COUNCIL REGULATION (EEC) No 1193/90

of 7 May 1990

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 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 provision should be made for a simpler procedure for drawing up the list of products which are to be the subject of common quality standards;

Whereas Article 13 of Regulation (EEC) No 1035/72 (4), as last amended by Regulation (EEC) No 1119/89 (5), lays down provisions regarding producers' organizations;

Whereas, with a view to making up for the shortcomings of the market for citrus fruit observed in certain regions of production in the Community, further conditions on the recognition of citrus producers' organizations should be laid down; whereas those conditions are likely to ensure that such organizations contribute, in particular by improving their efficiency, towards re-establishing balance between production and demand on the market; whereas, to that end, those conditions must include in particular total concentration of supply and adequate regulation of production and of placing on the market and the necessary provisions to ensure that such organizations provide proof of sufficient economic activity; whereas, with a view to that objective, such organizations must be required to incorporate in their rules of association precise clauses guaranteeing producers control of decisions and the operation of the organization and clauses penalizing infringements of the rules laid down; whereas recognized producers' organizations should be given a period to adapt to the new provisions; whereas it should therefore be specified that the Member States should verify compliance of the producers' organizations with the overall provisions applicable to them;

Whereas experience has shown that citrus fruit withdrawn from the market is normally not disposed of in accordance with the facilities provided for in Article 21 of Regulation (EEC) No 1035/72; whereas the citrus fruit harvest is staggered over the marketing year; whereas provision should be made for a structure to enable producers' organizations to plan, rationalize and check withdrawal operations where the production and market situations so require and to improve the conditions under which recourse is had to the possibilities of free disposal;

Whereas Article 15a (1) of Regulation (EEC) No 1035/72 provides that preventive withdrawals of apples and pears may be authorized under certain conditions; whereas paragraphs 3 and 4 of that Article provide that those arrangements are to apply until 30 June 1990; whereas the Commission will forward to the Council before that date a report on the way those arrangements function; whereas such a report has been drawn up; whereas it shows that the arrangements have beneficial effects on the marketing years for the products concerned; whereas those arrangements should therefore be made permanent;

Whereas, pursuant to Articles 16 (4), 18 (1) and 19 (2) of Regulation (EEC) No 1035/72, the prices at which products are bought in under Articles 19 and 19a and the financial compensation paid under Article 18 of that Regulation are to be calculated on the basis of the buying-in price multiplied by conversion factors;

Whereas producers must be encouraged to deliver their surplus products for processing;

Whereas the differences in upgrading of the product as a result of the application of the conversion factors were established for the needs of the market for products consumed fresh and are not relevant for processing;

Whereas there should no longer be varying withdrawal prices for lemons according to size or form of packaging and provision should be made for the withdrawal price of such products to be that of products of mixed sizings, in bulk in a means of transport;

Whereas withdrawals of citrus fruit in certain regions and in particular of mandarins and lemons have already attained a very high percentage of the marketable production of the members of certain producers' organizations; whereas the withdrawal system is only an exceptional instrument for monitoring the market and does not in itself constitute a method of disposal; whereas the financial compensation paid in respect of such withdrawals should be limited where it appears that a producers' organization has not fulfilled its basic objective of marketing the production of its members; whereas such a measure should be applied progressively in order to permit producers' organizations experiencing operating problems to adapt to it;

(1) OJ No C 49, 28. 2. 1990, p. 62.
(2) OJ No C 96, 17. 4. 1990.
(3) OJ No C 112, 7. 5. 1990, p. 34.
(4) OJ No L 118, 20. 5. 1972, p. 1.
(5) OJ No L 118, 29. 4. 1989, p. 12.

Whereas Article 21 of Regulation (EEC) No 1035/72 provides that certain classes of blood oranges, withdrawn from the market under Articles 15b and 18 thereof or bought in in accordance with Articles 19 and 19a thereof, may be disposed of to the processing industry under certain conditions; whereas that possibility has not been made use of since the 1979/80 marketing year; whereas the provisions of Regulation (EEC) No 2601/69 (1), as last amended by Regulation (EEC) No 1123/89 (2), are better suited to encouraging the processing of such blood oranges; whereas the former provision should be amended;

Whereas, in order to improve the conditions under which recourse is had to possibilities of free disposal provided for in Article 21 of Regulation (EEC) No 1035/72, on the one hand provision should be made for the possibility of the Community's defraying the costs of sorting and packaging the products in question and on the other hand the Member States should be encouraged to organize contacts between producers' organizations and establishments or charitable organizations; whereas in view of the characteristics of the harvest and of marketing and of the level of withdrawals of apples and citrus fruit, those provisions should apply only to those products,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. The first subparagraph of Article 2 (2) of Title I of Regulation (EEC) No 1035/72 is replaced by the following:

'The Council, acting by a qualified majority on a proposal from the Commission, shall decide to which products quality standards shall be applied.'

Article 2

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

1. The following Articles are inserted:

'Article 13a

1. Notwithstanding Article 13, producers' organizations whose main economic activity relates to the production and marketing of citrus fruit, hereinafter referred to as "citrus fruit producers' organizations", must meet the following conditions:

(a) they must provide evidence that they have a minimum quantity of marketable production and have as members a minimum number of producers;

(b) their articles of association must include provisions:

— requiring producers to have their whole citrus fruit production placed on the market by the producers' organizations,

— ensuring producers control of the producers' organization and of its decisions,

— penalizing any infringement by member producers of the rules laid down by the producers' organizations,

— requiring members to pay contributions in particular for the establishment and maintenance of the intervention fund referred to in the last subparagraph of Article 15 (1),

— concerning the admission of new members;

(c) they must lay down rules on recording production, rules on production and rules on marketing;

(d) they must keep specific accounts for their activities involving citrus fruit.

2. Citrus fruit producers' organizations recognized by the Member States at 1 June 1990 must meet the conditions laid down in paragraph 1 by 1 June 1993 at the latest.'

'Article 13b

1. Member States shall check compliance by citrus fruit producers' organizations with the obligations laid down in Articles 13 and 13a and shall withdraw recognition where these are not complied with.

2. By means of checks on documents and on-the-spot checks, the Commission may ensure that the provisions of Articles 13 and 13a are complied with.

3. Detailed rules for the application of Articles 13 and 13a shall be adopted in accordance with the procedure laid down in Article 33.'

2. The following paragraphs shall be added to Article 15:

'4. Citrus fruit withdrawal centres may be set up at the instigation of and managed by one or more citrus fruit producers' organizations with a view to:

— centralizing, rationalizing and checking technical and administrative operations connected with withdrawals,

— facilitating and planning the disposal of withdrawn products for the purposes laid down in Article 21.

The competent national authorities shall be notified forthwith of the establishment of withdrawal centres. The Member State concerned shall forward to the Commission before the beginning of each marketing year a list of withdrawal centres and relevant information on the way they operate.

5. The Commission shall adopt, as and when required, detailed rules for the application of this Article in accordance with the procedure laid down in Article 33.'

3. Article 15a (3) and (4) are deleted.

(1) OJ No L 324, 27. 12. 1969, p. 21.
(2) OJ No L 118, 29. 4. 1989, p. 25.

Article 3

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

1. The following subparagraph is inserted after the third subparagraph of Article 16 (4):

   'As regards lemons:

   — the factor defined for "mixed sizings" shall be applied whatever the size,

   — the factor defined for products "in bulk in a means of transport" shall be applied whatever the form of packaging.'

2. The following paragraph is inserted in Article 18:

   '3a. In the case of citrus fruit, the financial compensation shall be paid to each producers' organization in respect only of withdrawn quantities not exceeding the following percentages of marketed production, including withdrawals:

   — 70 % for the 1990/91 marketing year,

   — 65 % for the 1991/92 marketing year,

   — 60 % for the 1992/93 marketing year,

   — 50 % for the 1993/94 marketing year,

   — 40 % from the 1994/95 marketing year.'

3. The following Article is inserted:

   'Article 19c

   1. Producers producing citrus fruit on Community territory shall declare the quantities of citrus fruit harvested on their holdings for each marketing year.

   2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 33.'

4. In Article 21 (1), point (c) of the first and second subparagraph is replaced by the following:

   '(c) in addition, for all products referred to in this paragraph, it may be decided in accordance with the procedure laid down in Article 33 to dispose of certain categories of such products to the processing industry on condition that there is no resulting distortion of competition for the industries concerned within the Community;'.

5. The following subparagraph is inserted after the first subparagraph of Article 21 (3):

   'Member States shall organize contacts between producers' organizations and establishments or charitable organizations which may be interested in using citrus fruit and apples withdrawn from the market within those States' territory with a view to one of the forms of free distribution referred to in paragraph 1 (a)'.

6. The following paragraph 3a is inserted in Article 21:

   '3a. The Commission shall defray, under conditions to be determined in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70, the costs of sorting and packaging connected with the free distribution of apples and citrus fruit where the latter is staggered under contractual agreements concluded between producers' organizations and establishments or charitable organizations as referred to in the second subparagraph of paragraph 3.

Article 4

This Regulation shall enter into force on the day of 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, 7 May 1990.

For the Council

The President

G. COLLINS