

## COMMISSION REGULATION (EC) No 1622/1999

of 23 July 1999

## laying down detailed rules for applying Council Regulation (EC) No 2201/96 as regards the scheme for the storage of unprocessed dried grapes and unprocessed dried figs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2201/96 of 28 October 1996 on the common organisation of the markets in processed fruit and vegetable products <sup>(1)</sup>, as amended by Regulation (EC) No 2199/97 <sup>(2)</sup>, and in particular Article 9(8) thereof,

- (1) Whereas Article 9 of Regulation (EC) No 2201/96 introduces a scheme for the storage of unprocessed dried grapes and dried figs during the last two months of the respective marketing years of these products, consisting of arrangements for the approval of the storage agencies and the payment to them of storage aid and financial compensation; whereas the conditions which the storage agencies must meet in order to be approved should be laid down in particular as regards the steps that are to be taken to ensure that the products are stored properly;
- (2) Whereas the requirements regarding the quality and presentation of the products offered for storage should be determined in such a way as to ensure that storage is carried out under optimum conditions and to prevent it becoming a more attractive outlet than the commercial markets; whereas these new requirements should be introduced on the expiry of a transitional period to enable production to be adapted gradually; whereas the duration of this transitional period should take account of the distinctive characteristics of each sector;
- (3) Whereas, having regard to the arrangements for the payment of the aid for the cultivation of dried grapes referred to in Article 7 of Regulation (EC) No 2201/96 and the production aid for dried figs referred to in Article 2 of that Regulation, access to the storage arrangements should be restricted to producer organisations and, in the case of unprocessed dried grapes, to processors, given that the marketing and/or storage of these unprocessed products are undertaken by producer organisations and processors;

- (4) Whereas the procedures for the sale of the products held by the storage agencies and their use should be defined in a manner that will safeguard the financial interests of the Community and give responsibility for determining the technical arrangements for the sale to the Member States;
- (5) Whereas the intervals at which applications for storage aid and financial compensation are presented should be laid down; whereas intervals of one month take due account of the interests of the storage agencies without unnecessarily adding to the administrative burden of the arrangements;
- (6) Whereas the provisions of this Regulation replace, by altering them in the light of changes in the law and experience gained, the provisions of Commission Regulation (EEC) No 626/85 of 12 March 1985 on the purchasing, selling and storage of unprocessed dried grapes and figs by storage agencies <sup>(3)</sup>, as last amended by Regulation (EC) No 1437/97 <sup>(4)</sup> and of Commission Regulation (EEC) No 627/85 of 12 March 1985 on storage aid and financial compensation for unprocessed dried grapes and figs <sup>(5)</sup>, as last amended by Regulation (EC) No 1922/95 <sup>(6)</sup>; whereas, moreover, these provisions invalidate the provisions of Commission Regulation (EEC) No 3263/81 of 16 November 1981 laying down rules covering sales by tender or at prices fixed in advance of dried figs and dried grapes held by storage agencies <sup>(7)</sup>, Commission Regulation (EEC) No 1325/84 of 14 May 1984 laying down detailed rules for determining the financial compensation for dried figs and dried grapes for a given marketing year <sup>(8)</sup>, Commission Regulation (EEC) No 1707/85 of 21 June 1985 on the sale of unprocessed dried figs by storage agencies for the manufacture of alcohol <sup>(9)</sup>, Commission Regulation (EEC) No 3205/85 of 15 November 1985 on the sale by way of invitation to tender of unprocessed dried grapes for specific uses <sup>(10)</sup>, Commission Regulation (EEC) No 682/86 of 4 March 1986 on the sale by storage agencies of unprocessed dried grapes for the manufacture of certain condiments <sup>(11)</sup>, Commission Regulation (EEC) No 3937/88 of 16 December 1988 on the sale by storage agencies of unprocessed currants for the manufacture of dried grapes <sup>(12)</sup> and Commission Regulation (EEC) No 913/89 of 10 April 1989 on the sale of unprocessed dried grapes by storage agencies for the manufacture of alcohol <sup>(13)</sup>; whereas the above Regulations should therefore be repealed;

<sup>(3)</sup> OJ L 72, 13.3.1985, p. 7.

<sup>(4)</sup> OJ L 196, 24.7.1997, p. 62.

<sup>(5)</sup> OJ L 72, 13.3.1985, p. 17.

<sup>(6)</sup> OJ L 185, 4.8.1995, p. 19.

<sup>(7)</sup> OJ L 329, 17.11.1981, p. 8.

<sup>(8)</sup> OJ L 129, 15.5.1984, p. 13.

<sup>(9)</sup> OJ L 163, 22.6.1985, p. 38.

<sup>(10)</sup> OJ L 303, 16.11.1985, p. 6.

<sup>(11)</sup> OJ L 62, 5.3.1986, p. 8.

<sup>(12)</sup> OJ L 348, 17.12.1988, p. 29.

<sup>(13)</sup> OJ L 97, 11.4.1989, p. 5.

<sup>(1)</sup> OJ L 297, 21.11.1996, p. 29.

<sup>(2)</sup> OJ L 303, 6.11.1997, p. 1.

- (7) Whereas 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:

#### Article 1

For the purposes of Article 9 of Regulation (EC) No 2201/96, the Member States shall grant approval to storage agencies applying therefor:

- (a) which have adequate storage facilities; in the case of unprocessed dried grapes, such facilities must be at least equivalent to those required pursuant to the fifth indent of Article 4(2)(a) and the first indent of Article 4(2)(b) of Commission Regulation (EC) No 1621/1999 <sup>(1)</sup> for entry in the list referred to in Article 4(1) of that Regulation;
- (b) which have the technical and human resources necessary to manage the products bought in pursuant to Article 9 of Regulation (EC) No 2201/96;
- (c) which undertake in writing to comply with the Community and national provisions in their work as storage agencies. Such undertakings shall in particular cover compliance with the obligation to store products bought in on separate premises and to keep separate accounts for them.

#### Article 2

1. Pursuant to Article 9(1) and (2) of Regulation (EC) No 2201/96, the storage agencies shall buy in:

- unprocessed dried grapes offered to them each year from 1 July to 31 August, up to the quantity laid down in the second subparagraph of Article 9(1) of that Regulation,
- unprocessed dried figs offered to them each year from 1 June to 31 July,

from the marketing year in progress.

2. The products shall be delivered to the storage agencies in stackable plastic crates; however, on a transitional basis, unprocessed dried grapes may be delivered in suitable containers until the end of the 2001/02 marketing year, and unprocessed dried figs until the end of the 2003/04 marketing year.

The delivered products must:

- in the case of unprocessed dried grapes, meet the minimum requirements laid down in the Annex to Regulation (EC) No 1621/1999,
- in the case of unprocessed dried figs, meet the minimum requirements laid down in the Annex to Commission Regulation (EC) No 1573/1999 <sup>(2)</sup> and have a minimum size of:
  - 180 fruits per kg up to the end of the 2003/04 marketing year, and

- 150 fruits per kg in subsequent marketing years.

#### Article 3

1. Contracts shall be drawn up between the vendors and the storage agencies for all products bought in by the latter. The vendors shall be processors or producer organisations recognised or granted preliminary recognition pursuant to Regulation (EC) No 2200/96.

However, on a transitional basis, vendors may also be:

- in the case of unprocessed dried figs, producers not belonging to producer organisations, until the end of the 2001/02 marketing year,
- in the case of unprocessed dried grapes, for the 1999/2000 marketing year, the forms of producer association referred to in Article 13(2)(a) of Regulation (EC) No 1621/1999.

The contracts shall be drawn up at least two weeks before the date of delivery and shall stipulate in particular:

- (a) the names and addresses of the parties,
- (b) the approximate quantity of unprocessed dried product to be delivered,
- (c) the address to which the product is to be delivered,
- (d) the date of delivery.

The storage agencies shall forward copies of the contracts to the competent national authority forthwith. They shall retain proof of forwarding.

2. The products shall be taken over by the storage agencies before the expiry of the time limit laid down in Article 2(1). Where the vendor and the storage agency do not agree on the weight or quality of the product, the latter shall be weighed and an additional sample taken in the presence of a representative of the competent national authority. Where a product does not meet the quality requirements referred to in Article 2(2), the contract shall be cancelled in respect of the quantities that do not meet those requirements; the vendor shall compensate the storage agency in accordance with national provisions.

3. Where the storage agency is also a vendor, the contract as provided for in paragraph 1 shall be deemed to have been concluded once a document setting out the particulars specified in points (b), (c) and (d) of that paragraph has been forwarded to the competent national authority; the document must be forwarded at least two weeks before the expiry of the time limit laid down in Article 2(1). Takeover of the products by the storage agency, including weighing and quality control operations, shall be carried out in the presence of a representative of the competent national authority.

#### Article 4

1. Products held by storage agencies shall be put up for sale by the competent authority which granted them recognition. They shall be sold by invitation to tender or standing invitation to tender, with a minimum tendering price, where applicable, and subject to the following conditions:

<sup>(1)</sup> See page 21 of this Official Journal

<sup>(2)</sup> OJ L 187, 20.7.1999, p. 27.

- (a) unprocessed dried figs shall be sold for a specific industrial use, to be specified in the notice of invitation to tender;
- (b) unprocessed dried grapes shall be sold by the end of February after buying-in for processing into dried grapes for final consumption and, after that date, for a specific industrial use, to be specified in the notice of invitation to tender.

2. The specific industrial uses referred to in paragraph 1 shall include in particular the production of preparations of a kind used in animal feeding covered by CN code 2309, roasted coffee substitutes covered by CN code 2101 30 and alcohol covered by CN code 2208. The Member States may authorise sales for other industrial uses after notifying the Commission of the commercial grounds for their choice and the controls covering those other uses.

#### Article 5

1. Within 10 days of the end of the periods referred to in Article 2(1) and, in the case of unprocessed dried grapes, before 10 March in respect of the quantities unsold at the end of February, the competent authority shall send the Commission:

- figures relating to quantities of dried products taken over or remaining unsold, with details of the storage agencies holding the products,
- an analysis of the situation regarding possible outlets, having regard to the need to preserve balance on the market, and proposals relating in particular to the selected outlet(s), the schedule of quantities to be put up for sale in the case of standing invitations to tender and any minimum tendering price fixed,
- a copy of the notice of invitation to tender or standing invitation to tender,
- a copy of the national provisions relating to invitations to tender under this Regulation. Such provisions shall cover in particular:
  - (i) the publicising of notices of invitation to tender;
  - (ii) the undertakings to be provided by tenderers;
  - (iii) the amounts of the tendering and special securities provided for respectively in the second subparagraphs of Article 9(7) and (3) of Regulation (EC) No 2201/96;
  - (iv) the procedure for opening tenders and designating the successful tenderers;
  - (v) the conditions governing the forfeiture and release of securities;
  - (vi) the rules governing takeover by the purchaser and payment of the purchase price;
  - (vii) the verification of observance of the specific industrial use.

2. The competent authority shall inform the Commission and the storage agency concerned forthwith of the outcome of invitations to tender and partial invitations to tender.

Within 10 days of the end of the marketing year, the competent authority shall send the Commission a report on conditions prevailing on the market when the quantities in

storage were sold, any difficulties encountered, the quantities remaining unsold and, lastly, the procedure for selling the remaining quantities.

#### Article 6

1. The storage agencies shall keep detailed records of movements of products entering and leaving storage.
2. Unprocessed dried grapes in storage until the end of February following take over shall be stored and handled so as to preserve their original quality and wholesomeness.
3. On entry into storage in the case of unprocessed dried figs and from 1 March following takeover in the case of unprocessed dried grapes, the products shall be stored and handled as products intended for a specific industrial use.
4. The Member States shall determine the handling operations and other treatment required for storage.

#### Article 7

1. The storage aid provided for in Article 9(4) of Regulation (EC) No 2201/96 shall be fixed per day of storage. The actual duration of storage shall include the days on which the product enters and leaves storage.
2. Two rates of aid shall be fixed for unprocessed dried grapes from the same marketing year. The first rate shall apply to products in storage until the end of February following buying-in. The other rate shall apply to products in storage after that date but not beyond the end of the maximum period of storage fixed in Article 9(4) of Regulation (EC) No 2201/96. When the second rate of aid is fixed, account shall be taken of the less stringent storage requirements applying in the period commencing on 1 March following takeover pursuant to Article 6(3) of this Regulation.

#### Article 8

1. Applications for storage aid shall be submitted by the storage agencies to the competent authority by the fifth day of each month and shall relate to the previous month.
2. They shall include in particular:
  - details of the quantities in respect of which the aid is applied for and the number of days of actual storage,
  - the quantity in storage on the first and last days of the month in respect of which storage aid is applied for, no deduction being made for any natural losses.

#### Article 9

1. Together with the storage aid applications as provided for in Article 8, applications for financial compensation as provided for in Article 9(5) of Regulation (EC) No 2201/96 shall be submitted by the storage agencies to the competent authority by the fifth day of each month in respect of quantities sold during the previous month.

2. The applications shall include in particular details of the quantities sold during the month in question, broken down by selling price. Applications relating to the last sale of quantities taken over in respect of a given marketing year shall include figures for natural losses. Such losses shall be treated as quantities sold where they do not exceed 0,5 % of the average quantity in storage per month.

3. The financial compensation shall be calculated in accordance with Article 9(5) of Regulation (EC) No 2201/96.

#### Article 10

1. The competent authority of the Member State that has approved the storage agency shall conduct on-the-spot checks as follows:

- (a) in the case of unprocessed dried grapes, from takeover to the end of February of the following year checks shall be conducted on at least 20 % of the quantities in storage and at least once at each storage agency to see that records are properly kept and shall also cover storage conditions and the quality of the product in storage;
- (b) in the case of unprocessed dried figs, systematic checks shall be conducted at the time of takeover to see that the product meets the minimum quality requirements;
- (c) checks shall be conducted on at least 10 % of the quantities in storage to verify the information given in applications for storage aid and for financial compensation.

2. The competent authority shall withdraw approval where any of the conditions for approval are no longer met; no storage aid or financial compensation shall be paid in respect of the marketing year in progress and amounts already paid shall be reimbursed, plus interest for the time elapsing between payment and reimbursement.

The rate of interest shall be that applied by the European Monetary Institute for its transactions in ecu, as published in the 'C' series of the *Official Journal of the European Communities* and in force on the date of the wrong payment, plus three percentage points.

#### Article 11

Regulations (EEC) No 3263/81, (EEC) No 1325/84, (EEC) No 626/85, (EEC) No 627/85, (EEC) No 1707/85, (EEC) No 3205/85, (EEC) No 682/86, (EEC) No 3937/88 and (EEC) No 913/89 are repealed.

#### Article 12

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

It shall apply from the 1999/2000 marketing year.

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

Done at Brussels, 23 July 1999.

For the Commission

Franz FISCHLER

Member of the Commission

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