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COMMISSION REGULATION (EC) No 686/2004

of 14 April 2004

laying down transitional measures concerning producer organisations in the market of fresh fruit and vegetables by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union

(OJ L 106, 15.4.2004, p. 10)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Regulation (EC) No 2249/2004 of 27 December 2004	L 381	23	28.12.2004

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laying down transitional measures concerning producer organisations in the market of fresh fruit and vegetables by reason of the accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia to the European Union

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular Article 2(3) thereof,

Having regard to the Act of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia, and in particular the first subparagraph of Article 41 thereof,

Whereas:

(1) Commission Regulation (EC) No 1432/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 regarding the conditions for recognition of producer organisations and preliminary recognition of producer groups ([1]), and Commission Regulation (EC) No 1433/2003 of 11 August 2003 laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards operating funds, operational programmes and financial assistance ([2]) set certain dates and conditions for the recognition of and aid to producer organisations. Transitional measures should be laid down in order to enable producer organisations and producer groups in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (hereinafter referred to as 'the new Member States') to apply for the aid provided for in those Regulations before 1 January 2005.

(2) A number of new Member States have adopted national legislation on the recognition of and aid to producer organisations and producer groups, and a certain number of producer organisations and producer groups exist already.

(3) The new Member States should be given the possibility of temporarily considering producer organisations and producer groups recognised under their respective national legislation as being recognised under Regulation (EC) No 2200/96. Those producer organisations and producer groups may then apply for the available Community aid. The new Member States should verify before the end of 2005 whether the producer organisations and producer groups really meet the recognition criteria provided for in Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ([3]). The financial responsibility for aid paid to those producer organisations and producer groups falls on the new Member State in question.

(4) Certain new Member States have not provided in their national legislation recognition of producer organisations based on the categories of products referred to in Article 11(1)(a)(ii) to (vii) of Regulation (EC) No 2200/96. For the sake of clarity, the producer organisations or groups which have been recognised before 1 May 2004, in accordance with national legislation,

([1]) OJ L 203, 12.8.2003, p. 18.
([2]) OJ L 203, 12.8.2003, p. 25; Regulation as last amended by Regulation (EC) No 1582/2003 (OJ L 227, 11.9.2003, p. 3).
([3]) OJ L 297, 21.11.1996, p. 1; Regulation as last amended by Commission Regulation (EC) No 47/2003 (OJ L 7, 11.1.2003, p. 64).

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should be considered as belonging to category 'fruit and vegetables' referred to in Article 11(1)(a)(i) of Regulation (EC) No 2200/96.

(5) In order to speed up the process, producer organisations and producer groups recognised before 1 May 2004, in accordance with national legislation, should not be required to submit another application. The new Member States should notify them whether they are recognised for 2004 under Regulation (EC) No 1432/2003 or not.

(6) Neither the producer organisations nor the new Member States have experience with operational programmes. As a transitional measure for producer organisations in the new Member States, an operational programme of a maximum duration of one-and-a-half years may be submitted. The drafting of short, simple programmes should reduce the period required for preparation by the producer organisations and the period required for evaluation by the national authorities. The drafting, evaluation, implementation and control of those programmes should help both producer organisations and national authorities with the handling of operational programmes of normal length after the transitional period.

(7) For recognition plans approved in the new Member States under their respective national legislation before 1 May 2004, the starting date should be deemed to be 1 May 2004.

(8) The new Member States have the obligation to check a certain percentage of the producer organisations and producer groups each year concerning compliance with the recognition criteria, and the conditions for the grant of aid. In view of the administrative burden which this represents for the new Member States, they should be allowed to reduce the percentage of checks of producer organisations and producer groups to no less than half of the normal level in 2005, but if they make use of this possibility, the percentage should be increased by the same rate in 2006, in order to reach the normal level on a two-year average.

(9) Operators in the new Member States are free to choose not to make use of these transitional provisions and apply the normal rules contained in Regulations (EC) No 1432/2003 and (EC) No 1433/2003 in Commission Regulation (EC) No 1943/2003 of 3 November 2003 laying down rules for the application of Council Regulation (EC) No 2200/96 as regards aid to producer groups granted preliminary recognition ([1]) and in Commission Regulation (EC) No 103/2004 of 21 January 2004 laying down detailed rules for implementing Council Regulation (EC) No 2200/96 as regards intervention arrangements and market withdrawals in the fruit and vegetable sector ([2]).

(10) 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

Definition

For the purposes of this Regulation, 'new Member States' shall mean the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

([1]) OJ L 286, 4.11.2003, p. 5.
([2]) OJ L 16, 23.1.2004, p. 3.

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Article 2

Recognition and preliminary recognition

1. By way of derogation from Article 1 of Regulation (EC) No 1432/2003 and Article 12 of Regulation (EC) No 2200/96, the new Member States may decide to consider producer organisations or groups which have been recognised before 1 May 2004 in accordance with national legislation, either as recognised producer organisations or producer groups granted preliminary recognition under Regulation (EC) No 2200/96 (hereinafter referred to as 'recognised producer organisations' and 'recognised producer groups').

The new Member States shall notify each producer organisation or group recognised in accordance with national legislation before 1 May 2004 of the decision concerning its recognition, as provided for in the first subparagraph, as soon as possible after 1 May 2004.

2. The decision referred to in paragraph 1 shall apply from the date of its notification until 31 December 2005.

3. The new Member States shall communicate to the Commission, within 30 days following the notification of the decision referred to in paragraph 1, the information referred to in Article 12(1)(c) of Regulation (EC) No 2200/96 and Article 17(5) of Regulation (EC) No 1432/2003 concerning producer organisations and producer groups respectively, which have been recognised or refused recognition in accordance with this Regulation.

Article 3

Categories of producer organisations

If a new Member State has no legislative provisions regarding the categories of producer organisations, provided for in Article 11(1)(a) of Regulation (EC) No 2200/96, the recognised producer organisations in such new Member States shall be considered as belonging to category 'fruit and vegetables', referred to in Article 11(1)(a)(i) of that Regulation.

Article 4

Operational programmes

1. A producer organisation of a new Member State, recognised before 1 May 2004 in accordance with national legislation, may submit an operational programme, for a period ending 31 December 2005 at the latest, for approval before 30 June 2004. Such applications shall be accompanied by an undertaking from the organisation to submit a new operational programme on 15 September 2005 at the latest. Operational programmes shall indicate the estimated amounts of operating funds as provided for in Article 7 of Regulation (EC) No 1433/2003, based on a reference period determined pursuant to Article 4 of that Regulation, and contain the information referred to in Articles 8 and 9 of that Regulation.

2. Within three months from the submission of the application referred to in paragraph 1, the competent national authorities shall take a decision on the operational programmes submitted.

However, operational programmes shall not be approved unless a positive decision, as referred to in Article 2(1), has been notified to the producer organisations concerned.

3. The competent national authorities shall notify the producer organisations of their decisions approving operational programmes. Implementation of operational programmes may commence only after the competent national authorities have approved them.

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By way of derogation from Article 16(1) of Regulation (EC) No 1433/2003, in 2004, the operational programmes shall run from their date of approval by the competent national authorities until 31 December 2004.

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4. Subject to Articles 18, 20 and 21 of Regulation (EC) No 1433/2003, producer organisations may apply for aid to their operational programme.

However, the relevant new Member State shall bear the financial responsibilities resulting from the use of aid received in 2004 and 2005 in violation of Article 6 or 8 of Regulation (EC) No 1433/2003.

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4a. By way of derogation from Article 4(1) of Regulation (EC) No 1433/2003, for the application for aid for 2004, the value of marketed production during the reference period shall be multiplied by the number of days from the date of the approval of the operational programme to 31 December 2004 (both days included), and divided by 366.

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5. Subject to Article 7 of Regulation (EC) No 103/2004, producer organisations recognised before 1 May 2004 in accordance with national legislation may apply for Community withdrawal compensation.

However, the new Member State concerned shall bear the financial responsibilities resulting from the notification of a negative decision, as referred to in Article 2(1).

Article 5

Aid to recognised producer groups

Recognised producer groups may apply for aid referred to in Article 14 (2) of Regulation (EC) No 2200/96, if available in the Member State concerned, subject to Article 5 of Regulation (EC) No 1943/2003.

If the implementation of a recognition plan, accepted in accordance with national legislation, has started before 1 May 2004, its date of acceptance referred to in Article 18(1) of Regulation (EC) No 1432/2003 shall be deemed to be 1 May 2004.

Article 6

Checks

In 2005, the new Member States may reduce the percentage of checks at producer organisations and producer groups to no less than half of the minimum percentages provided for in Article 20(2) of Regulation (EC) No 1432/2003 and in Article 23(2) of Regulation (EC) No 1433/2003.

If the new Member States make use of this possibility, the percentage shall be increased by the same rate as the rate of reduction in 2005 in 2006, in order to reach the normal level on a two-year average.

Article 7

Regulations (EC) No 1432/2003, (EC) No 1433/2003, (EC) No 1943/2003 and (EC) No 103/2004 shall apply subject to the rules provided for in this Regulation.

Article 8

Entry into force

This Regulation shall enter into force subject to and on the date of the entry into force of the Treaty of Accession of the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia.

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