COMMISSION REGULATION (EC) No 2729/1999

of 21 December 1999

amending Regulation (EC) No 1169/97 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], as amended by Regulation (EC) No 858/1999 [2], and in particular Article 6 thereof,

Whereas:

(1) Article 18(2), (3) and (4) of 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, as last amended by Regulation (EC) No 1082/1999 [3], lays down the various checks to which the processors and producer organisations are subject;

(2) the experience gained in implementing these controls indicates that the physical and documentary checks need to be distinguished and the importance of each of these controls should be emphasised. Experience from conducting on-the-spot checks furthermore indicates that risk analysis should be used to programme these checks and that the information to be used for this 'purpose should be specified;

(3) 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

Article 18 of Regulation (EC) No 1169/97 is hereby replaced by the following:

'*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. For each product, marketing year and producer organisation:

(a) physical checks shall be made of:

— at least 5 % of the areas referred to in Article 8(1) and (2);

— at least 20 % of the quantities delivered for processing in each delivery period;

(b) documentary checks shall be made of:

— at least 30 % of the agreements referred to in Article 8(3);

— at least 30 % of the payments referred to in Article 15;

— all applications for aid in each delivery period.

The checks shall also 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 organisations by their members, by members of other producer organisations where the second and third indents of Article 11(1)(c) of Regulation (EC) No 2200/96 apply, and by individual producers where Article 4 of Regulation (EC) No 2202/96 applies.

3. For each processor, product received and month,

(a) physical checks shall be made of:

— at least 30 % of the consignments received under the two types of contract (for one or more marketing years); the checks shall cover at least the net weight of each consignment and its yield in juice;

(b) documentary checks shall be made of

— at least 30 % of the consignments received under the two types of contract (for one or more marketing years); the checks shall cover the real link with a contract, the delivery certificates referred to in Article 10(2), the precise identification of the means of transport used and compliance with the minimum requirements laid down in the Annex.

— at least 30 % of each finished product and by-product obtained under contracts;

— at least 30 % of each finished product and by-product obtained otherwise than under contracts;

— at least 30 % of the transfers as provided for in Article 3(3)(f).

[1] OJ L 297, 21.11.1996, p. 49.
[2] OJ L 108, 27.4.1999, p. 8.
[3] OJ L 169, 27.6.1997, p. 15.

The checks shall also verify that the following tally:

(a) the invoices for the purchase and sale of finished products and by-products; and

(b) the quantities of products received by each processor, the quantities of finished products and byproducts 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 must programme their tally checks on the basis of a risk analysis that considers, among other things:

— observations made during checks conducted in earlier years;

— developments since the year before;

— the yield in juice,

— the relationship between the quantities delivered and the estimated total harvest.

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

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, 21 December 1999.

For the Commission

Franz FISCHLER

Member of the Commission