

COMMISSION REGULATION (EEC) No 3901/92

of 23 December 1992

introducing detailed rules for granting carryover aid on 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 3759/92 of 17 December 1992 on the common organization of the market in fishery and aquaculture products⁽¹⁾, and in particular Article 14 (4) thereof,

Whereas Council Regulation (EEC) No 3759/92, Article 14, provides for the granting of carryover aid, on certain conditions, for the stabilization or processing and storage for the purpose of human consumption of the products set out in Annex I, points A, D and E of the said Regulation, and which have been withdrawn from the market;

Whereas only those categories of the said products which are fit for sale following storage or preserving should qualify for this aid; whereas consequently these categories should be defined;

Whereas the carryover aid and financial compensation for withdrawals mechanisms are parallel and complementary as regards their operation and share the same objective of stabilizing the market in the products in question; whereas the conditions on which the quantities may qualify for these mechanisms should therefore be identical and the use of a tolerance margin made subject to the same conditions under both systems;

Whereas, to ensure product quality and to facilitate the disposal of products on the market, the minimum requirements to be satisfied by operations qualifying for aid should be laid down, together with the requirements for storage and return to the market;

Whereas, to prevent fraudulent operations, in particular in the case of preservation live in tanks or cages, an appropriate system for storage and marking should be introduced;

Whereas the technical and financial costs taken into account in calculating the amount granted in aid should be defined;

Whereas the producers' organizations should contribute to the economic costs related to the implementation of

the carryover aid scheme; whereas the amount of aid should be fixed on the basis, in particular, of the cost of the stabilization and storage operations and financial costs; whereas, therefore, the aid should be paid on a sliding scale reflecting the duration of the period of storage; whereas, for the same reasons, the period of storage for which an aid measure is foreseen shall not exceed six months;

Whereas, to increase the efficacy of the controls, the recipients of the aid are to keep stock records; whereas the records must include the particulars necessary for the purposes of the said controls, the arrangements for which are to be introduced by the Member States;

Whereas the procedure whereby interested parties may submit applications for the aid should be laid down;

Whereas the procedure should also be laid down for the granting of advances and the amount of the relevant security and the conversion rate applying to the aid and the advances should be specified;

Whereas, in the event of a minor infringement of the rules of the carryover aid scheme, the limited financial advantage resulting from this infringement should not be sanctioned by the total withdrawal of the right to the aid, 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,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation introduces detailed rules for granting the carryover aid referred to in Article 14 of Regulation (EEC) No 3759/92, hereinafter referred to as the 'basic Regulation'.

Article 2

1. Only products meeting the standards of freshness, presentation and size set out in Annex I hereto shall be eligible for carryover aid.

(¹) OJ No L 388, 31. 12. 1992, p. 1.

2. Carryover aid shall be paid to producers' organizations only for fishery products as referred to in paragraph 1 which fulfil the terms of Article 4 (1) of Regulation (EEC) No 3759/92.

3. Article 2 (1), (2) and (3) of Commission Regulation (EEC) No 3902/92⁽¹⁾ on the operation of the Community withdrawal price and the application under the withdrawal system of the tolerance margin referred to in Article 12 (1) (a) of the basic Regulation shall apply as appropriate to the withdrawal and sale arrangements provided for in Article 14 (1) of the basic Regulation.

4. Payment of the carryover aid for eligible quantities of products in accordance with paragraph 1 shall be subject to the condition that, for the product or group of products concerned, all the quantities put up for sale by the producers' organization or its members during the fishing year must have been classified previously in accordance with the marketing standards referred to in Article 2 of the basic Regulation.

Article 3

1. In order to qualify for carryover aid, products must undergo processing by one or more of the methods listed in Article 14 (4) of the basic Regulation within 48 hours of their withdrawal from the market; this processing may be carried out by the producers' organization concerned or, within the same period, by an industrial enterprise to which the producers' organization sends the products.

During the allotted time before the processing operations, products must be stored in such a way as to guarantee the upholding of their initial freshness category.

2. Without prejudice to more restrictive national requirements or commercial standards practised in the Member States, the various processing methods must meet the following minimum conditions:

- (a) freezing must be carried out in appropriate installations which guarantee *inter alia* that a temperature of -18°C is reached at the centre of the product within five hours at the most;
- (b) salting must take the form of treatment which guarantees that the salt content of the finished product is not less than 8 %;
- (c) drying must be carried out in such a way that the water content of the processed product does not exceed 40 %.

3. The storage of live edible crabs in suitable fixed tanks or cages supplied with sea or salt water and approved for the purpose by Member States shall qualify as preservation for payment of the carryover aid.

Article 4

Only products which, having been irreversibly processed, meet the following minimum conditions shall qualify for the carryover aid:

1. Storage

(a) in the case of frozen products:

- the period of storage must not be less than 15 days as from the date on which processing is completed,
- the storage temperature must not be higher than -21°C ;

(b) in the case of salted or dried products, the period of storage must not be less than five days as from the date on which processing is completed;

(c) in the case of all stored products, the identification for inspection purposes of processed lots as coming from the corresponding lots of fresh product must be guaranteed by arrangements for storage and marking which are deemed appropriate by the competent authorities of the Member States;

2. Return to the market

(a) all products shall be placed back on the market in lots which are homogeneous in terms of species, presentation, packaging and, where relevant, freezing.

All products shall, furthermore, be returned to the market in accordance with the provisions in force in each Member State for the marketing of products for human consumption;

(b) products stored live in tanks or cages shall be placed back on the market for sale in such a way as not to interfere with normal marketing of the products concerned. Once returned for sale, products may not be stored a further time in order to qualify for the aid.

The producers' organizations concerned shall take all necessary measures to this end, which may include a minimum storage period.

Article 5

1. The level of the carryover aid shall be fixed before the beginning of each fishing year in accordance with the procedure laid down in Article 32 of the basic Regulation, on the basis of the technical and financial costs of operations indispensable for stabilizing and storing the products in question as recorded in the Community during the previous such year, but discounting the highest of such costs. The carryover aid shall be fixed per unit weight, to be applied to the net weight of the products listed in Annex I.

⁽¹⁾ See page 35 of this Official Journal.

2. The carryover aid shall be granted for a maximum period of six months only. The amount of the aid in the first month shall be calculated on the basis of stabilization and storage costs. For the subsequent months it shall be calculated on the basis of monthly storage and financial costs.

3. Entitlement to the carryover aid for the first month shall be deemed to be established for quantities of products meeting the minimum storage criteria set out in Article 4 (1). For subsequent months, the entitlement shall be calculated in proportion to the actual duration of storage, on a basis of a 30th of the aid amount per day in store.

The second month of storage shall commence 30 days after the date when storage begins.

Article 6

1. Member States shall establish a monitoring system to ensure that the products in respect of which aid has been applied for are eligible.

2. For monitoring purposes, aid recipients shall keep a daily stock record and shall communicate the information necessary for monitoring purposes to the competent authorities of their Member State on a monthly basis.

3. The particulars which must be recorded in the stock record and the information to be communicated to the competent authorities shall be determined by each Member State.

Article 7

1. Carryover aid shall be paid to the producers' organization concerned only once the competent authorities in the Member State have satisfied themselves that the quantities in respect of which aid is applied for:

- do not exceed the limit given in Article 14 (3) of the basic Regulation,
- have been either processed and stored or preserved, and subsequently placed back on the market, in accordance with the terms of this Regulation.

2. Applications for the aid shall be submitted by producers' organizations to the competent authorities of the Member State within eight months from the end of the fishing year in question.

The particulars to be given in applications shall be determined by the Member States.

3. The conversion rate applying to the amount of aid shall be the agricultural conversion rate in effect on 31 December of the year in question, even where the fishing year is extended beyond that date.

4. The national authorities shall pay carryover aid by 31 October, at the latest, following the end of the fishing year in question.

Article 8

1. Member States shall grant a monthly advance on carryover aid to producers' organizations making an appropriate application in respect of all quantities of product on which aid is required in that month, provided applicants have lodged a security equal to 105 % of the amount of the advance.

Advances shall be calculated in accordance with the method set out in Annex II.

2. The conversion rate applying to advances shall be the agricultural conversion rate in effect on the last day of the month in respect of which an application for an advance is made. Where the fishing year is extended beyond 31 December of the year in question, the agricultural conversion rate to be applied to the advance for the month or months included in such an extension shall be the rate in effect on 31 December.

The conversion rate applying to the amount of aid remaining after deduction of advances shall be the agricultural conversion rate in effect on 31 December of the year in question, even where the fishing year is extended beyond that date.

Article 9

1. Where a producers' organization or one of its members commits a minor infringement of the rules of the carryover aid scheme and that organization can prove to the satisfaction of the Member State concerned that the infringement has been committed without intent to defraud or as a consequence of gross negligence, that Member State shall withhold an amount equal to 10 % of the Community withdrawal or sales price applicable to the quantities of product in respect of which aid was to be paid.

Any sums withheld shall be credited to the EAGGF.

2. Where an infringement of the financial compensation scheme is committed as a consequence of gross negligence or with intent to defraud by a producers' organization or one of its members, aid will be withheld from the producers' organization in question for the fishing year concerned and for the following year. Any advances paid for that fishing year shall be refunded.

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

Article 10

The level of carryover aid fixed for the fishing year concerned shall apply to products entering storage during that year, irrespective of the end of the storage period.

Article 11

1. Each Member State shall notify the other Member States and the Commission of the name and address of the body designated to pay the carryover aid.

2. Each Member State shall immediately notify the Commission when it adopts the measures required to implement Articles 6 (1) and (3) and 7 (2) of this Regulation, such notification being made by 31 January 1993 at the latest.

Article 12

Commission Regulation (EEC) No 3321/82 of 9 December 1982 laying down detailed rules for the gran-

ting of a carryover premium for certain fishery products⁽¹⁾ and Regulation (EEC) No 314/86 of 11 February 1986 laying down detailed rules for the grant of a storage premium for certain fishery products⁽²⁾ are hereby repealed.

Article 13

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 1 January 1993.

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

Done at Brussels, 23 December 1992.

For the Commission

Manuel MARÍN

Vice-President

⁽¹⁾ OJ No L 351, 11. 12. 1982, p. 20.

⁽²⁾ OJ No L 39, 14. 2. 1986, p. 8.

ANNEX I

CN code	Description	Quality (¹)	Presentation (¹)	Size (¹)
0302 22 00	Plaice (<i>Pleuronectes platessa</i>)	E, A	gutted and with head	2, 3, 4
ex 0302 29 90	Dab (<i>Limanda limanda</i>)	E, A	gutted and with head	1, 2
0302 29 10	Megrim (<i>Lepidorhombus spp.</i>)	E, A	gutted and with head	2, 3, 4
0302 31 10	albacore or longfinned tunas (<i>Thunnus alalunga</i>)	E, A	gutted and with head	2
and 0302 31 90				
ex 0302 40	Herrings of the species <i>Clupea harengus</i>	E, A	whole	1, 2
0302 50 10	Cod of the species <i>Gadus morhua</i>	E, A	gutted and with head	3, 4, 5
0302 61 10	Sardines of the species <i>Sardina pilchardus</i>	E, A	whole	1, 2, 3, 4
0302 62 00	Haddock (<i>Melanogrammus aeglefinus</i>)	E, A	gutted and with head	2, 3, 4
0302 63 00	Coalfish (<i>Pollachius virens</i>)	E, A	gutted and with head	3, 4
ex 0302 64	Mackerel of the species <i>Scomber scombrus</i> and <i>Scomber japonicus</i>	E, A	whole	1, 2, 3 1, 2, 3, 4
0302 65 20	Dogfish (<i>Squalus acanthias</i> and <i>Scyliorhinus spp.</i>)	E, A	gutted and with head	2, 3
ex 0302 65 50				
0302 69 31	Redfish (<i>Sebastes spp.</i>)	E, A	whole	2, 3
ex 0302 69 33				
0302 69 41	Whiting (<i>Merlangus merlangus</i>)	E, A	gutted and with head	2, 3, 4
0302 69 45	Ling (<i>Molva spp.</i>)	E, A	gutted and with head	2, 3
0302 69 55	Anchovies (<i>Engraulis spp.</i>)	E, A	whole	1, 2, 3, 4
ex 0302 69 65	Hake of the species <i>Merluccius merluccius</i>	E, A	gutted and with head	2, 3, 4
0302 69 75	Ray's bream (<i>Brama spp.</i>)	E, A	gutted and with head	1, 2
0302 69 81	Monkfish (<i>Lophius spp.</i>)	E, A	gutted with or without head	2, 3, 4, 5
ex 0306 23 31	Shrimps and prawns of the species <i>Crangon crangon</i>	A	cooked by steaming or boiling in water	1
ex 0306 24 30	Edible crabs (<i>Cancer pagurus</i>)		live	1, 2 ⁽²⁾
ex 0306 29 30	Norway lobsters (<i>Nephrops norvegicus</i>)	E, A live	whole tails	1, 2, 3 1, 2, 3, 4

(¹) The classifications by quality, presentation and size are those laid down in the basic Regulation, Article 2.

(²) Within the limits laid down in Commission Regulation (EEC) No 3863/91, Article 1, (OJ No L 363, 31. 12. 1991, p. 1) for certain coastal areas in the United Kingdom, on condition that products measuring between 11,5 and 13 centimetres are returned to local or regional markets located in or near these areas.

ANNEXE II

Calculation of the advance on carryover aid ⁽¹⁾

1. Calculation of the eligible quantities within the 6 % margin :

- (a) Quantities put on sale between 1 January and the last day of the month in question : kg ;
- (b) Cumulative total for the quantities withdrawn and intended for carryover aid during the same period : kg ;
- (c) Average percentage : (b : a × 100) ;
- (d) Quantities not eligible for aid within the 6 % limit carried over to the following month : kg.

2. Calculation of the advance for the month

(1)	(2)		(3)		(4)
Quantities intended for aid	Current month		Corresponding amount		Amount of the advance $(4) = (2)(a) \times (3)(a) + (2)(a) \times (3)(b)$
	(a) Quantities in stock	(b) average duration of storage	(a) for the first month	(b) beyond the first month	
(a) Quantities carried over from previous months : — for which an advance has already been granted : kg — which have not yet qualified for an advance : kg (b) Quantities intended for aid during this month : kg			X		
				X	

⁽¹⁾ Calculation made where necessary on provisional data (to be finalized within the two months following the month in question).