COMMISSION REGULATION (EEC) No 2036/91

of 11 July 1991

laying down detailed rules of application for the minimum price to be paid to the producer for certain types of tomato delivered for processing

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 1943/91 (2), and in particular Article 4 (4) thereof,

Whereas Regulation (EEC) No 426/86 lays down a system of production aid for the products listed in Annex I, Part A and obtained from fruit and vegetables harvested in the Community; whereas, from the 1991/1992 marketing year, the minimum price to be paid to producers for tomatoes used for the manufacture of tomato concentrate or other similar products shall be adjusted on the basis of the dry weight content of the fresh tomatoes;

Whereas Council Regulation (EEC) No 1206/90 of 7 May 1990 laying down general rules for the system of production aid for processed fruit and vegetables (3), as amended by Regulation (EEC) No 2202/90 (4), lays down that production aid for tomato flakes and juice is derived from aid calculated for tomato concentrate and that therefore the minimum price to be paid to producers for those products must retain an element of proportionality;

Whereas pursuant to the final subparagraph of Article 4 (1) of Regulation (EEC) No 426/86, the percentage dry weight content of the raw material for which the minimum price to be paid to the producer is fixed should be laid down; the percentage adjustment to be applied to the minimum price when the dry weight content is greater or less should also be fixed; whereas, for the purpose of applying this measure, given the manufacturing process for tomato-based products, tomatoes intended for processing and canning with their skin should be treated in the same way as fresh tomatoes intended for peeling;

Whereas, initially, the determination of the methods of analysis for establishing the dry weight content of the raw material should be left to the Member State and a Community method established at a later date;

Whereas, in practice, analysis of the dry weight content can only be carried out by the processor when the raw material is delivered; whereas, however in order to conserve the right of the producer to challenge this analysis, Member States must, in cases of disagreement, carry out a further analysis, the results of which must be binding on both parties;

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:

Article 1

1. The minimum price referred to in Article 4 (1) of Regulation (EEC) No 426/86 to be paid to the producer for fresh tomatoes used for the manufacture of:

(a) tomato concentrate;

(b) tomato flakes;

(c) tomato juice;

shall be fixed for fresh tomatoes with a dry weight content of between 4,8 % and 5,4 %. This minimum price shall be adjusted for each step above or below the limits laid down.

2. In order to determine the dry weight content, the processor shall carry out an analysis in the presence of the producer according to the method established in accordance with paragraph 3.

In case of disagreement, the content shall be determined by the inspection body designated by the Member State; the decision of that body shall be binding on both parties.

3. Producer Member States shall take all the steps necessary, in particular for:

— the establishment of the method of analysis;

— the nomination of the body responsible for inspection and, where appropriate, arbitration between the parties concerned;

— action against contractors committing breaches of the rules.

4. Member States shall communicate to the Commission, before 31 August 1991, the additional measures they have adopted for the application of this Regulation, and, before 31 March 1992, a summary report on the operation on those measures.

Article 2

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.

(1) OJ No L 49, 27. 2. 1986, p. 1.
(2) OJ No L 175, 4. 7. 1991, p. 1.
(3) OJ No L 119, 11. 5. 1990, p. 74.
(4) OJ No L 201, 31. 7. 1990, p. 4.

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

Done at Brussels, 11 July 1991.

For the Commission
Ray MAC SHARRY
Member of the Commission