COUNCIL REGULATION (EEC) No 1203/90

of 7 May 1990

on temporary measures relating to production aid for processed tomato products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 89 (2) and Article 234 (3) thereof,

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 last amended by Regulation (EEC) No 1202/90 [2], and in particular Article 2 (2) thereof,

Having regard to the proposal from the Commission [3],

Having regard to the opinion of the European Parliament [4],

Having regard to the opinion of the Economic and Social Committee [5],

Whereas Article 2 (1) of Council Regulation (EEC) No 989/84 of 31 March 1984 introducing a system of guarantee thresholds for certain processed fruit and vegetable products [6], as amended by Regulation (EEC) No 2246/88 [7], provides that production aid is to be reduced where the threshold guarantee for processed tomato products is exceeded;

Whereas Council Regulation (EEC) No 2243/88 of 19 July 1988 on temporary measures relating to production aid for processed tomato products [8], as amended by Regulation (EEC) No 1126/89 [9], limits the granting of the aid for the 1988/89 and 1989/90 marketing years in producer Member States to certain quantities of fresh tomatoes intended to be processed;

Whereas the arrangements in force restricting the granting of the aid should continue to be maintained with certain adaptations in the light of experience gained, for a period limited to two marketing years to take account of the general situation of this production sector and pending the full integration of Portugal into the Community system; whereas the production 'quotas' should in particular be broken down between the processing undertakings on the basis of the total quantities which they processed in the last three marketing years;

Whereas the undertakings which started production after the beginning of the 1988/89 marketing year have only benefited partially from the production aid scheme; whereas, under the new scheme, they should be granted a quota based on a suitable reference period;

Whereas the Act of Accession of Spain and Portugal lays down the quantities of processed tomato products which may qualify for Community aid in the first four marketing years following accession in the case of Spain and in the first five marketing years following accession in the case of Portugal; whereas those quantities are given in Regulation (EEC) No 2243/88 for the 1988/89 and 1989/90 marketing years; whereas the quantities which may qualify for production aid in Spain and in Portugal should be increased to take account of the structural adaptations and adjustments of the sector to the new situation created by integration into the Community system;

Whereas, in order to permit some development in the production structures in the sector, a small percentage of the overall quantities allocated in each Member State should be reserved for undertakings which will start production during the 1990/91 and 1991/92 marketing years; whereas, in view of the limited quantities available, quantities should only be allocated to those undertakings presenting guarantees of efficiency and of the durability of their activities;

Whereas, during the period of application of the measures limiting the granting of production aid, provision should be made for any overrun in the guarantee threshold to be assessed on the basis of only those quantities actually qualifying for the production aid,

HAS ADOPTED THIS REGULATION:

Article 1

1. During the 1990/91 and 1991/92 marketing years, production aid granted to all processing undertakings in each Member State shall be limited to the quantities of processed tomato products obtained from the following quantities in tonnes of fresh tomatoes:

(1) OJ No L 49, 27. 2. 1986, p. 1.
(2) See page 66 of this Official Journal.
(3) OJ No C 49, 28. 2. 1990, p. 88.
(4) OJ No C 96, 17. 4. 1990.
(5) OJ No C 112, 7. 5. 1990, p. 34.
(6) OJ No L 103, 16. 4. 1984, p. 19.
(7) OJ No L 198, 26. 7. 1988, p. 20.
(8) OJ No L 198, 26. 7. 1988, p. 14.
(9) OJ No L 118, 29. 4. 1989, p. 31.

All undertakings located in	Tomato concentrate		Tinned whole peeled tomatoes		Other tomato products	
	1990/91	1991/92	1990/91	1991/92	1990/91	1991/92
Spain	500 000	550 000	219 000	240 000	148 050	177 050
France	278 691	278 691	73 628	73 628	40 087	40 087
Greece	967 003	967 003	25 000	25 000	21 593	21 593
Italy	1 655 000	1 655 000	1 185 000	1 185 000	453 998	453 998
Portugal	747 945	832 945	14 600	19 600	32 192	42 192

2. The quantities laid down in paragraph 1 shall, without prejudice to paragraphs 3, 4 and 5, be divided fairly by the Member States between the processing undertakings in proportion to the average quantities actually produced by each of them during the 1987/88, 1988/89 and 1989/90 marketing years.

On application by the undertaking concerned, the competent authorities of the Member State shall authorize one only of the following three transfer possibilities:

— a transfer of up to 25 % of quantities of peeled tomatoes, expressed in quantities of fresh tomatoes, to the quantities allocated for tomato concentrate and other tomato products,

— a transfer of up to 5 % of quantities of tomato concentrate, expressed in quantities of fresh tomatoes, to the quantities allocated for the other products,

— a transfer of up to 5 % of the quantities of other tomato products, expressed in quantities of fresh tomatoes, to the quantities allocated for concentrate.

3. For the granting of the aid, processing undertakings which started production in the 1988/89 marketing year shall be granted a quota calculated on the basis of the average quantities produced in the 1988/89 and 1989/90 marketing years.

4. Processing undertakings starting production in the 1989/90 marketing year shall be granted a quota corresponding to quantities processed during that marketing year.

5. Processing undertakings starting production of one of the finished tomato products mentioned in paragraph 1 during the 1990/91 marketing year shall qualify for production aid under the following conditions, provided that they present, to the satisfaction of the competent authorities, adequate guarantees as to the efficiency and durability of their activities.

The producer Member States shall reserve 2 % of the total quantities fixed for each group of finished products for the purposes of allocating quotas to the undertakings referred to in the first subparagraph. The quota allocated to each undertaking may not exceed its processing capacity, less 30 %.

6. Where all the quantities defined in paragraph 1 have not been allocated, the remainder shall be divided fairly between the processing undertakings referred to in paragraph 2, taking account in particular of those undertakings which use new production technology.

Article 2

In view of the grant of production aid for the 1991/92 marketing year:

1. in Article 1 (2) the reference to the three marketing years 1987/88, 1988/89 and 1989/90 shall be replaced by a reference to the three marketing years 1988/89, 1989/90 and 1990/91;

2. processing undertakings which began their activity during the 1989/90 marketing year shall benefit from a quota calculated on the basis of the average of the quantities produced during the 1989/90 and 1990/91 marketing years;

3. processing undertakings which began their activity during the 1990/91 marketing year shall benefit from a quota corresponding to the quantities processed during that marketing year;

4. producer Member States shall reserve 2 % of the total quantities fixed for each group of finished products for allocation to undertakings which start their production during the 1991/92 marketing year. The quota allocated to each undertaking may not exceed the processing capacity of the latter, reduced by 30 %;

5. any remainder shall be divided fairly in accordance with Article 1 (6).

Article 3

For the Community, with the exception of Portugal for the 1990/91 marketing year, and notwithstanding Article 2 (2)

of Regulation (EEC) No 989/84, production in the 1990/91 and 1991/92 marketing years to be used to determine the amount by which the guarantee threshold is exceeded shall be that qualifying for production aid.

Article 4

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 22 of Regulation (EEC) No 426/86. They shall include in particular rules applicable in the case of mergers and changes of ownership of undertakings.

Article 5

This Regulation shall enter into force on the third day following that 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