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COMMISSION REGULATION (EC) No 659/97

of 16 April 1997

laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards intervention arrangements in the fruit and vegetables sector

(OJ L 100, 17.4.1997, p. 22)

Amended by:

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		No	page	date
►**M1**	Commission Regulation (EC) No 1946/97 of 6 October 1997	L 274	4	7.10.1997
►**M2**	Commission Regulation (EC) No 1490/98 of 13 July 1998	L 196	7	14.7.1998
►**M3**	Commission Regulation (EC) No 729/1999 of 7 April 1999	L 93	11	8.4.1999
►**M4**	Commission Regulation (EC) No 398/2000 of 22 February 2000	L 50	7	23.2.2000
►**M5**	Commission Regulation (EC) No 1135/2001 of 8 June 2001	L 154	9	9.6.2001

Corrected by:

►**C1** Corrigendum, OJ L 123, 15.5.1997, p. 25 (659/97)

NB: This consolidated version contains references to the European unit of account and/or the ecu, which from 1 January 1999 should be understood as references to the euro — Council Regulation (EEC) No 3308/80 (OJ L 345, 20.12.1980, p. 1) and Council Regulation (EC) No 1103/97 (OJ L 162, 19.6.1997, p. 1).

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COMMISSION REGULATION (EC) No 659/97

of 16 April 1997

laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards intervention arrangements in the fruit and vegetables sector

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 Articles 30 (6), 48 and 57 thereof,

Whereas Title IV of Regulation (EC) No 2200/96 establishes the intervention arrangements for the products referred to in Article 1 (2) thereof; whereas the detailed rules of application must therefore be laid down;

Whereas, in relation to products, the terms 'not put up for sale' and 'withdrawn from the market' should be treated as equivalent and should be included in a single definition; whereas it should also be clarified that the provisions on packaging requirements do not apply to the products withdrawn from the market;

Whereas the marketing years for the products listed in Annex II to Regulation (EC) No 2200/96 must be established;

Whereas, to apply the limits laid down in Article 23 and 24 of Regulation (EC) No 2200/96, the 'marketed quantity' of a given product marketed by a producer organization must be defined, taking account of the production actually disposed of by the producer organization in question, the production from other producer organizations and the production of producers not affiliated to any producer organization;

Whereas Article 28 of Regulation (EC) No 2200/96 requires Member States to notify the Commission of the prices recorded on representative producer markets for certain products and for certain periods; whereas a list of those markets and of the products in question should therefore be drawn up;

Whereas Article 26 of Regulation (EC) No 2200/96 establishes the Community withdrawal compensation for the products listed in Annex II to that Regulation; whereas a system should be introduced for paying this compensation in such a way as to ensure that the limits laid down in Article 23 of Regulation (EC) No 2200/96 are complied with at all times;

Whereas, to prevent irregularities in applying the scheme and to ensure its transparency, the producer organizations must notify the responsible monitoring authorities in advance of each withdrawal; whereas, in the absence of this notification, the product can be disposed of only after authorization from the Member State; whereas, furthermore, a communications system for the producer organizations and the Member States should be set up;

Whereas, for the implementation of Article 25 of Regulation (EC) No 2200/96, the time limits should be laid down for presenting the measures taken by the Member States to ensure environmentally sound practice in the withdrawal operations;

Whereas the first, second and third indents of point (a) of Article 30 (1) of Regulation (EC) No 2200/96 provide that the fruit and vegetables withdrawn from the market in accordance with Article 23 (1) and which remain unsold may be distributed free, both within and outside the Community, as humanitarian aid to certain needy categories of the population through charitable organizations; whereas the charitable organizations should be approved beforehand;

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[1] OJ No L 297, 21. 11. 1996, p. 1.

▼B

Whereas, in the case of free distribution of fruit and vegetables withdrawn from the market, the transport costs are to be borne by the Community pursuant to Article 30 (6) of Regulation (EC) No 2200/96; whereas it must be stipulated that those costs must be paid to the consignor who has borne the cost of transport; whereas flat rates should be laid down for the defrayal of such costs;

Whereas, in the case of free distribution of apples and citrus fruits withdrawn from the market, the actual costs of sorting and packaging may be defrayed by the Community pursuant to Article 30 (6) of Regulation (EC) No 2200/96, up to a specific limit; whereas, to qualify for this measure, the charitable organizations and the producer organizations must conclude contractual agreements; whereas provisions governing such agreements should be laid down;

Whereas the procedures for the physical and documentary monitoring of the intervention and free distribution operations must be laid down; whereas, in cases of infringement, deterrent penalties that are in line with the seriousness of the offence should be stipulated; whereas the monitoring operations must cover the producer organizations and charitable organizations involved;

Whereas, for the 1997 marketing year and as a transitional measure, producer organizations which have submitted an operational programme in accordance with Commission Regulation (EC) No 411/97 ([1]) should be allowed to supplement the Community withdrawal compensation;

Whereas it is necessary to repeal Commission Regulation (EEC) No 3587/86 ([2]), as last amended by Regulation (EC) No 1363/95 ([3]), Commission Regulation (EEC) No 827/90 ([4]), as last amended by Regulation (EC) No 771/95 ([5]), Commission Regulation (EEC) No 2103/90 ([6]), as amended by Regulation (EC) No 1363/95, Regulation (EEC) No 2276/92 ([7]), as last amended by Regulation (EC) No 1363/95, and Commission Regulation (EC) No 113/97 ([8]), whose provisions have become obsolete or are to be replaced by this Regulation;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fresh Fruit and Vegetables and the Committee of the European Agricultural Guidance and Guarantee Fund,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Intervention arrangements

Article 1

This Regulation lays down the detailed rules for the application of the intervention arrangements provided for in Title IV of Regulation (EC) No 2200/96 and applies to the products referred to in Article 1 (2) thereof.

Article 2

1. For the purposes of this Regulation, products ‘withdrawn from the market’ and ‘not put up for sale’ mean products which are not sold via a producer organization, in accordance with the intervention arrangements referred to in Regulation (EC) No 2200/96.

([1]) OJ No L 62, 4. 3. 1997, p. 9.
([2]) OJ No L 334, 27. 11. 1986, p. 1.
([3]) OJ No L 132, 16. 6. 1995, p. 8.
([4]) OJ No L 86, 31. 3. 1990, p. 13.
([5]) OJ No L 77, 6. 4. 1995, p. 9.
([6]) OJ No L 191, 24. 7. 1990, p. 19.
([7]) OJ No L 220, 5. 8. 1992, p. 22.
([8]) OJ No L 20, 23. 1. 1997, p. 26.

▼M2

2. Where standards have been adopted pursuant to Article 2 of Regulation (EC) No 2200/96, products withdrawn from the market comply with those standards, with the exception of the provisions on the presentation and marking of the product. Products may be withdrawn without sizing by quality class, provided that the lower limit for class II is met.

▼M5

However, tomatoes withdrawn from 16 July to 15 October, as well as miniature produce as defined in the relevant marketing standards, must comply with the applicable marketing standard.

▼M2

3. Where no marketing standards have been adopted pursuant to Article 2 of Regulation (EC) No 2200/96, the minimum requirements laid down in Annex VII must be met. Member States may lay down provisions supplementing those minimum requirements.

▼B

Article 3

1. For each product the 'marketed quantity' of a producer organization, as referred to in Article 23 (3) of Regulation (EC) No 2200/96, shall be the sum of:

(a) the production of members actually sold through the producer organization or processed by it;

▼M4

▼B

(c) the production of members of other producer organizations marketed through the producer organization concerned in accordance with the second and third indents of Article 11 (1) (c) (3) thereof.

▼M4

The marketed quantity referred to in the first subparagraph shall not include the production of members of producer organisations marketed in accordance with the first, second and third indents of Article 11(1)(c)(3) of Regulation (EC) No 2200/96.

▼B

2. The marketed production referred to in Article 23 (4) of Regulation (EC) No 2200/96 shall be equivalent to the marketed quantity as defined in paragraph 1.

Article 4

The marketing years for products qualifying for Community withdrawal compensation in accordance with Article 23 (3) of Regulation (EC) No 2200/96 shall be as listed in Annex I to this Regulation.

The marketing years for products listed in Article 1 (2) of Regulation (EC) No 2200/96 other than those referred to in the first paragraph shall run from 1 January to 31 December.

Article 5

1. For the products listed in Annex II to Regulation (EC) No 2200/96, payment of the Community withdrawal compensation referred to in Article 26 of that Regulation shall be subject to presentation, to the competent authority of the Member State, of an application by the producer organizations referred to in Articles 11 and 13 thereof or by associations of such organizations.

Where Article 13 (3) of Regulation (EC) No 2200/96 is applied, the producer organization concerned shall no longer benefit from the provisions laid down in the said Regulation.

▼B

2. The application referred to in paragraph 1 shall cover a period of at least one month. It shall be accompanied by supporting documents confirming the quantity of each product marketed and the quantity of each product not put up for sale by the producer organization, and specifying:

(a) the production of members actually sold through the producer organization or processed by it;

(b) the production of members of other producer organizations marketed through the producer organization concerned in accordance with the second and third indents of Article 11 (1) (c) (3) of Regulation (EC) No 2200/96;

(c) the production delivered by each grower who is not a member of any producer organization in accordance with Article 24 of that Regulation.

3. When considering each application, the Member States shall ensure that the quantity not put up for sale since the beginning of the marketing year in question complies with the limits laid down in Articles 23 and 24 of Regulation (EC) No 2200/96. If these limits have been exceeded, the Community withdrawal compensation shall be paid only with due regard to these limits and to the compensation already paid. Surplus quantities shall be included when the next application is considered.

▼M2

Article 6

1. Article 2 of this Regulation notwithstanding, Regulation (EC) No 411/97 shall apply to the payment of withdrawal compensation for products not listed in Annex II to Regulation (EC) No 2200/96 and for the grant of a supplement to the Community withdrawal compensation provided for in Article 15(3)(a) and (b) of Regulation (EC) No 2200/96.

2. The maximum prices applying to the 1995/96 marketing year and the supplements which the Member States applying the second subparagraph of Article 15(3) of Regulation (EC) No 2200/96 may not exceed are set out in Annex VIII.

3. Member States which set a maximum level for the supplement to the Community withdrawal compensation under the second subparagraph of Article 15(3) of Regulation (EC) No 2200/96 shall take account of the following:

— withdrawals are a short-term instrument to stabilise supply on the market in fresh products,

— withdrawals must in no case constitute an outlet substituting the market,

— withdrawals must not disturb management of the market in fruit and vegetables intended for processing.

One month before the start of the marketing year, Member States shall notify the maximum levels of the supplements set for each product in Annex II.

In the special case of tomatoes intended for processing, the supplement to be set must be at a level such that the sum of the Community withdrawal compensation and the supplement thus set does not exceed the minimum price for processing set for the marketing year in question under Regulation (EC) No 2201/96.

▼B

Article 7

1. The representative markets referred to in Article 28 (1) of Regulation (EC) No 2200/96 shall be those listed in Annex II to this Regulation.

▼M4

2. For the products and during the periods listed in Annex III, Member States shall send the Commission not later than 12.00 noon (Brussels time) on the Wednesday of each week information concerning, for each marketing day, the prices recorded on their representative markets. The Commission shall forward this information to the Member States.

The information shall be sent to the Commission using the Interactive Data Entry System (IDES).

▼B

Article 8

1. The producer organizations or associations thereof shall notify each withdrawal operation at least 24 hours in advance to the competent national authorities, listing the products intended for intervention together with the estimated quantity of each product concerned.

However, if it has not been possible to give prior notice of a withdrawal operation the products withdrawn may not be disposed of until the Member State has given its authorization.

▼M2

The producer organisations shall certify that the products withdrawn comply with the standards in force where such standards have been adopted pursuant to Article 2 of Regulation (EC) No 2200/96 or, where, no such standards exist, the minimum requirements laid down in Annex VII.

The producer organisations shall notify the competent national authorities of the measures taken in accordance with the national framework referred to in Article 10 with a view to protecting the environment during withdrawal operations.

▼B

2. The producer organizations or associations thereof shall supply the following information to the Member States, which shall communicate it to the Commission:

(a) the stocks of apples and pears available on the first day of each month;

▼M2

(b) by no later than two months after the start of each marketing year, an estimate of the areas cultivated per product listed in Annex II and, where applicable, per variety.

3. Member States shall take, if necessary, measures to ensure that farmers who are members of any producer organisation are actually allowed the benefits of the intervention scheme provided for in Article 23 of Regulation (EC) No 2200/96.

▼B

Article 9

1. Before the 10th day of each month, the Member States shall forward to the Commission by electronic mail an estimate of the products not put up for sale in the previous month, broken down by product.

2. At the end of each marketing year, the Member States shall forward to the Commission for each product concerned the details set out in Annex IV. These details shall be sent:

(a) not later than 30 June following each marketing year in the case of tomatoes, aubergines, cauliflowers, apricots, peaches, nectarines, grapes, melons, watermelons and products not listed in Annex II to Regulation (EC) No 2200/96;

(b) not later than 30 November following each marketing year in the case of lemons, pears, apples, satsumas, clementines and sweet oranges.

▼B

3. If the Member States do not forward the details referred to in paragraph 2, or if those forwarded details appear erroneous in the light of the objective facts in the Commission's possession, the Commission may suspend payment of the advance payments on the defrayal of expenses referred to in Article 5 (2) (a) of Council Regulation (EEC) No 729/70 [1] pending the forwarding of the requisite details.

Article 10

Member States shall notify to the Commission by 15 September 1997 at the latest the national framework provided for in the third paragraph of Article 25 of Regulation (EC) No 2200/96.

Member States shall inform the Commission of any amendments to the abovementioned framework.

CHAPTER II

Free distribution

Article 11

1. In accordance with the first and third indents of Article 30 (1) (a) of Regulation (EC) No 2200/96, products withdrawn from the market during a given marketing year may be made available to charitable organizations approved by the Member States for free distribution, at their request.

▼M4

These products may be processed under the terms laid down in Articles 14a or 14b.

▼B

2. In order to qualify for approval, the charitable organizations shall undertake to:

(a) comply with this Regulation;

(b) keep separate accounts for the operations in question;

(c) accept the checks provided for by Community provisions.

3. Member States shall approve charitable organizations in at least one of the following categories:

(a) charitable organizations authorized to distribute on the Member State's territory products which have been withdrawn there;

(b) charitable organizations authorized to distribute on Community territory;

(c) charitable organizations authorized to distribute Community products in third countries.

▼M4

From March 2000 and at intervals of three years, Member States shall notify lists of approved charitable organisations as referred to in points (b) and (c) to the Commission, which shall send those lists to all Member States.

▼B

Article 12

The institutions as referred to in the second indent of Article 30 (1) (a) ►M2 and (b) ◄ of Regulation (EC) No 2200/96 which are designated by the Member States must comply with the conditions pursuant to Article 11 (2) of this Regulation.

[1] OJ No L 94, 28. 4. 1970, p. 13.

▼M2

Rest homes, day-nurseries, psychiatric establishments and other social, educational and-or health institutions shall be treated in the same way as those institutions.

▼B

Article 13

Member States shall take measures to facilitate contacts and operations between the producer organizations concerned and the charitable organizations approved in accordance with Article 11 (2).

▼M4

▼B

Article 14

1. Free distribution outside the Community as part of humanitarian aid shall be carried out by the charitable organizations referred to in Article 11 (3) (c) in accordance with paragraphs 2 and 3 of this Article.

2. The products dispatched shall not be eligible for export refunds. The customs export document, the transit document and any T5 document issued shall be endorsed 'without refund'.

▼M2

3. Member States shall submit plans to the Commission for each free distribution operation, together with:

— the names of the producer organisations withdrawing the products in question,

— the quantity intended to be distributed,

▼M4

— the names of the charitable organisations involved in the operation and their respective roles,

— the substance of the agreements between the producer organisation which withdraws the products from the market and the charitable organisation responsible for taking delivery of them,

— where appropriate, the name of the undertaking responsible for processing the fresh products in accordance with Article 14a,

▼M2

— the agreements with the third countries concerned,

— details of the means of transport to be used.

They shall send the Commission copies of the notifications to the FAO Consultative Subcommittee on Surplus Disposal after the operation has been authorised by the Commission.

The Commission shall decide on a case-by-case basis whether to authorise such operations in the light in particular of the guarantees of successful conclusion and the situation on the market.

At the end of each operation, the Member States shall send the Commission the information specified in Annex VI. On request, they shall report to the Commission on the operation's implementation in the third countries.

▼M4

Article 14a

The charitable organisation can process or have processed at its expense the products withdrawn from the market with a view to their free distribution either to persons recognised as entitled to public assistance under their national legislation or to the needy in third countries. All the resulting products must be distributed free of charge.

Article 14b

1. In line with the requirements of the charitable organisations, indicated in accordance with paragraph 3, Member States may organise one or more invitations to tender for the processing by a successful tenderer of the products withdrawn from the market.

The successful tenderer must process all the products withdrawn from the market and offered to him. The quantities of products withdrawn from the market in excess of the quantities required for the manufacture of processed products for free distribution shall constitute the payment in kind to compensate him for the manufacturing costs he must incur.

The processed products for free distribution shall then be distributed by the charitable organisations to those recognised as entitled to public assistance under the legislation of the Member State.

2. Member States wishing to implement the invitation to tender procedure referred to in paragraph 1 shall undertake the appropriate publicity and inform the Commission of the type of fruit or vegetable involved and the period covered by the procedure. This period must not exceed the marketing year for the product in question.

3. No later than the date fixed by the competent national authority, the charitable organisations involved shall notify it of their requirements for products processed from fresh fruits or vegetables as referred to in paragraph 2 and shall give an undertaking to take them over and distribute them all, free of charge. Taking over must be completed no later than one month after the processing period covered by the procedure referred to in paragraph 2.

4. Member States shall, where appropriate, group together the requirements as expressed in paragraph 3 into lots of processed products and shall draw up a draft invitation to tender.

This shall contain at least the following information for each lot:

— the fresh product involved and the period during which the products withdrawn from the market are likely to be available,

— the geographical areas in which they are likely to be stored,

— a detailed description of the product processed from fruit or vegetables to be supplied and its packaging, the deadline for its supply, together with the quantity the tenderer must undertake to produce, if the products withdrawn from the market are available.

The tendering security shall be EUR 20/tonne net weight of final product processed.

5. The draft invitation to tender referred to in paragraph 4 shall be sent to the Commission for approval. It shall be published in the *Official Journal of the European Communities*. Once the Commission has taken a favourable decision, published in the *Official Journal of the European Communities*, the invitation to tender shall be launched. At least two tenders for each lot must be submitted in response to each invitation to tender. The lot shall be awarded to the tenderer applying for the smallest quantity of fresh product against supply of the processed product. Where the same amount is sought by more than one tender, the award shall be made by drawing lots. Where all the tenders submitted involve excessively high quantities of fresh products, the Member State may decide not to make an award under the tender for the lot in question.

▼M4

The Member State shall inform the Commission of the outcome of the invitation to tender. The Commission shall publish this information in the *Official Journal of the European Communities*. It may ask for details of the offers from tenderers.

6. The Member State shall inform the successful tenderer for each lot, as withdrawals are made, of producer organisations where he may obtain supplies of fresh products withdrawn from the market with priority over other beneficiaries as referred to in Articles 11 and 12 of this Regulation.

7. Upon manufacture, the processed product shall be made available to the charitable organisations at the earliest opportunity, in proportion to the quantity of fresh product made available to the successful tenderer.

8. To ensure performance of the tender, the successful tenderer must provide a security. This shall be based on the net weight of fresh product requested against the processed product manufactured. It shall be equivalent:

— in the case of the products listed in Annex II to Regulation (EC) No 2200/96, to five times the Community withdrawal compensation referred to in Article 26 of that Regulation,

— in the case of the other products, an amount set out in the notice of invitation to tender.

The security shall be released as supplies of the processed product are delivered and once the successful tenderer has provided evidence that all the fresh products made available to him against the delivery of the processed product have been processed.

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Article 15

1. The costs of transport linked to the free distribution of all products withdrawn from the market shall be met by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) on the basis of the flat-rate amounts determined in accordance with the distance between the point of withdrawal and the place of delivery set out in Annex V.

In the case of free distribution outside the Community, the flat-rate amounts set out in Annex V shall cover the distance between the point of withdrawal and the point of exit from the Community. ►M2 In the case of transport by sea, the Commission shall determine the transport costs which may be defrayed on the basis of the real costs of transport and the distance. The compensation thus determined may not exceed the costs of land transport over the shortest distance between the place of loading and the theoretical point of exit. A correcting factor of 0,6 shall be applied to the amounts referred to in ►M4 Annex V ◄. ◄

2. The transport costs shall be paid to the consignor who has actually borne the financial cost of the transport operation in question.

Payment of the said amounts shall be subject to presentation of supporting documents, certifying, in particular:

— the names of the beneficiary bodies,

— the quantity of the products concerned,

▼M2

— take-over by the beneficiary bodies,

▼B

— the means of transport used.

▼M4

▼M4

Article 16

1. The costs of sorting and packaging fresh fruit and vegetables withdrawn from the market for free distribution referred to in Article 30(1) of Regulation (EC) No 2200/96 shall be borne by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), at the flat-rate amount of EUR 132 per tonne net weight, in the case of products put up in packages of less than 25 kilograms net weight. The cost of fresh products intended for the manufacture of processed products as referred to in Articles 14a and 14b shall not be so borne.

2. Packages of products for free distribution shall display the European emblem, together with one or more of the following entries:

— Producto destinado a su distribución gratuita (Reglamento (CE) nº 659/97)

— Produkt til gratis uddeling (forordning (EF) nr. 659/97)

— Zur kostenlosen Verteilung bestimmtes Erzeugnis (Verordnung (EG) Nr. 659/97)

— Προϊόν προοριζόμενο για δωρεάν διανομή (κανονισμός (ΕΚ) αριθ. 659/97)

— Product for free distribution (Regulation (EC) No 659/97)

— Produit destiné à la distribution gratuite (règlement (CE) nº 659/97)

— Prodotto destinato alla distribuzione gratuita (regolamento (CE) n. 659/97)

— Voor gratis uitreiking bestemd product (Verordening (EG) nr. 659/97)

— Produto destinado a distribuição gratuita (Regulamento (CE) nº 659/97)

— Ilmaisjakeluun tarkoitettu tuote (asetus (EY) N:o 659/97)

— Produkt för gratisutdelning (förordning (EG) nr 659/97).

Where distribution is to take place outside the Community, the entry shall also be shown in the language(s) of the third countries concerned.

Where applicable, packages of fresh products to be used in the manufacture of the processed products referred to in Articles 14a and 14b shall not show these entries.

3. The costs of sorting and packaging shall be paid to the producer organisation which performed the sorting and packaging.

Payment shall be subject to the presentation of supporting documents certifying in particular:

— the names of the beneficiary organisations,

— the quantity of the products concerned,

— acceptance by the beneficiary organisations.

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CHAPTER III

Checks and penalties

Article 17

1. Member States shall take all the necessary measures to ensure that the provisions of Title IV of Regulation (EC) No 2200/96 are complied with, and in particular those set out in paragraphs 2, 3 and 4 of this Article.

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2. Member States shall perform physical and documentary checks on the withdrawals made by all producer organizations at least once during the marketing year. For each product, these checks shall involve at least 20 % of the total quantity withdrawn.

They shall, in addition, ensure that the products not put up for sale comply with the standards in force if such standards have been adopted pursuant to Article 2 (2) of Regulation (EC) No 2200/96.

In cases where Article 30 (2) of Regulation (EC) No 2200/96 applies, Member States shall check all the quantities withdrawn.

3. Member States shall carry out documentary checks on intervention operations to ensure that the accounts are correct and that there is effective verification of compliance with the conditions for payment of the Community withdrawal compensation or of financing from the operational fund referred to in Article 15 (1) of Regulation (EC) No 2200/96.

Checks shall be undertaken on each producer organization at least once each marketing year and, for each product, must involve at least 10 % of the applications for payment.

4. Where checks reveal significant irregularities, the competent authorities shall carry out additional checks during the marketing year in progress and shall increase the frequency of checks in the following marketing year.

Article 18

1. Member States shall take the necessary measures to ensure that free distribution operations both inside and outside the Community comply with the provisions in force.

They shall, in particular:

(a) ensure that the operations in question are properly carried out;

(b) verify the final use made of the products by the charitable organization, in particular by demanding from them a certificate of acceptance certifying the use of the products;

(c) check the final destination of the products.

2. Checks shall be both documentary and physical and shall concern both the producer organizations and the charitable bodies concerned. They may be random in nature and each year shall cover at least 10 % of the quantities distributed.

3. With regard to distribution within the Community and without prejudice to Article 39 of Regulation (EC) No 2200/96, the competent authorities of the Member State on whose territory the free distribution takes place shall undertake checks on the use of the products and their final destination.

4. At the request of the Member State, the Commission shall assist it in monitoring free distribution operations outside the Community.

Article 19

1. The beneficiary of Community withdrawal compensation or of financing from the operational fund shall be under the obligation to pay back double the amounts unduly paid, plus interest calculated by reference to the time that has elapsed between payment and reimbursement by the beneficiary where checks carried out in accordance with Article 17 show that:

(a) the products not put up for sale do not comply with the provisions on standards laid down in Article 2 of Regulation (EC) No 2200/96;

(b) the products not put up for sale have not been disposed of as provided for in Article 30 of that Regulation;

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(c) the disposal of the products not put up for sale causes substantial environmental damage.

However, the penalty referred to in the first subparagraph shall not be applied where the beneficiary proves to the satisfaction of the competent national authority that the irregularities were not intentional on his part or were not the result of gross negligence. In such cases, the beneficiary shall repay only the amount unduly paid, plus interest.

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

2. Sums recovered, with the interest accrued, shall be paid to the responsible paying agency and deducted from expenditure financed by the EAGGF.

3. In the event of a false declaration made deliberately or by serious negligence, the producers' organization concerned shall be debarred from receiving Community withdrawal compensation for the marketing year following that in respect of which the false declaration was discovered.

Article 20

1. Where irregularities attributable to producer organizations or to approved charitable bodies or institutions as referred to in Articles 11 and 12 are detected in the course of free distribution pursuant to checks carried out in accordance with Article 18, paragraphs 2 to 7 of this Article shall apply.

2. Approval as referred to in Article 11 (2) shall be withdrawn from charitable organizations. This shall take effect immediately and continue for at least one marketing year, and may be extended depending on the seriousness of the irregularity.

3. Institutions as referred to in Article 12 shall not be eligible to be the beneficiaries of free distribution operations in the following marketing year.

4. The charitable organization or institution which received the product withdrawn from the market shall be obliged to repay the value of the products it received plus interest calculated by reference to the time which has elapsed between receipt of the product and repayment by the beneficiary.

5. Article 19 (3) shall apply to the producer organization concerned.

Furthermore, the producer organization shall be obliged to reimburse double the amounts received in respect of sorting and packaging costs, plus interest calculated by reference to the time which has elapsed between payment and reimbursement by the beneficiary.

The consignor who received the transport costs as referred to in Article 15 shall be obliged to reimburse double the amounts received for transport plus interest calculated by reference to the time which has elapsed between payment and reimbursement by the beneficiary.

6. The rate of interest 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* in force on the date of undue payment, increased by three percentage points.

7. The amounts recovered, plus the interest thereon, shall be paid to the competent paying agency and deducted from expenditure financed by the EAGGF.

Article 21

Articles 19 and 20 of this Regulation shall apply without prejudice to other penalties to be adopted in accordance with Article 48 of Regulation (EC) No 2200/96.

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CHAPTER IV

Transitional and final provisions

Article 22

For 1997, producer organizations which have submitted a draft operational programme for approval in accordance with Articles 3 or 15 of Regulation (EC) No 411/97 are hereby authorized to grant, at their own risk, supplements to the Community withdrawal compensation, in accordance with Article 15 (3) (b) of Regulation (EC) No 2200/96.

Article 23

Regulations ►**M1** (EEC) No 1805/78, ◄ (EEC) No 3587/86, (EEC) No 827/90, (EEC) No 2103/90, (EEC) No 2276/92 and (EC) No 113/97 are hereby repealed.

Article 24

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

However, for each product listed in Annex I to Regulation (EC) No 2200/96, it shall apply from the start of the 1997/98 marketing year.

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

▼B

ANNEX I

MARKETING YEARS FOR THE PRODUCTS LISTED IN ANNEX II TO REGULATION (EC) No 2200/96

Product	Date
Tomatoes	From 1 January to 31 December
Aubergines	From 1 January to 31 December
Melons	From 1 April to 31 March
Watermelons	From 1 April to 31 March
Cauliflowers	From 1 May to 30 April
Apricots	From 1 May to 30 April
Nectarines	From 1 May to 30 April
Peaches	From 1 May to 30 April
Table grapes	From 1 May to 30 April
Lemons	From 1 June to 31 May
Pears	From 1 June to 31 May
Apples	From 1 July to 30 June
Satsumas	From 1 October to 30 September
Mandarins	From 1 October to 30 September
Clementines	From 1 October to 30 September
Sweet oranges	From 1 October to 30 September

▼B

ANNEX II

LIST OF REPRESENTATIVE MARKETS

Apricots

Greece	France	Italy	Spain	Portugal
Argos	Châteaurenard	Salerno	Murcia	Alenquer
Korinthos	Perpignan	Forli	Valencia	Algarve
Moudania	Valence		Zaragoza	

Aubergines

Greece	France	Italy	Netherlands	Spain	Portugal
Skala (Lakonias)	Châteaurenard	Latina	Coöperatie V, T, N, Den Bosch	Almería	Algarve
Thessaloniki		Catanzaro	Coöperatieve Veiling ZON, Grubbenvorst	Valencia	

Cauliflowers

Belgium/Luxembourg	Netherlands	Germany	Greece	France	Ireland
Sint-Katelijne Waver	Coöperatie V, T, N, Den Bosch	►M4 Straelen ◄	Athina	Châteaurenard	Dublin
	Coöperatieve Veiling ZON, Grubbenvorst	►M4 Maxdorf ◄	Chalkida	Saint-Malo	
		►M4 Erzeugergroßmarkt Thüringen-Sachsen ◄	Thessaloniki	Saint-Omer	
				Saint-Pol-de-Léon	

Italy	Austria	United Kingdom	Spain	Portugal	Denmark
Ascoli Piceno	Vienna	Birmingham	Barcelona	Oeste	Odense
Pesaro		Liverpool	La Rioja		
Taranto		London	Granada		
		Bristol	Murcia		
			Navarre		
			Seville		
			Valencia		

▼B

Finland	Sweden
Helsinki	Helsingborg

Lemons

Greece	Italy	Spain	Portugal
Egio Xylokastro	Catania Palermo Siracusa Messina	Alicante Málaga Murcia	Algarve Oeste

Clementines

Greece	France	Italy	Spain	Portugal
Argos	Corsica	Cosenza Taranto	Castellón Valencia	►M4 ——— ◄ Algarve

Strawberries

Italy	Portugal	Spain	►M4 Belgium ◄
Salerno	Algarve	Barcelona Huelva	►M4 Sint-Truiden ◄
Bologna	►M4 Ribatejo/Oeste ◄	Valencia	

Mandarins

Greece	Italy	Spain	Portugal
Argos Chios	Catania Siracusa Taranto	Alicante Castellón Valencia	Algarve

▼B

Melons

Italy	Spain	Greece	Portugal
Salerno	Almería	Kyparissia	►M4 Ribatejo/Oeste ◄
Ferrara	Badajoz	Amaliada	►M4 Moura ◄
Bologna	Ciudad Real	Patra	►M4 Algarve ◄
	Murcia	Larissa	
		Trikala	

Sweet oranges

Greece	Italy	Spain	Portugal
Argos	Catania	Alicante	Algarve
Arta	Siracusa	Castellón	►M4 ——— ◄
Sparti	Catanzaro	Sevilla	►M4 Vidigueira ◄
		Valencia	

Watermelons

Italy	Spain	Greece	Portugal
Latina	Almería	Kyparissia	►M4 Ribatejo/Oeste ◄
Bologna	Murcia	Amaliada	►M4 Grandola ◄
Ferrara	Valencia	Patra	
		Larissa	
		Trikala	

Peaches and nectarines

Greece	France	Spain	Italy (Peaches)	Italy (Nectarines)	Portugal
Skydra	Montauban	Huesca	Bologna	Salerno	Cova da Beira
Veria	Nîmes	La Rioja	Ferrara	Ravenna	►M4 ——— ◄
	Perpignan	Lérida	Ravenna	Forli	Ribatejo
	Valence	Murcia	Forli	Verona	Oeste
		Sevilla	Salerno	Ferrara	
		Valencia			
		Zaragoza			

▼B

Apples

Belgium/Luxembourg	Denmark	Germany	Greece	France	Ireland
Sint-Truiden	Odense	►M4 Stade ◄ ►M4 Centralmarkt Rheinland ◄ ►M4 Bodenseemarkt ◄	Naoussa Skydra Tripolis Volos	Angers Montauban Nîmes	Dublin

Italy	Netherlands	United Kingdom	Spain	Portugal
Bolzano Ferrara Ravenna Verona	Coöperatie V, T, N, Den Bosch Geldermalsen & Omstreken Geldermalsen	Birmingham London	Gerona Huesca La Rioja Lérida Zaragoza	Oeste Cova da Beira Guarda Viseu

Finland	Sweden	Austria
Helsinki	Helsingborg	Wollsdorf

Pears

Belgium and Luxembourg	Denmark	Germany	Greece	Ireland	Italy
Sint-Truiden	Odense	►M4 Stade ◄ ►M4 Bodenseemarkt ◄	Veria Volos	Dublin	Ravenna Bolzano Verona Ferrara Rovigo

France	Netherlands	United Kingdom	Spain	Portugal
Angers Avignon Valence	Coöperatie V, T, N, Den Bosch Geldermalsen & Omstreken Geldermalsen	Birmingham London	Badajoz Huesca La Rioja Lérida Zaragoza	Oeste ►M4 ——— ◄

▼B

Table grapes

Greece	Italy	France	Spain	Portugal
Iraklio	Ascoli Piceno	Avignon	Alicante	Alenquer
Kavala	Bari	Nîmes	Almería	Moura
Korinthos	Chieti		Valencia	Ferreira do Alentejo
	Agrigento		Murcia	Algarve

Tomatoes

Belgium and Luxembourg	Netherlands	Germany	Greece	Spain	Italy
Sint-Katelijne-Waver	Coöperatie V, T, N, Den Bosch	►M4 Straelen ◄	Ierapetra	Alicante	Ascoli Piceno
	Coöperatieve Veiling ZON, Grubbenvorst	►M4 Heidelberg ◄	Pyrgos	Almería	Bari
		►M4 Kitzingen ◄		Barcelona	Ragusa
		►M4 Reichenau ◄		Las Palmas	Pescara
				Málaga	
				Murcia	
				Valencia	

Denmark	United Kingdom	France	Ireland	Portugal
Odense	Birmingham	Châteaurenard	Dublin	Algarve
	Glasgow	Marmande		Oeste
	Liverpool	Perpignan		
	London			

Finland	Sweden	Austria
Helsinki	Helsingborg	Wollsdorf
		Vienna

Satsumas

Greece	Spain	Portugal
Argos	Castellón	Algarve
	Valencia	

▼B

ANNEX III

►C1 As provided for in ◄ ►M4 Article 7(2) ◄ of this Regulation, Member States shall notify daily producer prices recorded for the following products and periods:

I.A

Products	Presentation and type	Period
Tomatoes	Of the 'round' and 'ribbed' type, quality classes I and II, size 57/77 mm packed	1 January to 31 December
Aubergines	— Of the elongated type, quality class I, size over 40 mm — Of the globus type, quality class I, size over 70 mm	1 January to 31 December
Melons	— Of the Glob Galia, Piel de Sapo, Jaune et lise, Supermarket, Charentais, Honeydew, Tamaris, Cantaloup and Tendral varieties, quality classes I and II	1 April to 31 March
Watermelons	— varieties with seeds — seedless varieties quality class I	1 April to 31 March
Cauliflowers	'Trimmed', quality class I, packed	1 May to 30 April
Apricots	Quality class I, size over 40 mm	1 May to 30 April
Nectarines	Of the Armking, Crimsongold, Early sun grand, Fairlane, Fantasia, Independence, May Fire Brite, May Fire, Flavor Geant, Early Grand, Flavor Nectared, Snow Queen, Queen Rubi, Caldesi, Venus, Sweet Red, Nettaros, Sweet Lady, Autumn Free, Caldesi, Tasty Free, Albared and Stark red gold varieties, quality class I, size 56/73 mm	1 May to 30 April
Peaches	Of the Amsden, Cardinal, Dixired, Merryl Germfree, Catherina Maria Serena, Federica, Vesubio, Baby Gold, Red Globe, Carson, Andros, San Lorenzo, Sudanel, Miraflores, Campiel, Calanda, Rojo rito, Rojo Gallur, Jeronimo, Flavorcrest, Iris rosso, Maria Bianca, Rosa del West, Maria Delizia, K2, Duchessa d'Este, Merril Gemfree, Michelimi, Red Haven, Springcrest and Springtime varieties, quality class I, size 56/73 mm	1 May to 30 April
Table grapes	Of the Regina dei Vignetti, Sultanine, Regina (Mennavacca bianca, Rosaki, Dattier de Beyrouth), Italia, Aledo, Ohanes (Almeria), D. Maria, Napoleon, Dominga, Alfonso Lavallée, Cardinal, Italia, Moscatel Romano, Apirena and Aledo varieties, quality class I	1 May to 30 April
Lemons	Quality class I, size 53/65 mm	1 June to 31 May

▼B

Products	Presentation and type	Period
Pears	— Of the Beurré Hardy, Coscia (Ercolini), Crystallis (Beurré Napoléon, Ercolini, Blanquilla, Tsakonika), Dr Jules Guyot (Limonera) and Rocha varieties, quality class I, size 55 mm or more — Of the Limonera, Conférence, Bon Chrétien, Williams, Buena Luisa, Max Red Bartlett varieties, quality class I, size 60 mm or more — Of the Empereur Alexandre (Kaiser Alexandre Bosc), Abate Fetel, Decana del Cimmizio, Passacrassana varieties, quality class I, size 70 mm or more	1 June to 31 May
▼M1 Apples	— Of the Reine des Reinettes, Cox Orange and Verde Doncella varieties, quality class I, size 65 mm or more — Of the Delicious Pilafa, Golden Delicious, Jonagold, Jonagored, Elstar, Gloster, Boskoop, Idared, Golden Supreme, James Grieve, Red Chief, Top Red, Red Delicious, Reinette grise du Canada, Starking Delicious, Granny Smith, Belleza de Roma, Summered, Royal Gala and Orzak Gold varieties, quality class I, size 70 mm or more	1 July to 30 June
▼B Satsumas	Quality class I, size 54/69 mm	1 October to 30 September
Mandarins	Quality class I, size 54/69 mm	1 October to 30 September
Clementines	Quality class I, size 43/60 mm	1 October to 30 September
Sweet oranges	Of the Moro, Navel, Navellina, Navellate, Tarocco Salustiana, Sanguinello and Valencia late varieties, quality class I, size 67/80 mm	1 October to 30 September

I.B

Other products:

Products	Presentation and type	Period
Strawberries	Quality class I, packed	1 October to 30 September

▼M3

ANNEX IV

STATUS REPORT ON INTERVENTIONS

Information to be forwarded by the Member States to the Commission at the end of each marketing year under Article 9(2) of Regulation (EC) No 659/97

1. For each product listed in Annex II to Regulation (EC) No 2200/96 and for each of the other products concerned:

   (a) total quantity not put up for sale (in tonnes);

   (b) amounts paid by Member States (in euro or national currency), broken down into Community withdrawal compensation, supplements to the Community withdrawal compensation, and withdrawal compensation for products not listed in Annex II.

2. For each product listed in Annex II and, at the request of the Commission, certain products not listed in Annex II but withdrawn in significant quantities during the marketing year in question or an earlier marketing year:

   (a) monthly breakdown of quantities not put up for sale (in tonnes);

   (b) breakdown of quantities not put up for sale (in tonnes) by utilisation in accordance with ►M4 Article 30 of Regulation (EC) No 2200/96 ◄;

   (c) breakdown of quantities not put up for sale (in tonnes) by variety and/or commercial type.

3. Summary table of quantities marketed and not put up for sale (in tonnes), by recognised producer organisation and by product (prodcuts listed in Annex II and, where applicable, products not listed in Annex II).

▼M4

ANNEX V

TRANSPORT COSTS UNDER FREE DISTRIBUTION ARRANGEMENTS (referred to in Article 15)

Distance between the point of withdrawal and the place of delivery (1)	Transport costs (EUR/tonnes)
Less than 25 km	14,4
25 km or more but less than 200 km	30
200 km or more but less than 350 km	42
350 km or more but less than 500 km	60
500 km or more	78

Supplement for refrigerated transport: EUR 7,2/tonne

(1) In the case referred to in Article 14a, the distance between the point of withdrawal and the place of delivery of the processed product, passing through the place of processing.
In the case referred to in Article 14a, the distance between the point of withdrawal and the place of delivery of the processed product (the fresh products referred to in Article 14b do not qualify for the transport allowance).

▼M4

ANNEX VI

INFORMATION CONCERNING FREE DISTRIBUTION OUTSIDE THE COMMUNITY

(referred to in Article 14)

Member State: .....

Commission Decision number (*): .....

Quantity distributed (by product): .....

Name and headquarters of the producer organisation making the withdrawals: .....

Name and headquarters of the charitable organisations involved in the operation: .....

Name and headquarters of the undertaking responsible for processing the products (where applicable): .....

Means of transport and name and headquarters of the transporter: .....

Country and place of final destination: .....

Population group for which the products are intended, with the estimated number of beneficiaries: .....

Dates of withdrawal, departure and delivery of the products: .....

(*) Save for operations carried out under Regulation (EC) No 921/1999.

▼M2

ANNEX VII

MINIMUM REQUIREMENTS FOR PRODUCTS WITHDRAWN

1. Products withdrawn must be:
   - intact,
   - sound: produce affected by rotting or deterioration such as to make it unfit for consumption is excluded,
   - clean, practically free of any visible foreign matter,
   - practically free from pests and attacks of pests,
   - free of abnormal external moisture,
   - free of any foreign smell and/or taste.
2. The products must be sufficiently developed and sufficiently ripe having regard to their type.
3. The products must have the characteristics of the variety and/or commercial type.

▼M2

ANNEX VIII

MAXIMUM PRICES APPLICABLE TO THE 1995/96 MARKETING YEAR AND THE RESULTING SUPPLEMENTS TO THE COMMUNITY WITHDRAWAL COMPENSATION

(ecu/100 kg)

Product	Maximum price 1995/96	Maximum supplement					
		1997/98 marketing year	1998/99 marketing year	1999/2000 marketing year	2000/01 marketing year	2001/02 marketing year	From 2002/03
Tomatoes	12,84	6,40	6,72	7,04	7,37	7,69	8,01
Cauliflowers	13,51	4,17	4,64	5,10	5,57	6,04	6,50
Apples	15,04	4,35	4,73	5,10	5,48	5,86	6,23
Grapes	15,45	4,76	5,29	5,83	6,36	6,90	7,43
Apricots	23,36	4,46	5,41	6,35	7,30	8,24	9,19
Nectarines	25,43	8,04	8,91	9,78	10,65	11,52	12,39
Peaches	22,53	7,88	8,61	9,35	10,08	10,81	11,54
Pears	14,83	4,65	5,01	5,37	5,73	6,09	6,44
Aubergines	7,62	2,33	2,59	2,86	3,12	3,39	3,65
Oranges	15,85	1,52	1,59	1,65	1,72	1,78	1,85
Mandarins	17,48	1,33	1,96	2,59	3,22	3,85	4,48
Clementines	13,70	0,96	0,91	0,86	0,80	0,75	0,70
Satsumas	10,49	0,00	0,00	0,00	0,00	0,00	0,00
Lemons	17,26	3,89	3,96	4,04	4,11	4,19	4,26
▼M3							
Melons	Not applicable	Not applicable	Not applicable	4,20	4,20	4,20	4,20
Watermelons	Not applicable	Not applicable	Not applicable	2,70	2,70	2,70	2,70