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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 100/76

of 19 January 1976

on the common organization of the market in fishery products

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42 and 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Whereas since their adoption the basic provisions concerning the organization of the market in fishery products have been amended a number of times; whereas, by reason of their number, their complexity and their dispersal among various Official Journals, these texts are difficult to use and thus lack the clarity which should be an essential feature of all legislation; whereas they should therefore be consolidated in a single text;

Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy; and whereas the latter must include in particular a common organization of agricultural markets, which may take various forms depending on the products concerned;

Whereas the fishing industry is of special importance to the agricultural economy of certain coastal regions of the Community; whereas that industry provides a major part of the income of fishermen in these regions; whereas it is therefore advisable to encourage rational marketing of fishery products and to ensure market stability by appropriate measures;

Whereas one of the steps to be taken to implement the common organization of the market is the application of common marketing standards to the products concerned; whereas application of these standards should have the effect of keeping products of unsatisfactory quality off the market and facilitating trade relations based on fair competition, thus helping to improve the profitability of production;

Whereas the application of these standards calls for the inspection of the products subject to them; whereas provision should therefore be made for such inspection;

Whereas it is desirable to make provision under the rules regulating the market for measures which would make it possible to adjust supply to market requirements and to guarantee, as far as possible, a fair income to producers; whereas, given the special features of the market in fishery products, the formation of producers' organizations whose members would be bound by certain rules, notably in the matter of production and marketing, would contribute to the attainment of these objectives;

Whereas it is desirable to adopt provisions to facilitate the formation and operation of these organizations and the investment entailed in applying their common rules; whereas to this end Member States should be allowed to make aid available to them, this aid being partly financed by the Community; whereas, however, the amount of this aid should be limited; whereas it should also be temporary and degressive, so that the financial responsibility of producers will gradually increase;

Whereas in order to cope with market situations which, in the case of certain fishery products of special importance to producers' incomes, are likely to lead to prices which might cause disturbances on the Community market, a guide price which is representative of production areas in the Community and which will be used to determine price levels for intervention on the market must be fixed for each of these products;

[1] OJ No C 7, 12. 1. 1976, p. 70.

Whereas, in order to stabilize prices, producers' organizations should be able to intervene on the market, notably by applying a withdrawal price below which their members' products are withdrawn from the market;

Whereas it is appropriate in specific cases and under certain conditions to support the activities of producers' organizations by providing financial compensation for quantities withdrawn from the market;

Whereas it is advisable, in order to avoid a slump in sardine and anchovy prices, that sardines and anchovies of Community origin conforming to common marketing standards should be bought in by agencies designated for this purpose by Member States;

Whereas, where prices for certain frozen products show a definite tendency to decline, provision should be made to permit the granting of private storage aid to producers for such products originating in the Community;

Whereas a fall in import prices for tunny for the canning industry might threaten the income level of Community producers of this product; whereas provision should therefore be made for compensation to be granted to these producers when necessary;

Whereas, in order to enable the necessary steps to be taken to make producers' organizations financially responsible for the operation of the intervention system, provision should be made for an examination in due course of the different forms taken by the intervention system;

Whereas, in order to prevent disturbances on Community markets, action should be taken with regard to abnormally priced imports of certain products from third countries;

Whereas, for most products, the system thus introduced will make it possible to abolish all quantitative restrictions at the external frontier of the Community and to apply only the duties under the Common Customs Tariff; whereas this machinery might prove inadequate in exceptional circumstances; whereas, so as not to leave the Community market without defence against disturbances which may arise in such cases after the import barriers which existed previously have been removed, the Community should be enabled to take all necessary measures without delay;

Whereas, however, it is in the Community interest that application of Common Customs Tariff duties should be totally suspended for certain products; whereas, since Community production of herring and tunny is inadequate, conditions of supply comparable to those ruling in exporting third countries should be maintained for food processing industries using these products so as not to hinder their development in the context of international conditions of competition; whereas any disadvantages which this system might present for Community tunny producers could be offset by payment of the indemnities envisaged for this purpose; whereas for social reasons the maintenance of traditional supplies of basic foodstuffs, such as salted and dried cod, is also justified;

Whereas it is not yet possible to establish Community import arrangements for certain products; whereas it is necessary in these circumstances to allow Member States to maintain for those products the quantitative restrictions which result from their national arrangements;

Whereas, in addition to the system described above, and to the extent necessary for its proper working, provision should be made for regulating or, when the situation on the market so requires, prohibiting totally or in part the use of inward processing arrangements; whereas it is also desirable that refunds should be so fixed that Community raw materials used by processing industries in the Community with a view to export are not placed at a disadvantage by inward processing arrangements which would encourage these industries to give preference to raw materials imported from third countries;

Whereas it is necessary to prevent competition between Community undertakings being distorted on external markets; whereas equal conditions of competition must therefore be established by the introduction of a Community system which would provide for the optional granting of refunds on exports to third countries to the extent necessary to safeguard Community participation in international trade in the products concerned where these exports are of economic importance;

Whereas the levying of any customs duty or charge having equivalent effect and the application of any quantitative restriction or measure having equivalent effect are prohibited in the internal trade of the

Community by the provisions of the Treaty; whereas the establishment of a common organization of the market in fishery products also entails the abolition of charges having an effect equivalent to customs duties and quantitative restrictions or measures having equivalent effect which have formed an integral part of national organizations of the markets in fishery products; whereas the Council Decision of 20 December 1969 on the minimum price system [1] will cease to apply to fishery products from the date on which measures for the common organization of the market in these products are applied;

Whereas the establishment of a single market based on a common price system would be jeopardized by the granting of certain aids; whereas, therefore, the provisions of the Treaty whereby aids granted by Member States can be examined, and those which are incompatible with the common market prohibited, should be made to apply to the fishing industry;

Whereas the transition from the system now in force to that established by this Regulation should be effected as smoothly as possible; whereas certain transitional measures may prove necessary to this end; whereas provision should therefore be made to permit the adoption of such transitional measures;

Whereas the common organization of the market in fishery products must take appropriate account, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty;

Whereas implementation of this common organization must also take account of the fact that it is in the Community interest to preserve fishing grounds as far as possible;

Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between Member States and the Commission within a Management Committee;

Whereas the expenditure incurred by the Member States as a result of the obligations arising out of the application of this Regulation fall on the Community in accordance with the provisions of Articles 2 and 3 of Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy [2], as last amended by Regulation (EEC) No 2788/72 [3],

HAS ADOPTED THIS REGULATION:

Article 1

1. A common organization of the market in fishery products shall be established comprising a price and trading system and common rules on competition.

2. This organization shall cover the following products:

CCT heading No	Description of goods
(a) 03.01	Fish, fresh (live or dead), chilled or frozen
(b) 03.02	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process
(c) 03.03	Crustaceans and molluscs, whether in shell or not, fresh (live or dead), chilled, frozen, salted, in brine or dried; crustaceans, in shell, simply boiled in water
(d) 05.15	Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption: A. Fish, crustaceans and molluscs
(e) 16.04	Prepared or preserved fish, including caviar and caviar substitutes
(f) 16.05	Crustaceans and molluscs, prepared or preserved
(g) 23.01	Flours and meals, of meat, offals, fish, crustaceans or molluscs, unfit for human consumption; greaves: B. Flours and meals of fish, crustaceans or molluscs

[1] OJ No L 328, 30. 12. 1969, p. 11.

[2] OJ No L 94, 28. 4. 1970, p. 13.

[3] OJ No L 295, 30. 12. 1972, p. 1.

TITLE I

Marketing standards

Article 2

1. Common marketing standards and the scope of such standards may be determined for the products listed in Article 1 or groups of these products. These standards may cover in particular classification by quality, size or weight, and packing, presentation and labelling.

2. When standards have been adopted, the products to which they apply may not be displayed for sale, offered for sale, sold or otherwise marketed unless they conform to these standards, subject to special rules which may be adopted for trade with third countries.

3. The standards and generel rules for their application, including the special rules referred to in paragraph 2, shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

Article 3

Decisions to adjust the common marketing standards to take account of the requirements of production techniques shall be taken in accordance with the procedure laid down in Article 32.

Article 4

1. Products for which common marketing standards have been adopted shall be liable to inspection by Member States for conformity with these standards.

This inspection may take place at all marketing stages and during transport.

2. Member States shall take all appropriate measures to penalize infringements of the provisions of Article 2.

3. Not later than one month after the entry into force of each marketing standard, Member States shall notify the other Member States and the Commission of the name and address of the bodies entrusted with the inspection of each product or group of products for which the standard in question has been adopted.

4. Detailed rules for the application of paragraph 1 shall be adopted as necessary in accordance with the procedure laid down in Article 32, account being taken in particular of the need to ensure coordination of the work of the inspection bodies and uniformity in the interpretation and application of common marketing standards.

TITLE II

Producers' organizations

Article 5

1. For the purpose of this Regulation, 'producers' organization' means any recognized organization or association of such organizations, established on producers' own initiative for the purpose of taking such measures as will ensure that fishing is carried out along rational lines and that conditions for the sale of their products are improved.

These measures, which shall be designed in particular to promote implementation of fishing plans, concentration of supply and regularization of prices, shall require members:

— to dispose, through the organization, of their total output of the product or products in respect of which they are members; the organization may decide that this requirement can be waived if products are disposed of in accordance with common rules established in advance;

— to apply, with regard to production and marketing, rules which have been adopted by the organization with the particular aim of improving product quality and adapting the volume of supply to market requirements.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general conditions and rules for the application of this Article.

Article 6

1. Member States may make aid available to producers' organizations established after the entry into force of this Regulation to encourage their formation and to facilitate their operation.

This aid shall be granted during the three years immediately following recognition; for the first, second and third year this aid shall not exceed 3, 2 and 1 % respectively of the value of production marketed under the auspices of the producers' organization nor shall it exceed 60, 40 and 20 % of

the organization's administrative expenses in the first, second and third year respectively.

The value of production marketed shall be established each year on a standard basis, namely:

— members' average marketed production during the three calendar years immediately preceding membership of the organization;

— average producer prices obtained by those members over the same period.

2. During the five years immediately following the creation of the intervention funds referred to in Article 8, Member States may make aid available to producers' organizations, either directly or through credit institutions, in the form of loans on special terms to cover part of the anticipated cost of intervention within the meaning of Article 8.

3. The original Member States may continue to make available the aid granted to producers' organizations established prior to the entry into force of this Regulation and new Member States may continue to make available the aid granted to producers' organizations established prior to the date of accession, in order to facilitate their adaptation and operation within the framework of the measures referred to in Article 5 (1), provided that the amount and duration of such aid do not exceed the limits prescribed in respect of aid payable under paragraph 1.

4. The aid referred to in this Article shall be notified to the Commission in a report which Member States shall forward to it at the end of each financial year.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general conditions and rules for the application of this Article.

Article 7

Where a producers' organization is considered to be representative of production and of the market in a given economic area, exclusive recognition may be granted by Member States to that particular producers' organization.

Producers who are not members of the producers' organization which has been granted such recognition, and who unload their products within the area concerned, may be required by Member States to comply with:

(a) the common production and marketing rules referred to in the second indent of the second subparagraph of Article 5 (1);

(b) rules adopted by the organization concerned and relating to the withdrawal price, where the latter is equal to or higher than the price fixed pursuant to Article 11 (5) but does not exceed the guide price, and where it complies with the provisions laid down pursuant to the third subparagraph of Article 8 (1).

TITLE III

Prices

Article 8

1. For the products listed in Article 1, producers' organizations may fix a withdrawal price below which they will not sell products supplied by their members.

In this event, for quantities withdrawn from the market, producers' organizations:

— shall grant an indemnity to members in respect of the products listed in Annex I (A) and (C) which conform to the standards adopted pursuant to Article 2;

— may grant an indemnity to members in respect of other products listed in Article 1 but not in Annex I (A) or (C).

For each product listed in Article 1, a maximum level for the withdrawal price may be fixed in accordance with the provisions of paragraph 5.

2. The disposal of products thus withdrawn from the market must be determined by producers' organizations in such a way as not to interfere with normal marketing of the product in question.

3. To finance these withdrawal measures, producers' organizations shall create intervention funds fed by contributions assessed on quantities offered for sale or shall, alternatively, have recourse to an equalization system.

4. Producers' organizations shall supply the following information to the national authorities, who shall communicate it to the Commission:

— a list of the products for which they intend to operate the system described in paragraph 1;

— the period during which withdrawal prices are applicable;

— the levels of withdrawal prices proposed and applied.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 32.

Article 9

1. A guide price for each of the products listed in Annex I (A) and (C) and an intervention price for fresh or chilled sardines and anchovies shall be fixed before the beginning of the fishing year and determined in accordance with the provisions of paragraphs 2 and 3.

These prices shall be valid for the whole Community and shall be fixed for each fishing year or for each of the periods into which that year is subdivided; the intervention price may be fixed for each period into which the fishing year can be subdivided on the basis of seasonal price trends. These prices shall be fixed at a level which contributes to the stabilization of market prices without leading to the formation of structural surpluses within the Community.

2. The guide price shall be based on the average of prices recorded on representative wholesale markets or in representative ports during the three fishing years immediately preceding the fixing of that price for a significant proportion of Community output and shall be fixed for a product with given commercial specifications.

3. The intervention price shall be fixed according to the production and marketing characteristics peculiar to each product at a level lying between 35 and 45 % of the guide price.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the level of the guide prices and intervention prices referred to in paragraph 1.

Article 10

1. Throughout the period during which the guide price is applicable, Member States shall notify the Commission of the prices recorded on representative wholesale markets or in representative ports for products meeting the specifications selected for fixing the guide price.

2. Markets and ports in Member States where a significant proportion of Community output of a given product is marketed shall be regarded as representative within the meaning of paragraph 1.

3. Detailed rules for the application of this Article shall be adopted, and the list of representative markets and ports referred to in paragraph 2 approved, in accordance with the procedure laid down in Article 32.

Article 11

1. Member States shall grant financial compensation to producers' organizations which intervene pursuant to the provisions of Article 8 in respect of the products listed in Annex I (A) and (C), on condition:

(a) that the withdrawal price applied by these organizations is the price fixed in accordance with paragraph 4;

(b) that products withdrawn conform to the standards adopted in accordance with Article 2;

(c) that the indemnity granted to members in respect of quantities withdrawn from the market does not exceed the amount resulting from the application to those quantities of the withdrawal price multiplied — in the case of products meeting the quality requirements laid down by the common marketing standards for the categories below that referred to in paragraph 4 — by the appropriate quality conversion factor.

2. Financial compensation shall be granted only where products withdrawn from the market are disposed of for purposes other than human consumption or in such a way as not to interfere with normal marketing of the product in question.

3. The value of the financial compensation shall be equal to the amount resulting from the application to the quantities withdrawn of:

— a price equal to 60 % of the guide price, where the withdrawal price is more than 65 % of the guide price;

— a price equal to 55 % of the guide price, where the withdrawal price is less than or equal to 65 % of the guide price;

multiplied by the quality conversion factors referred to in paragraph 4 or in paragraph 1 (c) as the case may be.

This amount shall be reduced by the standard values of products intended for purposes other than human consumption or by net receipts from the sale of products for human consumption in accordance with paragraph 2. The aforesaid values shall be fixed at the beginning of the fishing year; they shall, however, be changed if major and lasting price variations are recorded on Community markets.

4. The withdrawal price referred to in paragraph 1 (a) shall be fixed for each product by applying the quality conversion factor for the category immediately below that selected for fixing the guide price to an amount equal to at least 60 % but not more than 90 % of the guide price.

In order to ensure that producers in landing areas which are very distant from the main centres of consumption in the Community have access to markets under satisfactory conditions, the price referred to in the preceding subparagraph may be multiplied by conversion factors for these areas; these factors shall be determined in such a way that the differences between the prices thus converted correspond to the price disparities to be expected in the case of normal production on the basis of natural conditions of price formation on the market.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for determining the percentage of the guide price to be used in calculating the withdrawal price, and for determining the landing areas referred to in the preceding subparagraph.

On the basis of a report by the Commission, the Council shall examine the possible consequences of applying the conversion factors to the calculation of financial compensation made to take account of the position of fishermen in very distant areas. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the necessary decisions.

5. Detailed rules for the application of this Article shall be adopted, and the withdrawal price fixed, in accordance with the procedure laid down in Article 32.

Article 12

1. Where the prices for fresh or chilled sardines and anchovies on one of the representative markets or in one of the representative ports referred to in Article 10 (2) communicated to the Commission pursuant to Article 10 (1) remain below the intervention price for three successive market days, the Commission shall forthwith declare that the market in the product concerned is in a state of serious crisis.

2. Upon such declaration the Member States shall, through the bodies or natural or legal persons appointed by them for this purpose, buy in products of Community origin offered to them, provided that these products meet the requirements laid down by the common marketing standards and that they were not withdrawn from the market pursuant to Article 8 (1).

These products shall be bought in:

— at the intervention price multiplied by the conversion factor for the quality category immediately below that selected for fixing the guide price, provided that the products meet the requirements laid down in the common standards for that category or higher categories;

— at the intervention price multiplied by the conversion factor applicable to categories below that referred to in the first indent, provided that the products meet the requirements laid down in the common standards for those categories.

3. Products bought in pursuant to this Article shall, unless an exception is made, be for purposes other than human consumption.

4. Buying-in operations shall be suspended as soon as prices remain equal to or higher than the intervention price for three successive market days. The existence of such a situation shall be declared immediately by the Commission.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 32.

Article 13

1. The Commission shall submit to the Council a report on the results obtained through the operation of the intervention system introduced by this Regulation and on measures taken by producers' organizations under Articles 8 and 11.

2. Such measures as prove necessary in order to extend to all sectors in which there is provision for intervention, a system of intervention under which financial responsibility lies with the producers' organizations, shall be adopted by the Council, acting by a qualified majority on a proposal from the Commission.

Article 14

1. For each of the products or groups of products listed in Annex II, a guide price to be valid for the Community throughout the year shall be fixed each year and determined in accordance with the provisions of Article 9 (2).

2. The Member States shall notify the Commission of the prices recorded on representative wholesale markets or in representative ports for products or groups of products meeting the specifications selected for fixing the guide price referred to in paragraph 1.

3. Markets and ports in Member States where a significant proportion of Community output of a given product is marketed shall be considered as representative within the meaning of paragraph 2.

4. Detailed rules for the application of this Article shall be adopted, and the list of representative markets and ports referred to in paragraph 3 approved, in accordance with the procedure laid down in Article 32.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall fix the guide price referred to in paragraph 1.

Article 15

1. Where prices for the products of Community origin listed in Annex II for one of the representative markets or ports referred to in Article 14 (2) remain below 85 % of the guide price referred to in Article 14 (1) for a period during which a trend towards a disturbance of the market is apparent, private storage aid may be granted to producers, provided that products conform to marketing standards when they are placed on the market again.

2. Private storage aid may not exceed actual storage costs and interest charges.

3. Detailed rules for the application of this Article, in particular the amount and duration of private storage aid and conditions for withdrawal from storage, shall be adopted in accordance with the procedure laid down in Article 32.

Article 16

1. Compensation shall be granted if necessary to Community producers of tunny in respect of the tunny specified in Annex III (A) intended for the canning industry.

2. Member States shall notify the Commission of the average prices recorded each month on representative wholesale markets or in representative ports for the products of Community origin referred to in paragraph 1 with given commercial specifications.

3. Markets and ports in Member States where a significant proportion of Community output of tunny is marketed shall be considered as representative within the meaning of paragraph 2.

4. A Community producer price shall be fixed for the products referred to in paragraph 1. This shall be based on the average of prices recorded in respect of a significant proportion of Community output and for a product with given commercial characteristics on representative wholesale markets or in representative ports during the three fishing years immediately preceding the fixing of that price.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for granting the compensation provided for in paragraph 1 and shall fix the Community producer price referred to in paragraph 4.

6. Detailed rules for the application of paragraph 2 shall be adopted, and the list of representative markets and ports referred to in paragraph 3 approved, in accordance with the procedure laid down in Article 32.

Article 17

The Common Customs Tariff duties applicable to the products listed in the table below shall be totally suspended as follows:

CCT heading No	Description of goods
03.01 B I a) 2	Herring, from 16 June to 14 February
03.01 B I b) 2	Sprats, from 16 June to 14 February
03.01 B I c) 1	Tunny for the industrial manufacture of products falling within heading No 16.04
03.02 A I b)	Cod
03.02 A II a)	Fillets of cod

TITLE IV

Trade with third countries

Article 18

1. The general rules for the interpretation of the Common Customs Tariff and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation, and in particular that set out in Annex V, shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided in this Regulation, or where derogation therefrom is decided by the Council, acting by a qualified majority on a proposal from the Commission, the following shall be prohibited:

— the levying of any charge having an effect equivalent to a customs duty;

— the application of any quantitative restriction.

3. Until such time as Community arrangements for imports of the products specified in Annex IV (C) are implemented, Member States may retain in respect of these products the quantitative restrictions in relation to third countries applicable when this Regulation enters into force.

Article 19

1. Reference prices valid for the Community shall be fixed each year for the products specified in Annexes I, II, III (A) and IV (B) to obviate disturbances caused by supplies from third countries at abnormal prices or under such conditions as would jeopardize the stabilization measures referred to in Articles 11, 12 and 16.

2. The reference price for the products specified in Annex I (A) and (C) shall be equal to a percentage of the guide price which shall lie within the margins set out in Article 11 (4).

The reference price for the products specified in Annexes I (B) and IV (B) shall be determined on the basis of the reference price for the fresh product.

The reference price for the products specified in Annex II shall be derived from the guide price referred to in Article 14 (1) by reference to the price level specified in Article 15 (1) at which the intervention measures therein provided for may be taken.

The reference price for the tunny specified in Annex III (A) intended for use by the canning industry shall be based on the weighted average of the prices recorded on the most representative import markets or in the most representative ports of import in the Member States during the three years immediately preceding the date on which the reference price is fixed, reduced by an amount equal to any customs duties and charges levied on the products and by the cost of transporting the product used for fixing the Community producer price from these markets or ports to Community frontier crossing points.

The conversion factors set out in Annex III (B) and (C) shall be applied to the various types of tunny and to the various forms of presentation.

3. For the products specified in Annexes I, II and IV (B) there shall be established an entry price based on the lowest prices recorded for one and the same marketing stage on representative import markets or in representative ports of import, reduced by an amount equal to any customs duties and charges levied on these products and by the cost of transporting the product from these markets or ports to Community frontier crossing points.

The Commission shall, on the basis of information supplied by Member States or data gathered by the Commission itself, regularly follow, in respect of each exporting country, the trend on the most representative import markets or in the most representative ports of import of the Member States of prices for products imported from third countries.

The entry price for the products specified in Annex III (A) shall be based on the weighted average of prices actually recorded on import markets or ports of import in the Community during a period of time which is sufficiently indicative of the trend of the market.

4. Where the entry price for a given product imported from any third country is lower than the reference price, then:

(a) in the case of the products specified in Annexes I (A) (with the exception of products No 1), I (C), II and IV (B), imports of that product may be suspended or restricted to specified qualities, forms of presentation or end uses;

(b) in the case of the products specified in Annexes I (A) (1) and (B) and III (A), imports of that product may be subjected to a countervailing

charge, provided that this complies with the GATT rules on binding. However, where imports at entry prices lower than the reference price are from certain countries only or of a certain species only, the countervailing charge shall be levied only on imports from these countries or of those species.

The countervailing charge shall be equal to the difference between the reference price and the entry price. This charge, which shall be the same for all Member States, shall be added to the customs duties applicable.

5. The suspension or restriction of imports shall not, however, apply to third countries which undertake to respect the reference price on specified terms and which do so in practice in their deliveries to the Community.

6. Detailed rules for the application of this Article, in particular the level of the reference prices and the measures to suspend or restrict imports, shall be adopted in accordance with the procedure laid down in Article 32.

Decisions to introduce, alter or withdraw the countervailing charge shall be taken in accordance with the procedure laid down in Article 32.

In the intervals between periodic meetings of the Management Committee, these measures and those concerning the suspension or restriction of imports shall be adopted by the Commission. In this event, they shall remain valid until any measures adopted in accordance with the procedure laid down in Article 32 enter into force.

Article 20

1. In order to obviate disturbances caused by supplies from third countries at abnormally low prices, reference prices for carp, as specified in Annex IV (A), may be fixed before the beginning of each marketing year. These prices may be fixed at different levels during periods to be determined within each marketing year according to seasonal fluctuations in prices.

2. The reference prices referred to in paragraph 1 shall be fixed on the basis of the average of the producer prices recorded during the three years preceding the date on which the reference price is fixed for a product with given commercial specifications in the representative production zones of the Community.

3. If the free-at-frontier price valid for a consignment of a normal commercial quantity of carp of specified provenance is lower than the reference price, imports of that product from the third country in question may be subject to a countervailing charge equal to the difference between the reference price and the free-at-frontier price plus the customs duty actually levied. The Commission shall follow regularly the trend of the free-at-frontier prices of products imported from each of the third countries concerned.

4. The countervailing charge provided for in paragraph 3 shall not, however, be charged in the case of third countries which are willing and able to guarantee that, when carp originating in and coming from their territory is imported into the Community, the price plus the customs duty actually levied will not be less than the reference price and that deflections of trade will be avoided.

5. Detailed rules for the application of this Article, in particular the level of the reference prices, shall be adopted in accordance with the procedure laid down in Article 32. Decisions to introduce, alter or withdraw the countervailing charge, or to admit a particular third country to the benefit of the provisions of paragraph 4, shall be taken in accordance with the same procedure.

Article 21

1. To the extent necessary for the proper working of the common organization of the market in fishery products, the Council, acting by a qualified majority on a proposal from the Commission, may in certain cases prohibit, in whole or in part, the use of inward processing arrangements in respect of the products specified in Article 1 (2) (a), (b) and (c) where these are intended for the manufacture of the products specified in Article 1 (2) (b), (c), (e) and (f).

2. The quantity of raw material which, under inward processing arrangements, is not subject to customs duty or a charge having equivalent effect must correspond to the conditions under which the processing operation in question is actually to be effected.

Article 22

1. If, by reason of imports or exports, the Community market in one or more of the products specified in Article 1 (2) experiences or is threatened with serious disturbances which may endanger the objectives of Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt detailed rules for the application of this paragraph and define the cases in which and the limits within which Member States may take interim protective measures.

2. If the situation mentioned in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, adopt the necessary measures; the measures shall be communicated to the Member States and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within 24 hours following receipt of the request.

3. The measures adopted by the Commission may be referred to the Council by any Member State within three working days following the day on which they were communicated. The Council shall meet without delay. It may, acting by a qualified majority, amend or repeal the measures in question.

Article 23

1. To the extent necessary to enable economically important exports of the products specified in Article 1 (2) to be effected on the basis of prices for those products on the world market, the difference between these prices and prices within the Community may be covered by an export refund.

2. The refund shall be the same for the whole Community. It may be varied according to destination.

The refund shall be granted on application by the party concerned.

When the refund is being fixed particular account shall be taken of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to third countries and the use of third country products brought in under inward processing arrangements.

Refunds shall be fixed at regular intervals in accordance with the procedure laid down in Article 32.

Where necessary the Commission may, at the request of a Member State or on its own initiative, alter the refunds in the intervening period.

3. The amount of the refund applicable to the export of products listed in Article 1 (2) shall be that applicable on the day of exportation.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for granting export refunds and criteria for fixing the amount of such refunds.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 32.

TITLE V

General provisions

Article 24

50 % of the aids granted by the Member States under Article 6 (1) shall be reimbursed by the Guidance Section of the European Agricultural Guidance and Guarantee Fund.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt detailed rules for the application of this Article.

Article 25

1. Products specified in Article 1 which are manufactured or obtained from products not coming within the terms of Article 9 (2) or 10 (1) of the Treaty shall not be admitted to free circulation within the Community.

2. Without prejudice to other Community provisions, the Member States shall take the necessary steps to ensure that all fishing vessels flying the flag of one of the Member States shall enjoy equal access to ports and first-stage marketing installations together with all associated equipment and technical installations.

Article 26

Subject to any provisions to the contrary adopted pursuant to Articles 42 and 43 of the Treaty, Articles 92, 93 and 94 of the Treaty shall apply to production of and trade in the products specified in Article 1.

Article 27

Where a price rise exceeding one of the guide prices referred to in Articles 9 (1) and 14 (1) or the Community producer price referred to in Article 16 (4) by a percentage still to be determined is recorded on the Community market and where this situation is likely to persist and is disturbing or threatens to disturb the market, appropriate measures may be taken to remedy the situation.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of this Article.

Article 28

For frozen products, the Council, acting in accordance with the procedure laid down in Article 43 (2) of the Treaty, shall, to the fullest extent necessary, adopt appropriate provisions to avoid unstable prices and unequal conditions of competition between fish frozen on board a vessel and fish frozen on land. The Council, acting in accordance with the same procedure, shall also adopt appropriate measures to remedy any difficulties which may arise with regard to stability of supply.

Article 29

The Council, acting by a qualified majority on a proposal from the Commission, may amend the Annexes hereto and alter the percentages specified in Articles 9, 11 and 15.

Article 30

Member States and the Commission shall communicate to each other the information necessary for the implementation of this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 32.

Article 31

1. There is hereby set up a Management Committee for Fishery Products (hereinafter called 'the committee'), consisting of representatives of the Member States with a representative of the Commission as chairman.

2. Within the committee, the votes of Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The chairman shall not vote.

Article 32

1. Where the procedure laid down in this Article is to be followed, the chairman shall refer the matter to the committee either on his own initiative or at the request of the representative of a Member State.

2. The representative of the Commission shall submit a draft of the measures to be taken. The committee shall deliver its opinion on such measures within a time limit to be set by the chairman according to the urgency of the questions under consideration. An opinion shall be adopted by a majority of 41 votes.

3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the committee, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 33

The committee may considerany other question referred to it by its chairman either on his own initiative or at the request of the representative of a Member State.

Article 34

This Regulation shall be so applied that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

Article 35

1. Council Regulation (EEC) No 2142/70 of 20 October 1970 on the common organization of the market in fishery products [1], as last amended by Regulation (EEC) No 1182/75 [2], is hereby repealed.

2. References to the Regulation repealed by virtue of paragraph 1 shall be construed as references to this Regulation.

References to the Articles of that Regulation shall be correlated with the Articles of this Regulation in accordance with the table set out in Annex VI.

Article 36

This Regulation shall enter into force on 1 February 1976.

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

Done at Brussels, 19 January 1976.

For the Council

The President

J. HAMILIUS

[1] OJ No L 236, 27. 10. 1970, p. 5.
[2] OJ No L 118, 8. 5. 1975, p. 1.

ANNEX I

A. Fresh or chilled products falling within subheading ex 03.01 B I:

1. Herring
2. Sardines
3. Redfish (Sebastes marinus)
4. Cod
5. Coalfish
6. Haddock
7. Whiting
8. Mackerel
9. Anchovies
10. Plaice
11. Hake (Merluccius sp.p).

B. Frozen products falling within subheading ex 03.01 B I a):

Herring

C. Shrimps of the genus 'Crangon' sp.p., fresh, chilled or simply boiled in water, falling within subheading 03.03 A IV b) 1

ANNEX II

Frozen products falling within subheading ex 03.01 B I:

— Sardines

— Sea bream of the species Dentex dentex and Pagellus

Frozen products falling within heading No ex 03.03:

— Squid (Loligo sp.p., Omnastrephes sagittatus, Todarodes sagittatus, Illex coindetti)

— Cuttle-fish of the species Sepia officinalis, Rossia macrosoma and Sepiola rondeleti

— Octopus

ANNEX III

Tunny, fresh, chilled or frozen, for the industrial manufacture of products falling within heading No 16.04 (subheading 03.01 B I c) 1):

A. *All species of tunny*

B. *Conversion factors applicable to the various species of tunny:*

	Conversion factor
Yellow-finned tunny: weighing not more than 10 kg each [1]	1
weighing more than 10 kg each [1]	1·10
Long-finned tunny	1·25
Other species	0·70

C. *Conversion factors applicable in respect of the different forms of presentation for each of the species set out in Section B:*

1. Whole	1
2. Gilled and gutted	1·14
3. Other (for example, 'heads off')	1·24

[1] References to weight apply to whole products.

ANNEX IV

A. **Fresh, chilled or frozen products:**

subheading 03.01 A I a)	Trout
subheading 03.01 A III	Carp

B. **Frozen products:**

subheading ex 03.01 B I subheading ex 03.01 B II b) and subheading ex 16.04 G I	Cod
	Coalfish
	Haddock
	Redfish (Sebastes marinus)
	Mackerel
	Hake (Merluccius sp.p.)

C. **Prepared or preserved fish:**

subheading 16.04 D	Sardines
subheading 16.04 E	Tunny

ANNEX V

NEW NOMENCLATURE FOR CHAPTER 3 AND HEADING No 05.15 OF THE COMMON CUSTOMS TARIFF

CCT heading No	Description of goods
03.01	**Fish, fresh (live or dead), chilled or frozen:** A. Freshwater fish: I. Trout and other salmonidae: a) Trout b) Salmon c) Lake white fish d) Other II. Eels III. Carp IV. Other B. Saltwater fish: I. Whole, headless or in pieces: a) Herring: 1. From 15 February to 15 June: aa) Fresh or chilled bb) Frozen 2. From 16 June to 14 February: aa) Fresh or chilled bb) Frozen b) Sprats: 1. From 15 February to 15 June 2. From 16 June to 14 February c) Tunny: 1. For the industrial manufacture of products falling within heading No 16.04 (a): aa) Whole: 11. Yellow-finned tunny: aaa) Weighing not more than 10 kg each bbb) Other 22. Long-finned tunny 33. Other bb) Gilled and gutted: 11. Yellow-finned: aaa) Weighing not more than 10 kg each bbb) Other 22. Long-finned tunny 33. Other cc) Other (for example, 'heads off'): 11. Yellow-finned tunny: aaa) Weighing not more than 100 kg each bbb) Other 22. Long-finned tunny 33. Other 2. Other

(a) Entry under this subheading is subject to conditions to be determined by the competent authorities.

CCT heading No	Description of goods
03.01 *(cont'd)*	d) Sardines (Clupea pilchardus Walbaum): 1. Fresh or chilled 2. Frozen e) Sharks f) Redfish (Sebastes marinus): 1. Fresh or chilled 2. Frozen g) Halibut (Hippoglossus vulgaris, Hippoglossus reinhardtius) h) Cod (Gadus morrhua or Gadus callarias): 1. Fresh or chilled 2. Frozen ij) Coalfish (Pollachius virens or Gadus virens): 1. Fresh or chilled 2. Frozen k) Haddock: 1. Fresh or chilled 2. Frozen l) Whiting (Merlangus merlangus): 1. Fresh or chilled 2. Frozen m) Mackerel: 1. From 15 February to 15 June: aa) Fresh or chilled bb) Frozen 2. From 16 June to 14 February: aa) Fresh or chilled bb) Frozen n) Anchovies (Engraulis sp.p): 1. Fresh or chilled 2. Frozen o) Plaice: 1. Fresh or chilled 2. Frozen p) Sea bream of the species Dentex dentex and Pagellus: 1. Fresh or chilled 2. Frozen q) Other II. Fillets: a) Fresh or chilled b) Frozen: 1. Of cod (Gadus morrhua or Gadus callarias) 2. Of coalfish (Pollachius virens or Gadus virens) 3. Of haddock 4. Of redfish (Sebastes marinus) 5. Of tunny 6. Of mackerel 7. Other C. Livers and roes

CCT heading No	Description of goods
03.02	**Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process:** A. Dried, salted or in brine: I. Whole, headless or in pieces: a) Herrings b) Cod c) Anchovies (Engraulis sp.p.) d) Common halibut (Hippoglossus vulgaris) e) Salmon, salted or in brine f) Other II. Fillets: a) Of cod b) Of salmon, salted or in brine c) Of lesser or Greenland halibut (Hippoglossus reinhardtius), salted or in brine d) Other B. Smoked, whether or not cooked before or during the smoking process: I. Herring II. Salmon III. Lesser or Greenland halibut (Hippoglossus reinhardtius) IV. Common halibut (Hippoglossus vulgaris) V. Other C. Livers and roes D. Fish meal
03.03	**Crustaceans and molluscs, whether in shell or not, fresh (live or dead), chilled, frozen, salted, in brine or dried; crustaceans, in shell, simply boiled in water:** A. Crustaceans: I. Crawfish II. Lobsters (Homarus sp.p.): a) Live b) Other: 1. Whole 2. Other III. Crabs and freshwater crayfish IV. Shrimps and prawns: a) Prawns (Pandalidae sp.p.) b) Shrimps of the genus 'Crangon' sp.p.: 1. Fresh, chilled or simply boiled in water 2. Other c) Other V. Other (for example, Norway lobsters) B. Molluscs: I. Oysters: a) European flat oysters weighing not more than 40 g each b) Other II. Mussels III. Snails, other than sea snails

CCT heading No	Description of goods
03.03 *('cont'd)*	IV. Other a) Frozen: 1. Squid: aa) Omnastrephes sagittatus and Loligo sp.p. bb) Other 2. Cuttle-fish of the species Sepia officinalis, Rossia macrosoma and Sepiola rondeleti 3. Octopus 4. Other b) Other: 1. Squid (Omnastrephes sagittatus and Loligo sp.p.) 2. Other
05.15	**Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption:** A. Fish, crustaceans and molluscs: I. Fish of a length of 6 cm or less and shrimps and prawns, dried II. Other B. Other

ANNEX VI

Correlation table

Regulation (EEC) No 2142/70	*This Regulation*
Article 7 (a)	Article 7
7	8
8	9
9	10
10	11
11	12
12	13
13	14
14	15
15	16
16	17
17	18
18	19
18 (a)	20
19	21
20	22
21	23
22	24
23	25
24	26
25	27
25 (a)	28
26	29
27	30
28	31
29	32
30	33
32	34