COMMISSION REGULATION (EC) No 1490/98

of 13 July 1998

amending Regulation (EC) No 659/97 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 organisation of the market in fruit and vegetables [1], as amended by Commission Regulation (EC) No 2520/97 [2], and in particular Article 30(6) and Articles 48 and 57 thereof,

Whereas Commission Regulation (EC) No 659/97 [3], as amended by Regulation (EC) No 1946/97 [4], lays down detailed rules for the application of Regulation (EC) No 2200/96 as regards intervention arrangements in the fruit and vegetables sector;

Whereas minimum requirements should be laid down for products to be withdrawn for which there is no Community marketing standard;

Whereas tomatoes produced in the period 16 July to 15 October must meet the marketing standard and must therefore comply with the packaging requirements, given the particular harvest and production conditions for that product;

Whereas the second subparagraph of Article 15(3) of Regulation (EC) No 2200/96 provides that Member States may set a maximum level for the supplement to the Community withdrawal compensation; whereas, however, that Article provides that the amount of the supplement added to the Community withdrawal compensation may not exceed the maximum level of withdrawal prices applying in the 1995/96 marketing year; whereas criteria should be laid down for setting that supplement in order to maintain the withdrawal of products from the market as an instrument for stabilising the market in fresh products and not an outlet substituting the market;

Whereas, in the case of tomatoes intended for processing, the Community withdrawal compensation plus any supplement set by the Member States may not exceed the minimum processing price set for the marketing year in question to prevent withdrawal of those products from being an alternative to processing;

Whereas Article 24 of Regulation (EC) No 2200/96 provides that growers who are not members of any producer organisation may benefit from the intervention system via such organisations; whereas provision should be made to allow measures to be laid down at national level where necessary to ensure that those provisions are applied effectively;

Whereas, for the purposes of the free distribution of products withdrawn from the market, social, educational and/or health institutions should be treated in the same way as the institutions laid down to that end in Regulation (EC) No 2200/96;

Whereas in the case of free distribution operations in third countries the Member States must submit plans for those operations to the Commission; whereas plans must contain in particular the agreement of the third countries concerned; whereas, in the case of transport by sea, a coefficient of 0,6 should be applied to the transport costs that may be borne by the Commission;

Whereas Article 15a of Regulation (EC) No 659/97 should be prolonged until the 2000/01 marketing year;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 659/97 is hereby amended as follows:

1. Article 2(2) is replaced by the following:

'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.

However, tomatoes withdrawn from 16 July to 15 October must comply with the marketing standard laid down in Regulation (EEC) No 778/83.'

[1] OJ L 297, 21. 11. 1996, p. 1.
[2] OJ L 346, 17. 12. 1997, p. 41.
[3] OJ L 100, 17. 4. 1997, p. 22.
[4] OJ L 274, 7. 10. 1997, p. 4.

2. The following paragraph 3 is added to Article 2:

'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.'

3. Article 6 is replaced by:

'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.'

4. — The third and fourth subparagraphs of Article 8(1) are replaced by the following:

'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.'

— Article 8(2)(b) is replaced by the following:

'(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.'

— The following paragraph 3 is added to Article 8:

'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.'

5. In Article 12, 'and (b)' is inserted after 'second indent of Article 30(1)(a)' and the following sentence is added:

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

6. Article 14(3) is replaced by the following:

'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,

— the names of the charitable organisations approved by the Member State and responsible for the operation,

— the substance of the agreements as provided for in Article 16(4),

— the names of the charitable organisations in charge of distribution in the third countries,

— 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.'

7. The following sentence is added to the second subparagraph of Article 15(1):

'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 point 1 of Annex V.'

8. The third indent of the second subparagraph of Article 15(2) is replaced by:

'— take-over by the beneficiary bodies,'.

9. In Article 15a 'For the 1997/98 marketing year:' is replaced by 'Up to and including the 2000/01 marketing year'.

10. The fourth indent of Article 16(6) is replaced by:

'— take-over by the beneficiary bodies,'.

11. The following new Annexes VII and VIII are added:

'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.

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'

Article 2

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

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

Done at Brussels, 13 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission