COMMISSION REGULATION (EEC) No 4176/88

of 28 December 1988

laying down detailed rules of application for the granting of flat-rate aid for certain fisheries 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 Regulation (EEC) No 3468/88 (2), and in particular Article 14b (8) thereof,

Whereas Article 14b of Regulation (EEC) No 3796/81 provides that Member States are to grant a flat-rate aid to producers' organizations which, subject to certain conditions, withdraw from the market products listed in Annex VI to that Regulation ; whereas this intervention is founded on the application of an autonomous withdrawal price which is determined by the producers' organizations and which must be notified to the Member States by the beginning of each fishing year ;

Whereas the conditions to which the producers' organizations should be subject within this scheme should be determined ;

Whereas the flat-rate aid may only be paid at the end of the fishing year ; whereas it should nevertheless be provided that advance payments may be made against securities ;

Whereas the Member States should be authorized to fix the standard value used in calculating the flat-rate aid broken down according to the destination of the products withdrawn as provided for in Commission Regulation (EEC) No 1501/93 of 9 June 1983 on the disposal of certain fishery products which have been the subject of measures to stabilize the market (3) ;

Whereas in order to help guarantee product quality and the disposal of these products on the market, the minimum conditions to apply to processing, storage and the re-release onto the market of the processed products should be determined ;

Whereas in order to allow regular monitoring, the producers' organizations must keep stock records ; whereas these records must include the information needed to make monitoring possible ;

Whereas the time limits within which Member States must communicate information to the Commission should be determined ;

Whereas, in the framework of the existing scheme, it is opportune to apply *mutatis mutandis*, certain provisions of Council Regulation (EEC) No 2202/82 of 28 July 1982 laying down general rules for the granting of financial compensation in respect of certain fishery products (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 (5), as last amended by Regulation (EEC) No 4175/88 (6), and of Commission Regulation (EEC) No 3321/82 of 9 December 1982 laying down detailed rules for the granting of the carry-over premium for certain fishery products (7), as last amended by Regulation (EEC) No 3940/87 (8) ;

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 detailed rules of application for the granting of the flat-rate aid provided for in Article 14b of Regulation (EEC) No 3796/81, hereinafter referred to as the 'basic Regulation'.

A. General conditions

Article 2

In order to benefit from the flat-rate aid the producers' organizations must communicate to the competent authorities of the Member States before the beginning of each fishing year the list of the fishery products concerned, broken down by product category, and the autonomous withdrawal price referred to in Article 14b (1) (a), of the basic regulation.

However, a producer organization may apply for one or several categories, an autonomous withdrawal price exceeding the maximum level foreseen in Article 14b (1) without losing the right to flat-rate aid for the categories for which the maximum level is respected.

Article 3

The conditions laid down in Articles 2 and 3 of Regulation (EEC) No 2202/82 shall apply *mutatis mutandis* to the granting of the flat-rate aid. Conditions

(1) OJ No L 379, 31. 12. 1981, p. 1.
(2) OJ No L 305, 10. 11. 1988, p. 1.
(3) OJ No L 152, 10. 6. 1983, p. 22.
(4) OJ No L 235, 10. 8. 1982, p. 1.
(5) OJ No L 335, 29. 11. 1982, p. 1.
(6) See page 61 of this Official Journal.
(7) OJ No L 351, 11. 12. 1982, p. 20.
(8) OJ No L 373, 31. 12. 1987, p. 6.

in Article 2 (3) of that Regulation shall apply *mutatis mutandis* if a producers' organization or one of its members puts the products up for sale in a zone other than its own and in which an autonomous withdrawal price different to its own is applied by an other producers' organization. The calculation of the amount of the flat-rate aid is based on the autonomous withdrawal price fixed by the first producers' organization.

Article 4

To apply the margin of tolerance laid down in Article 14b (1) (a) of the basis regulation, the detailed rules laid down in Articles 2 to 4 of Regulation (EEC) No 3137/82 shall apply.

Article 5

The autonomous withdrawal price to be respected by the producers organizations shall be the sale price at the first transaction.

The sale price at the first transaction may not include costs incurred after landing, with the exception of the costs, including transport costs, where the sale takes place at an auction or quayside sale, in accordance with Article 3 (c) of Regulation (EEC) No 2202/82.

B. Conditions for the granting of the flat-rate aid foreseen in Article 14b (2) (c), first indent, of the basic Regulation (hereinafter called 'flat-rate compensation')

Article 6

1. The flat-rate compensation shall be paid to a producers' organization at its own request after the end of each fishing year to the competent authorities in the Member State. The request includes at least the elements set out in the Annex.

The request must be introduced at the latest four months after expiry of the fishing year concerned.

2. However, each month advance payments shall be granted at the request of the producers' organization in question for the quantities withdrawn, on condition that the applicant furnishes a security of at least 105 % of the payment.

3. The level of the advance payment or payments shall be determined on the basis of the provisional balance between the quantities withdrawn and the quantities put up for sale during the period concerned.

The calculation of the amount is adjusted two months after the month concerned on the basis of the transactions carried out in conformity with the model set out in the Annex.

Article 7

The Member States shall set out the standard value deduction to be used in calculating the flat-rate compensation foreseen in Article 14b (5) of the basic Regulation and the advances relating thereto, broken down according to the outlets referred to in Article 1 (b), (c), and (d) of Regulation (EEC) No 1501/83. The levels shall be set at the beginning of the fishing year and shall be identical for all the producers' organizations recognized by the Member State concerned, using as a basis the average receipts from disposal via the outlets referred to above for the appropriate Member States over the six months preceding the setting of the flat rate. The level shall, however, be altered if substantial and long-lasting variations in receipts are observed on the market of the Member State concerned.

Article 8

Articles 9 and 13 of Regulation (EEC) No 3137/82 shall apply *mutatis mutandis.*

C. Conditions for the granting of the flat-rate aid foreseen in Article 14b (2) (c), second indent, of the basic Regulation (hereinafter called 'flat-rate premium')

Article 9

1. Only those quantities which, after withdrawal from the market, have been stored in conditions which cause no deterioriation in their quality and which by the following day at the latest are processed in one of the ways listed in the second indent of Article 14b (2) (c) shall qualify for the flat-rate premium.

2. Without prejudice to any more stringent provisions or rules in force in the Member States, freezing must take place in suitable installations permitting a temperature of — 18 °C at the centre of the product to be reached in a maximum of five hours.

Article 10

Only those products complying with the following minimum storage and re-release conditions after final processing shall qualify for the flat-rate premium :

(a) — a storage period of no less than 15 days from the date of the end of processing,

— a storage temperature of no higher than — 21 °C ;

(b) for all products stored, the identification for monitoring purposes of the quantities processed must be carried out by storage and marking considered appropriate and accepted by the competent authorities of the Member States ;

(c) the re-release onto the market of all products shall take place in lots which are uniform from the point of view of species, processing, presentation and packaging, and which comply with the provisions on the marketing of products for human consumption in force in each of the Member States.

Article 11

The level of the flat-rate premium shall be set before the beginning of each fishing year in accordance with the procedure provided for in Article 33 of the basic Regulation.

The level shall be calculated taking into account the technical costs of processing, and storage observed in the Community during the preceding fishing year, disregarding the highest figures.

Article 12

1. The flat-rate premium shall be paid to the producers' organization concerned only after the competent authority of the Member State concerned has satisfied itself that the quantities for which the premium is being requested have been processed, stored and re-released onto the market in conformity with the conditions laid down in this Regulation.

2. The premium shall be paid after the end of each fishing year by the Member State which has recognized the producers' organization in question. The request for the payment has to be made in conformity with the provisions of Article 6 (1).

3. However, each month advance payments shall be granted at the request of the producers' organization concerned, on condition that the organization furnishes a security equal to at least 105 % of the level of the payment.

4. The amount of the advance or advances shall be determined on the basis of the provisional balance between the quantities for the flat-rate premium and those put up for sale during the period concerned. The calculation of the advances is adjusted two months after the month concerned on the basis of the transactions carried out and indicated in conformity with the model in the Annex and according to the type of transaction chosen.

Article 13

Articles 7, 8, and 11 to 14 of Regulation (EEC) No 3321/82 shall apply *mutatis mutandis.*

D. Final provisions

Article 14

1. The producers' organizations shall keep stock records indicating at least the elements in the model taken from the Annex.

2. Concerning the flat rate premium, the producers' organizations shall keep a register containing at least the following elements :

— the quantities withdrawn from the market each month, broken down by product category,

— the withdrawal date,

— where applicable :

  — records of the transfer of the products to a processor,

  — the reference to control copy T No 5 foreseen in Article 7 of Regulation (EEC) No 3321/82,

— the types of processing chosen,

— the date of freezing,

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

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

— the identification details of the lots which have undergone processing and their storage location,

— the beginning and end of the storage operation,

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

3. Where a producers' organization delegates to an industrial undertaking the processing of the products concerned, using one or more of the operations listed in the second indent of Article 14b (2) (c) of the basic Regulation, the contract between the two parties shall stipulate that the undertaking concerned shall acquire the obligation to keep a register which complies with the conditions laid down in paragraph 2.

Article 15

The Member States shall communicate to the Commission :

— by 1 March 1989 at the latest :

  — the list of representative whole sale markets and ports referred to in Article 14b (6) of the basic Regulation,

  — the control measures carried out pursuant to Article 14b (6),

  — the names and addresses of each of the bodies appointed to ensure control ;

— within one month of the beginning of the fishing year at the latest :

  — the standard value deduction to be used, broken down according to the choices of outlets for disposal referred to in Article 7 ;

— within one month of the beginning of each semester at the latest :

  — a table giving details by product and product category of the average prices observed and the quantities marketed through the representative wholesale markets and ports ;

— within five months of the end of each fishing year :

  — the average product price (all categories) and total landings in the Member State concerned during the preceding fishing year.

Article 16

This Regulation shall enter into force on 1 January 1989.

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

Done at Brussels, 28 December 1988.

For the Commission
António CARDOSO E CUNHA
Member of the Commission

ANNEX

STOCK RECORD : MONTHLY FIGURES FOR RELEASES ONTO THE MARKET, WITHDRAWALS FROM THE MARKET AND AMOUNTS CARRIED OVER EACH MONTH (1) FOR THE SPECIES

(kilograms)

Month	Amount put up for sale		Autonomous withdrawal prices down by category	Monthly withdrawals		Quantities attracting the flat rate premium	Total flat-rate aid withdrawals and carryover
				Portion for which flat-rate compensation is paid			
	During the month (1)	Cumulative total (2)		Amounts withdrawn by category (3)	Total — all categories (4)	(5)	(6) = (4) + (5)
January							
February							
Year							

(1) All figures rounded to the nearest multiple of 5.

Quantities exceeding 10 % of the annual quantities put for sale (Article 14b (3) of the basic Regulation) are excluded from the flat-rate aid.