COMMISSION REGULATION (EEC) No 314/86

of 11 February 1986

laying down detailed rules for the grant of a storage 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), as last amended by the Act of Accession of Spain and Portugal, and in particular Article 14a (5) thereof,

Whereas, pursuant to Article 14a of Regulation (EEC) No 3796/81, the Member States grant a storage premium to producers' organizations that offer for sale, stabilize and store Norway lobsters and edible crabs under certain conditions ; whereas, therefore, these conditions should be specified ;

Whereas only those categories of the said products that are suitable for disposal after storage or pre-reservation should qualify for this premium ; whereas, accordingly, these categories should be fixed ;

Whereas, in order to ensure the smooth running of the storage aid system and in particular to ensure that the Community selling price is observed, the detailed rules for application of this system should be specified ;

Whereas Article 2 (2) and (3) of Council Regulation (EEC) No 2202/82 of 28 July 1982, laying down the general rules for the granting of financial compensation in respect of certain fishery products (2), and Articles 2 and 4 of 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 (3), as amended by Regulation (EEC) No 3165/84 (4), establish within the framework of the withdrawal price system the conditions for the use of the margin of tolerance provided for in Article 13 (1) (a) of Regulation (EEC) No 3796/81 ; that in order to respect the parallelism between the two systems the use of the margin of tolerance within the framework of the sale price system provided for in Article 14a (1) of Regulation (EEC) No 3796/81 should be subject to the same conditions ;

Whereas, pursuant to the first subparagraph of Article 14a (4) of Regulation (EEC) No 3796/81, only 20 % of the annual quantity offered for sale may qualify for the premium ; whereas, accordingly, the factors that are taken into account in calculating this percentage should be specified ;

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

Whereas, in order to prevent fraudulent operations, in particular in the event of preservation in tanks or cages, appropriate storage and marking arrangements must be introduced ;

Whereas the terms 'technical costs' and 'financial costs' involved in calculating the premium should be defined ;

Whereas the producers' organizations must share the financial burden associated with the application of the storage premium system for frozen products ; whereas the amount of the premium must be fixed on the basis, in particular, of the costs of the stabilization and storage operations ; whereas, therefore, the premium should be graduated on the basis of the period of storage ; whereas, for the same reasons, the period of storage in respect of which a premium is provided for may not exceed six months ;

Whereas, to increase the efficiency of checks, the recipients of the premium must keep stock records ; whereas these records must contain at least the particulars necessary for the purposes of the said check ;

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 grant of advance payments 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 minor infringements of the rules concerning the storage premium, the limited financial advantage resulting from each infringement should not — as the rules constitute an innovation — involve total withdrawal of the right to the storage premium but only by a standard reduction thereof ;

(1) OJ No L 379, 31. 12. 1981, p. 1.
(2) OJ No L 235, 10. 8. 1982, p. 1.
(3) OJ No L 335, 29. 11. 1982, p. 1.
(4) OJ No L 297, 15. 11. 1984, p. 14.

Whereas the conversion rate applicable to the storage premium and to advances must be fixed;

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 grant of the storage premium for Norway lobsters and edible crabs to producers' organizations, as referred to in Article 14a of Regulation (EEC) No 3796/81, hereinafter referred to as 'the basic Regulation'.

Article 2

A storage premium shall be granted only in respect of products that satisfy the freshness, size and presentation requirements set out in Annex I.

Article 3

The provisions of Article 2 (2) and (3) of Regulation (EEC) No 2202/82 of Articles 2 and 4 of Regulation (EEC) No 3137/82 concerning the application of the Community withdrawal price and the use of the margin of tolerance provided for in Article 13 (1) (a) of the basic Regulation, within the withdrawal price system, shall apply *mutatis mutandis* to the sale price system provided for in Article 14a (1) of the basic Regulation.

Article 4

The storage premium may be granted only in respect of quantities which, under the conditions laid down in this Regulation:

(a) have been offered for sale:

— through a producers' organization, or

— by a member in accordance with the common rules established by the producers' organization, as referred to in the first indent of the second subparagraph of Article 5 (1) of the basic Regulation,

following classification in accordance with the marketing standards referred to in Article 2 of the basic Regulation and which correspond to that classification at the time they are ranked as 'unsold' under the conditions defined in Article 5;

(b) after being ranked as 'unsold', have been kept in conditions such that the freshness referred to in Article 2 is guaranteed, and have been subjected, at the latest on the day following that on which they were offered for sale, by the producers' organization or by an independent operator to which the said quantities have been assigned by the producers' organization, to a freezing and storage process, or to a preservation process;

(c) have been offered again for sale and sold, for human consumption, by the producers' organization or under its responsibility.

Article 5

Quantities that have been offered for sale openly to all interested operators in accordance with customary regional and local practice but have failed to find a buyer at a price at least equal to the Community selling price fixed in accordance with Article 14a (1) of the basic Regulation shall be ranked as unsold for the purposes of this Regulation.

Article 6

1. For each of the products concerned, the following quantities shall be included in determining the quantitative limit referred to in Article 14a (4) of the basic Regulation:

(a) those that have previously been classified in accordance with the marketing standards referred to in Article 2 of the basic Regulation and offered for sale during the fishing year through the producers' organization or by one of its members in accordance with the common rules as drawn up by the producer's organization and referred to in the first indent of the second subparagraph of Article 5 (1) of the basic Regulation;

(b) those that have been ranked as 'unsold' pursuant to Article 5 and intended for the storage premium during that fishing year.

The final quantities eligible for the premium shall be calculated in accordance with Part A of Annex II.

2. However, compensation shall not be granted if the products ranked as unsold are below a minimum quantity of 15 kilograms per product, per market day and per producers' organization.

Article 7

The following operations shall be indispensable for stabilization and storage, within the meaning of the second subparagraph of Article 14a (4) of the basic Regulation:

(a) in respect of processing with a view to freezing:

— cleaning,

— grading,

— packing,

— where appropriate, removing the head,

— where appropriate, cooking;

(b) in respect of freezing:

freezing carried out in installations which guarantee, in particular, that a temperature of —18 °C is reached at the heart of the product within five hours at the

most without prejudice to more restrictive national requirements or commercial standards imposed in Member States ;

(c) in respect of preservation of edible crabs : the storage of live products in suitable fixed tanks or cages supplied with sea or salt water and approved for the purpose by Member States'

Article 8

The storage premium may be granted only in respect of those products which meet the following minimum conditions as regards storage and return to the market :

1. **Storage**

(a) in the case of frozen products :

— the period of storage must not be less than 15 days as from the date of commencement of storage. The 15th day of the current calendar month shall be considered as the date of commencement of storage for those quantities for which freezing has been completed between the first and the 15th day of that month, and the last day of the current calendar month shall be considered as the date of commencement of storage for quantities for which freezing has been completed between the 16th and the last day of that month,

— the storage temperature must not exceed —21 °C without prejudice to more restrictive national requirements or commercial standards imposed in Member States ;

(b) in the case of edible crabs in tanks or cages :

— the period of storage must not exceed 25 days as from the date on which they were ranked as 'unsold',

— the products shall be stored in tanks or cages which ensure, to the satisfaction of the Member States concerned, that the products are kept fresh *inter alia* by the replacement of sea or salt water.

(c) For the purpose of checking, all the products must be stored in homogeneous lots, and kept separate from other products. They shall be identified after freezing, or stored in tanks or cages, from the corresponding initial quantities by the fixing on the packaging or on the crates of a label showing, in particular, the net weight and the date of commencement of storage.

2. **Return to the market**

(a) Products stored in tanks or cages shall be returned for sale on the market in such a way as not to interfere with normal marketing of the products concerned. Products returned for sale cannot be stored again in order to benefit from the premium. The producers organization concerned will take all necessary measures to this end, which can include a minimum storage period, subject to the conditions laid down in point 1 (b) ;

(b) All products shall be placed back on the market in lots which are homogeneous as regards species, presentation, pckaging and, where appropriate, freezing ;

(c) Furthermore, the 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 9

1. The storage premium shall be fixed before the beginning of each fishing year on the basis of the technical and financial costs relating to operations indispensable for the stabilization and storage of the products in question, except for the highest of such costs, recorded in the Community during the previous such year, according to the procedure laid down in Article 33 of the basic Regulation. The premium shall be fixed in respect of each weight unit and shall relate to the net weight of the products set out in Annex I.

2. For frozen products the premium shall only be granted for a maximum period of six months. The amount of the premium for the first month shall be calculated on the basis of stabilization and storage costs. For the following months it shall be calculated on the basis of the monthly storage costs. Entitlement to the premium for the first month shall be deemed to have been established, for quantities whose storage started within the meaning of Article 8 point 1 :

(a) on the 15th day of the current calendar month, if these quantities are in storage on the last day of the month concerned ;

(b) on the last day of the current month, if these quantities are in storage on the 15th day of the next month ;

For the following months, entitlement to the premium shall be deemed to have been established for the quantities falling under (a) if these quantities are in storage on the last day of the calendar month concerned, for the quantities falling under (b) if these quantities are in storage on the 15th day of the next calendar month.

3. For the calculation of the amount of the premium for products stored in tanks or cages, a net weight loss of up to 8 % shall be allowed between the initial quantity and the quantity sold. If this percentage is surpassed, the amount of the premium shall be calculated on the basis of the net weight of the quantity sold.

4. Shall be considered as technical costs relating to :

(a) the processing and freezing referred to in Article 7 (a) and (b) :

— labour costs,

— energy costs,

— direct packaging costs ;

(b) the preservation referred to in Article 7 (c):

— labour costs in respect of placing in, and removing from tanks or cages,

— cleaning costs,

— grading costs in the context of quality control,

— energy costs,

(c) the storage referred to in Article 8 point 1 (a):

— energy costs,

— labour costs in respect of storage and removal fromstorage,

— direct packaging costs.

5. Shall be considered as financial costs relating to the operations indispensable for the stabilization and storage:

— the financial costs of the tied-up capital corresponding to the value of the quantities of fresh products intended for storage, calculated on the basis of the Community selling price referred to in Article 12 of the basic Regulation.

Article 10

Member States shall establish a monitoring system, to ensure that the products in respect of which a storage premium has been applied for are eligible, comprising, *inter alia,* the following:

(1) A weekly communication by producers' organizations of the quantities ranked 'unsold', the planned processing or preservation operations, and the place of storage.

(2) Frequent random inspections on the offering for sale, the processing and storage operations. These operations must correspond clearly with the stock records.

Article 11

1. Producers' organizations in receipt of the storage premium shall keep stock records on a daily basis that show at least the following:

(a) in respect of the first offer for sale:

— the quantities offered for sale on a daily basis, and by product category during the fishing year,

— the quantites ranked a 'unsold' on a daily basis, broken down by product category,

— the quantities intended for the storage premium, broken down by type of storage and product category,

— where appropriate, the transfer note assigning products intended for storage to an independent operator responsible for the freezing and storage or preservation operations mentioned in Article 14a of the basic Regulation;

(b) in respect of freezing and storage:

— the types of products resulting from freezing and their net weight,

— the date and place of freezing, and place of storage,

— the number of packages and their identification,

— where appropriate, the names and addresses of the undertakings responsible for freezing,

— the beginning and end of storage operations;

(c) as regards storage in tanks or cages:

— the place of storage,

— where appropriate, the names and addresses of the undertakings responsible for storage,

— the beginning and end of storage operations,

— the net weight, the number of crates and the identification of the crates;

(d) as regards the replacing on the market of stored products:

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

2. If a producers' organization hands over to an independent operator the responsibility for freezing and storing or preserving the products in question, this independent operator shall keep stock records which comply with the requirements in paragraph 1 (b) and (c).

Article 12

Application for payment of the storage premium shall be submitted within six months of the end of the relevant fishing year, by the producers' organization concerned, to the competent authorities of the Member State.

The application must show the following for each product:

— the names and addresses of the applicant and, where appropriate, of the undertaking which froze or stored the products,

— the total quantities offered for sale during the fishing year,

— the quantities ranked as 'unsold', and the date of their first offer for sale,

— the quantities of fresh products, by species, stored after freezing or preserved in tanks or cages,

— the date of freezing,

— the quantities of products frozen,

— the duration of storage, or of conservation,

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

Article 13

The Member State shall grant each month on application, to the producers' organization concerned, an advance on the premium in respect of all the quantities intended for the premium during that month, on condition that the applicant has lodged a security of 105 % of the amount of the advance.

Advances shall be calculated in accordance with the method laid down in Part B of Annex II.

Article 14

1. The security referred to in Article 13 shall be lodged, at the choice of the applicant, in cash or in the form of a guarantee given 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 quantites of products for which entitlement to the storage premium has been recognized.

2. The security shall be declared 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 the details required for the determination of the premium have not been submitted within six months after the end of the fisihing year concerned ; however, if such details have been submitted within two months at the latest after the date of the abovementioned period, the security shall be refunded, less 10 % of the security lodged for each month's or part of a month's delay in submitting the details in question,

— in proportion to any quantities for which entitlement to the storage premium is not recognized.

Article 15

1. Where a producers' organization or one of its members has committed an infringement of limited importance of the rules for the storage premium 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 selling price applicable to the quantities in question which were intended for the storage premium.

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

Article 16

The storage premium fixed for the fishing year concerned shall apply to products the storage of which began during that year irrespective of the end of the storage period.

Article 17

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 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 18

1. Member States shall notify the Commission, before 1 March 1986, of the name(s) and address(es) of the body or bodies designated to monitor these arrangements and of the measures taken to implement and to check the storage premium system.

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

Article 19

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities.*

It shall apply from 1 March 1986.

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

Done at Brussels, 11 February 1986.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

ANNEX I

CCT heading No	Description	Freshness (1)	Presentation (1)	Size (1)
ex 03.03 A III b)	Edible crabs		Live	1, 2 (2)
ex 03.03 A V a) 2	Norway lobsters	E, A	Whole	1, 2, 3
			Tails	1, 2, 3, 4

(1) The categories of freshness, presentation and size shall be those defined pursuant to Article 2 of the basic Regulation.

(2) Within the limits fixed in Article 6 (5) of Council Regulation (EEC) No 3118/85 (OJ No L 297, 9. 11. 1985, p. 3) for certain coastal fishing zones of the United Kingdom, on condition that the return to the market of the size between 13 and 11,5 cm of these products is carried out on the local and regional markets in or near to these zones.

ANNEX II

Part A

Calculation of the final quantities eligible for the storage premium

Species : .....

1. Quantites offered for sale during the fishing year concerned : ..... kg.

2. Quantities ranked as 'unsold' and intended for the storage premium during the same period : ..... kg.

3. Average percentage : ..... (2/1 × 100).

4. Quantities finally eligible within the limit of 20 % ..... kg.

Part B

Calculation of the advance on the storage premium

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

1. Calculation of the eligible quantities inside the limit of 20 % :

   (a) Quantities offered for sale between 1 January and the last day of the month concerned : ..... kg ;

   (b) Total quantities ranked as 'unsold' and intended for the storage premium during the same period : ..... kg ;

   (c) Average percentage : ..... (b/a × 100) ;

   (d) Quantities exceeding 20 % offered for sale and ineligible, carried over into the next month : ..... kg.

2. Calculation of the advance for the month of: .....

(1)	(2)	(3)	(4)		(5)
Quantities intended for the premium	Date of commencement of storage within the meaning of Article 8 point 1	Ending date of storage	Corresponding amount		Amount of the advance 5 = (1 × 4a) + (1 × 4b)
			(a) for the first month of storage	(b) for the following months of storage	
(a) Quantities carried over from preceding month:					
— quantities for which an advance has already been granted					
— quantities not yet having received an advance					
(b) Quantities intended for the premium during this month					

For the purpose of determining storage period which can be taken into account for the calculation of the storage premium, the quantities are to be taken in chronological order according to the method 'first in, first out'.

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 a provisional date (to be given in final form in the two months following the month in question).