

REGULATION (EEC) No 865/68 OF THE COUNCIL

of 28 June 1968

on the common organisation of the market in products processed
from fruit and vegetables

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas, at the present stage of the progressive establishment of a common organisation of the market in fruit and vegetables, regulations governing trade are limited to fresh products; whereas the production of and trade in products processed from fruit and vegetables are an important factor in the economy of the Community; whereas it is therefore necessary to supplement the regulation of the market in fruit and vegetables by a common organisation of the market in products processed from fruit and vegetables to permit the further development of the common market, the interests of producers being taken into account;

Whereas the common organisation of the markets in sugar and cereals make provision for price and trading systems for these products; whereas the application of these systems has the effect of keeping prices for sugar, glucose and glucose syrup at a certain level; whereas, in view of the direct and substantial incidence of these raw materials on the cost price of certain processed products, the trading system for processed products must be brought into line with the trading systems for sugar and cereals;

Whereas provisions must therefore be adopted to ensure that a levy is charged on the sugar component incorporated in processed products under conditions similar to those operative under Council Regulation No 1009/67/EEC¹ of 18 December 1967 on the com-

mon organisation of the market in sugar; whereas an identical import charge should also be levied on the glucose and glucose syrup components incorporated as sugar substitutes in the processed products concerned;

Whereas, similarly, provision should be made for granting a refund on sugar incorporated in exports to third countries designed to cover the difference between prices for white sugar ruling outside and inside the Community, where the world market price is lower than the Community price; whereas provision should also be made for granting a special refund on glucose and glucose syrup under the conditions laid down in Council Regulation No 120/67/EEC² of 13 June 1967 on the common organisation of the market in cereals;

Whereas, in the interests of stability in commercial transactions, consideration should be given to the possibility of allowing interested parties to have the amounts of the refunds and levies fixed in advance; whereas, in the interests of sound administration, provision should be made for the introduction of advance fixing certificates, which would involve the lodging of a deposit guaranteeing the commitment to import or export during the period of validity of the certificate;

Whereas provision should be made for the possibility of regulating or, insofar as the situation on the market requires, prohibiting the use of 'inward processing arrangements'; whereas, moreover, refunds should be so fixed that Community basic products used by processing industries in the Community with a view to export are not placed at a disadvantage by inward processing arrangements which might induce these industries to give preference to basic products imported from third countries; whereas the creation of a single market for products processed from fruit and vegetables necessitates Community control of inward processing arrangements;

¹ OJ No 308, 18. 12. 1967, p. 1.

² OJ No 117, 19. 6. 1967, p. 2269/67.

Whereas the system thus established justifies the application of the Common Customs Tariff; whereas it is, moreover, necessary to proceed rapidly to the co-ordination and standardisation of the treatment accorded to imports from third countries;

Whereas the establishment of a single market in products processed from fruit and vegetables involves the removal at the internal frontiers of the Community of all obstacles to the free movement of the goods in question;

Whereas the establishment of a single market in the products in question would be jeopardised by the granting of certain aids; whereas, therefore, the provisions of the Treaty which allow the assessment of aids granted by Member States and the prohibition of those which are incompatible with the common market should be made to apply to the products in question.

Whereas the common organisation of the market in products processed from fruit and vegetables must take appropriate account, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty;

Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close co-operation between Member States and the Commission within a Management Committee;

HAS ADOPTED THIS REGULATION:

Article 1

The common organisation of the market in products processed from fruit and vegetables shall cover the following:

CCT heading No	Description of goods
ex 07.02	Vegetables (whether or not cooked), preserved by freezing, excluding olives
ex 07.03	Vegetables provisionally preserved in brine, in sulphur water or in other preservative solutions, but not specially prepared for immediate consumption, excluding olives
ex 07.04	Dried, dehydrated or evaporated vegetables, whole, cut, sliced, broken or in powder, but not further prepared, excluding olives
08.10	Fruit (whether or not cooked), preserved by freezing, not containing added sugar

CCT heading No	Description of goods
08.11	Fruit provisionally preserved (for example by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption
08.12	Fruit, dried, other than that falling within heading No 08.01, 08.02, 08.03, 08.04 or 08.05
08.13	Peel of melons and citrus fruit, fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions
ex 13.03 B	Pectin
20.01	Vegetables and fruit, prepared or preserved by vinegar or acetic acid, with or without sugar, whether or not containing salt, spices or mustard
20.02	Vegetables prepared or preserved otherwise than by vinegar or acetic acid
20.03	Fruit preserved by freezing, containing added sugar
20.04	Fruit, fruit-peel and parts of plants, preserved by sugar (drained, glacé or crystallised)
20.05	Jams, fruit jellies, marmalades, fruit purée and fruit pastes, being cooked preparations, whether or not containing added sugar
20.06	Fruit otherwise prepared or preserved, whether or not containing added sugar or spirit
ex 20.07	Fruit juices (excluding grape juice and must) and vegetable juices, whether or not containing added sugar, but unfermented and not containing spirit
ex 20.07	Grape juice (including grape must), not containing spirit, with an added sugar content exceeding 30% by weight

Article 2

1. In addition to the customs duty referred to in Article 9 (1), an import levy calculated as described in the paragraphs which follow shall be charged on the various added sugars contained in the products listed in Annex 1.

2. For 100 kilogrammes net of imported product, this levy shall be equal to the levy referred to in Article 14 (5) of Regulation No 1009/67/EEC, expressed per kilogramme of sucrose, multiplied by the figure for the product in question appearing in column 1 of Annex II.

However, for the period from 1 to 31 July 1968, this levy shall be 0.2022 units of account per kilogramme of white sugar.

3. If the added sugar content per 100 kilogrammes net of imported product established as described in the following subparagraph is three kilogrammes or more above the content expressed by the figure for the product in question appearing in column 1 of Annex I, the levy per 100 kilogrammes net of imported product shall be calculated by multiplying the levy referred to in paragraph 2, expressed per kilogramme of sucrose, by a figure representing the added sugar content defined below.

'Added sugar content' means the reading obtained by using a refractometer as described in Annex III, multiplied by 0.93 in the case of products falling within heading No 20.06 of the Common Customs Tariff and by 0.95 in the case of other products listed in Annex I and reduced by the figure for the product in question appearing in column 2 of Annex I.

4. If the added sugar content per 100 kilogrammes net of imported product is 2 kilogrammes or more below the content expressed by the figure for the product in question appearing in column 1 of Annex I, the levy shall, at the request of the party concerned, be calculated in accordance with the provisions of paragraph 3.

5. Detailed rules for the application of the preceding paragraphs shall be adopted as necessary in accordance with the procedure laid down in Article 15.

6. The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may amend Annex I.

Article 3

1. To permit exports to third countries of sugars falling within heading No 17.01 of the Common Customs Tariff, of glucose and of glucose syrup falling within heading No 17.02 B of the Common Customs Tariff, incorporated in the products listed in Annex II, a refund shall be granted insofar as the products listed in Article 1 (1) (d) of Regulation No 1009/67/EEC benefit from an export refund.

2. For 100 kilogrammes net of exported product the amount of the refund granted shall be equal:

- in the case of raw sugar and white sugar, to the refund granted per kilogramme of sucrose in accordance with Article 17 of Regulation No 1009/67/EEC and with the provisions adopted for its application, for the products listed in Article 1 (1) (d) of that Regulation, multiplied by a figure expressing the quantity of sucrose incorporated per 100 kilogrammes net of finished product;
- in the case of glucose and glucose syrup, to the refunds granted per kilogramme for each of those products in accordance with Article 16 of Council

Regulation No 120/67/EEC of 13 June 1967 on the common organisation of the market in cereals and the provisions adopted for its application, multiplied by a figure expressing the quantity of glucose or glucose syrup added per 100 kilogrammes net of finished product.

However, for the period from 1 to 31 July 1968, the amount of the refund shall be equal to 0.2022 units of account per kilogramme of white sugar.

3. The figures referred to in paragraph 2 shall be determined on the basis of the declaration referred to in Article 4.

4. The refunds referred to in paragraph 1 shall be granted only insofar as the products exported are of sound and marketable quality and intended for human consumption.

5. Detailed rules for the application of this Article shall be adopted as necessary in accordance with the procedure laid down in Article 15.

Article 4

1. To qualify for the refund referred to in Article 3, the products listed in Annex II must be accompanied by a declaration from the party concerned indicating the amounts of sucrose, glucose and glucose syrup incorporated therein.

2. Where the provisions of Article 2 (3) or (4) apply, the products listed in Annex I must be accompanied by a declaration from the importer indicating the added sugar content established by the method described in Article 2 (3).

3. The accuracy of the declarations referred to in the foregoing paragraphs shall be subject to control by the competent authorities of the Member State concerned.

4. Detailed rules for the application of this Article shall be adopted as necessary in accordance with the procedure laid down in Article 15.

Article 5

1. The levy referred to in Article 2 (1) and the refund referred to in Article 3 (1) shall be those applicable on the day of importation or exportation.

2. However, the levy or refund calculated in accordance with the provisions of Article 2 or Article 3 and in force on the day on which an application for the advance fixing certificate referred to in Article 6 is lodged, may be applied to a transaction to be effected during the validity of the certificate provided the party concerned so requests when applying for the certificate.

The necessary provisions to co-ordinate and standardise the treatment accorded by each Member State to imports from third countries shall be adopted by the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, before 1 January 1969. These provisions shall be applied not later than 1 July 1969.

3. Detailed rules for the application of the previous paragraphs shall be adopted as necessary in accordance with the procedure laid down in Article 15.

4. The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt measures to be applied in exceptional circumstances.

Article 6

1. In trade with third countries, all imports or exports into or out of the Community of products covered by the advance fixing system for levies or refunds referred to in Article 5 shall be made conditional on the submission of an advance fixing certificate issued by Member States to any applicant irrespective of the place of his establishment in the Community.

The advance fixing certificate shall be valid for any transaction effected in the Community from a date to be fixed by the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, and from 1 August 1969 at the latest.

Until that date, such a certificate shall be valid only for a transaction effected in the Member State which issued it.

2. The issue of advance fixing certificates shall be conditional on the lodging of a deposit guaranteeing the commitment to import or export during the period of validity of the certificate; the deposit shall be forfeited in whole or in part if the transaction is not effected, or is only partially effected, within that period.

3. The period of validity of advance fixing certificates, the amount of the deposit and the other detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 15.

Article 7

The necessary provisions to co-ordinate and standardise the treatment accorded by each Member State to imports from third countries shall be adopted by the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, before 1 January 1969. These provisions shall be applied not later than 1 July 1969.

Article 8

1. To the extent necessary for the proper working of the common organisations of the markets in cereals, sugar and fruit and vegetables, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in special cases, prohibit, in whole or in part, the use of inward processing arrangements in respect of raw sugar, white sugar, glucose, glucose syrup and fruit and vegetables which are intended for the manufacture of the goods listed in Article 1.

2. Community provisions to regulate the inward processing trade in the raw materials listed in paragraph 1 shall be adopted not later than 1 July 1968.

3. The quantity of raw materials which, under inward processing arrangements, is not subject to customs duty, levy or charge having equivalent effect must correspond to the true conditions under which the processing operation in question is effected.

Article 9

1. The Common Customs Tariff shall be applied to the products listed in Article 1. The levying of any charge having equivalent effect to a customs duty shall be prohibited.

2. The general rules for the interpretation of the Common Customs Tariff and the special rules for its application shall apply to the tariff classification of the products covered by this Regulation; the tariff nomenclature resulting from application of this Regulation shall be incorporated in the Common Customs Tariff from the date on which the latter is fully applied.

Article 10

1. The following shall be prohibited in intra-Community trade:

- the levying of any customs duty or charge having equivalent effect;
- any quantitative restriction or measure having equivalent effect;
- recourse to Article 44 of the Treaty.

2. Products listed in Article 1 which are manufactured or obtained from products to which Article 9 (2) and Article 10 (1) of the Treaty do not apply shall not be admitted to free circulation within the Community.

Article 11

Should the different manner in which Member States apply Regulation No 159/66/EEC¹ have unfavourable

¹ OJ No 192, 27.10.1966, p. 3286/66.

economic effects on Community production of products processed from fruit and vegetables, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall adopt measures to mitigate such effects.

Article 12

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the production of and trade in the products listed in Article 1.

Article 13

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 15.

Article 14

1. A Management Committee for Products Processed from Fruit and Vegetables (hereinafter called the 'Committee') shall be established, consisting of representatives of Member States and presided over by a representative of the Commission.

2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The Chairman shall not vote.

Article 15

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The Com-

mittee shall deliver its Opinion on such measures within a time limit to be set by the Chairman according to the urgency of the questions under consideration. An Opinion shall be adopted by a majority of twelve votes.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the Opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, may take a different decision within one month.

Article 16

The Committee may consider any other question referred to it by its Chairman either on his own initiative or at the request of the representative of a Member State.

Article 17

At the end of the transitional period the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, shall decide in the light of experience whether to retain or amend the provisions of Article 15.

Article 18

This Regulation shall be so applied that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

Article 19

This Regulation shall enter into force on 1 July 1968.

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

Done at Luxembourg, 28 June 1968.

For the Council

The President

E. FAURE

ANNEX I

CCT heading No	Description of goods	(1)	(2)
20.03	Fruit preserved by freezing, containing added sugar:		
A	With a sugar content exceeding 13% by weight	20	13
20.04	Fruit, fruit-peel and parts of plants, preserved by sugar (drained, glacé or crystallised):		
B	Other:		
I	With a sugar content exceeding 13% by weight	57	13
20.05	Jams, fruit jellies, marmalades, fruit purée and fruit pastes, being cooked preparations, whether or not containing added sugar:		
A	Chestnut purée and paste:		
I	With a sugar content exceeding 13% by weight	47	13
B	Jams and marmalades of citrus fruit:		
I	With a sugar content exceeding 30% by weight	55	13
II	With a sugar content exceeding 13% but not exceeding 30% by weight	10	13
C	Other:		
II	With a sugar content exceeding 30% by weight	55	13
II	With a sugar content exceeding 13% but not exceeding 30% by weight	10	13
20.06	Fruit otherwise prepared or preserved, whether or not containing added sugar or spirit:		
B	Other:		
I	Containing added spirit:		
(b)	Pineapples in immediate packings of a net capacity:		
1	Of more than 1 kg:		
(aa)	With a sugar content exceeding 17% by weight	6	13
2	Of 1 kg or less:		
(aa)	With a sugar content exceeding 19% by weight	6	13
(c)	Grapes:		
1	With a sugar content exceeding 13% by weight	9	13
(d)	Peaches, pears and apricots in immediate packings of a net capacity:		
1	Of more than 1 kg:		
(aa)	With a sugar content exceeding 13% by weight	10	9
2	Of 1 kg or less:		
(aa)	With a sugar content exceeding 15% by weight	10	9
(e)	Other fruits:		
1	With a sugar content exceeding 9% by weight	10	9
(f)	Fruit mixtures:		
1	With a sugar content exceeding 9% by weight	10	9

CCT heading No	Description of Goods	(1)	(2)
II	Not containing added spirit:		
(a)	Containing added sugar, in immediate packings of a net capacity of more than 1 kg:		
2	Grapefruit	10	9
3	Mandarins	10	9
4	Grapes	9	13
5	Pineapples:		
(aa)	With a sugar content exceeding 17% by weight	6	13
6	Peaches, pears and apricots:		
(aa)	With a sugar content exceeding 13% by weight	10	9
7	Other fruits	10	9
8	Fruit mixtures	10	9
(b)	Containing added sugar, in immediate packings of a net capacity of 1 kg or less:		
-2	Grapefruit	10	9
3	Mandarins	10	9
4	Grapes	9	13
5	Pineapples:		
(aa)	With a sugar content exceeding 19% by weight	6	13
6	Peaches, pears and apricots:		
(aa)	With a sugar content exceeding 15% by weight	10	9
7	Other fruits	10	9
8	Fruit mixtures	10	9
20.07 A and B	Fruit juices (including grape must) and vegetable juices, whether or not containing added sugar, but unfermented and not containing spirit:		
	— With an added sugar content exceeding 30% by weight:	49	
	— lemon juice and tomato juice		3
	— apple juice		11
	— grape juice		15
	— other fruit and vegetable juices including mixtures of juices		13

ANNEX II

Products containing added sucrose, glucose or glucose syrup, falling within the following headings
Nos of the Common Customs Tariff

ex 13.03 B Pectin
20.01
20.02
20.03
20.04
20.05
20.06
20.07

ANNEX III

METHOD OF MEASURING DRY SOLUBLE RESIDUE IN PRODUCTS PROCESSED FROM
FRUIT AND VEGETABLES BY REFRACTOMETRY

I. FIELD OF APPLICATION

Application of this method is related to the quantity of sugar present in the product analysed. The presence of amino-acids, salts of organic acids, flavonoids and mineral substances alters the refractive index.

II. DEFINITION

Dry soluble residue (determined by refractometry) means the percentage weight of sucrose in an aqueous solution of sucrose which, under given conditions of preparation and a given temperature, has the same refractive index as the product analysed. This percentage is expressed in g/100 g.

III. PRINCIPLE

Deduction of the dry soluble residue content of a product from its refractive index.

IV. APPARATUS

Abbe type refract meter

This apparatus must have a scale indicating the percentage weight of sucrose to the nearest 0.1%. It must be so constructed that samples can be introduced easily and quickly. It must be easy to clean.

The refractometer must have a thermometer with a scale extending from at least + 15° C to $\pm 25^{\circ}$ C. It must also have a water circulator enabling measurements to be made at a temperature of 20° C $\pm 5^{\circ}$ C.

Operating instructions for this apparatus, and in particular those dealing with calibration and light source, must be strictly followed.

V. METHOD

1. Preparation of sample

1.1. *Liquid and limpid products*

Mix carefully and proceed to determination

1.2. *Semi-dense products, purées, fruit juices with matter in suspension*

Carefully mix an average laboratory sample and then homogenise. Strain part of the sample through dry gauze folded in four, remove the first drops and proceed to determination on the filtrate.

1.3. *Dense products (jams and jellies)*

If the homogenised product cannot be used directly, weigh 40 g of the product to the nearest 0.01 g in a 250 ml beaker and add 100 ml of distilled water.

Boil gently for two or three minutes, stirring with a glass rod.

Cool, decant contents of the beaker into a graduated 200 ml flask, bring up to the required level with distilled water and mix carefully. Allow to stand for twenty minutes, then strain through a folded filter or a Büchner funnel.

Make determination on the filtrate.

1.4. *Frozen products*

Defrost and remove stones or pips and cores. Mix the product with the liquid formed during defrosting and proceed as in 1.2 or 1.3.

1.5. *Dry products containing whole fruit or pieces of fruit*

Cut part of the laboratory sample into small pieces, remove stones or pips and cores and mix carefully.

Weigh 10 to 20 g of the product to the nearest 0.01 g in a beaker. Add distilled water to at least five times the weight of the product. Heat in a water bath for thirty minutes, stirring occasionally with a glass rod. When cool homogenise contents of the beaker and pour into a graduated 100—250 ml measuring flask (depending on the size of the sample). Bring to the required level and mix carefully. After twenty minutes filter into a dry container and make determination on the filtrate.

2. **Determination**

Bring the sample to the measurement temperature (+ 20° C) by immersing the container in a water bath of the required temperature.

Place a small sample on the lower prism of the refractometer, taking care to ensure that the sample covers the glass surface uniformly when the prisms are pressed against each other. Measure in accordance with the operating instructions for the apparatus used.

Read the percentage weight of sucrose to the nearest 0.1%.

Make at least two determinations on the same prepared sample.

VI. **EXPRESSION OF RESULTS**

1. **Calculation and formulation**

The dry soluble residue content, conventionally expressed in grammes of sucrose per one hundred grammes of product, is calculated as follows:

The percentage sucrose content indicated by refractometry is used direct.

If the reading is made at a temperature other than + 20° C, correct as indicated in the attached table.

If measurement has been made on a dilute solution, the dry soluble residue content is equal to

$$M \times \frac{100}{E}$$

M being the weight (in grammes) of dry soluble residue per 100 g of product indicated by the refractometer and E the weight (in grammes) of product per 100 ml of solution.

Corrections when determination is made at a temperature other than 20° C

Temperature °C	Sucrose in grammes per 100 grammes of product									
	5	10	15	20	30	40	50	60	70	75
	Subtract									
15	0.25	0.27	0.31	0.31	0.34	0.35	0.36	0.37	0.36	0.36
16	0.21	0.23	0.27	0.27	0.29	0.31	0.31	0.32	0.31	0.23
17	0.16	0.18	0.20	0.20	0.22	0.23	0.23	0.23	0.20	0.17
18	0.11	0.12	0.14	0.15	0.16	0.16	0.15	0.12	0.12	0.09
19	0.06	0.07	0.08	0.08	0.08	0.09	0.09	0.08	0.07	0.05
	Add									
21	0.06	0.07	0.07	0.07	0.07	0.07	0.07	0.07	0.07	0.07
22	0.12	0.14	0.14	0.14	0.14	0.14	0.14	0.14	0.14	0.14
23	0.18	0.20	0.20	0.21	0.21	0.21	0.21	0.22	0.22	0.22
24	0.24	0.26	0.26	0.27	0.28	0.28	0.28	0.28	0.29	0.29
25	0.30	0.32	0.32	0.34	0.36	0.36	0.36	0.36	0.36	0.37

The temperature may not vary by more than ± 5° C from 20° C