COMMISSION REGULATION (EC) No 1474/97

of 28 July 1997

laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards the flat-rate aid for hazelnuts harvested during the 1997/98, 1998/99 and 1999/2000 marketing years

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables [1], and in particular Article 55 thereof,

Whereas, in order to deal with the particularly difficult market conditions in the hazelnut sector, flat-rate aid is granted for the 1997/98, 1998/99 and 1999/2000 marketing years;

Whereas, in accordance with the objectives of the common organization of the markets, that aid is granted to producer organizations recognized under Council Regulation (EEC) No 1035/72 [2], as last amended by Commission Regulation (EC) No 1363/95 [3], or Regulation (EC) No 2200/96; whereas, to enhance the results produced by the specific measures already implemented, that aid is granted only on condition that the aforementioned producer organizations implement in 1997 either a quality improvement plan within the meaning of Article 14d of Regulation (EEC) No 1035/72 or an operational programme within the meaning of Commission Regulation (EC) No 411/97 [4], as amended by Regulation (EC) No 1119/97 [5];

Whereas, since the marketing year for hazelnuts runs from 1 September to 31 August, it should be left to the producer organizations to choose when they lodge their applications;

Whereas since the aid is granted to the producers of hazelnuts, the producer organization must pay the amount received in full;

Whereas, for the sake of the effectiveness of the system of flat-rate aid, procedures should be laid down for checks and, where undue payments are made, penalties;

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:

Article 1

1. The flat-rate aid of ECU 15 per 100 kilograms referred to in Article 55 of Regulation (EC) No 2200/96 shall be granted to producer organizations:

— recognized pursuant to Regulation (EEC) No 1035/72 which are implementing a quality and marketing improvement plan within the meaning of Title II (a) of Regulation (EEC) No 1035/72 and/or implement in 1997 a plan of action within the meaning of Regulation (EC) No 411/97,

— recognized pursuant to Regulation (EC) No 2200/96 which implement in 1997 an operational programme within the meaning of Regulation (EC) No 411/97 in 1997.

2. To qualify for this aid, producer organizations must be recognized in respect of their production of hazelnuts.

Article 2

1. The aid referred to in Article 1 shall be allocated for hazelnuts in their shells falling within CN code 0802 21 00, of sound, fair and merchantable quality produced by members of the producer organization during each of the 1997/98, 1998/99 and 1999/2000 marketing years delivered to the producer organization and taken over by that organization.

2. 'Members of the producer organization' shall mean members belonging to the producer organization at the beginning of the marketing year concerned.

3. The hazelnut marketing year shall begin on 1 September and finish on 31 August.

Article 3

1. Producer organizations shall submit an aid application to the competent authorities not later than 30 September following the marketing year in question for quantities produced during that marketing year, accompanied by supporting documentation.

2. Member States shall pay the producer organizations within two months from the date of submission of the aid application.

[1] OJ No L 297, 21. 11. 1996, p. 1.
[2] OJ No L 118, 20. 5. 1972, p. 1.
[3] OJ No L 132, 16. 6. 1995, p. 8.
[4] OJ No L 62, 4. 3. 1997, p. 9.
[5] OJ No L 163, 20. 6. 1997, p. 11.

3. The aid received by the producer organization shall be paid within 15 days in full to the producers in proportion to the quantities delivered by the producers.

The producer organization may, however, retain a maximum of 2 % of the value of the aid to cover administrative costs directly relating to this measure.

Article 4

1. Member States shall carry out checks on producer organization papers and supporting documentation and on-the-spot checks to ensure that the information submitted is correct.

2. These checks shall be made annually on all the producer organizations which have applied for Community aid under this Regulation.

The checks must cover producer organization accounts as well as the situation regarding hazelnut stocks.

The checks may be carried out at the same time as or combined with checks already provided for under Commission Regulations (EEC) No 2159/89 [1] and (EC) No 411/97.

3. Member States shall ensure compliance with the conditions laid down in Article 3 (1) and (2) and that the information provided by the producer organizations when they submit their aid application is consistent with the data submitted in the improvement plans and/or operational programme or plan of action referred to in the second indent of Article 1.

Article 5

1. The beneficiary of any undue payment shall reimburse twice the amount unduly paid, increased by an interest rate calculated as a function of the period between the payment of the aid and reimbursement by the beneficiary in cases where a check carried out pursuant to Article 4 shows that the quantities of hazelnuts actually harvested as defined in Article 3 (1):

(a) are smaller than those indicated in the aid application;

(b) include hazelnuts from producers not eligible under this Regulation.

However, the penalty referred to in the first subparagraph shall not apply where the beneficiary proves to the satisfaction of the competent national authority that the irregularities committed are not intentional or due to serious negligence on his part. In such cases, the beneficiary shall pay only the undue amount paid plus interest.

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

2. Where the difference between the financial contribution actually paid and the contribution due is greater than 20 % of the financial contribution due, the beneficiary shall repay the Community financial contribution paid to him in full, increased by the interest referred to in paragraph 1.

3. The amounts recovered and the interest thereon shall be paid to the competent paying agency and deducted from the expenditure financed by the European Agricultural Guidance and Guarantee Fund.

4. Where a false declaration is made deliberately or through grave negligence, the producer organization concerned shall be disqualified for the aid provided for under this Regulation.

5. Paragraphs 1 to 4 shall apply without prejudice to other penalties to be applied under Article 48 of Regulation (EC) No 2200/96.

Article 6

This Regulation shall enter into force on the seventh 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, 28 July 1997.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ No L 207, 19. 7. 1989, p. 19.