COMMISSION REGULATION (EEC) No 1558/91

of 7 June 1991

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 last amended by Regulation (EEC) No 2201/90 (2), and in particular Articles 3 (4), 5 (5) and 6 (a) (5) thereof,

Whereas Commission Regulation (EEC) No 1599/84 of 5 June 1984 laying down detailed rules for the application of the system of production aid for products processed from fruit and vegetables (3), as last amended by Regulation (EEC) No 396/90 (4), has frequently been amended; whereas, in the interests of clarity, and on the occasion of further amendments, the rules in question should be consolidated;

Whereas Regulation (EEC) No 426/86 introduced a sytem of production aid in respect of the products listed in Annex 1 A thereto which are obtained from fruit and vegetables harvested in the Community;

Whereas Council Regulation (EEC) No 1206/90 (5), as amended by Regulation (EEC) No 2202/90 (6), laid down general rules for the system of production aid for products processed from fruit and vegetables;

Whereas in order to ensure uniform application of the system the products which may attract aid should be defined;

Whereas to facilitate the functioning of the system each processor wishing to benefit from the aid system should be known to the authorities; whereas processors should communicate to the authorities the particulars necessary to ensure the correct functioning of the system;

Whereas the production aid system is based on contracts between producers and processors; whereas the particulars to be included in the contracts should be specified for the purposes of applying the aid system;

Whereas in order to ensure regular supplies to processors, such contracts should be concluded before a certain date; whereas, however, in order to ensure maximum effectiveness for this arrangement, contracting parties should be allowed to increase, by way of endorsement and within a certain limit, the quantities initially contracted for;

Whereas the tomato harvest depends on the size of the annual planting and can vary substantially from year to year; whereas the quantities available for processing may as a result be subject to fluctuation; 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 are planted;

Whereas, under Article 5 of Council Regulation (EEC) No 1676/85 of 11 June 1985 on the value of the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy (7), as last amended by Regulation (EEC) No 2205/90 (8), the operative event is considered to be the event whereby the economic objective of the operation is attained; whereas the event whereby production aid for processing products becomes due and payable occurs when processing is carried out; whereas, since processing contracts may be for a period of several months, it is difficult to determine the exact date on which each lot was processed; whereas, therefore, in order to ensure uniform application of the system of production aid, the conversion rate applicable at the beginning of the marketing year for each product should be used for calculating the amounts in national currency;

Whereas, because of the connection between production aid and the minimum price payable to the producer, the conversion rate to be applied to that price should be the same as that applicable for production aid;

Whereas the number of applications for aid to be submitted by the processors must be determined according to the processing pattern; whereas aid applications must include all particulars necessary for calculating the amount of aid to be paid to the processors; whereas, with

(1) OJ No L 49, 27. 2. 1986, p. 1.
(2) OJ No L 201, 31. 7. 1990, p. 1.
(3) OJ No L 152, 8. 6. 1984, p. 16.
(4) OJ No L 42, 16. 2. 1990, p. 47.
(5) OJ No L 119, 11. 5. 1990, p. 74.
(6) OJ No L 201, 31. 7. 1990, p. 4.
(7) OJ No L 164, 24. 6. 1985, p. 1.
(8) OJ No L 201, 31. 7. 1990, p. 9.

regard to dried grapes, in order to ensure the efficiency of the scheme of production aid provided for in Article 6 (a) of Regulation (EEC) No 426/86, and in order to take account of the special difficulties encountered in this sector, provisions should be made to allow processors to submit each month an aid application for the quantities of grapes actually processed ; whereas, however, aid should be paid to processors only for quantities purchased, without taking account of the quantities laid down in Article 1 of Regulation (EEC) No 1206/90 ;

Whereas in return for the obligations imposed on the processors of tomato-based products, a provisional payment of a part of the production aid should be provided for ; whereas the provisional payment should be made subject to the lodging of a security guaranteeing reimbursement in cases where the conditions for obtaining the provisional production aid were not observed ;

Whereas, in order to ensure correct application of the production aid system, processors must be obliged to keep appropriate records and be subject to any inspection and supervision measures considered necessary ;

Whereas the experience gained in managing the production aid scheme points to the need to strengthen both the provisions on supervision, by providing that the checks carried out must relate to a sufficiently representative number of aid applications, and the financial consequences incurred by processors who fail to comply with the rules, particularly as regards false declarations ;

Whereas the measures laid down in this Regulation are to replace those in Regulation (EEC) No 1599/84 and those in Commission Regulation (EEC) No 3688/90 of 19 October 1990 on applications for production aid for dried grapes [1] ; whereas, therefore, those Regulations must be repealed ;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Products Processed from Fruit and Vegetables,

HAS ADOPTED THIS REGULATION :

TITLE I

Definitions

Article 1

1. This Regulation lays down detailed rules for the application of the system of production aid provided for in Article 2 of Regulation (EEC) No 426/86.

2. For the purposes of the production aid system :

(a) 'peaches in syrup and/or in natural fruit juice' means whole peaches or pieces of peaches, without peel, having undergone a heat treatment, packed in hermetically sealed containers with a covering liquid of sugar syrup or natural fruit juice and falling within CN codes ex 2008 70 61, ex 2008 70 69, ex 2208 70 71, ex 2008 70 79, ex 2008 70 91 and ex 2008 70 99 ;

(b) 'Williams and Rocha pears in syrup and/or in natural fruit juice' means pears of the Williams or Rocha varieties, whole or in pieces, without peel, having undergone a heat treatment, packed in hermetically sealed containers with a covering liquid of sugar syrup or natural fruit juice and falling within CN codes ex 2008 40 51, ex 2008 40 59, ex 2008 40 71, ex 2008 40 79, ex 2008 40 91 and ex 2008 40 99 ;

(c) 'prunes' means : prunes obtained from dried plums of the variety 'prunes d'Ente' which have been suitably treated or processed and which are packed in appropriate containers, falling within CN code ex 0813 20 00 and ready to be offered for human consumption ;

(d) 'dried grapes' means : sultanas, currants and dried muscatel grapes which have been suitably treated or processed and which are packed in appropriate containers, falling within CN code ex 0806 20 and ready to be offered for human consumption ;

(e) 'dried figs' means : dried figs, including fig paste, which have been suitably treated or processed and which are packed in appropriate containers, falling within CN code ex 0804 20 90 and ready to be offered for human consumption ;

(f) 'unprocessed dried grapes' and 'unprocessed dried figs' means : dried grapes and dried figs which have not been treated in such a way that they are ready to be offered for human consumption ;

(g) 'whole peeled frozen tomatoes' means : peeled tomatoes, of the varieties San Marzano, Roma or similar, preserved by freezing, packed in appropriate containers, falling within CN code ex 0710 80 70, where not less than 90 % of the net weight of the tomatoes consists of whole tomatoes not showing any damage which substantially modifies their appearance. This percentage shall be determined after the tomatoes have been thawed ;

(h) 'non-whole frozen tomatoes' means : pieces of peeled tomatoes of the varieties San Marzano, Roma or similar, or round varieties which are as easy to peel as the said varieties, preserved by freezing, packed in appropriate containers, falling within CN code ex 0710 80 70 ;

[1] OJ No L 357, 20. 12. 1990, p. 25.

(i) 'whole peeled preserved tomatoes' means: peeled tomatoes of the varieties San Marzano, Roma or similar, having undergone a heat treatment, packed in hermetically sealed containers falling within CN code ex 2002 10 10 where not less than 65 % of the weight of the drained tomatoes consists of whole tomatoes which do not show damage which substantially modifies their appearance;

(k) 'non-whole peeled preserved tomatoes' means: peeled tomatoes in pieces or partially crushed of the varieties San Marzano, Roma or similar, or round varieties which are as easy to peel as the said varieties, having undergone a heat treatment, packed in hermetically sealed containers falling within CN code ex 2002 10 10;

(l) 'tomato flakes' means: flakes obtained by drying of tomatoes, packed in appropriate containers and falling within CN code ex 0712 90 30;

(m) 'tomato juice' means: juice obtained directly from fresh tomatoes, the juice being strained free from skins, pips and other coarse parts and having, where applicable after concentration, a dry weight content of less than 12 %, packed in hermetically sealed containers and falling within CN codes ex 2009 90 10, 2009 50 10 and 2009 50 90;

(n) 'tomato concentrate' means: the product obtained by concentrating tomato juice, packed in appropriate containers, having a dry weight of 12 % or more, and falling within CN codes ex 2002 90 30 and ex 2002 90 90. However, certain preparations of concentrate having a dry weight of not more than 18 % may contain not more than 4 % skin and pips by weight of product;

(o) 'sugar syrup' means: a liquid in which water is combined with sugars and which has a total sugar content determined after homogenization of not less than 14 % in respect of fruits in syrup;

(p) 'whole unpeeled preserved tomatoes' means: whole unpeeled tomatoes of the Roma or similar varieties or of the round varieties having undergone a heat treatment, packed in hermetically sealed containers, lightly brined (natural preparation), or in tomato purée (tomato purée or juice preparation), where not less than 65 % of the weight of the drained tomatoes consists of whole tomatoes not showing any damage which substantially modifies their appearance, and falling within CN code ex 2002 10 90;

(q) 'non-whole unpeeled preserved tomatoes' means: tomatoes in pieces or crushed of the Roma or similar varieties or of the round varieties, having been slightly strained, whether or not slightly concentrated, packed in hermetically sealed containers where the dry weight content is between 4,5 % and 14 %, and falling within CN code ex 2002 10 90;

(r) 'natural fruit juice' means: a covering liquid with a minimum of 10,5° Brix, consisting solely of juice extracted mechanically from fermentable but unfermented fruit, or of juice obtained from concentrated fruit juice by the restoration of the proportion of water extracted during concentration as defined in Council Directive 75/726/EEC (1), without added sugar.

3. The products referred to in paragraph 2 (a), (b) and (c) shall not include fruit preserved by sugar as defined in CN code 2006 00 that is subsequently packed with a covering liquid of sugar, nor shall they include fruit purées and other crushed fruit preparations.

4. Tomato juice and tomato concentrate to be added to 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 tomatoes, whether peeled or unpeeled, themselves.

TITLE II

Communication of information by processors

Article 2

Processors wishing to benefit from the aid system shall so inform the competent authorities of the Member States in writing not later than 15 January of the year preceding the marketing year within the aid is to be requested, giving all information requested by the Member States necessary for the management and the appropriate control of the aid system. Member States may decide:

(a) that the information shall be communicated by new processors only if they have already received the necessary information concerning other processors;

(b) that the information communicated shall cover one marketing year, a number of marketing years or an unlimited period.

Article 3

1. Processors shall inform the competent authorities of the week in which they begin processing each marketing year. Such information shall be communicated in writing to the competent authorities at least five working days before processing begins. The processor shall be deemed to have fulfilled this requirement if he furnishes proof that he has sent the said communication at least eight working days before the abovementioned deadline.

(1) OJ No L 311, 1. 12. 1975, p. 40.

2. Member States may, in exceptional cases and where there is good reason for doing so, accept communications which do not comply with paragraph 1, but in such cases no aid shall be granted for quantities already processed and for which the necessary control of the conditions for obtaining aid cannot be undertaken to the satisfaction of the competent authorities.

Article 4

The processors referred to in Article 2 shall each year communicate to the agency designated by the Member States :

(a) not later than 8 April :

(i) the quantity of unsold dried figs,

(ii) the quantity of unprocessed dried figs which were in stock on 1 April of that year, and

(iii) the quantity of dried figs produced during the current marketing year which were processed and sold before 1 April.

The products shall be broken down according to category ;

(b) not later than 8 June :

(i) the quantity of unsold dried grapes,

(ii) the quantity of unprocessed dried grapes which were in stock on 1 June of that year, and

(iii) the quantity of dried grapes produced during the current marketing year which were processed and sold before 1 June.

The products shall be broken down according to category ;

(c) not later than 8 June :

(i) the quantity of prunes, broken down into sold and unsold prunes,

(ii) the quantity of dried plums of the variety 'prunes d'Ente', which were in stock on 1 June of that year, and

(iii) the quantity of prunes produced during the current marketing year which were processed before 1 June ;

(d) not later than 20 January, the quantity of other finished products covered by the production aid system which were in stock on 31 December of the previous year.

The quantity shall be broken down according to products sold or not sold, products carrying a given rate of production aid and, if possible, according to whether or not the products have benefited from aid ;

(e) not later than 1 November :

(i) the quantity of fresh peaches purchased during the delivery period as defined in Article 8 (1) and entered in the records of raw materials ;

(ii) the quantity of fresh tomatoes purchased before 22 October of that year and entered in the records of raw materials as well as the quantity of fresh tomatoes expected to be deliverd during the remaining part of the delivery period as defined in Article 8 (1) ;

(iii) the quantity of fresh pears purchased before 22 October of that year and entered in the records of raw materials as well as the quantity of fresh pears expected to be delivered during the remaining part of the delivery period as defined in Article 8 (1) ;

(iv) the quantity of finished products obtained or estimated to be obtained from the quantity of fresh products referred to in (i), (ii) or (iii).

The quantity to be communicated under (i), (ii) and (iii) shall be the quantity used or intended to be used for processing into finished products and for which production aid is or will be claimed.

In the case of tomato-based products, the quantity to be communicated under (iv) shall be broken down into :

— tomato concentrate, converted into concentrate with a dry matter content by weight of 28 % or more but less than 30 %,

— preserved whole peeled tomatoes of the San Marzano variety,

— preserved whole peeled tomatoes of the Roma or similar varieties,

— other tomato-based products.

TITLE III

Preliminary contracts

Article 5

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 6 (3) (a) and (b) as well as the surface area planted and the estimated quantity of tomatoes to be harvested on that area.

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 9 (1) so as to reach that agency not later than 25 February of the year in which it was concluded.

The provisions of Article 9 (2) shall apply.

3. For the purposes of the production aid system, the processing contracts referred to in Article 6 (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 the one hand, a recognized processors' group or association of such groups and, on the other hand, a recognized producers' group or association of such groups, 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 cadastral references, or an indication recognized as equivalent by the inspection body, of the area on which each producer will harvest tomatoes.

TITLE IV

Processing contracts

Article 6

1. Any contract referred to in Article 3 of Regulation (EEC) No 426/86, hereinafter referred to as the 'processing contract', shall be concluded in writing. The processing contract may take the form of a commitment to supply between, on the one hand, one or more producers and, on the other hand, their recognized group or association, acting as processor.

2. For the purposes of the production aid system, 'producer' means any legal or natural person who grows on his holding the raw material intended for processing.

3. The processing contract must specify:

(a) the name and address of the producer or the relevant recognized producers' group or association;

(b) the name and address of the processor or the relevant processors' group or association;

(c) the quantities of raw material to which it relates;

(d) the schedule for delivery to the processor;

(e) the price to be paid to the other contracting party for the raw materials excluding, in particular, costs connected with packing, loading, transport, unloading and the payment of taxes. Any such amounts shall be indicated separately.

4. In respect of tomatoes the contract shall specify the finished products to be obtained. It may be specified that the tomatoes can be used for the manufacture of alternative processed tomato-based products but in such cases the contract shall also stipulate the price to be paid as a consequence of the possible uses of the tomatoes.

5. The competent authorities may, when the circumstances so justify, in particular when tomatoes have deteriorated after their being taken over by processors, allow processors to use the tomatoes for processing into a finished product different from that stipulated in the processing contract on condition that the price paid to the producer is at least equal to the minimum price fixed for tomatoes intended for processing into the finished product actually obtained and that the price indicated in the contract is respected.

6. Member States may adopt additional provisions in respect of processing contracts, in particular as to time limits, conditions for payment of the minimum price and damages payable where obligations under contracts are not fulfilled by processor or producer.

Article 7

In cases where the producer is also acting as processor, the processing contract shall be considered as concluded when a table has been drawn up indicating:

— the total extent, with cadastral references or an indication recognized as equivalent by the inspection body, of the area on which the raw material is being cultivated,

— an estimate of the total harvest,

— the quantity intended for processing,

— the schedule for delivery for processing.

Article 8

1. Processing contracts shall be concluded:

— before 10 June in respect of tomatoes to be delivered to the industry between 1 July and 15 November and in respect of peaches to be delivered to the industry between 1 July and 15 October,

— before 25 August in respect of Williams and Rocha pears to be delivered to the industry between 15 July and 15 December and in respect of dried plums derived from 'prunes d'Ente' to be delivered to the industry between 5 September and 31 December.

Member States may, however, advance the time limit for concluding contracts for tomatoes.

2. During the delivery periods referred to in paragraph 1, the contracting parties may decide to increase the quantites initially specified in the contract, by means of a written endorsment thereto.

Such endorsments shall be inserted not later than:

— 15 September in respect of tomatoes,

— 15 August in respect of peaches,

— 15 September in respect of Williams and Rocha pears,

— 15 November in respect of dried plums derived from 'prunes d'Ente'.

Endorsments shall not cover more than 20 % of the initial quantites envisaged in the contracts. However, for dried plums derived from 'prunes d'Ente' this limit shall be 30 %.

3. In cases where the minimum price to be paid to the producer for a specified product has not been published in the *Official Journal of the European Communities*, at least 21 days before the relevant date referred to in paragraph 1, the last day for conclusion of contracts for that product shall, notwithstanding paragraph 1, be the 15th day following the publication of the price.

4. Processing contracts in respect of dried grapes and dried figs may be concluded during the whole marketing year for each product. The monthly increase in the minimum price referred to in Article 4 (2) of Regulation (EEC) No 426/86 shall be determined according to the actual day of dispatch from the producer.

Article 9

1. A copy of each processing contract concluded and of any endorsements thereto shall be forwarded by the processor or his group or association to the agency designated by the Member State in which the raw materials are produced and, where applicable, to the agency of the Member State in which processing is to take place. The copy shall reach the competent authorities not later than 10 working days after the conclusion of the contract.

2. Member States may, in exceptional cases, accept processing contracts and endorsements reaching their authorities at a later date if there is good reason for doing so and where acceptance is consistent with the aim of the aid system and does not render controls impracticable.

TITLE V

Raw materials

Article 10

Raw materials deliverd to processors under processing contracts shall be of sound and fair mechantable quality and suitable for processing. In addition, unprocessed dried figs and dried grapes and dried plums derived from 'prunes d'Ente' shall comply with the criteria laid down in the relevant Community legislation.

TITLE VI

Conversion rates

Article 11

1. For the purposes of Article 5 of Regulation (EEC) No 1676/85, the operative event creating entitlement to production aid shall be considered as occuring on the first day of the marketing year for the product concerned.

2. The conversion rate to be applied to the minimum price, fixed in ecus, shall be the representative rate in force on the first day of the marketing year for the product concerned.

TITLE VII

Applications for aid

Article 12

1. The processor shall submit production aid applications to the agency designated by the Member State on whose territory the processing was carried out.

2. In respect of dried figs, the processor shall submit four aid applications for each marketing year:

(a) the first relating to products processed up to the end of November;

(b) the second relating to products processed up to the end of February;

(c) the third relating to products processed up to the end of May;

(d) the fourth relating to products processed or purchased during the remaining part of the marketing year concerned.

The aid applications referred to in (a), (b) and (c) shall be submitted within 30 days following expiry of the processing period and the aid application referred to in (d) shall be submitted not later than 31 October of the following marketing year.

In respect of dried grapes, the processor may submit each month an aid application for the quantites processed during the preceding month. Applications shall be submitted within 30 days following the end of the processing period.

3. In respect of prunes, the processor shall submit three aid applications for each marketing year:

(a) the first relating to products processed up to the end of December;

(b) the second relating to products processed up to the end of April, and

(c) the third relating to products processed or purchased during the remaining part of the marketing year concerned.

The aid applications referred to in (a) and (b) shall be submitted within 30 days following the end of the processing period and the third not later than 30 November of the following marketing year.

4. In respect of each of the other products carrying a given rate of aid, only one aid application shall be submitted each marketing year. The aid application must reach the competent authorities not later than 1 February of the marketing year concerned.

For tomato products a copy of the aid application as described in Article 14 (1) shall be forwarded by the processor to a central office designated by the Member State concerned unless the agency referred to under paragraph 1 processes all aid applications in that Member State.

5. Member States may, in exceptional cases and where there is good reason for doing so, accept aid applications after the time limits provided for by this Article if this can be done without unfavourable consequences for the production aid system.

Article 13

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

(a) the name and address of the applicant;

(b) the net weight of the finished products processed between 1 July and 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 equal to, or in excess of, the minimum price, and the references of the contracts to which it relates;

(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 12 (4) shall apply.

However, if the processor completes his production year before 31 October, he may lodge his application for payment of the provisional aid on 10 October at the earliest.

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 may not, however, 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 lodging 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 forfeit in whole if the processor does not submit the aid application referred to in Article 12 (4). In addition, the security shall be forfeit in proportion to the aid for 65 % of the quantity of finished products included in the provisional aid application, for which it is established, before the payment of production aid based on the application referred to in Article 14, that the quantity in question did not qualify for production aid on 31 October.

4. Without prejudice to paragraph 3, the security shall be released when production aid based on the aid application referred to in Article 14 has been paid by the competent authorities.

5. When this Article is applicable, the particulars and the documents referred to in Article 14 (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.

Article 14

1. Aid applications shall include, in particular:

(a) the name and address of the applicant;

(b) the net weight of the finished products broken down according to products for which a given rate of aid is applicable;

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

(d) a declaration in which the processor specifies that a price at least equal to the minimum price has been paid for the raw materials and that the finished products comply with the quality conditions laid down by the Community.

2. The aid application shall be accompanied by;

(a) the invoices for raw materials duly receipted by the other contracting party and showing that the price he obtained for them was at least equal to the minimum price, or

(b) in the case of supply commitments, a declaration by the producer that the processor paid or credited to him a price at least equal to the minimum price.

The abovementioned invoices or producers' declarations must indicate the reference numer of the contracts to which they relate.

3. In respect of dried grapes, the aid application shall be accompanied by a document prescribed by the competent authorities proving that the quantity referred to in Article 1 (2) of Regulation (EEC) No 1206/90 and which must not be processed for human consumption has been destroyed, processed fdor purposes other than human consumption or delivered to agencies approved by the Member States. In addition, the aid application for currants shall be accompanied by the written undertaking provided for in Article 6 (2) of Regulation (EEC) No 426/86.

TITLE VIII

Checks

Article 15

1. The processor shall keep records showing at least the following:

(a) the consignments of raw materials purchased and entering his premises each day, indicating which consignments are covered by processing contracts or endorsements and the number of any receipts which may be drawn up for these consignments;

(b) the weight of each consignment and the name and address of the other contracting party;

(c) the quantities of finished products obtained each day by processing the raw materials, quantities eligible for aid being shown separately;

(d) the quantities and prices for products leaving the processor's premises, consignment by consignment, indicating the consignee. The entries in the records may be made by reference to supporting documents when these contain the required particulars.

2. The processor shall retain proof of payment in respect of all raw materials pruchased under processing contracts or endorsements. The 3. The processor shall

be subjected to any measures of inspection or supervision considered necessary and shall keep such additional records as are prescribed by the national authorities to enable them to carry out any checks that they consider necessary. If the envisaged inspection or check cannot be carried out, for reasons attributable to the processor, despite a formal notification to allow the inspections or checks to be carried out, no aid shall be paid for that marketing year.

Article 16

1. Each marketing year the competent authorities shall examine the processors' records and carry out random on-the-spot checks on aid applications relating to at least 15 % of the quantities of finished products in question, to verify, in particular:

(a) that the finished products for which production aid may be claimed comply with the applicable quality standards. If a discrepancy is found between the analysis of the officially taken samples and the details entered in the processors' records, showing that the minimum Community quality standards have not been complied with, no aid shall be paid for the processing operation in question.

(b) that the quantities of raw material used in the processing correspond to those indicated in the aid application;

(c) that the price paid for the raw materials used in processing the products under (a) is at least equal to the minimum price; and

(d) that the raw material complies with the quality requirements.

2. Each marketing year the competent authorities shall also make random checks:

(a) at the processing plants, on the weight of the raw materials delivered;

(b) on the signatures on the invoices referred to in Article 14 (2) and on the correctness of these invoices, for example by bringing together the interested parties.

3. Verifications undertaken pursuant to this Article shall be without prejudice either to subsequent verification by the competent authorities or to the possible consequences of applying the provisions in force.

4. Member States shall take all necessary measures to ensure correct application of the production aid system and all necessary steps to prevent and punish fraud in respect thereof.

5. In cases where aid is paid or received wrongly, Member States shall recover the sums wrongly paid, plus interest over the period from the date of payment to the date of actual recovery. The interest rate applicable shall be that in force for similar recovery operations under national law.

Article 17

Where it is ascertained that the production aid for a product requested by a processor for a marketing year exceeds the amount due, that amount shall be reduced where the discrepancy is the result of false declarations or documents or of negligence on the part of the processor. The reduction shall be:

— 10 % if the excess is between 5 % and 10 % of the financial compensation payable,

— 40 % if the excess is between 10 % and 30 %.

Where the excess is greater than 30 %, no production aid shall be paid for the marketing year in question. In addition, the processor shall forfeit his right to production aid for the following marketing year.

If the production aid has already been paid, the Member State shall recover the amounts paid in excess of the financial compensation due as indicated above, without prejudice to the interest referred to in Article 16 (5).

TITLE IX

Communications to the Commission

Article 18

Each Member State shall notify the Commission :

(a) not later than 1 April each year of :

(i) the total quantity, expressed as net weight of finished products other than dried grapes, prunes and dried figs, covered by aid applications ;

(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) ;

(iii) the total quantity, expressed as net weight, of products referred to in (i) in stock on 31 December of the previous year broken down into sold and unsold products.

The total quantities shall be broken down according to products for which a given rate of production aid has been fixed ;

(b) not later than 15 June each year of :

(i) the total quantity of dried grapes, dried figs and prunes from the current marketing year which have been processed and sold before 1 June of that year ;

(ii) the total quantity of unprocessed dried grapes, dried figs and dried plums of the variety 'prunes d'Ente' and the total quantity of these products, processes and unsold, which were in stock on 1 June of that year.

The total quantities of the abovementioned products, whether processed or not, shall be broken down according to quality class ;

(c) not later than 1 December each year, of the estimated harvest of :

(i) sultanas,

(ii) currants,

(iii) dried muscatel grapes,

(iv) dried figs,

(v) the total quantity of fresh products referred to in Article 4 (e) used or intended to be used for processing into the finished products referred to in that point. The total quantity of fresh products shall be broken down by reference to the finished products to be obtained ;

(d) not later than 1 December each year of the estimated production during the current marketing year of :

(i) tomato concentrate ;

(ii) whole peeled preserved tomatoes broken down into :

— peeled tomatoes of the San Marzano variety, and

— peeled tomatoes of the Roma and similar varieties ;

(iii) other tomato-based products ;

(iv) peaches in syrup and/or in natural fruit juice ;

(v) Williams and Rocha pears in syrup and/or in natural fruit juice, for the current marketing year ;

(e) not later than 1 January of each year of :

(i) the total quantity of dried grapes, with separate figures for currants, sultanas and dried muscatel grapes, and of dried figs for which aid applications have been submitted ;

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

TITLE X

Final provisions

Article 19

Regulations (EEC) No 1599/84 and (EEC) No 3688/90 are hereby repealed. However, they shall remain applicable until the end of the 1990/91 marketing year for each product.

Article 20

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

It shall apply from the beginning of the 1991/92 marketing year for each product.

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

Done at Brussels, 7 June 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission