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**COMMISSION REGULATION (EEC) No 1858/93
of 9 July 1993**

**laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the aid
scheme to compensate for loss of income from marketing in the banana sector**

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COMMISSION REGULATION (EEC) No 1858/93
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laying down detailed rules for applying Council Regulation (EEC) No 404/93 as regards the aid scheme to compensate for loss of income from marketing in the banana sector

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 404/93 of 13 February 1993 on the common organization of the market in bananas ⁽¹⁾, and in particular Articles 12 (4) and (8), 14 and 30 thereof;

Having regard to Council Regulation (EEC) No 3813/92 of 28 December 1992 on the unit of account and the conversion rates to be applied for the purposes of the common agricultural policy ⁽²⁾, and in particular Article 6 (2) thereof,

Whereas, in order to ensure that Community production is maintained and in order not to put producers in a situation which is less favourable than their current one, Regulation (EEC) No 404/93 provides for compensatory aid in order to cover the loss of income, likely to result from the application of the new scheme;

Whereas in order to be eligible for the compensatory aid the bananas must comply with Community quality standards; whereas, however, pending the entry into force of these standards, provision should be made for the bananas to be graded, packed and removed from the packing shed so that they may be marketed;

Whereas, for determining the 'flat-rate reference income', account should be taken of the most recent years for which complete data are available; whereas this flat-rate reference income must be calculated for the ex packing shed stage and must correspond to the average of the prices at the delivered at first port of unloading in the rest of the Community stage for bananas produced in the most representative regions on the Community, less the average costs of transport and delivery FOB;

Whereas the 'average production income' must be calculated for each year for the same ex-packing shed stage on the basis of the information to be provided by the Member States;

Whereas the mechanism for reducing, by region and producer, the quantities of bananas marketed for which aid is granted should be determined, to provide for the situation where the volumes indicated in applications exceed the quantities laid down pursuant to Article 12 of Regulation (EEC) No 404/93; whereas this mechanism must make possible some offsetting between the various production regions within the overall quantity laid down in Regulation (EEC) No 404/93 and operate in proportion to the quantities marketed, in the case of both the production regions and individual producers;

Whereas detailed rules on the submission of applications and the payment of the compensatory aid should be laid down; whereas, in view of the fact that the compensatory aid for a given year cannot be determined and paid until the beginning of the following year, it is necessary to grant advances in order to maintain normal disposal of Community produce and achieve the measures objective; whereas, however, these advances must be paid subject to a security to cover the possibility of the aid eventually paid being less than the total of the advances;

⁽¹⁾ OJ No L 47, 25. 2. 1993, p. 1.

⁽²⁾ OJ No L 387, 31. 12. 1992, p. 1.

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Whereas Regulation (EEC) No 404/93 lays down that the compensatory aid is to be granted to producers who are members of a recognized producers' organization within the meaning of Article 5 of that Regulation; whereas, pending the creation of these organizations and their recognition, it is necessary to make provision for aid applications to be submitted by individual producers;

Whereas the economic objective of the aid is attained when the bananas are marketed; whereas, however, to take account of the market organization system, the agricultural conversion rate applicable at the beginning of each quarterly marketing period should be used to convert the aid and advances into national currency;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Bananas,

HAS ADOPTED THIS REGULATION:

Article 1

The compensatory aid provided for in Article 12 of Regulation (EEC) No 404/93 shall be granted for the marketing of fresh bananas falling within CN code ex 0803, excluding plantains, which comply with the quality standards laid down pursuant to Title I of that Regulation.

Pending the entry into force of Community quality standards, the aid shall be paid for products intended to be delivered fresh to the consumer, graded and packed, and removed from the packing shed with a view to marketing.

Article 2

1. The 'flat-rate reference income' referred to in Article 12 (4) of Regulation (EEC) No 404/93 shall be determined on the basis of the date recorded during the 1991. It shall be calculated for the ex packing shed stage.

2. The flat-rate reference income shall be ECU 49,1/100 kg net weight of green bananas ex-packing shed.

Article 3

1. The 'average production income' for Community bananas referred to in Article 12 (5) in Regulation (EEC) No 404/93 shall be calculated for the ex packing shed stage.

2. The average production income shall be determined for each year on the basis of the average of the prices at the delivered at first port of unloading in the rest of the Community stage, of bananas from the most representative producer regions in the Community, less the average costs of transport and delivery fob.

Article 4

1. Applications for advances may be submitted in accordance with the timetable laid down in Article 7 (2).

2. The amount of each advance shall be determined by multiplying the quantities marketed during the period in question by a average 70 % of the amount of aid paid in respect of the preceding year.

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3. Payment of the advance shall be subject to the lodging of a security. The amount of this security shall be fixed at 50 % of the advance.

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4. The security shall be forfeit in proportion to the part of the aid usually paid where:

— the definitive amount of the aid proves to be less than the amount of the advances, and/or

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— the quantities of bananas marketed for which advances have been applied for exceeds the total quantity of production referred to in Article 12 (2) of Regulation (EEC) No 404/93.

5. The security shall be released as soon as the definitive aid is paid by the competent authorities.

Article 5

Applications for compensatory aid and advances shall be submitted by the recognized producers' organizations within the meaning of Article 5 of Regulation (EEC) No 404/93. They shall cover the quantities marketed by each producer through the producers, organization.

However, in the case of the quantities marketed up to the end of 1994, applications may be submitted directly by individual producers.

Article 6

1. For the second half of 1993, the amount of the advance shall be a maximum of ECU 13,4/100 kg.

2. The amount of the security to be lodged when applications for advances are submitted for the second half of 1993 shall be ECU 6,7/100 kg.

3. The maximum quantity of Community bananas marketed which is eligible for the compensatory aid for the second half of 1993 shall be 427 000 tonnes net weight and shall be broken down by Community producer region as follows:

- 210 000 tonnes for the Canary Islands,
- 75 000 tonnes for Guadeloupe,
- 109 500 tonnes for Martinique,
- 25 000 tonnes for Madeira, the Azores and the Algarve,
- 7 500 tonnes for Crete and Lakonia.

Article 7

1. Applications for compensatory aid and advances shall be submitted to the competent authorities designated by each Member State in which the products are harvested.

2. Applications shall be submitted:

- (a) in the case of advances, in the first 10 days of March, May, July, September and November in the case of bananas actually marketed during the two-month period preceding the month of application.

For the second half of 1993 an application for a special advance may be submitted before 15 July 1993. Such application shall be accompanied by the lodging of a security corresponding to 50 % of the amount of the special advance. This amount shall be established on the basis of the quantities for which proof is supplied that they were actually marketed in July 1992. Payment shall be made before the end of July 1993. An adjustment shall be made when the advance for bananas marketed during July and August 1993 is paid;

- (b) in the case of payment of the balance of the aid, in the first 10 days of January of the year following that in respect of which the aid is applied for. The balance shall comprise:

- the aid for bananas marketed during November and December, and
- where applicable, the adjustment to the amounts paid for bananas marketed during the periods referred to in (a), on the basis of the definitive amount of aid.

3. Applications shall include the following information at least:

- the names, first names and addresses of the individual producers,
- the name and address of the producers' organization submitting the application,

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- the quantities of bananas produced and marketed during the period in question. Applications for the balance shall cover the total quantities marketed during the year in question.
4. Applications shall be accompanied by:
 - certificates of conformity,
 - sales invoices,
 - the documents relating to transport, for bananas marketed outside the production region, or
 - any other useful supporting document providing proof of marketing.
 5. Applications for payment of the balance may not be accompanied by supporting documents submitted for applications for advances.

Article 8

Member States shall inform the Commission forthwith, at the end of each period for lodging applications referred to in Article 7, of the quantities actually marketed for which applications for payment have been submitted.

As regards the second half of 1993, when applying for the advance for the July-August period they shall communicate the quantities of bananas marketed in 1992 used to calculate the amount of the special advance paid in July.

Article 9

1. Where the quantities laid down for each region in Article 12 (2) of Regulation (EEC) No 404/93 are exceeded, the aid shall be granted for all the quantities applied for, up to a total quantity of 854 000 tonnes net weight and, in the case of the second half of 1993, up to a maximum of 427 000 tonnes.

2. If the total quantity actually marketed exceeds 854 000 tonnes and 427 000 tonnes for the second half of 1993, the quantities marketed giving entitlement to the aid shall be reduced for each producer region concerned in proportion to the overrun of the quantity fixed for that region.

The Commission shall fix the reduction percentages applicable for each region and shall inform the Member States thereof.

Where the second subparagraph is applied, the competent authorities shall apply the uniform reduction percentage to the quantities presented in each aid application.

Article 10

The competent national authorities, after verifying aid applications and the supporting documents, shall pay the amount of the advance or the definitive aid, as the case may be, within the two months following that in which the application was lodged.

Article 11

The rate applicable for conversion of the amount of advances and aid into national currency shall be the agricultural conversion rate in force on the first day of each of the marketing periods defined in Article 7 (2). The rate applicable for bananas marketed during the period from 1 November to 31 December shall be the agricultural conversion rate in force on 1 November.

The agricultural conversion rate in force on 1 July 1993 shall be used to convert the amount of the special advance into national currency.

Article 12

1. Where aid is paid unduly in respect of bananas which have not been marketed in accordance with Article 1, the competent authorities shall recover the amounts paid, plus interest calculated from the date of payment of the aid up to effective recovery thereof. The rate of interest

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to be applied shall be that in force for similar recovery operations under national law. This rate may not be lower than the reference rate referred to in the Annex as applied in the Member State concerned on the day of payment, plus one percentage point. Member States may decide not to collect interest if it amounts to ECU 20 or less.

2. The aid recovered and, where applicable, the interest shall be paid to the paying agencies or authorities and deducted by them from the expenditure financed by the European Agricultural Guidance and Guarantee Fund, Guarantee Section.

Article 13

Producer Member States shall inform the Commission each month of the following:

- the quantities marketed during the preceding month broken down by those placed on regional markets and those sent to the rest of the Community, together with forecasts for the current month,
- the production trend for the marketing year, and
- trends in the quantities available in ripening depots.

Trends in the price of Community bananas at the various stages of the chain of production up to the wholesale and retail stages, and of bananas originating in third countries from the cif stage up to the retail stage, shall be sent to the Commission each week by the aforementioned Member States.

Article 14

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

It shall apply from 1 July 1993.

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

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ANNEX

1. *Belgium:*
Brussels interbank borrowing offered-rate three months.
2. *Denmark:*
Yield on issue of 12-month Treasury bonds.
3. *Germany:*
Frankfurt interbank borrowing offered-rate three months.
4. *Greece:*
Yield on issue of three-month Treasury bonds.
5. *France:*
Paris interbank borrowing offered-rate three months.
6. *Spain:*
Madrid interbank borrowing offered-rate three months.
7. *Ireland:*
Dublin interbank borrowing offered-rate three months.
8. *Italy:*
Yield on issue of three-month Treasury bonds
9. *Luxembourg:*
Interbank rate three months
10. *Netherlands:*
Amsterdam interbank borrowing offered-rate three months.
11. *Portugal:*
Lisbon interbank borrowing offered-rate three months.
12. *United Kingdom:*
London interbank borrowing offered-rate three months.