COMMISSION REGULATION (EEC) No 3951/86

of 23 December 1986

amending Regulation (EEC) No 1599/84 laying down detailed rules for the application of the system of production aid for products processed from fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables [1], as amended by Regulation (EEC) No 1838/86 [2], and in particular Articles 3 (4) and 20 thereof,

Whereas Article 4 (1) of Commission Regulation (EEC) No 1764/86 of 27 May 1986 on minimum quality requirements for tomato-based products eligible for production aid [3] lays down which ingredients may be added to peeled tomatoes; whereas for the sake of clarity Article 1 (2) (k) and (1) of Commission Regulation (EEC) No 1599/84 [4], as last amended by Regulation (EEC) No 1155/86 [5], should be adapted;

Whereas the tomato harvest depends on the size of the annual planting and can consequently show sizeable variations from year to year; whereas the quantities available for processing may as a result be subject to fluctuations; whereas to encourage producers to recognize the actual needs of the industry and to regulate their plantings accordingly, a system of preliminary contracts should be provided for; whereas such contracts should be concluded before the planting period so that only such quantities as may later be disposed of for processing shall be planted;

Whereas in return for these obligations imposed on the processors a provisional payment of a part of the production aid should be provided; whereas the provisional payment of production aid should be made subject to the lodgment of a security guaranteeing reimbursement in cases where the conditions for obtaining the provisional production aid were not respected;

Whereas in order to follow the market in dried grapes and figs the Commission needs further data; whereas the Member State should communicate such data;

Whereas experience has shown certain adjustments of the existing provisions to be necessary;

Whereas the Management Committee for products processed from fruit and vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1599/84 is hereby amended as follows:

1. In Article 1 (2) (k) and (1) the words 'with or without added water or tomato juice' are deleted.

2. Article 1 (2) (p) is replaced by the following:

'(p) "sugar syrup" means: a liquid in which water is combined with sugars and which has a total sugar content determined after homogenization of

— more than 9 % in respect of cherries in syrup, and

— not less than 14 % in respect of other fruits in syrup.'

3. Article 1 (4) is replaced by the following:

'4. Tomato juice and tomato concentrate to be added to peeled preserved tomatoes shall be products for which production aid has not and will not be claimed. The weight of the tomato juice and tomato concentrate added to such products shall be included in the net weight of the peeled tomatoes themselves.'

4. In Article 2 (1) and (2) '31 March' is replaced by '31 January'.

5. The following Title IIa is added:

'TITLE IIa

Preliminary contracts

Article 4a

1. In respect of tomatoes a preliminary contract shall be concluded between the parties referred to in Article 3 (1) of Regulation (EEC) No 426/86 not later than 16 February each year. The preliminary contract shall bear an identification number and include as a minimum the particulars referred to in Article 5 (3) (a) and (b) as well as the surface area and the estimated quantity of tomatoes to be harvested on that area.

[1] OJ No L 49, 27. 2. 1986, p. 1.
[2] OJ No L 159, 14. 6. 1986, p. 1.
[3] OJ No L 153, 7. 6. 1986, p. 1.
[4] OJ No L 152, 8. 6. 1984, p. 16.
[5] OJ No L 105, 22. 4. 1986, p. 24.

2. A copy of the preliminary contract shall be forwarded by the processor or his group or association to the agency referred to in Article 8 (1) so as to reach that agency not later than 25 February of the year in which it was concluded.

The provisions of Article 8 (2) shall apply.

3. For the purposes of the production aid system the processing contracts referred to in Article 5 (1) shall be valid for tomatoes only if they cover the total quantity of tomatoes harvested on the surface area stipulated in the preliminary contract or the quantity indicated therein as estimated harvest. The processing contract shall include a reference to the number of the preliminary contract.

4. Where the preliminary contract referred to in paragraph 1 is concluded between, on one hand, a recognized processors' group or association thereof and, on the other hand, a recognized producers' groups or association thereof, the competent authorities shall have, or have access to, a list indicating the name and address of each producer and processor covered by the agreement as well as the surface area on which each producer will harvest tomatoes.

5. For the marketing year 1987/88 the dates given in paragraphs 1 and 2 shall be 1 March 1987 and 10 March 1987 respectively'.

6. The following Article 11a is inserted:

'Article 11a

1. In respect of tomato based products, the processor may submit each marketing year, not later than 30 November, a provisional aid application. This aid application shall include, in particular:

(a) the name and address of the applicant;

(b) the net weight of the finished products processed in the period 1 July to 31 October broken down according to products for which a given rate of aid is applicable;

(c) the net weight of the tomatoes used for processing each of the products referred to in (b);

(d) the quantity of tomatoes for which the producers have already been paid a price not less than the minimum price;

(e) a declaration in which the processor specifies that the products referred to in (b) comply with the quality requirements laid down by the Community.

The provisions of the second subparagraph of Article 11 (4) shall apply.

2. The production aid payable for the quantity of finished products obtained from the quantity of fresh tomatoes referred to in paragraph 1 (d) shall be paid to the processor. The amount paid must, however, not exceed 65 % of the production aid for the total quantity of finished products included in the provisional aid application. Payment of the aid shall be subject to the lodgment of a security guaranteeing the reimbursement of an amount equal to the aid paid, plus an additional amount of 10 %.

3. The security referred to in paragraph 2 shall be forfeited in whole if the processor does not submit the aid application referred to in Article 11 (4). Furthermore, the security shall be forfeited in proportion to the aid for 65 % of the quantity of finished products included in the provisional aid application for which is established before the payment of production aid based on the application referred to in Article 11 (4) that it did not qualify for production aid on 31 October.

4. Without prejudice to the provisions of paragraph 3, the security shall be released when production aid based on the aid application referred to in Article 11 (4) has been paid by the competent authorities.

5. When the provisions of this Article apply, the particulars and the documents referred to in Article 12 (1) and (2) shall cover the processor's total production during the marketing year and the aid applications shall show that a provisional aid application has been submitted.'

7. In Article 12 (1) (d) the words 'or by the Member State in which the processing took place' are deleted.

8. In Article 19 the following point is added:

'(g) not later than 1 January each year of:

(i) the total quantity of dried grapes, showing separately currants and sultanas, and dried figs for which aid applications have been submitted;

(ii) the total quantity of the raw materials declared in the aid applications as having been used for the processing of the products referred to in (i);'.

Article 2

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, 23 December 1986.

For the Commission
Frans ANDRIESSEN
Vice-President