COMMISSION REGULATION (EC) No 1590/98

of 23 July 1998

amending Regulation (EC) No 504/97 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards the system of production aid for products processed from fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products [1], as last amended by Regulation (EC) No 2199/97 [2], and in particular Article 4(9) thereof,

Whereas Article 1(2) of Commission Regulation (EC) No 504/97 [3], as amended by Regulation (EC) No 1491/97 [4], defines the products eligible for production aid and some related terms; whereas experience shows some of these definitions to be unsuitable from the point of view of checking entitlement to the aid where eligible products are used in the same processing unit to make mixed fruit or prepared sauces; whereas the necessary clarification should be made by adding to the existing definitions and defining mixed fruit and prepared sauces made using the products in question;

Whereas the abovementioned amendment of definitions requires as a concomitant, for the purposes of monitoring and checking the production and utilisation of aided products used to make mixed fruit and prepared sauces, additional detail in the provisions of Regulation (EC) No 504/97 on information notified by processors, aid applications, checks, penalties and notifications to the Commission;

Whereas the marketing year commencement date set in Article 2(1)(b) of that Regulation should be altered to 1 August in line with the actual marketing period for dried figs;

Whereas Article 7(3) of that Regulation sets a maximum percentage of the original quantity that may be added to contracts; whereas this should be raised to 30 % for all products to make the scheme more flexible;

Whereas in the case of certain tomato juices the market demands a product with small quantities of skin and pips; whereas to meet this demand the definition of tomato juice should be altered; whereas changes should be made in the definition of tomato flakes in order to differentiate them from dried tomatoes;

Whereas experience acquired in managing the processed products sector indicates a need to strengthen the provisions applying to production aid applications by making payment of the minimum price compulsory before submission;

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

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 504/97 is amended as follows:

1. Article 1(2) is amended as follows:

   (a) 'Products to be used for making the product indicated at point (q) shall be packed in appropriate containers' is added to point (a);

   (b) 'Products to be used in making the product indicated at point (q) shall be packed in appropriate containers' is added to point (b);

   (c) 'Products to be used in making the product indicated at point (r) shall be packed in appropriate containers' is added to point (i);

   (d) point (j) is replaced by:

   '(j) *tomato flakes* means flakes obtained by drying tomatoes cut into slivers or small cubes, packed in appropriate containers and covered by CN code ex 07 12 90 30';

[1] OJ L 297, 21. 11. 1996, p. 29.
[2] OJ L 303, 6. 11. 1997, p. 1.
[3] OJ L 78, 20. 3. 1997, p. 14.
[4] OJ L 202, 30. 7. 1997, p. 27.

(e) 'Juices with a dry matter content of at least 7 % may however contain skin and pips constituting up to 4 % by weight of the product' is added to point (k);

(f) point (q) is added as follows:

'(q) *mixed fruit* means mixtures of fruit, whole or in pieces having undergone a heat treatment, with a covering liquid of sugar syrup or natural fruit juice, packed in hermetically sealed containers in which the total drained net weight of the products indicated at (a) and (b) accounts for at least 60 % of the total net drained weight, and made during the period indicated in Article 2(2) in the same establishment as the products indicated at (a) and (b) used;'

(g) point (r) is added as follows:

'(r) *prepared sauces* means tomato-based preparations obtained by mixing non-whole peeled preserved tomatoes as indicated at point (i) or tomato concentrate as indicated at point (l) with other products of plant or animal origin except fresh tomatoes, having undergone a heat treatment, packed in hermetically sealed containers in which the net weight of the products indicated at points (i) and (l) accounts for at least 60 % of the total net weight, and of which the tomato component is covered by CN codes ex 2002 10 10, ex 2002 90 31 or ex 2002 90 39. These products must be made during the period indicated in Article 2(2) in the same establishment as the products indicated at points (i) and (l) used;'

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

'(b) from 1 August to 30 July for dried figs covered by CN code ex 0804 20 90;'

3. in Article 3 '1.' is inserted at the beginning and paragraph 2 is added as follows:

'2. Processors wishing to use the products eligible for production aid indicated at points (a), (b), (i) and (l) of Article 1(2) to prepare mixed fruit or prepared sauces as indicated at points (q) and (r) of Article 1(2) shall notify the competent authorities of the Member State, before the beginning of the marketing year, of the composition of the products to be made, specifying the net weight of each component. This composition may not be altered after the beginning of the marketing year.

For the 1998/99 marketing year however this information shall be notified to the competent authorities within one month of entry into force of this Regulation.';

4. in Article 5(1) a sentence is added as follows:

'These notifications shall state separately the quantities of the products indicated at points (a), (b), (i) and (l) of Article 1(2) used to make the products indicated at points (q) and (r) of Article 1(2); notifications under (a)(ii) shall state separately the quantities obtained of the products indicated at points (q) and (r) of Article 1(2), broken down according to the products indicated at points (a), (b), (i) and (l) of Article 1(2) used.';

5. Article 6(6) is added as follows:

'6. Member States shall notify the Commission by 15 April before the beginning of the marketing year of the quantities covered by preliminary contracts, broken down by product group.';

6. in Article 7(3) the last subparagraph is replaced by:

'The quantities originally stipulated in contracts may not be increased by more than 30 %.';

7. Article 7(6) is added as follows:

'6. In the case of tomatoes Member States shall notify the Commission within 60 days of the deadline for signature of contracts of the quantities contracted, broken down by product group.';

8. the following sentence is added to Article 12(1)(c):

'The quantities of raw materials and of the products indicated at points (a), (b), (i) and (l) of Article 1(2) used to make the products indicated at points (q) and (r) of Article 1(2) shall be stated separately.';

9. in Article 12(2) a subparagraph is added as follows:

'Aid applications shall be unacceptable if the minimum price has not been paid in full for all the raw materials used in the finished product covered by the aid application.';

10. in Article 12(3) a subparagraph is added as follows:

'In the case of tomato-based processed products if the requirement of the previous subparagraph is not met the quantities eligible for aid shall be determined by applying it to each of the finished products obtained by the processor for which the other eligibility requirements for the aid are met.';

11. Article 14(2a) is added as follows:

'2a. In the case of the raw materials and quantities of the products indicated at points (a), (b), (i) and (l) in Article 1(2) used for the mixed fruit and prepared sauces indicated at points (q) and (r) of Article 1(2) the processor shall keep a special register containing at least the information specified at points (a) to (d) of paragraph 1, and showing:

(a) the quantities of mixed fruit and prepared sauces obtained each day, broken down by product composition as referred to in Article 3(2);

(b) the quantities and prices of the mixed fruit and prepared sauces leaving the processing establishment, by consignment, with details of the consignee. This information may be replaced by references to supporting documents provided these contain the necessary information;

(c) the consignments of the products indicated at points (a), (b), (i) and (l) of Article 1(2) purchased and entering the establishment each day with details of the seller.';

12. in Article 15(2) a subparagraph is added as follows:

'If the products indicated at points (q) and (r) of Article 1(2) are made, in addition to the other checks required under this Article the competent authorities shall make frequent unannounced checks on the spot scaled to the quantities of the products used to make them on which aid is liable to be payable; checks shall be at least monthly during the processing period.';

13. Article 16(7) is added as follows:

'7. Without prejudice to Article 11(5), if aid applications are submitted after the deadline specified in that Article, aid shall be reduced by 20 % per month or part thereof. No aid shall be granted if the application is more than two months late.';

14. in Article 17(2):

— point (e)(vii) is added as follows:

'(vii) the average soluble dry weight content of the tomatoes used to make tomato concentrate.',

— points (f) and (g) are added as follows:

'(f) the information required under points (a) to (e) must include the quantities of the products indicated at (a), (b), (i) and (l) of Article 1(2) used to make products as indicated at points (q) and (r) of Article 1(2);

(g) the total quantity made of each of the products indicated at points (q) and (r) of Article 1(2), broken down according to the products indicated at (a), (b), (i) and (l) of Article 1(2) used to make them.'

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, 23 July 1998.

For the Commission

Franz FISCHLER

Member of the Commission