COMMISSION REGULATION (EC) No 1243/2002

of 10 July 2002

laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards the flat-rate aid for hazelnuts harvested during the 2001/02 marketing year

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]), as last amended by Commission Regulation (EC) No 545/2002 ([2]), and in particular Article 55 thereof,

Whereas:

(1) In order to deal with the particularly difficult market conditions in the hazelnut sector, flat-rate aid is granted for the 2001/02 marketing year.

(2) In accordance with the objectives of the common organisation of the markets, that aid is granted to producer organisations recognised under Council Regulation (EEC) No 1035/72 ([3]), as last amended by Commission Regulation (EC) No 1363/95 ([4]), or Regulation (EC) No 2200/96. To enhance the results produced by the specific measures already implemented, that aid is granted only on condition that the aforementioned producer organisations implement in 2001 either a quality improvement plan within the meaning of Article 14(d) of Regulation (EEC) No 1035/72 or an operational programme within the meaning of Regulation (EC) No 2200/96.

(3) The beginning of the marketing year should be amended to take account of the effective harvest of hazelnuts, without however excluding from the scope of aid the products brought by the producers who joined the organisations between 1 and 31 August 2001.

(4) To ensure efficient payment of aid due to the beneficiaries, deadlines should be set for the producer organisations to lodge their applications and for payment of aid by the competent authorities.

(5) Since the aid is granted to the producers of hazelnuts, the producer organisation must pay the amount received in full to the producers, although an administration charge may be retained by the producer organisation.

(6) To ensure the effectiveness of the system of flat-rate aid, procedures should be laid down for checks and, where undue payments are made, penalties.

(7) 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

1. The flat-rate aid of EUR 15 per 100 kilograms referred to in Article 55 of Regulation (EC) No 2200/96 shall be granted to producer organisations which:

(a) implemented in 2001 a quality and marketing improvement plan within the meaning of Article 14(d) of Regulation (EEC) No 1035/72 and are not eligible for an extension of said plan under Articles 1 and 2 of Regulation (EC) No 545/2002, and/or

(b) have been recognised pursuant to:

(i) Article 13 of Regulation (EC) No 2200/96 and implemented an action plan in 2001, or

(ii) Article 11 of Regulation (EC) No 2200/96, and implemented an operational programme in 2001.

2. To qualify for this aid, producer organisations must be recognised in respect of their production of hazelnuts.

Article 2

1. The aid referred to in Article 1 shall be allocated for hazelnuts in their shells falling within CN code 0802 21 00, of sound, fair and merchantable quality produced by members of the producer organisation during the 2001/02 marketing year, delivered to the producer organisation and taken over by that organisation.

2. 'Members of the producer organisation' shall mean members belonging to the producer organisation at the beginning of the 2001/02 marketing year and new members who joined the organisation up to 31 August 2001.

3. The hazelnut 2001/02 marketing year shall begin on 1 August 2001 and finish on 31 July 2002.

Article 3

1. Producer organisations shall submit an aid application to the competent authorities not later than 30 September 2002 for quantities produced during the 2001/02 marketing year, accompanied by supporting documentation.

([1]) OJ L 279, 21.11.1996, p. 1.
([2]) OJ L 84, 28.3.2002, p. 1.
([3]) OJ L 118, 20.5.1972, p. 1.
([4]) OJ L 132, 16.6.1995, p. 1.

2. Member States shall pay the producer organisations by 30 November 2002 at the latest.

3. The aid received by the producer organisation shall be paid within 15 days in full to the producers in proportion to the quantities delivered by the producers. The producer organisation may, however, retain a maximum of 2 % of the value of the aid to cover administrative costs directly relating to this measure.

Article 4

1. Member States shall carry out checks on producer organisation papers and supporting documentation and on-the-spot checks to ensure that the information submitted is correct.

2. Both above checks shall be made on all the producer organisations that have applied for Community aid under this Regulation. The checks must cover producer organisation accounts as well as the situation regarding hazelnut stocks. The checks may be carried out at the same time as or combined with checks already provided for under Commission Regulations (EEC) No 2159/89 [1] and (EC) No 609/2001 [2].

3. Member States shall ensure compliance with the conditions laid down in Article 3(1) and (2) and that the information provided by the producer organisations when they submit their aid application is consistent with the data submitted in the improvement plan and/or operational programme or action plan referred to in Article 1(1).

Article 5

1. The beneficiary of any undue payment shall reimburse twice the aid unduly paid or requested, increased by an interest rate calculated as a function of the period between the payment of the aid and reimbursement by the beneficiary in particular in cases where a check carried out pursuant to Article 4 shows that the quantities of hazelnuts actually harvested as defined in Article 2(1):

(a) are smaller than those indicated in the aid application;

(b) include hazelnuts from producers not eligible under this Regulation.

However, the penalty referred to in the first subparagraph shall not apply where the beneficiary proves to the satisfaction of the competent national authority that the irregularities committed are not intentional or due to serious negligence on his part. In such cases, the beneficiary shall pay only the undue amount paid plus interest.

2. The interest rate shall be that applied by the European Monetary Institute to its operations in euro, published in the C series of the *Official Journal of the European Communities*, which is in force on the date of the undue payment, increased by three percentage points.

3. Where the aid unduly paid or requested referred to in paragraph 1 is greater than 20 % of the aid due, the beneficiary shall repay the Community aid paid to him in full, increased by the interest referred to in paragraph 1.

4. The amounts recovered and the interest thereon shall be paid to the competent paying agency and deducted from the expenditure financed by the European Agricultural Guidance and Guarantee Fund.

5. Where a false declaration is made deliberately or through grave negligence, the producer organisation concerned shall be disqualified for the aid provided for under this Regulation.

6. Paragraphs 1 to 5 shall apply without prejudice to other penalties to be applied under Article 48 of Regulation (EC) No 2200/96.

Article 6

This Regulation shall enter into force on the seventh day following that of 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, 10 July 2002.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 207, 19.7.1989, p. 19.
[2] OJ L 90, 30.3.2001, p. 4.