected to lie within a specific probability (typically 95 %) and hence $r = 2,8 \times s_r$.

s_r = Standard deviation, calculated from results generated under repeatability conditions.

RSD_r = Relative standard deviation, calculated from results generated under repeatability conditions $[(s_r/\bar{x}) \times 100]$, where \bar{x} is the average of results over all laboratories and samples.

R = Reproducibility, the value below which the absolute difference between single test results obtained under reproducibility conditions (i.e. on identical material obtained by operators in different laboratories, using the standardised test method) may be expected to lie within a certain probability (typically 95 %); $R = 2,8 \times s_R$.

s_R = Standard deviation, calculated from results under reproducibility conditions.

RSD_R = Relative standard deviation calculated from results generated under reproducibility conditions $[(s_R/\bar{x}) \times 100]$.

4.2. General requirements

Methods of analysis used for food control purposes must comply with the provisions of items 1 and 2 of the Annex to Council Directive 85/591/EEC of 20 December 1985 concerning the introduction of Community methods of sampling and analysis for the monitoring of foodstuffs intended for human consumption (1).

4.3. Specific requirements

Where no specific methods for the determination of patulin in foodstuffs are prescribed at Community level, laboratories may select any method provided the selected method meets the following criteria:

(1) OJ L 372, 31.12.1985, p. 50.

Performance characteristics for patulin

Level µg/kg	Patulin		
	RSD _r %	RSD _R %	Recovery %
< 20	≤ 30	≤ 40	50 to 120
20-50	≤ 20	≤ 30	70 to 105
> 50	≤ 15	≤ 25	75 to 105

The detection limits of the methods used are not stated as the precision values are given at the concentrations of interest.

The precision values are calculated from the Horwitz equation:

$$RSD_R = 2^{(1-0.5\log C)}$$

where:

- RSD_R is the relative standard deviation calculated from results generated under reproducibility conditions $[(s_R/\bar{x}) \times 100]$.
- C is the concentration ratio (i.e. 1 = 100g/100g, 0,001 = 1,000 mg/kg)

This is a generalised precision equation, which has been found to be independent of analyte and matrix but solely dependent on concentration for most routine methods of analysis.

4.4. Recovery calculation and reporting of results

The analytical result is to be reported corrected or uncorrected for recovery. The manner of reporting and the level of recovery must be reported. The analytical result corrected for recovery is used for checking compliance (see Annex I, point 5).

The analytical result has to be reported as $x \pm U$ whereby x is the analytical result and U is the measurement uncertainty.

4.5. Laboratory quality standards

Laboratories must comply with Council Directive 93/99/EEC of 29 October 1993 on the subject of additional measures concerning the official control of foodstuffs.

II

(Acts whose publication is not obligatory)

CONFERENCE OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES

DECISION OF THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES of 23 July 2003

appointing Judges and Advocates-General to the Court of Justice of the European Communities

(2003/596/EC, Euratom)

THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 223 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 139 thereof,

Whereas:

- (1) The terms of office of Mr Claus GULMANN, Ms Fidelma MACKEN and Messrs Gil Carlos RODRÍGUEZ IGLESIAS, Allan ROSAS, Romain SCHINTGEN, Vassilios SKOURIS, Melchior WATHELET, Judges, and those of Messrs Siegfert ALBER, Francis JACOBS, Jean MISCHO and Dámaso RUIZ-JARABO COLOMER, Advocates-General to the Court of Justice of the European Communities, expire on 6 October 2003.
- (2) A partial replacement of the members of the Court of Justice of the European Communities should take place for the period from 7 October 2003 to 6 October 2009,

HAVE DECIDED AS FOLLOWS:

Article 1

1. The following are hereby appointed Judges of the Court of Justice of the European Communities for the period from 7 October 2003 to 6 October 2009:

Mr Claus GULMANN,

Mr Koen LENAERTS,

Ms Fidelma MACKEN,

Mr Allan ROSAS,

Mr Romain SCHINTGEN,

Ms Rosario SILVA de LAPUERTA,

Mr Vassilios SKOURIS.

2. The following are hereby appointed Advocates-General of the Court of Justice of the European Communities for the period from 7 October 2003 to 6 October 2009:

Mr Francis JACOBS,

Ms Juliane KOKOTT,

Mr Luis Miguel POIARES PESSOA MADURO,

Mr Dámaso RUIZ-JARABO COLOMER.

Article 2

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 23 July 2003.

The President

U. VATTANI

COMMISSION

COMMISSION DECISION of 4 August 2003

laying down detailed rules for the application of Council Directive 93/25/EEC as regards the statistical surveys on sheep and goat population and production

(notified under document number C(2003) 2801)

(2003/597/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 93/25/EEC of 1 June 1993 on the statistical surveys to be carried out on sheep and goat stocks ⁽¹⁾, as last amended by Directive 97/77/EC ⁽²⁾, and in particular Article 1(4), Article 2(2), Article 3(2) and (3), Article 7, Article 10(1) and (2) and Article 13(3) thereof,

Whereas:

- (1) Commission Decision 94/434/EC of 30 May 1994 laying down detailed rules for the application of Council Directive 93/25/EEC as regards the statistical surveys on sheep and goat population and production ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality the said Decision should be codified.
- (2) Precise definitions are required in order to carry out the surveys provided for in Directive 93/25/EEC. This first requires the definition of the agricultural holdings covered by the survey. The individual categories into which the survey results are to be broken down should also be precisely defined, and the herd size classes and regions according to which the Member States draw up the survey results at regular intervals should be determined. A single definition of carcass weight is necessary for the drawing-up of slaughtering statistics.

- (3) According to Directive 93/25/EEC, the Member States may, at their request, be authorised to use administrative sources instead of statistical surveys on sheep and goat stocks and the prescribed breakdown by herd size classes for the final results of even-numbered years.
- (4) Applications have been made by the Member States for the various types of authorisation.
- (5) This Decision is in accordance with the opinion of the Standing Committee on Agricultural Statistics,

HAS ADOPTED THIS DECISION:

Article 1

1. For the purposes of Article 2(2) of Directive 93/25/EEC, 'agricultural holding' means any technical and economic unit under single management which produces agricultural products.
2. The survey referred to in Article 1(1) of Directive 93/25/EEC shall cover:
 - (a) agricultural holdings with a utilised agricultural area of 1 ha or more;
 - (b) agricultural holdings with a utilised agricultural area of less than 1 ha, if their production is to a certain extent intended for sale or if their production unit exceeds certain natural thresholds.

⁽¹⁾ OJ L 149, 21.6.1993, p. 10.

⁽²⁾ OJ L 10, 16.1.1998, p. 28.

⁽³⁾ OJ L 179, 13.7.1994, p. 33.

⁽⁴⁾ See Annex VI.

3. Member States wishing to apply a different survey threshold shall, however, undertake to determine that threshold in such a way that only the smallest holdings are excluded, and that together the holdings excluded account for 1 % or less of the total standard gross margin, within the meaning of Commission Decision 85/377/EEC ⁽¹⁾, of the Member State concerned.

Article 2

The definitions of the categories of sheep and goat referred to in Article 3(1) and Article 13(2) of Directive 93/25/EEC are set out in Annex I.

Article 3

The territorial subdivisions referred to in Article 7(1) of Directive 93/25/EEC are set out in Annex II.

Article 4

The size classes referred to in Article 10(1) of Directive 93/25/EEC are set out in Annex III.

Article 5

The carcass weight referred to in Article 13(1) of Directive 93/25/EEC is defined in Annex IV.

Article 6

1. Pursuant to Article 1(3) of Directive 93/25/EEC, the Member States listed in point (a) of Annex V are authorised to use administrative sources instead of statistical surveys.

2. Pursuant to Article 10(2) of Directive 93/25/EEC, the Member States listed in point (b) of Annex V are authorised to use the breakdown by herd size classes for the final results of even-numbered years.

Article 7

Decision 94/434/EC is repealed.

References to the repealed Decision shall be construed as references to this Decision and shall be read in accordance with the correlation table set out in Annex VII.

Article 8

This Decision is addressed to the Member States.

Done at Brussels, 4 August 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ OJ L 220, 17.8.1985, p. 1.

ANNEX I

Definition of categories*Ewes and ewe lambs put to the ram*

Females of the ovine species which have already lambed at least once as well as those which have been put to the ram for the first time.

Milk ewes

Ewes which are kept exclusively or principally to produce milk for human consumption and/or for processing into dairy products. This includes cast milk sheep (whether fattened or not between their last lactation and slaughtering).

Other ewes

Ewes other than milk sheep.

Lambs

Male or female sheep up to approximately 12 months old.

ANNEX II

Territorial subdivisions

Belgium:	Région/Gewest
Denmark:	—
Germany:	Bundesländer
Greece:	The regions of the Regional Development Service
Spain:	País Vasco Navarra La Rioja Aragón Cataluña Islas Baleares Castilla y León Madrid Castilla-La Mancha Comunidad Valenciana Región de Murcia Extremadura Andalucía other Comunidades Autónomas
France:	— <i>for sheep</i> , the following regions: Midi-Pyrénées Poitou-Charentes Limousin Aquitaine Provence-Alpes-Côte d'Azur Auvergne other regions — <i>for goats</i> , the following regions: Rhône-Alpes Poitou-Charentes Centre - Pays-de-la-Loire Bourgogne Midi-Pyrénées other regions
Ireland:	—
Italy:	— <i>for sheep</i> : Regioni — <i>for goats</i> : Regioni: Piemonte Lombardia Toscana Lazio Campania Puglia Basilicata Calabria Sicilia Sardegna other regions
Luxembourg:	—
Netherlands:	Provincies
Austria:	Bundesländer
Portugal:	Regiões

Finland: Etelä-Suomi — Uusimaa
Itä-Suomi
Väli-Suomi
Pohjois-Suomi

Sweden: — *for sheep*: 8 Riksområden
— *for goats*: —

United Kingdom: Standard Regions

ANNEX III

TABLE 1

Size classes of sheep stocks held

Categories	Holders of sheep (Total)			Holders of lambs put to the ram + ewes ^(b)			Holders of milk ewes and milk ewe lambs put to the ram ^(c)			Holders of other ewes and ewe lambs put to the ram ^(c)		
	Sheep/holder	Holder Number	Animal 1 000	Lambs put to the ram, ewes/holder	Holder Number	Animal 1 000	Milk ewes and milk ewe lambs put to the ram/holder	Holder Number	Animal 1 000	Other ewes and ewe lambs put to the ram/holder	Holder Number	Animal 1 000
I	1-9			1-9			1-9			1-9		
II	10-19			10-19			10-19			10-19		
III	20-49			20-49			20-49			20-49		
IV	50-99			50-99			50-99			50-99		
V	100-199	} ≥ 100 ^(a)		100-199	} ≥ 100 ^(a)		100-199	} ≥ 100 ^(a)		100-199	} ≥ 100 ^(a)	
VI	200-499			200-499			200-499			200-499		
VII	500-999			500-999			500-999			500-999		
VIII	≥ 1 000			≥ 1 000			≥ 1 000			≥ 1 000		
	Total			Total			Total			Total		

^(a) Breakdown optional for Luxembourg, Belgium, Denmark and Sweden.

^(b) Optional for Belgium, Germany, the Netherlands and Sweden.

^(c) Optional for Belgium, Germany, Ireland, the Netherlands, Austria, Finland, Sweden and the United Kingdom.

TABLE 2
Size classes of goat stocks held

Categories	Holders of goats (Total)			Holders of nanny-goats and goats which have already kidded (e)		
	Total goats/holders	Holder Number	Animal 1 000	Nanny-goats and goats which have already kidded/holder	Holder Number	Animal 1 000
I	1-9			1-9		
II	10-19			10-19		
III	20-49			20-49		
IV	50-99			50-99		
V	100-499			100-499		
VI	500-999	} (b) } ≥ 100 (a)		500-999	} (b) } ≥ 100 (a)	
VII	≥ 1 000			≥ 1 000		
	Total			Total		

(d) Breakdown optional for Luxembourg, Belgium, Denmark and Sweden.

(b) Breakdown optional for France.

(e) Optional for Belgium, Germany, the Netherlands and Sweden.

ANNEX IV

Definition of carcass weight

Carcass weight is the weight of the slaughtered animal's cold body after having been bled, skinned and eviscerated, and after removal of the head (severed at the atlanto-occipital joint), of the feet (severed at the carpometacarpal or tarso-metatarsal joints), of the tail (severed between the sixth and seventh caudal vertebrae) and of the genital organs (including udder).

Kidneys and kidney fats are included in the carcass.

ANNEX V

- (a) Member States authorised to use administrative sources instead of statistical surveys.
 (b) Member States authorised to use the breakdown by herd size classes for the final results of even-numbered years.

ANNEX VI

Repealed Decision with its successive amendments

- Commission Decision 94/434/EC (OJ L 179, 13.7.1994, p. 33)
 Commission Decision 95/380/EC, Article 3 only (OJ L 228, 23.9.1995, p. 25)
 Commission Decision 1999/47/EC, Article 3 only (OJ L 15, 20.1.1999, p. 10)

ANNEX VII

Correlation table

Decision 94/434/EC	This Decision
Articles 1 to 6	Articles 1 to 6
Articles 7 and 8	—
—	Article 7
Article 9	Article 8
Annex I	Annex I
Annex II	Annex II
Annex III	Annex III
Annex IV	Annex IV
Annex V	Annex V
—	Annex VI
—	Annex VII

COMMISSION RECOMMENDATION

of 11 August 2003

on the prevention and reduction of patulin contamination in apple juice and apple juice ingredients in other beverages

(notified under document number C(2003) 2866)

(Text with EEA relevance)

(2003/598/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular the second indent of Article 211 thereof,

Whereas:

- (1) Commission Regulation (EC) No 1425/2003 ⁽¹⁾ establishes maximum levels for patulin for, *inter alia*, apple juice and apple juice ingredients in other beverages.
- (2) An exposure assessment of patulin by the population of EU Member States has been performed in the frame of Council Directive 1993/5/EEC of 25 February 1993 on assistance to the Commission and cooperation by the Member States in the scientific examination of questions relating to food ⁽²⁾ (SCOOP). It can be concluded from the assessment that the average exposure seems to be quite below the PMTDI of 0,4 µg/kg body weight. Nevertheless, taking into consideration specific groups of consumers, especially small children, and assuming worst cases the exposure to patulin is more significant but still below the PMTDI.
- (3) The maximum level for patulin in apple juice has been established taking into account the toxicological evaluation, the outcome of the exposure assessment and the feasibility. However, it is recognised that it is necessary that all efforts should be done to further reduce the presence of patulin in apple juice.
- (4) The apple processing industry should therefore be encouraged to adopt good manufacturing practices. In particular they should discard spoilt fruit from their production process, their appearance being a good indicator of the level of contamination. However, as patulin can also occur in fruits not visible damaged or spoilt at the outside surface the contamination cannot be completely eliminated by trimming away all visible damaged and spoilt fruit. The full implementation of the 'Code of Practice for the prevention reduction of patulin contamination in apple juice and apple juice ingredients in other beverages' will result in a further reduction of the contamination level.

- (5) To ensure the efficient working of the internal market, the European Union shall apply uniformly the 'Code of Practice for the prevention and reduction of patulin contamination in apple juice and apple juice ingredients in other beverages'. Therefore, it is recommended that the Code of Practice shall be introduced in the European Union.
- (6) Commission Regulation (EC) No 466/2001 ⁽³⁾, as last amended by Regulation (EC) No 563/2002 ⁽⁴⁾, provides for a revision of the maximum levels for patulin in fruit juices, concentrated fruit juices, fruit nectars, spirit drinks, cider and other fermented drinks derived from apples or containing apple juice by 30 June 2005 with the aim of reducing the maximum level taking account of the progress of scientific and technological knowledge and the implementation of 'Code of practice for the prevention and reduction of patulin contamination in apple juice and apple juice ingredients in other beverages'.

HEREBY RECOMMENDS THAT MEMBER STATES:

1. take the necessary measures so that the 'Code of Practice for the prevention and reduction of patulin contamination in apple juice and apple juice ingredients in other beverages' as described in the Annex to this Recommendation, is implemented by all operators in the apple processing industry.
2. ensure that all the appropriate measures, including — if necessary — corrective actions, are taken by the operators in the apple processing industry to achieve lower levels than the maximum level of 50 µg/kg for apple juices with the aim of achieving the level of 25 µg/kg patulin as target.

Done at Brussels, 11 August 2003.

For the Commission

David BYRNE

Member of the Commission

⁽¹⁾ See page 1 of this Official Journal.⁽²⁾ OJ L 52, 4.3.1993, p. 18.⁽³⁾ OJ L 77, 16.3.2001, p. 1.⁽⁴⁾ OJ L 86, 3.4.2002, p. 5.

ANNEX

Code of Practice for the reduction and prevention of patulin contamination in apple juice and apple juice ingredients in other beverages*Introduction*

1. Patulin is a secondary metabolite produced by a number of fungal species in the genera *Penicillium*, *Aspergillus* and *Byssoschlamys* of which *Penicillium expansum* is probably the most commonly encountered species. Patulin has been found as a contaminant in many mouldy fruits, vegetables, cereals and other foods, however, the major sources of contamination are apples and apple products.
2. Alcoholic fermentation of fruit juices destroys patulin and, therefore, fermented products such as, cider and perry will not contain patulin. However, patulin has been found in fermented products to which apple juice has been added after fermentation. Ascorbic acid has been reported to cause the disappearance of patulin from apple juice, although the optimal conditions for inactivation have not been fully established. Patulin is relatively temperature stable, particularly at acid pH. High temperature (150 °C) short-term treatments have been reported to result in approximately 20 % reduction in patulin concentrations. However, thermal processing alone is not sufficient to ensure a product free of patulin.
3. Patulin occurs mainly in mould-damaged fruits although the presence of mould does not necessarily mean that patulin will be present in a fruit but indicates that it may be present. In some instances, internal growth of moulds may result from insect or other invasions of otherwise healthy tissue, resulting in occurrence of patulin in fruit, which externally appears undamaged. However, it can also occur in bruised fruit after controlled atmosphere storage and exposure to ambient conditions both with and without core rot being present. Washing of fruit, or removal of mouldy tissue, immediately prior to pressing will not necessarily remove all the patulin present in the fruit since some may have diffused into apparently healthy tissue.
4. Although the spores of many of the moulds capable of producing patulin will be present on fruit whilst it is still on the tree, they will generally not grow on fruit until after harvest. However, mould growth and patulin production can occur in fruit pre-harvest if the fruit becomes affected by disease or damaged by insects or where fallen fruit is gathered for processing. The condition of the fruit at harvest, the way in which the fruit is handled subsequently (especially during storage) and the extent to which storage conditions are inhibitory to the growth of moulds, will all affect the likelihood of patulin contamination of juice and other products prepared from fresh and stored fruit.
5. The recommendations for reducing patulin contamination in apple juice in this code are divided into two parts:
 - I. Recommended practices based on Good Agricultural Practice (GAP).
 - II. Recommended practices based on Good Manufacturing Practices (GMP).

I. RECOMMENDED PRACTICES BASED ON GAP**Preharvest**

6. During the dormant season cut off, remove and destroy all diseased wood and mummified fruits.
7. Prune trees in line with good commercial practice producing a tree shape, which will allow good air movement through the tree and light penetration into the tree. This will also enable good spray cover to be achieved.
8. Measures should be taken to control pests and diseases which directly cause fruit rots or allow entry sites for patulin-producing moulds. These include canker, eye rot (*Botrytis* spp and *Nectria* spp), codling moth, fruitlet mining tortrix moth, winter moth, fruit tree tortrix, blastobasis, sawfly and dock sawfly.
9. Wet weather around the time of petal fall and of harvesting is likely to increase the risk of rot and appropriate measures, such as application of fungicide to prevent spore germination and fungal growth should be considered.

10. Apples of poor mineral composition are more likely to suffer physiological disorders in store and hence are more susceptible to particular types of rot especially by *Gloeosporium* spp and secondary rots such as *Penicillium*. Consignments of apples for the fresh fruit market which do not meet the recommended mineral compositional standards, as determined by fruit analysis, should therefore be excluded from long-term storage i.e. storage for longer than three to four months.
11. Where levels of minerals in the fruit for the fresh fruit market are outside optimum range, improving calcium and phosphorus levels in the fruit, particularly increasing the calcium/potassium ratio by controlled fertilizer usage, will improve cell structure, which will then reduce susceptibility to rotting.
12. Records of rot levels should be kept each year for individual orchards since historical data is the best guide, at present, to potential rot levels, which will indicate the need for fungicide application and the storage potential of the fruit from that orchard.

Harvesting and transportation of fruit

13. Apples for processing are classified into two categories:
 - (a) *Mechanically harvested fruit*
14. Mechanically harvested fruit is obtained by shaking the tree and collecting the fruit from the ground with appropriate mechanical machinery.
15. All fruit should be handled as gently as possible and every effort made to minimize physical damage at all stages of the harvesting and transportation procedures.
16. Before shaking the trees, deteriorated fallen fruit (rotten, fleshed etc.) should be removed from the ground in order to make sure that only fresh and/or sound fruit is collected.
17. Mechanically harvested fruit has to be transported to processing plants within three days after harvest.
18. All containers used to transport harvested fruit should be clean, dry and free of any debris.
 - (b) *Fruit for the fresh fruit market*
19. Fruit from orchards with a history of high levels of rot should be harvested separately and not considered for storage.
20. Ideally all fruit should be picked in dry weather conditions, when the fruit is mature, and placed in clean bins or other containers (e.g. boxes) suitable for transportation directly to store. Bins or boxes should be cleaned, ideally by hosing with clean water or preferably by scrubbing with soap and water, and fruit and leaf debris should be removed. Cleaned bins and boxes should be dried prior to use. Avoid exposure of fruit to rain.
21. Adequate training and supervision should be provided to ensure good damage-free picking practice.
22. All fruit in which the skin is damaged, or with the flesh exposed, as well as all diseased fruit, should be rejected in the orchard at the time of picking and fruit bruising should be minimized as far as possible.
23. All soil-contaminated fruit, i.e. rain splashed fruit or fruit on the ground, should be rejected for storage purposes.
24. Care must be taken to avoid the inclusion of leaves, twigs etc. in the picked fruit.
25. Fruit should be placed in cold storage within 18 hours of harvest and cooled to the recommended temperatures (examples, see Table 1) within three to four days of picking.

TABLE 1

Examples of recommended temperatures for storage of apples in air

Variety	Temperature (°C)
Bramley	3,0 — 4,0
Cox's Orange Pippin	3,0 — 3,5
Discovery	1,5 — 2,0
Egremont	3,0 — 3,5
Golden Delicious	1,5 — 2,0
Crispin	1,5 — 2,0
Idared	3,5 — 4,0
Jonagold	0,0 — 0,5
Red Delicious	0,0 — 1,0
Spartan	0,0 — 0,5
Worcester	0,0 — 1,0

26. During transport and storage, measures should be taken to avoid soil contamination.
27. Care must be taken during handling and transport of the bins or boxes in the orchard, and between the orchard and store, to avoid soil contamination of the container and the fruit and to minimize physical damage e.g. bruising of the fruit.
28. Harvested fruit should not be left in the orchard overnight but moved to a hard standing area, preferably under cover.

Post-harvest handling and storage practices of fruit for the fresh fruit market

29. All fruit, whether for the fresh market or for later processing, should be handled as gently as possible and every effort made to minimize physical damage e.g. bruising at all stages of post-harvest handling prior to pressing.
30. Apple growers, and other producers of juice who do not have controlled storage facilities, need to ensure that fruits for juicing are pressed as soon as possible after picking.
31. For controlled atmosphere storage ensure that stores are checked for gas tightness, where appropriate, and that all monitoring equipment is tested before harvesting commences. Pre-cool stores thoroughly before use.
32. Where appropriate post harvest fungicide treatments may be applied in accordance with the provisions of the relevant EU legislation.
33. Stored apples should be examined regularly, at least once a month, for rot levels; a record of the levels should be maintained from year to year. The sampling procedure used should minimize the risk of atmospheric changes occurring in the store (see paragraph 36).
34. Random samples of fruit should be placed in suitable containers (e.g. net bags) situated close to the inspection hatches to permit monitoring of fruit condition during the storage period (see paragraph 35). Samples should be examined for rots, general fruit condition and shelf life at least every month. Shorter intervals may be recommended in stores where the fruit storage conditions are less than optimum and/or the fruit has a predicted storage life of less than three months, because of adverse growth and/or harvesting conditions.

35. Where samples indicate problems with fruit condition appropriate action should be taken to remove the fruit for use before extensive damage occurs.
36. Mould growth normally occurs in a warm environment. Rapid cooling and maintenance of store atmosphere conditions will improve fruit condition. Ideally fruit should be loaded and cooled to less than 5 °C in three to four days and to optimum temperatures within a further two days. Controlled atmosphere conditions should be achieved within 7 to 10 days from the start of loading, and ultra-low oxygen regimes (i.e. less than 1,8 % oxygen) should be established within a further seven days.

Post-storage grading of fruit for the fresh market or juice manufacture

37. All rotten fruits, even those with only small areas of rot, should be eliminated as far as possible and wholesome fruit should be kept in a clean bulk container.
38. When containers are removed from storage to select fruit for retail distribution, the containers of fruit remaining for juicing should be specifically marked and returned to cold store within 12 hours of sorting. The time the fruit is at ambient temperatures should be kept to a minimum. Ideally fruit for juicing should be kept at < 5 °C between withdrawal from store and juicing and should be utilized as soon as possible.
39. Fruit, which is to be sent for juicing, should be utilized as soon as possible and within the normal shelf life, which would be recommended for fruit from the same store. Any bruising will encourage patulin formation hence bruising should be kept to a minimum, especially if fruit is to be stored for longer than 24 hours at ambient temperature before juicing.

II. RECOMMENDED PRACTICES BASED ON GMP

Transportation, checking, and pressing of fruit

Mechanically harvested fruit and fruit for the fresh market

(a) Fruit for the fresh market

40. Stored fruit should be transported from the cold store to the processor in the shortest time possible (ideally < 24 hours to pressing unless cold stored).
41. Varieties with an open calyx are particularly susceptible to core rots. These varieties should be examined for internal rots by regular checks immediately prior to pressing. An appropriate random sample of apples should be preferably taken from each separate batch of fruit. Each apple is then cut across its equator and examined for signs of mycelial growth. If the frequency of core rots exceeds an agreed level the consignment should not be used for juicing. The processor should specify the maximum proportion of supplied fruit which can have any sign of rotting, taking into account the capacity of the processor to remove the rotting fruit during pre-process inspection. If this proportion is exceeded the whole consignment of fruit should be rejected.
42. On arrival at the factory the fruit should be checked for quality, particularly for evidence of both external and internal mould damage (see paragraph 43).

(b) Mechanically harvested fruit and fruit for the fresh market

43. During processing and prior to pressing, the fruit should be sorted carefully to remove any visually mouldy fruit (check randomly and routinely for internal mould by cutting some fruit as in paragraph 41) and washed thoroughly, using potable or suitably treated water.
44. Juice presses and other manufacturing equipment should be cleaned and sanitized in accordance with industry 'best practices'. Juice presses and other equipment will generally be washed down with pressured water hoses and sanitized by application of a suitable sanitiser, followed by a further rinse with potable cold water. In some plants, which operate almost continuously, this should preferably be a once per shift or once per day cleaning operation.
45. After pressing samples of juice should be taken for analysis. A representative bulk production sample should be analysed for patulin by an appropriate method in a laboratory, which is accredited to carry out such analyses.

46. The juice should preferably be chilled to $< 5^{\circ}\text{C}$ and maintained chilled as well kept under ultra-low oxygen conditions until it is concentrated, packaged or pasteurized.
47. Juice should only be sent for packing on a positive release basis after patulin analysis has been confirmed as being below the maximum limit.

Packaging and final processing of juice

48. Moulds, which are capable of producing patulin, may occur, together with other moulds and yeasts, particularly in 'Not From Concentrate (NFC)' juice. It is essential to prevent the development of such organisms during transport and storage to prevent spoilage of the product and by the same means prevent the production of patulin.
49. If juice is to be held for a period prior to use the temperature should preferably be reduced to 5°C or less, in order to reduce microbial development.
50. Most juice will be heat processed to ensure destruction of enzymes and spoilage organisms. It must be recognized that whilst such processes will generally destroy fungal spores and vegetative mycelium the process conditions will not destroy any patulin which is already present.

Quality assessment of juice

51. Specifications for the purchase of apple juice or apple juice concentrates should include the maximum limit for patulin based on an appropriate method of analysis complying with the provisions laid down in Commission Directive 2003/78 (OJ L 203, 12.8.2003, p. 40) laying down the sampling methods and the methods of analysis for the official control of the levels of patulin in foodstuffs.
52. A sampling plan should be developed for random sampling of product to assure that the finished product is within the maximum limit for patulin.
53. The packer must satisfy himself that the juice supplier is able to control properly his own operations to ensure that the recommendations given above are carried out.
54. Assessment of the quality of apple juice by the packer will include Brix, acidity, flavour, colour, turbidity, etc. The microbiological quality should be carefully monitored since this indicates not only the risk level of potential organisms for the production of patulin but also the hygienic aspects of the previous stages in the production cycle.
55. Further checks should be carried out on the packaged product to ensure that no deterioration has taken place during the packaging stage.

CONCLUSION

56. This Code of Practice contains general principles for the prevention of patulin in apple juice. It is important that these general principles are given sanction by national authorities, taking into account the local varieties of apples, climate, storage facilities and production conditions, in order to make them more useful for the growers and processors.
 57. A post-harvest management system based on HACCP for reduction of patulin in apple juice is recommended.
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CORRIGENDA**Corrigendum to Commission Regulation (EC) No 1381/2003 of 31 July 2003 fixing the maximum reduction in the duty on sorghum imported in connection with the invitation to tender issued in Regulation (EC) No 699/2003**

(Official Journal of the European Union L 194 of 1 August 2003)

On page 78, in Article 1, last line:

for: '... 33 500 t.;

read: '... 35 500 t.'
