

**Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables**

*Official Journal L 297, 21/11/1996 pp. 0001 - 0028*

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission (1) ,

Having regard to the opinion of the European Parliament (2) ,

Having regard to the opinion of the Economic and Social Committee (3) ,

(1) Whereas at the present time various changes are placing the fruit and vegetable sector in a new situation to which producers must adjust; whereas, accordingly, a reorientation of the basic rules of the market organization for the sector is warranted; whereas, in view of the numerous changes made to that market organization since it was first adopted, a new regulation should, for reasons of clarity, be adopted;

(2) Whereas it is desirable to insert in that new regulation the main provisions of Council Regulation (EEC) No 3285/83 of 14 November 1983 laying down general rules for the extension of certain rules issued by producers' organizations in the fruit and vegetables sector (4) , of Council Regulation (EEC) No 1319/85 of 23 May 1985 on the reinforcement of supervision of the application of Community rules on fruit and vegetables (5) , of Council Regulation (EEC) No 2240/88 of 19 July 1988 fixing, for peaches, lemons and oranges, the rules for applying Article 16b of Regulation (EEC) No 1035/72 on the common organization of the market in fruit and vegetables (6) , of Council Regulation (EEC) No 1121/89 of 27 April 1989 on the introduction of an intervention threshold for apples and cauliflowers (7) , and of Council Regulation (EEC) No 1198/90 of 7 May 1990 establishing a Community register of citrus cultivation (8) ; whereas these Regulations should therefore be repealed;

(3) Whereas classification using common obligatory standards for fruit and vegetables both marketed within the Community and exported to third countries provides a reference framework that encourages fair trading and market transparency and also eliminates products of unsatisfactory quality from the market; whereas compliance with these standards thus also helps to improve the profitability of production;

(4) Whereas it would be desirable, for reasons of simplicity, to adopt standards for fruit and vegetables having a relatively large impact on the market which take account of the standards adopted by the United Nations Economic Commission for Europe (UN/ECE) ; whereas it is necessary to set the terms on which these international standards can be adjusted to the specific requirements of the Community;

(5) Whereas standardization cannot be fully effective unless it is applied, subject to exemption, at all marketing stages and on departure from the production region; whereas exemption may, nevertheless, be provided for in the case of certain operations which either are very marginal and specific or take place at the start of the distribution chain, or in the case of products intended for processing; whereas account should also be taken of the possibility of shortages and of exceptionally plentiful supply; whereas in order to guarantee the quality required by the standards, the holder of the product must be responsible for compliance, whereas in particular, consumer requirements as regards the characteristics of fruit and vegetables mean that the origin of products should be included in the labelling up to and including the final retail stage;

(6) Whereas the production and marketing of fruit and vegetables should take full account of environmental concerns, including cultivation practices, the management of waste materials and the destruction of products withdrawn from the market, in particular as regards the protection of water quality, the maintenance of biodiversity and the upkeep of the countryside;

(7) Whereas producer organizations are the basic elements in the common market organization, the decentralized operation of which they ensure at their level; whereas, in the face of ever greater concentration of demand, the grouping of supply through these organizations is more than ever an economic necessity in order to strengthen the position of producers in the market; whereas such grouping must be effected on a voluntary basis and must prove its utility by the scope and efficiency of the services offered by producer organizations to their members; whereas the delivery of products to specialist producer organizations existing before the entry into force of this Regulation is not brought into question;

(8) Whereas a producer organization cannot be recognized by its Member State as able to contribute to achievement of the objectives of the common market organization unless its articles of association impose

certain requirements on it and its members; whereas producer groups wishing to acquire the status of producer organizations in accordance with this Regulation should be allowed the benefit of a transitional period during which national and Community financial support can be given against certain commitments by the group;

(9) Whereas a transitional period should be allowed to producer organizations already recognized under Regulation (EEC) No 1035/72 (9) which cannot immediately meet the requirements of this Regulation for recognition; whereas such organizations must be able to show themselves able to make the necessary changes;

(10) Whereas in order to give producer organizations greater responsibility for their financial decisions in particular and to gear the public resources assigned to them towards future requirements, terms should be set for the use of these resources; whereas joint financing of operational funds set up by producer organizations presents itself as an appropriate solution;

(11) Whereas the establishment and proper functioning of operational funds requires that producer organizations should take charge of the whole of the relevant fruit and vegetable production of their members;

(12) Whereas in order to control Community expenditure, there should be a cap on assistance granted to producer organizations that establish operational funds;

(13) Whereas in regions where the organization of production is weak the grant of additional, national, financial contributions should be allowed; whereas in the case of Member States which are at a particular disadvantage with regard to structures, those contributions should be reimbursable by the Community via the Community Support Framework;

(14) Whereas, in order to further boost the impact of producer organizations and associations thereof and ensure the market as much stability as is desirable, Member States should be allowed on certain conditions to extend to non-member producers in their region the rules, particularly on production, marketing and environmental protection, adopted for its members by the organization or association for the region concerned; whereas, where proper justification is given, certain costs arising from this extension of the rules should be chargeable to the producers concerned since they will benefit from the extension;

(15) Whereas interbranch organizations set up on the initiative of individual or already grouped operators can, if they account for a significant proportion of the members of the various occupational categories of the fruit and vegetable sector, contribute to behaviour taking closer account of market realities and facilitate a commercial approach that will improve production reporting, that is to say the organization of production, product presentation and marketing; whereas since the work of these organizations is able to contribute in general to attaining the objectives of Article 39 of the Treaty and in particular to those of this Regulation it should, once the relevant forms of action are defined, be possible to grant specific recognition to those organizations which provide proof of sufficient representativeness and carry out practical action in regard to the abovementioned objectives; whereas the provisions on extending the rules adopted by producer organizations and their associations and on sharing the costs resulting from such extension should, given the similarity of the objectives pursued, also apply to interbranch organizations;

(16) Whereas to stabilize prices it is desirable that producer organizations should be able to intervene on the market, in particular by deciding not to put up for sale particular quantities at particular periods; whereas these withdrawal operations must not be regarded as an alternative outlet to the market itself; whereas Community financing of withdrawals should therefore be restricted to a set percentage of production and the Community compensation granted at a reduced level, though use of the operational funds for this purpose should be permitted; whereas for simplicity Community compensation should be at a single flat rate for each product; whereas, to achieve a comparable reduction for all products, certain differentiations are required;

(17) Whereas intervention can be fully effective only if the products withdrawn from the market are not reintroduced into the normal marketing channel again; whereas various alternative uses to which they may be put should be specified so that their destruction is avoided wherever possible;

(18) Whereas this new way of managing withdrawals will allow the provisions in force on the implications of threshold overruns to be repealed immediately; whereas it is, however, reasonable to retain the underlying principle of those provisions for a transitional period and to give the Commission authority to take action on the basis of that principle if the need arises;

(19) Whereas by Regulation (EC) No 3290/94 (10) the Council has adopted the adjustments and transitional arrangements required in the agricultural sector in order to implement the agreements

concluded in the context of the Uruguay Round of multilateral trade negotiations, in particular the new trading arrangements with third countries in the fruit and vegetable sector; whereas the provisions in Annex XIII to Regulation (EC) No 3290/94 have been inserted in this Regulation; whereas, however, where products are imported into the Community for industrial processing, they are not sold on consignment; whereas verification of the entry price can therefore be made on other bases than a flat rate value; whereas the relevant provisions should therefore be supplemented in this regard;

(20) Whereas the rules of the common market organization should be complied with by all operators to whom they apply, otherwise their impact will be distorted with all the resulting consequences in terms of both the use of public resources and the interplay of competition; whereas a special corps of Community inspectors should be set up for this sector; whereas for both budget reasons and effectiveness the corps should consist of Commission officials and possibly other staff; whereas it is also necessary to make provision for Community penalties in order to ensure that the new rules are uniformly applied throughout the Community;

(21) Whereas one of the indispensable elements for the proper management of the common organization of the market is detailed knowledge of the market; whereas measures should therefore be provided for to this end;

(22) Whereas the granting of certain aid would compromise the functioning of the single market; whereas, therefore, the provisions of the Treaty enabling aid granted by Member States to be examined and enabling aid which is incompatible with the common market to be prohibited, should be extended to cover the sector referred to in this Regulation;

(23) Whereas the common organization of the market in that sector must take proper and simultaneous account of the objectives set out in Articles 39 and 110 of the Treaty;

(24) Whereas, to facilitate the implementation of the provision of this Regulation, a procedure for close cooperation between the Member States and the Commission by means of a management committee should be set up;

(25) Whereas in order to deal with a particularly unfavourable situation in the hazelnut sector, flat-rate aid should be granted for hazelnuts harvested in the 1997/1998, 1998/1999 and 1999/2000 marketing years, HAS ADOPTED THIS REGULATION:

#### Article 1

1. This Regulation sets up a common organization of the market in fruit and vegetables.

2. The common organization shall cover the following products:

##### TABLE POSITION

3. The marketing years for the products listed in paragraph 2 shall be determined, if necessary, in accordance with the procedure laid down in Article 46.

#### TITLE I Classification of products

#### Article 2

1. Products to be delivered fresh to the consumer may be classified by reference to a set of standards.

2. The standards for fresh fruit and vegetables contained in Annex I shall be adopted, by the procedure laid down in Article 46, for implementing the common organization of the markets. To this end, account shall be taken of the UN/ECE standards recommended by the Economic Commission for Europe's Working Party on perishable product standardization and quality.

Until new standards are adopted, the standards drawn up pursuant to Article 2 of Regulation (EEC) No 1035/72 shall continue to apply.

3. The Commission acting in accordance with the procedure laid down in Article 46 may add other products to the list in Annex I.

#### Article 3

1. The holder of products covered by the quality standards adopted may not display such products or offer them for sale, or deliver or market them in any other manner within the Community than in conformity with those standards. The holder shall be responsible for observing such conformity.

However, Member States may exempt the following from the requirement of complying with the quality standards or with some of their provisions:

- (a) products displayed or offered for sale, sold, delivered or marketed in any other manner by the grower on wholesale markets, in particular on producer markets, situated in the production area;
- (b) products shipped from those wholesale markets to preparation and packaging stations and storage facilities situated in the same production area.

Where the second subparagraph is applied, the Member State concerned shall inform the Commission and shall notify it of the measures taken.

2. The following shall not be required to conform to the quality standards within a given production area:

- (a) products sold or delivered by the grower to preparation and packaging stations or storage facilities, or shipped from his holding to such stations;
- (b) products shipped from storage facilities to preparation and packaging stations.

3. The following shall not be required to conform to the quality standards:

- (a) products shipped to processing plants, unless minimum quality criteria for products intended for industrial processing are set in accordance with the procedure laid down in Article 46;
- (b) products transferred by the producer on his holding to consumers for their personal use;
- (c) on a Commission Decision taken at the request of a Member State using the procedure referred to in Article 46 for products of a given region which are sold by the retail trade of the region for well-established traditional local consumption.

4. Evidence must be supplied that the products covered by paragraphs 2 and 3 (a) fulfil the conditions laid down, in particular with regard to their intended use.

#### Article 4

Where, following extreme shortage or exceptionally plentiful supply, the supply of products conforming to the quality standards is insufficient to meet or appreciably exceeds consumer demand, measures derogating from their application for a limited period shall be adopted in compliance with the Community's international obligations and in accordance with the procedure laid down in Article 46.

#### Article 5

1. The information particulars required by the quality standards must be shown legibly in an obvious position on one side of the packaging, either indelibly printed directly onto the package or on a label which is an integral part of or firmly affixed to the package.

2. For goods shipped in bulk and loaded directly onto a means of transport, the particulars referred to in paragraph 1 shall be given in a document accompanying the goods or shown on a notice placed in an obvious position inside the means of transport.

#### Article 6

At the retail stage, where products are packaged the information particulars required shall be legible and conspicuous.

For pre-packaged products within the meaning of Directive 79/112/EEC (11), the net weight shall be indicated, in addition to all the information provided for in the common quality standards. However, in the case of products normally sold by number, the requirement to indicate the net weight shall not apply if the number of items can be clearly seen and easily counted from the outside or, failing that, if the number is indicated on the label.

Products may be presented unpackaged, provided that the retailer displays with the goods offered for sale a card showing prominently and legibly the information particulars specified in the quality standards relating to:

- variety,
- origin of the product,
- class.

#### Article 7

To establish whether products covered by quality standards conform to the provisions of Articles 3 to 6, checks shall be made in accordance with Title VI by sampling at all marketing stages and during transport by the authorities appointed by each Member State.

These checks shall preferably be made prior to dispatch from production areas when the products are being packed or loaded.

Member States shall communicate to the other Member States and to the Commission the names of the

authorities which they have appointed to be responsible for checking.

#### Article 8

1. Products covered by quality standards shall be accepted for importation from third countries only if they conform to the quality standards or to standards at least equivalent to them.
2. Articles 3 to 7 shall apply to products imported into the Community, after completion of the import formalities in accordance with current Community rules.

#### Article 9

1. Products covered by quality standards shall be accepted for export to third countries only if they conform to those standards.  
Derogations may, however, be granted in accordance with the procedure laid down in Article 45 to suit the requirements of the intended markets.
2. Products for export to third countries shall be subject to a Check for compliance with quality standards before they leave the customs territory of the Community.

#### Article 10

Measures to ensure uniform application of the provisions of this Title shall be adopted in accordance with the procedure laid down in Article 46.

For products intended to be imported into the Community, such measures may consist in approval of the official inspection authorities of the exporting third country.

### TITLE II Producer organizations

#### Article 11

1. For the purposes of this Regulation, 'producer organization' means any legal entity:
    - (a) which is formed on the own initiative of growers of the following categories of product listed in Article 1 (2) :
      - (i) fruit and vegetables
      - (ii) fruit
      - (iii) vegetables
      - (iv) products intended for processing
      - (v) citrus fruit
      - (vi) nuts
      - (vii) mushrooms;
    - (b) which has in particular the aim of:
      - (1) ensuring that production is planned and adjusted to demand, particularly in terms of quality and quantity;
      - (2) promoting concentration of supply and the placing on the market of the products produced by its members;
      - (3) reducing production costs and stabilizing producer prices;
      - (4) promoting the use of cultivation practices, production techniques and environmentally sound waste-management practices in particular to protect the quality of water, soil and landscape and preserve and/or encourage biodiversity;
    - (c) the rules of association of which require its producer members, in particular, to:
      - (1) apply the rules adopted by the producer organization relating to production reporting, production itself, marketing and protection of the environment;
      - (2) belong to only one of the producer organizations referred to in point (a) in respect of a given holding's production of one of the categories of product listed in point (a) ;
      - (3) market their entire production concerned through the producer organization.
- However, where the producer organization so authorizes and in compliance with the terms and conditions it lays down, the producer members may:
- sell not more than 25 % of their production if they are members of fruit and vegetable producer organizations as referred to in point (a) (i) and not more than 20 % of their production if they are members of other types of producer organization directly on their holdings to consumers for their personal needs, and furthermore;

- market themselves or through another producer organization designated by their own organization, quantities of products which are marginal in relation to the volumes marketable by their organization;

- market through another producer organization designated by their own organization products which, because of their characteristics, are not normally covered by the commercial activities of the organization concerned;

- in accordance with the procedure laid down in Article 46 be authorized for certain products to conclude by way of derogation direct contracts with processing undertakings degressively and for a transitional period until 31 December 1999;

(4) provide the information requested by the producer organization for statistical purposes, in particular on growing areas, quantities cropped, yields and direct sales;

(5) to pay the financial contributions provided for in its rules of association for the establishment and replenishment of the operational fund provided for in Article 15;

(d) the rules of association of which provide for:

(1) procedures for determining, adopting and amending the rules referred to in point (c) (1) ;

(2) the imposition on members of financial contributions needed to finance the producer organization;

(3) rules enabling the producer members democratically to scrutinize their organization and its decisions;

(4) penalties for infringement of obligations under the rules of association, particularly non-payment of financial contributions, or of the rules laid down by the producer organization;

(5) rules on the admission of new members, particularly a minimum membership period; and

(6) the accounting and budgetary rules necessary for the operation of the organization;

(e) which has been recognized by the Member State concerned pursuant to paragraph 2.

2. Member States shall recognize as producer organizations for the purposes of this Regulation all producer groups applying for such recognition, on condition that:

(a) they meet the requirements laid down in paragraph 1 and provide the relevant evidence, including proof that they have a minimum number of members and cover a minimum volume of marketable production, to be determined in accordance with the procedure laid down in Article 45;

(b) there is sufficient evidence that they can carry out their activities properly, both over time and in terms of effectiveness;

(c) they effectively enable their members to obtain technical assistance in using environmentally-sound cultivation practices;

(d) they effectively provide their members with the technical means for storing, packaging and marketing their produce and ensure proper commercial and budgetary management of their activities.

3. Member States may also recognize as producer organizations for the purposes of this Regulation producer organizations other than those referred to in paragraph 1 (a) existing before the entry into force of this Regulation and recognized under Regulation No 1035/72 before the date of application of this Regulation.

Where pursuant to the previous subparagraph Member States recognize those producer organizations, the requirements laid down in paragraph 1, except for paragraph 1 (a) , and, if appropriate, paragraph 1 (c) (2) , and in paragraph 2 shall apply.

## Article 12

1. Member States shall:

(a) decide whether to grant recognition to a producer organization within three months of the lodging of an application with all supporting documents;

(b) carry out checks at regular intervals to ascertain that producer organizations comply with the terms and conditions for recognition, impose in the event of non-compliance the penalties to apply to such organizations and decide, where necessary, to withdraw recognition;

(c) notify the Commission, within two months, of every decision to grant, refuse or withdraw recognition.

2. The terms and conditions under which and the frequency with which the Member States are to report to the Commission on the activities of producer organizations shall be laid down in accordance with the procedure laid down in Article 46.

The Commission shall check that Articles 11 and paragraph (1) (b) of this Article are complied with by carrying out checks in accordance with Title VI and in the light of such checks shall, where appropriate, call on Member States to withdraw recognition.

## Article 13

1. Producer organizations recognized under Regulation (EEC) No 1035/72 before the entry into force of this Regulation and which are unable to qualify for recognition under Article 11 of this Regulation without a transitional period may continue to operate under the provisions of Title IV for two years after its entry into force, provided that they remain in compliance with the requirements of the said Articles of Regulation (EEC) No 1035/72.

2. The period of two years referred to in paragraph 1 may be extended to five years provided that the producer organization concerned:

(a) by a set date falling before the end of the two-year period referred to in paragraph 1, presents to the relevant Member State, which must either accept or reject it, a plan of action with a view to attaining recognition under Article 11 (2) ;

(b) can show, when presenting its plan of action, that it has set up the operational fund referred to in Article 15;

(c) undertakes, on pain of penalties to be determined by the Member State, to complete the implementation of its action plan before the end of the five-year period.

3. Producer organizations which no longer meet the conditions laid down in paragraph 2, whatever the reason and at whatever moment, shall lose their status as such on the terms set out in Article 12 (1) (b) . However, the first subparagraph shall apply without prejudice to any individual rights which the producer organization may have acquired in accordance with Regulation (EEC) No 1035/72.

#### Article 14

1. New producer organizations or those which have not been recognized under Regulation (EEC) No 1035/72 before the entry into force of this Regulation may be allowed a transitional period of no more than five years in which to meet the conditions for recognition laid down in Article 11.

In order to qualify, they shall present a phased recognition plan to the relevant Member State, acceptance of which shall signal the start of the five-year period referred to in the first subparagraph and shall constitute a preliminary recognition.

2. During the four years following the date of preliminary recognition, Member States may grant to the producer organizations referred to in paragraph 1:

(a) aid to encourage their formation and facilitate their administrative operation;

(b) aid, provided either directly or through credit institutions, in the form of special loans to cover part of the investments required to attain recognition and set out in the recognition plan referred to in the second subparagraph of paragraph 1.

3. The aid referred to in paragraph 2 shall be reimbursed by the Community in accordance with Article 51 (2) and (3) .

4. Before granting preliminary recognition, Member States shall inform the Commission of their intentions and the financial implications thereof.

5. Presentation of a recognition plan by a producer organization to a Member State shall entail a commitment by the organization to submit to national and Community checks in accordance with Title VI, in particular with regard to proper management of public funds.

6. Member States shall impose the applicable penalties on producer organizations which do not fulfil their undertakings.

7. Detailed rules for application adopted under Article 48 for the implementation of this Article shall include provisions ensuring that aid paid to Portuguese producer organizations is not less, expressed as a percentage of the value of the marketed production of the producer organization, than that resulting from Regulation (EEC) No 746/93 (12) .

#### Article 15

1. Community financial assistance shall be granted on the terms set out in this Article to producer organizations setting up an operational fund.

This fund shall be maintained by financial contributions levied on member producers on the basis of the quantities or value of fruit and vegetables actually marketed and from the financial assistance referred to in the first subparagraph.

2. Operational funds as indicated in paragraph 1 shall be used to:

(a) finance both market withdrawals and processing of citrus fruit on the terms set out in paragraph 3;

(b) finance an operational programme submitted to the competent national authorities and approved by them under Article 16 (1) .

Such funds may also be used in whole or in part to finance an action plan submitted by a producer organization as referred to in Article 13.

3. Use of the operational fund to finance market withdrawals and/or the processing of citrus fruit shall be permissible only if an operational programme has been approved by the competent national authorities.

Financing shall take one or more of the following forms:

(a) withdrawal compensation for products not listed in Annex II which comply with the standards in force if such standards have been laid down pursuant to Article 2;

(b) a supplement to the Community withdrawal compensation.

Member States may set a maximum level for the compensation or supplement but the amount of the supplement thus fixed added to the amount of the Community withdrawal compensation may not exceed the maximum level of withdrawal prices applying in the 1995/1996 marketing year in accordance with Article 16 (3) (a), Article 16 (a), Article 16 (b) and the first indent of Article 18 (1) (a) of Regulation (EEC) No 1035/72.

The proportion of the operational fund which may be used to finance withdrawals may not exceed 60 % in the first year, 55 % in the second, 50 % in the third, 45 % in the fourth, 40 % in the fifth and 30 % from the sixth year onwards commencing from the date of approval by the competent national authorities of the first operational programme submitted by the producer organization and approved by them.

The limits laid down in Article 22 (3), (4) and (5) shall apply to the withdrawals referred to in point (a) of the first subparagraph of this paragraph.

4. Operational programmes as indicated in paragraph 2 (b) shall:

(a) have several of the objectives referred to in Article 11 (1) (b) and others, including in particular: the improvement of product quality, boosting products' commercial value, promotion of the products targeted at consumers, creation of organic product lines, the promotion of integrated production or other methods of production respecting the environment and the reduction of withdrawals;

(b) include action to develop the use of environmentally sound techniques by the producer members with regard to both cultivation practices and the management of waste materials.

'Environmentally sound techniques' shall mean, in particular, those which help to achieve the aims of Article (1) (a), (b) and (c) of Regulation (EEC) No 2078/92 (13);

(c) make financial provision for the technical and human resources required to ensure compliance with plant-health standards and rules, and maximum permitted levels of residues.

5. The financial assistance referred to in paragraph 1 shall be equal to the amount of the financial contributions indicated in that paragraph as actually paid but limited to 50 % of the actual expenditure incurred under paragraph 2.

This percentage shall be 60 % where an operational programme or part of an operational programme is submitted by:

(a) either several Community producer organizations operating in different Member States on transnational schemes, except for operations as referred to in paragraph 2 (a);

(b) or one or more producer organizations engaged in schemes operated on an interbranch basis.

However the financial assistance shall be capped at 4 % of the value of the marketed production of each producer organization, provided that the total amount of financial assistance represents less than 2 % of the total turnover of all producer organizations. In order to ensure that this limit is complied with, an advance payment of 2 % shall be made and the remainder of the assistance shall be granted once the total amount of aid applications is known. From 1999 onwards the figure of 4 % shall be raised to 4,5 % and the percentage of total turnover shall be raised from 2 % to 2,5 %.

6. In regions of the Community where the degree of organization of producers is particularly low, Member States may be authorized, upon duly substantiated request, to pay producer organizations national financial assistance equal to half the financial contributions of producers. This assistance shall be additional to the operational fund.

For Member States less than 15 % of whose fruit and vegetable production is marketed by producer organizations and whose fruit and vegetable production represents at least 15 % of their total agricultural output, the assistance referred to in the first subparagraph may be reimbursed by the Community at the request of the Member State concerned via the Community Support Framework.

## Article 16

1. Operational programmes as referred to in Article 15 (2) (b) shall be submitted to the competent national authorities, who shall approve or reject them or request their modification in line with the provisions of



this Regulation.

Member States shall establish a national framework for drawing up the general conditions relating to the measures referred to in Article 15 (4) (b) . They shall submit their proposed framework to the Commission which may request modifications within three months if it finds that the proposal does not enable the aims set out in Article 130r of the Treaty and in the Community programme of policy and action in relation to the environment and sustainable development to be attained.

2. By the end of each year at the latest, producer organizations shall communicate to the Member State the estimated amount of the operational fund for the next year and shall submit appropriate reasons based on operational programme estimates, expenditure for the current year and possible for previous years and, if necessary, on estimated production quantities for the next year. The Member State shall, before 1 January of the following year, notify the producer organization of the estimated amount of financial assistance in line with the limits set out in Article 15 (5) .

Financial assistance payments shall be made on the basis of expenditure incurred for the schemes covered by the operational programme. Advances may be made in respect of the same schemes subject to the provision of a guarantee or security.

At the beginning of each year and by 31 January at the latest, the producer-organization shall notify the Member State of the final amount of expenditure for the previous year, accompanied by the necessary supporting documents, so that it may receive the balance of the Community financial assistance.

3. An association of producer organizations recognized by a Member State may replace its members for the purposes of managing their operational fund within the meaning of Article 15 (1) and for establishing, implementing and submitting operational programmes as referred to in Article 15 (2) (b) . In such cases the association shall receive the financial assistance and make the notification referred to in paragraph 2 of this Article.

4. Operational programmes and their financing by producers and producer organizations on the one hand and by Community funds on the other shall have a minimum duration of three and a maximum duration of five years.

5. Submission of an operational programme to a Member State by a producer organization or, if the option indicated in paragraph 3 is taken up, an association of producer organizations, shall imply a commitment by the organization or association to submit to national and Community checks in accordance with Title VI, in particular as regards proper management of public resources.

#### Article 17

Should the general instruments of the common organization of the market prove inadequate or inappropriate with regard to the products listed in Article 1 (2) which are of major local or regional importance in economic or ecological terms and which face lasting difficulties on the Community market due, in particular, to strong international competition, specific measures to improve the competitiveness of these products and to promote them may be taken in accordance with the procedure laid down in Article 46.

#### Article 18

1. In cases where a producer organization or an association of producer organizations which have adopted the same rules, which operates in a specific economic area is considered, in respect of a specific product, to be representative of production and producers in that area, the Member State concerned may, at the request of the organization or association, make the following rules binding on producers established in the area who do not belong to one of the organizations referred to above:

(a) the rules referred to in point (1) of Article 11 (1) (c) ,

(b) the rules adopted by the organization or association relating to market withdrawals, on condition that the rules:

- have been in force for at least one marketing year,
- are included in the exhaustive list in Annex III,
- are made binding for no more than three marketing years.

2. For the purposes of this Article, ' economic area ' means a geographical zone made up of adjoining or neighbouring production regions in which production and marketing conditions are homogeneous.

3. A producer organization or association of organizations shall be deemed representative within the meaning of paragraph 1 where its members account for at least two thirds of the producers in the economic area in which it operates and it covers at least two thirds of the production of that area.

4. The rules which are made binding on all producers in a specific economic area:

- (a) must not cause any harm to other producers in the Member State or in the Community;
- (b) shall not apply, unless they expressly cover them, to products delivered for processing under a contract signed before the beginning of the marketing year, with the exception of the rules on reporting production referred to in paragraph 1 (a) ;
- (c) must not clash with Community and national rules in force.

5. Member States shall notify the Commission forthwith of the rules which they have made binding on all producers in a specific economic area. These rules shall be published in the ' C ' series of the Official Journal.

The Commission shall decide that a Member State must repeal an extension of the rules decided on by that Member State:

- (a) if it finds that the extension in question to other producers excludes competition in a substantial part of the internal market or jeopardizes free trade, or that the objectives of Article 39 of the Treaty are endangered;
- (b) if it finds that Article 85 (1) of the Treaty applies to the agreement, decision or concerted practice which it has been decided to extend to other producers. The Commission' s decision with regard to that agreement, decision or concerted practice shall apply only from the date of such a finding;
- (c) where, following ex-post checks under Title VI, it finds that this Article has not been complied with.

6. Where paragraph 1 is applied, the Member State concerned may decide, on scrutiny of evidence presented, that non-member producers shall be liable to the organization, or where appropriate, the association, for the part of the financial contributions paid by the producer members, insofar as these are used to cover:

- (a) administrative costs resulting from applying the rules referred to in paragraph 1;
- (b) the cost of research, market studies and sales promotion undertaken by the organization or association and benefiting all producers in the area.

7. Member States shall notify a list of economic areas as referred to in paragraph 2 to the Commission.

Within one month of notification, the Commission shall approve the list or shall, after consultation with the Member State concerned, decide on the amendments which the latter must make to it. The approved list shall be published in the ' C ' series of the Official Journal of the European Communities.

### TITLE III Interbranch organizations and agreements

#### Article 19

1. For the purposes of this Regulation, ' recognized interbranch organizations ` , hereinafter referred to as ' interbranch organizations ` , means legal entities which:

- (a) are made up of representatives of economic activities linked to the production of and/or trade in and/or processing of the products referred to in Article 1 (2) ;
- (b) are established at the initiative of all or some of the organizations or associations which constitute them;

(c) carry out several of the following measures in one or more regions of the Community, taking account of the interests of consumers:

- improving knowledge and the transparency of production and the market,
- helping to coordinate better the way fruit and vegetables are placed on the market, in particular by means of research and market studies,
- drawing up standard forms of contract compatible with Community rules,
- exploiting more fully the potential of the fruit and vegetables produced,
- providing the information and carrying out the research necessary to adjust production towards products more suited to market requirements and consumer tastes and expectations, in particular with regard to product quality and protection of the environment,
- seeking ways of restricting the use of plant-health products and other inputs and ensuring product quality and soil and water conservation,
- developing methods and instruments for improving product quality,
- exploiting the potential of and protecting organic farming as well as designations of origin, quality labels and geographical indications,
- promoting integrated production or other environmentally sound production methods,
- laying down rules, as regards the production and marketing rules set out in Annex III, which are stricter

than Community or national rules.

(d) have been recognized by the Member State concerned on the terms set out in paragraph 2.

2. If warranted by the Member State's structures, Member States may recognize as interbranch organizations within the meaning of this Regulation all organizations established on their territory which make an appropriate application, on condition that:

(a) they carry out their activity in one or more regions in that territory;

(b) they represent a significant share of the production of and/or trade in and/or processing of fruit and vegetables and products processed from fruit and vegetables in the region or regions in question and, where more than one region is involved, they can demonstrate a minimum level of representativeness in each region for each of the branches that they group;

(c) they carry out several of the measures referred to in paragraph 1 (c) ;

(d) they are not themselves engaged in the production or processing or marketing of fruit and vegetables or products processed from fruit and vegetables;

(e) they do not carry out any of the activities referred to in Article 20 (3) .

3. Before granting recognition Member States shall notify the Commission of the interbranch organizations which have applied for recognition, providing all relevant information about their representativeness and their various activities, together with all other information needed for an assessment.

The Commission may object to recognition within a time limit of two months after notification.

4. Member States shall:

(a) decide whether to grant recognition within three months of the lodging of an application with all relevant supporting documents;

(b) carry out checks at regular intervals to ascertain that interbranch organizations meet the terms and conditions for recognition, impose the applicable penalties to such organizations in the event of their failure to do so and, if necessary, decide to withdraw their recognition;

(c) withdraw recognition if:

(i) the terms and conditions for recognition laid down in this Regulation are no longer met;

(ii) the interbranch organization contravenes one or other of the prohibitions imposed in Article 20 (3) , without prejudice to any other penalties otherwise incurred pursuant to national law;

(iii) the interbranch organizations fails to comply with the notification obligation referred to in Article 20 (2) ;

(d) notify the Commission, within two months, of any decision to grant, refuse or withdraw recognition.

5. The terms and conditions on which and the frequency with which the Member States are to report to the Commission on the activities of interbranch organizations shall be drawn up in accordance with the procedure laid down in Article 46.

The Commission shall check that paragraphs 2 and 4 (b) are complied with by carrying out checks in accordance with Title VI and may, as a result of these checks, ask a Member State to withdraw recognition.

6. Recognition shall constitute an authorization to carry out the measures listed in point (c) of paragraph 1, consistent with the terms of this Regulation.

7. The Commission shall publish in the 'C' series of the Official Journal of the European Communities a list of the interbranch organizations recognized, indicating the economic sphere or the area of their activities and the activities carried out within the meaning of Article 21. Withdrawals of recognition shall also be published.

#### Article 20

1. Notwithstanding Article 1 of Regulation No 26 (14) , Article 85 (1) of the Treaty shall not apply to the agreements, decisions and concerted practices of recognized interbranch organizations intended to implement the measures referred to in Article 19 (1) (c) .

2. Paragraph 1 shall apply only provided that:

- the agreements, decisions and concerted practices have been notified to the Commission, and that

- within two months of receipt of all the details required the Commission has not found that the agreements, decisions or concerted practices are incompatible with Community rules.

The agreements, decisions and concerted practices may not be implemented until the period indicated in the second indent of the first subparagraph has elapsed.

3. Agreements, decisions and concerted practices which:

- may lead to the partitioning of markets in any form within the Community,
- may affect the sound operation of the market organization,
- may create distortions of competition which are not essential in achieving the objectives of the common agricultural policy pursued by the interbranch organization measure,
- entail the fixing of prices, without prejudice to measures taken by interbranch organizations in the application of specific provisions of Community rules,
- may create discrimination or eliminate competition in respect of a substantial proportion of the products in question, shall in any case be declared contrary to Community rules.

4. If, following expiry of the two-month period referred to in the second indent of the first subparagraph of paragraph 2, the Commission finds that the conditions for applying this Regulation have not been met, it shall take a decision declaring that Article 85 (1) of the Treaty applies to the agreement, decision or concerted practice in question.

That Commission decision shall not come into effect earlier than the date of notification to the interbranch organization concerned, unless that interbranch organization has given incorrect information or abused the exemption provided for in paragraph 1.

5. In the case of multiannual agreements, the prior notification for the first year shall be valid for the subsequent years of the agreement; however, in that event, the Commission may, on its own initiative or at the request of another Member State, issue a finding of incompatibility at any time.

#### Article 21

1. In cases where an interbranch organization operating in a specific region or regions of a Member State is considered to be representative of the production of and/or trade in and/or processing of a given product, the Member State concerned may, at the request of the organization, make some of the agreements, decisions or concerted practices agreed on within that organization binding for a limited period on other operators operating in the region or regions in question, whether individuals or groups, who do not belong to the organization.

2. An interbranch organization shall be deemed representative within the meaning of paragraph 1 where it accounts for at least two thirds of the production and/or trade in and/or processing of the product or products concerned in the region or regions concerned of a Member State. Where the application for extension of its rules to other operators covers more than one region, the interbranch organization must demonstrate a minimum level of representativeness for each of the branches it groups in each of the regions concerned.

3. The rules for which extension to other operators may be requested:

(a) must concern one of the following aims:

- production and market reporting,
- stricter production rules than any laid down in Community or national rules,
- drawing up of standard contracts which are compatible with Community rules,
- rules on marketing,
- rules on protecting the environment,
- measures to promote and exploit the potential of products,
- measures to protect organic farming as well as designations of origin, quality labels and geographical indications.

The rules referred to in the second, fourth and fifth indents must not be other than those which appear in Annex III;

(b) must have been in force for at least one marketing year;

(c) may be made binding for no more than three marketing years;

(d) must not cause any harm to other operators in the Member State or the Community.

#### Article 22

1. Member States shall notify the Commission forthwith of the rules which they have made binding on all operators in one or more specific regions. Those rules shall be published in the 'C' series of the Official Journal of the European Communities.

Before that publication takes place, the Commission shall inform the Committee provided for in Article 45 of any notification of the extension of interbranch agreements.

The Commission shall decide that a Member State must repeal an extension of the rules decided on by that Member State in the cases referred to in the second subparagraph of Article 18 (5).

2. In cases where rules for one or more products are extended and where one or more of the activities referred to in Article 21 (3) (a) are pursued by a recognized interbranch organization and are in the general economic interest of those persons whose activities relate to one or more of the products concerned, the Member State which has granted recognition may decide that individuals or groups which are not members of the organization but which benefit from those activities shall pay the organization all or part of the financial contributions paid by its members to the extent that such contributions are intended to cover costs directly incurred as a result of pursuing the activities in question.

#### TITLE IV Intervention arrangements

##### Article 23

1. Producer organizations and their associations may choose not to put up for sale products listed in Article 1 (2) contributed by their members, both in quantities and for periods which they consider appropriate.

2. The destination of products withdrawn from the market under paragraph 1 must be fixed by the producer organization or association in such a way as not to disturb the normal disposal of the products in question and must respect the environment, particularly as regards water and landscape quality.

3. Where paragraph 1 is applied to any one of the products listed in Annex II which meet the relevant standards, producer organizations and their associations shall pay their producer members the Community withdrawal compensation fixed under Article 26, up to a ceiling of 10 % of the marketed quantity. The 10 % limit set in the first subparagraph shall apply to the marketed quantity of each product of only the members of the producer organization concerned, or of another organization in cases of application of Article 11 (1) (c), withdrawals under Article 24 excluded.

4. The 10 % ceiling referred to in paragraph 3 shall apply from the sixth marketing year following the date of entry into force of this Regulation. Withdrawals carried out during the transitional period covering the five previous marketing years may not exceed the following percentages of marketed production as defined in accordance with the procedure laid down in Article 46: 50 % in the first marketing year, 45 % in the second, 40 % in the third, 30 % in the fourth and 20 % in the fifth.

However, in the case of each citrus fruit these percentages shall be: 35 % in the first marketing year, 30 % in the second, 25 % in the third, 20 % in the fourth and 15 % in the fifth.

The second subparagraph of paragraph 3 shall apply to this paragraph.

5. The figure of 10 % referred to in paragraphs 3 and 4 shall be an annual average over a three-year period, with a 3 % annual margin of overrun.

6. For apples and pears the ceiling of 10 % referred to in paragraphs 3, 4 and 5 of this Article and in Article 24 shall be replaced by 8,5 %.

For melons and water melons, the 10 % ceiling shall apply as of the 1997/1998 marketing year.

##### Article 24

In connection with products listed in Annex II, producer organizations shall allow the benefits of Article 23 to growers who are not members of any of the collective structures provided for in this Regulation, if they so request. However, the Community withdrawal compensation shall be reduced by 10 %. In addition, the amount paid shall take account, on scrutiny of the evidence, of the overall withdrawal costs borne by the members. The compensation may not be granted on a volume greater than 10 % of the grower's marketed production.

##### Article 25

Producer organizations and their associations shall notify full details concerning the implementation of Articles 23 and 24, and in particular the measures taken to ensure environmentally sound practice in connection with withdrawals, to their competent national authorities, which shall forward the information to the Commission.

The information to be notified shall be determined, as necessary, in accordance with the procedure laid down in Article 46.

Member States shall establish a national framework for drawing up the general conditions relating to the withdrawal methods which respect the environment. They shall submit their proposed framework to the Commission which may request modifications within three months if it finds that the proposal does not enable the aims set out in Article 130r of the Treaty and in the Community programme of policy and

action in relation to the environment and sustainable development to be attained.

#### Article 26

1. The Community withdrawal compensation for each product is set out in Annex V.
2. The Community withdrawal compensation shall be a single amount valid throughout the Community.

#### Article 27

1. If the market in a product listed in Annex II is suffering or at risk of suffering from widespread structural imbalances giving or liable to give rise to too large a volume of the withdrawals referred to in Article 23, an intervention threshold shall be set before the beginning of the marketing year for that product in accordance with the procedure laid down in Article 46 and the consequences of any overrun, assessed for the product on the basis of withdrawals made during a marketing year or an equivalent period or of the average of the volume of intervention over several marketing years, shall be borne financially by the producers.

An overrun of the intervention threshold shall give rise to a reduction in the Community withdrawal compensation in the following marketing year. This reduction shall not be carried over to subsequent marketing years.

2. The following shall be determined in accordance with the procedure laid down in Article 46:
  - (a) the implications for each product of an overrun of the threshold;
  - (b) where necessary, the reduced Community withdrawal compensation and measures for the application of this Article.
3. This Article shall apply only during the first five marketing years following entry into force of this Regulation.

#### Article 28

1. Member States shall notify the Commission for each marketing day during each of the relevant marketing years of the prices recorded on their representative producer markets for certain products of defined commercial characteristics such as variety or type, class, size and packaging.
2. A list of these markets and products and the frequency with which data is to be communicated shall be drawn up in accordance with the procedure laid down in Article 46.

Markets in Member States on which a substantial part of the national output of a given product is marketed throughout the marketing year or during one of the periods into which the year is divided shall be regarded as representative within the meaning of paragraph 1.

#### Article 29

1. Member States shall pay the Community withdrawal compensation fixed in Article 26 to producer organizations or their associations which have carried out withdrawals under the terms of Articles 23 and 24 and are required to pay the compensation to their members or to non-member growers. Payments shall be made in a manner to be determined in accordance with the procedure laid down in Article 46.
2. The Community withdrawal compensation shall be paid without prejudice to any financial implications resulting from overrun of an intervention threshold. The compensation shall, in addition, be reduced by the net receipts earned by producer organizations and their associations from the products withdrawn from the market.
3. Where producer organizations and their associations are unable to direct products to one of the destinations referred to in Article 30 (1), the Community withdrawal compensation shall be granted only if the products have a destination in accordance with the instructions issued by the Member State under the other provisions of Article 30.

#### Article 30

1. Products withdrawn from the market under Article 23 (1) which remain unsold shall be disposed of as follows:
  - (a) all products:
    - free distribution to charitable organizations and foundations, approved to that effect by the Member States, for use in their activities to assist persons whose right to public assistance is recognized in national law, in particular because they lack the necessary means of subsistence,

- free distribution to penal institutions and to children's holiday camps as well as to hospitals and old people's homes designated by the Member States, which shall take all necessary steps to ensure that the quantities thus distributed are additional to the quantities normally bought in by such establishments,
  - free distribution outside the Community, through charitable organizations approved to that effect by the Member States, to the populations of third countries in need,
- and, secondarily,
- use for non-food purposes,
  - use in animal feed, either fresh or after processing by the feedingstuffs industry;
- (b) fruit: free distribution to school children, other than as part of the meals served in school canteens, and to pupils in schools which do not have canteens providing meals,
- (c) apples, pears, peaches and nectarines: processing into alcohol of a strength of more than 80 % volume by direct distillation of the product,
- (d) all products: disposal of certain classes of product to the processing industry on condition that there is no resulting distortion of competition for the industries concerned within the Community or for imported products. The implementation of this provision shall be decided in accordance with the procedure laid down in Article 46.
2. In cases where none of the destinations referred to in paragraph 1 is possible, products withdrawn may be destined for composting or for biodegradation processes authorized by the Member State concerned.
3. The free distribution provided for in the first, second and third indents of point (a) of paragraph 1 and point (b) of paragraph 1 shall be organized by the producer organizations concerned, under the supervision of the Member States.
- However, with regard to the free distribution of fruit to school children, the Commission may take the initiative of and responsibility for implementing local pilot projects within the framework of research and promotion measures.
4. Member States shall help to establish contacts between producer organizations and charitable organizations and other bodies which may be interested in using products withdrawn from the market within their territory, with a view to one of the forms of free distribution referred to in points (a) and (b) of paragraph 1.
5. The disposal of products to the feedingstuffs industry shall be carried out by the most appropriate procedure by an agency designated by the Member State concerned.
- The distillation referred to in point (c) of paragraph 1 shall be carried out by distilleries either on their own account or on behalf of a body designated by the Member State concerned. In both cases this body shall carry out the operations in question using the most appropriate procedure.
6. The Community shall defray, on terms and conditions to be determined in accordance with the procedure laid down in Article 13 of Regulation (EEC) No 729/70 (15), transport costs in connection with free distribution as provided for in point (a) of paragraph 1 and sorting and packaging costs in connection with free distribution of apples and citrus fruit where the latter is staggered under contractual agreements concluded between producer organizations and charitable organizations or establishments referred to in paragraph 3.
7. Detailed rules for the application of this Article, and in particular those relating to free distribution and the disposal of products withdrawn, and those designed to avoid disruption of the alcohol market as a result of the distillation of products withdrawn, shall be adopted in accordance with the procedure laid down in Article 46.

## TITLE V Trade with third countries

### Article 31

1. Imports into the Community, or exports therefrom, of any of the products listed in Article 1 (2) may be subject to presentation of an import or export licence.
- Licences shall be issued by Member States to any applicant, irrespective of his place of establishment in the Community and without prejudice to measures taken for the application of Articles 36 and 37.
- Import and export licences shall be valid throughout the Community. The issue of such licences may be subject to the lodging of a security guaranteeing that the products are imported or exported during the term of validity of the licence; except in cases of force majeure, the security shall be forfeited in whole or in part if import or export is not carried out, or is carried out only partially, within that period.
2. The term of validity of import and export licences and other detailed rules for the application of this

Article shall be adopted in accordance with the procedure laid down in Article 46.

#### Article 32

1. Save as otherwise provided for in this Regulation, the rates of duty in the common customs tariff shall apply to the products listed in Article 1 (2) .
2. Should application of the common customs tariff duty rate depend on the entry price of the imported consignment, the veracity of this price shall be checked using a flat-rate import value calculated by the Commission, by product and by origin, on the basis of the weighted average of prices for the product on Member States' representative import markets or on other markets, where appropriate. Specific provisions may, however, be adopted for verifying the entry price of products imported primarily for processing, in accordance with the procedure laid down in Article 46.
3. Where the declared entry price of the consignment in question is higher than the flat-rate import value, increased by a margin set in accordance with paragraph 5 which may not exceed the flat-rate value by more than 10 %, the lodging of a security equal to the import duty determined on the basis of the flat-rate import value shall be required.
4. If the entry price of the consignment in question is not declared at the time of customs clearance, the common customs tariff duty rate applied shall depend on the flat-rate import value or be arrived at by application of the relevant customs legislation provisions under conditions to be determined in accordance with paragraph 5.
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 46.

#### Article 33

1. In order to prevent or counteract adverse effects on the market in the Community which may result from imports of certain products listed in Article 1 (2) , imports of one or more of such products at the rate of duty laid down in the common customs tariff shall be subject to payment of an additional import duty if the conditions set out in Article 5 of the Agreement on agriculture (16) concluded in the framework of the Uruguay Round of multilateral trade negotiations have been fulfilled, unless the imports are unlikely to disturb the Community market, or the effects would be disproportionate to the intended objective.
2. The trigger prices below which an additional duty may be imposed shall be those notified by the Community to the World Trade Organization.  
The trigger volumes to be exceeded in order to have the additional import duty imposed shall be determined in particular on the basis of imports into the Community in the three years preceding the year in which the adverse effects referred to in paragraph 1 arise or are likely to arise.
3. The import prices to be taken into consideration for imposing an additional import duty shall be determined on the basis of the cif import prices of the consignment concerned.  
The cif import prices shall be verified for this purpose on the basis of representative prices for the product in question on the world market or on the Community import market for the product.
4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 46. Such detailed rules shall specify in particular:
  - (a) the products to which additional import duties may be applied under Article 5 of the Agreement on agriculture referred to in paragraph 1 of this Article;
  - (b) the other criteria necessary for application of paragraph 1 in accordance with Article 5 of the said Agreement on agriculture.

#### Article 34

1. Tariff quotas for the products listed in Article 1 (2) resulting from agreements concluded within the framework of the Uruguay Round of multilateral trade negotiations shall be opened and administered in accordance with detailed rules adopted in accordance with the procedure laid down in Article 46.
2. Quotas may be administered by applying one of the following methods or a combination thereof:
  - (a) a method based on the chronological order in which applications are lodged (' first come, first served' basis) ;
  - (b) a method of allocating quotas in proportion to quantities requested when applications are lodged (using the ' simultaneous examination ' method) ;
  - (c) a method based on taking traditional trade flows into account (using the ' traditional importers/new



arrivals` method) .

Other appropriate methods may be adopted. They must avoid any discrimination between the operators concerned.

3. The method of administration adopted shall, where appropriate, take account of the supply needs of the Community market and the need to safeguard the equilibrium of that market, whilst at the same time drawing on methods applied in the past to quotas corresponding to those referred to in paragraph 1, without prejudice to rights arising from agreements concluded in the framework of the Uruguay Round of trade negotiations.

4. The detailed rules referred to in paragraph 1 shall provide for annual quotas, suitably phased over the year, shall determine the administrative method to be used and, where appropriate, shall include:

- (a) guarantees covering the nature, provenance and origin of the product;
- (b) recognition of the document used for verifying the guarantees referred to in (a) , and
- (c) the conditions under which import licences are issued and their term of validity.

#### Article 35

1. To the extent necessary to enable economically significant quantities of the products listed in Article 1 (2) to be exported on the basis of the prices of these products in international trade but within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices in the Community may be covered by export refunds.

R2200.1

2. The method to be adopted for allocation of the quantities which may be exported with a refund shall be the method which:

- (a) is most suited to the nature of the product and the situation on the market in question, allows the most efficient possible use of the resources available and takes due account of the efficiency and structure of Community exports, without, however, creating discrimination between large and small operators;
- (b) is least cumbersome administratively for operators, administration requirements taken into account;
- (c) avoids any discrimination between the operators concerned.

3. Refunds shall be the same for the whole Community.

Where the international trade situation or the specific requirements of certain markets make this necessary, the refund for a given product may vary according to the destination of the product.

Refunds shall be fixed in accordance with the procedure laid down in Article 46. Refunds shall be fixed periodically.

Refunds fixed periodically may, where necessary, be adjusted in the interval by the Commission at the request of a Member State or on its own initiative.

4. The following shall be taken into account when refunds are being fixed:

- (a) the existing situation and likely trends with regard to:
  - prices and availability of fruit and vegetables on the Community market,
  - prices for fruit and vegetables in international trade;
- (b) marketing costs and minimum transport charges from Community markets to ports and other Community export points, and forwarding costs to the country of destination;
- (c) the economic aspect of the proposed exports;
- (d) the limits resulting from agreements concluded in accordance with Article 228 of the Treaty.

5. The Community market prices referred to in paragraph 1 shall be determined using the prices which are most favourable from the exportation point of view.

The world market prices referred to in paragraph 1 shall be determined using:

- (a) prices recorded on third-country markets;
- (b) the most favourable prices in third countries for imports from other third countries;
- (c) producer prices recorded in exporting third countries;
- (d) free-at-Community-frontier offer prices.

6. Refunds shall be granted only on application and on presentation of the relevant export licence.

7. The refund shall be that applicable on the day of application for the licence and, in the case of a differentiated refund, that applicable on the same day:

- (a) for the destination indicated on the licence, or
  - (b) for the actual destination if it differs from the destination indicated on the licence. In that case, the amount applicable may not exceed the amount applicable for the destination indicated on the licence.
- Appropriate measures may be taken to prevent abuse of the flexibility provided for in this paragraph.

8. Paragraphs 6 and 7 may be waived in the case of products listed in Article 1 (2) on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 46.

9. The refund shall be paid upon proof that the products:

- have been exported from the Community,
- are of Community origin, and
- in the case of a differentiated refund, have reached the destination indicated on the licence or another destination for which a refund was fixed, without prejudice to point (b) of paragraph 7. Exceptions may be made to this rule in accordance with the procedure laid down in Article 46, provided conditions are laid down which offer equivalent guarantees.

10. Compliance with the limits on volumes arising from agreements concluded in accordance with Article 228 of the Treaty shall be ensured on the basis of the export licences issued for the reference periods provided for therein and applicable to the products concerned.

With regard to compliance with the obligations arising under the agreements concluded in the Uruguay Round trade negotiations, the ending of a reference period shall not affect the validity of export licences.

11. Detailed rules for the application of this Article, including provisions for the redistribution of unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 46.

#### Article 36

1. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited when importing the products listed in Article 1 (2) from third countries:

- the levying of any charge having equivalent effect to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

2. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the common customs tariff.

#### Article 37

1. Appropriate measures may be taken when trading with third countries if, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (2) is affected by, or is threatened with, serious disturbance likely to jeopardize achievement of the objectives set out in Article 39 of the Treaty.

Such measures may be applied only until, depending on the case, the disturbance or threat of disturbance has ceased or the quantities withdrawn or bought in have diminished appreciably.

The Council, acting on a proposal from the Commission in accordance with the voting procedure laid down in Article 43 (2) of the Treaty, shall adopt general rules for application of this paragraph and shall define in what cases and within what limits Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Member States shall be notified of these and they shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

3. Measures decided upon by the Commission may be referred to the Council by any Member State within three working days of the day on which they were notified. The Council shall meet without delay. It may, acting by a qualified majority confirm, amend or rescind the measure in question.

4. This Article shall be applied having regard to the obligations arising from international agreements concluded in accordance with Article 228 (2) of the Treaty.

#### TITLE VI National and Community checks

#### Article 38

1. Member States shall take the necessary measures to ensure compliance with Community rules in the fruit and vegetable sector, particularly in the fields referred to in Annex IV.

2. Where it is appropriate to carry out checks by sampling, Member States shall ensure, by their nature and frequency and on the basis of risk analysis, that the checks are appropriate to the measure concerned both in terms of their territory as a whole and in terms of the volume of fruit and vegetable sector products marketed or held with a view to marketing.

The recipients of public funds must be systematically checked, without prejudice to the implementation of systematic checks in other fields.

3. The Commission and the Member States shall ensure that the competent authorities have a sufficient number of suitably qualified and experienced staff to carry out the checks effectively, particularly in the fields referred to in Annex IV.

#### Article 39

1. Without prejudice to the checks carried out by the national authorities pursuant to Article 38, the Commission may, in collaboration with the competent authorities of the Member State concerned, carry out or ask a Member State to carry out on-the-spot checks in order to ensure uniform application of Community rules in the fruit and vegetable sector, particularly in the fields referred to in Annex IV.

2. The Commission shall inform the relevant Member State in advance and in writing about the subject, purpose and location of the checks it envisages, the date on which they are to commence and the identity and status of its inspectors.

#### Article 40

1. In order to implement the provisions of Article 39, the Commission shall establish a special corps of inspectors in the fruit and vegetable sector consisting of Commission officials with suitable qualifications, technical knowledge and experience and possibly of staff appointed at the request of the Commission and with the agreement of the Member State concerned, from the staff referred to in Article 38 (3) to take part in specific enquiries.

2. The special corps of inspectors shall, under the Commission's direction, discharge the following tasks:

- (a) participate in the checks planned and carried out by the competent authorities of the Member States;
- (b) carry out the checks referred to in Article 39 at the Commission's initiative, in which the officials of the Member State are invited to participate;
- (c) assess the national verification arrangements set up, the procedures followed and the results obtained;
- (d) ascertain the measures, legislative and otherwise, taken by the competent authorities to improve compliance with Community rules in the fruit and vegetable sector;
- (e) develop collaboration and the exchange of information between the competent bodies of the Member States in order to contribute to the uniform application of the rules in the fruit and vegetable sector and facilitate free movement of the products of the sector.

3. With regard to the checks to be carried out under point (b) of paragraph 2, the Commission shall, in good time before the start of operations, inform the competent authority of the Member State on whose territory these operations are to take place.

4. The Commission shall itself determine the most appropriate places for its checks to be carried out and shall, in collaboration with the Member States concerned, establish the practical arrangements.

#### Article 41

1. The checks pursuant to Article 40 (2) (b) shall be carried out in accordance with Article 9 (2) of Regulation (EEC) No 729/70.

The Commission's inspectors shall, in the course of checks, adopt an attitude compatible with the rules and professional practices which officials of the Member State must follow. They shall observe professional confidentiality.

2. The Commission shall establish appropriate links with the competent authorities of the Member States in order to draw up control programmes jointly. Member States shall collaborate with the Commission to facilitate its accomplishment of this task.

3. The Commission shall communicate the results of the visits made by its inspectors to the competent authority of the Member State concerned as soon as possible. That communication shall record any difficulties encountered and infringements noted of the rules governing the market in fruit and vegetables.

4. The Member State concerned shall inform the Commission as soon as possible of the steps it has taken to put an end to the difficulties or infringements in question.

#### Article 42

Any irregularity which is noted during checks and may have a financial effect on the Guarantee Section of the EAGGF shall be dealt with in accordance with the provisions of Regulation (EEC) No 595/91 (17). The Member State on whose territory the irregularity was noted must make the declaration provided for

in Article 3 of this Regulation.

Any failure to comply in the application of Community rules by a Member State which is noted during Commission checks and may have a financial effect on the Guarantee Section of the EAGGF shall be dealt with in accordance with the provisions of Article 5 (2) (c) of Regulation (EEC) No 729/70.

## TITLE VII General provisions

### Article 43

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the production of and trade in the products referred to in Article 1 (2) .

### Article 44

1. Member States and the Commission shall communicate to each other the information necessary for applying this Regulation. The data to be communicated shall be determined in accordance with the procedure laid down in Article 45. Rules for the communication and distribution of such information shall be adopted in accordance with the same procedure.

2. The data referred to in paragraph 1 shall include at least information on cultivated areas and quantities harvested, marketed or not put up for sale under Article 23.

This information shall be collected by:

- producer organizations in the case of their members, without prejudice to Articles 11 and 19,
- the relevant services of the Member States in the case of producers who do not belong to any of the collective structures provided for in this Regulation. The Member State in question may entrust this task in whole or in part to one or more producer organizations.

3. Member States shall take all measures necessary to ensure the collection of the data referred to in paragraph 2, their accuracy, their statistical processing and their regular communication to the Commission. They shall provide for penalties in cases of unjustified delays or systematic negligence in the proper performance of the tasks in question. They shall inform the Commission of those measures.

4. The Commission shall regularly communicate to the Member States by the most appropriate means the data referred to in paragraph 1 and the conclusions which it draws from such data. The rules for application shall be adopted in accordance with the procedure laid down in Article 46.

### Article 45

A management committee for fresh fruit and vegetables, hereinafter referred to as ' the Committee` , shall be set up, consisting of representatives of the Member States and chaired by a representative of the Commission.

### Article 46

1. Where reference is made to the procedure laid down in this Article, the chairman shall refer the matter to the Committee either on his/her own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt measures which shall apply immediately.

(b) However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

### Article 47

The Committee may consider any other question referred to it by its chairman either on his/her own initiative or at the request of the representative of a Member State.

#### Article 48

The detailed rules for the application of this Regulation, including financial or non-financial administrative penalties, shall be adopted in the light of the specific requirements of the sector in accordance with the procedure laid down in Article 46.

#### Article 49

This Regulation shall be so applied that appropriate account is simultaneously taken of the objectives set out in Articles 39 and 110 of the Treaty.

#### Article 50

Member States shall take all appropriate measures to penalize infringements of the provisions of this Regulation and to forestall and bring to an end any fraud.

#### Article 51

The laws, regulations and administrative provisions adopted by Member States for the application or in application of this Regulation shall be communicated to the Commission no later than one month after their adoption. The same shall apply to any modification of the said provisions.

#### Article 52

1. Expenditure relating to the payment of the Community withdrawal compensation and to Community financing of the operational fund, the specific measures referred to in Article 17 and Articles 53, 54 and 55 and checks by experts of the Member States made available to the Commission in application of Article 40 (1) shall be deemed to be intervention to stabilize the agricultural markets within the meaning of point (b) of Article 1 (2) of Regulation (EEC) No 729/70.

2. The aid granted by the Member States in accordance with Article 14 and the second subparagraph of Article 15 (6) shall be considered a common measure within the meaning of Article 2 (1) of Regulation (EEC) No 4256/88 (18) . It shall be covered by the annual expenditure forecasts referred to in Article 31 (1) of Regulation (EEC) No 2328/91 (19) .

Article 1 (3) of Regulation (EEC) No 2328/91 shall apply to the aid provided for in this paragraph. Aid shall be paid in accordance with Article 21 of Regulation (EEC) No 4253/88. However, payment of the balance or reimbursement shall, in addition to the requirements specified in paragraph 4 of that Article, be based on:

(a) a declaration of expenditure incurred by the Member States during the calendar year, and  
(b) a report on the application of the measures during the calendar year concerned, drawn up in accordance with Article 25 (4) of that Regulation,  
to be presented to the Commission before 1 July of the following year.

3. The Commission shall adopt rules for the application of paragraph 2 of this Article after consulting the committee referred to in Article 29 of Regulation (EEC) No 4253/88 (20) .

4. The provisions of Title VI shall apply without prejudice to the application of Regulation (EEC) No 4045/89 (21) .

#### Article 53

Any rights acquired by producer organizations before the entry into force of this Regulation in application of Article 14 and Title IIa of Regulation (EEC) No 1035/72 shall be maintained until exhausted.

#### Article 54

1. The Community shall contribute 50 % of the financing of measures to develop and improve the consumption and use in the Community of nuts.

2. The aim of the measures referred to in paragraph 1 shall be to:

- encourage product quality, in particular by carrying out market studies and seeking new uses, including ways of adapting production accordingly,
- develop new methods of packaging,
- disseminate marketing advice to the various economic operators in the sector,
- organize and participate in fairs and other trade events.

3. The Commission shall, following the procedure in Article 46, specify the measures referred to in paragraph 2 or define new measures.

#### Article 55

For hazelnuts harvested during the 1997/1998, 1998/1999 and 1999/2000 marketing years, aid of ECU 15/100 kg shall be granted to producer organizations, recognized pursuant to Regulation (EEC) No 1035/72 or to this Regulation, which implement a quality improvement plan within the meaning of Article 14d of Regulation (EEC) No 1035/72 or an operational plan within the meaning of this plan in 1997.

#### Article 56

By 31 December 2000 the Commission shall send the Council a report on the operation of this Regulation, accompanied by any proposals that may be required.

#### Article 57

If measures are needed to facilitate the transition from the previous arrangements to those established by this Regulation, such measures shall be adopted in accordance with the procedure laid down in Article 46.

#### Article 58

1. This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

It shall apply from 1 January 1997. However, Title IV shall apply only, for each of the products referred to in Annex I, from the beginning of the 1997/1998 marketing year.

2. Regulations (EEC) No 1035/72, (EEC) No 3285/83, (EEC) No 1319/85, (EEC) No 2240/88, (EEC) No 1121/89 and (EEC) No 1198/90 are hereby repealed as from the date of application of the corresponding provisions of this Regulation.

References to the repealed Regulations shall be understood as references to this Regulation and are to be read in conjunction with the correlation tables in Annex VI.

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

Done at Luxembourg, 28 October 1996.

For the Council

The President

I. YATES

#### ANNEX I

Products which are to be supplied fresh to the consumer and are subject to standards

Almonds

Apples and pears

Apricots

Artichokes

Asparagus

Aubergines

Avocados

Beans

Brussels sprouts

Cabbage

Carrots

Cauliflowers

Celery

Cherries

Citrus fruit

Courgettes

Cucumbers

Garlic

Hazelnuts

Kiwis

Leeks  
Lettuce, curly and escarole chicory  
Melons  
Onions  
Peaches and nectarines  
Peas for shelling  
Plums  
Spinach  
Strawberries  
Sweet peppers  
Table grapes  
Tomatoes  
Walnuts  
Water melons  
Witloof chicory

## ANNEX II

List of products eligible for Community withdrawal compensation under Article 23 (3)

Cauliflowers  
Tomatoes  
Aubergines  
Apricots  
Peaches  
Nectarines  
Lemons  
Pears (other than perry pears)  
Table grapes  
Apples (other than cider apples)  
Satsumas  
Mandarins  
Clementines  
Oranges  
Melons  
Water melons

## ANNEX III

Exhaustive list of rules applied by producer organizations that may be extended to non-member producers  
Article 18 (1)

### 1. Rules on production information

- (a) notification of growing intentions, by product and where appropriate variety;
- (b) notification of sowings and plantings;
- (c) notification of total areas grown, by product and if possible variety;
- (d) notification of anticipated tonnages and probable cropping dates by product and if possible variety;
- (e) periodic notification of quantities cropped and available stocks, by variety;
- (f) information on storage capacities.

### 2. Production rules

- (a) choice of seed to be used according to intended destination (fresh market/industrial processing) ;
- (b) thinning in orchards.

### 3. Marketing rules

- (a) specified dates for commencement of cropping, staggering of marketing;
- (b) minimum quality and size requirements;
- (c) preparation, presentation, packaging and marking at first marketing stage;
- (d) indication of product origin.

### 4. Rules on the protection of the environment

- (a) use of fertilizer and manure;
- (b) use of plant-health products and other crop protection methods;
- (c) maximum residue content in fruit and vegetables of plant-health products and fertilizers;
- (d) rules on disposal of by-products and used material;
- (e) rules on destruction of products withdrawn from the market.

### 5. Withdrawals

- rules adopted under Article 23 in accordance with the terms of Article 25.

## ANNEX IV

Non-exhaustive list of matters that may be covered by national and Community inspection

Conformity with product standards (Articles 7 and 8)

Compliance with terms of recognition of producer organizations (Article 12)

Implementation of action plan (Article 13)

Implementation of recognition plan and utilization of aid (Article 14)

Management of operational fund and implementation of operational programme (in particular close scrutiny of use of public funds) (Article 15)

Compliance with terms governing the extension of rules to non-producers (Article 18)

Compliance with terms governing interbranch organizations and agreements and extension of rules (Articles 19, 20 and 21)

Withdrawal operations (Articles 23 et seq.)

Proper payment of Community withdrawal compensation (Article 29)

Disposal of products withdrawn from market (Article 30)

Application of rules on trade with third countries (Articles 31 et seq.) .



CN code	Description
0702 00	Tomatoes, fresh or chilled
0703	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
0704	Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled
0705	Lettuce ( <i>Lactuca sativa</i> ) and chicory ( <i>Cichorium spp.</i> ), fresh or chilled
0706	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled
0707 00	Cucumbers and gherkins, fresh or chilled
0708	Leguminous vegetables, shelled or unshelled, fresh or chilled
ex 0709	Other vegetables, fresh or chilled, excluding vegetables of subheadings 0709 60 91, 0709 60 95, 0709 60 99, 0709 90 31, 0709 90 39 and 0709 90 60
ex 0802	Other nuts, fresh or dried, whether or not shelled or peeled, excluding arca (or betel) and cola nuts of subheading 0802 90 30
0803 00 11	Fresh plantains
ex 0803 00 90	Dried plantains
0804 20 10	Figs, fresh
0804 30 00	Pineapples
0804 40	Avocados
0804 50 00	Guavas, mangos and mangoosteens
0805	Citrus fruit, fresh or dried
0806 10 21	Fresh table grapes
0806 10 29	
0806 10 30	
0806 10 40	
0806 10 50	
0806 10 61	
0806 10 69	
0807	Melons (including watermelons) and pawpaws (papayas), fresh
0808	Apples, pears and quinces, fresh
0809	Apricots, cherries, peaches (including nectarines), plums and sloes, fresh
0810	Other fruit, fresh
0813 50 31	Mixtures exclusively of dried nuts of CN Nos 0801 and 0802
0813 50 39	
1212 10 10	Carobs

3. The marketing years for the products listed in paragraph 2 shall be determined, if necessary, in accordance with the procedure laid down in Article 46.

## ANNEX V

## Community withdrawal compensation

*(ECU/100 kg)*

Marketing years	1997/1998	1998/1999	1999/2000	2000/2001	2001/2002	As from 2002
Cauliflowers	9,34	8,88	8,41	7,94	7,48	7,01
Tomatoes	6,44	6,12	5,80	5,47	5,15	4,83
Apples	10,69	10,32	9,94	9,56	9,18	8,81
Grapes	10,69	10,15	9,62	9,08	8,55	8,02
Apricots	18,90	17,95	17,01	16,06	15,12	14,17
Nectarines	17,39	16,52	15,65	14,78	13,91	13,04
Peaches	14,65	13,92	13,18	12,45	11,72	10,99
Pears	10,18	9,82	9,46	9,10	8,75	8,39
Aubergines	5,29	5,02	4,76	4,49	4,23	3,97
Melons	4,00	4,00	4,00	4,00	4,00	4,00
Water melons	4,00	4,00	4,00	4,00	4,00	4,00
Oranges	14,33	14,26	14,20	14,13	14,07	14,00
Mandarins	16,15	15,52	14,89	14,26	13,63	13,00
Clementines	12,74	12,79	12,84	12,90	12,95	13,00
Satsumas	10,49	10,99	11,49	12,00	12,50	13,00
Lemons	13,37	13,30	13,22	13,15	13,07	13,00

## ANNEX VI

## Correlation table

Regulation (EEC) No 1035/75	This Regulation	Regulation (EEC) No 1035/75	This Regulation
Article 1	Article 1	Article 17	Article 28
Article 2	Article 2	Article 18	Article 29
Article 3	Article 3	Article 18a	Article 24
Article 4	—	Article 19	—
Article 5	Article 4	Article 19a	—
Article 6	Article 5	Article 19b	—
Article 7	Article 6	Article 19c	—
Article 8	Article 7	Article 20	
Articles 9 and 11	Article 8	Article 21	Article 30
Article 10	Article 10	Article 22	Article 31
Article 12	Article 9	Article 23	Article 32
Article 13	Article 11	Article 24	Article 33
Article 13a		Article 25	Article 34
Article 13b	—	Article 26	Article 35
Article 14	Article 14	Article 27	Article 36
Article 14a	—	Article 31	Article 43
Article 14b	—	Article 32	Article 45
Article 14c	—	Article 33	Article 46
Article 14d	—	Article 34	Article 47
Article 14e	Article 54	Article 35	—
Article 14f	—	Article 36	Article 52
Article 14g	—	Article 36a	Article 52
Article 15	Article 23	Article 37	Article 49
Article 15a		Article 38	Article 44
Article 15b	Article 18	Article 40	—
Article 16		Article 41	Article 58
Article 16a	—	Article 42	Article 58
Article 16b	Article 27		