Commission Regulation (EC) No 1535/2003 of 29 August 2003 laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables

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laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme 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 Commission Regulation (EC) No 453/2002[(2)], and in particular Article 1(3), Article 3(2), Article 6, Article 6b(3), Article 6c(7), Article 25, Article 26 and Article 27(1) thereof,

Whereas:

(1) Regulation (EC) No 2201/96 introduces aid to producer organisations delivering tomatoes, peaches and pears for the production of the products listed in Annex I to that Regulation and aid for the production of prunes and figs. These products must be obtained from fruit and vegetables harvested in the Community.

(2) To simplify and clarify the system, some of the rules of application of the aid scheme should be amended in the light of experience gained. For the sake of clarity, Commission Regulation (EC) No 449/2001 of 2 March 2001 laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables[(3)], as last amended by Regulation (EC) No 1426/2002[(4)], should be repealed and replaced.

(3) To ensure that the scheme is applied uniformly, the products listed in Article 6a(1) of Regulation (EC) No 2201/96 and in Annex I thereto, the marketing years applicable to those products and the delivery periods for the raw materials should be defined.

(4) Fruit in sugar syrup is produced in the European Union with a total sugar content of less than 14° Brix. The proportion of sugar in products eligible for aid should be reduced. The definition used should be based on the Codex Alimentarius Committee definition.

(5) The scheme must be able to operate with a sufficient number of producer organisations and, for the sake of consistency and by analogy with Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits[(5)], as last amended by Commission Regulation (EC) No 1933/2001[(6)], the term ‘producer groups provisionally authorised’ referred to in the first subparagraphs of Article 3(1) and Article 6a(2) of Council Regulation (EC) No 2201/96 must include producer groups which have been granted preliminary recognition under Article 14 of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common

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organisation of the market in fruit and vegetables[7], as last amended by Commission Regulation (EC) No 47/2003[8].

(6) The production aid scheme is based on contracts between producer organisations recognised or granted preliminary recognition under Regulation (EC) No 2200/96 and processors. Producers and producer organisations may also act as processors in certain circumstances. The types of contracts and the particulars to be included therein should be specified for the purposes of applying the aid scheme.

(7) In order to improve the way the scheme operates, the competent authorities should be aware of all producer organisations marketing the production of their members, of members of other producer organisations and of individual producers wishing to qualify under the aid scheme. The competent authorities should also be aware of the processors signing contracts with such producer organisations, and such processors should send the authorities the information necessary to ensure that the scheme operates correctly. Processors of tomatoes, peaches and pears must be approved before they may conclude contracts.

(8) Contracts must be concluded by a given date in the case of tomatoes, peaches and pears and before the beginning of each marketing year in the case of the other products. To ensure that the scheme is as effective as possible, the parties to such contracts should nevertheless be authorised to increase the quantities originally stipulated therein up to a given limit by means of amendments to the contracts.

(9) The number of aid applications to be submitted by producer organisations and processors must be determined taking account of the processing process. Applications for aid must include all the information needed for checking eligibility. To compensate for the obligations imposed on producer organisations, provision should be made for the aid to be paid in advance, on condition that a security is lodged to ensure reimbursement if the requirements for receiving the advance payment are not complied with.

(10) In order to ensure that the aid scheme is properly applied, producer organisations and processors must forward the necessary information and keep up-to-date suitable documentation and should, in particular, specify the areas under tomatoes, peaches and pears, 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[9], as last amended by Commission Regulation (EC) No 495/2001[10], and Commission Regulation (EC) No 2419/2001 of 11 December 2001 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes established by Council Regulation (EEC) No 3508/92[11], as last amended by Regulation (EC) No 2550/2001[12], for the purposes of all inspections and controls deemed necessary.

(11) To meet the requirements of Regulation (EC) No 2201/96 and for market reasons, processors should be allowed greater flexibility in the manufacture of mixtures of fruits and sauces made from raw materials for which aid is granted.

(12) 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

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cover a sufficiently representative number of aid applications and certain penalties must be laid down for producer organisations and processors who breach the rules, in particular by making false declarations or failing to process products delivered.

(13) To ensure the quality and reliability of the checks made, the burden of compulsory checks on stocks should be reduced. Nevertheless, in the case of newly approved processing undertakings, there should be two checks in the first marketing year in which they participate in the scheme.

(14) To ensure proper application of Article 5(2) of Regulation (EC) No 2201/96, the data used for calculating any overrun of the Community threshold for peaches, pears and tomatoes should be clearly defined.

(15) To ensure that the system for calculating any overrun of the Community threshold meets the requirements, provision should be made for a transitional period based on the data on aid applications for the 2003/2004 marketing year.

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

HAS ADOPTED THIS REGULATION:

CHAPTER I

DEFINITIONS AND MARKETING YEARS

Article 1

Definitions

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

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

b ‘producer’ means any natural or legal person who is a member of a producer organisation delivering their produce to that organisation for the purposes of marketing it under the conditions laid down in Regulation (EC) No 2200/96;

c ‘individual producer’ means any natural or legal person not belonging to a producer organisation and growing raw material on their holding intended for processing;

d ‘processor’ means any natural or legal person operating, for commercial purposes and on their own responsibility, one or more plants with facilities for manufacturing one or more of the products listed in Article 2(1) to (15) and, where applicable, approved in accordance with Article 5;

e ‘quantity’ means quantity expressed in net weight unless otherwise indicated;

f ‘competent authorities’ means the body or bodies appointed by the Member State to implement this Regulation.

2 For the purposes of this Regulation, any reference to producer organisations as defined in paragraph 1 shall be also be construed as a reference to associations of producer organisations

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as referred to in Article 16(3) of Regulation (EC) No 2200/96 set up on the initiative of and controlled by the producer organisations recognised under this Regulation.

Article 2

Finished products

'Products listed in Article 6a(1) of and Annex I to Regulation (EC) No 2201/96' means the following products:

1. peaches in syrup and/or in natural fruit juice: whole peaches or pieces of peaches, without peel, having undergone a heat treatment, packed in hermetically sealed containers with a covering liquid of sugar syrup or natural fruit juice and falling within CN codes ex 2008 70 61, ex 2008 70 69, ex 2008 70 71, ex 2008 70 79, ex 2008 70 92**[**F1 and ex 2008 70 98**]**;

2. pears in syrup and/or in natural fruit juice: pears of the Williams or Rocha varieties, whole or in pieces, without peel, having undergone a heat treatment, packed in hermetically sealed containers with a covering liquid of sugar syrup or natural fruit juice and falling within CN codes ex 2008 40 51, ex 2008 40 59, 2008 40 71, ex 2008 40 79**[**F1 and ex 2008 40 90**]**;

3. mixed fruit: mixtures of fruit, whole or in pieces, without peel, having undergone a heat treatment, with a covering liquid of sugar syrup or natural fruit juice, packed in hermetically sealed containers in which the drained net weight of peaches and Williams and Rocha pears accounts for at least 60 % of the total net drained weight, falling within CN codes ex 2008 92 and ex 2008 99, and made directly from fresh peaches and/or Williams and Rocha pears delivered during the periods indicated in Article 3(2)(b) and (c);

4. prunes: prunes obtained from dried 'd'Ente' plums which have been suitably treated or processed and are packed in appropriate containers, falling within CN code ex 0813 20 00 and ready to be offered for human consumption;

5. dried figs: dried figs, including fig paste, which have been suitably treated or processed and are packed in appropriate containers, falling within CN code ex 0804 20 90 and ready to be offered for human consumption;

6. whole peeled quick-frozen tomatoes: peeled tomatoes of the oblong varieties, frozen, packed in appropriate containers and falling within CN code ex 0710 80 70, where not less than 90 % of the net weight of the tomatoes consists of whole tomatoes not showing any damage which substantially alters their appearance. That percentage shall be determined after the tomatoes have been thawed;

7. non-whole peeled quick-frozen tomatoes: pieces of peeled tomatoes of the oblong varieties, or round varieties which are as easy to peel as the oblong varieties, frozen, packed in appropriate containers and falling within CN code ex 0710 80 70;

8. whole peeled preserved tomatoes: peeled tomatoes of the oblong varieties, having undergone a heat treatment, packed in hermetically sealed containers and falling within CN code ex 2002 10 10, where not less than 65 % of the weight of the drained tomatoes consists of whole tomatoes which do not show damage which substantially alters their appearance;

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9. non-whole peeled preserved tomatoes: peeled tomatoes in pieces or partially crushed, of the oblong varieties, or round varieties which are as easy to peel as the oblong varieties, having undergone a heat treatment, packed in hermetically sealed containers and falling within CN code ex 2002 10 10. Where these products are to be used to make the products indicated at point 15, they shall be packed in appropriate containers;

10. tomato flakes: flakes obtained by drying tomatoes cut into slivers or small cubes, packed in appropriate containers and falling within CN code ex 0712 90 30;

11. tomato juice: juice obtained directly from fresh tomatoes and strained free from skins, pips and other coarse parts, having a dry-matter content, where applicable after concentration, of less than 12 %, packed in hermetically sealed containers and falling within CN codes ex 2002 90 11, ex 2002 90 19, 2009 50 10 and 2009 50 90. Juice with a dry-matter content of at least 7 % may however contain skin and pips constituting up to 4 % by weight of the product. Where these products are to be used to make the products indicated at point 15, they shall be packed in appropriate containers;

12. tomato concentrate: the product obtained by concentrating tomato juice, packed in appropriate containers, having a dry-matter content of 12 % or more and falling within CN codes ex 2002 90 31, ex 2002 90 39, ex 2002 90 91 and ex 2002 90 99. Concentrate having a dry-matter content of not more than 18 % or of between 18 and 24 % may contain not more than 4 % or 7 %, respectively, skin and pips by weight of product;

13. whole unpeeled preserved tomatoes: whole unpeeled tomatoes of the oblong or round varieties, having undergone a heat treatment, packed in hermetically sealed containers, lightly brined (tomatoes in brine) or in tomato purée (tomatoes in purée or in juice), where not less than 65 % of the weight of the drained tomatoes consists of whole tomatoes not showing any damage which substantially alters their appearance, and falling within CN code ex 20 02 10 90. Where these products are to be used to make the products indicated at point 15, they shall be packed in appropriate containers;

14. non-whole unpeeled preserved tomatoes: tomatoes in pieces or partially crushed, of the oblong or round varieties, having been slightly strained, whether or not slightly concentrated, packed in hermetically sealed containers, with a dry-matter content of between 4,5 % and 14 %, containing skin within the limits laid down in Commission Regulation (EC) No 1764/86[(13)], and falling within CN code ex 2002 10 90. Where these products are to be used to make the products indicated at point 15, they shall be packed in appropriate containers;

15. prepared sauces: tomato-based preparations obtained by mixing one of the products referred to at points 9, 11, 12, 13 or 14 above with other products of plant or animal origin except fresh tomatoes, having undergone a heat treatment, packed in hermetically sealed containers where the net weight of the products referred to at points 9, 11, 12, 13 or 14 accounts for at least 60 % of the total net weight of the prepared sauce. These products must be made during the period indicated in Article 3(2) in the same establishment as the products used referred to at points 9, 11, 12, 13 or 14;

16. sugar syrup: a liquid in which water is combined with sugars and which has a total sugar content determined after homogenisation of not less than 10° Brix when used to cover fruits in syrup;

17. natural fruit juice: a covering liquid with a minimum of 9,5° Brix, consisting solely of fermentable but unfermented juice extracted mechanically from fruit, or of juice obtained from concentrated fruit juice by the restoration of the proportion of water