COMMISSION REGULATION (EEC) No 1045/77

of 18 May 1977

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

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/77 of 17 May 1977 laying down special measures to encourage the marketing of products processed from lemons [1], and in particular Article 3 thereof,

Whereas Regulation (EEC) No 1035/77 introduced a system of aid to encourage the marketing of products processed from lemons harvested in the Community; whereas this system is based on contracts between Community producers and processors;

Whereas, in order to ensure the processing undertakings of a steady supply the abovementioned contracts should be concluded for a period of six months; whereas, however, in order to ensure that this arrangement is of maximum effectiveness, the contracting parties should be allowed to enter into supplementary agreements whereby they may increase by not more than a certain extent the quantities initially contracted for;

Whereas, if the system is to operate properly, a minimum quality must be specified in respect of the products which may be contracted for;

Whereas the efficient operation of the checks on quality and quantity provided for in Article 1 (2) of Regulation (EEC) No 1035/77 can be ensured if the weight and quality of each lot delivered is determined on receipt by the processor; whereas, moreover, provision should be made for the issue of a certificate giving these particulars as determined after checking;

Whereas, in order that applications for financial compensation may be verified, the minimum particulars which must appear therein should be specified;

Whereas the checks provided for in the fourth paragraph of Article 2 of the abovementioned Regulation must make it possible to verify that the products covered by the contracts were processed; whereas, to this end, the checks should be based on the stock accounts of the processing undertakings;

Whereas under the abovementioned Article 2 financial compensation is to be granted for 85 % of the products of Community origin bought by processors at the minimum purchase price; whereas, however, this percentage may be increased where the party concerned provides proof that more than 85 % of the juice in question was disposed of outside Italy; whereas, therefore, the means of providing the requisite proof should be laid down;

Whereas, under Article 4 (2) of Council Regulation (EEC) No 1134/68 of 30 July 1968 laying down rules for the implementation of Regulation (EEC) No 653/68 on conditions for alterations to the value of the unit of account used for the common agricultural policy [2], in respect of transactions under the common agricultural policy, the sums owed by a Member State or duly authorized body expressed in national currency and representing amounts fixed in units of account are paid on the basis of the relationship between the unit of account and the national currency which obtained at the time when the transaction or part transaction was carried out;

Whereas, under Article 6 of Regulation (EEC) No 1134/68, the time when a transaction is carried out is considered as being the date on which occurs the event, as defined by Community rules or, in the absence of and pending adoption of such rules, by the rules of the Member State concerned, in which the relevant sum becomes due and payable;

Whereas the event in which financial compensation for processing lemons becomes due and payable occurs when processing is carried out; whereas, however, it is difficult to establish the exact date of processing for a given lot;

Whereas processing contracts are for a period of six months; whereas it is difficult to determine the exact date on which each lot was processed; whereas, there-

[1] See page 3 of this Official Journal.

[2] OJ No L 188, 1. 8. 1968, p. 1.

fore, in order to ensure uniform application of the system of financial compensation the conversion rate obtaining at the end of each six-month period should be used for calculating the amount in national currency;

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

HAS ADOPTED THIS REGULATION:

Article 1

1. Contracts as referred to in Article 1 of Regulation (EEC) No 1035/77, hereinafter called 'processing contracts', shall be concluded in writing between one or more producers and a processor.

2. Processing contracts shall be concluded before 20 May or 20 November in respect of lemons to be delivered to the industry during the periods 1 June to 30 November and 1 December to 31 May respectively. However, as regards the first part of the marketing year 1977/78, contracts may be concluded up to 30 June 1977.

3. During each of the periods referred to in paragraph 2 the contracting parties may decide to increase by a written supplementary agreement the quantities initially specified in the contract.

Such agreements shall:

— provide for an increase of not more than 40 % of the quantities initially specified in the contract,

— be concluded by 31 August or 28/29 February at the latest, depending on which of the abovementioned periods is involved. However for the first part of the 1977/78 marketing year these amendments may be concluded up to 30 September 1977.

Article 2

A copy of each contract and of any supplementary agreements shall be forwarded by the processor, before the date from which they are to take effect, to the relevant authorities of the Member State in which the lemons are produced and to those of the Member State where the processing is to take place.

Article 3

Products delivered under processing contracts shall satisfy at least the minimum quality requirements laid down in Title II B (i) of the common standards, with a maximum of 15 % by weight of fruit which is not of the required standard but is suitable for processing.

Article 4

1. On receipt by the processor of each lot delivered under processing contract the authorities designated by the Member State in which the processing takes place shall check the weight of the products delivered and verify that they conform to the quality requirements.

Following these checks a certificate for each lot shall be delivered to the processor stating:

— the names and addresses of the contracting parties,

— the net weight, and that the quality requirements were satisfied. One copy of this certificate shall be sent to the producers. One copy shall be kept by the relevant authorities.

2. If the checks provided for above show that all or part of the products do not comply with the provisions of Article 3 the authorities referred to in the preceding paragraph shall so inform the contracting parties.

Article 5

Applications for financial compensation shall be submitted by the processor at the end of each of the periods specified in Article 1 to the relevant authorities of the Member State in which processing took place.

Such applications shall include:

(a) the name and address of the applicant;

(b) details of:

— the total quantities of fresh lemons purchased during each of the abovementioned periods,

— the quantities of that product purchased under processing contracts and any agreements supplementary thereto;

(c) details of the total quantities of juice obtained after processing the fresh lemons of the abovementioned periods;

(d) details of any quantities of juice purchased during each of the abovementioned periods.

The application shall be accompanied, in respect of each lot of which the processor has taken delivery under processing contracts, by a copy of the certificate referred to in Article 4 (1).

Article 6

1. The checks provided for in the fourth paragraph of Article 2 of Regulation (EEC) No 1035/77 shall include in particular in the case of the periods specified in Article 1 (2):

— verification of the total quantities of fresh lemons purchased by the processor and delivered to his undertaking,

— verification that all these quantities were actually processed in the said undertaking.

2. For the purpose of the verification provided for in paragraph 1, undertakings shall keep stock accounts, which, for each of the periods specified in Article 1 (2), shall show in particular:

— the quantities of fresh lemons bought and delivered to the undertaking, those which were the subject of processing contracts being shown separately,

— the quantities of juice obtained after processing,

— any quantities of juice purchased,

— the quantities of juice which left the undertaking,

— any quantities of juice returned to the undertaking.

Article 7

Where, for a given marketing year, the processor wishes to avail himself of the provisions of the second sentence of the third subparagraph of Article 2 of Regulation (EEC) No 1035/77, an application for additional financial compensation shall be lodged after the end of the marketing year.

This application shall include:

— details of the total quantities of lemon juice sold by him,

— details of the quantities of lemon juice sold by him outside Italy,

during the marketing year in question.

Article 8

Proof of sale of the products outside Italy shall be supplied:

(a) in the case of undertakings operating in Italy, by production of a copy of the national document used for exports to third countries or consignments to other Member States;

(b) in the case of undertakings operating in Member States other than Italy,

— in respect of products sold in the Member State in which processing took place, by production of a copy of the relevant invoices, duly receipted,

— in respect of products exported to third countries or consigned to a Member State other than that where processing took place, by production of a copy of the national document used for the exportation or consignment.

Article 9

The event within the meaning of Article 6 of Regulation (EEC) No 1134/68 in which financial compensation becomes due and payable shall be considered to have occurred:

— on 30 November and 31 May of each year respectively, depending on which of the periods specified in Article 1 (2) of this Regulation is involved,

— on 31 May of each year in respect of quantities which are the subject of additional financial compensation.

Article 10

1. For each undertaking financial compensation shall be granted in respect of 85 % of the quantities purchased under processing contracts, subject always to Article 4 (2), and on condition that the undertaking has actually processed all the quantities purchased.

Should this condition not be fulfilled the compensation shall be reduced, except in case of *force majeure*, in proportion to the quantities actually processed in relation to the total quantities purchased.

2. With regard to undertakings in the situation provided for in the second sentence of the third paragraph of Article 2 of Regulation (EEC) No 1035/77, financial compensation shall be granted in respect of a percentage of the quantities purchased under contract equal to the percentage of sales outside Italy. Where, however, an undertaking has not actually processed all the quantities purchased this percentage shall be reduced, except in case of *force majeure*, in proportion to the quantities actually processed in relation to the total quantities purchased.

Article 11

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

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

Done at Brussels, 18 May 1977.

For the Commission

Finn GUNDELACH

Vice-President