COMMISSION REGULATION (EC) No 1092/2001

of 30 May 2001

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 certain producers of citrus fruits [1], as last amended by Regulation (EC) No 2699/2000 [2] and in particular Articles 2(2), 3(4) and 6 thereof,

Whereas:

(1) Regulation (EC) No 2202/96 establishes an aid scheme for producer organisations that deliver for processing certain citrus fruits harvested within the Community and listed in Article 1 of that Regulation.

(2) The marketing years and equivalent periods for citrus fruits should be defined with a view to applying the scheme uniformly.

(3) The aid scheme for producers of certain citrus fruits is based on contracts between producer organisations recognised or granted preliminary recognition under Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables [3] as last amended by Commission Regulation (EC) No 911/2001 [4], on the one hand, and processors, on the other hand. Producer organisations may also act as processors in certain circumstances. The types and duration of contracts and the particulars to be included therein should be specified for the purposes of applying the aid scheme.

(4) For each of the products referred to in Article 1 of Regulation (EC) No 2202/96 contracts must be concluded before a given date, so that the producer organisations can establish their plans and guarantee processors a steady supply. To ensure that the scheme is as effective as possible, the parties to such contracts should nevertheless be authorised to conclude amendments adjusting the quantities originally stipulated therein up to a given limit.

(5) In order to improve the way the scheme operates, the authorities should know of all producer organisations marketing the production of their members, of members of other producer organisations and of individual producers who wish to qualify under the scheme. The processors signing contracts with these producer organisations should also send the authorities the information required to ensure that the scheme operates correctly.

(6) There is a close link between the raw material delivered for processing and the finished product obtained. The raw material should therefore meet certain minimum requirements.

(7) Aid applications for each product must include all the information needed to check their acceptability, given the information contained in the contracts.

(8) In order to ensure that the aid scheme is properly applied, producer organisations and processors must forward appropriate information and keep suitable documentation up to date and should, in particular, specify the areas under oranges, small citrus fruits, lemons, grapefruit and pomelos, on the basis of Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes [5], as last amended by Commission Regulation (EC) No 495/2001 [6], and Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes [7], as last amended by Regulation (EC) No 2721/2000 [8], for the purposes of all inspections and controls deemed necessary.

(9) For the purposes of administering the aid scheme, procedures must be laid down for physical and documentary checks on delivery and processing operations, checks must cover a sufficiently representative number of aid applications and certain penalties must be laid down for producer organisations and processors which breach the regulations, in particular by making false declarations, by failing to observe the terms of the contract or by failing to process products delivered.

(10) The measures provided for in this Regulation are to replace those laid down in Commission Regulation (EC) No 1196/97 of 26 June 1997 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards the system of production aid for products processed from fruit and vegetables [9], as last amended by Regulation (EC) No 2729/1999 [10]. That Regulation should therefore be repealed.

[1] OJ L 297, 21.11.1996, p. 49.
[2] OJ L 311, 12.12.2000, p. 9.
[3] OJ L 297, 21.11.1996, p. 1.
[4] OJ L 129, 11.5.2001, p. 3.
[5] OJ L 355, 5.12.1992, p. 1.
[6] OJ L 72, 14.3.2001, p. 6.
[7] OJ L 391, 31.12.1992, p. 36.
[8] OJ L 314, 14.12.2000, p. 8.
[9] OJ L 169, 27.6.1997, p. 15.
[10] OJ L 328, 22.12.1999, p. 35.

(11) The Management Committee for Fruit and Vegetables has not delivered an opinion within the time limit set by its Chairman,

HAS ADOPTED THIS REGULATION:

CHAPTER I

DEFINITIONS AND MARKETING YEARS

Article 1

For the purposes of this Regulation the following definitions shall apply:

(a) 'producer organisations' means producer organisations as referred to in Articles 11 and 13 of Regulation (EC) No 2200/96 and producer organisations granted preliminary recognition under Article 14 of that Regulation;

(b) 'association of producer organisations' means associations as referred to in Article 16(3) of Regulation (EC) No 2200/96;

(c) 'individual producer' means any natural or legal person as referred to in Article 4(1) of Regulation (EC) No 2202/96 not belonging to a producer organisation and growing on their holding raw material intended for processing;

(d) 'processor' means a processing enterprise operating, for economic ends and on its own responsibility, one or more plants with facilities for manufacturing one or more of the products listed in Article 1 of Regulation (EC) No 2202/1996.

Article 2

1. The marketing years within the meaning of Article 6 of Regulation (EC) No 2202/96 shall run:

(a) from 1 October to 30 September in the case of:

— sweet oranges,

— mandarins, clementines and satsumas,

— grapefruit and pomelos;

(b) from 1 June to 31 May in the case of lemons.

2. Aid to producer organisations delivering mandarins, clementines and satsumas shall be granted solely on products delivered to the processing industry in the period from 1 October to 30 June.

3. For a given marketing year, the 'equivalent period' referred to in Article 5(2) of Regulation (EC) No 2202/96 shall run:

— from 1 July of the previous year to 30 June of the current year in the case of oranges,

— from 1 October to 30 June of the current marketing year in the case of mandarins, clementines and satsumas,

— from 1 July of the previous marketing year to 30 June of the current year in the case of grapefruit and oranges,

— from 1 March of the previous marketing year to 28/29 February of the current year in the case of lemons.

CHAPTER II

CONTRACTS

Article 3

1. The contracts referred to in Article 2(1) of Regulation (EC) No 2202/96 on which the aid scheme is based (hereinafter referred to as 'contracts'), shall be concluded in writing. They shall be concluded separately for each of the basic products listed in Article 1 of that Regulation and shall bear an identification number. Contracts may take one of the following forms:

(a) a contract between a producer organisation or association of producer organisations, and a processor,

(b) a commitment to supply, where the producer organisation also acts as a processor.

At any time and for each of the basic products listed in Article 1 of Regulation (EC) No 2202/96 a single one-year contract and/or a single multiannual contract may be in force between a producer organisation and a processor.

2. Contracts shall cover:

(a) the entire marketing year in question in the case of a one-year contract;

(b) at least three marketing years in the case of multiannual contracts within the meaning of Article 3(2)(a) of Regulation (EC) No 2202/96.

In the case of clementines, separate contracts must be concluded for the two possible uses: juice or segments.

3. Contracts must specify, in particular:

(a) the name and address of the contracting producer organisation;

(b) the name and address of the processor;

(c) the quantities of raw materials to be delivered for processing this quantity shall be broken down by marketing year in the case of multiannual contracts;

(d) the schedule of deliveries to processors;

(e) an undertaking by the processors to process the quantities delivered under the contract in question;

(f) the price to be paid to the producer organisation for the raw materials, which may vary by variety and/or quality and/or three-month delivery period; this price shall be paid only by bank or post office transfer.

The contract shall also indicate the delivery stage to which that price applies and the payment terms. Any payment deadline may not exceed 90 days from the date of delivery of each consignment;

(g) the compensation payable should either party fail to fulfil its contractual obligations, in particular as regards payment deadlines and the obligation to deliver and accept the quantities covered by the contract.

4. In the case of one-year contracts, the price referred to in paragraph 3(f) may be adjusted, with the agreement of both parties, by the written amendments referred to in Article 5(2) below and solely for the additional quantities fixed by these amendments.

5. Multiannual contracts may cover both the production of the members of the producer organisation signing the contract and the production of members of other producer organisations where the second and third indents of Article 11(1)(c)(3) of Regulation (EC) No 2200/96 apply.

6. To qualify for the aid laid down in Table 2 of Annex I to Regulation (EC) No 2202/96, quantities delivered under multiannual contracts must be at least 1 000 tonnes per contract, product and marketing year.

7. In the case of multiannual contracts, the price referred to in paragraph 3(f) above for each marketing year shall be established when the relevant contract is signed. However, the price applicable to a given marketing year may be revised, with the agreement of both parties, by written amendment to the contract before 1 July of the marketing year in question in the case of lemons and before 1 November of the marketing year in question in the case of the other products.

8. The Member States may adopt additional provisions covering contracts, in particular as regards compensation payable by processors or producer organisations that fail to fulfil their contractual obligations.

Article 4

In the case of a commitment to supply within the meaning of Article 3(1)(b), contracts covering the production of the members of the producer organisation concerned shall be deemed to have been concluded after the following particulars have been forwarded to the competent authority:

(a) the name and address of each producer and the reference data and areas of the parcels on which each producer cultivates the raw material;

(b) the estimated total harvest;

(c) the quantity intended for processing, broken down by type of contract;

(d) the delivery schedule referred to in Article 3(3)(d);

(e) an undertaking by the producer organisation to process the quantities delivered under the contract in question.

This notification shall be sent to the competent authority by the deadline laid down in Article 6.

Article 5

1. Contracts shall be concluded no later than:

(a) 1 November in the case of oranges, mandarins, clementines, satsumas, grapefruit and pomelos;

(b) 1 July in the case of lemons.

2. In the case of one-year contracts, the quantity initially laid down in the processing contract referred to in Article 3(3)(c) may be amended with the agreement of both parties by one or two written amendments.

The total quantity laid down in the amendment(s) may not exceed 40 % of the quantity initially laid down in the contract. Where there are two amendments, they may not relate to more than 20 % of the said initial quantity each. The amendments shall include the identification number of the contract to which they relate.

The quantities delivered by the new members referred to in Article 8(5) shall be included in the amendments.

3. In the case of multiannual contracts, the quantity initially laid down for each year, within the meaning of Article 3(3)(c), may be amended in writing with the agreement of both parties. The amendment shall include the identification number of the contract to which it relates. Amendments shall be concluded before 1 July of the year in question in the case of lemons and before 1 November of the year in question in the case of the other products. The quantity to be delivered each year as laid down in the amendment may not exceed 40 % of the quantity initially laid down in the contract for the given year.

Article 6

1. Producer organisations signing contracts shall forward a copy of each contract and any amendments thereto to the body designated by the Member State in which their head office is situated and, if appropriate, to the body designated by the Member State where processing is to take place. These copies must reach the competent authorities no later than 10 working days after the conclusion of the contract or amendment thereto and no less than five working days before the start of deliveries.

The total quantity covered by all the contracts signed by a given producer organisation may not exceed, per product, the quantity intended for processing indicated by that producer organisation under Article 4(c) and Article 8(1)(c).

2. In exceptional and duly justified cases, the Member States may accept contracts and amendments thereto that reach their authorities after the time limit laid down in paragraph 1, provided that such late arrival does not hinder their checks.

CHAPTER III

INFORMATION TO BE PROVIDED

Article 7

1. Producer organisations wishing to participate in the aid scheme provided for in Article 3 of Regulation (EC) No 2202/96 and processors wishing to sign contracts with those producer organisations shall so inform the body designated by the Member State in which their head office is situated and, if appropriate, the body designated by the Member State where processing takes place, no later than 30 days before the start of the marketing year. They shall communicate at this time the information needed by the Member State in question to

manage and inspect the aid scheme. The information must include the hourly extraction, pasteurisation and concentration capacity of each processing plant. Member States may decide that such information shall:

(a) be notified by new producer organisations only, or new processors, if the necessary information for the others is already available;

(b) cover a single marketing year, several marketing years or an unlimited period.

2. At least five working days before the start of deliveries or processing each marketing year, producer organisations and processors shall notify the competent authorities of the week in which deliveries and processing are to commence. Producer organisations and processors shall be deemed to have discharged this obligation where they provide proof that they have sent this information at least eight working days before that deadline.

3. In exceptional and duly justified cases, the Member States may accept notifications from producer organisations and processors after the deadline laid down in paragraph 2. However, no aid shall be granted in such cases to producer organisations or processors for quantities already delivered or in the course of delivery unless the checks needed to establish eligibility for the aid can be conducted to the satisfaction of the competent authorities.

Article 8

1. The producer organisation signing the contracts shall send the body designated by the Member State in which its head office is situated the following information, by product:

(a) the name and address of each producer covered by the contracts and the reference data and areas of the parcels on which each producer cultivates the raw materials;

(b) the estimated total harvest;

(c) the quantity intended for processing;

(d) the producer organisation's average yields per hectare and the average percentage of this quantity sent for processing during the previous two marketing years.

2. The information referred to in paragraph 1 shall be provided by the producer organisations or individual producers concerned to the producer organisation signing the contract, which shall forward it to the body designated by the Member State, where the producer organisation signing the contract:

(a) markets quantities intended for processing produced by members of other producer organisations under the second and third indents of Article 11(1)(c)(3) of Regulation (EC) No 2200/96; and/or

(b) passes on the benefit of the aid scheme to individual producers under Article 4(1) of Regulation (EC) No 2202/96.

3. To qualify for the aids, producer organisations and individual producers as referred to in paragraph 2 shall sign agreements with the producer organisation signing the contract.

Such agreements shall cover all citrus fruit production delivered for processing by the said producer organisations and individual producers concerned and must specify at least the following:

(a) the number of marketing years covered by the agreement;

(b) the quantities to be delivered for processing, broken down by producer and product and based on a delivery schedule as referred to in Article 3(3)(d);

(c) the consequences of failure to comply with the agreement.

The Member States may adopt additional provisions covering the agreements referred to in the first subparagraph, in particular as regards compensation payable by producer organisations or individual producers failing to fulfil their contractual obligations.

4. The information referred to in paragraphs 1 and 2, together with a copy of the agreements referred to in paragraph 3 shall be sent to the body referred to in paragraph 1 within 30 days of the start of the marketing year in question.

5. Where a producer joins a producer organisation after the dates referred to in paragraph 4, the information referred to in paragraphs 1 and 2 and, where appropriate, the agreements referred to in paragraph 3 which relate to this new member shall be sent to the body referred to in paragraph 1 no later than 30 days from the date on which his membership takes effect.

6. For the purposes of Article 4(a) and paragraph 1(a) of this Article:

— the parcel identification system shall be that used for the integrated system referred to in Article 4 of Regulation (EEC) No 3508/92. The areas are to be declared in hectares to two decimal places. Article 6(7) of Regulation (EEC) No 3887/92 shall apply for the purposes of determining the area of parcels during on-the-spot checks as provided for in Article 19(1)(a),

— the name and address of each producer may be replaced by any other information required by national legislation to allow the producer to be determined unequivocally to the satisfaction of the competent authorities.

CHAPTER IV

RAW MATERIALS

Article 9

Products delivered by the producer organisations to the processors under a contract must satisfy the minimum requirements laid down in the Annex hereto.

Article 10

1. No later than 18.00 on the preceding working day, the producer organisation shall notify each delivery to the body designated by the Member State where its head office is situated and, where applicable, to the body designated by the Member State where processing is carried out. This notification shall include the quantity to be delivered, a precise identification of the means of transport used and the identification number of the contract relating to the delivery in question. It shall be sent electronically or via computer and the body to which it is addressed shall keep a written record of it for at least three years.

The competent body may ask for any additional information it considers necessary for a physical check on the deliveries.

Should the data in the first subparagraph be amended after they have been notified, the amended data must be notified in the same way as the initial notification, before delivery commences. The initial notification may be amended only once.

2. A delivery certificate shall be issued for each product lot delivered under contract and accepted for processing at the processing plant, specifying:

(a) the date and time of unloading;

(b) the precise identification of the means of transport used;

(c) the identification number of the contract to which the consignment relates;

(d) the gross weight and net weight;

(e) where applicable, the rate of reduction calculated on the basis of the minimum quality criteria laid down in the Annex.

Delivery certificates shall be prepared in quadruplicate. They shall be signed by the processor or its representative and by the producer organisation or its representative. Signatures shall be preceded by the handwritten words 'Agreed by'. Each certificate shall bear an identification number.

Processors and producer organisations shall both keep a copy of delivery certificates. For inspection purposes, the producer organisation shall send a copy to the bodies referred to in paragraph 1 no later than the fifth working day after the week of delivery.

3. Where all or part of a lot belongs to producers as referred to in Article 8(2)(a) or (b), the contracting producer organisation shall forward a copy of the certificate provided for in paragraph 2 to each producer organisation and individual producer concerned.

4. For each quarter from the start of the marketing year, no later than the tenth day of the following month the producer organisation shall notify the body designated by the Member State where its head office is situated and, where applicable, the body designated by the Member State where processing is carried out, of the quantities delivered, by lot and by product. Quantities delivered under contract shall be broken down by contract and on the basis of the corresponding amount of aid.

5. The documents required under national law may be used for the purposes of this Article, provided they contain all the information referred to paragraph 2.

Article 11

1. For each quarter from the start of the marketing year, no later than the tenth day of the following month processors who conclude contracts with producer organisations shall send the body designated by the Member State where the head office of the producer organisation is situated and, where applicable, the body designated by the Member State where processing is carried out, the following information, broken down by product.

(a) the quantity of product received for each lot and for each contract in question and the quantity of products received outside these contracts;

(b) the quantities of juice obtained, broken down by Brix concentration, specifying the quantities obtained from lots delivered under contract;

(c) the average weight of the yield in juice from the raw materials and the Brix concentration of this juice;

(d) the quantities of segments obtained, specifying the quantities obtained from lots delivered under contract.

The quantities shall be expressed as net weight.

The notifications shall be signed by the processor, who shall certify their accuracy by doing so.

2. Within 45 days of completion of processing operations for the marketing year, the processors shall notify the body referred to in paragraph 1 of the following in respect of each product:

(a) the quantities received, broken down by the resulting finished product;

(b) the quantities received under contract, broken down by delivery period and type of contract (one-year or multi-annual);

(c) the quantities received, broken down by the resulting finished product;

(d) the quantity of finished products obtained from each of the quantities referred to in (a). In the case of juice, these quantities are to be broken down on the basis of their Brix concentration;

(e) the quantity of finished products obtained from each of the quantities referred to in (c). In the case of juice, these quantities are to be broken down on the basis of their Brix concentration;

(f) the quantities of each finished product in stock at the end of the processing operations for that marketing year.

The quantities shall be expressed as net weight.

CHAPTER V

AID APPLICATIONS

Article 12

1. Producer organisations shall submit their aid applications, per product and per marketing year, to the body designated by the Member State in which their head office is situated.

Such aid applications shall be submitted:

(a) for quantities accepted for processing during the first half of the marketing year, no later than:

— 31 December in the case of lemons,

— 30 April in the case of other products;

(b) for quantities accepted for processing during the second half of the marketing year, with the exception of mandarins and clementines, no later than:

— 30 June of the following marketing year in the case of lemons,

— 31 October of the following marketing year in the case of oranges, grapefruit and pomelos;

(c) in the case of mandarins and clementines accepted for processing during the third quarter of the marketing year, no later than 31 July.

2. In exceptional and duly justified cases, the Member States may accept aid applications after the deadlines laid down in paragraph 1, provided that this does not have an adverse effect on control of the production aid scheme.

3. If aid applications are submitted after the deadlines laid down in paragraph 1, the aid shall be reduced by 1 % per day of delay. No aid shall be granted if the delay exceeds fifteen days. These provisions shall not be applicable where paragraph 2 is applied.

4. In the case of clementines, separate aid applications must be prepared for the two possible uses: juice or segments.

Article 13

1. Each aid application as referred to in Article 12 must include the following information:

(a) the name and address of the producer organisation;

(b) the quantity covered by the aid application. That quantity, broken down by contract and on the basis of the corresponding amount of aid, may not exceed the quantity accepted for processing, after deduction of any reduction rates applied;

(c) the average selling price for the quantity delivered under contract;

(d) the quantity delivered during the same period otherwise than under contract, and its average selling price.

2. The aid shall be paid by the competent body in the Member State in which the producer organisation signing the contract has its head office as soon as that body has undertaken the checks provided for in Article 19(1)(a) and checked that the aid application tallies with the delivery certificates referred to in Article 10(2) for the product in question.

Where processing takes place in another Member State, that Member State shall provide the Member State where the head office of the producer organisation signing the contract is situated with proof that the product has in fact been delivered and accepted for processing.

Aid shall not be granted if the proof referred to in the preceding subparagraph is not provided, nor shall aid be granted on quantities in respect of which the checks referred to in the first subparagraph have not been conducted.

Article 14

The aid shall be paid to producer organisations:

(a) for quantities accepted for processing during the first half of the marketing year, no later than:

— 28 or 29 February in the case of lemons,

— 30 June in the case of other products;

(b) for quantities accepted for processing during the second half of the marketing year, with the exception of mandarins and clementines, no later than:

— 31 August of the following marketing year in the case of lemons,

— 31 December of the following marketing year in the case of oranges, grapefruit and pomelos.

(c) in the case of mandarins and clementines accepted for processing during the third quarter of the marketing year, no later than 30 September.

Article 15

Within 15 working days following receipt of the aid, the producer organisation shall pay in full the amounts received, by bank or postal transfer, to its members and, where applicable, to producers as referred to in Article 8(2)(a) and (b). In cases covered by Article 3(1)(b), payment may be made by opening a credit line.

Where a producer organisation is wholly or partly made up of members which are themselves organisations with legal personality made up of producers, payments as provided for in the first subparagraph shall be paid on by those member organisations to the producers within 15 working days.

CHAPTER VI

CHECKS AND PENALTIES

Article 16

1. Without prejudice to Title VI of Regulation (EC) No 2200/96, Member States shall take the necessary steps:

(a) to ensure that this Regulation is complied with;

(b) to prevent and prosecute irregularities and apply the penalties provided for in this Regulation;

(c) to recover sums lost as a result of irregularities or negligence;

(d) to verify the records provided for in Articles 17 and 18, ensuring that they tally with the accounting required of producer organisations and processors under national law;

(e) to carry out unannounced checks as referred to in Article 19 during the appropriate periods.

2. The Member States must programme their tally checks on the basis of a risk analysis that considers, among other things:

(a) the findings of checks conducted in earlier years;

(b) developments since the year before;

(c) the raw material yield by homogeneous production zone;

(d) the ratio of the quantities delivered to the estimated total harvest;

(e) the yield of the raw material in terms of finished product.

The risk analysis criteria shall be regularly updated.

3. Where irregularities or anomalies are found, the Member States shall increase the frequency and percentage of checks as referred to in Article 19, having regard to the seriousness of the findings.

Article 17

1. Producer organisations delivering products for processing shall keep a record of each product delivered. These records shall include the following information:

(a) in the case of quantities delivered under multiannual contracts:

(i) the lots delivered each day, and the identification number of the contract to which they relate;

(ii) the net weight of each lot delivered and accepted for processing, minus any reduction, and the identification number of the relevant delivery certificate;

(b) in the case of quantities delivered under one-year contracts:

(i) the lots delivered each day, and the identification number of the contract to which they relate;

(ii) the net weight of each lot delivered and accepted for processing, minus any reduction, and the identification number of the relevant delivery certificate;

(iii) the total quantity delivered each day, broken down on the basis of the applicable aid;

(c) in the case of quantities delivered otherwise than under contract:

(i) the lots delivered each day, and the name and address of the processor;

(ii) the net weight of each lot delivered and accepted for processing.

2. Producer organisations and the producers referred to in Article 8(2) shall keep available for the national inspection authorities all the information needed for checking compliance with this Regulation.

In the case of each basic product, that information must make it possible to establish, for each producer covered by a contract, whether the areas, the total harvest, the total quantities delivered to the producer organisation and the quantities delivered for processing tally with the aid payments.

Producer organisations and the producers referred to in Article 8(2) shall submit to all inspections and checks deemed necessary by the competent authorities and shall keep all additional records required by those authorities for the purposes of the checks deemed necessary.

3. The Member States may decide what material or computerised form the records provided for in paragraphs 1 and 2 shall take.

The records or accounting documents required under national law may be used for the purposes of this Article, provided they contain all the information referred to in paragraph 1.

Article 18

1. Processors shall keep a record of each product purchased. These records shall include the following information:

(a) in the case of quantities purchased from producer organisations under contract:

(i) the lots received each day, and the identification number of the contract to which they relate;

(ii) the net weight of each lot received and accepted for processing, the identification number of the relevant delivery certificate and the precise identification of the means of transport used;

(b) in the case of the other quantities purchased:

(i) the lots received each day, and the name and address of the seller;

(ii) the net weight of each lot received;

(c) the quantities of juice obtained each day, broken down by Brix concentration, specifying the quantities obtained from lots delivered under contract;

(d) the quantities of segments obtained each day, specifyng the quantities obtained from lots delivered under contract;

(e) the quantities and prices of finished products bought by the processor each day, with the name and address of the seller indicated. In the case of juice, these quantities shall be broken down on the basis of their Brix concentration;

(f) the quantities and prices of each finished product leaving the processor's premises each day, giving the name and address of the consignee. In the case of juice, these quantities shall be broken down on the basis of their Brix concentration; this information may be recorded by reference to supporting documents held elsewhere, provided they contain the abovementioned particulars;

(g) the quantities of each finished product in stock at the end of the marketing year. In the case of juice, these quantities are to be broken down on the basis of their Brix concentration.

The quantities shall be expressed as net weight.

2. Processors shall keep proof of payment for all raw materials purchased under contract or a written amendment thereto for five years from the end of the processing year concerned. Processors shall also keep proof of any purchases or sales of processed juice for five years.

Processors shall update daily their juice and/or segment records for each plant.

3. Processors shall submit to all inspections and checks deemed necessary by the competent authorities and shall keep all additional records required by those authorities for the purposes of the checks deemed necessary.

4. The Member States may decide what material or computerised form the records provided for in paragraphs 1 and 3 shall take.

The records or accounting documents required under national law may be used for the purposes of this Article, provided they contain all the information referred to in paragraph 1.

Article 19

1. For each producer organisation, finished product and marketing year:

(a) physical checks shall be conducted on at least:

— 5 % of the areas referred to in Articles 4 and 8(1) and (2),

— 20 % of the quantities delivered for processing under each contract, in order to check that they tally with the delivery certificates referred to in Article 10(2) and comply with the minimum quality requirements referred to in Article 9;

(b) administrative and accounting checks shall be conducted on at least:

— 5 % of producers covered by contracts, in order to check in particular that for each producer the areas, the total harvest, the quantity delivered to the producer organisation and the quantity delivered for processing all tally with the aid payments provided for in Article 15,

— 10 % of the agreements referred to in Article 8(3);

(c) administrative and accounting checks shall be conducted to verify that the quantities of products delivered to the producer organisation by the producers referred to in Article 8(1) and (2), the quantities delivered for processing, the delivery certificates referred to in Article 10, and the quantities stated in the applications for aid all tally with the aid paid under Article 15;

(d) administrative checks shall be conducted on all aid applications as referred to in Article 12.

2. For each processor, plant, product received and marketing year:

(a) physical checks shall be conducted on at least:

— 10 % of the finished products obtained, in order to verify the yield of raw material under contract and otherwise;

(b) administrative and accounting checks shall be conducted on at least:

— 5 % of the lots received under each type of contract (one-year or multiannual); they shall involve 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 Article 9,

— 10 % of the price transfers referred to in Article 3(3)(f);

(c) physical and accounting checks shall be conducted on stocks and, at least twice a year, shall cover all stocks of finished products to ensure that they tally with the finished products manufactured, purchased and sold.

Furthermore, tally checks shall be conducted to ensure that:

(a) the purchase and sales invoices for juice tally; and

(b) the quantities of raw materials received by the industry, the quantities of juice produced, the quantities of juice purchased and the quantities of juice sold or in stock.

Article 20

1. Where it is ascertained, for a given product, that the aid applied for in respect of any marketing year exceeds the amount due, then that amount shall be reduced, unless the difference is clearly due to error. The reduction shall be equal to the difference. If the aid has already been paid, the beneficiary shall pay back twice the difference, plus interest calculated on the time elapsing between payment and reimbursement by the beneficiary.

The interest rate shall be that applied by the European Central Bank to its main refinancing operations, as published in the C series of the *Official Journal of the European Communities*, in force on the date of the undue payment, plus three percentage points.

2. If the difference referred to in paragraph 1 is more than 20 %, the beneficiary shall lose all entitlement to the aid and, if the aid has already been paid, reimburse the total aid, plus interest calculated in accordance with paragraph 1.

If the difference is more than 30 %, the producer organisation shall also be excluded from the aid scheme for the product concerned for the following three marketing years.

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

4. The Member States shall take the necessary measures to ensure that the provisions on aid payments are complied with, in accordance with Article 15. They shall provide in particular for penalties commensurate with the seriousness of any irregularity to be imposed on the officers of the producer organisation.

5. Except in cases of force majeure, if the quantity delivered of a product under a multiannual contract for a marketing year is found to be less than the minimum quantity laid down in Article 3(6), the corresponding aid shall be reduced by 50 % for the marketing year in question. If the aid has already been paid, the beneficiary shall pay back the difference between the aid paid and the aid due, plus interest calculated in accordance with paragraph 1.

Where three multiannual contracts or more at the same time are affected by a failure to deliver the minimum quantity for a marketing year, the producer organisation in question shall be barred from signing further multiannual contracts from the time such failure is noted. The Member State shall determine the duration of such a bar, based on the seriousness of the failure. The bar shall last for at least two marketing years. The first subparagraph shall apply to every contract.

6. Except in cases of force majeure, if the quantities accepted for processing during a marketing year under each contract referred to in Article 3(2)(a) and (b) are found to be less than the quantities contracted for in respect of that marketing year, including any amendments thereto, the corresponding aid shall be reduced by:

— 20 %, if the discrepancy between the quantities accepted for processing and the quantities contracted for is equal to or more than 20 % but less than 30 % of the quantities contracted for,

— 30 %, if the discrepancy between the quantities accepted for processing and the quantities contracted for is equal to or more than 30 % but less than 40 % of the quantities contracted for,

— 40 %, if the discrepancy between the quantities accepted for processing and the quantities contracted for is equal to or more than 40 % but less than 50 % of the quantities contracted for.

No aid shall be granted if the discrepancy between the quantities accepted for processing and the quantities contracted for is equal to or more than 50 % of the quantities contracted for.

If the aid has already been paid, the producer organisation shall pay back the difference between the aid paid and the aid due, plus interest calculated in accordance with paragraph 1.

In the case of multiannual contracts, where it is possible to apply paragraphs 5 and 6 simultaneously, the higher penalty shall be imposed.

7. If it is found that a processing contract has been totally or partially cancelled before its full term, the producer organisation that signed the contract shall reimburse 40 % of the aid received under that contract, plus interest calculated in accordance with the second subparagraph of paragraph 1.

In addition, in the case of multiannual contracts:

— a producer organisation that has cancelled all or part of two contracts or more in the same marketing year may not conclude any further multiannual contract under Regulation (EC) No 2202/96 for three marketing years from the date on which the competent body in the Member State concerned becomes aware of the cancellation,

— except in the case of bankruptcy of the processor, failure to deliver a product for one of the marketing years under contract shall be considered a cancellation of the contract in question.

8. If the area checks referred to in Article 19(1)(a) show a discrepancy between the area declared and that actually determined, at the level of the total area checked, the aid payable to the producer organisation shall be reduced, unless the discrepancy is clearly due to error:

— by the percentage of the discrepancy established, if it is more than 5 % but not more than 20 % of the area actually determined,

— by 30 % if the discrepancy is more than 20 % of the area determined.

The aid reduction thus calculated shall be halved where the area declared is less than the area determined.

9. Where a producer organisation commits a subsequent irregularity, the Member State shall withdraw that organisation's recognition, or preliminary recognition in the case of a producer group granted preliminary recognition.

Article 21

1. Except in cases of force majeure, where it is found that the full quantity of a product accepted for processing under contract has not been processed into one of the products listed in Article 1 of Regulation (EC) No 2202/96, the processor shall pay an amount equal to twice the unit amount of the aid, multiplied by the quantity of the raw material concerned which has not been processed, plus interest calculated in accordance with Article 20(1).

Furthermore, the processor shall not sign new contracts:

— for the marketing year following the finding, if the difference referred to in the first subparagraph is 10 % or less,

— for two marketing years following the finding, if the difference is more than 10 % but no more than 20 %,

— for three marketing years following the finding if the difference is more than 20 %.

2. In addition, the Member States shall exclude the processor from the aid scheme provided for in Regulation (EC) No 2202/96:

— where the producer organisation makes false declarations with the collaboration of the processor,

— where the processor fails to pay the price referred to in Article 3(3)(f),

— where the processor fails to pay the penalties provided for in paragraph 1.

The Member State shall decide on the length of time for which the processor may not take part in the processing scheme, having regard to the seriousness of the case.

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

Article 22

1. Compliance with national and Community thresholds shall be ascertained on the basis of the quantities delivered for processing under Regulation (EC) No 2202/96 in each of the Member States in question.

2. The Member States shall take the measures required to ensure reciprocal administrative cooperation with a view to ensuring that this Regulation is properly applied.

CHAPTER VII

NOTIFICATIONS TO THE COMMISSION

Article 23

1. Each Member State shall notify to the Commission:

(a) before the beginning of each marketing year, if it has had recourse to Article 5(3) of Regulation (EC) No 2202/96 and the quantities of each of the subthresholds concerned;

(b) the quantity of each product contracted for in the current marketing year, broken down by type of contract:

(i) no later than 15 August in the case of lemons;

(ii) no later than 15 December in the case of the other products;

(c) the quantity of each product delivered for processing under Regulation (EC) No 2202/96 in the periods referred to in Article 2(3):

(i) no later than 1 April of the current marketing year in the case of lemons;

(ii) no later than 1 August of the current marketing year in the case of the other products.

In the case of clementines, this quantity shall be broken down into products delivered for processing into segments on the one hand and into juice on the other.

2. No later than 1 January of the following marketing year, each Member State concerned shall notify to the Commission:

(a) the quantities of each product received by the processors, broken down by the resulting finished product;

(b) the quantities of each product received by the processors under contract, broken down by type of contract (one-year or multiannual);

(c) the quantities of each product received by the processors under contract, broken down by the resulting finished product;

(d) the quantity of finished products obtained from each of the quantities referred to in (a). In the case of juice, these quantities shall be broken down on the basis of their Brix concentration;

(e) the quantity of finished products obtained from each of the quantities referred to in (c). In the case of juice, these quantities shall be broken down on the basis of their Brix concentration;

(f) the quantities of each finished product in stock at the end of the processing operations for that marketing year;

(g) the quantities of each product contracted for and delivered by type of contract (one-year or multiannual);

(h) the quantities of each product delivered, broken down on the basis of the corresponding amount of aid;

(i) the expenditure, expressed in national currency, on aid paid to the producer organisations for each product.

The quantities shall be expressed as net weight.

3. No later than 1 January of the following marketing year, a report on the checks made during the preceding marketing year, specifying the number of checks and the results, broken down by type of finding, shall be prepared for each product.

CHAPTER VIII

TRANSITIONAL AND FINAL PROVISIONS

Article 24

Notwithstanding Article 8(6), for the 2001/02 marketing year parcel references shall be the cadastral references or any other references recognised as equivalent by the inspection body.

Article 25

Regulation (EEC) No 1169/97 is hereby repealed with effect from the end of the 2000/01 marketing year for each of the products concerned.

Article 26

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, 30 May 2001.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

MINIMUM REQUIREMENTS REFERRED TO IN ARTICLE 9

Products delivered for processing must:

1. be whole, of sound, genuine and merchantable quality and suitable for processing. Products affected by rot are excluded;
2. comply with the following minimum values:

(a) Products for processing into juice

	Yield in juice	Degrees Brix ([1])
Oranges	30 %	10°
Mandarins	23 %	9°
Clementines	25 %	10°
Grapefruit and pomelos	22 %	8°
Lemons	20 %	7°

([1]) Refractometric method.

(b) Products for processing into segments

	Yield in juice	Degrees Brix ([1])
Clementines	33 %	10°
Satsumas	33 %	10°

([1]) Refractometric method.

For processing into segments, clementines and satsumas must be at least 45 mm in size.