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(Acts whose publication is obligatory)

COMMISSION REGULATION (EEC) No 3137/82

of 19 November 1982

laying down detailed rules for the granting of financial compensation in respect of certain fishery products

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products (1), and in particular Article 13 (7) thereof,

Having regard to Council Regulation (EEC) No 2202/82 of 28 July 1982 laying down general rules for the granting of financial compensation in respect of certain fishery products (2),

Whereas, to ensure market transparency, any use made of the margin of tolerance referred to in Article 13 (1) (a) of Regulation (EEC) No 3796/81 should receive adequate publicity;

Whereas, to take account of the local and contingent nature of the said margin, it is necessary to lay down the condition for its use and period of application;

Whereas, to guarantee normal conditions of competition between producers' organizations established in a specific area which make use of the margin of tolerance at different levels, provision should be made for aligning prices on those set by one of those organizations;

Whereas the minimum daily quantity for which financial compensation is granted should be fixed;

Whereas the method for the calculation of financial compensation should be laid down;

Whereas the granting of financial compensation should be subject to the condition that each producers' organization keep a register of the quantities withdrawn;

Whereas, to verify whether the data in the register correspond to the quantities actually put up for sale and withdrawn, each Member State should introduce a system of surveillance;

Whereas account should be taken of the quantities of products put up for sale, withdrawn or carried over by a producers' organization or one of its members in another Member State; whereas, for this purpose, the authorities of the Member State in which the products have been put up for sale, withdrawn or carried over should issue and circulate documents certifying that these operations have been carried out;

Whereas detailed rules should be laid down for the calculation of advances on financial compensation and the amount of the corresponding security should be fixed; whereas rules should also be laid down for the lodging, release and forfeiture of such securities;

Whereas the conversion rate applicable to financial compensation and advances should be defined;

Whereas, in the case of an infraction of limited importance of the financial rules of compensation, taking into account the innovative nature of the said rules, the minimal financial advantage resulting from this infraction should not be sanctioned by the total suppression of the right to financial compensation but only by a standard reduction thereof;

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

(1) OJ No L 379, 31. 12. 1981, p. 1.

(2) OJ No L 235, 10. 8. 1982, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the granting of the financial compensation referred to in Article 13 of Regulation (EEC) No 3796/81, hereinafter referred to as 'the basic Regulation'.

Article 2

1. Any producers' organization which applies the margin of tolerance provided for in Article 13 (1) (a) of the basic Regulation shall communicate to the competent authorities of the Member State by which it is recognized, at least two working days before the date of such application, the level of the withdrawal price applicable to each product category in its area of activity or any part thereof.

The level referred to above shall apply for a period of no less than five and of no more than 25 working days.

Subject to compliance with the minimum period referred to above, in the event that a producers' organization intends to modify the period of application of the margin of tolerance or the level of the withdrawal price, it shall inform the competent authorities of its decision at least two working days before the date of application of the decision. Any modification of the period of application or of the level of the withdrawal price may not be of a duration of less than five working days.

2. The competent authorities of the Member State concerned shall immediately publicize in accordance with regional custom and practice the price levels, periods and areas to which they apply, as communicated in accordance with paragraph 1.

Article 3

The provisions of Council Regulation (EEC, Euratom) No 1182/71⁽¹⁾ shall apply. However, for the purpose of this Regulation, Saturdays, Sundays and holidays shall also be considered as working days in so far as quantities are put up for sale on those days in accordance with the provisions of Article 3 (b) and (c) of Regulation (EEC) No 2202/82.

⁽¹⁾ OJ No L 124, 8. 6. 1971, p. 1.

Article 4

Where application of the margin of tolerance leads to the fixing of several levels at which a category of product is withdrawn by the producers' organizations established in a given area, each producers' organization established in that area may apply, with effect from its date of application and for the period concerned, the price level fixed by another producers' organization under Article 13 (1) (a) of the basic Regulation.

In this event, the first producers' organization shall immediately communicate its decision on alignment to the competent authorities of the Member State concerned, who shall publicize this decision in accordance with Article 2 (2)

Article 5

The minimum quantity referred to in the second subparagraph of Article 13 (2) of the basic Regulation shall be fixed at 15 kilograms per product category, per market day and per producers' organization.

Article 6

For the purpose of granting financial compensation, the producers' organization shall keep a register showing, in particular:

- the monthly quantities put up for sale during the fishing year, broken down by product,
- the monthly quantities withdrawn from the market distinguishing by product category those intended to benefit from financial compensation and by product those intended to benefit from the carry-over premium referred to in Article 14 of the basic Regulation.

This register shall be kept in accordance with the model indicated in Annex I.

Article 7

The financial compensation granted to the producers' organization shall be calculated in accordance with the method laid down in Annex II.

Article 8

Each Member State shall establish rules for surveillance in order to check that the information contained in the register provided for in Article 6

corresponds to the quantities effectively put up for sale and withdrawn from the market by the producers' organization concerned.

The Member States shall communicate to the Commission the measures taken in application of the preceding subparagraph as soon as they have been adopted, and at all events before 1 January 1983.

Article 9

Where a producers' organization or one of its members puts products up for sale in a Member State other than the one in which it has been recognized, the competent authority of the first Member State shall issue to the organization in question or to its member a document certifying:

- the quantities put up for sale in its territory by the party concerned, broken down by product,
- the quantities withdrawn from the market to benefit from financial compensation, broken down by product category, and those intended to benefit from the carry-over premium referred to in Article 14 of the basic Regulation, broken down by product.

This document must also indicate any withdrawal price applied in accordance with the provisions of Article 12 (2) of the basic Regulation.

The issuing authority shall transmit a copy of this document to the body responsible for granting financial compensation in the other Member State. Each Member State shall communicate the name and address of the aforesaid body to the other Member States and to the Commission.

Article 10

The Member State shall grant each month, on application, to the producers' organization concerned an advance on financial compensation, on condition that the applicant has lodged a security equal to 105 % of the amount of the advance.

Advances shall be calculated in accordance with the method laid down in Annex III.

Article 11

The security referred to in Article 10 shall be lodged, at the choice of the applicant, in cash or in the form

of a guarantee provided by an establishment meeting the criteria laid down by the Member State from which the advance is requested. The security shall be released after the end of the fishing year in question, in proportion to the quantities of products for which entitlement of financial compensation has been recognized.

The security shall be forfeit:

- (a) immediately, for quantities in respect of which the advance has been paid unduly;
- (b) after the end of the fishing year:
 - entirely, except in cases of *force majeure*, if within a period of four months from the end of the fishing year in question, the evidence required to determine eligibility for financial compensation has not been submitted. However, if such evidence has been submitted within two months at the latest after the expiry date of the abovementioned period, the security shall be refunded, less an amount equal to 10 % of the security lodged for each month's or part of a month's delay in submitting the evidence in question,
 - in proportion to any quantities for which entitlement to financial compensation is not recognized.

Article 12

The conversion rate to be applied to the advance shall be the representative rate in force on the last day of the month in respect of which the request for an advance is submitted. Should the fishing year be extended beyond 31 December of the year in question, the representative rate to be applied to the advance for the month or months covered by such extension shall be the rate in force on 31 December.

The conversion rate to be applied to the financial compensation shall be the representative rate in force on 31 December of the current year, even if the fishing year is extended beyond that date.

Article 13

1. In the event that a producers' organization or one of its members has committed an infringement of limited importance of the rules for financial compensation, and that organization can prove to the satisfaction of the Member State concerned that the infringement was committed without intent to defraud or in the absence of gross negligence, the Member State shall withhold an amount equal to

10 % of the Community withdrawal price applicable to the quantities in question which have been withdrawn and which did not receive a carry-over premium.

2. Member States shall notify the Commission each month of the cases in which they have applied the provisions of paragraph 1.

Article 14

Commission Regulation (EEC) No 3559/73 of

21 December 1973 laying down detailed rules for granting financial compensation and indemnities, fixing the withdrawal price and determining the buying-in price for certain fishery products ⁽¹⁾ is hereby repealed.

Article 15

This Regulation shall enter into force on 1 January 1983.

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

Done at Brussels, 19 November 1982.

For the Commission
Giorgios CONTOGEOGRIS
Member of the Commission

(1) OJ No L 361, 29. 12. 1973, p. 53.

ANNEX I

CHRONOLOGICAL REGISTER OF QUANTITIES PUT UP FOR SALE, WITHDRAWALS AND CARRY-OVERS, FOR EACH MONTH (*) IN RESPECT OF SPECIES

Month	Quantities put up for sale		Monthly withdrawals (**)				Carry-over in terms of with-drawals equivalent (***) (7) = (6) x 0.80	Total of adjusted with-drawals (***) (8) = (5) + (7)	Cumulative Total of adjusted with-drawals (***) (9)
	during the month (1)	cumulative total (2)	of which: for financial compensation		of which: carried over (***) (6)				
			Total financial com-pensation and carry-over (***) (3)	Quantities with-drawn by cate-gories (4)		Total all categories (5)			
January									
February									
...									
Year									

(*) The quantities withdrawn are considered on a monthly basis. All withdrawals (for financial compensation and carry-over) undertaken during the course of a specific month are thus considered as undertaken simultaneously on the last day of the month in question.
 (***) Minimum quantities as referred in Article 5 of this Regulation: not included.
 (****) Columns (3), (6), (7) and (8) must not be completed for Mediterranean sardines and anchovies during the period of application of the system of special carry-over premium established for these species. During this period the heading of column (9) in respect of these species should be 'Cumulative total of withdrawals'.
 All figures rounded up or down to 5.

ANNEX II

METHOD OF CALCULATION FOR FINANCIAL COMPENSATION

Species:

- A. Quantities put up for sale during fishing year (see column (1) of Annex I): kg
- B. Total of adjusted withdrawals during fishing year (see column (8) of Annex I): kg
- C. Average intervention percentage: % ($\frac{B}{A} \times 100$)

FIRST TRANCHE = (Quantities put up for sale \times 0.05 = kg)
 (financial compensation = 0.85 \times withdrawal price)

	1. Quantities withdrawn (kg) by product category (*)	2. Corresponding withdrawal price (ECU/kg) (**)	3. Percentage of compensation	4. Financial compensation (ECU) (1 \times 2 \times 3)
Category			0.85	
Category			0.85	
.....			0.85	
Carry-overs (withdrawals equivalent)				
Total of adjusted withdrawals				
Total financial compensation relating to first tranche				

(*) Quantities withdrawn (adjusted withdrawals) must be allotted to each tranche in chronological order of monthly withdrawal (cf. column (8) of Annex I). When the adjusted withdrawals of a month M have to be divided between two tranches, the division between the two tranches must be done uniformly *pro rata* for all product categories (cf. column (4) of Annex I), including carry-overs expressed in withdrawal equivalent (cf. column (7) of Annex I).

(**) The withdrawal price for each product category is the Community withdrawal price in force on the date of withdrawal, adjusted if necessary by the adjustment coefficient referred to in Article 12 (2) of the basic Regulation.

Financial compensation is equal to the addition of the financial compensation in respect to each tranche. In all calculations figures are rounded up or down to 5.

SECOND TRANCHE = (Quantities put up for sale \times 0.05 = kg)
(financial compensation = 0.70 \times withdrawal price)

same table as for first tranche

THIRD TRANCHE = (Quantities put up for sale \times 0.05 = kg)
(financial compensation = 0.55 \times withdrawal price)

same table as for first tranche

FOURTH TRANCHE = (Quantities put up for sale \times 0.05 = kg)
(financial compensation = 0.40 \times withdrawal price)

same table as for first tranche

FIFTH TRANCHE = (Quantities withdrawn (adjusted withdrawals) in excess of 20 % of annual quantities put up for sale).

These quantities qualify neither for financial compensation nor for carry-over premiums.

ANNEX III

METHOD OF CALCULATION FOR ADVANCES ON FINANCIAL COMPENSATION (*)

Month:

Species:

- A. Quantities marketed from 1 January to the last day of the month concerned (see column (2) of Annex I): kg
- B. Cumulative total of adjusted withdrawals during the same period (see column (9) of Annex I): kg
- C. Average withdrawal percentage (adjusted): % $\left(\frac{B}{A} \times 100\right)$

For the calculation of tranches refer to the method indicated in Annex II

The advance for the month in question is equal to the sum of the advances for each tranche.

Total of estimated advances (1)	Total of advances received for the previous months (2)	Advance payable for the month concerned (3) = (1) - (2)

In all calculations figures are rounded up or down to 5.

(*) Calculation based, if necessary, on provisional information (to be confirmed within two months of the month concerned).