COUNCIL REGULATION (EEC) No 1926/87

of 2 July 1987

amending Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 89 (2) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas a very large proportion of the production of fresh tomatoes is used by the processing industry; whereas this proportion is considerably greater than for any other product of the fruit and vegetables sector covered by the intervention system;

Whereas since there are appreciable variations both in the quantities produced from one harvest to another and in the quantities used by the processing industry, considerable quantities delivered to factories may be rereleased onto the market in fresh fruit and vegetables in August and September; whereas the products released onto the market under these circumstances do not meet the quality standards for packaging and presentation which are required if the product is to be delivered fresh to the consumer and which must be complied with if the withdrawal measures provided for in Article 15 of Council Regulation (EEC) No 1035/72 (4), as last amended by Regulation (EEC) No 1351/86 (5), are to be applied;

Whereas it should therefore be provided that, in certain cases, products delivered in packages of more than 15 kilograms transported in bulk may be withdrawn from the market; whereas such withdrawal should, nevertheless, be subject to price conditions which take account of the conditions for intervention purchasing;

Whereas, in order to improve the management of the market in tomatoes, and in particular to improve the pattern of production, growers should be made more aware of the real requirements of the market and of the processing industry in particular; whereas proper control by growers of their production implies that the quantities of tomatoes withdrawn from the market and bought in must be restricted to only those quantities which may result from seasonal variations in production levels; whereas this may be encouraged by fixing, for the Community as a whole, a maximum quantity of tomatoes which may be the subject of intervention measures and which, if exceeded, will entail a reduction in prices for the following marketing year; whereas the abovementioned quantity may be estimated at 10 % of the average quantity of fresh product placed on the market during the last five years, excluding the quantities delivered to the processing industry;

Whereas, during the first stage of accession, known as the verification of convergence stage, the Spanish market in the products concerned is not integrated into the market of the Community of Ten and Spain fixes institutional prices in accordance with a price discipline defined in Article 135 of the Act of Accession, whereby price increases may not exceed in value the increase in common prices; whereas, by reason of this special situation of the market in Spain, the reduction of common prices under the abovementioned measures must not affect the level at which prices are fixed in Spain;

Whereas, in so far as intervention operations are carried out for tomatoes in Spain and involve Community financing in accordance with Article 133 (3) of the Act, a quantity of tomatoes should be fixed which, if exceeded, will result in a reduction in prices in Spain for the following marketing year;

Whereas, in view of the special provisions of the Act and in particular Article 265 thereof, no similar measures need be applied in respect of Portugal during the first stage of transition;

Whereas, in the interests of proper market management, it is essential that the market situation, and in particular the conditions under which intervention operations are carried out, should be notified swiftly; whereas, for this purpose, absolute deadlines should be fixed for the most important communications which producer organizations are required to make in connection with the withdrawal system and failure to comply with these deadlines should be penalized by partial or total loss, as appropriate, of the right to financial compensation,

(1) OJ No C 89, 3. 4. 1987, p. 55.
(2) OJ No C 156, 15. 6. 1987.
(3) OJ No C 150, 9. 6. 1987, p. 8.
(4) OJ No L 118, 20. 5. 1972, p. 1.
(5) OJ No L 119, 8. 5. 1986, p. 46.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1035/72 is hereby amended as follows:

1. The following paragraph is added to Article 15:

'3. For tomatoes, the withdrawal operations referred to in paragraph 1 may, during August and September, be carried out in respect of products which do not satisfy the requirements of the quality standards as regards packaging and presentation; withdrawals may relate to products presented in packages of more than 15 kilograms or transported in bulk. In such cases, the prices at which the products are withdrawn shall be calculated by applying conversion factors fixed according to the procedure laid down in Article 33.'

2. The following paragraphs are inserted in Article 16:

'3a. Where, in the case of tomatoes, the quantities which have been the subject of intervention measures pursuant to Articles 15 and 19a in the course of a given marketing year exceed 390 000 tonnes for the Community as constituted on 31 December 1985, the basic and buying-in prices fixed for the following marketing year in respect of this product in accordance with the criteria laid down in paragraphs 2 and 3 shall be reduced by 1 % for every 10 000 tonnes in excess of that quantity. The application of this provision may not, however, result in a reduction of more than 20 % in those prices.

The reduction resulting from application of the first subparagraph shall not be taken into account when the basic buying-in prices are fixed for subsequent marketing years in accordance with the criteria laid down in paragraphs 2 and 3.

3b. Where, in the case of Spain, intervention operations are carried out during the verification of convergence stage in accordance with the provisions applicable, the Council, acting by a qualified majority on a proposal from the Commission, shall fix a maximum quantity of products which may be subject to intervention measures and which, if exceeded, will entail a reduction in Spanish institutional prices for the following marketing year.

3c. The reduction in the prices to be applied in the Community as constituted on 31 December 1985 provided for in the first subparagraph of paragraph 3a shall not be taken into consideration for the purposes of applying, in Spain and Portugal, the price discipline provided for in Article 135 (1) and 265 (1) of the Act of Accession.'

3. The following paragraphs are added to Article 18:

'4. The financial compensation shall be paid in its entirety to producers' organization which have, in respect of a given product, submitted an application to the competent authority of the Member State no later than the 30th day following the end of the period during which the basic and buying-in prices for that product are applicable. Where an application is submitted later but not more than 30 days after the abovementioned date, 20 % of the compensation shall be witheld. In the case of still later applications but where the delay does not exceed 60 days, 50 % of the compensation shall be witheld. No financial compensation shall be granted where the delay exceeds 60 days.

5. In accordance with the procedure laid down in Article 33, the Commission shall, as necessary, adopt detailed rules for the application of this Article.'

Article 2

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

It shall apply with effect from 1 July 1987.

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

Done at Brussels, 2 July 1987.

For the Council

The President

K. E. TYGESEN