# COMMISSION REGULATION (EEC) No 2103/90

## of 23 July 1990

## laying down the conditons for taking over sorting and packing costs relating to the free distribution of apples and citrus fruit

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables (1), as last amended by Regulation (EEC) No 1193/90 (2), and in particular Article 21 (4) thereof,

Whereas Article 21 (3) and (3a) of Regulation (EEC) No 1035/72 provides for special measures to encourage the free distribution of apples and citrus fruit withdrawn from the market and in particular the taking over by the Community of the costs of sorting and packing such products; whereas the detailed rules for the application of those measures must be laid down;

Whereas the prior approval of the charitable organizations and bodies likely to carry out the free distribution of apples and citrus fruit withdrawn from the market and some publicity given to the list of such approved organizations and to the list of producer organizations likely to withdraw the products in question from the market may contribute towards facilitating disposal of such products;

Whereas the minimum requirements which the agreements referred to in Article 21 (3) of Regulation (EEC) No 1035/72 must fulfil and the maximum sorting and packing costs taken over by the Community must be laid down;

Whereas controls are necessary to ensure compliance with the Community provisions applicable;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fruit and Vegetables and the European Agricultural Guidance and Guarantee Fund Committe,

HAS ADOPTED THIS REGULATION:

### *Article 1*

1. The charitable associations or bodies referred to in the second subparagraph of Article 21 (3) of Regulation (EEC) No 1035/72 which are likely to use apples or citrus fruit withdrawn from the market with a view to one of the forms of free distribution referred to in Article 21 (1) of that Regulation shall be approved at their request by the competent authorities of the Member State in whose territory they have their registered place of business. Such approval shall be granted on presentation by the applicant of a commitment;

— to act in compliance with Article 21 of Regulation (EEC) No 1035/72,

— to keep specific accounts for the operations in question,

— to submit to checks by the Member State concerned.

2. The competent authorities of the Member States shall forward:

— the list of charitable associations or bodies approved in accordance with paragraph 1 to the producer organizations likely to withdraw apples and citrus fruit from the market under Regulation (EEC) No 1035/72,

— the list of producer organizations referred to in the first indent to the approved charitable associations or bodies.

3. The lists referred to in paragraph 2 shall be forwarded by the competent authorities of the Member States to the Commission, which shall publish them in the 'C' series of the *Official Journal of the European Communities.*

### *Article 2*

1. The agreements referred to in Article 21 (3a) of Regulation (EEC) No 1035/72 shall be notified to the competent national authorities as soon as they have been concluded. Such agreements may only be concluded with charitable associations or bodies approved in accordance with Article 1.

2. Before the commencement of each marketing year, the Member States may set a final date for the conclusion of agreements.

3. The Member States shall notify the Commission of the total quantities covered by the agreements concluded and, where appropriate, the final date referred to in paragraph 3.

### *Article 3*

Agreements shall be concluded for a single marketing year and shall state at least the probable quantity of each product, the expected frequency with which deliveries are to take place and the place at which the fruit is to be made available together with the obligation on the producer organization to make available products which have already been sized and packed in disposable packages of less than 25 kilograms and bearing the words in indelible, clearly visible letters 'May not be sold' and an estimate of the number of recipients per administrative unit.

(1) OJ No L 118, 20. 5. 1972, p. 1.
(2) OJ No L 119, 11. 5. 1990, p. 43.

*Article 4*

1. Where apples and/or citrus fruit are made available under an agreement, Article 2 of Commission Regulation (EEC) No 3587/86 [1], as last amended by Regulation (EEC) No 1940/90 [2], shall not apply.

2. The costs of sorting and packing apples and citrus fruit distributed free under an agreement shall be taken over up to a maximum of

— ECU 11,0/100 kilograms net for apples,

— ECU 13,0/100 kilograms net for citrus fruit.

*Article 5*

1. The Member States shall check the destination and use of the products in question. They shall check in particular:

— the compliance of the products with the provisions applicable on withdrawals,

— the end use of the products by the recipient organizations.

Checks of the end use of the products shall be done by the competent authorities in the Member State where the free distribution is carried out. Such checks shall consist of documentary checks and physical checks of the products. They may be carried out by sampling. They shall cover both producer organizations and the associations or bodies concerned. Each year they shall relate to at least 10 % of the quantities distributed.

2. Irregularities discovered attributed to the charitable associations or bodies concerned shall be penalized by withdrawal of the approval referred to in Article 1, without prejudice to penalties laid down by national law. Such withdrawal shall last a given period depending on the gravity of the irregularity.

The Member States shall notify the Commission of cases of irregularities recorded.

*Article 6*

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 July 1990.

*For the Commission*

Ray MAC SHARRY

*Member of the Commission*

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[1] OJ No L 334, 27. 11. 1986, p. 1.
[2] OJ No L 174, 7. 7. 1990, p. 33.