COMMISSION REGULATION (EEC) No 2165/92

of 30 July 1992

laying down detailed rules for the application of the specific measures for Madeira and the Azores as regards potatoes and endives

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1600/92 of 15 June 1992 concerning specific measures for the Azores and Madeira relating to certain agricultural products [1], and in particular Articles 10, 16 (3) and 27 (4) thereof,

Whereas, pursuant to Articles 2 and 3 of Council Regulation (EEC) No 1600/92, the forecast supply balance and amount of aid for supplies to Madeira of seed potatoes from the rest of the Community should be determined; whereas such aid should be determined with particular regard to the costs of supply from the world market and the situation resulting from the geographical location of Madeira;

Whereas Commission Regulation (EEC) No 1696/92 [2] lays down common detailed rules for the implementation of the specific arrangements for the supply of certain agricultural products to the Azores and Madeira; whereas additional detailed rules, which are adapted to commercial practices in force in the seed potato sector, governing in particular the period of validity of aid certificates and the amount of the securities guaranteeing fulfilment by operators of their obligations, should be laid down;

Whereas Article 16 of Regulation (EEC) No 1600/92 provides for aid per hectare to be granted in Madeira for the production of potatoes up to a cultivated and harvested area of 2 000 hectares per year; whereas Article 27 of that Regulation provides for aid per hectare to be granted in the Azores for the production of seed potatoes up to 200 hectares and aid for the production of endives up to 400 hectares;

Whereas, as regards measures to assist marketing of seed potatoes produced in the Azores, it is necessary to define the concept of an annual contract, to specify the basis of assessment to be adopted for the calculation of the aid and to lay down the detailed rules on apportionment of aid where the quantity of 3 000 tonnes laid down in Articles 27 (3) and 12 (1) of Regulation (EEC) No 1600/92 is exceeded;

Whereas the measures provided for by Regulation (EEC) No 1600/92 apply from 1 July 1992; whereas the measures under this Regulation should apply from the same date;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Seeds,

HAS ADOPTED THIS REGULATION:

TITLE I

Specific supply measures

Article 1

Pursuant to Articles 2 and 3 of Regulation (EEC) No 1600/92, the quantity of the forecast supply balance for seed potatoes falling within CN code ex 0701 10 00 which qualifies for exemption from the levy on direct imports into Madeira from third countries or for Community aid is fixed at 1 500 tonnes for the period 1 July 1992 to 30 June 1993.

Article 2

The aid provided for in Article 3 (2) of Regulation (EEC) No 1600/92 for the supply to Madeira of seed potatoes under the forecast supply balance and coming from the Community market is hereby fixed at ECU 3,50 per 100 kg.

Article 3

Portugal shall designate the authority competent for:

(a) the issue of the exemption certificate provided for in Article 3 (1) of Regulation (EEC) No 1696/92;

(b) the issue of the aid certificate provided for in Article 4 (1) of Regulation (EEC) No 1696/92;

(c) payment of the aid to the operators concerned.

Article 4

1. Applications for certificates shall be submitted to the competent authority during the first five working days of each month. An application shall be valid only if:

(a) the quantity does not exceed the maximum available quantity of seed potatoes published by Portugal;

(b) evidence is provided, before the deadline for the submission of applications, that the party concerned has lodged a security of ECU 1,75 per 100 kg.

[1] OJ No L 173, 27. 6. 1992, p. 1.
[2] OJ No L 179, 1. 7. 1992, p. 6.

2. Certificates shall be issued no later than the tenth working day of each month.

3. If certificates are issued for a quantity smaller than that applied for, the operator concerned may withdraw his application in writing within three working days from the issue of the certificate. In such a case the security relating to the certificate shall be released.

4. The maximum available quantity shall be published by the competent authority during the last week of the month preceding that in which the applications are submitted.

Article 5

Exemption certificates and aid certificates shall expire on the last day of the second month following that of their issue.

TITLE II

Aid for the production of ware potatotes, seed potatoes and endives

Article 6

1. The production aid referred to in Articles 16 and 27 (1) and (2) of Regulation (EEC) No 1600/92 shall be paid in respect of areas :

(a) which have been sown and had normal cultivation work carried out on them ;

(b) for which an application for aid has been submitted in accordance with Article 7, such application to be treated as equivalent to a declaration of the areas cultivated.

2. In the case of seed potatoes, payment of the aid shall also be conditional on the potatoes harvested having been certified in accordance with Commission Directive 66/403/EEC [1].

3. Where a crop fails to reach maturity, the competent Portuguese authorities may accept cases of *force majeure* and natural disasters having a major effect on the area farmed by the declarant as justifying maintenance of the entitlement to aid.

All cases of alleged *force majeure* or natural disasters shall be notified within five working days to the competent Portuguese authority. Evidence thereof shall be provided within one month from such notification.

Portugal shall notify the Commission of cases which it recognizes as constituting *force majeure* or natural disasters likely to justify maintenance of the entitlement to aid.

Article 7

1. Producers concerned shall submit an application for aid to the competent Portuguese agency before a date to be fixed by Portugal. This date shall be fixed in such way as to allow the competent authorities to carry out the necessary on-the-spot checks.

2. Applications for aid shall include at least the following particulars :

— the name, forenames and address of the applicant,

— the areas cultivated in hectares and in ares, the cadastral reference of such areas or an indication recognized as equivalent by the agency responsible for checking the areas,

— the product concerned.

3. Where the area for which aid is requested exceeds the maximum area as referred to in Articles 16 and 27 of Regulation (EEC) No 1600/92, the aid shall be granted to the applicant producers in proportion to the areas stated in the applications.

Article 8

Portugal shall take the necessary control measures, including the measuring of a minimum number of plots for which an aid application has been submitted. It shall determine the minimum number of plots to be checked and the criteria for their selection, and shall inform the Commission thereof.

Article 9

1. If the check reveals an excess of up to 10 % but of not more than one hectare in the area declared, aid shall be calculated on the basis of the area measured, less that excess.

2. If the excess exceeds the limits laid down in paragraph 1, the application for the year in question shall be rejected and the applicant shall be ineligible for aid in the following year.

3. If, for reasons attributable to the applicant, a check cannot be carried out, paragraph 2 shall apply, except in cases of *force majeure.* Grounds for *force majeure* shall be supplied in writing by the party concerned to the competent authorities within 10 days of the planned date of the check.

TITLE III

Aid for marketing of seed potatoes from the Azores under annual contracts

Article 10

1. For the purposes of Article 27 (3) of Regulation (EEC) No 1600/92, 'annual contract' means a contract by which a buyer, whether a natural or legal person established elsewhere in the Community, undertakes, before the beginning of the marketing period, to purchase all or part of the production of a single producer, producers' association or union in the Azores, with a view to marketing it outside the area of production.

2. Operators who intend to submit an application for aid shall send the annual contract to the competent authorities designated by Portugal before the start of the marketing period.

[1] OJ No 125, 11. 7. 1966, p. 2320/66.

The contract shall include at least the following particulars :

(a) the business names of the contracting parties and their places of establishment ;

(b) the variety of certified seed potatoes ;

(c) the quantities concerned ;

(d) the duration of the undertaking ;

(e) the timetable for deliveries ;

(f) the method of packaging and information relating to transport (conditions and costs) ;

(g) the exact delivery stage.

3. The competent authorities shall assess the contracts for conformity with the provisions of Articles 12 and 27 of Regulation (EEC) No 1600/92 and with this Regulation.

They shall verify that the contracts contain all the information specified in paragraph 2.

If necessary, they shall inform the operators that paragraph 6 will apply.

4. For the purpose of calculating the aid, the value of the marketed production, delivered to the destination area, shall be assessed in ecus on the basis of the annual contract, the specific transport documents and all supporting documents submitted in respect of the application for payment.

The value of the marketed production to be taken into account shall be that of a delivery at the first port or airport of unloading.

The authorities may request any additional information or evidence appropriate for determining the amount of the aid.

5. Applications for aid shall be submitted by buyers who have given an undertaking to market the product in the month following the contractual payment of the price or the delivery, if the latter follows the payment of the price.

Where the management of the aid scheme so requires, the competent authorities may fix specific deadlines for submission of annual contracts and aid applications.

6. Where, for a given product and for the Azores, the quantities for which aid is requested exceed the volume of 3 000 tonnes laid down in Articles 12 (1) and 27 (3) of Regulation (EEC) No 1600/92, the aid shall be paid to the applicant buyers in proportion to the quantities actually marketed under the annual contracts.

7. The additional aid provided for in Article 12 (4) of Regulation (EEC) No 1600/92 shall be paid on submission of the undertakings given by the partners to pool, for a period of not less than three years, the knowledge and know-how required to complete the joint enterprise. These undertakings shall contain a clause prohibiting termination of the contract before the end of the aforementioned three-year period. The latter period shall not begin before 1 July 1992.

In the event of a breach of the abovementioned undertakings, the buyer may not submit an application for aid for the marketing year concerned.

Article 11

1. Applications for aid for marketing shall be submitted, in the form laid down in the Annex, to the competent authorities designated by Portugal.

2. The applications shall be accompanied by invoices and all other supporting documents relating to the measures undertaken.

3. The competent authorities, having verified the applications for aid and the relevant supporting documents, shall pay the aid in the two months following the submission of the application.

TITLE IV

Final provisions

Article 12

1. The rate to be applied for converting the aid per hectare referred to in Article 6 into national currency shall be the agricultural conversion rate applicable on the last date for the submission of applications referred to in Article 7 (1).

2. The rate to be applied for determining and paying marketing aid shall be the representative market rate referred to in Article 3a of Commission Regulation (EEC) No 3152/85 [1] applicable on the first day the purchaser takes over the products.

Amounts expressed in the national currency of a non-member country shall be converted into the national currency of a Member State using the conversion rate applied to determine the value for customs purposes on the date referred to in the previous subparagraph.

Article 13

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

It shall apply from 1 July 1992.

[1] OJ No L 310, 21. 11. 1985, p. 1.

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

Done at Brussels, 30 July 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission

ANNEX

APPLICATION FOR AID UNDER ARTICLE 10

(marketing measures)

Product :

Marketing year : from ..... to .....

Business name of producer or producers' organization : .....

.....

Address for administrative purposes :
(Street, number, place, telephone, telex) : .....

.....

Business name of the natural or legal person established elsewhere in the Community :

.....

Administrative address : .....

.....

Bank and account number to which the aid is to be paid : .....

Legal relationship between the two parties (annual contract, association contract)

.....

To be completed by the Member State (for each product and marketing year)

	Amount (national currency)
Application received on :	
ELIGIBLE EXPENDITURE	
1. Quantities marketed :	
2. Value of the production marketed, delivered to destination area :	
3. Expenditure to be taken into consideration : following calculation of the value indicated at 2 above, on the basis of supporting documents :	
4. Reduction coefficient $\left\{ \frac{3\,000 \text{ tonnes}}{\text{(quantity actually marketed)}} \right\}$:	
5. Eligible expenditure (4 × 3) :	
6. Percentage rate of aid (10 % or 13 %) :	
7. Amount payable (5 × 6) :	