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I

(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 444/2001
of 26 February 2001**

relating to the conclusion of the Protocol defining, for the period 3 December 1999 to 2 December 2002, the fishing opportunities and the financial contribution provided for by the Agreement between the European Community and the Government of Mauritius on fishing in the waters of Mauritius

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37, in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

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

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

Whereas:

- (1) In accordance with the Agreement between the European Community and the Government of Mauritius on fishing in Mauritian waters ⁽³⁾, the Contracting Parties held negotiations with a view to determining amendments or additions to be made to the Agreement at the end of the period of application of the Protocol.
- (2) As a result of these negotiations, a new Protocol defining, for the period 3 December 1999 to 2 December 2002, the fishing opportunities and the financial contribution provided for by the said Agreement, was initialled on 3 December 1999.
- (3) It is in the Community's interest to approve this Protocol.
- (4) The method for allocating the fishing opportunities among the Member States should be defined on the basis of the traditional allocation of fishing opportunities under the Fisheries Agreement,

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol defining, for the period 3 December 1999 to 2 December 2002, the fishing opportunities and the financial contribution provided for by the Agreement between the Euro-

pean Community and the Government of Mauritius on fishing in the waters of Mauritius is hereby approved on behalf of the Community.

The text of the Protocol is attached to this Regulation ⁽⁴⁾.

Article 2

The fishing opportunities fixed in the Protocol shall be allocated among the Member States as follows:

- tuna seiners: France 20, Spain 20, Italy 2, United Kingdom 1,
- surface long-liners: Spain 19, France 13, Portugal 8,
- vessels fishing by line: France 25 grt/month on an annual average.

If licence applications from these Member States do not cover all the fishing opportunities fixed by the Protocol, the Commission may take into consideration licence application from any other Member State.

Article 3

The President of the Council is hereby authorised to designate the persons empowered to sign the Protocol in order to bind the Community ⁽⁵⁾.

Article 4

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

⁽¹⁾ OJ C 311 E, 31.10.2000, p. 160.

⁽²⁾ Opinion delivered on 6 September 2000 (not yet published in the Official Journal).

⁽³⁾ OJ L 159, 10.6.1989, p. 2.

⁽⁴⁾ OJ L 180, 19.7.2000, p. 30.

⁽⁵⁾ The date of entry into force of the Protocol will be published in the *Official Journal of the European Communities* by the General Secretariat of the Council.

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

Done at Brussels, 26 February 2001.

For the Council

The President

M. WINBERG

COUNCIL REGULATION (EC) No 445/2001**of 26 February 2001**

on the conclusion of the Protocol setting out the fishing rights and financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast for the period 1 January 2000 to 31 December 2001

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37, in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

- (1) Pursuant to the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast ⁽²⁾, the two Parties have conducted negotiations to determine any amendments or additions to be made to the Agreement at the end of the period of application of the Protocol annexed thereto.
- (2) As a result of those negotiations, a new Protocol setting out the fishing rights and the financial contribution provided for in the abovementioned Agreement for the period 1 January 2000 to 31 December 2001 was initialled on 17 December 1999.
- (3) It is in the Community's interest to approve the Protocol.
- (4) The method of allocating the fishing rights among the Member States should be defined on the basis of the traditional allocation of fishing rights under the Fisheries Agreement,

HAS ADOPTED THIS REGULATION:

Article 1

The Protocol setting out the fishing rights and the financial contribution provided for in the Agreement between the European Economic Community and the Government of the Republic of Guinea on fishing off the Guinean coast for the period 1 January 2000 to 31 December 2001 ⁽³⁾ is hereby approved on behalf of the Community.

Article 2

The fishing rights set out in the Protocol shall be allocated among the Member States as follows:

(a) fin-fish/cephalopods:	Spain:	844 grt
	Italy:	750 grt
	Greece:	906 grt
(b) shrimps	Spain:	1 050 grt
	Portugal:	300 grt
	Greece:	150 grt
(c) tuna seiners:	France:	19 vessels
	Spain:	19 vessels

⁽¹⁾ Opinion delivered on 17 January 2001 (not yet published in the Official Journal).

⁽²⁾ OJ L 111, 27.4.1983, p. 1.

⁽³⁾ For the text of the Protocol, see OJ L 250, 5.10.2000.

(d) pole-and-line tuna vessels:	France:	7 vessels
	Spain:	7 vessels
(e) surface long-liners:	Spain:	14 vessels
	Portugal:	2 vessels

If licence applications from those Member States do not exhaust the fishing rights set out in the Protocol, the Commission may consider licence applications from any other Member State.

Article 3

The President of the Council is hereby authorised to designate the persons empowered to sign the Protocol in order to bind the Community.

Article 4

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 26 February 2001.

For the Council
The President
M. WINBERG

COMMISSION REGULATION (EC) No 446/2001
of 5 March 2001
establishing the standard import values for determining the entry price of certain fruit and vegetables

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Commission Regulation (EC) No 3223/94 of 21 December 1994 on detailed rules for the application of the import arrangements for fruit and vegetables ⁽¹⁾, as last amended by Regulation (EC) No 1498/98 ⁽²⁾, and in particular Article 4(1) thereof,

Whereas:

- (1) Regulation (EC) No 3223/94 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from third countries, in respect of the products and periods stipulated in the Annex thereto.

- (2) In compliance with the above criteria, the standard import values must be fixed at the levels set out in the Annex to this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The standard import values referred to in Article 4 of Regulation (EC) No 3223/94 shall be fixed as indicated in the Annex hereto.

Article 2

This Regulation shall enter into force on 6 March 2001.

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

Done at Brussels, 5 March 2001.

For the Commission
Franz FISCHLER
Member of the Commission

⁽¹⁾ OJ L 337, 24.12.1994, p. 66.

⁽²⁾ OJ L 198, 15.7.1998, p. 4.

ANNEX

to the Commission Regulation of 5 March 2001 establishing the standard import values for determining the entry price of certain fruit and vegetables

(EUR/100 kg)

CN code	Third country code ⁽¹⁾	Standard import value
0702 00 00	052	109,8
	204	58,2
	212	110,6
	624	113,7
	999	98,1
0707 00 05	052	120,7
	999	120,7
0709 90 70	052	106,6
	204	95,1
	999	100,8
0805 10 10, 0805 10 30, 0805 10 50	052	70,8
	204	48,1
	212	51,7
	624	47,5
	999	54,5
0805 30 10	600	58,6
	999	58,6
0808 10 20, 0808 10 50, 0808 10 90	388	104,8
	400	81,6
	404	80,5
	508	90,0
	512	91,4
	528	98,4
	720	120,3
	728	101,4
	999	96,0
	388	71,6
0808 20 50	400	96,3
	512	77,2
	528	80,3
	720	54,6
	999	76,0

⁽¹⁾ Country nomenclature as fixed by Commission Regulation (EC) No 2032/2000 (OJ L 243, 28.9.2000, p. 14). Code '999' stands for 'of other origin'.

COMMISSION REGULATION (EC) No 447/2001
of 5 March 2001
on the supply of cereals as food aid

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1292/96 of 27 June 1996 on food-aid policy and food-aid management and special operations in support of food security ⁽¹⁾, and in particular Article 24(1)(b) thereof,

Whereas:

- (1) The abovementioned Regulation lays down the list of countries and organisations eligible for Community aid and specifies the general criteria on the transport of food aid beyond the fob stage.
- (2) Following the taking of a number of decisions on the allocation of food aid, the Commission has allocated cereals to certain beneficiaries.
- (3) It is necessary to make these supplies in accordance with the rules laid down by Commission Regulation (EC) No 2519/97 of 16 December 1997 laying down general rules for the mobilisation of products to be supplied

under Council Regulation (EC) No 1292/96 as Community food aid ⁽²⁾. It is necessary to specify the time limits and conditions of supply to determine the resultant costs,

HAS ADOPTED THIS REGULATION:

Article 1

Cereals shall be mobilised in the Community, as Community food aid for supply to the recipient listed in the Annex, in accordance with Regulation (EC) No 2519/97 and under the conditions set out in the Annex.

The tenderer is deemed to have noted and accepted all the general and specific conditions applicable. Any other condition or reservation included in his tender is deemed unwritten.

Article 2

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

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

Done at Brussels, 5 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 166, 5.7.1996, p. 1.

⁽²⁾ OJ L 346, 17.12.1997, p. 23.

ANNEX

LOT A

1. **Action No:** 320/99
2. **Beneficiary** ⁽²⁾: Ethiopia
3. **Beneficiary's representative:** Food Security Unit of the European Community, Addis Ababa, PO Box 5570. tel.: (251-1) 61 09 12; fax: 61 26 55
4. **Country of destination:** Ethiopia
5. **Product to be mobilised:** common wheat
6. **Total quantity (tonnes net):** 17 000
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 312, 31.10.2000, p. 1 (A.1)
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (1.0, A1.c, 2.c and B.3)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (II.A(3))
 - Language to be used for the markings: English
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** ⁽⁸⁾: free at destination
13. **Alternative delivery stage:** free at port of shipment — fob stowed
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:** EFSR warehouse in Dire Dawa, Shinille, Ethiopia Contact: Ato Sirak Hailu, tel.: (251-1) 51 71 62, fax: 51 83 63
 - port or warehouse of transit: Berbera
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 10.6.2001
 - second deadline: 24.6.2001
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 9 to 22.4.2001
 - second deadline: 23.4 to 6.5.2001
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 20.3.2001
 - second deadline: 3.4.2001
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, Bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; tlx: 25670 AGREC B; fax: (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 1.3.2001, fixed by Commission Regulation (EC) No 380/2001 (OJ L 55, 24.2.2001, p. 57)

LOT B

1. **Action No:** 30/2000
2. **Beneficiary** ⁽²⁾: World Food Programme (WFP), Via Cesare Giulio Viola 68, I-00148 Roma, tel.: (39-06) 6513 2988; fax: 6513 2844/3; telex: 62 66 75 WFP I
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Ethiopia
5. **Product to be mobilised:** common wheat
6. **Total quantity (tonnes net):** 33 500
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 312, 31.10.2000, p. 1(A.1)
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (1.0 A 1.c, 2.c and B.3)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (II.A(3))
 - Language to be used for the markings: English
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** ⁽⁸⁾: free at port of shipment — fob stowed
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** Djibouti
16. **Place of destination:**
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 13.5.2001
 - second deadline: 27.5.2001
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 9 to 22.4.2001
 - second deadline: 23.4 to 6.5.2001
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 20.3.2001
 - second deadline: 3.4.2001
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, Bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; tlx: 25670 AGREC B; fax: (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 1.3.2001, fixed by Commission Regulation (EC) No 380/2001 (OJ L 55, 24.2.2001, p. 57)

LOT C

1. **Action No:** 32/2000
2. **Beneficiary** ⁽²⁾: World Food Programme (WFP), Via Cesare Giulio Viola 68, I-00148 Roma, tel.: (39-06) 6513 2988; fax: 6513 2844/3; telex: 626675 WFP I
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Tajikistan
5. **Product to be mobilised:** common wheat flour
6. **Total quantity (tonnes net):** 7 620
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 312, 31.10.2000, p. 1 (A.10)
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (2.2, A 1.d, 2.d and B.1)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (II.B(3))
 - Language to be used for the markings: English
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** free at port of shipment — fob stowed
13. **Alternative delivery stage:** —
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** —
16. **Place of destination:**
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 16.4 to 8.5.2001
 - second deadline: 30.4 to 20.5.2001
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: —
 - second deadline: —
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 20.3.2001
 - second deadline: 3.4.2001
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, Bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; tlx: 25670 AGREC B; fax: (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 1.3.2001, fixed by Commission Regulation (EC) No 380/2001 (OJ L 55, 24.2.2001, p. 57)

LOT D

1. **Action No:** 31/2000
2. **Beneficiary** ⁽²⁾: World Food Programme (WFP), Via Cesare Giulio Viola 68, I-00148 Roma, tel. (39-06) 6513 2988; fax: 6513 2844/3; tlx: 626675 WFP I
3. **Beneficiary's representative:** to be designated by the beneficiary
4. **Country of destination:** Sierra Leone
5. **Product to be mobilised:** maize grits
6. **Total quantity (tonnes net):** 4 500
7. **Number of lots:** 1
8. **Characteristics and quality of the product** ⁽³⁾ ⁽⁵⁾: see OJ C 312, 31.10.2000, p. 1 (A.14)
9. **Packaging** ⁽⁷⁾: see OJ C 267, 13.9.1996, p. 1 (2.2, A 1.d, 2.d and B.1)
10. **Labelling or marking** ⁽⁶⁾: see OJ C 114, 29.4.1991, p. 1 (II.A(3))
 - Language to be used for the markings: English
 - Supplementary markings: —
11. **Method of mobilisation of the product:** the Community market
12. **Specified delivery stage:** ⁽⁸⁾: free at port of landing — landed
13. **Alternative delivery stage:** free at port of shipment — fob stowed
14. a) **Port of shipment:** —
b) **Loading address:** —
15. **Port of landing:** Freetown
16. **Place of destination:**
 - port or warehouse of transit: —
 - overland transport route: —
17. **Period or deadline of supply at the specified stage:**
 - first deadline: 20.5.2001
 - second deadline: 3.6.2001
18. **Period or deadline of supply at the alternative stage:**
 - first deadline: 16 to 29.4.2001
 - second deadline: 30.4 to 13.5.2001
19. **Deadline for the submission of tenders (at 12 noon, Brussels time):**
 - first deadline: 20.3.2001
 - second deadline: 3.4.2001
20. **Amount of tendering guarantee:** EUR 5 per tonne
21. **Address for submission of tenders and tendering guarantees** ⁽¹⁾: Bureau de l'aide alimentaire, Attn Mr T. Vestergaard, Bâtiment Loi 130, Bureau 7/46, Rue de la Loi/Wetstraat 200, B-1049 Bruxelles/Brussel; tlx: 25670 AGREC B; fax: (32-2) 296 70 03/296 70 04 (exclusively)
22. **Export refund** ⁽⁴⁾: refund applicable on 1.3.2001, fixed by Commission Regulation (EC) No 380/2001 (OJ L 55, 24.2.2001, p. 57)

Notes:

- (¹) Supplementary information: Torben Vestergaard (tel. (32-2) 299 30 50; fax (32-2) 296 20 05).
- (²) The supplier shall contact the beneficiary or its representative as soon as possible to establish which consignment documents are required.
- (³) The supplier shall deliver to the beneficiary a certificate from an official entity certifying that for the product to be delivered the standards applicable, relative to nuclear radiation, in the Member State concerned, have not been exceeded. The radioactivity certificate must indicate the caesium-134 and -137 and iodine-131 levels.
- (⁴) Commission Regulation (EC) No 259/98 (OJ L 25, 31.1.1998, p. 39), is applicable as regards the export refund. The date referred to in Article 2 of the said Regulation is that indicated in point 22 of this Annex.
- The supplier's attention is drawn to the last subparagraph of Article 4(1) of the above Regulation.
- The photocopy of the export licence shall be sent as soon as the export declaration has been accepted on fax (32-2) 296 20 05.
- (⁵) The supplier shall supply to the beneficiary or its representative, on delivery, the following document:
— phytosanitary certificate.
- (⁶) Notwithstanding OJ C 114 of 29 April 1991, point II.A(3)(c) or II.B(3)(c) is replaced by the following: 'the words "European Community"'.
- (⁷) Since the goods may be rebagged, the supplier must provide 2 % of empty bags of the same quality as those containing the goods, with the marking followed by a capital 'R'.
- (⁸) In addition to the provisions of Article 14(3) of the Regulation (EC) No 2519/97, vessels chartered shall not appear on any of the four most recent quaterly lists of detained vessels as published by the Paris Memorandum of Understanding on Port State Control (Council Directive 95/21/EC (OJ L 157, 7.7.1995, p. 1)).
-

**COMMISSION REGULATION (EC) No 448/2001
of 2 March 2001**

laying down detailed rules for the implementation of Council Regulation (EC) No 1260/1999 as regards the procedure for making financial corrections to assistance granted under the Structural Funds

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds ⁽¹⁾, and in particular Article 53(2) thereof,

After consulting the Committee set up pursuant to Article 147 of the Treaty,

After consulting the Committee on Agricultural Structures and Rural Development,

After consulting the Committee on Structures for Fisheries and Aquaculture,

Whereas:

- (1) Article 39(1) of Regulation (EC) No 1260/1999 requires the Member States to make financial corrections in connection with individual or systemic irregularities, by cancelling all or part of the Community contribution.
- (2) In order to ensure a uniform application of this provision throughout the Community, provisions should be laid down for determining such corrections and for reporting to the Commission.
- (3) Provisions should be laid down concerning the amount of the financial corrections the Commission may make under Article 39(3) of Regulation (EC) No 1260/1999 in cases where a Member State has failed to comply with its obligations under Article 39(1) or Article 38.
- (4) Detailed provisions concerning the procedure under Article 39(2) of Regulation (EC) No 1260/1999 should be laid down and the same procedure should be applied in the cases referred to in Article 38(5) of the Regulation.
- (5) Commission Regulation (EEC) No 1865/90 of 2 July 1990 concerning interest on account of late payment to be charged in the event of late repayment of assistance from the Structural Funds ⁽²⁾ should be replaced. However, the provisions of Regulation (EEC) No 1865/

90 should continue to apply to assistance granted for the programme period 1994-99 under Council Regulation (EEC) No 2052/88 ⁽³⁾, as last amended by Regulation (EC) No 3193/94 ⁽⁴⁾.

- (6) This Regulation should be without prejudice to the provisions regarding the recovery of State aid laid down in Article 14 of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty ⁽⁵⁾.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Committee for the Development and Conversion of Regions,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Scope

Article 1

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 1260/1999 as regards the procedure for making financial corrections to assistance granted under the Structural Funds that is administered by the Member States.

CHAPTER II

Financial corrections by Member States

Article 2

1. In the case of systemic irregularities, enquiries under Article 39(1) of Regulation (EC) No 1260/1999 shall cover all the operations liable to be affected.
2. When cancelling all or part of the Community contribution, Member States shall take into account the nature and gravity of the irregularities and the financial loss to the Funds.
3. Member States shall send to the Commission, as an annex to the last quarterly report of each year supplied under Commission Regulation (EC) No 1681/94 ⁽⁶⁾, a list of cancellation proceedings initiated in the past year, together with information on the steps already taken or still required, where appropriate, to adjust the management and control systems.

Article 3

1. When amounts are to be recovered following a cancellation under Article 39(1) of Regulation (EC) No 1260/1999, the competent service or body shall initiate recovery proceedings

⁽¹⁾ OJ L 161, 26.6.1999, p. 1.

⁽²⁾ OJ L 170, 3.7.1990, p. 35.

⁽³⁾ OJ L 185, 15.7.1988, p. 9.

⁽⁴⁾ OJ L 337, 24.12.1994, p. 11.

⁽⁵⁾ OJ L 83, 27.3.1999, p. 1.

⁽⁶⁾ OJ L 178, 12.7.1994, p. 43.

and notify the paying and managing authorities thereof. Recoveries shall be reported and accounted for in accordance with Article 8 of Commission Regulation (EC) No 438/2001 ⁽¹⁾.

2. The contribution of the Funds cancelled in accordance with paragraph 1 may not be re-used for the operation or operations that were the subject of the correction, nor, where a financial correction is made for a systemic error, for operations where this systemic error occurred. Member States shall inform the Commission in the report referred to in Article 2(3) of how they have decided or propose to re-use the funds cancelled and, if appropriate, to amend the financial plan for the assistance.

CHAPTER III

Financial corrections by the Commission

Article 4

1. The amount of financial corrections made by the Commission under Article 39(3) of Regulation (EC) No 1260/1999 for individual or systemic irregularities shall be assessed wherever possible and practicable on the basis of individual files and be equal to the amount of expenditure wrongly charged to the Funds, having regard to the principle of proportionality.

2. When it is not possible or practicable to quantify the amount of irregular expenditure precisely, or when it would be disproportionate to cancel the expenditure in question entirely, and the Commission therefore bases its financial corrections on extrapolation or a flat rate, it shall proceed as follows:

- (a) in the case of extrapolation, it shall use a representative sample of transactions with like characteristics;
- (b) in the case of a flat rate, it shall assess the importance of the infringement of rules and the extent and financial implications of the irregularity established.

3. Where the Commission bases its position on the facts established by auditors other than those of its own services, it shall draw its own conclusions regarding their financial consequences, after examining the measures taken by the Member State concerned under Article 39(1) of Regulation (EC) No 1260/1999, the reports supplied under Regulation (EC) No 1681/94, and any replies from the Member State.

Article 5

1. The period of time within which the Member State concerned may respond to a request under the first subparagraph of Article 39(2) of Regulation (EC) No 1260/1999 to submit its comments and, where appropriate, make corrections, shall be two months, except in duly justified cases where a longer period may be agreed by the Commission.

2. Where the Commission proposes financial corrections on the basis of extrapolation or at a flat rate, the Member State shall be given the opportunity to demonstrate, through an examination of the files concerned, that the actual extent of irregularity was less than the Commission's assessment. In agreement with the Commission, the Member State may limit the scope of this examination to an appropriate proportion or sample of the files concerned. Except in duly justified cases, the time allowed for this examination shall not exceed a further period of two months after the two-month period referred to in paragraph 1. The results of such examination shall be examined in the manner specified in the second subparagraph of Article 39(2) of Regulation (EC) No 1260/1999. The Commission shall take account of any evidence supplied by the Member State within the time limits.

3. Whenever the Member State objects to the observations made by the Commission and a hearing takes place under the second subparagraph of Article 39(2) of Regulation (EC) No 1260/1999, the three-month period within which the Commission may take a decision under Article 39(3) of that Regulation shall begin to run from the date of the hearing.

Article 6

In cases in which the Commission has suspended payments under Article 38(5) of Regulation (EC) No 1260/1999, the Commission and the Member State concerned shall endeavour to reach agreement within the five-month period referred to in Article 38(5) of Regulation (EC) No 1260/1999 in accordance with the procedure and time limits set out in Article 5(1) and (2). If no agreement is reached, Article 5(3) shall apply.

Article 7

1. Any repayment due to be made to the Commission pursuant to Article 39(4) of Regulation (EC) No 1260/1999 shall be effected before the due date indicated in the order for recovery drawn up in accordance with Article 28 of the Financial Regulation applicable to the general budget of the European Communities. This due date shall be the last day of the second month following the issuing of the order.

2. Any delay in effecting repayment shall give rise to interest on account of late payment, starting on the due date referred to in paragraph 1 and ending on the date of actual payment. The rate of such interest shall be one and a half percentage points above the rate applied by the European Central Bank in its main refinancing operations on the first working day of the month in which the due date falls.

3. A financial correction under Article 39(3) of Regulation (EC) No 1260/1999 shall not prejudice the Member State's obligation to pursue recoveries under Article 38(1)(h) of Regulation (EC) No 1260/1999 and Article 3(1) of this Regulation and to recover state aid under Article 14 of Regulation (EC) No 659/1999.

⁽¹⁾ OJ L 63, 3.3.2001, p. 21.

CHAPTER IV

Final provisions*Article 8*

Regulation (EEC) No 1865/90 is hereby repealed.

Its provisions shall however continue to apply to assistance granted for the programme period 1994-99 under Regulation (EEC) No 2052/88.

Article 9

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

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

Done at Brussels, 2 March 2001.

For the Commission

Michel BARNIER

Member of the Commission

COMMISSION REGULATION (EC) No 449/2001**of 2 March 2001****laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the aid scheme for products processed from fruit and vegetables**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

well as the producer organisations referred to in Article 13 of that Regulation.

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products ⁽¹⁾, as last amended by Regulation (EC) No 2699/2000 ⁽²⁾, and in particular Article 1(3), Article 3(2), Article 6, Article 6b(3), Article 6c(7), Article 25, Article 26 and Article 27(1) thereof,

Whereas:

- (1) Regulation (EC) No 2201/96 introduced, on the one hand, aid to producer organisations delivering tomatoes, peaches and pears for processing into the products listed in Annex I to that Regulation and, on the other hand, aid to processors of prunes and figs. These products must be obtained from fruit and vegetables harvested in the Community.
- (2) To ensure that the scheme is applied uniformly, the products listed in Article 6a(1) of Regulation (EC) No 2201/96 and in Annex I thereto, the marketing years applicable to those products and the delivery periods for the raw materials should be defined.
- (3) The new scheme must be able to operate from the outset with a sufficient number of producer organisations and, for the sake of consistency and by analogy with Council Regulation (EC) No 2202/96 of 28 October 1996 introducing a Community aid scheme for producers of certain citrus fruits ⁽³⁾, as last amended by Regulation (EC) No 2699/2000, the term 'producer organisations provisionally authorised' appearing in the first subparagraphs of Article 3(1) and Article 6a(2) of Regulation (EC) No 2201/96 must include producer organisations which have been granted preliminary recognition under Article 14 of Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables ⁽⁴⁾, as last amended by Regulation (EC) No 2826/2000 ⁽⁵⁾, as

- (4) The production aid scheme is based on contracts between producer organisations recognised or granted preliminary recognition under Regulation (EC) No 2200/96 or individual producers during the 2001/02 marketing year, on the one hand, and processors, on the other hand. Producers and producer organisations may also act as processors in certain circumstances. The types of contracts and the particulars to be included therein should be specified for the purposes of applying the aid scheme.

- (5) In order to improve the way the scheme operates, the authorities should know of all producer organisations marketing the production of their members, of members of other producer organisations and of individual producers and wishing to qualify under the scheme. The authorities should also know of the processors signing contracts with such producer organisations; in addition, such processors should send the authorities the information necessary to ensure that the scheme operates correctly. Processors of tomatoes, peaches and pears must be approved before they may conclude contracts.
- (6) Contracts must be concluded by a given date in the case of tomatoes, peaches and pears and before the beginning of each marketing year in the case of the other products. To ensure that the scheme is as effective as possible, the parties to such contracts should nevertheless be authorised to increase the quantities originally stipulated therein up to a given limit by means of amendments to the contracts.
- (7) The number of aid applications to be submitted by producer organisations and processors must be determined taking account of the processing process. Applications for aid must include all the information needed for checking eligibility. To compensate for the obligations imposed on producer organisations, provision should be made for the aid to be paid in advance, on condition that a security is lodged to ensure reimbursement if the requirements for receiving the advance payment are not complied with.

⁽¹⁾ OJ L 297, 21.11.1996, p. 29.

⁽²⁾ OJ L 311, 12.12.2000, p. 9.

⁽³⁾ OJ L 297, 21.11.1996, p. 49.

⁽⁴⁾ OJ L 297, 21.11.1996, p. 1.

⁽⁵⁾ OJ L 328, 23.12.2000, p. 2.

(8) In order to ensure that the aid scheme is properly applied, producer organisations and processors must forward the necessary information and keep up-to-date suitable documentation and should, in particular, specify the areas under tomatoes, peaches and pears, on the basis of Council Regulation (EEC) No 3508/92 of 27 November 1992 establishing an integrated administration and control system for certain Community aid schemes ⁽¹⁾, as last amended by Regulation (EC) No 1593/2000 ⁽²⁾, and Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes ⁽³⁾, as last amended by Regulation (EC) No 2721/2000 ⁽⁴⁾, for the purposes of all inspections and controls deemed necessary.

(9) For the purposes of administering the aid scheme, procedures must be laid down for physical and documentary checks on delivery and processing operations, checks must cover a sufficiently representative number of aid applications and certain penalties must be laid down for producer organisations and processors which breach the regulations, in particular by making false declarations or failing to process products delivered.

(10) The measures provided for in this Regulation are to replace those laid down in Commission Regulation (EC) No 504/97 of 19 March 1997 laying down detailed rules for the application of Council Regulation (EC) No 2201/96 as regards the system of production aid for products processed from fruit and vegetables ⁽⁵⁾, as last amended by Regulation (EC) No 1607/1999 ⁽⁶⁾. That Regulation should therefore be repealed.

(11) Regulation (EC) No 2699/2000 abolishes the quota and minimum price arrangements in particular in the case of tomatoes. Commission Regulation (EEC) No 1709/84 of 19 June 1984 on minimum prices payable to producers and amounts of production aid for certain processed fruit and vegetables eligible for production aid ⁽⁷⁾, as last amended by Regulation (EC) No 1573/1999 ⁽⁸⁾, Commission Regulation (EEC) No 2022/92 of 20 July 1992 on detailed rules of application for the minimum price to be paid to producers for certain tomatoes delivered for processing and repealing Regulation (EEC) No 2036/91 ⁽⁹⁾ and Commission Regulation (EC) No 661/97 of 16 April 1997 laying down detailed rules for the application of Regulation (EC) No 2201/96 as regards

the system of quotas for processed tomato products ⁽¹⁰⁾, as amended by Commission Regulation (EC) No 2807/98 ⁽¹¹⁾, should therefore be repealed.

(12) To ensure a smooth switchover from the old to the new scheme, transitional measures should be adopted, in particular in the case of processors signing contracts with individual producers during the 2001/02 marketing year, as well as for the final date for signing contracts for tomatoes and for applying the integrated system for management of areas.

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

HAS ADOPTED THIS REGULATION:

TITLE I

Definitions and marketing years

Article 1

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

- (a) 'producer organisations' means producer organisations as referred to in Articles 11 and 13 of Regulation (EC) No 2200/96 and producer organisations granted preliminary recognition under Article 14 of that Regulation;
- (b) 'association of producer organisations' means associations as referred to in Article 16(3) of Regulation (EC) No 2200/96;
- (c) 'individual producer' means any natural or legal person not belonging to a producer organisation and growing on their holding raw material intended for processing;
- (d) 'processor' means a processing enterprise operating, for economic ends and on its own responsibility, one or more plants with facilities for manufacturing one or more of the products listed in paragraph 2(a) to (o) and, where applicable, approved in accordance with Article 3(1);
- (e) 'quantity' means quantity expressed in net weight unless otherwise indicated.

2. 'Products listed in Annex I to Regulation (EC) No 2201/96' means the following products:

⁽¹⁾ OJ L 355, 5.12.1992, p. 1.

⁽²⁾ OJ L 182, 21.7.2000, p. 4.

⁽³⁾ OJ L 391, 31.12.1992, p. 36.

⁽⁴⁾ OJ L 314, 14.12.2000, p. 8.

⁽⁵⁾ OJ L 78, 20.3.1997, p. 14.

⁽⁶⁾ OJ L 190, 23.7.1999, p. 11.

⁽⁷⁾ OJ L 162, 20.6.1984, p. 8.

⁽⁸⁾ OJ L 187, 20.7.1999, p. 27.

⁽⁹⁾ OJ L 207, 23.7.1992, p. 9.

⁽¹⁰⁾ OJ L 100, 17.4.1997, p. 41.

⁽¹¹⁾ OJ L 349, 24.12.1998, p. 34.

- (a) peaches in syrup and/or in natural fruit juice: whole peaches or pieces of peaches, without peel, having undergone a heat treatment, packed in hermetically sealed containers with a covering liquid of sugar syrup or natural fruit juice and covered by CN codes ex 2008 70 61, ex 2008 70 69, ex 2008 70 71, ex 2008 70 79, ex 2008 70 92, ex 2008 70 94 and ex 2008 70 99;
- (b) pears in syrup and/or in natural fruit juice: pears of the Williams or Rocha varieties, whole or in pieces, without peel, having undergone a heat treatment, packed in hermetically sealed containers with a covering liquid of sugar syrup or natural fruit juice and covered by CN codes ex 2008 40 51, ex 2008 40 59, 2008 40 71, ex 2008 40 79, ex 2008 40 91 and ex 2008 40 99;
- (c) mixed fruit: mixtures of fruit, whole or in pieces, without peel, having undergone a heat treatment, with a covering liquid of sugar syrup or natural fruit juice, packed in hermetically sealed containers in which the drained net weight of peaches and Williams and Rocha pears accounts for at least 60 % of the total net drained weight, covered by CN codes ex 2008 92 and ex 2008 99, and made directly from fresh peaches and/or Williams and Rocha pears during the periods indicated in Article 2(2)(b) and (c);
- (d) prunes: prunes obtained from dried plums of the prune d'Ente variety which have been suitably treated or processed and are packed in appropriate containers, covered by CN code ex 0813 20 00 and ready to be offered for human consumption;
- (e) dried figs: dried figs, including fig paste, which have been suitably treated or processed and are packed in appropriate containers, covered by CN code ex 0804 20 90 and ready to be offered for human consumption;
- (f) whole peeled quick frozen tomatoes: peeled tomatoes of the oblong varieties, frozen, packed in appropriate containers and covered by CN code ex 0710 80 70, where not less than 90 % of the net weight of the tomatoes consists of whole tomatoes not showing any damage which substantially alters their appearance. That percentage shall be determined after the tomatoes have been thawed;
- (g) non-whole peeled quick frozen tomatoes: pieces of peeled tomatoes of the oblong varieties, or round varieties which are as easy to peel as the oblong varieties, frozen, packed in appropriate containers and covered by CN code ex 0710 80 70;
- (h) whole peeled preserved tomatoes: peeled tomatoes of the oblong varieties, having undergone a heat treatment, packed in hermetically sealed containers and covered by CN code ex 2002 10 10, where not less than 65 % of the weight of the drained tomatoes consists of whole tomatoes which do not show damage which substantially alters their appearance;
- (i) non-whole peeled preserved tomatoes: peeled tomatoes in pieces or partially crushed, of the oblong varieties, or round varieties which are as easy to peel as the oblong varieties, having undergone a heat treatment, packed in hermetically sealed containers and covered by CN code ex 2002 10 10. Where these products are to be used to make the products indicated at point (o), they shall be packed in appropriate containers;
- (j) tomato flakes: flakes obtained by drying tomatoes cut into slivers or small cubes, packed in appropriate containers and covered by CN code ex 0712 90 30;
- (k) tomato juice: juice obtained directly from fresh tomatoes and strained free from skins, pips and other coarse parts, having a dry matter content, where applicable after concentration, of less than 12 %, packed in hermetically sealed containers and covered by CN codes ex 2002 90 11, ex 2002 90 19, 2009 50 10 and 2009 50 90. Juice with a dry matter content of at least 7 % may however contain skin and pips constituting up to 4 % by weight of the product. Where these products are to be used to make the products indicated at point (o), they shall be packed in appropriate containers;
- (l) tomato concentrate: the product obtained by concentrating tomato juice, packed in appropriate containers, having a dry matter content of 12 % or more and covered by CN codes ex 2002 90 31, ex 2002 90 39, ex 2002 90 91 and ex 2002 90 99. Concentrate having a dry matter content of not more than 18 % or of between 18 % and 24 % may contain not more than 4 % or 7 %, respectively, skin and pips by weight of product;
- (m) whole unpeeled preserved tomatoes: whole unpeeled tomatoes of the oblong or round varieties, having undergone a heat treatment, packed in hermetically sealed containers, lightly brined (tomatoes in brine) or in tomato puree (tomatoes in puree or in juice), where not less than 65 % of the weight of the drained tomatoes consists of whole tomatoes not showing any damage which substantially alters their appearance, and covered by CN code ex 2002 10 90. Where these products are to be used to make the products indicated at point (o), they shall be packed in appropriate containers;
- (n) non-whole unpeeled preserved tomatoes: tomatoes in pieces or partially crushed, of the oblong or round varieties, having been slightly strained, whether or not slightly concentrated, packed in hermetically sealed containers, with a dry matter content of between 4,5 % and 14 %, and covered by CN code ex 2002 10 90. Where these products are to be used to make the products indicated at point (o), they shall be packed in appropriate containers;

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

(p) sugar syrup: a liquid in which water is combined with sugars and which has a total sugar content determined after homogenisation of not less than 14 % when used to cover fruits in syrup;

(q) natural fruit juice: a covering liquid with a minimum of 10,5° Brix, consisting solely of fermentable but unfermented juice extracted mechanically from fruit, or of juice obtained from concentrated fruit juice by the restoration of the proportion of water extracted during concentration, as defined in Council Directive 93/77/EEC⁽¹⁾, without added sugar.

Article 2

1. The marketing years within the meaning of Article 1(3) of Regulation (EC) No 2201/96 for the products listed in Article 1(2) of this Regulation shall run:

- (a) from 15 June to 14 June in the case of products processed from tomatoes and products processed from peaches;
- (b) from 15 July to 14 July in the case of products processed from pears;
- (c) from 1 August to 31 July in the case of dried figs;
- (d) from 15 August to 14 August in the case of prunes.

2. Aid shall be granted solely on products delivered to the processing industry in the following delivery periods:

- (a) tomatoes: between 15 June and 15 November;
- (b) peaches: between 15 June and 25 October;
- (c) pears: between 15 July and 15 December;
- (d) dried plums obtained from plums of the prune d'Ente variety: between 15 August and 15 January;
- (e) dried figs: between 1 August and 15 June.

3. The Commission shall publish the amount of the aid, fixed in accordance with Article 6(1) of Regulation (EC) No 2201/96, before the beginning of each marketing year and no later than:

- (a) 31 January for tomatoes;
- (b) 31 May for peaches and pears.

TITLE II

Contracts

Article 3

1. Contracts as referred to in Articles 3 and 6a of Regulation (EC) No 2201/96 shall be concluded in writing. Contracts shall bear an identification number.

Processors of tomatoes, peaches and pears wishing to participate in the aid scheme shall submit an application for approval to the body designated by the Member State before a date to be determined by the latter. The Member States shall publish a list of approved processors at least one month before the final date for signature of contracts each year.

The Member States shall lay down the requirements for approval and notify them to the Commission.

2. Contracts may take one of the following forms:

- (a) a contract between a producer organisation or association of producer organisations, and a processor;
- (b) a commitment to supply, where the producer organisation acts as a processor.

Only one contract may be signed between a producer organisation and a processor.

In the case of tomatoes, peaches and pears, contracts may be concluded only with approved processors.

3. Each year, contracts shall be signed no later than:

- (a) 15 February, in the case of tomatoes;
- (b) 15 July, and seven working days before deliveries are to commence, in the case of peaches;
- (c) 31 July, and seven working days before deliveries are to commence, in the case of pears;
- (d) before the start of the marketing year, in the case of the other products.

The Member States may postpone the date fixed at point (a) until 10 March.

Should the amount of the aid for tomatoes not have been published in the *Official Journal of the European Communities* by the date laid down in Article 2(3), the date fixed at point (a) shall be postponed until the 15th day following the date of actual publication.

⁽¹⁾ OJ L 244, 30.9.1993, p. 23.

Should the minimum price to be paid to producers for plums or dried figs not have been published in the *Official Journal of the European Communities* by 15 days before the date provided for at point (d), that date shall be postponed until the 15th day following the date of actual publication.

4. Contracts must specify, in particular:

- (a) the name and address of the producer organisation;
- (b) the name and address of the processor;
- (c) the quantities of raw materials to be delivered for processing;
- (d) the obligation on processors to process the quantities delivered under the contract concerned into one of the products listed in Annex I to Regulation (EC) No 2201/96, which must meet the standards laid down in accordance with Article 8 of that Regulation;
- (e) the price to be paid for the raw materials, which may vary by variety and/or quality and/or delivery period.

In the case of tomatoes, peaches and pears, the contract shall also indicate the delivery stage to which that price applies and the payment terms. Any payment deadline may not exceed 60 days from the date of delivery of each consignment;

- (f) the compensation payable should either party fail to fulfil their contractual obligations, in particular as regards payment deadlines and the obligation to deliver and accept the quantities covered by the contract.

5. The Member States may adopt additional provisions covering contracts, in particular as regards compensation payable by processors or producer organisations that fail to fulfil their contractual obligations.

6. The parties may decide to increase the quantities originally stipulated in a processing contract by means of a written amendment thereto.

Such amendments shall show the identification number of the contract to which they relate, and shall be signed no later than:

- 15 August for peaches;
- 15 September for tomatoes and pears;
- 15 November for dried plums obtained from plums of the prune d'Ente variety and dried figs.

Such amendments may increase the quantity originally stipulated in the contract by no more than 30 %. However, until the 2003/04 marketing year, amendments to contracts for unprocessed dried figs intended for the production of fig pastes may be concluded no later than 31 May and may increase the quantities originally stipulated in the contracts by no more than 100 %.

The price of the additional quantity fixed in the amendment may differ from the price referred to in paragraph 4(e).

7. In the case of prunes and figs, the price referred to in paragraphs 4(e) and 6 shall not include, in particular, costs connected with packing, loading, transport, unloading and the payment of taxes, which shall, where applicable, be indicated separately. The price shall not be lower than the minimum price fixed under Article 6b of Regulation (EC) No 2201/96.

Article 4

In the case of a commitment to supply within the meaning of Article 3(2)(b), contracts covering the production of the members of the producer organisation concerned shall be deemed to have been concluded after the following particulars have been forwarded to the competent authority:

- (a) the name and address of each producer and the reference data and areas of the parcels on which each producer cultivates the raw materials;
- (b) the estimated total harvest;
- (c) the quantity intended for processing;
- (d) an undertaking by the producer organisation to process the quantities delivered under the contract in question.

This information must be sent before 20 May in the case of tomatoes and within the time laid down in Article 5(3) in the case of the other products.

Article 5

1. In the case of tomatoes, peaches and pears, producer organisations signing contracts shall forward a copy of each contract and any amendments thereto to the body designated by the Member State in which their head office is situated.

The total quantity covered by all the contracts signed by a given producer organisation may not exceed, per product, the quantity intended for processing indicated by that producer organisation under paragraph 5 of this Article and Article 4.

2. Processors of prunes and dried figs shall forward a copy of each contract and any amendments thereto to the body designated by the Member State where processing takes place.

3. Such copies must reach the competent authorities no later than 10 working days after the conclusion of the contract or amendment thereto and no less than five working days before the start of deliveries.

4. In exceptional and duly justified cases, the Member States may accept contracts and amendments thereto that reach their authorities after the time limit laid down in paragraph 3, provided that such late arrival does not hinder their checks.

5. Producer organisations signing contracts for tomatoes, peaches or pears shall forward the following information to the body referred to in paragraph 1, broken down by product:

- (a) the name and address of each producer covered by the contracts and the reference data and areas of the parcels on which each producer cultivates the raw materials;
- (b) the estimated total harvest;
- (c) the quantity intended for processing;
- (d) in the case of tomatoes, the average yields per hectare of round and/or oblong tomatoes produced by the organisation during the previous two marketing years.

This information shall be forwarded before 20 May in the case of tomatoes and included in the notification referred to in paragraph 1 in the case of peaches and pears.

6. Where producer organisations as referred to in paragraph 5:

- (a) market quantities intended for processing produced by members of other producer organisations under the second and third indents of Article 11(1)(c)(3) of Regulation (EC) No 2200/96, and/or
- (b) pass on the benefit of the aid scheme to individual producers under Articles 3(3) and 6a(2) of Regulation (EC) No 2201/96,

the information required in paragraph 5 shall be supplied to the producer organisation signing the contract by the producer organisations referred to in (a) and the individual producers referred to in (b).

7. Producer organisations and individual producers as referred to in paragraph 6(a) and (b), respectively, shall sign agreements with the producer organisations as referred to in paragraph 5.

Such agreements shall cover all production of the product concerned delivered for processing by the said producer organisations and individual producers concerned and must specify at least the following:

- (a) the number of marketing years covered by the agreement;
- (b) the quantities to be delivered for processing, broken down by producer and by product;
- (c) the consequences of failure to comply with the agreement.

A copy of the agreements shall be forwarded together with the contracts.

Article 6

For the purposes of Article 4 in the case of tomatoes, peaches and pears and Article 5(5), the parcel identification system shall be that used for the integrated system referred to in Article 4 of

Regulation (EEC) No 3508/92. Areas are to be declared in hectares to two decimal places. Article 6(7) of Regulation (EEC) No 3887/92 shall apply for the purposes of determining the area of plots during on-the-spot checks as provided for in Article 18 of this Regulation.

Article 7

1. Without prejudice to cases covered by Article 3(2)(b), where payment may be made by opening a credit, all payments for raw materials:

- (a) made by processors to producer organisations,
- (b) made by producer organisations to their members and to producers as referred to in Article 5(6),
- (c) where the members of a producer organisation are themselves organisations with legal personality made up of producers, made by such legal persons to producers,

shall be made by bank or postal transfer.

2. Payments as referred to in paragraph 1(b) and (c) shall be made within 15 working days and, in the case of prunes and figs, shall cover the entire amount of the payment as referred to in point (a).

TITLE III

Information to be provided

Article 8

1. Processors and producer organisations wishing to participate in the aid scheme shall so inform the competent authorities of the Member States by a date to be determined by those authorities, giving all the information needed by the Member State to administer and monitor the aid scheme. Member States may decide that such information shall:

- (a) be notified by new participants in the scheme only, where they have already received the necessary information concerning other participants;
- (b) cover a single marketing year, several marketing years or an unlimited period.

2. At least five working days before the start of deliveries or processing each marketing year, beneficiaries of the aid, whether producer organisations or processors, shall notify the competent authorities of the week in which deliveries and processing are to commence. Producer organisations and processors shall be deemed to have discharged this obligation where they provide proof that they have forwarded this information at least eight working days before that time limit.

3. In exceptional and duly justified cases, the Member States may accept notifications from producer organisations and processors after the time limit laid down in paragraph 2. However, in such cases, no aid shall be granted to producer organisations or processors for quantities already delivered or in the course of delivery unless the checks needed to establish eligibility for the aid can be conducted to the satisfaction of the competent authorities.

4. Processors wishing to manufacture mixed fruit and prepared sauces as referred to in Article 1(2)(c) and (o) respectively shall notify the competent authorities of the Member State, before the beginning of the marketing year, of the composition of the products to be made, specifying the net weight of each component. This composition may not be altered after the beginning of the marketing year.

Article 9

Each year processors shall notify the body designated by the Member State of the following:

1. in the case of tomatoes, peaches and pears no later than 1 February:

(i) the quantity of raw materials processed into the finished products listed in Article 1(2), broken down by:

- quantities received under contract,
- quantities not covered by contracts;

(ii) the quantity of finished products obtained from each of the quantities referred to in (i).

In the case of processed tomato products, the quantity of finished products to be notified for each category of raw material as referred to in (i) shall be broken down into:

- tomato concentrate of a dry-matter content by weight of 28 % or more but less than 30 %,
- whole peeled preserved tomatoes of the oblong varieties,
- other processed tomato products, shown separately.

The quantities of tomato juice and tomato concentrate added to preserved tomatoes shall be included in the quantities of the tomatoes, whether peeled or unpeeled;

(iii) the quantity of finished products in stock at the end of the preceding marketing year, broken down, in the case of processed tomato products, into products sold and products unsold, on the one hand, and in accordance with point (ii) on the other hand.

These notifications shall state separately the quantities of products as referred to in Article 1(2)(a), (b), (i), (k), (l), (m) and (n) used to manufacture the products referred to in Article 1(2)(c) and (o). Notification of the information

required under (ii) above shall state separately the quantities of products as referred to in Article 1(2)(c) and (o) obtained, broken down according to the products used as referred to in Article 1(2)(a), (b), (i), (k), (l), (m) and (n).

2. In the case of prunes and figs, no later than 15 May:

- (a) the quantity of raw materials used at 1 May;
- (b) the quantity of finished products obtained from the raw materials referred to in point (a), broken down into products on which aid is paid and products on which aid is not paid and by quality class;
- (c) the quantity of products as referred to in points (a) and (b) in stock at 1 May.

TITLE IV

Raw materials

Article 10

1. Without prejudice to any minimum quality criteria laid down or to be laid down in accordance with the procedure provided for in Article 46 of Regulation (EC) No 2200/96, raw materials delivered to processors under processing contracts shall be of sound and fair merchantable quality and suitable for processing.

2. Where no minimum quality criteria have been laid down in accordance with the procedure provided for in Article 46 of Regulation (EC) No 2200/96, the Member States may lay down minimum quality criteria for the raw materials, where appropriate in the context of an extension of an interbranch agreement under Article 21 of that Regulation.

Article 11

1. A delivery certificate shall be issued for each-consignment of tomatoes, peaches and pears delivered under contract and accepted for processing at the processing plant specifying:

- (a) the date and time of unloading;
- (b) the precise identification of the means of transport used;
- (c) the identification number of the contract to which the consignment relates;
- (d) the gross weight and net weight;
- (e) where applicable, the rate of reduction calculated on the basis of the minimum quality criteria laid down in accordance with Article 10.

Delivery certificates shall be signed by the processors or their representatives and by the producer organisations or their representatives. Each certificate shall bear an identification number.

Both processors and producer organisations shall keep a copy of delivery certificates. The producer organisation shall also forward a copy, no later than the second working day following the week of delivery, to the body designated by the Member State where its head office is situated and, where applicable, to the body designated, by the Member State where processing is carried out, to facilitate checks.

The documents required under national law may be used for the purposes of this Article, provided they contain all the information referred to in this paragraph.

2. Where all or part of a consignment belongs to producers as referred to in Article 5(6)(a) or (b), the producer organisation shall forward a copy of the certificate provided for in paragraph 1 to each producer organisation and individual producer concerned.

TITLE V

Aid applications

Article 12

1. In the case of tomatoes, peaches and pears, producer organisations shall submit their aid applications to the body designated by the Member State in which their head office is situated.

Processors of prunes and figs shall submit aid applications to the body designated by the Member State in which processing is carried out.

2. In the case of tomatoes, peaches and pears, only one aid application may be submitted per marketing year. Applications must reach the competent authorities no later than the following dates of the marketing year concerned:

- 20 November for tomatoes,
- 31 January for peaches and pears.

3. The Member States may allow applications for advance payment of the aid to be submitted until 30 September, covering the total quantity of tomatoes, peaches and pears delivered for processing up to 15 September.

4. In the case of prunes, processors shall submit three aid applications for each marketing year:

- (a) the first for products processed up to 15 January;
- (b) the second for products processed from 16 January to 30 April; and
- (c) the third for products processed during the remainder of the marketing year concerned.

Aid applications as referred to in points (a) and (b) shall be submitted within 30 days of expiry of the processing period

concerned and applications as referred to in point (c) by 30 November of the following marketing year.

5. In the case of dried figs, processors shall submit three aid applications for each marketing year

- (a) the first for products processed up to 30 November;
- (b) the second for products processed from 1 December to the end of February; and
- (c) the third for products processed during the remainder of the marketing year concerned.

Aid applications as referred to in points (a) and (b) shall be submitted within 30 days of expiry of the processing period concerned and applications as referred to in point (c) by 31 October of the following marketing year.

6. In exceptional and duly justified cases, Member States may accept aid applications after the deadlines laid down in this Article, provided that this does not hinder checks relating to the production aid scheme.

7. If aid applications are submitted after the deadlines specified in paragraphs 2, 4 and 5, aid shall be reduced by 1 % per day of delay. No aid shall be granted if the application is more than 15 days late. These provisions shall not apply where paragraph 6 applies.

Article 13

1. Aid applications for tomatoes, peaches and pears shall give at least the following information for each product:

- (a) the name and address of the producer organisation;
- (b) the quantity covered by the aid application. That quantity, broken down by contract, may not exceed the quantity accepted for processing, after deduction of any reduction rates applied;
- (c) the average selling price for the quantity delivered under contract;
- (d) the quantity delivered during the same period otherwise than under contract; and the average selling price.

2. Aid applications for prunes and figs shall give at least the following information for each product:

- (a) the name and address of the processor;
- (b) the quantity of products covered by the aid application, broken down by the different rates of aid applicable, together with the quantity of products not covered by the aid scheme obtained during the same period;
- (c) the quantity of raw materials used, by contract, to obtain each category of products as referred to in point (b);

- (d) a declaration by the processor to the effect that the finished products comply with the quality standards laid down under Article 8 of Regulation (EC) No 2201/96;
- (e) copies of transfer orders as referred to in Article 7(1)(a). In the case of commitments to supply, such copies may be replaced by a declaration by the producer to the effect that the processor has credited him with a price at least equal to the minimum price. Such copies or declarations shall quote the references of the relevant contracts.

Aid applications shall be admissible only if the minimum price has been paid in full for all the raw materials used in the finished product covered by the aid application.

3. Applications for advance payment of aid as referred to in Article 12(3) shall include the information specified in paragraph 1(a) and (b).

The competent body of the Member State shall pay the amount due between 16 and 31 October, after checking the application against, in particular, the delivery certificates referred to in Article 11.

The aid shall be paid in advance provided a security equal to 110 % of the aid is lodged.

Where it is found that the advance payment applied for exceeds the amount due, an amount equal to double the excess shall be forfeit from the security.

Without prejudice to the fourth subparagraph, the security shall be released when the competent authority pays the aid, based on the application referred to in Article 12(2).

When an application for advance payment of the aid is submitted, the aid application referred to in Article 12(2) shall cover the entire marketing year and the quantities referred to in paragraph 1(b) and (d) shall be broken down, in addition, into two periods, namely until 15 September and from 16 September.

Article 14

1. Aid for tomatoes, peaches and pears shall be paid by the competent body of the Member State in which the producer organisation signing the contract has its head office, as soon as that body has checked the aid application and established that the products covered by that application have been delivered and accepted for processing, on the basis, in particular, of the checks provided for in Article 18(1)(i).

Where processing takes place in another Member State, that Member State shall provide the Member State where the producer organisation signing the contract has its head office with proof that the product has in fact been delivered and accepted for processing.

Within 15 working days following receipt of the aid, the producer organisation shall pay in full the amounts received, by bank or postal transfer, to its members and, where applicable, to producers as referred to in Article 5(6). In cases covered by Article 3(2)(b), payment may be made by opening a credit.

Where a producer organisation is wholly or partly made up of members which are themselves organisations with legal personality made up of producers, payments as provided for in the third subparagraph shall be paid on by those member organisations to the producers within 15 working days.

2. Aid for prunes and figs shall be paid by the competent body of the Member State in which the product is processed, once that body has established that the requirements for grant of the aid have been met.

Where processing takes place outside the Member State in which the product was grown, that Member State shall furnish proof to the Member State paying the aid that the minimum price payable to the producer has been paid.

3. No aid shall be granted on quantities in respect of which the necessary checks on entitlement to the aid have not been conducted.

4. The aid shall be paid to producer organisations and processors no later than 60 days after the date on which the application is submitted.

TITLE VI

Checks and penalties

Article 15

1. Without prejudice to Title VI of Regulation (EC) No 2200/96, Member States shall take the necessary steps:

- (a) to ensure that this Regulation is complied with;
- (b) to prevent and prosecute irregularities and apply the penalties provided for in this Regulation;
- (c) to recover sums lost as a result of irregularities or negligence;
- (d) to verify the records provided for in Articles 16 and 17, ensuring that they tally with the accounting required of producer organisations and processors under national law;
- (e) to carry out unannounced checks as referred to in Articles 18 and 19 during the appropriate periods;
- (f) to carry out checks on areas sown to tomatoes as referred to in Article 18(1) after sowing and before harvesting.

2. The Member States must programme their tally checks on the basis of a risk analysis that considers, among other things:

- (a) observations made during checks conducted in earlier years;
- (b) developments since the year before;
- (c) the raw material yield by homogeneous production zone;
- (d) the relationship between the quantities delivered and the estimated total harvest;
- (e) the yield of the raw material in terms of finished product.

The risk analysis criteria shall be regularly updated.

3. Where irregularities or anomalies are found, the Member States shall increase the frequency and percentage of checks as referred to in Articles 18 and 19 having regard to the seriousness of the findings.

Article 16

1. Producer organisations shall keep records for each of the products delivered for processing under Regulation (EC) No 2201/96, containing at least the following information:

- (a) in the case of quantities delivered under contracts:
 - (i) the consignments delivered each day, and the identification number of the contract to which they relate,
 - (ii) the quantity of each consignment delivered and, in the case of tomatoes, peaches and pears, the quantity accepted for processing, after deduction of any reduction, and the identification number of the relevant delivery certificate;
- (b) in the case of quantities delivered otherwise than under contract:
 - (i) the consignments delivered each day, and the identity of the processor,
 - (ii) the quantity of each consignment delivered and accepted for processing.

2. Producer organisations shall keep available for the national inspection authorities all the information needed for checking that this Regulation is complied with.

In the case of tomatoes, peaches and pears, that information must make it possible to identify, for each producer covered by a contract, the link between the areas, the quantities delivered, the delivery certificates, and payment of the aid and prices.

3. The Member States may decide what form the records provided for in paragraphs 1 and 2 shall take and whether they should be computerised.

4. The records or accounting documents required under national law may be used for the purposes of this Article, provided they contain all the information referred to in paragraph 1.

Producer organisations shall submit to all inspections and checks deemed necessary by the Member State and shall keep all additional records required by the Member State for the purposes of the checks deemed necessary.

Article 17

1. Processors shall keep records showing at least the following:

- (a) in the case of quantities purchased under contracts:
 - (i) the consignments purchased and accepted into the undertaking for processing each day, and the identification number of the contract to which they relate,
 - (ii) the quantity of each consignment accepted for processing and the identification number of the relevant delivery certificate;
- (b) in the case of quantities purchased otherwise than under contract:
 - (i) the consignments received each day, and the name and address of the seller,
 - (ii) the quantity of each consignment accepted for processing;
- (c) the quantities of each of the finished products listed in Article 1(2) obtained each day, with the corresponding quantities of raw materials, specifying the quantities obtained from consignments accepted under contracts;
- (d) the quantities and price of each finished product purchased by the processor each day, giving the name and address of the seller. This information may be recorded by reference to supporting documents, provided the latter contain the abovementioned particulars;
- (e) the quantities and price of each finished product leaving the processor's premises each day, giving the name and address of the consignee. Such information may be recorded by reference to supporting documents, provided the latter contain the abovementioned particulars.

In the case of prunes and figs, the information required in (c) above must specify separately the quantity of finished product on which aid is payable.

2. Processors shall keep separate records for the products referred to in Article 1(2)(a), (b), (i), (k), (l), (m) and (n) used to manufacture mixed fruit and prepared sauces as referred to in Article 1(2)(c) and (o), showing the following information, in addition to that provided for in paragraph 1(a), (b), (c) and (d):

- (a) the quantities of mixed fruit and prepared sauces obtained each day, broken down by product composition within the meaning of Article 8(4);
- (b) the quantities and prices of the mixed fruit and prepared sauces leaving the processor's premises, by consignment, with details of the consignee;
- (c) the quantities and prices of the products referred to in Article 1(2)(a), (b), (i), (k), (l), (m) and (n) purchased and entering the establishment each day, with details of the seller.

3. Processors shall daily update their stock records for the products referred to in paragraph 1(c), (d) and (e) and paragraph 2(a), (b) and (c) for each factory.

4. Processors shall keep proof of payment for all raw materials purchased under contracts and proof of payment for all sales and purchases of finished products for five years as from the end of the processing year concerned.

5. Processors shall submit to all inspections and checks deemed necessary by the Member State and shall keep all additional records required by it for the purpose of the checks deemed necessary.

6. The Member States may decide what form the records provided for in paragraphs 1 and 2 shall take and whether they should be computerised.

7. The records or accounting documents required under national law may be used for the purposes of this Article, provided they contain all the information referred to in paragraphs 1, 2 and 3.

Article 18

1. For each producer organisation delivering tomatoes, peaches and pears for processing, the following checks shall be conducted for each product and marketing year:

(i) physical checks on at least:

- 5 % of areas as referred to in Articles 4 and 5(5),
- 5 % of quantities delivered for processing under each contract, in order to check that they tally with the certificates referred to in Article 11 and comply with the minimum quality requirements;

(ii) administrative and accounting checks on at least 5 % of producers covered by contracts, in order to check that the details for each producer, in particular the areas, the total harvest, the quantity marketed by the producer organisation, the quantity delivered for processing and the quantity indicated in the delivery certificates, tally with the

prices paid as provided for in Article 7(1) and the aid paid as provided for in Article 14(1);

(iii) administrative and accounting checks to verify that the quantities of products delivered to the producer organisation by producers as referred to in Article 5(5) and (6), the quantities delivered for processing, the delivery certificates referred to in Article 11 and the quantities stated in the aid application tally with the prices paid as provided for in Article 7(1) and the aid paid as provided for in Article 14(1);

(iv) administrative and accounting checks on at least 5 % of agreements as referred to in Article 5(7);

(v) checks on all aid applications and supporting documents.

2. For processors of tomatoes, peaches and pears, the following checks shall be conducted for each factory, product and marketing year:

(i) checks on at least 5 % of finished products, in order to verify that processing has actually taken place and that the applicable minimum quality standards have been complied with;

(ii) administrative and accounting checks on at least 5 % of finished products, in order to verify the yield of raw materials processed in terms of the finished product obtained under contract and otherwise than under contract;

(iii) physical and accounting checks must be made on all stocks of finished products present at least twice each year, to ensure that they tally with the finished products manufactured, purchased and sold.

Article 19

1. For each producer organisation delivering dried plums and figs, administrative and accounting checks shall be conducted on at least 5 % of producers covered by contracts to verify that the following tally:

- the raw materials delivered by each producer for processing, and
- the payments provided for in Article 7.

2. For each factory, finished product and marketing year:

(a) unannounced physical checks shall be conducted on at least 5 % of finished products eligible for production aid, to verify that they comply with the minimum quality requirements applicable. Where the results of analysis of official samples are at variance with the particulars entered in processors' records, and indicate that the minimum Community quality requirements have not been met, no aid shall be paid for the processing operations concerned;

(b) administrative and accounting checks shall be conducted in order to verify:

- (i) that the quantities of raw materials used for processing correspond to those indicated in the aid application,
- (ii) that the price paid for the raw materials processed into products as referred to in point (a) is at least equal to the minimum price laid down,
- (iii) transfer orders as referred to in Article 7.

Article 20

1. Where it is ascertained, for a given product, that the aid for a product applied for in respect of any marketing year exceeds the amount due, then that amount shall be reduced, unless the difference is clearly due to error. The reduction shall be equal to the difference. If the aid has already been paid, the beneficiary shall pay back twice the difference, plus interest calculated on the time elapsing between payment and reimbursement by the beneficiary.

The interest rate shall be that applied by the European Central Bank to its main refinancing operations, as published in the 'C' series of the *Official Journal of the European Communities*, in force on the date of the undue payment, plus three percentage points.

2. If the difference referred to in paragraph 1 is more than 20 %, the beneficiary shall lose entitlement to the aid and, if the aid has already been paid, reimburse the total aid, plus interest calculated in accordance with paragraph 1.

If the difference is more than 30 %, the producer organisation or processor shall also forfeit any entitlement to aid for the product concerned for the following three marketing years.

3. Amounts recovered and interest due shall be paid to the competent paying agency and deducted from expenditure financed by the European Agricultural Guidance and Guarantee Fund.

4. The Member States shall take the necessary measures to ensure that both aid and prices are paid in accordance with Articles 7 and 14, respectively. They shall provide in particular for penalties to be imposed on the officers of the producer organisation commensurate with the seriousness of any irregularity.

5. If the area checks referred to in Article 18(1)(i) show a discrepancy between the area declared and that actually determined, at the level of the total area checked, the aid payable to the producer organisation shall be reduced, unless the difference is clearly due to error:

- by the percentage of the discrepancy established, if it is more than 5 % but no more than 20 % of the area determined;
- by 30 % if the discrepancy is more than 20 % of the area determined.

6. Where a producer organisation commits a subsequent irregularity, the Member State shall withdraw that organisation's recognition, or preliminary recognition in the case of a producer group granted preliminary recognition.

Article 21

1. Except in cases of *force majeure*, where it is found that the full quantity of tomatoes, peaches or pears accepted for processing under contracts has not been processed into one of the products listed in Article 1(2), the processor shall pay an amount equal to twice the unit amount of the aid multiplied by the quantity of the raw material concerned which has not been processed, plus interest calculated in accordance with Article 20(1).

In addition, the processor's approval as provided for in Article 3(1) shall be suspended:

- for the marketing year following the finding, if the difference referred to in the first subparagraph is 10 % or less,
- for two marketing years following the finding, if the difference is more than 10 % but no more than 20 %,
- for three marketing years following the finding if the difference is more than 20 %.

For the purposes of applying the first and second subparagraphs, any quantities of finished products, in excess of a 5 % tolerance, not complying with the minimum quality requirements shall be treated as quantities not processed.

2. In addition, the Member States shall provide that approval as provided for in Article 3(1) is to be withdrawn from processors in the following cases:

- where the producer organisation makes false declarations with the collaboration of the processor,
- where the processor fails to pay the price referred to in Article 3(4)(e),
- where the processor fails to pay the penalties provided for in paragraph 1.

The Member State shall decide on the length of time for which the processor may not submit a new application for approval having regard to the seriousness of the case.

3. Amounts recovered and interest due shall be paid to the competent paying agency and deducted from expenditure financed by the European Agricultural Guidance and Guarantee Fund.

Article 22

1. Compliance with the Community and national thresholds shall be established in each Member State concerned on the basis of the quantities covered by aid applications, in the case of tomatoes, and the quantities for which aid is paid, in the case of peaches and pears.

2. The Member States shall take the necessary measures to ensure reciprocal administrative cooperation with a view to ensuring that this Regulation is properly applied.

TITLE VII

Notification to the Commission

Article 23

Each Member State shall notify to the Commission:

1. before the beginning of each marketing year, if it has had recourse to Article 5(4) Regulation (EC) No 2201/96 and the quantities of each of the sub-thresholds concerned;
2. no later than 10 December, the following information:
 - (a) the total quantity of tomatoes covered by aid applications, broken down, where applicable, by sub-threshold;
 - (b) the estimated quantity of unprocessed dried figs, dried plums, peaches and pears intended for processing into one of the products listed in Article 1(2);
3. no later than 1 March in the case of tomatoes, 15 April in the case of peaches and pears and 1 June in the case of prunes and dried figs, the following information, broken down by products under contract and not under contract:
 - (a) the quantity of finished products as listed in Article 1(2)(a) to (o);
 - (b) the quantity of raw materials used to manufacture each of the products referred to in point (a);
 - (c) the quantity of products as referred to in point (a) in stock at the end of the previous marketing year in the case of products processed from tomatoes, peaches and pears, broken down into products sold and products unsold in the case of tomatoes, and at 1 May in the case of prunes and dried figs;
 - (d) in the case of tomatoes:
 - the total area in hectares planted during the marketing year,
 - the average yield, expressed in tonnes per hectare, for the marketing year,
 - the area and yield, broken down into oblong varieties and round varieties,
 - the average soluble dry matter content of the tomatoes used to make tomato concentrate;
 - (e) the information required under points (a) to (c) must include the quantities of the products referred to in Article 1(2)(a), (b), (i), (k), (l), (m) and (n) used to make products as referred to in (2)(c) and (o) of that Article;

(f) the total quantity made of each of the products referred to in Article 1(2)(c) and (o), broken down according to the products referred to in (2)(a), (b), (i), (k), (l), (m) and (n) of that Article used to make them;

4. no later than 1 June, a report on the checks made during the current marketing year, specifying the number of checks and the results, broken down by type of finding;
5. in the case of tomatoes, the quantities covered by contracts, no later than 60 days after the final date for the signing of contracts.

TITLE VIII

Transitional and final provisions

Article 24

1. Where contracts are concluded between individual producers and processors under the second subparagraph of Article 3(1) and the second subparagraph of Article 6a(2) of Regulation (EC) No 2201/96, Articles 3 to 7, 10 to 15, 18 to 20 and 22 of this Regulation shall apply, *mutatis mutandis*, for the 2001/02 marketing year.

2. The Member States shall take the necessary steps to ensure that the second subparagraph of Article 3(1) and the second subparagraph of Article 6a(2) of Regulation (EC) No 2201/96 are complied with.

3. In the case of tomatoes, for the 2001/02 marketing year:
 - processors having participated in the aid scheme during the 2000/01 marketing year and new processors starting their activity shall be deemed to be approved, unless the Member State decides otherwise,
 - notwithstanding Article 6, the reference data of parcels shall be the cadastral reference data or any other references recognised as equivalent by the inspection body,
 - notwithstanding Article 3(3), the final date for signing contracts shall be 31 March 2001.

4. In the case of peaches and pears, notwithstanding Article 6, until 1 January 2003 the reference data of parcels shall be the cadastral reference data or any other references recognised as equivalent by the inspection body.

Article 25

Regulations (EEC) No 1709/84, (EC) No 504/97 and (EC) No 661/97 shall be repealed with effect from the end of the 2000/01 marketing year for each of the products concerned.

Regulation (EEC) No 2022/92 is hereby repealed.

Article 26

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

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

Done at Brussels, 2 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

**COMMISSION REGULATION (EC) No 450/2001
of 5 March 2001**

fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5(2) (a) thereof,

Whereas:

Pursuant to Article 2 (2) and Article 3 of abovementioned Regulation (EEC) No 4088/87, Community import and producer prices are fixed each fortnight for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses and apply for two-weekly periods. Pursuant to Article 1b of Commission Regulation (EEC) No 700/88 of 17 March 1988 laying down detailed rules for the application of the arrangements for the import into the Community of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the

Gaza Strip ⁽³⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁴⁾, those prices are determined for fortnightly periods on the basis of weighted prices provided by the Member States. Those prices should be fixed immediately so the customs duties applicable can be determined. To that end, provision should be made for this Regulation to enter into force immediately,

HAS ADOPTED THIS REGULATION:

Article 1

The Community producer and import prices for uniflorous (bloom) carnations, multiflorous (spray) carnations, large-flowered roses and small-flowered roses as referred to in Article 1b of Regulation (EEC) No 700/88 for a fortnightly period shall be as set out in the Annex.

Article 2

This Regulation shall enter into force on 6 March 2001.

It shall apply from 7 to 20 March 2001.

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

Done at Brussels, 5 March 2001.

For the Commission

Franz FISCHLER

Member of the Commission

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.
⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 72, 18.3.1988, p. 16.
⁽⁴⁾ OJ L 289, 22.10.1997, p. 1.

ANNEX

to the Commission Regulation of 5 March 2001 fixing Community producer and import prices for carnations and roses with a view to the application of the arrangements governing imports of certain floricultural products originating in Cyprus, Israel, Jordan, Morocco and the West Bank and the Gaza Strip

(EUR/100 pieces)

Period: from 7 to 20 March 2001

Community producer price	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
	12,18	11,61	46,94	20,48
Community import prices	Uniflorous (bloom) carnations	Multiflorous (spray) carnations	Large-flowered roses	Small-flowered roses
Israel	12,66	11,70	16,13	19,40
Morocco	17,75	15,65	33,28	—
Cyprus	—	—	—	—
Jordan	—	—	—	—
West Bank and Gaza Strip	—	—	—	—

COMMISSION REGULATION (EC) No 451/2001**of 5 March 2001****suspending the preferential customs duties and re-establishing the Common Customs Tariff duty on imports of large-flowered roses originating in Morocco**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5(2)(b) thereof,

Whereas:

(1) Regulation (EEC) No 4088/87 lays down the conditions for applying a preferential duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports into the Community of fresh cut flowers.

(2) Council Regulation (EC) No 1981/94 ⁽³⁾, as last amended by Commission Regulation (EC) No 563/2000 ⁽⁴⁾, opens and provides for the administration of Community tariff quotas for certain products originating in Algeria, Cyprus, Egypt, Israel, Jordan, Malta, Morocco, the West Bank and the Gaza Strip, Tunisia and Turkey and providing detailed rules for extending and adapting these tariff quotas.

(3) Commission Regulation (EC) No 450/2001 ⁽⁵⁾ fixes the Community producer and import prices for carnations and roses for the application of the import arrangements.

(4) Commission Regulation (EEC) No 700/88 ⁽⁶⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁷⁾, lays down the detailed rules for the application of the arrangements.

(5) On the basis of prices recorded pursuant to Regulations (EEC) No 4088/87 and (EEC) No 700/88, it must be concluded that the conditions laid down in Article 2(3) of Regulation (EEC) No 4088/87 for suspension of the preferential customs duty are met for large-flowered roses originating in Morocco. The Common Customs Tariff duty should be re-established.

(6) The quota for the products in question covers the period 1 January to 31 December 2001. As a result, the suspension of the preferential duty and the reintroduction of the Common Customs Tariff duty apply up to the end of that period at the latest.

(7) In between meetings of the Management Committee for Live Plants and Floriculture Products, the Commission must adopt such measures,

HAS ADOPTED THIS REGULATION:

Article 1

For imports of large-flowered roses (CN code ex 0603 10 10) originating in Morocco, the preferential customs duty fixed by Regulation (EC) No 1981/94 is hereby suspended and the Common Customs Tariff duty is hereby re-established.

Article 2

This Regulation shall enter into force on 7 March 2001.

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 199, 2.8.1994, p. 1.

⁽⁴⁾ OJ L 68, 16.3.2000, p. 46.

⁽⁵⁾ See page 30 of this Official Journal.

⁽⁶⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁷⁾ OJ L 289, 22.10.1997, p. 1.

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

Done at Brussels, 5 March 2001.

For the Commission
Franz FISCHLER
Member of the Commission

COMMISSION REGULATION (EC) No 452/2001**of 5 March 2001****re-establishing the preferential customs duty on imports of uniflorous (bloom) carnations originating in Israel**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

- (4) Commission Regulation (EEC) No 700/88 ⁽⁶⁾, as last amended by Regulation (EC) No 2062/97 ⁽⁷⁾, laid down detailed rules for the application of these arrangements.

Having regard to the Treaty establishing the European Community,

- (5) The preferential customs duty fixed for uniflorous (bloom) carnations originating in Israel by Regulation (EC) No 1981/94 was suspended by Commission Regulation (EC) No 339/2001 ⁽⁸⁾.

Having regard to Council Regulation (EEC) No 4088/87 of 21 December 1987 fixing conditions for the application of preferential customs duties on imports of certain flowers originating in Cyprus, Israel, Jordan and Morocco and the West Bank and the Gaza Strip ⁽¹⁾, as last amended by Regulation (EC) No 1300/97 ⁽²⁾, and in particular Article 5 (2) (b) thereof,

- (6) On the basis of price recordings made as specified in Regulations (EEC) No 4088/87 and (EEC) No 700/88 it must be concluded that the requirement for reintroduction of the preferential customs duty laid down in Article 2 (4) of Regulation (EEC) No 4088/87 is met for uniflorous (bloom) carnations originating in Israel. The preferential customs duty should be reintroduced.

Whereas:

- (7) In between meetings of the Management Committee for Live Plants and Floriculture Products, the Commission must adopt such measures,

- (1) Regulation (EEC) No 4088/87 fixes conditions for the application of a preferential customs duty on large-flowered roses, small-flowered roses, uniflorous (bloom) carnations and multiflorous (spray) carnations within the limit of tariff quotas opened annually for imports of fresh cut flowers into the Community.

HAS ADOPTED THIS REGULATION:

- (2) Council Regulation (EC) No 1981/94 ⁽³⁾, as last amended by Commission Regulation (EC) No 563/2000 ⁽⁴⁾, opens and provides for the administration of Community tariff quotas for certain products originating in Algeria, Cyprus, Egypt, Israel, Jordan, Malta, Morocco, the West Bank and the Gaza Strip, Tunisia and Turkey, and providing detailed rules for extending and adapting these tariff quotas.

- (3) Commission Regulation (EC) No 450/2001 ⁽⁵⁾ fixed Community producer and import prices for carnations and roses for application of the arrangements for importation from the countries in question.

⁽¹⁾ OJ L 382, 31.12.1987, p. 22.

⁽²⁾ OJ L 177, 5.7.1997, p. 1.

⁽³⁾ OJ L 199, 2.8.1994, p. 1.

⁽⁴⁾ OJ L 68, 16.3.2000, p. 46.

⁽⁵⁾ See page 30 of this Official Journal.

⁽⁶⁾ OJ L 72, 18.3.1988, p. 16.

⁽⁷⁾ OJ L 289, 22.10.1997, p. 1.

⁽⁸⁾ OJ L 49, 20.2.2001, p. 7.

Article 1

1. For imports of uniflorous (bloom) carnations (CN code ex 0603 10 20) originating in Israel the preferential customs duty set by Regulation (EC) No 1981/94 is reintroduced.

2. Regulation (EC) No 339/2001 is hereby repealed.

Article 2

This Regulation shall enter into force on 7 March 2001.

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

Done at Brussels, 5 March 2001.

For the Commission
Franz FISCHLER
Member of the Commission

II

(Acts whose publication is not obligatory)

COUNCIL

**DECISION No 2/2001 OF THE EU-CZECH REPUBLIC ASSOCIATION COUNCIL
of 23 January 2001
amending Protocol 4 to the Europe Agreement with the Czech Republic concerning the definition
of the concept of 'originating products' and methods of administrative cooperation**

(2001/178/EC)

THE ASSOCIATION COUNCIL,

Having regard to the Europe Agreement establishing an association between the European Communities and their Member States, of the one part, and the Czech Republic, of the other part ⁽¹⁾, signed in Brussels on 4 October 1993, and in particular Article 38 of Protocol 4 thereto,

Whereas:

- (1) Some technical amendments are in order to correct anomalies between the different language versions of the text.
- (2) The list of insufficient working and processing needs to be amended to ensure proper interpretation and to take account of the need to include some operations not covered previously by this list.
- (3) The provisions for the temporary use of flat rates in cases where drawback is prohibited or exemptions from customs duties are granted need to be prolonged until 31 December 2001.
- (4) The need has arisen to provide for a system of accounting segregation of originating and non-originating materials, subject to authorisation by customs authorities.
- (5) The provisions concerning the amounts expressed in euro need to be revised in order to clarify the procedure and to provide greater stability for the level of the amounts in national currencies.
- (6) To take account of the lack of production of a certain material within the countries concerned, a correction should be made to the list of working and processing

requirements which non-originating materials have to fulfil to qualify for originating status,

HAS DECIDED AS FOLLOWS:

Article 1

Protocol 4 concerning the definition of originating products and methods of administrative cooperation is hereby amended as follows:

1. Article 1(i) shall be replaced by the following:

'(i) "added value" shall be taken to be the ex-works price minus the customs value of each of the materials incorporated which originate in the other countries referred to in Article 3 and 4 or, where the customs value is not known or cannot be ascertained, the first verifiable price paid for the materials in the Community or the Czech Republic;'

2. Article 7 shall be replaced by the following:

'Article 7

Insufficient working or processing

1. Without prejudice to paragraph 2, the following operations shall be considered as insufficient working or processing to confer the status of originating products, whether or not the requirements of Article 6 are satisfied:

- (a) preserving operations to ensure that the products remain in good condition during transport and storage;
- (b) breaking-up and assembly of packages;
- (c) washing, cleaning; removal of dust, oxide, oil, paint or other coverings;
- (d) ironing or pressing of textiles;
- (e) simple painting and polishing operations;

⁽¹⁾ OJ L 360, 31.12.1994, p. 2.

- (f) husking, partial or total bleaching, polishing, and glazing of cereals and rice;
- (g) operations to colour sugar or form sugar lumps;
- (h) peeling, stoning and shelling, of fruits, nuts and vegetables;
- (i) sharpening, simple grinding or simple cutting;
- (j) sifting, screening, sorting, classifying, grading, matching; (including the making-up of sets of articles);
- (k) simple placing in bottles, cans, flasks, bags, cases, boxes, fixing on cards or boards and all other simple packaging operations;
- (l) affixing or printing marks, labels, logos and other like distinguishing signs on products or their packaging;
- (m) simple mixing of products, whether or not of different kinds;
- (n) simple assembly of parts of articles to constitute a complete article or disassembly of products into parts;
- (o) a combination of two or more operations specified in subparagraphs (a) to (n);
- (p) slaughter of animals.

2. All operations carried out either in the Community or in the Czech Republic on a given product shall be considered together when determining whether the working or processing undergone by that product is to be regarded as insufficient within the meaning of paragraph 1.;

3. the last sentence of Article 15(6), shall be replaced by the following:

'The provisions of this paragraph shall apply until 31 December 2001.;

4. The following Article shall be inserted:

'Article 20a

Accounting segregation

1. Where considerable cost or material difficulties arise in keeping separate stocks of originating and non-originating materials which are identical and interchangeable, the customs authorities may, at the written request of those concerned, authorise the so-called "accounting segregation" method to be used for managing such stocks.

2. This method must be able to ensure that, for a specific reference-period, the number of products obtained which could be considered as "originating" is the same as that which would have been obtained if there had been physical segregation of the stocks.

3. The customs authorities may grant such authorisation, subject to any conditions deemed appropriate.

4. This method is recorded and applied on the basis of the general accounting principles applicable in the country where the product was manufactured.

5. The beneficiary of this facilitation may issue or apply for proofs of origin, as the case may be, for the quantity of products which may be considered as originating. At the request of the customs authorities, the beneficiary shall provide a statement of how the quantities have been managed.

6. The customs authorities shall monitor the use made of the authorisation and may withdraw it at any time whenever the beneficiary makes improper use of the authorisation in any manner whatsoever or fails to fulfil any of the other conditions laid down in this Protocol.;

5. in the first sentence of Article 22(1), the following shall be inserted after the term 'exporter':

'hereinafter referred to as "approved exporter";;

6. Article 30 shall be replaced by the following:

'Article 30

Amounts expressed in euro

1. For the application of the provisions of Article 21(1)(b) and Article 26(3) in cases where products are invoiced in a currency other than euro, amounts in the national currencies of the countries referred to in Articles 3 and 4 equivalent to the amounts expressed in euro shall be fixed annually by each of the countries concerned.

2. A consignment shall benefit from the provisions of Article 21(1)(b) or Article 26(3) by reference to the currency in which the invoice is drawn up, according to the amount fixed by the country concerned.

3. The amounts to be used in any given national currency shall be the equivalent in that currency of the amounts expressed in euro as at the first working day of October. The amounts shall be communicated to the European Commission by 15 October and shall apply from 1 January the following year. The European Commission shall notify all countries concerned of the relevant amounts.

4. A country may round up or down the amount resulting from the conversion into its national currency of an amount expressed in euro. The rounded-off amount may not differ from the amount resulting from the conversion by more than 5 %. A country may retain unchanged its national currency equivalent of an amount expressed in euro if, at the time of the annual adjustment provided for in paragraph 3, the conversion of that amount, prior to any rounding-off, results in an increase of less than 15 % in the national currency equivalent. The national currency equivalent may be retained unchanged if the conversion were to result in a decrease in that equivalent value.

5. The amounts expressed in euro shall be reviewed by the Association Committee at the request of the Community or the Czech Republic. When carrying out this review, the Association Committee shall consider the desirability of preserving the effects of the limits concerned in real terms. For this purpose, it may decide to modify the amounts expressed in euro.;

7. Annex II shall be amended as follows:

The entry for HS heading 5309 to 5311 shall be replaced by:

'5309 to 5311	Woven fabrics of other vegetable textile fibres; woven fabrics of paper yarn: — Incorporating rubber thread — Other	Manufacture from single yarn ⁽¹⁾ Manufacture from ⁽¹⁾: — coir yarn, — jute yarn, — natural fibres, — man-made staple fibres not carded or combed or otherwise prepared for spinning, — chemical materials or textile pulp, or — paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerising, heat setting, raising, calendering shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric does not exceed 47,5 % of the ex-works price of the product	
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⁽¹⁾ For special conditions relating to products made of a mixture of textile materials, see introductory note 5.'

Article 2

This Decision shall enter into force on the day of its adoption.

It is applicable from 1 January 2001.

Done at Luxembourg, 23 January 2001.

For the Association Council

The President

A. LINDH

CORRIGENDA**Corrigendum to Directive 2000/8/EC of the European Parliament and of the Council of 20 March 2000 amending Council Directive 70/221/EEC on the approximation of the laws of the Member States relating to liquid fuel tanks and rear underrun protection of motor vehicles and their trailers**

(Official Journal of the European Communities L 106 of 3 May 2000)

On page 7, recital 7:

for: '... granted under Directive 74/60/EEC ⁽⁶⁾ ...',

read: '... granted under Directive 70/221/EEC ...',

and delete the corresponding footnote.

On page 14, in the Annex, first line of point 6.3.5.6:

for: '... by a screen placed 2 cm ± 1 cm above the fuel level.',

read: '... by a screen placed 3 cm ± 1 cm above the fuel level.'
