# COMMISSION REGULATION (EEC) No 3321/82

## of 9 December 1982

## laying down detailed rules for the granting of a carry-over premium for 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 14 (7) thereof,

Having regard to Council Regulation (EEC) No 2203/82 of 28 July 1982 laying down general rules for the granting of a carry-over premium for certain fishery products [2],

Whereas the sizes of the products eligible for the premium should be specified; whereas the sizes selected should meet the requirements of the market in processed products;

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

Whereas the abovementioned requirements must also have the effect of preventing fraudulent operations;

Whereas, to ensure the proper operation of the controls provided for in Article 5 of Regulation (EEC) No 2203/82, the recipients of the premium keep stock records; whereas these records must at least contain the particulars necessary for the purposes of the said controls;

Whereas, to enable a permanent check to be kept, producers' organizations must keep the authority responsible for control informed of their processing activities;

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

Whereas the procedure should also be laid down for the granting of advances and the amount of the relevant security should be specified; whereas the procedure must also be laid down for the lodging, release and forfeiture of the said security;

Whereas in the case of an infringement of limited importance of the rules concerning the carry-over premium, taking into account the innovative nature of the said rules, the limited financial advantage resulting from each infringement should not be sanctioned by the total suppression of the right to the carry-over premium but only by a standard reduction thereof;

Whereas it is necessary to fix the conversion rate applicable to the carry-over premium and to advances;

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 lays down the detailed rules for the granting of the carry-over premium for certain fishery products, as referred to in Article 14 of Regulation (EEC) No 3796/81, hereinafter referred to as 'the basic Regulation'.

*Article 2*

A carry-over premium shall be granted only in respect of the product sizes listed in Annex I.

*Article 3*

1. The premium may be granted only in respect of those quantities which, after their withdrawal from the market, having been kept in conditions such that the quality of the product cannot deteriorate, are subjected the following day, at the latest, to one or more of the processing methods listed in Article 14 (5) of the basic Regulation.

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 heart 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 %;

[1] OJ No L 379, 31. 12. 1981, p. 1.
[2] OJ No L 235, 10. 8. 1982, p. 4.

(c) drying must be carried out in such a way that the water content of the processed product does not exceed 40 %.

*Article 4*

The carry-over premium may be granted only in respect of products which, having been irreversibly processed, meet the following minimum conditions as regards storage and return to the market :

(a) in the case of frozen products :

— the period of storage must not be less than 15 days as from the date on which the processing was completed,

— the storage temperature must not exceed —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 the processing was completed ;

(c) in the case of all stored products, identification for control purposes of processed lots in relation to the corresponding lots of the fresh product must be guaranteed by storage and marking arrangements considered appropriate by the competent authorities of the Member States ;

(d) all products shall be placed back on the market in lots which are homogeneous as regards species, processing, presentation and packaging ;

(e) all products shall be placed back on the market in accordance with the provisions in force in each Member State for the marketing of products for human consumption.

*Article 5*

1. The stock records referred to in Article 5 of Regulation (EEC) No 2203/82 must be kept on a daily basis and show at least the following :

(a) in respect of quantities intended for processing :

— the quantities withdrawn from the market,

— the quantities broken down by product category,

— the date of withdrawal,

— where appropriate, the transfer note for products entrusted to a processor and, in the cases referred to in Article 7, a reference to the control document T 5 ;

(b) in respect of the processing of the products :

— the types of processing selected,

— the date of freezing or the dates on which the other types of processing selected began and ended,

— the place at which processing took place,

— the quantities of products processed, broken down by species,

— the names and addresses of the undertakings in charge of processing,

— the identification of the processed lots and the places where they are stored,

— the beginning and end of storage operations ;

(c) as regards the marketing of the processed products :

for each lot sold, the quantity of the processed product, the number and date of the invoice and the date of sale.

2. If a producers' organization hands over to a processor responsibility for processing the products in question by one or several of the methods referred to in Article 14 of the basic Regulation, the contract between the two parties shall stipulate that the above-mentioned processor must keep stock records in conformity with the conditions of paragraph 1 (b).

*Article 6*

To qualify for the carry-over premium, producers' organizations shall communicate to the competent authorities of the Member State concerned :

(a) on a daily basis :

— the quantities withdrawn from the market which are intended to qualify for the carry-over premium, broken down by product categories,

— the names and addressed of the undertakings subjecting the products in question to one or more of the processing methods listed in Article 14 of the basic Regulation,

— where appropriate, the number of the transfer note for products entrusted to a processor and, in the cases referred to in Article 7, a reference to the control document T 5,

— the types of processing selected,

— the date of freezing or the dates on which the other types of processing selected began and ended,

— the quantities of products processed, broken down by species,

— the number and date of the invoice and the quantity for each lot sold of the processed products and the date of sales ;

(b) on a monthly basis :

the average sale price at the wholesale stage of the processed products for the species concerned.

*Article 7*

Where one or more of the processing methods listed in Article 14 (5) of the basic Regulation is carried out in a different Member State from that which recognized the producers' organization on whose behalf the

processing is being carried out, proof of this processing shall be provided by control document T 5 issued and used in accordance with the provisions of Commission Regulation (EEC) No 223/77 (1) and with the provisions of this Regulation.

The control copy must show the following particulars :

— in box 41, the description of the goods as they are at the time of dispatch ;

— in box 104, one of the following entries in capital letters :

— 'Processing qualifying for a carry-over premium (specify the type of processing and the period of storage)

Regulation (EEC) No 3796/81, Article 14',

— 'Forarbejdning, der er omfattet af en prolongationspræmie (forarbejdningens art og opbevaringsperioden skal angives)

Forordning (EØF) nr. 3796/81, artikel 14',

— 'Verarbeitung, für die eine Übertragungsprämie (nähere Angabe über Form der Verarbeitung und Zeitdauer der Lagerung) gewährt wird

Verordnung (EWG) Nr. 3796/81, Artikel 14',

— 'Μεταποίηση πού άπολαμβάνει πριμοδότηση (διευκρινίσατε τό εἶδος τῆς μεταποίησης καί τήν περίοδο άποθήκευσης)

Κανονισμός (ΕΟΚ) άριθ. 3796/81, άρθρο 14',

— 'Transformation bénéficiant d'une prime de report (préciser le type de transformation et la période de stockage)

Règlement (CEE) n° 3796/81, article 14',

— 'Trasformazione che beneficia di un premio di riporto (specificare il tipo di trasformazione ed il periodo di ammasso)

Regolamento (CEE) n. 3796/81, articolo 14',

— 'Behandeling of verwerking die in aanmerking komt voor een uitstelpremie (behandeling of verwerking en opslagperiode omschrijven)

Verordening (EEG) nr. 3796/81, artikel 14'.

*Article 8*

The application for the premium shall be submitted by the producers' organization concerned to the competent authorities of the Member State.

The application must show at least the following :

— the quantities of fresh products subjected to processing, by species, and the type of processing selected,

— the date of the withdrawal of the products in question,

— the total quantities offered for sale and withdrawn from the market during the fishing year, as referred to in columns 2 and 9 of Annex I to Regulation (EEC) No 3137/82 (2),

— the names and addresses of the applicant and the undertaking which processed the products in question,

— the date of freezing or the dates on which the other types of processing began and ended,

— the quantities of processed products obtained by each type of processing,

— the duration of storage of the processed products,

— where appropriate, the number of the transfer note for products entrusted to a processor and, in the cases referred to in Article 7, a reference to the control document T 5,

— the quantities in each lot sold, the number and date of the invoice and the date of sale.

*Article 9*

Each month, the Member State shall grant, on application, an advance on the premium to the producers' organization concernd, provided 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 shown in Annex II.

*Article 10*

The security referred to in Article 9 shall be lodged, at the choice of the applicant, either in cash or in the form of a guarantee given by an establishment meeting the requirements set by the Member State to which the application for the advance has been made. The security shall be released after the end of the fishing year concerned, in proportion to the quantities of products in respect of which entitlement to the carry-over premium has been recognized.

The security shall be declared forfeit :

(a) immediately, for those quantities in respect of which the advance has been paid in error ;

(b) after the end of the fishing year :

— wholly, except in cases of *force majeure*, if the proof required for the determination of the premium has not been submitted within four months of the end of the fishing year concerned. However, if such proof is submitted not later than the second month following the date on which the abovementioned period expires, the security shall be reimbursed, less an amount equal to 10 % of the security lodged for each month or part of a month by which the submission of the proof in question was delayed,

— in proportion to the quantities in respect of which entitlement to the carry-over premium has not been recognized.

(1) OJ No L 38, 9. 2. 1977, p. 20.

(2) OJ No L 335, 29. 11. 1982, p. 1.

*Article 11*

1. In the event that a producers' organization or one of its members has committed an infringement of limited importance of the rules for the carry-over premium and can prove to the satisfaction of the Member State concerned that the infringement was committed without intent to defraud or gross negligence, the Member State shall withhold an amount equal to 10 % of the Community withdrawal price applicable to the quantities in question which were withdrawn and which were intended for the carry-over premium.

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

*Article 12*

The amount of the premium fixed for the fishing year concerned shall apply to products withdrawn during that year irrespective of the date of processing in conformity with the provisions of this Regulation.

*Article 13*

The conversion rate to be applied to the advance shall be the representative rate in force on the last day of the month for which the advance is requested. Should the fishing year be extended beyond 31 December of the year concerned, the representative rate to be applied to the advance for the month or months affected by such extension shall be that in force on 31 December.

The conversion rate to be applied to the premium 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 14*

The periods referred to in this Regulation shall be governed by the provisions of Council Regulation (EEC, Euratom) No 1182/71 (1).

*Article 15*

1. Each Member State shall notify the Commission, before 1 January 1983, of the name(s) and address(es) of the body or bodies designated to monitor these arrangements and of the measures taken to implement the carry-over premium system.

2. Each quarter, the Member States shall notify the Commission of the quantities of products, broken down by category, which have been subjected to processing, the types of processing carried out and the average sale price at the wholesale stage of the processed products for the species concerned during the preceding quarter.

*Article 16*

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, 9 December 1982.

*For the Commission*

Giorgios CONTOGEORGIS

*Member of the Commission*

(1) OJ No L 124, 8. 6. 1971, p. 1.

*ANNEX I*

| *Description* | *Sizes* (1) |
|---|---|
| 1. Redfish (Sebastes spp.) | 2, 3 |
| 2. Cod (Gadus morhua) | 3, 4, 5 |
| 3. Saithe (Pollachius virens) | 3, 4 |
| 4. Haddock (Melanogrammus aeglefinus) | 2, 3, 4 |
| 5. Whiting (Merlangus merlangus) | 2, 3, 4 |
| 6. Shrimps (Crangon crangon) | 1 |

(1) The sizes of the products concerned are those defined pursuant to Article 2 of Regulation (EEC) No 3796/81.

*ANNEX II*

## METHOD FOR CALCULATING ADVANCES ON THE CARRY-OVER PREMIUM

Species : ..... Month : .....

I.

A. Quantities offered for sale between 1 January and the last day of the month concerned : ..... kg

(See column 2 of Annex I to Regulation (EEC) No 3137/82)

B. Cumulative total of quantities selected for carry-over during the same period : ..... kg

(Obtained by adding together the entries in column 6 of Annex I to Regulation (EEC) No 3137/82)

C. Cumulative total of adjusted withdrawals during the same period : ..... kg

(See column 9 of Annex I to Regulation (EEC) No 3137/82)

D. Average carry-over percentage : ..... % ($\frac{B}{A} \times 100$)

E. Average (adjusted) withdrawal percentage : ..... % ($\frac{C}{A} \times 100$)

II. **Calculation of the advance on the carry-over premium**

| Quantities withdrawn and intended for the carry-over premium, broken down by product category (1) | Type of processing selected | Corresponding amount of the premium (ECU per tonne) (2) | Total premium (ECU) (3) = (1) × (2) |
|---|---|---|---|
| . . . | | | |
| . . . | | | |
| . . . | | | |
| Total | | X | |

| Total estimated advance (1) | Total advances for preceding months (2) | Advance to be received for the month concerned (3) = (1) — (2) |
|---|---|---|
| | | |

III. For the purposes of calculating the advance, no account shall be taken of:

— quantities as referred to in column 2 of Annex I to Regulation (EEC) No 3137/82 which are in excess of 15 % of the quantities offered for sale during the months concerned,

— quantities in respect of which the sum of adjusted withdrawals (column 9 of Annex I of the said Regulation) exceeds 20 % of the quantities offered for sale during the months concerned.

IV. All figures shall be rounded off to multiples of 5 (i.e. 1·4 = 1, 1·5 = 2). The calculation of quantities shall be based, where necessary, on provisional data (to be given in final form in the two months following the month in question).