COMMISSION REGULATION (EC) No 412/97

of 3 March 1997

laying down detailed rules for the application of Council Regulation (EC) No 2200/96 as regards the recognition of producer organizations

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organization of the market in fruit and vegetables [1], and in particular Articles 11 (2) (a) and 48 thereof,

Whereas a minimum number of members and a minimum volume of marketable production should be laid down using a pragmatic approach and taking into account the structural, economic and administrative situation in the Member States; whereas these minimum conditions should be modulated for different categories of producer organizations to take account of different circumstances of production and of experience acquired; whereas the Member States should therefore be allowed to lay down minimum conditions more stringent than those provided for by this Regulation;

Whereas the minimum volume of marketable production should be expressed in ecus so that it may be more representative; whereas Member States should nevertheless be permitted to express the minimum volume as a percentage of production in an economic region where producers are established in order to take account of specific situations;

Whereas, in order to ensure that producer organizations genuinely represent a minimum number of producers, Member States should take steps to ensure that a minority of members who may account for the bulk of production in the producer organization do not unduly dominate its management and operation;

Whereas the main and essential activities of a producer organization should relate to the production of its members; whereas nevertheless the producer organization should be allowed to engage in other activities, whether or not of a commercial nature, without prejudice to the right of Member States to lay down stricter limits;

Whereas, in view of the nature of the products, their production and their marketing, the holdings of members of a producer organization may be located in Member States other than that in which the producer organization has its head office;

Whereas Article 11 (1) (a) and (3) of Regulation (EC) No 2200/96 make provision for different types of producer organizations; whereas all producer organizations for which an application for recognition is submitted should fall into one of the categories laid down;

Whereas, in order to facilitate the concentration of supply, the merger of existing producer organizations to form new ones should be encouraged; whereas the acquired rights referred to in Article 53 of Regulation (EC) No 2200/96 apply to the new producer organizations resulting from the merger of organizations already recognized under Regulation (EEC) No 1035/72 [2], as last amended by Commission Regulation (EC) No 1363/95 [3];

Whereas, in order to help achieve the goals of the common organization of markets and to ensure that producer organizations carry out their work in a sustainable and effective way, there should be the utmost stability within producer organizations; whereas membership of a producer organization should therefore be for a minimum period, particularly with regard to the obligations relating to an operational programme of the type referred to in Article 15 of Regulation (EC) No 2200/96; whereas the minimum period of membership should be laid down within certain limits, without prejudice to the right of Member States to lay down stricter limits;

Whereas, in order to ensure the sound operation of the market organization, Member States should keep the Commission regularly informed about the situation and developments in the sector; whereas the arrangements for so doing should be laid down;

Whereas, the recognition of organizations of citrus-fruit producers, on the basis of certain specific conditions, is included in this Regulation; whereas, accordingly, Commission Regulation (EEC) No 2602/90 of 7 September 1990 laying down detailed rules concerning citrus-fruit producers' organizations [4] should be repealed;

Whereas the Management Committee for Fresh Fruit and Vegetables has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down the detailed rules for the application of Regulation (EC) No 2200/96 as regards the

[1] OJ No L 297, 21. 11. 1996, p. 1.

[2] OJ No L 118, 20. 5. 1972, p. 1.
[3] OJ No L 132, 16. 6. 1995, p. 8.
[4] OJ No L 245, 8. 9. 1990, p. 13.

conditions for recognition of producer organizations pursuant to Article 11 of that Regulation.

2. For the purposes of this Regulation:

(a) 'producer' shall mean any individual or legal person who is a member of a producer organization to which he delivers his production for marketing in accordance with Regulation (EC) No 2200/96;

(b) 'marketed production' shall mean the production of members of a producer organization, disposed of in accordance with Article 11 (1) (c) (3) of Regulation (EC) No 2200/96 for the category of products for which recognition is requested, measured at the 'ex-producer organization' stage and, where applicable, as 'packaged or prepared but not processed product';

(c) 'marketable production' shall mean marketed production, plus withdrawals.

Article 2

1. The minimum number of producers and the minimum volume of marketable production referred to in Article 11 (2) (a) of Regulation (EC) No 2200/96 are given in Annexes I and II to this Regulation.

2. Member States may replace the volume of production set out in Annex I by a percentage of the marketable production of a producer organization in terms of the average total production of the economic region where the producers in the organization are established. This percentage shall not be lower than 15 %. In such cases, the minimum number of producers shall be twenty for the producer organizations referred to in Article 11 (1) (a) (i) to (iv) of Regulation (EC) No 2200/96 and five for the producer organizations referred to in paragraph (1) (a) (vi) and (vii) and paragraph (3) of that Article.

Member States shall determine the economic regions in the light of the existing conditions of production and marketing. They shall notify the Commission of these regions.

3. For the purposes of applying paragraphs 1 and 2, the volume to be taken into consideration shall be the average volume of marketable production of all member producers during the three marketing years preceding recognition.

4. Member States may fix minimum numbers of producers and minimum volumes of marketable production greater than those laid down in paragraphs 1 and 2. They shall notify the Commission thereof.

Article 3

Member States shall take such measures as are required to avoid any abuse of power or influence by one or more producers on the management and operation of the producer organization. They shall notify the Commission of the measures taken before 1 July 1997.

Article 4

The turnover of a producer organization arising from the sale, where applicable after processing, of the production of its members may not be less than the turnover generated by the group's other activities. Activities relating to the production of other agricultural products and, where applicable, their development shall not be taken into consideration.

Article 5

In the case of transnational producer organizations, the rules applicable under this Regulation shall be those applicable in the Member State in which the organization's head office is located.

The head office of the organization must be located in a Member State where the organization has significant holdings or a significant number of members.

Article 6

Applications for recognition submitted by producer organizations shall indicate, from amongst those listed in Article 11 (1) (a) or 11 (3) of Regulation (EC) No 2200/96, the product category for which recognition is requested.

Article 7

New producer organizations resulting from the merger of bodies recognized under Regulation (EEC) No 1035/72 shall retain the acquired rights referred to in Article 53 of Regulation (EC) No 2200/96. If they do not secure recognition under Article 11 of Regulation (EC) No 2200/96, they shall be considered producer organizations as provided for in Article 13 (1) of that Regulation.

Article 8

1. The minimum membership period of a producer shall not be less than one year. However, where an operational plan pursuant to Regulation (EC) No 2200/96 has been submitted, no member may disclaim his obligations under that programme during the period of its implementation, except where the producer organization concerned gives its approval.

2. Resignation of membership shall be notified to the group in writing no later than 31 May, to take effect on 1

January of the following year. The rules of the producer organization may require a longer period of notice to be given.

Article 9

Member States shall submit a report relating to the preceding calendar year in accordance with the model set out in Annex III before 1 July.

Article 10

Regulation (EEC) No 2602/90 is hereby repealed.

Article 11

This Regulation shall enter into force on the seventh 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, 3 March 1997.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

RECOGNITION CRITERIA FOR PRODUCER ORGANIZATIONS OTHER THAN FOR CITRUS FRUITS

Member States or specific regions	Producer organizations Article 11 (1) (a) categories (i) to (iv)		Producer organizations Article 11 (1) (a) categories (vi) and (vii) and Article 11 (3)	
	Minimum number of producers	Minimum volume (million ecus)	Minimum number of producers	Minimum volume (million ecus)
Belgium, Germany, Spain (except Balearic Islands and Canaries), France, Greece (1), Italy, Netherlands, Austria, United Kingdom (except Northern Ireland)	40 or 15 or 5	1,5 2,5 3	5	0,25
Denmark, Ireland, Northern Ireland, Greece (2), Balearic and Canary Islands, Portugal (except Madeira and Azores)	15 or 5	0,5 1		
Finland, Sweden, Greece (*Nomoi* (regions) other than under (1) and (2))	10 or 5	0,25 0,5		
Greece (islands), Luxembourg, Madeira and Azores	5	0,1	5	0,1

(1) *Nomoi:* Imathias, Pellas, Artas, Argolidas, Korinthias, Viotias, Serron, Kavallas.

(2) *Nomoi:* Larisas, Magnisias, Karditsas, Evrou, Thessalonikis, Prevezas, Kilkis, Pierias, Lakonias, Kastorias.

ANNEX II

RECOGNITION CRITERIA FOR PRODUCER ORGANIZATIONS FOR CITRUS FRUITS

Member States	Producer organizations Article 11 (1) (a) category (v)	
	Minimum number of producers	Minimum volume (tonnes)
GREECE		
Nomoi (regions) (1)	100	5 000
Nomoi (regions) (2)	50	1 500
Other	20	100
SPAIN		
All regions	25	2 500
Balearic Islands	25	1 200
FRANCE	20	2 000
ITALY		
Sicily and Calabria	100	10 000
Other	100	5 000
PORTUGAL	10	1 000
Other Member States	10	100

(1) *Nomoi:* Piraias, Chania, Preveza, Arta, Achaia, Arkadia, Argolida.

(2) *Nomoi:* Korinthias, Messinia, Aitoloakarnania, Ilia, Lakonia, Thesprotia, Zakynthos, Chios.

ANNEX III

ANNUAL REPORT

(Part 1)

Producer organization (PO)

Granting of recognition

Member State: Year:

PO serial No	Name & initial	Address	Recognition date and number	Type of recognition (1)	Legal form	Category of PO (2)	Number of members	Volume of marketable production

(1) 1: recognition under Article 11 of Regulation (EC) No 2200/96.
2: recognition under Article 13 (1) of Regulation (EC) No 2200/96.
3: recognition under Article 13 (2) of Regulation (EC) No 2200/96.
4: recognition under Article 14 of Regulation (EC) No 2200/96.

(2) i) Fruit and vegetables.
ii) Fruit.
iii) Vegetables.
iv) Products for processing.
v) Citrus fruit.
vi) Nuts.
vii) Mushrooms.
a) PO (Article 11 (3)) (indicate product(s)).

ANNUAL REPORT

(Part 2)

Producer organization (PO)

Withdrawal of recognition

Member State: Year:

PO serial No	Name and initial	Address	Recognition date and number	Recognition withdrawal date and number	Comments

ANNUAL REPORT

(Part 3 (a))

Producer organization (PO)

Activities

Member State: Year:

PO serial No	Number	Production of members								Production of members of other POs			
		Total				Marketed by another PO (Article 11 (1) (c) (3))				(Article 11 (1) (c) (3))			
		Fruit		Vegetables		Fruit		Vegetables		Fruit		Vegetables	
		Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)

(*) Of production marketed

ANNUAL REPORT

(Part 3 (b))

Producer organization (PO)

Activities

Member State: Year:

PO Serial No	Purchase of products on the markets				Imports			
	Fruit		Vegetables		Fruit		Vegetables	
	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)

(*) Of production marketed.

ANNUAL REPORT

(Part 4)

Producer organization (PO)

Activities

Member State: Year:

PO Serial No	Fresh products				Products for industry				Products processed by the PO				Total value (*)
	Fruit		Vegetables		Fruit		Vegetables		Fruit		Vegetables		
	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	Volume (t)	Value (*) (ecu)	

(*) Of production marketed.