COMMISSION REGULATION (EEC) No 2022/92

of 20 July 1992

on detailed rules of application for the minimum price to be paid to producers for certain tomatoes delivered for processing and repealing Regulation (EEC) No 2036/91

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 1569/92 (2), and in particular Article 4 (4) thereof,

Whereas Regulation (EEC) No 426/86 introduced production aid for products listed in Part A of Annex I thereto obtained from fruit and vegetables harvested in the Community; whereas from the 1992/93 marketing year the minimum price to be paid to growers of tomatoes for production of tomato concentrate and similar products is to vary according to the soluble 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 last amended by Regulation (EEC) No 346/91 (4), stipulated that the production aid for tomato flakes and tomato juice was to be derived from the aid calculated for tomato concentrate; whereas accordingly the minimum price to be paid to the grower for these products must retain an element of proportionality;

Whereas in application of the last subparagraph of Article 4 (1) of Regulation (EEC) No 426/86 the soluble dry weight content of the raw material for which the minimum price can be paid to the producer should be set; whereas the percentage adjustment to be made in the minimum price when the dry weight content is greater or less than the content laid down for payment of the minimum price should also be set; whereas for the purpose of applying this provision fresh tomatoes to be processed and preserved without their skins should be treated in the same way as tomatoes that are to be peeled;

Whereas the soluble dry weight content of the raw material should be determined by refractometry;

Whereas in practice analysis of the soluble dry weight content can only be done by the processor when the raw material is delivered; whereas in order to preserve the grower's right to challenge the analysis Member States must in cases of disagreement make an analysis the result of which will be binding;

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 mentioned in Article 4 (1) of Regulation (EEC) No 426/86 that is to be paid to the grower for fresh tomatoes used for processing into:

(a) tomato concentrate;

(b) tomato flakes;

(c) tomato juice;

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

2. The soluble dry weight content shall be determined by the processor, in the grower's presence by refractometry.

In cases of disagreement the content shall be determined by the agency or control commission designated by the Member State. Its findings shall be binding for both parties.

3. Producer Member States shall adopt all necessary provisions, covering in particular:

— appointment of the agency or commission responsible for surveillance and arbitration between parties,

— penalization of failure by contracting parties to comply with the provisions binding on them.

Article 2

Regulation (EEC) No 2036/91 is hereby repealed.

Article 3

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 1992/93 marketing year.

(1) OJ No L 49, 27. 2. 1986, p. 1.
(2) OJ No L 166, 20. 6. 1992, p. 5.
(3) OJ No L 119, 11. 5. 1990, p. 74.
(4) OJ No L 41, 14. 2. 1991, p. 19.

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

Done at Brussels, 20 July 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission