COMMISSION REGULATION (EC) No 1169/97

of 26 June 1997

laying down detailed rules for the application of Council Regulation (EC) No 2202/96 introducing a Community aid scheme for producers of certain citrus fruits

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits [1], and in particular Article 2 (2), Article 3 (4) and Articles 6 and 8 thereof,

Whereas Regulation (EC) No 2202/96 introduces an aid scheme for producer organizations which deliver for processing certain citrus fruits harvested in the Community and listed in Article 1 thereof;

Whereas the marketing years for citrus fruit should be defined with a view to ensuring that the scheme is applied uniformly;

Whereas, with a view to improving the way the scheme operates, the authorities should know of all producer organizations marketing the citrus production of their members, of members of other producer organizations and of individual producers which wish to qualify under the scheme; whereas processors who sign contracts with such producer organizations should also send the authorities the information necessary to ensure that the scheme operates properly;

Whereas the aid scheme for producers of certain citrus fruits is based on contracts between producer organizations granted recognition or preliminary recognition pursuant to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables [2] and processors; whereas producer organizations can also act as processors in certain cases; whereas the type and duration of contracts and the particulars to be included in them should be specified with a view to the application of the aid scheme;

Whereas contracts for each product listed in Article 1 of Regulation (EC) No 2202/96 must be concluded by a given date so that the producer organizations can plan and processors can be assured of regular supplies; whereas the parties to such contracts should nevertheless be authorized to change, by amendments to the contracts and subject to a ceiling, the quantities originally stipulated therein so that the scheme is as effective as possible;

Whereas there is a close link between the raw materials delivered for processing and the finished product obtained; whereas the raw materials should accordingly at least meet certain minimum requirements;

Whereas applications for aid or for advances on the aid for all products should include all the particulars needed for checking eligibility;

Whereas, with a view to ensuring that the aid scheme is properly applied, producer organizations and processors must forward the requisite information and must keep updated documentation suitable for the purposes of all inspections and controls deemed necessary;

Whereas the administation of the aid scheme makes it necessary for procedures to be laid down for physical and documentary checking of delivery and processing operations, for the checks to be required to cover a sufficiently representative number of applications for aid and advances and for certain penalties to be laid down for producer organizations and processors in the event of breaches of the regulations, in particular for false declarations and failure to process products delivered;

Whereas the measures provided for in this Regulation are to replace those laid down in Commission Regulation (EC) No 3338/93 of 3 December 1993 laying down detailes rules for the application of Council Regulations (EC) No 3119/93 and (EEC) No 1035/77 as regards measures to encourage the processing of certain citrus fruits and the marketing of products processed from lemons [3], as last amended by Regulation (EC) No 2251/96 [4]; whereas that Regulation should accordingly be repealed;

Whereas exceptional transitional measures should be taken for lemons and oranges delivered to processors at the beginning of the 1997/98 marketing year to facilitate a smooth switchover from the former system to the new scheme;

[1] OJ No L 297, 21. 11. 1996, p. 49.
[2] OJ No L 297, 21. 11. 1996, p. 1.
[3] OJ No L 299, 4. 12. 1993, p. 26.
[4] OJ No L 302, 26. 11. 1996, p. 17.

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

HAS ADOPTED THIS REGULATION:

CHAPTER I

Definitions and marketing years

Article 1

For the purposes of this Regulation:

(a) *individual producers* means producers of citrus fruit intended for processing within the meaning of Article 4 (1) of Regulation (EC) No 2202/96;

(b) *producer organizations* means producer organizations within the meaning of Articles 11 and 13 of Regulation (EC) No 2200/96 and producer organizations granted preliminary recognition in accordance with Article 14 thereof;

(c) *processor* means any processing enterprise operating for economic purposes and under its own responsibility one or more plants with facilities for manufacturing one or more of the products listed in Article 1 of Regulation (EC) No 2202/96, and any association of processing enterprises which is legally constituted and is recognized by a Member State.

Article 2

1. The marketing years for the purpose of Regulation (EC) No 2202/96, hereinafter referred to as the 'marketing years', shall run from:

(a) 1 October to 30 September for:

— sweet oranges,

— mandarins, clementines and satsumas,

— grapefruit and pomelos;

(b) 1 June to 31 May for lemons.

2. The aid to producer organizations delivering mandarins, clementines and satsumas shall only be granted on products delivered to the processing industry in the period 1 October to 30 June.

CHAPTER II

Contracts

Article 3

1. The contracts referred to in Article 2 (1) of Regulation (EC) No 2202/96 on which the aid scheme is based, hereinafter referred to as 'contracts', shall be concluded in writing. Separate contracts shall be concluded for each basic product listed in Article 1 of that Regulation and shall bear an identification number. They may take one of the following forms:

(a) a contract between a producer organization and a processor;

(b) a commitment to supply the fruit where the producer organization acts as a processor.

2. Contracts must cover:

(a) the whole marketing year in question in the case of contracts covering one marketing year;

(b) at least three marketing years in the case of multiannual contracts in accordance with Article 3 (2) (a) of Regulation (EC) No 2202/96.

In the case of clementines, separate contracts must be drawn up for each potential use, that is for juice or segments.

3. Contracts shall include in particular:

(a) the name and address of the producer organization signing the contract;

(b) the name and address of the processor;

(c) the quantity of raw materials to be delivered for processing; in the case of multiannual contracts, that quantity shall be broken down by marketing year;

(d) the schedule of deliveries to processors per delivery quarter from the start of the marketing year;

(e) the obligation on processors to process the quantities delivered under the contract in question;

(f) the price to be paid to the producer organization for the raw materials, which may vary by variety and/or delivery period; this price may only be paid by bank or postal transfer;

(g) compensation payable in the event of non-performance by either party of the contractual obligations, in particular as regards the obligation to deliver and to accept of the quantities stipulated.

4. In the case of contracts covering one marketing year, the price referred to in paragraph 3 (f) may be changed by common agreement between the parties by the written amendments referred to in Article 5 (2) but only for the additional quantities stipulated by those amendments.

5. Multiannual contracts may cover both the production of the members of the producer organization signing the contract and the production of members of other producer organizations where the second and third indents of Article 11 (1) (c) (3) of Regulation (EC) No 2200/96 are applied.

6. To qualify for the aid laid down in Table 2 of the Annex to Regulation (EC) No 2202/96, quantities delivered under multiannual contracts must be at least equal to the following per contract, product and marketing year:

— 300 tonnes for the 1997/98 marketing year,

— 500 tonnes for the 1998/99 marketing year,

— 750 tonnes for the 1999/2000 marketing year,

— 1 000 tonnes as from the 2000/01 marketing year.

7. In the case of multiannual contracts, the price referred to in paragraph 3 (f) per marketing year shall be established at the time the contract is signed. However, the price applicable to a given marketing year may be revised by common agreement between the parties by written amendment to the contract before 1 June of the marketing year in question in the case of lemons and before 1 November of the marketing year in question in the case of other products.

8. Member States may adopt additional provisions covering contracts, in particular as regards compensation payable by the processor or the producer organization in the event of non-performance of contractual obligations.

Article 4

Where producer organizations also act as processors, the contracts covering the production of their members shall be deemed to have been concluded only if and when the following particulars have been forwarded to the competent authority within the time limit laid down in Article 6:

(a) the total area on which the raw materials are grown;

(b) the estimated total harvest;

(c) the quantity intended for processing, broken down by type of contract;

(d) the schedule of deliveries referred to in Article 3 (3) (d);

(e) an undertaking by the producer organization to process the quantities delivered under the contract in question.

Article 5

1. Contracts shall be concluded at the latest by:

(a) 1 November for oranges, mandarins, clementines, satsumas, grapefruit and pomelos;

(b) 15 May for lemons.

2. In the case of contracts covering one marketing year, the quantities stipulated in the schedule of deliveries referred to in Article 3 (3) (d) may be altered by written amendment. Such amendments shall show the identification number of the contract to which they relate. They shall be concluded by no later than the 15th day of the month preceding the delivery quarter in question. The quantities to be delivered each delivery quarter as stipulated in such amendments may not differ by more than 40 % from those originally laid down in the contract for that quarter. The quantities delivered by the new members referred to in Article 8 (5) shall be included in those amendments.

3. In the case of multiannual contracts, the quantities stipulated for each marketing year as referred to in Article 3 (3) (c) may be altered by written amendment. Such amendments shall show the identification number of the contract to which they relate. They shall be concluded before 1 June of the marketing year in question in the case of lemons and before 1 November of the marketing year in question in the case of other products. The quantities to be delivered each marketing year as stipulated in such amendments may not differ by more than 40 % from those originally laid down in the contract for that marketing year. The quantities to be delivered in each delivery period shall be adjusted accordingly.

Article 6

1. The producer organizations shall forward a copy of each contract and of any amendments thereto to the body designated by the Member State in which the raw materials are to be harvested and, where applicable, to the body designated by the Member State where processing is to take palce. Such copies must reach the competent authorities no later than 10 working days after the conclusion of the contract or of any amendment thereto and no less than five working days before the start of deliveries.

In no case may the total quantity covered by all the contracts signed by a given producer organization exceed the production per product intended for processing as estimated by that producer organization pursuant to Article 8.

2. In the event of exceptional, duly justified circumstances, the Member States may accept contracts and amendments thereto that reach their authorities after the time limit laid down in paragraph 1, provided that such late arrival does not make controls impracticable.

CHAPTER III

Information to be provided

Article 7

1. No later than 30 days before the beginning of the marketing year, producer organizations wishing to receive the aid provided for in Article 3 of Regulation (EC) No 2202/96 and processors wishing to sign contracts with such producer organizations shall inform the body designated by the Member State in which the raw materials are to be harvested and, where applicable, the body designated by the Member State in which processing takes place. At the same time they shall forward the information required by the Member State in question for the administration and monitoring of the aid scheme. Such information shall in any case include the hourly extraction, pasteurization and concentration capacity of each processing unit.

Member States may decide that such information:

(a) is only to be given by new producer organizations or new processors where the necessary information on the others is already available;

(b) is to cover a single marketing year, several marketing years or an unlimited period.

2. At least five working days before the start of deliveries or processing, producer organizations and processors shall notify the competent authorities of the week in which deliveries and processing are to commence each marketing year. Producer organizations and processors shall be deemed to have discharged this obligation where they provide proof that they have forwarded that information at least eight working days before that time-limit.

3. In exceptional, duly justified cases, the Member States may accept notifications from producer organizations and processors after the time limit laid down in paragraph 2. However, in such cases, no aid shall be granted to producer organizations for quantities already delivered or in the course of delivery where the requisite checks on the conditions under which the aid is granted cannot be conducted to the satisfaction of the competent authorities.

Article 8

1. Producer organizations signing contracts shall forward the following information, broken down by product, to the body designated by the Member State in which the raw materials are to be harvested:

(a) the total area on which the products are grown, broken down by member producer, with the cadastral reference numbers on the parcels concerned or a reference recognized as equivalent by the supervisory body;

(b) the estimated total harvest;

(c) the estimated quantity intended for processing.

2. The information specified in paragraph 1 shall be provided by the producer organizations or individual producers in question to the producer organization signing the contract, which shall forward it to the body designated by the Member State, where producer organizations:

(a) market production intended for processing of members of other producer organizations pursuant to the second and third indents of Article 11 (1) (c) (3) of Regulation (EC) No 2200/96;

and/or

(b) pass on the benefit of the aid scheme to individual producers pursuant to Article 4 (1) of Regulation (EC) No 2202/96.

3. To qualify for the aid, the producer organizations and individual producers as referred to in paragraph 2 shall sign agreements with the producer organization signing the contract.

Such agreements shall cover all citrus production delivered for processing by the said producer organizations and the individual producers in question and must specify at least the following:

(a) the number of marketing years covered by the agreement,

(b) the quantities to be delivered for processing, broken down by producer, product and delivery period in accordance with Arricle 3 (3) (d),

(c) the consequences of failure to comply with the agreement.

4. No later than 15 days before the start of the marketing year in the case of lemons and no later than 30 days after the start of the marketing year in the case of other products, the information specified in paragraphs 1 and 2 and a copy of the agreements referred to in paragraph 3 shall be forwarded to the body designated by the Member State in which the raw materials are harvested.

5. If a producer joins a producer organization after the dates referred to in paragraph 4, the information mentioned in paragraphs 1 and 2, and if appropriate, the agreements referred to in paragraph 3, shall in the case of the new member be forwarded to the body referred to in paragraph 4 within 30 days of the date on which membership took effect.

CHAPTER IV

Raw materials

Article 9

Products delivered to processors by producer organizations under contracts must meet the minimum requirements laid down in the Annex.

Article 10

1. By noon on the preceding working day, the producer organizations shall notify each delivery to the body designated by the Member State where the raw materials are harvested and, where applicable, to the body designated by the Member State in which processing takes place. Such notifications shall specify in particular the quantity to be delivered, the precise identification of the means of transport used and the identification number of the contract under which delivery is made. Notifications shall be forwarded electronically and the recipient body shall keep a written record for at least three years.

The competent body may require further details which it deems necessary for the purposes of physical checks of deliveries.

Where there is a change in the information specified in the first subparagraph after its notification, the new information shall be notified on the same terms before the consignment leaves.

2. On acceptance at the processing plant of consignments delivered under contracts, a certificate of delivery shall be issued, specifying:

(a) the date and time of unloading;

(b) the precise identification of the means of transport used;

(c) the identification number of the contract to which the consignment relates;

(d) the gross and net weights of the consignment;

(e) net that the raw material complies with the minimum requirements laid down in the Annex.

Certificates of delivery shall be drawn up in four copies. They shall be signed by the processor or his representative and by the producer organization or its representative. Signatures shall be preceded by the words 'Agreed by'. Each certificate shall bear an identification number.

Both processors and producer organizations shall keep a copy of certificates of delivery. One copy shall be forwarded immediately by the producer organization to the bodies referred to in paragraph 1 for the purposes of controls.

3. Where part or all of a consignment belongs to producers as referred to in Article 8 (2) (a) and (b), the producer organization signing the contract shall forward a copy of the certificate provided for in paragraph 2 to each producer organization concerned and to the individual producers in question.

4. By no later than the 10th day of the following month, the producer organizations shall notify the quantity delivered each month, by consignment and product, to the body designated by the Member State in which the raw materials were harvested and, where applicable, to the body designated by the Member State in which processing takes place. Quantities delivered under contracts shall be broken down by contract and according to the corresponding aid.

Article 11

1. By no later than the 10th day of the following month, processors signing contracts with producer organizations shall notify the body designated by the Member State in which the raw materials were harvested and, where applicable, the body designated by the Member State in which processing takes place of the following in respect of each month, broken down by product:

(a) the quantity of product received by consignment and per contract and the quantity of products received otherwise than under contracts;

(b) the quantities of juice obtained, broken down by concentration in accordance with the Brix scale, specifying the quantities obtained from consignments delivered under contracts;

(c) the average juice yield, expressed in weight of raw material, and the concentration of the juice, expressed in degrees Brix;

(d) the quantities of segments obtained, specifying the quantities obtained from consignments delivered under contracts;

(e) the quantities of every other finished product and by-product obtained, specifying the quantities obtained from consignments delivered under contracts;

(f) the quantities of waste obtained and the use to which the waste is put, specifying the quantities obtained from consignments delivered under contracts.

The quantities shall be expressed in net weight.

Notifications shall be signed by the processor to certify their exactitude.

2. Within 45 days of completion of processing operations for the marketing year, the processors shall inform the body referred to in paragraph 1 of the following in respect of each product:

(a) the quantities received, broken down into finished products and by-products obtained;

(b) the quantities received under contracts, broken down by delivery period and type of contract, that is, either covering one marketing year or multiannual;

(c) the quantities received under contracts, broken down into finished products and by-products obtained;

(d) the quantities of each finished product and by-product obtained from the quantities referred to in point (a); in the case of juice, such quantities shall be broken down by concentration, expressed in degrees Brix;

(e) the quantities of each finished product and by-product obtained from the quantities referred to in point (c); in the case of juice, such quantities shall be broken down by concentration, expressed in degrees Brix;

(f) the quantities of each finished product and by-product in stock on completion of processing operations for the marketing year.

The quantities shall be expressed in net weight.

3. Where contracts are signed by associations of processors, the notifications in accordance with paragraph 1 and the information under paragraph 2 shall be forwarded in respect of each member of the association.

CHAPTER V

Aid applications

Article 12

Aid applications shall be submitted by the producer organization to the body designated by the Member State on whose territory the raw materials were harvested. Applications covering each marketing year shall be submitted by:

(a) 5 July of the following marketing year in the case of lemons;

(b) 15 August of the marketing year in progress in the case of mandarins, clementines and satsumas;

(c) 15 November of the following marketing year in the case of oranges, grapefruit and pomelos.

A single aid application may be submitted per marketing year for a given basic product. In the case of clementines, separate aid applications must be drawn up for each potential use, that is for juice or segments.

Article 13

Aid applications shall include in particular the following:

(a) the applicant's name and address;

(b) the identification numbers of the contracts under which the product is delivered, specifying whether the contracts relate to one or more marketing years;

(c) the quantity of product delivered under the contracts, including any amendments thereto, broken down by contract, delivery period and amount of aid;

(d) the proportion of the quantities referred to in point (c) on which an advance is paid pursuant to Article 14 and the amount of the advance received;

(e) the quantity of product delivered otherwise than under contracts during the marketing year, broken down by delivery period as provided for in Article 3 (3) (d);

(f) the average prices applying, on the one hand, to products delivered under contracts, distinguishing between multiannual contracts and contracts covering one marketing year, and, on the other hand, to other products delivered otherwise than under contracts;

(g) a declaration by the producer organization to the effect that products referred to in point (c) meet the minimum requirements laid down in the Annex.

Article 14

1. Producer organizations may submit applications, by product and delivery period, for advances on the aid in respect of oranges, mandarins, clementines, satsumas and lemons delivered under contracts.

Applications for advances may relate to one basic product only. In the case of clementines, separate applications for advances must be drawn up for each potential use, that is for juice or segments.

Applications for advances shall be submitted within 30 days of the end of the period concerned.

2. Advances shall be equal to 70 % of the amounts set out in the Annex to Regulation (EC) No 2202/96.

3. Applications for advances shall include at least the information specified in Article 13 (a), (b) and (g) and the quantity of product delivered under contracts and any amendments thereto during the delivery period in question. That quantity shall be broken down by contract and according to the amount of the corresponding aid.

4. Advances shall be paid, within 30 days of the date of submission of the application to the producer organization for the quantity delivered during the delivery period concerned.

5. Where it appears, on the basis of the notifications referred to in point (a) of the first subparagraph of Article 22 (1), that there is a risk that the processing thresholds fixed in Article 5 of Regulation (EC) No 2202/96 may be exceeded, the Commission may reduce the percentage laid down in paragraph 2 of this Article in accordance with the procedure provided for in Article 6 of Regulation (EC) No 2202/96.

Article 15

1. The aid or advance shall be paid by the competent body of the Member State in which the raw material was harvested once the supervisory body of the Member State in which processing takes place has established that the products covered by the application for the aid or the advance have been delivered to the processor.

Where processing takes place in another Member State, that Member State shall provide the Member State where the product is harvested with proof that the product has in fact been delivered.

No aid or advance shall be granted on quantities in respect of which the requisite checks on the conditions under which the aid is granted have not been conducted. In particular, no aid shall be paid before the information from the Commission to the Member States, as provided for in the second subparagraph of Article 22 (1), has been received and, if the processing thresholds are exceeded, before a decision has been taken under Article 6 of Regulation (EC) No 2202/96.

2. Within 15 working days following receipt of the aid or the advance, the producer organization shall pay in full by bank or postal transfer the amounts received to its members or, where the second and third indents of Article 11 (1) (c) (3) of Regulation (EC) No 2200/96 apply, to the members of the other producer organizations and/or to the individual producers concerned. In cases as provided for in Article 4 of this Regulation, such payments may be credited.

CHAPTER VI

Controls and penalties

Article 16

1. Producer organizations delivering products for processing shall keep records covering each product delivered. Such records shall contain at least the following:

(a) in the case of quantities delivered under multiannual contracts:

(i) the consignments delivered, by delivery day, and the identification number of the contract to which they relate,

(ii) the net weight of each consignment delivered and the identification number of the relevant delivery certificate;

(b) in the case of quantities delivered under contracts for one marketing year:

(i) the consignments delivered, by delivery day, and the identification number of the contract to which they relate,

(ii) the net weight of each consignment delivered and the identification number of the relevant delivery certificate,

(iii) the total quantities delivered, by delivery day, broken down in accordance with the aid applicable;

(c) in the case of quantities delivered otherwise than under contracts:

(i) the consignments delivered by delivery day and the name and address of the processor,

(ii) the net weight of each consignment delivered.

2. Producer organizations shall submit to all inspections and checks deemed necessary by the competent authorities and shall keep all additional records laid down by those authorities for the purposes of the checks they require.

3. The Member States may decide what form the records provided for in paragraphs 1 and 2 shall take.

Article 17

1. Processors shall keep records covering each product purchased. Such records shall contain at least the following:

(a) in the case of quantities purchased from producer organizations under contracts:

(i) the consignments received, by delivery day, and the identification number of the contract to which they relate,

(ii) the net weight of each consignment received, the identification number of the corresponding delivery certificate and the precise identification of the means of transport used;

(b) in the case of other quantities purchased:

(i) the consignments received, by delivery day, and the name and address of the seller,

(ii) the net weight of each consignment received;

(c) the quantities of juice obtained each day, broken down by concentration, expressed in degrees Brix, specifying the quantities obtained from consignments delivered under contracts;

(d) the quantities of segments obtained each day, specifying the quantities obtained from consignments delivered under contracts;

(e) the quantities of every other finished product and by-product obtained each day, specifying the quantities obtained from consignments delivered under contracts;

(f) the quantities of waste obtained each day and the uses to which such waste is put;

(g) the quantities of each finished product and by-product purchased by the processor each day, giving the name and address of the seller; in the case of juice, such quantities shall be broken down by concentration, expressed in degrees Brix;

(h) the quantities of each finished product and by-product leaving the processor's establishment each day, giving the name and address of the consignee; in the case of juice, such quantities shall be broken down by concentration, expressed in degrees Brix; such details may appear in the records as a reference to supporting documents existing elsewhere, provided that such documents contain the abovementioned particulars;

(i) the quantities of finished products and by-products in stock at the end of the marketing year, broken down by finished product and by-product.

The quantities shall be expressed in net weight.

2. As from the end of the processing year in question, processors shall keep proof of payment of all raw materials purchased under contracts or written amendments therto for five years. Processors shall also keep proof of payment or sale of all processed finished products and by-products purchased or sold for the five years.

3. Processors shall submit to all inspections and checks deemed necessary by the competent authorities and shall keep all additional records laid down by such authorities for the purpose of the checks they deem necessary.

4. The Member States may decide what form the records provided for in paragraphs 1 and 3 shall take.

Article 18

1. Member States shall take all the measures necessary to ensure compliance with this Regulation. To that end, and without prejudice to Title VI of Regulation (EC) No 2200/96, they shall in particular conduct the checks provided for in paragraphs 2 and 3 of this Article.

2. Physical and documentary checks shall be carried out on all producer organizations covering, for each product, marketing year and producer organization, at least 30 % of:

(a) the areas referred to in Article 8 (1) and (2);

(b) the agreements referred to in Article 8 (3);

(c) the payments referred to in Article 15;

(d) the quantities delivered for processing in each delivery period;

(e) applications for aid or advances.

The checks shall be designed in particular to verify that the following tally:

(a) the quantities of products delivered for processing under contracts and covered by delivery certificates as provided for in Article 10 (2) and those covered by each application for the aid or an advance; and

(b) the quantities of products delivered for processing under contracts and those delivered to producer organizations by their members, by members of other producer organizations where the second and third indents of Article 11 (1) (c) (3) of Regulation (EEC) No 2200/96 apply, and by individual producers where Article 4 of Regulation (EC) No 2202/96 applies;

3. Physical and documentary checks shall be carried out on all processors covering, for each product received, month and processor, at least 30 % of:

(a) the consignments received under each type of contract (for one or more marketing years); the checks shall cover at least the net weight of each consignment, the actual link with a contract, the delivery certificates as provided for in Article 10 (2), the precise identification of the means of transport used and compliance with the minimum requirements laid down in the Annex;

(b) each finished product and by-product obtained under contracts;

(c) each finished product and by-product obtained otherwise than under contracts;

(d) tranfers as provided for in Article 3 (3) (f).

Those checks shall be designed in particular to verify that the following tally:

(a) on the one hand, the invoices for the purchase and sale of finished products and by-products; and

(b) on the other hand, the quantities of products received by each processor, the quantities of finished products and by-products produced, the quantities of finished products and by-products purchased, and the quantities of finished products and by-products sold or in stock.

At least twice a year, the Member States shall conduct physical checks of stocks of products processed by the processor and of stocks of processed products purchased and shall carry out a reconciliation of the data thus obtained with those in the processor's records.

4. Member States may increase the frequency and percentage of checks laid down in paragraphs 2 and 3.

Article 19

1. Checks conducted pursuant to Article 18 shall not preclude any additional checks by the competent authorities or any consequences resulting from the application of national provisions.

2. Member States shall take all the measures necessary to ensure that the records are kept properly and that they tally with the general accounts of the producer organizations and of the processors.

3. Where checks reveal substantial irregularities, the competent authorities shall conduct additional checks during the marketing year in progress and increase the frequency of checks during the following marketing year.

Article 20

1. If the aid or the advance for a product applied for by a producer organization in respect of a marketing year or a delivery period is found to be greater than the amount due, the latter shall be reduced where the difference is the result of false declarations, false documents or serious negligence on the part of the producer organization. That reduction shall be equal to twice the difference, plus interest calculated on the period elapsing between payment and reimbursement of the amount unduly received by the recipient.

The interest rate shall be that applied by the European Monetary Institute to operations in ecus, as published in the 'C' series of the *Official Journal of the European Communities* and in force on the date of the undue payment, plus three percentage points.

2. Where paragraph 1 is applied and if the difference between the aid or advance actually paid and the aid or advance due exceeds 20 % of the aid or advance due, the recipient shall reimburse the total aid or advance paid, plus interest calculated in accordance with paragraph 1; if that difference exceeds 30 %, the producer organization shall also forfeit any entitlement to production aid in the following marketing year.

3. Amounts recovered and interest shall be paid to the competent paying agency and deducted from expediture financed by the European Agricultural Guidance and Guarantee Fund.

4. Member States shall take the measures necessary to ensure compliance with Article 15 (2). They shall make provision in particular for penalties against the officers of the producer organization commensurate with the seriousness of any irregularity.

5. Where the quantity of a product delivered under a multiannual contract for a marketing year is found to be less than the minimum quantity laid down in Article 3 (6), the corresponding aid under the multiannual contract shall be reduced by 50 % for the marketing year in question. The recipient shall reimburse the difference between the aid actually paid and the aid due, plus interest calculated in accordance with paragraph 1.

Where three multiannual contracts or more are affected at the same time by a failure to deliver the minimum quantity for a marketing year, the producer organization in question shall be barred from signing further multiannual contracts from the time such failure is observed. Depending on the seriousness of such failure, the Member State shall determine the duration of such a bar. It shall cover at least two marketing years. The first subparagraph shall apply to all contracts.

6. Where producer organizations commit irregularities on more than one occasion, Member States shall withdraw the producer organization's recognition or preliminary recognition in the case of producer groups granted preliminary recognition.

Article 21

1. Where in the course of a marketing year processors are found to have failed to process the total quantity of a product delivered to them under contracts, they shall be liable to a financial penalty. The latter shall be calculated as follows:

(a) where the difference between the quantity delivered and the quantity processed does not exceed 5 %, the penalty shall be equal to three times the amount obtained by multiplying 5 % of the total quantity of product delivered by the level of aid corresponding to the multiannual contract for the marketing year in question;

(b) where the difference falls between 5 % and 20 %, the penalty shall be equal to four times the amount obtained by multiplying 20 % of the total quantity of product delivered by the level of aid corresponding to the multiannual contract for the marketing year in question and the processor shall be barred from the scheme for the marketing year following that in which his failure to process is established;

(c) where the difference exceeds 20 %, the penalty shall be equal to five times the amount obtained by multiplying 50 % of the total quantity of product delivered by the level of aid corresponding to the multiannual contract for the marketing year in question and the processor shall be barred from the scheme for the three marketing years following that in which his failure to process is established.

2. The penalty referred to in paragraph 1 shall not be applied if the processor can prove to the satisfaction of the competent national authority, that the irregularities were not deliberate or the result of serious negligence.

CHAPTER VII

Communications to the Commission

Article 22

1. Each Member State shall notify to the Commission:

(a) the quantity of each product covered by contracts for the marketing year in progress, broken down by delivery period, at the latest by:

(i) 1 July in the case of lemons;

(ii) 1 December in the case of other products;

(b) the quantity of each product delivered for processing under Regulation (EC) No 2202/96, at the latest by:

(i) 15 July of the following marketing year in the case of lemons;

(ii) 1 September of the marketing year in progress in the case of mandarins, clementines and satsumas;

(iii) 1 December of the following marketing year in the case of oranges, grapefruit and pomelos.

On the basis of the information referred to in the first subparagraph, the Commission shall determine whether the processing thresholds referred to in Article 5 of Regulation (EC) No 2202/96 have been complied with or exceeded. Member States shall be immediately informed of the results of this check. A decision shall be taken on the financial consequences of exceeding the thresholds in accordance with Article 6 of Regulation (EC) No 2202/96.

2. In respect of each product, at the latest by 1 January of the following marketing year, each Member State concerned shall communicate to the Commission:

(a) the quantities received by processors, broken down by finished product and by-product obtained;

(b) the quantities received by processors under contracts, broken down by delivery period and type of contract, that is, either covering one marketing year or multi-annual;

(c) the quantities received by processors under contracts, broken down by finished product and by-product obtained;

(d) the quantities of each finished product and by-product obtained from the quantities referred to in (a); in the case of juice, such quantities shall be broken down by concentration, expressed in degrees Brix;

(e) the quantities of each finished product and by-product obtained from the quantities referred to in (c); in the case of juice, such quantities shall be broken down by concentration, expressed in degrees Brix;

(f) the quantities of each finished product and by-product in stock at the end of the marketing year;

(g) the quantities covered by contracts and delivered, by type of contract, that is, either covering one marketing year or multiannual;

(h) expenditure, expressed in national currency, on aid paid to producer organizations.

The quantities shall be expressed in net weight.

CHAPTER VIII

Transitional and final provisions

Article 23

1. As regards grapefruit and pomelos, the exceeding of the processing thresholds laid down in Article 5 (2) of Regulation (EC) No 2202/96 for the 1997/98 and 1998/99 marketing years shall be assessed on the basis of:

(a) the quantities processed during the 1997/98 marketing year under Regulation (EC) No 2202/96 for the 1997/98 marketing year;

(b) the average quantities processed during the 1997/98 and 1998/99 marketing years under Regulation (EC) No 2202/96 for the 1998/99 marketing year.

2. By way of an exception in the case of the 1997/98 marketing year:

(a) operations referred to in Article 5 (1), Article 7 (1) and Article 8 shall be carried out at the latest by:

(i) 1 December for lemons;

(ii) 1 February for oranges;

(b) notifications as provided for in Article 22 (1) (a) shall forwarded at the latest by:

(i) 15 January for lemons;

(ii) 15 March for oranges;

(c) advances on aid as provided for in Article 14 (4) for the first and second delivery periods may not be paid before:

(i) 1 March for lemons;

(ii) 15 April for oranges.

Member States shall take the measures necessary to facilitate and monitor such operations.

Article 24

Regulation (EC) No 3338/93 is hereby repealed.

Article 25

This Regulation shall enter into force on the third day following that of 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, 26 June 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

MINIMUM REQUIREMENTS AS PROVIDED FOR IN ARTICLE 9

Products delivered for processing must:

1. be whole, of sound and fair merchantable quality and suitable for processing. Products affected by rot are excluded;

2. comply with the following minimum values:

(a) Products for processing into juice

	Yield in juice	Degrees Brix (1)
Oranges	30 %	10°
Mandarins	23 %	10°
Clementines	25 %	10°
Grapefruit and pomelos	22 %	8°
Lemons	20 %	7°

(1) Refractometric method.

(b) Products for processing into segments

	Yield in juice	Degrees Brix (1)
Clementines	33 %	10°
Satsumas	33 %	10°

(1) Refractometric method.

For processing into juice, clementines and satsumas must be at least 45 mm in size.