COMMISSION REGULATION (EEC) No 2311/92

of 31 July 1992

laying down detailed rules for the application of specific measures adopted in respect of fruit, vegetables, plants and flowers for the benefit of the Azores and Madeira

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 11 (5), 12 (5) and 13 (2) thereof,

Having regard to 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 [2], as last amended by Regulation (EEC) No 2205/90 [3], and in particular Article 12 thereof,

Whereas Regulation (EEC) No 1600/92 introduces an aid scheme for the implementation of programmes of initiatives for the benefit of the Azores and Madeira in respect of fruit, vegetables, plants and flowers and tea; whereas detailed rules should be adopted for the application of this scheme; whereas the detailed rules involve the specification of the works which may be included in the programmes of initiatives, the definition of the measures to be adopted as part of the technical assistance to producer groups, the procedure for accepting the programmes of initiatives and their monitoring and implementation;

Whereas the detailed rules relating to the undertaking of the economic analysis and forward study of the fruit and vegetable processing industry in the Azores and Madeira should be adopted;

Whereas, as regards aid measures for marketing, 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 adopt the detailed rules on apportionment of aid where the quantity of 3 000 tonnes for each product and for each of two regions as laid down in Article 12 (1) of Regulation (EEC) No 1600/92 is exceeded;

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

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the grant of Community aid for programmes of initiatives and for the grant of aid for marketing under annual contracts, as provided for in Articles 11 and 12 of Council Regulation (EEC) No 1600/92.

It also lays down general rules relating to the economic study on the processed fruit and vegetable industry.

TITLE I

Aid for programmes of initiatives

Article 2

The programmes of initiatives for the development of production and/or the improvement of the quality of the fresh products referred to in Article 11 of Regulation (EEC) No 1600/92 relate to one or more of the following measures:

— developing production, in particular by new plantings or new crops,

— varietal improvements to improve productivity and to bring about adjustments to environmental conditions and market demand;

— the adoption of cultivation techniques suited to the climatic and physical conditions in the region,

— the planting and cultivation of experimental crops in conjunction with research centres.

Article 3

The increase in aid provided for in Article 11 (3) of Regulation (EEC) No 1600/92 shall be paid where programmes of initiatives:

— are submitted by a producer group or organization recognized under Council Regulations (EEC) Nos 1360/78 [4] and (EEC) No 1035/72 [5] respectively, and

[1] OJ No L 173, 27. 6. 1992, p. 1.
[2] OJ No L 164, 24. 6. 1985, p. 1.
[3] OJ No L 201, 31. 7. 1990, p. 9.
[4] OJ No L 166, 23. 6. 1978, p. 1.
[5] OJ No L 118, 20. 5. 1972, p. 1.

— are drawn up and implemented with the assistance, or under the supervision, of technical specialists in the crops in question who are not members of the abovementioned groups or organizations. Assistance shall cover in particular one or more of the following objectives :

  — conversion of production,

  — selection of the most appropriate varieties,

  — cultivation techniques suitable for local crops and conditions.

Article 4

1. Proposals for programmes of initiatives shall be submitted each year to the services designated by the competent authorities, before a date to be set by the latter. They shall be submitted in accordance with Annex I hereto and shall be accompanied by all appropriate information requested.

2. The competent services shall ensure that :

— the programme of initiatives complies with the objectives of Regulation (EEC) No 1600/92 and with the provisions of this Regulation,

— the proposed programme displays economic coherence and technical quality and that the estimates and the financing plan, as well as the programming of its implementation, are all justified,

— the information given in the draft programme is correct.

The services shall carry out all appropriate checks, including on-site inspections where necessary.

3. The competent services shall decide to accept or reject the programmes within three months of the end of the period laid down for the submission of proposals. They may make approval conditional upon amendment of the proposal so that it conforms to Community rules and regulations. The decision may be made later than the above deadline where an additional appraisal is made by the authorities or where amendments are requested by them.

4. Each year, and at least 30 days before the end of the period specified in paragraph 3, the competent services shall send the Commission a summary sheet for each programme likely to be approved, in accordance with the outline given in Annex I. The Commission may ask for further information and make observations before the end of the period laid down for the approval or rejection of the programmes of initiatives.

5. The programme may be amended during implementation where such amendments can be justified for technical reasons, but amendments must not, however, be intended to extend the implementation phase originally provided for. The competent services shall take all appropriate measures to approve or reject the said amendments.

The approval or rejection procedure as laid down in paragraphs 3 and 4 shall be followed.

6. While the programme of initiatives is being implemented, the competent services shall verify on a regular basis the progress made in programme implementation, the conformity of the measures on a technical and financial level and the veracity of the supporting documents submitted. At least one on-the-spot check shall be carried out on each programme of initiatives during its implementation.

7. Each year the producers, producer groups or producers' organizations shall submit applications for assistance before a date stipulated by the competent services.

Article 5

Each year, and before 31 October at the latest, the competent services shall send the Commission a report summarizing the progress made in implementing the approved programmes and the results of the checks carried out and shall also provide the Commission with all appropriate information where difficulties of implementation arise which are liable to affect adversely the successful fulfilment of the commitments entered into by the operators for the purposes of Article 11 of Regulation (EEC) No 1600/92.

Article 6

Measures already in receipt of financial assistance or which are the subject of a request for assistance from the existing structural Funds shall not be eligible under this Regulation.

TITLE II

Study on the processed fruit and vegetable industry

Article 7

1. The competent authorities shall be responsible for awarding the study by means of an invitation to tender.

2. The draft invitation to tender, including the contract conditions, shall be sent to the Commission by the competent services. The Commission shall comment on the draft, where appropriate, within one month of its receipt.

3. The competent services shall forward the final study to the Commission, The latter shall make its comments known, where appropriate, within 45 days following receipt of the study.

4. Payment of the Community contribution shall be conditional upon :

— compliance with the provisions of Article 13 of Regulation (EEC) No 1600/92, the contract specifications and the comments made,

— payment of the contribution from Portugal.

TITLE III

Aid for marketing under annual contracts

Article 8

1. For the purposes of Article 12 of Regulation (EEC) No 1600/92, 'annual contract' shall mean a contract by which an operator, either a natural or legal person established elsewhere in the Community, undertakes, before the beginning of the marketing period for the product or products in question, to purchase all or part of the production of a single producer, producers' association or union in the Azores and Madeira, 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 Portuguese services before the start of the marketing period for the product or products in question.

The contract shall at the very least include the following information :

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

(b) the description of the products ;

(c) the quantities concerned ;

(d) the duration of the commitment ;

(e) the marketing schedule ;

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

(g) the exact delivery stage.

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

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

They shall remind operators of the possibility of the application of paragraph 6.

4. For the purpose of calculating the aid, the value of marketed production, delivered to the destination zone shall be evaluated in ecus on the basis of the annual contract, the relevent transport documents and any other supporting documents submitted to justify the application for payment.

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

The competent services may request any information or additional supporting documentation appropriate for calculating the aid.

5. Applications for aid shall be submitted by the buyer who has undertaken to market the product in the month following the end of the marketing period.

Where the management of the aid scheme so requires, the competent services may specify marketing periods or years for each product.

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

7. The increase in aid provided for in Article 12 (4) of Regulation (EEC) No 1600/92 shall be paid on presentation of the commitments entered into by the partners to pool, for a period of not less than three years, the knowledge and know-how required to achieve the objective of the joint venture. These commitments shall include a clause prohibiting cancellation of the contract before the end of the aforementioned three-year period. This period may not begin before 1 July 1992.

Where the aforementioned commitments are broken, the buyer may not submit an application for aid for the marketing year concerned.

TITLE IV

General provisions and financing

Article 9

1. Applications for Community aid for the programmes of initiatives and for marketing shall be submitted, in accordance with Annexes II and III, to the competent Portuguese services.

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

In the case of programmes of aid for programmes of initiatives, the invoices or supporting documents shall contain a reference to that part of the programme area to which the work instalments refer.

2. The competent services, having verified the applications for aid and the relative supporting documents, shall pay out, in the two months following the filing of the relevant application for aid, the contribution of the Member State and the Community contribution determined in accordance with Articles 11 and 12 of Regulation (EEC) No 1600/92. The contribution of the Member State concerned may not be paid out later than the Community contribution.

Article 10

1. The rate to be applied for converting the aid per hectare for the programmes of initiatives into national currency each year shall be the agricultural conversion rate in force on 1 January of the current year of implementation of the programme.

2. In the case of the payment for the study on the processed fruit and vegetable industry referred to in Article 7, the conversion rate to be applied shall be the representative market rate referred to in Article 3a of Commission Regulation (EEC) No 3152/85 [1] valid on the day the invitation to tender for the study is opened.

3. The rate to be applied for the calculation and payment of the marketing aid shall be the representative market rate referred to in Article 3a of Regulation (EEC) No 3152/85 applicable on the first day on which the products are taken over by the buyer.

Amounts expressed in the national currency of a third country shall be converted into the national currency of a Member State using the conversion rate to be applied for determining the customs value in force on the date referred to in the first subparagraph.

Article 11

1. Where aid has been paid out in error, the competent services shall recover the sums paid out, with interest applicable from the date on which the aid was paid out to the date on which it was actually recovered. The rate of interest to be applied shall be that in force for similar recovery operations under national law.

2. The aid recovered and, where appropriate, the interest shall be paid to the disbursing organisations or services and deducted by them from the expenditure financed by the European Agricultural Guidance and Guarantee Fund in proportion to the Community contribution.

Article 12

The competent authorities shall send the Commission, within three months of the entry into force of this Regulation, the additional detailed rules adopted for the application of Articles 11, 12 and 13 of Regulation (EEC) No 1600/92.

TITLE V

Final provisions

Article 13

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, 31 July 1992.

For the Commission

Ray MAC SHARRY

Member of the Commission

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

ANNEX I

DESCRIPTION OF THE PROGRAMME OF INITIATIVES

A. **Demarcation of the geographical area involved** and precise geographical identification of the parcels covered by the programme.

B. **Description of the position at the start of the programme as regards :**

1. *Production :*
   - — Number of holdings, cultivated area, yield per hectare, volume of production harvested. This information must be broken down by product.
   - — Technical infrastructure of the holdings.
2. *Technical assistance*

C. **Production potential — aims and prospective outlets**

D. **Programme aims in regard to :**

1. *The means of production :*
   - — development of production, in particular by new plantings or new crops,
   - — varietal improvements to increase productivity and to adjust to environmental conditions,
   - — adoption of cultivation techniques adapted to the climatic and physical conditions of the region,
   - — planting and cultivation of experimental crops in conjunction with research centres.
2. *Technical assistance* linked to production (conversion of production and cultivation techniques)

E. **Investments required**

1. Total cost of the plan, broken down by measure proposed.
2. Anticipated cost broken down by year of implementation.

F. **Expected time limit for completion and annual phasing of implementation** (over a minimum period of three years).

ANNEX II

APPLICATION FOR AID UNDER ARTICLE 4

(programme of initiatives)

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

Address for administrative purposes :

(street, number, locality, telephone and telex numbers) : .....

.....

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

Total area of the holding : .....

Reference year of the works, from : .....

to : .....

List of the works carried out during the reference year

Type of measure and supporting documents attached	Amount (national currency)
A. New crops or plantings	
1. Invoice No ..... dated	
2.	
3.	
B. Varietal improvements	
1. Invoice No ..... dated	
2.	
3.	
C. Adoption of farming techniques appropriate to the region	
1. Invoice No ..... dated	
2.	
3.	
D. Planting and cultivation of experimental crops	
1. Invoice No ..... dated	
2.	
3.	
Total	

To be completed by the Member State

	National currency	Number of ha	Unit cost per ha (national currency)	Conversion rate	Unit cost per ha (ECU)
1. Total expenditure — Year one : — Year two : — Year three :					
Total :					
2. Producers' contribution — Year one : — Year two : — Year three :					
Total :					
3. Member State's contribution — Year one : — Year two : — Year three :					
Total :					
4. Total contributions Producers and Member State :					
5. Community contributions — Year one : — Year two :					
Total :					
6. Maximum amount EC contributions :					500 cf 4
7. Definitive Community contribution :					

Increase in aid per hectare	Amount (national currency)
Provision of technical assistance for supervision and crop management 1. Invoice No ..... dated ..... 2. 3.	
Hectares involved : (minimum 2 ha)	
Annual amount to be paid ECU 100/ha × conversion rate	

ANNEX III

APPLICATION FOR AID UNDER ARTICLE 8

(marketing measures)

— Product :

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

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

.....

Address for administrative purposes :
(Street, number, locality, telephone and telex numbers) : .....

.....

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

.....

Address for administrative purposes : .....

.....

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

— Legal relationship between the two operators (annual contract, association contract)

.....

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

Application received on :	Amount (in national currency)
A. ELIGIBLE EXPENDITURE	
1. Qantities marketed :	
2. Value of the production marketed, delivered to destination zone :	
3. Expenditure to be taken into consideration : following calculation of the value indicated at point 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) :	