

Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organization of the markets in processed fruit and vegetable products
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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Economic 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 various changes are taking place in the fruit and vegetable sector in general of which the Community must take account by a reorientation of the basic rules of the market organization of this sector; whereas as regards certain processed products, account should also be taken of the international market situation; whereas, in view of the numerous changes to which the common organization of the market in fruit and vegetables has been subject since its initial adoption, a new Regulation should, for reasons of clarity, be adopted;

(2) Whereas certain processed products are of particular importance in the Mediterranean regions of the Community where production prices are noticeably higher than those in third countries; whereas the production aid system based on the signing of contracts guaranteeing regular supplies for the industry in return for the payment of a minimum price to producers, as applied in the past, has stood the test of time and should be continued; whereas, however, like for fresh products, the role of producers' organizations should be strengthened in order to guarantee greater concentration of supply, to manage supply more rationally and lastly, to facilitate monitoring of compliance with the minimum price to producers;

(3) Whereas, because of the link which exists between the prices of products intended for fresh consumption and of those intended for processing, it should be enacted that the minimum price to the producer must be determined taking account of market price fluctuations in the fruit and vegetable sector and of the need to maintain a proper balance between the various outlets for the fresh product;

(4) Whereas the amount of aid must compensate for the difference between the prices paid to producers in the Community and prices paid in third countries; whereas, therefore, a basis of calculation must be laid down which takes account of this difference and of the impact of changes in the minimum price, without prejudice to the application of certain technical elements;

(5) Whereas, because of the large availability of raw materials and the elasticity of processing capacity, the granting of production aid may in certain cases lead to a considerable expansion of production; whereas, in order to avoid the disposal difficulties which could result from this, limitations should be set on the granting of aid, either in the form of a guarantee threshold or a quota system, according to product;

(6) Whereas, in view of past experience with regard to tomato-based processed products, a flexible system should be adopted, aimed at increasing the dynamism of undertakings and the competitiveness of Community industry; whereas the quotas per group of products and Member State must be fixed on a flat-rate basis for the first two years of implementation of the new system; whereas the amount of aid for concentrates and their derivatives must be lowered to offset the increased expenditure resulting from the increase in quotas for tomato concentrate and the other products in relation to the old system;

(7) Whereas the dried grape sector has some special features which have led to the implementation of a specialized acreage aid system; whereas this system, together with the guaranteed maximum acreage system aimed at avoiding a disproportionate extension of the

growing of grapes for the production of dried grapes, must be kept as in the past in the same Regulation;

(8) Whereas replanting schemes to combat phylloxera are continuing; whereas, in order to avoid this operation ceasing while large areas still remain to be replanted, the system of aid to producers who replant their vineyards to combat phylloxera should be continued;

(9) Whereas, to facilitate the disposal of processed products and better adapt their quality to market demands, the possibility of laying down standards should be provided for;

(10) Whereas, for the dried grape and dried fig sectors, the carryover storage system, limited to a certain quantity of dried grapes, must be maintained without prejudice to certain adjustments; whereas purchase price levels should be determined for these two products taking account of the specific features of each of them;

(11) Whereas the possibility should be provided of implementing specific measures in favour of certain sectors facing international competition, where their production has major local or regional importance; whereas such measures must include structural improvements aimed at increasing competitiveness and promoting the use of the products in question; whereas for a transitional period provision should be made for aid in a lump sum for area on which asparagus intended for processing is currently grown, given the state of the sector;

(12) Whereas in Regulation (EC) No 3290/94 (4) the Council 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 processed fruit and vegetable products sector; whereas the provisions of Annex XIV to Regulation (EC) No 3290/94 should be inserted in this Regulation; whereas, however, for the sake of simplicity, recourse should be had to the Commission's exercise of its powers for the implementation of certain technical provisions relating to possible sugar shortages;

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

(14) Whereas Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables (5) should be applied to the processed fruit and vegetable products sector in order to avoid duplication of standards and monitoring bodies; whereas it is necessary also to provide for sanctions to guarantee uniform application of the new system throughout the Community;

(15) Whereas the common organization of the markets in processed fruit and vegetable products must take proper and simultaneous account of the objectives set out in Articles 39 and 110 of the Treaty;

(16) Whereas, to facilitate the implementation of the provisions 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,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall set up a common organization of the markets in processed fruit and vegetables.

2. That common organization shall cover the following products:

>TABLE POSITION>

3. The marketing years for the products referred to in paragraph 2 shall be fixed, if necessary, in accordance with the procedure laid down in Article 29.

TITLE I System of aid

Article 2

1. A system of production aid shall apply to the products listed in Annex I obtained from fruit and vegetables harvested in the Community.

2. Production aid shall be granted to processors who have paid producers for their raw materials a price not less than the minimum price under contracts between, on the one side, producer organizations recognized or provisionally authorized under Regulation (EC) No 2200/96, and processors on the other.

However, during the five marketing years following the application of this Regulation, contracts may also be between processors and individual producers, for a quantity not exceeding, for each year respectively, 75 %, 65 %, 55 %, 40 % and 25 % of the quantity giving entitlement to production aid.

The producer organizations shall extend the benefit of the provisions of this Article to operators not affiliated to any of the collective structures provided for in Regulation (EC) No 2200/96, who undertake to market through such structures all their output intended for the manufacture of the products referred to in Annex I and who pay a contribution towards the overall management costs of this system borne by the organization.

Contracts must be signed before the start of the marketing year.

Article 3

1. The minimum price to be paid to producers shall be calculated on the basis of:

- (a) the minimum price applying during the previous marketing year;
- (b) the movement of market prices in the fruit and vegetables sector;
- (c) the need to ensure normal market disposal of basic fresh products for the various uses, including supply to the processing industry.

2. Minimum prices shall be fixed before the start of each marketing year.

3. Minimum prices and detailed rules for the application of this Article shall be adopted in accordance with the procedure provided for in Article 29.

Article 4

1. The production aid may not exceed the difference between the minimum price paid to the producer in the Community and the price of the raw material in the main producing and exporting third countries.

2. The amount of production aid shall be so fixed as to enable the Community product to be disposed of within the limit set in paragraph 1. In establishing the amount of the aid, without prejudice to the application of Article 5, account shall be taken in particular of:

- (a) the difference between the price of the raw material in the Community and that obtaining in the major competing third countries;
- (b) the amount of the aid fixed or calculated before the reduction provided for in paragraph 10, if applicable, for the previous marketing year; and
- (c) where Community production of a product accounts for a substantial share of the market, trends in the volume of external trade and in the prices obtaining in such trade, where the latter criterion results in a reduction in the amount of the aid.

3. The production aid shall be fixed in terms of the net weight of the processed product. The coefficients expressing the relationship between the weight of raw material used and the net weight of the processed product shall be defined on a standardized basis. They shall be regularly updated on the basis of experience.

4. Production aid shall be granted to processors only for processed products which:

- (a) have been produced from raw materials harvested in the Community, for which the applicant has paid at least the minimum price referred to in Article 3;

(b) meet minimum quality requirements.

5. The price of the raw material in main competing third countries shall be determined mainly on the basis of the prices actually applying at the farm-gate stage for fresh products of a comparable quality used for processing, weighted on the basis of the quantities of finished products exported by those third countries.

6. Where Community production accounts for at least 50 % of the quantities of a product making up the Community consumption market, the trends in prices and the quantities of imports and exports shall be assessed by comparing the data for the calendar year preceding the start of the marketing year with the data for the previous calendar year.

7. In the case of products processed from tomatoes, the production aid shall be calculated for:

(a) tomato concentrate falling within CN code 2002 90;

(b) whole peeled tomatoes obtained from the San Marzano variety or similar varieties and falling within CN code 2002 10;

(c) whole peeled tomatoes obtained from the Roma or similar varieties and falling within CN code 2002 10;

(d) tomato juice falling within CN code 2009 50.

8. The production aid for other products processed from tomatoes shall be derived, as appropriate, either from the aid calculated for tomato concentrate, with account being taken in particular of the dry extract content of the product, or from the aid calculated for whole peeled tomatoes obtained from the Roma or similar varieties, with account being taken in particular of the commercial characteristics of the product.

9. The Commission shall fix the amount of the production aid before the start of each marketing year, in accordance with the procedure laid down in Article 29. The coefficients referred to in paragraph 3, the minimum quality requirements and the other detailed rules for the application of this Article shall be adopted in accordance with the same procedure.

10. For products processed from tomatoes, the overall expenditure must not exceed, for each marketing year, the amount that would have been reached if the French and Portuguese quotas for concentrates for the 1997/1998 marketing year had been set as follows:

>TABLE POSITION>

.To that end, the aid fixed for tomato concentrates and their derivatives in accordance with paragraph 9 shall be reduced by 5,37 %. A supplement may be paid after the marketing year if the increase in French and Portuguese quotas is not entirely used up.

Article 5

1. A guarantee threshold for the whole Community is hereby introduced for each marketing year for the products referred to below. When the guarantee threshold is exceeded, the production aid shall be reduced. The guarantee threshold shall be:

(a) 582 000 tonnes net weight for peaches in syrup and/or natural fruit juice,

(b) 102 805 tonnes net weight for Williams and Rocha pears in syrup and/or natural fruit juice.

2. The amount by which the thresholds referred to in paragraph 1 are exceeded shall be calculated on the basis of the average quantities produced in the three marketing years preceding the marketing year for which the production aid is to be fixed. Where the guarantee threshold is exceeded, the aid for the following marketing year shall be reduced in proportion to the amount by which the threshold is exceeded.

Article 6

1. A quota system is hereby introduced for granting production aid for products processed from tomatoes. The production aid shall be limited to a volume of processed products corresponding to a weight of 6 836 262 tonnes of fresh tomatoes.

2. The volume of processed products referred to in paragraph 1 shall be apportioned every five years among three separate product groups, namely tomato concentrate, tinned whole peeled tomatoes and other products, on the basis of the average quantities of products in each group produced in compliance with minimum prices during the five marketing years preceding the marketing year for which the apportionment is made.

However, the first apportionment, for the 1997/1998 marketing year and for the subsequent four marketing years, shall be as follows:

- tomato concentrate: 4 585 253 tonnes
- tinned whole peeled tomatoes: 1 336 119 tonnes
- other products: 914 890 tonnes.

3. The quantity of fresh tomatoes, determined in accordance with paragraph 2 for each product group, shall be shared out each year among the Member States according to the average quantities produced in compliance with minimum prices during the three marketing years preceding the marketing year for which the allocation is made.

However, the apportionment for the 1997/1998 and 1998/1999 marketing years shall be as indicated in Annex III to this Regulation.

For the 1999/2000 marketing year, the apportionment shall be on the basis of the average quantities produced in compliance with minimum prices during the 1997/1998 and 1998/1999 marketing years.

From the 1999/2000 marketing year onward, no apportionment under this paragraph may result in a variation, by Member State and by product group, of more than 10 % from one marketing year to the next. Where an apportionment is made under paragraph 2, that percentage shall be calculated on the basis of the quantities in the previous marketing year adjusted by the coefficients of variation resulting, for each group of products, from that apportionment.

4. Member States shall share out the quantities allocated to them between the processing undertakings established on their territory according to the average quantities produced in compliance with minimum prices during the three marketing years preceding the marketing year for which the allocation is made, excluding 1996/1997, which shall not be taken into consideration.

However, for the first three apportionments, for the marketing years 1997/1998, 1998/1999 and 1999/2000, the quantities taken into account in respect of the marketing years 1993/1994, 1994/1995 and 1995/1996, shall be the quantities actually produced.

5. From the marketing year 1999/2000 onward, the apportionments referred to in paragraphs 2 and 3 shall be carried out in accordance with the procedure laid down in Article 29. The detailed rules for the application of this Article shall be adopted in accordance with the same procedure. They shall include, in particular, rules applying to undertakings that have been in business for less than three years, to new undertakings and in cases of mergers or transfers of undertakings.

Article 7

1. Aid shall be granted for the cultivation of grapes intended for the production of dried grapes of the sultana and Moscatel varieties and currants.

The amount of the aid shall be fixed per hectare of specialized area harvested on the basis of the average yield per hectare of the area concerned. In addition, the amount of the aid shall be fixed to take account of:

- (a) the need to ensure that the areas traditionally used to grow the said crops are maintained;
- (b) the outlets available for these dried grapes.

The amount of aid may be differentiated according to grape variety and other factors which may affect yield.

2. A maximum guaranteed Community area is hereby introduced for each marketing year equal to the average of the areas in the Community used for the crops referred to in paragraph 1 in the marketing years 1987/1988, 1988/1989 and 1989/1990. If the specialized areas used for the

production of dried grapes exceed the maximum guaranteed Community area, the amount of the aid shall be reduced for the following marketing year according to the extent by which that area is exceeded.

3. The aid shall be granted once the areas have been harvested and the products have been dried for processing.

4. Producers who replant their vineyards to combat phylloxera and who are not in receipt of aid provided for under structural measures against that disease chargeable to the Guidance Section of the EAGGF shall be entitled, during three marketing years, to aid of an amount determined in the light of the amount of the aid referred to in paragraph 1 and of the amount of aid granted under the said structural measures. In this case, paragraph 3 shall not apply.

5. Before the beginning of each marketing year, the Commission shall fix the amount of the aid in accordance with the procedure laid down in Article 29. In accordance with the same procedure, it shall lay down the detailed rules for the application of this Article and determine, as necessary, the extent to which the maximum guaranteed area has been exceeded and the consequent reduction in the amount of aid.

Article 8

Common standards may be introduced for the products listed in Article 7 (1) and those listed in Annex I, intended either for consumption in the Community or for export to third countries, in accordance with the procedure laid down in Article 29.

Article 9

1. During the last two months of a marketing year, the agencies approved by the Member States concerned, hereinafter referred to as 'storage agencies', may buy in sultanas, currants and dried figs produced in the Community during the current marketing year provided the products comply with quality standards to be determined.

The quantities of sultanas and currants bought in under paragraph 2 may not exceed 27 370 tonnes.

2. The buying-in price at which storage agencies buy in the products referred to in paragraph 1 shall be:

(a) in the case of dried figs, the minimum price for the lowest quality class, less 5 %;

(b) in the case of sultanas and currants, the buying-in price in force during the 1994/1995 marketing year, adjusted each year in line with the change in the minimum import price referred to in Article 13 or, from the year 2000, in world prices.

3. The products bought in by the storage agencies shall be disposed of on terms which do not jeopardize the balance of the market and which ensure equal access to the products for sale and equal treatment of purchasers.

Where products cannot be disposed of on normal terms, special measures may be taken. In that case, a special security may be required to ensure that undertakings entered into are fulfilled, in particular those relating to the destination of the product. The security shall be forfeit, in full or in part, if undertakings are not fulfilled or are fulfilled only in part.

4. Storage aid shall be granted to storage agencies for the quantities of products which they have bought in and for the actual duration of storage. However, the aid shall cease to be granted at the end of a period of eighteen months following the end of the marketing year during which the product was bought in.

5. Financial compensation equal to the difference between the buying-in price paid by storage agencies and the selling price shall be granted to storage agencies. This compensation shall be reduced by the amount of any profits resulting from the difference between the buying-in price and the selling price.

6. For the purposes of applying paragraph 1, Member States shall approve storage agencies which provide adequate guarantees both that they can store products under satisfactory technical conditions and that they can satisfactorily manage the products bought in.

These agencies shall be required in particular to store products bought in on separate premises and to keep separate accounts for those products.

7. The sale of products bought in under paragraph 1 shall be organized by invitation to tender or at a price fixed in advance.

Tenders submitted shall be taken into account only where a security is lodged.

8. The buying-in price referred to in paragraph 2 and detailed rules for the application of this Article, in particular the arrangements for storage aid, financial compensation and the buying-in and sale of products by storage agencies shall be adopted in accordance with the procedure laid down in Article 29.

Article 10

1. In the case of products covered by Article 1 (2) which are of major economic or ecological importance at local or regional level and are facing, in particular, strong international competition, special measures to promote them and enhance their competitiveness may be taken in accordance with the procedure laid down in Article 29.

Such measures may include, in particular:

- (a) action to improve the suitability for processing of products harvested and to adapt their characteristics to the needs of the processing industry;
- (b) action to perfect the scientific and technical aspects of new operational methods and procedures with a view to improving quality and/or reducing production costs for processed products;
- (c) action relating to the development of new products and/or new uses for processed products;
- (d) the carrying out of economic and market studies;
- (e) action to promote the consumption and use of the products concerned.

2. The measures provided for in paragraph 1 shall be carried out by producer organizations or their associations recognized under Regulation (EC) No 2200/96, in association with organizations representing operators which process and/or market the product(s) in the sector concerned.

3. To facilitate the introduction of the specific measures aimed at improving competitiveness referred to in paragraph 1 with regard to asparagus, a flat-rate aid of ECU 500 per hectare for a maximum of 9 000 hectares shall be granted under this Article during the first three years after the implementation of those measures.

4. Detailed rules for the application of this Article, and in particular for ensuring the compatibility and complementarity of the measures provided for in this Article with those adopted under Article 17 of Regulation (EC) No 2200/96, on the one hand, and with the measures financed under Articles 2, 5 and 8 of Regulation (EEC) No 4256/88 (6), on the other, shall be adopted in accordance with the procedure laid down in Article 29.

TITLE II Trade with third countries

Article 11

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 15, 16, 17 and 18.

The 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 29.

Article 12

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. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 13

1. A minimum import price for the 1997/1998, 1998/1999 and 1999/2000 marketing years shall be fixed for the products listed in Annex II. The minimum import price shall be determined having regard in particular to:

- the free-at-frontier prices on import into the Community,
- the prices obtaining on world markets,
- the situation on the internal Community market, and
- the trend of trade with third countries.

Where the minimum import price is not observed, a countervailing charge in addition to customs duty shall be imposed, based on the prices of the main supplier third countries.

2. The minimum import price for dried grapes shall be fixed before the beginning of the marketing year.

A minimum import price shall be fixed for currants and for other dried grapes. For each of the two groups of products, that price may be fixed for products in immediate packing of a net weight to be determined and for products in immediate packing of a net weight exceeding that weight.

3. The minimum import price for processed cherries shall be fixed before the beginning of the marketing year. The price may be fixed for products in immediate packing of a determined net weight.

4. The minimum import price to be observed for dried grapes shall be that applicable on the day of importation. The countervailing charge to be levied, if any, shall be that which is applicable on the same day.

5. The minimum import price to be observed for processed cherries shall be that applicable on the day of acceptance of entry for free circulation.

6. Countervailing charges for dried grapes shall be fixed by reference to a scale of import prices. The difference between the minimum import price and each step of the scale shall be:

- 1 % of the minimum price for the first step,
- 3, 6 and 9 %, respectively, of the minimum price for the second, third and fourth steps.

The fifth step of the scale shall cover all cases where the import price is lower than that applied for the fourth step.

The maximum countervailing charge to be fixed for dried grapes shall not exceed the difference between the minimum price and an amount determined on the basis of the most favourable prices applied on the world market for significant quantities by the most representative non-member countries.

7. Where the import price for processed cherries is less than the minimum price for those products, a countervailing charge equal to the difference between those prices shall be levied.

8. The minimum import price, the amount of the countervailing charge and the other rules for the implementation of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 14

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 (7) 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 in accordance with its offer tabled during the Uruguay Round of multilateral trade negotiations.

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 the 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 29. 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 Agreement on agriculture.

Article 15

1. Tariff quotas for the products listed in Article 1 (2) resulting from agreements concluded in 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 29.

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 (on a 'first come, first served' basis);
- (b) a method allocating quotas in proportion to the 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/new arrivals' method).

Other appropriate methods may be adopted. They must avoid 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 point (a); and
- (c) the conditions under which import licences are issued and their term of validity.

Article 16

1. To the extent necessary to enable export of:

(a) economically significant quantities of the products without added sugar referred to in Article 1 (2);

(b) - white and raw sugar falling within CN code 1701:

- glucose and glucose syrup falling within CN codes 1702 30 51, 1702 30 59, 1702 30 91, 1702 30 99 and 1702 40 90,

- isoglucose falling within CN codes 1702 30 10, 1702 40 10, 1702 60 10 and 1702 90 30, and

- beet and cane syrups falling within CN code ex 1702 90 99,

used in the products listed in Article 1 (2) (b),

on the basis of prices for those products in international trade and within the limits resulting from agreements concluded in accordance with Article 228 of the Treaty, the difference between those prices and prices applying in the Community may be covered by export refunds.

2. The method to be adopted for the 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, allowing 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 on 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 29. Refunds shall be fixed at regular intervals.

Refunds fixed at regular intervals, may, if necessary, be amended in the interval by the Commission at the request of a Member State or on its own initiative.

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

5. The refund applicable 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.

6. Paragraphs 4 and 5 may be waived in the case of products on which refunds are paid under food-aid operations, in accordance with the procedure laid down in Article 29.

7. 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 certificates 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 framework of the Uruguay Round of multilateral trade negotiations, the ending of a reference period shall not affect the validity of export licences.

8. Detailed rules for the application of this Article, including provisions on redistribution of unallocated or unused exportable quantities, shall be adopted in accordance with the procedure laid down in Article 29.

Article 17

1. This Article shall apply to the refund referred to in Article 16 (1) (a).
2. The following shall be taken into account when the refund is being fixed:
 - (a) the existing situation and future trends with regard to:
 - prices and availability on the Community market of products processed from fruit and vegetables,
 - prices ruling in international trade;
 - (b) minimum marketing and transport costs from the Community markets to ports or other points of export in the Community, as well as costs of shipment to the countries of destination;
 - (c) the economic aspect of the proposed exports;
 - (d) limits resulting from the agreements concluded in accordance with Article 228 of the Treaty.
3. When prices on the Community market are being determined for the products referred to in Article 16 (1) (a), account shall be taken of the ruling prices which are most favourable from the point of view of exportation.

The following shall be taken into account when prices in international trade are being determined:

 - (a) prices ruling on third-country markets;
 - (b) the most favourable prices in third countries of destination for imports from third countries;
 - (c) producer prices recorded in exporting third countries;
 - (d) offer prices at the Community frontier.
4. The refund shall be paid upon proof that:
 - the products have been exported from the Community,
 - the products are of Community origin, and
 - in the case of a differentiated refund the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to Article 16 (5) (b). However, exceptions may be made to this rule in accordance with the procedure laid down in Article 29, provided conditions are laid down which offer equivalent guarantees.
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 18

1. This Article shall apply to the refunds referred to in of Article 16 (1) (b).
2. The amount of the refund shall equal:
 - for raw sugar, white sugar and beet and cane syrup, the amount of the export refund for such products in the unprocessed state, fixed in accordance with Article 17 of Council Regulation (EEC) No 1785/81 of 30 June 1981 on the common organization of the markets in the sugar sector (8), and its implementing provisions,
 - for isoglucose, the amount of the export refund for that product in its unprocessed state, fixed in accordance with Article 17 of Regulation (EEC) No 1785/81 and its implementing provisions,
 - for glucose and glucose syrup, the amount of the export refund for such products in their unprocessed state, fixed for each of those products in accordance with Article 13 of Council Regulation (EEC) No 1766/92 of 30 June 1992 on the common organization of the market in cereals (9), and its implementing provisions.
3. In order to benefit from the refund, processed products must be accompanied, upon export, by a declaration from the applicant stating the quantities of raw and white sugar and beet and cane syrups, isoglucose, glucose and glucose syrup used in manufacture.

The accuracy of the declaration referred to in the first subparagraph shall be subject to checking by the competent authorities of the Member States concerned.
4. If the refund is insufficient to allow export of the products listed in Article 1 (2) (b), the provisions laid down for the refund referred to in Article 16 (1) (a) shall apply to those products instead of those in Article 16 (1) (b).
5. The refund shall be granted on exports of products:

(a) which are of Community origin;

(b) which have been imported from third countries and on which the import duties referred to in Article 12 have been paid, provided the exporter proves:

- that the product to be exported and the product previously imported are one and the same, and
- that the import duties were collected on importation.

In the case covered by point (b), the refund on each product shall be equal to the duties collected on importation where the latter are lower than the refund applicable; where the duties collected on importation are higher than that refund, the latter shall apply.

6. The refund shall be paid upon proof that:

- the products fulfil either of the two conditions set out in paragraph 5,
- the products have been exported from the Community, and
- in the case of a differentiated refund, the products have reached the destination indicated on the licence or another destination for which the refund was fixed, without prejudice to Article 16 (5) (b). However, exceptions may be made to this rule in accordance with the procedure laid down in Article 29, provided conditions are laid down which offer equivalent guarantees.

7. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 19

1. To the extent necessary for the proper working of the common organization of the markets in cereals, sugar and fruit and vegetables, the Council, acting in accordance with the voting procedure laid down in Article 43 (2) of the Treaty on a proposal from the Commission, may, in particular cases, prohibit in whole or in part the use of inward processing arrangements in respect of:

- the products referred to in Article 16 (1) (b), and
- fruit and vegetables intended for the manufacture of the products listed in Article 1 (2).

2. However, by way of derogation from paragraph 1, if the situation referred to in paragraph 1 arises with exceptional urgency and the Community market is disturbed or is liable to be disturbed by the inward processing arrangements, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the Council and the Member States shall be notified of such measures, which shall be valid for no more than six months and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within a week following receipt of the request.

3. The Commission's decision may be referred to the Council by any Member State within a week of the day on which it was notified. The Council, acting by a qualified majority, may confirm, amend or repeal the Commission's decision. If the Council has not acted within three months, the Commission's decision shall be deemed to have been repealed.

Article 20

1. Where under Article 20 of Regulation (EEC) No 1785/81 a levy exceeding ECU 5 per 100 kilograms is charged on exports of white sugar, the imposition of a charge on exports of the products listed in Article 1 (2) containing a minimum of 35 % added sugar may be decided in accordance with the procedure laid down in Article 29.

2. The amount of the export charge shall be fixed taking into account:

- the nature of the product processed from fruit and vegetables which contains added sugar,
- the added sugar content of the product in question,
- the prices of white sugar in the Community and on the world market,
- the export levy applicable to white sugar,
- the economic implications of applying the said charge.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 29.

Article 21

1. The general rules for the interpretation of the combined nomenclature and the special rules for its application shall apply to the tariff 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.
2. Save as otherwise provided for in this Regulation or in provisions adopted pursuant thereto, the following shall be prohibited in trade with 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.

Article 22

1. 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 the achievement of the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased. 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 the general rules for the application of this paragraph and shall determine the cases in which and limits within which 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 such measures, which 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 annul 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 III General provisions

Article 23

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 24

Title VI (National and Community checks) of Regulation (EC) No 2200/96 shall apply to checks on compliance with the Community rules concerning the market in processed fruit and vegetable products.

Article 25

Financial or other administrative penalties shall be adopted as appropriate for the specific needs of the sector in accordance with the procedure laid down in Article 29.

Article 26

If measures are required to facilitate the transition from the old arrangements to those established by this regulation, they shall be adopted in accordance with the procedure laid down in Article 29.

Article 27

1. Member States and the Commission shall communicate to each other the information necessary for the application of this Regulation. The data to be communicated shall be determined in accordance with the procedure laid down in Article 29. Detailed rules for the communication and distribution of such information shall be adopted in accordance with the same procedure.
2. The laws, regulations and administrative provisions adopted by Member States for the application of this Regulation, including any amendments thereto, shall be communicated to the Commission no later than one month after their adoption.
3. 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 28

A management committee for processed 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 29

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 qualified majority, may take a different decision within one month.

Article 30

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 31

Expenditure incurred under Article 2, Article 7, Article 9 (4) and (5) and Article 10 (3) shall be deemed to be intervention to stabilize the agricultural markets within the meaning of point (b) of Article 1 (2) of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy (10).

Article 32

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 33

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

It shall apply as from 1 January 1997. However, Title I shall not apply, for each product concerned, until the beginning of the 1997/1998 marketing year.

2. The following Regulations are hereby repealed with effect from the date of application of the corresponding provisions of this Regulation:

- Council Regulation (EEC) No 426/86 of 24 February 1986 on the common organization of the market in products processed from fruit and vegetables (11),
- Council Regulation (EEC) No 2245/88 of 19 July 1988 introducing guarantee threshold systems for peaches and pears in syrup and/or in natural fruit juice (12),
- Council Regulation (EEC) No 1206/90 of 7 May 1990 laying down general rules for the system of production aid for processed fruit and vegetables (13),
- Council Regulation (EEC) No 668/93 of 17 March 1993 on the introduction of a limit to the granting of production aid for processed tomato products (14).

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

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

(1) OJ No C 52, 21. 2. 1996, p. 23.

(2) OJ No C 96, 1. 4. 1996, p. 276.

(3) OJ No C 82, 19. 3. 1996, p. 30.

(4) OJ No L 349, 31. 12. 1994, p. 105. Regulation as last amended by Regulation (EC) No 1193/96 (OJ No L 161, 29. 6. 1996, p. 1).

(5) See page 1 of this Official Journal.

(6) Council Regulation (EEC) No 4256/88 of 19 December 1988, laying down provisions for implementing Regulation (EEC) No 2052/88 as regards the EAGGF Guidance Section (OJ No L 374, 31. 12. 1977, p. 25). Regulation as amended by Regulation (EEC) No 2085/93 (OJ No L 193, 31. 7. 1993, p. 44).

(7) OJ No L 336, 23. 12. 1994, p. 22.

(8) OJ No L 177, 1. 7. 1981, p. 4. Regulation as last amended by Regulation (EC) No 1599/96 (OJ No L 206, 16. 8. 1996, p. 43).

(9) OJ No L 181, 1. 7. 1992, p. 21. Regulation as last amended by Commission Regulation (EC) No 923/96 (OJ No L 126, 24. 5. 1996, p. 37).

(10) OJ No L 94, 28. 4. 1970, p. 13. Regulation as last amended by Regulation (EC) No 1287/95 (OJ No L 125, 8. 6. 1995, p. 1).

(11) OJ No L 49, 27. 2. 1986, p. 1. Regulation as last amended by Commission Regulation (EC) No 2314/95 (OJ No L 233, 30. 9. 1995, p. 69).

(12) OJ No L 198, 27. 7. 1988, p. 18. Regulation as last amended by Commission Regulation (EC) No 1032/95 (OJ No L 105, 9. 5. 1995, p. 3).

(13) OJ No L 119, 11. 5. 1990, p. 74. Regulation as last amended by Commission Regulation (EEC) No 2202/90 (OJ No L 201, 31. 7. 1990, p. 4).

(14) OJ No L 72, 25. 3. 1993, p. 1.