COMMISSION REGULATION (EEC) No 2415/89

of 3 August 1989

laying down detailed rules of application for the granting of private storage aid 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 Regulation (EEC) No 1495/89 (2), and in particular Article 16 (4) thereof,

Whereas Regulation (EEC) No 3796/81 provides for private storage aid to be granted to producers' organizations in respect of the products listed in Annexes II and III to the said Regulation; whereas such aid may be granted if the average prices realized during a significant period are below a given level;

Whereas, to determine those prices, it is necessary to define what is meant by the selling price realized by the producers' organizations or their members within the framework of the present arrangements;

Whereas the significant period to be taken into account for appraisal of the market in question should be defined;

Whereas the storage aid may be granted only in respect of products originating in the Community; whereas it is therefore necessary to specify how Community origin is to be established;

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

Whereas the technical and financial costs of storage should be defined;

Whereas granting of the aid should be made conditional on the submission of a written undertaking by the producers' organizations to comply with the relevant provisions;

Whereas the storage period to be taken into account when granting the aid should be determined;

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

Whereas the procedure for submitting applications for the payment of private storage aid 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 minor infringements of the rules concerning private storage aid should not involve total withdrawal of the right to the aid but only a standard reduction thereof;

Whereas, to ensure the correct functioning of this system, the frequency and details of the notifications to be made by the producers' organizations and Member States should be laid down;

Whereas the conversion rate applicable to the aid in question must be fixed;

Whereas the Management Committee for Fishery Products has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules of application for the granting of the private storage aid referred to in Article 16 of Regulation (EEC) No 3796/81, hereinafter referred to as the 'basic Regulation'.

Article 2

The grant of the private storage aid, the period for which it is granted, the products concerned and the amount of the aid shall be determined by means of a Regulation adopted in accordance with the procedure laid down in Article 33 of the basic Regulation, where it has been ascertained that the conditions laid down in Article 16 (1) of the basic Regulation are met.

Article 3

1. The average prices referred to in Article 16 (1) (a) of the basic Regulation shall be determined on the basis of the selling prices invoiced by the producers' organizations or their members at the stage of first-hand sale in the Community.

This selling price shall be fixed:

(1) OJ No L 379, 31. 12. 1981, p. 1.
(2) OJ No L 148, 1. 6. 1989, p. 1.

— in the case of products sold at landing, for merchandise on board, alongside quay,

— in the case of products sold following storage by the producers' organizations or its members, at warehouse.

2. The significant period referred to in Article 16 (1) (a) of the basic Regulation shall be at least seven successive market days for the product in question.

Article 4

1. The amount of the private storage aid shall be fixed at a standard rate per unit of net weight of the products in storage for each calendar month during which the aid is granted. It shall be calculated on the basis of the technical costs and interest relating to operations indispensable for storage of the products in question recorded in the Community during the six months prior to grant of the aid, no account being taken of the highest such costs.

Where the storage period exceeds one month, the amount shall be fixed each month degressively on the basis of the monthly storage costs.

2. The following shall be considered as technical costs :

— energy costs,

— labour costs relating to storage and release from storage,

— direct packaging costs.

The interest shall be determined on the basis of the average financial costs, recorded in the Community, of the tied-up capital corresponding to the value of the quantities in storage, calculated on the basis of the guide price referred to in Article 15 of the basic Regulation or, where appropriate, the Community producer price referred to in Article 17 of the said Regulation.

Article 5

In order to qualify for private storage aid during a given fishing year, the producers' organizations must, before the beginning of the fishing year in question, adopt in writing, in accordance with Article 5 (1) of the basic Regulation, appropriate measures concerning production and marketing to ensure that the total output of its members is offered for sale :

— through the producers' organization, or

— in accordance with common rules established in advance by the producers' organization.

Article 6

1. Only unsold products shall qualify for private storage aid.

2. In the case of products other than those caught and landed by one and the same member of a producers' organization in his Member State, the T 2 M document shall be presented in accordance with Commission Regulation (EEC) No 137/79 [1] as proof of Community origin.

Article 7

The private storage aid may be granted only in respect of products which :

(a) as regards storage :

— are or have been preserved in conditions which cause no deterioration in their quality. To this effect, products must be stored in suitable installations where the storage temperature does not exceed −21 °C, without prejudice to more restrictive national requirements or commercial standards imposed in Member States,

— are or have been stored in homogeneous lots of at least 10 tonnes and kept separate from other products. The stored quantities shall be identified 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, as well as the number referred to in Article 8 (2);

(b) as regards return to the market, are or have been put back on the market in lots which are homogeneous as regards species, presentation and packaging, in accordance with the provisions in force in each Member State for the marketing of products for human consumption.

Article 8

1. In order to qualify for private storage aid instituted by a Regulation pursuant to Article 2, producers' organizations must give a written undertaking to the competent authorities of the Member State under which it falls :

(a) to store the products in question on its own account and at its own risk in cold stores situated in the Community for a period of not less than 15 days 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 put into storage between the first and the 15th day of that month, and the last day of the current month shall be considered as the date of commencement of storage for quantities put into storage between the 16th and the last day of that month ;

(b) to comply with the provisions of this Regulation.

2. Each written undertaking shall mention, in particular :

— a corresponding reference number,

— provisions concerning the quantities of the product in question which are to be stored or are already in storage,

— the place of storage, the date of commencement of storage and the date anticipated for release from storage.

[1] OJ No L 20, 27. 1. 1979, p. 1.

Article 9

1. A storage period of one month shall be deemed to have been complied with, for quantities whose storage started within the meaning of Article 8 (1) (a):

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

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

2. For the following months, the storage period of one month shall be deemed to have been complied with for the quantities falling under point (a) of paragraph 1 if those quantities are in storage on the last day of the calendar month concerned and for the quantities falling under point (b) of paragraph 1 if those quantities are in storage on the 15th day of the next calendar month.

Article 10

1. In order to qualify for private storage aid during a given fishing year, producers' organizations shall keep stock records that show for the period from the first to the 15th and from the 16th to the end of each month:

(a) — the total quantity of products landed, with a separate entry for the quantities of products referred to in Article 6 (2),
— the quantity offered for sale in accordance with Article 3;

(b) — identification of the lots in storage and their place of storage,
— the dates of commencement and termination of the storage operations,
— for each lot put back on the market after storage, the quantity sold, the number and date of the invoice, the date of sale and the selling price received by the producers' organization or its members.

2. Where the producers' organization undertakes in accordance with Article 8 to store certain quantities under the system of private storage aid, the details referred to in point (b) of paragraph 1 must be entered separately for the quantities in question.

3. If a producers' organization hands over to an independent operator the responsibility for storing the products in question, this operator must keep stock records which comply with the requirements in paragraph 2.

Article 11

1. The application for payment of private storage aid shall be submitted in writing by the producers' organization concerned to the competent authorities of the Member State one month after the date on which the products in question were put back on the market, and not later than four months after the end of the storage period fixed according to Article 16 (3) of the basic Regulation. The application shall contain at least the following details for each product;

— the name and address of the producers' organization and, where applicable, of the independent operator who stored the products,
— the quantities of the products specified in the written undertaking and the reference number of the said undertaking,
— the proof of Community origin,
— the necessary details for calculating the maximum quantity referred to in Article 16 (2) of the basic Regulation,
— identification of the lot to which the application for aid refers, including the place of storage,
— the dates of commencement and termination of storage,
— the date on which the products were put back on the market and the number and date of the invoice.

2. The Member State shall grant the private storage aid to the producers' organizations concerned as soon as possible once it has been ascertained that the latter is eligible to receive it.

Article 12

The Member State shall, at the request of the producers' organization concerned, grant an advance on the private storage aid in respect of the quantities and the period specified in the undertaking referred to in Article 8, on condition that the producers' organization has lodged a security of not less than 105 % of the amount of the advance.

Article 13

1. Where the producers' organization or one of its members is guilty of an infringement of the private storage aid scheme, which is of limited gravity, and where it is shown by the said organization, to the satisfaction of the Member State concerned, that such infringement was not committed with intention to defraud or as the result of serious negligence, the Member State shall withhold an amount equal to 10 % of the aid applicable to the quantities concerned by the infringement and in respect of which the private storage aid was to be granted.

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

Article 14

1. Every fortnight the producers' organizations shall communicate to the competent authorities of the Member State in question at least the following information, broken down by species and commercial presentation:

— the quantity landed by their members,
— the quantity sold and the average selling price as defined in Article 3,
— the unsold quantity preserved in cold storage,
— the quantity put back on the market after storage.

2. The Member States shall communicate the information referred to in paragraph 1 to the Commission by telex or telefax each fifth day of the month following the end of the periods referred to in that paragraph. If a Member State ascertains that selling prices are below the level referred to in Article 16 (1) (a) of the basic Regulation and that this situation is likely to persist the information referred to above shall be communicated to the Commission at least once a week, broken down by market day.

3. Every fortnight the Member States shall communicate to the Commission, for each product in question, the quantities stored under this Regulation and the projected storage period.

Article 15

The conversion rate applicable to the aid shall be the rate on the day on which the competent authorities of the Member State receive the undertaking made by the producers' organization pursuant to Article 8.

Article 16

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

— verification that the storage operations and return to the market tally with the written undertakings referred to in Article 8,

— verification of the Community origin of the products,

— verification of the maximum quantity referred to in Article 16 (2) of the basic Regulation,

— unannounced inspections of the producers' organizations and places of sale and storage,

— verification that the situation in the places of storage is in accordance with the Community rules.

These checks shall be the subject of a report stating whether the recipient of the aid has complied with the undertakings, and the type and scope of the checks carried out.

Article 17

The provisions of this Regulation, with the exception of Article 3, shall apply, *mutatis mutandis,* in the case of producers who are established in Greece and do not belong to a producers' organization as referred to in Article 16 (5) of the basic Regulation.

Article 18

Commission Regulation (EEC) No 696/71 [1] is hereby repealed.

Article 19

This Regulation shall enter into force on the date of its publication in the *Official Journal of the European Communities.*

It shall apply from 1 August 1989.

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

Done at Brussels, 3 August 1989.

For the Commission

António CARDOSO E CUNHA

Member of the Commission

[1] OJ No L 77, 1. 4. 1971, p. 66.