COMMISSION REGULATION (EEC) No 626/85

of 12 March 1985

on the purchasing, selling and storage of unprocessed dried grapes and figs by storage agencies

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 516/77 of 14 March 1977 on the common organization of the market in products processed from fruit and vegetables (1), as last amended by Regulation (EEC) No 988/84 (2), and in particular Articles 4 (8) an 18 thereof,

Having regard to Council Regulation (EEC) No 1223/83 of 20 May 1983 on the exchange rates to be applied in agriculture (3), as last amended by Regulation (EEC) No 855/84 (4), and in particular Article 4 (3) thereof,

Whereas Article 4 (1) of Regulation (EEC) No 516/77 provides that storage agencies must be approved by the Member States concerned and that in respect of dried grapes the storage agencies must purchase up to the limits of the guarantee thresholds laid down by Council Regulation (EEC) No 989/84 (5); whereas in order to be approved as a storage agency the interested party must have at its disposal facilities which allow for appropriate preservation and handling of the products;

Whereas Article 4 (1) of Regulation (EEC) No 516/77 lays down that dried figs and dried grapes to be purchased shall comply with quality standards to be determined; whereas dried figs must, in order to qualify for the payment of the minimum price fixed, comply with the requirements set out in Annex II to Commission Regulation (EEC) No 1709/84 (6) and dried grapes shall comply with the requirements set out in Annex II to Commission Regulation (EEC) No 2347/84 (7); whereas these requirements should also be complied with when the products are sold to the storage agency; whereas in addition the products should meet the conditions necessary for storage;

Whereas in order to ensure that sellers of dried grapes and dried figs are given equal treatment and that the storage agencies are applying the measures correctly, the Member States must supervise the transaction carried out by storage agencies; whereas to that end a contract should be concluded for each purchase and a copy thereof should be sent to the competent authorities together with proof that the products qualify for sale to the storage agency;

Whereas equal access to the products and equal treatment of purchasers can be ensured if, when the selling price is fixed in advance, the storage agencies accept all applications received on any one day simultaneously until supplies are exhausted;

Whereas, where the selling price is determined by means of an invitation to tender, these principles can be respected by giving the notice of invitation to tender appropriate publicity;

Whereas, since the object of the tendering procedure is to obtain the best price, the award must go to the highest tender; whereas, however, the highest price can be accepted only if it corresponds to the actual market situation; whereas minimum selling prices should therefore be determined in accordance with a Community procedure, having due regard to the tenders received;

Whereas, to ensure efficiency in the disposal of stored products, minimum sale quantities should be laid down;

Whereas invitations to tender must include sufficient information to allow proper identification of the products concerned;

Whereas the submission of an application or a tender is facilitated if prospective purchasers are permitted to inspect the product; whereas it should consequently be provided that the parties concerned waive in advance their right to lodge any complaint in respect of the quality and characteristics of the products which may be assigned to them;

Whereas fulfilment of the obligations contracted must be guaranteed through the lodging of a security which can be partly or wholly forfeited;

Whereas, so that these operations may be carried out expeditiously, it should be laid down that the rights and obligations involved in a sale contract or a tender must be exercised or fulfilled within certain time limits;

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(1) OJ No L 73, 21. 3. 1977, p. 1.
(2) OJ No L 103, 16. 4. 1984, p. 11.
(3) OJ No L 132, 21. 5. 1983, p. 33.
(4) OJ No L 90, 1. 4. 1984, p. 1.
(5) OJ No L 103, 16. 4. 1984, p. 19.
(6) OJ No L 162, 20. 6. 1984, p. 8.
(7) OJ No L 219, 16. 8. 1984, p. 1.

Whereas under Article 4 (2) of Council Regulation (EEC) No 1134/68 [1] the sums defined therein are paid on the basis of the conversion rate which obtained at the time when the operation or part thereof was carried out; whereas Article 6 of the abovementioned Regulation defines the time when an operation is carried out as the date on which the event defined by Community rules occurs, or, in the absence of and pending adoption of such rules, by the rules of the Member State concerned, as a result of which the amount involved in the operation becomes due and payable; whereas, however, under Article 4 (3) of Regulation (EEC) No 1223/83, derogations from the abovementioned provisions may be decided upon; whereas in order to be compatible with the production aid system within which the measures on storage agencies has to function, the conversion rate to be applied should be that valid on the first day of the marketing year concerned;

Whereas products sold by storage agencies do not benefit from production aid; whereas when the products sold are in competition with other products for consumption, they should, however, comply with the same quality requirements as such products; whereas to that end a security should be required; whereas the security should be lodged and released in accordance with the provisions of Article 13 of Commission Regulation (EEC) No 1687/76 [2], as last amended by Regulation (EEC) No 371/85 [3];

Whereas the storage agencies should store and handle the products in such a way that their value depreciates as little as possible; whereas it is a characteristic of the products, however, that after a long period of storage, they cannot be used for consumption; whereas that fact must be taken into account when the storage requirements are stipulated;

Whereas stocktaking operations must be carried out by the storage agencies in order to ensure correct application of the storage aid system and the correct payment of financial compensation as provided for in Article 4 (5) and (6) of Regulation (EEC) No 516/77;

Whereas under Article 18 of Regulation (EEC) No 516/77 the Member States are required to communicate to the Commission the information necessary for implementing that Regulation; whereas some information is available only to the storage agencies; whereas such information should be communicated to the competent authorities;

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

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

1. This Regulation lays down detailed rules for applying the system of storage agencies provided for in Article 4 of Regulation (EEC) No 516/77.

2. The Member States shall approve storage agencies:

(a) which have storage facilities permitting good preservation of the products purchased to be properly preserved and which have a minimum storage capacity;

(b) which undertake in writing to comply with the provisions adopted by the Community or prescribed by the national authorities relating to their activities as storage agencies.

The approval shall be withdrawn where the conditions under (a) are no longer satisfied or where a storage agency seriously neglects the undertaking referred to under (b).

3. The Member States shall determine the minimum storage capacity referred to in paragraph 2 (a) and shall prescribe the conditions for the approval of storage agencies, in particular requirements as to storage conditions, handling of products stored and technical equipment.

TITLE II

PURCHASING

Article 2

1. The storage agencies shall purchase:

— all unprocessed dried figs offered to them during the period 1 May to 30 June each year,

— a maximum of 65 000 tonnes of unprocessed dried currants and 93 000 tonnes of unprocessed dried sultanas offered to them during the period 1 July to 31 August each year.

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[1] OJ No L 188, 1. 8. 1968, p. 1.
[2] OJ No L 190, 14. 2. 1976, p. 1.
[3] OJ No L 44, 14. 2. 1985, p. 14.

2. The products referred to in paragraph 1 shall, when handed over to the storage agency, be free of live insects, and shall have been produced in the Community during the current marketing year and comply with the following provisions:

(a) in respect of unprocessed dried figs, those laid down in Annex II to Regulation (EEC) No 1709/84;

(b) in respect of unprocessed dried grapes, those laid down in Annex II to Regulation (EEC) No 2347/84.

Where products are handed over to a storage agency in packings, such packings shall be clean and designed so as to ensure protection of the products during storage.

3. The price to be paid for products taken over by the storage agency shall per 100 kilograms net be equal to the minimum price to be paid for the category in question to the producers on the first day of the current marketing year. The conversion rate to be applied to the minimum price, fixed in ECU, shall be the representative rate in force on that day.

Article 3

1. For each purchase a contract in writing shall during the relevant period referred to in Article 2 (1) be concluded specifying in particular:

(a) the name and address of the storage agency concerned with a reference identifying its approval;

(b) the name and address of the seller;

(c) the estimated quantity concerned broken down according to category;

(d) the address of the warehouse where the products shall be taken over by the storage agency;

(e) the price to be paid for the products broken down according to category.

Where the storage agency is a legal person the contract shall also specify its head office and administrative address.

2. The products under contract shall be delivered to the warehouse concerned not later than one month after the conclusion of the contract.

3. In respect of currants the contract shall be accompanied by the written undertaking provided for in Article 3a (2) of Regulation (EEC) No 516/77.

However, if the seller is not the producer of the currants, the undertaking may be replaced by a declaration from the seller in which he declares that he has bought the currants from named producers and is in possession of the undertakings issued by the producers. The correctness of the declarations shall be proved to the satisfaction of the competent authorities.

4. In cases where the storage agency is also acting as seller, the contract referred to in paragraph 1 shall be considered as concluded when a document indicating the particulars referred to in that paragraph, other than those under (e), has been drawn up. In such cases the purchase price shall be considered equal to the minimum price referred to in Article 2 (3).

Article 4

1. When products are handed over to the storage agency the quantity shall be established by weighing on balances approved by the authorities competent for verification of balances.

2. Verification of the products and their classification shall be carried out on the basis of representative samples taken by the storage agency from each lot presented for taking over.

For this purpose 'lot' means the quantity covered by a single contract.

3. The result of each verification and the actual weight of the lot shall be included in a format which shall contain at least the particulars referred to in the Annex.

4. Where agreement as to compliance with the provisions in Article 2 (2) cannot be reached between the seller and the storage agency, samples taken by both parties shall be submitted for verification to an expert committee designated by the competent authorities. The result of this verification shall be final.

5. Where the verification of the products establishes that the products do not comply with the provisions in Article 2 (2), the contract shall be cancelled in respect of the defective quantity. In that case the seller shall take back the products and refund to the storage agency the cost of storage in accordance with the provisions prescribed by the competent authorities.

Article 5

1. A copy of each contract referred to in Article 3 shall be forwarded by the storage agency to the competent authorities in the Member State which have approved the storage agency. The copy shall reach the competent authorities not later than 10 working days after the conclusion of the contract and prior to the delivery.

2. When the format referred to in Article 4 (3) has been duly completed, a copy shall be forwarded to the authorities referred to in paragraph 1. The copy shall reach the competent authorities not later than 10 working days after its completion.

TITLE III

SELLING

Article 6

1. Products intended for processing within the Community for consumption shall be sold at prices fixed in advance and the selling price shall be fixed taking into consideration that the products cannot benefit from a production aid.

A security shall be required to guarantee that products purchased are processed into dried grapes or dried figs complying with the requirements laid down in Annex III to Regulation (EEC) No 2347/84 or Annex III to Regulation (EEC) No 1709/84.

The processing shall be finished not later than 90 days after the day of acceptance referred to in Article 8 (2).

2. Products intended for processing and subsequent export from the Community or for specific uses yet to be determined within the Community shall be sold at prices fixed in advance or determined by an invitation to tender.

A. Sales at prices fixed in advance

Article 7

1. The purchase application shall be submitted to the storage agency in writing. It shall be deemed valid for consideration on the day when the applicant has proved that the security specified in Article 21 (1) is received.

2. In order to be deemed valid for consideration, the application must :

(a) specify the name and address of the purchaser ;

(b) give an accurate description of the product ;

(c) specify the quantity applied for and the price fixed ;

(d) include a declaration by the applicant waiving all claims in respect of the quality and characteristics of the product which may be assigned to him ;

(e) specify the use and/or destination of the products as referred to in Article 6.

The application may also name, in order of preference, the store or stores where the products applied for are stored.

3. It may be indicated in a purchase application that it is to be regarded as having been submitted only if :

(a) the allocation relates to the entire quantity specified in the application ;

(b) the allocation relates to a quantity specified in the application.

4. The purchase application shall be rejected if the security referred to in Article 21 (1) is not lodged for the benefit of the agency appointed by the Member State within three working days following its submission in accordance with paragraph 1. This agency shall inform the storage agency when the security has been lodged.

Article 8

1. The storage agency shall deem valid for consideration each day all complete applications submitted in accordance with Article 7.

Applications deemed valid for consideration on any particular day shall be considered as having been submitted simultaneously.

2. Save in exceptional circumstances applications shall be accepted within five working days following their submission until stocks are exhausted.

Where, taken together, the applications submitted on the same day exceed the quantity available, the storage agency shall allocate the quantity available by drawing lots.

3. The storage agency shall, within the time limit provided for in paragraph 2, notify each applicant of the decision taken on his application.

Article 9

1. The date of submission of the application shall be the day on which it is received by the storage agency, provided that this occurs not later than 2 p.m. local time.

2. Applications which reach the storage agency concerned on a day which is not a working day for that agency, or on a working day for that agency but later than the time referred to in paragraph 1, shall be deemed to have been submitted on the first working day following the day on which they were received.

Article 10

The exchange rate to be applied to sale prices fixed in advance in ECU shall be the representative rate in force on the day on which the application is deemed valid for consideration under Article 8 (1).

B. Sale at a price determined by an invitation to tender

Article 11

Where it is decided to sell products by tender the storage agency concerned shall draw up a notice of invitation to tender and immediately forward copies of it to the Commission. Publicity arrangements shall include posting at the offices of the storage agency.

Article 12

Each invitation to tender shall include the following information :

(a) description of the products and their harvest year ;

(b) the name(s) and address(es) of the storage agency or agencies ;

(c) for each storage agency the quantities of each product offered for tender and the categories thereof ;

(d) the closing date and the address for the submission of tenders ;

(e) the use and/or destination of the products as referred to in Article 6 (2) ;

(f) a statement that tenders may be submitted by telex.

Article 13

1. Tenders shall be submitted by letter or telex to :

— in the case of products held by a Greek storage agency, the relevant storage agency, at the head office of IDAGEP, 5 Acharnon Street, Athens,

— in the case of products held by an Italian storage agency, the relevant storage agency, at the head office of AIMA, via Palestro, 81, Rome.

They may also be handed in to the relevant head office, in which case an acknowledgement shall be issued.

2. In order to be deemed valid for consideration, the tender must :

(a) specify the name and address of the tenderer ;

(b) give an accurate description of the products and the quantity for which the tender is made ;

(c) specify the price offered per tonne, expressed in the currency of the Member State whose storage agency has issued the invitation to tender ;

(d) include a declaration by the tenderer waiving all claims in respect of the quality and characteristics of a product awarded to him ;

(e) include any additional information required by the invitation to tender.

Tenders shall be valid only if before expiry of the time limit for submission of tenders the security referred to in Article 21 (1) has been lodged for the benefit of the agency designated by the Member State. This agency shall inform the storage agency when the security has been lodged.

3. It may be indicated in a tender that it is to be regarded as having been submitted only if the award relates to :

(a) the entire quantity specified in the tender, or

(b) a quantity specified in the tender.

Article 14

Tenders shall be examined in the presence of the competent authorities of the Member States concerned not more than three working days following expiry of the time limit for their being lodged. These authorities shall transmit to the Commission a list showing for each quantity put up for sale the offer price received.

Article 15

In accordance with the procedure laid down in Article 20 of Regulation (EEC) No 516/77 and in the light of the tenders received, minimum selling prices shall be fixed for the products in question, or a decision shall be taken not to make an award. Decisions fixing minimum selling prices shall be notified without delay to the Member State concerned.

Article 16

1. Tenders equal to or exceeding the minimum selling price referred to in Article 15 shall be accommodated. Tenders for less than that price shall be refused.

2. Contracts shall be awarded to the highest tenderer when quantities available are not sufficient to meet all tenders. Where more than one tender at the same price is received and where the quantities applied for exceed the quantity available, the storage agency shall allocate the quantity available by drawing lots.

Article 17

Each tenderer shall within five working days of the communication by telex to the Member States concerned of the decision fixing the minimum price be notified by the competent authorities of the result of his participation in the invitation to tender.

Article 18

The exchange rate used to convert :

— tenders into ECU, and

— minimum selling prices into national currency

shall be the representative rate in force on the closing day for the submission of tenders.

C. Common provisions

Article 19

Storage agencies shall make all necessary arrangements to enable prospective buyers or tenderers to inspect the products for sale before making their purchase applications or submitting their tenders.

Article 20

The purchase application or tender shall be in of the official languages of the Community.

However, storage agencies may require that applications or tenders submitted in a language which is not an official language of the Member State concerned be accompanied by a translation.

Where a storage agency avails itself of this right, it shall inform the Commission.

Article 21

1. The security referred to in Articles 7 (1) and 13 (2) shall be 4,50 ECU per 100 kilograms.

The security shall be lodged, at the choice of the applicant or tenderer, in cash or in the form of a guarantee provided by an establishment meeting the criteria fixed by the Member State in which the storage agency concerned is situated.

2. The security shall be released only :

(a) if the purchase application or the tender is not accepted, or

(b) when the purchaser has paid the purchase price and the security required to guarantee that the products are used for the prescribed use and/or destination has been lodged in accordance with the provisions of Article 13 of Regulation (EEC) No 1687/76.

3. The security may be released by instalments in proportion to the quantity of products in respect of which the provisions of paragraph 2 have been complied with.

Article 22

1. The purchase price shall be paid before the products are taken over and at least within one month of the acceptance date referred to in Article 8 (2) or of the notification referred to in Article 17. The costs and risks in respect of quantities not withdrawn within this period shall be borne by the purchaser.

The payment of the purchase price may be made in proportion to the quantities to be withdrawn.

2. If the purchaser has not paid for the products within the time limit specified in paragraph 1 the contract shall be cancelled by the agency in respect of the quantity not paid for.

3. Delivery of the products shall be taken in accordance with storage agency rules for release from storage.

Article 23

The removal order referred to in Article 6 (1) of Regulation (EEC) No 1687/76 shall in addition to the particulars provided for in that paragraph also indicate the intended use and/or destination to be shown in section 104 of the control copy.

Article 24

The minimum quantity of product per purchase application or tender shall be :

— in the case of dried grapes, 5 tonnes net weight per purchase application and 20 tonnes net weight per tender,

— in the case of dried figs, 2 tonnes net weight in both cases.

TITLE IV

PROVISIONS ON STORAGE

Article 25

The storage agencies shall keep records showing at least the following :

A. *For products entering into storage*

(a) each quantity of products entering into storage each day showing the net weight, the category and the number and the date of the receipt issued for the quantity ;

(b) the name of the seller of each quantity together with a reference to the contract concerned ;

(c) a reference to the verification form established ;

(d) the price paid for the products ;

(e) the place of storage.

B. *For products leaving storage*

(a) each quantity leaving storage each day showing the net weight, the category and the number of the removal order issued ;

(b) the name of the buyer of each quantity together with a reference to the contract concerned ;

(c) any quantity of products which has deteriorated to such a degree that it does not conform to any of the categories provided for ;

(d) any quantity destroyed or which has been removed from storage contrary to applicable provisions ;

(e) any quantity which has disappeared.

In respect of quantities covered by (c), (d) and (e) the records shall show on which day the products left or are considered as having left storage.

Article 26

1. The products shall be stored and handled in such a way that they remain fit for processing into products ready to be offered for human consumption.

However, if the products have been stored for more than one year they shall be stored and handled as if they were intended for distillation or animal fodder. In this case, Article 25 (B) (c) shall no longer apply to products in stock.

Products which no longer meet these conditions shall be removed from storage at the storage agency's expense.

2. The storage agencies shall carry out a first physical stocktaking of products which are in stock on the last day of the month of February at 12 midnight (local time) of the year following the calendar year in which the products were purchased.

Subsequent physical stocktaking shall be carried out in respect of products which are in stock on each 31 August at 12 midnight (local time).

Article 27

The competent authorities of the Member State in which storage agencies are approved shall in particular :

(a) make checks in those agencies as to :

— the prices paid for products purchased and received for products sold,

— the category and condition of the products stored,

— the particulars communicated by the agencies to the competent authorities ;

(b) verify the records of each storage agency and its storage facilities.

TITLE V

COMMUNICATION OF INFORMATION

Article 28

Storage agencies shall communicate to the competent authorities :

(i) the quantity of products from the previous marketing year which has been taken over. The quantity shall be broken down according to category, with a reference to the address of the warehouse in which the products are stored ;

(ii) the quantity of products from a previous marketing year which were in stock on 31 August. The quantity shall be broken down as under (i) and in addition the year of harvest shall be shown.

Communications shall reach the competent authorities not later than 1 October each year in respect of unprocessed dried grapes and not later than 1 August each year in respect of unprocessed dried figs.

In respect of products sold at prices fixed in advance the storage agency shall communicate to the competent authorities :

— not later than the eighth of each month, the quantity sold during the period from the 16th to the end of the previous month,

— not later than the 23rd of each month, the quantity sold during the period from the first to the 15th of that month.

The quantities shall be broken down according to category.

Article 29

Each Member shall notify the Commission :

(a) not later than 15 August each year of the total quantity of unprocessed dried figs from the previous marketing year which has been taken over by storage agencies ;

(b) not later than 15 October each year of :

(i) the total quantity of unprocessed dried grapes from the previous marketing year which has been taken over by storage agencies,

(ii) the total quantity of products from a previous marketing year which was in stock on 31 August ;

(c) not later than 15 April each year of the quantity of unsold products in stock on the last day of the month of February;

(d) not later than the first of each month of the quantity of products sold at prices fixed in advance during the period from the first to the 15th of the previous month and not later than the 15th of each month of the quantity of such products sold during the remaining part of the previous month.

The quantities shall be broken down according to category and year of harvest.

TITLE VI

ENTRY INTO FORCE

Article 30

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, 12 March 1985.

For the Commission

Frans ANDRIESSEN

Vice-President

ANNEX

VERIFICATION FORMAT

A. FOR UNPROCESSED DRIED GRAPES

Name of seller	Weight of sample	Identification of lot	Quantity	
			Estimated in the contract	Actually bought

Description of verification	Result
1. Abnormal smell or taste	Yes / No
2. Free of live insects	Yes / No
3. Loose or become loose when removed from container	Yes / No
4. Clean packings	Yes / No
5. Moisture content (% by weight)	%
6. Unsound fruit (% by number)	%
7. Stones, discernible pieces of grit, metal fragments and other mineral impurities (% by weight)	%
8. Stalks and other vegetable matter arising from the vine (% by weight)	%
9. Other foreign matter	Yes / No
May be purchased	Yes / No

Classification	Result	Region (1)	Observations
Colour			
Drying process (1)			
% dark brown/black fruit	% by number		
Size consistency	Respected/not required		
Category			

(1) For currants only.

Other remarks : .....

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Date : ..... Signature

B. FOR UNPROCESSED DRIED FIGS

Name of seller	Weight of sample	Identification of lot	Quantity	
			Estimated in the contract	Actually bought

Description of verification	Result
1. Free of live insects	Yes / No
2. Clean	Yes / No
3. Damaged by insects (% by number)	%
4. Damaged by other causes (% by number)	%
5. Moisture content (% by weight)	%
May be purchased	Yes / No

Classification	Result	Region	Observations
Uniform colour Number of fruit per kilogram	Yes / No		
Category			

Date : ..... Signature