

COMMISSION REGULATION (EC) No 2509/2000
of 15 November 2000

**laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards
granting financial compensation for withdrawals of certain fishery products**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the market in fishery and aquaculture products ⁽¹⁾, and in particular Article 21(8) thereof,

Whereas:

- (1) Regulation (EC) No 104/2000, which replaced Council Regulation (EEC) No 3759/92 ⁽²⁾, as last amended by Regulation (EC) No 2792/1999 ⁽³⁾, with effect from 1 January 2001, provides that Member States are to grant financial compensation to producer organisations which withdraw certain products from the market. That Regulation has adjusted the levels of financial compensation and has removed the special financial compensation for exceptional circumstances. It is now appropriate to fill out the framework laid down by Regulation (EC) No 104/2000 by enacting detailed rules and by repealing the implementing Regulation on this subject, namely Commission Regulation (EEC) No 3902/92 ⁽⁴⁾, as last amended by Regulation (EC) No 1338/95 ⁽⁵⁾.
- (2) Article 6(1) of Council Regulation (EC) No 2406/96 of 26 November 1996 laying down common marketing standards for certain fishery products ⁽⁶⁾, as amended by Commission Regulation (EC) No 323/97 ⁽⁷⁾, establishes that products that are classified as category 'B' are ineligible for the financial assistance granted in respect of the intervention mechanisms of the common market organisation. Given that only 'Extra' and 'A' quality products are eligible for financial compensation for withdrawals set out in Article 21 of Regulation (EC) No 104/2000, the calculation of the quantities eligible for that financial compensation should be based on those categories of products.
- (3) In order to give maximum encouragement to action to stabilise the market, producer organisations not observing the Community withdrawal price throughout the fishing year should be debarred from receiving financial compensation.

- (4) It is necessary to specify requirements pertaining to the application of the margin of tolerance provided for in Article 21(1)(a) of Regulation (EC) No 104/2000 in order to guarantee normal conditions of competition between producer organisations. Use of the margin of tolerance must be adequately publicised in order to ensure market transparency.
- (5) Since demand may fluctuate within the duration of any selling operation, products should not be withdrawn from the market before being put up for sale. Financial compensation should only be granted on products that have been put up for sale in the normal way and have not found a buyer at the Community withdrawal price.
- (6) Financial compensation must be clearly disallowed on fish on which carryover aid provided for in Article 23 of Regulation (EC) No 104/2000 has been granted.
- (7) Systematic compliance with the common marketing standards referred to in Article 2 of Regulation (EC) No 104/2000 is a determining factor in price formation and a contributory element to stabilisation of the market. The granting of financial compensation on eligible quantities should therefore be made conditional on compliance with the standards for all quantities of the product in question put up for sale by the producer organisation or its members throughout the fishing year.
- (8) Financial compensation cannot be paid until the end of the fishing year. To facilitate the operation of producer organisations, it should be made possible for advances to be granted against lodging of security. Rules should be laid down for calculating advances on financial compensation and fixing the security amount required.
- (9) Commission Regulation (EC) No 1925/2000 of 11 September 2000 establishing the operative events for the exchange rates to be applied when calculating certain amounts provided for by the mechanisms of Council Regulation (EC) No 104/2000 on the common organisation of the market in fishery and aquaculture products ⁽⁸⁾ fixes the operative event for the exchange rate to be applied to the calculation of financial compensation. This exchange rate should also be reflected in the calculation of advances on financial compensation.

⁽¹⁾ OJ L 17, 21.1.2000, p. 22.

⁽²⁾ OJ L 388, 31.12.1992, p. 1.

⁽³⁾ OJ L 337, 30.12.1999, p. 10.

⁽⁴⁾ OJ L 392, 31.12.1992, p. 35.

⁽⁵⁾ OJ L 129, 14.6.1995, p. 7.

⁽⁶⁾ OJ L 334, 23.12.1996, p. 1.

⁽⁷⁾ OJ L 52, 22.2.1997, p. 8.

⁽⁸⁾ OJ L 230, 12.9.2000, p. 7.

- (10) The granting of financial compensation should extend to fish put up for sale and withdrawn by producer organisations or their members in other Member States. The authorities of the other Member State in which the fish was put up for sale and withdrawn or carried over should issue a certifying document and transmit a copy.
- (11) Identification of a fishing vessel is made easier and more accurate by a reference to the number of the boat in the fleet register rather than by the name of the boat. The certificate to be issued on landing in another Member State should be amended to require producer organisations to refer to the internal-fleet register.
- (12) Each Member State should introduce a control system for verifying that the figures given in applications for financial compensation correspond to the quantities actually put up for sale and withdrawn. The Commission should be informed of these control systems in order to ensure proper compliance with the legislation.
- (13) 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

The quantities of products eligible for financial compensation under Article 21(3)(a) of Regulation (EC) No 104/2000 shall be calculated on the basis of quantities that are classified under the marketing standards set out in accordance with Article 2 of that Regulation as being of 'Extra' and 'A' quality only.

Article 2

1. Financial compensation shall be granted to producer organisations on the condition that they apply, and ensure that their members comply with, the Community withdrawal price throughout the fishing year when the products are first put up for sale, in accordance with the conditions laid down in Article 21(1)(a) and (c) of Regulation (EC) No 104/2000.

2. Should the use of the margin of tolerance provided for in Article 21(1)(a) of Regulation (EC) No 104/2000 lead to the fixing of different withdrawal price levels for the same product category by producer organisations established in a given area, each of these organisations may adopt the price level fixed by

another producer organisation in the same area with effect from the date it becomes applicable and for the relevant period.

3. The withdrawal price level fixed by a producer organisation using the margin of tolerance shall apply to all the quantities offered for sale by that organisation or its members, including those offered for sale outside its area of activity.

However, any producer organisation, or one of its members, selling its products in an area other than its own area of activity may apply either its own withdrawal price level which must not be lower than the price level in the zone concerned or one of those adopted, after eventual application of the margin of tolerance, by the producer organisations established in that area.

4. The withdrawal price shall not include expenses incurred after landing of the products with the exception of transport costs made necessary by auction or quayside sales.

Article 3

1. Any producer organisation applying the margin of tolerance to the Community withdrawal price shall communicate to the competent authorities of the Member State in which it is recognised the level of the withdrawal price adopted for each category of products in all parts of its area of activity, at least two working days before it is to become applicable.

If a producer organisation intends to change the period of application of the margin of tolerance or the level of the withdrawal price, or make use of the option provided for in Article 2(2), it shall inform the competent authorities at least two working days before the date of application of its decision.

All decisions referred to in this paragraph shall apply for five working days at least.

2. The competent authorities of the Member State concerned shall ensure that all the information communicated pursuant to paragraph 1 is publicised without delay in accordance with regional ways and customs.

3. By way of derogation from Council Regulation (EEC, Euratom) No 1182/71⁽¹⁾, and for the purposes of this Regulation, Saturdays, Sundays and public holidays shall be treated as working days provided putting up for sale is done in accordance with Article 4(1)(c).

Article 4

1. Quantities withdrawn from the market shall be considered to be quantities eligible for financial compensation only if:

- (a) they were caught by a member of a producer organisation;
- (b) they were put up for sale:
 - (i) through the producer organisation, or
 - (ii) by a member in accordance with common rules established by the producer organisation, as referred to in Article 5(1) of Regulation (EC) No 104/2000;

⁽¹⁾ OJ L 124, 8.6.1971, p. 1.

(c) prior to withdrawal they were put up for a sale accessible to all interested parties in accordance with regional and local ways and customs, during which it was established that they did not find a buyer at the price fixed in accordance with Article 21(1)(a) of Regulation (EC) No 104/2000;

(d) they have not been the subject of any request for the carryover aid referred to in Article 23 of Regulation (EC) No 104/2000 and have not benefited from such aid.

2. The grant of financial compensation for quantities eligible pursuant to paragraph 1 shall be subject to the condition that, for the product or group of products concerned, all the quantities put up for sale by the producer organisation or its members during the fishing year must have been classified previously in accordance with the marketing standards set out in accordance with Article 2 of Regulation (EC) No 104/2000.

Article 5

1. The financial compensation shall be paid to producer organisations, on application, after the end of each fishing year.

2. Applications for payment of the financial compensation shall be submitted by producer organisations to the competent authorities of the Member State four months after the end of the fishing year concerned at the latest.

3. The national authorities shall pay the financial compensation within eight months after the end of the fishing year concerned at the latest.

Each Member State shall communicate to the other Member States and the Commission the name and address of the body responsible for granting the financial compensation.

Article 6

On application by the producer organisation concerned, Member States shall grant each month an advance on the financial compensation on condition that the applicant has lodged a security equal to 105 % of the amount of the advance.

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

Done at Brussels, 15 November 2000.

Advances shall be calculated in accordance with the method specified in Annex I.

Article 7

If a producer organisation or one of its members puts up for sale its products in a Member State other than that in which it is recognised, the competent authority of the first Member State shall issue, on application and without delay, to the organisation in question or its member, a certificate the contents of which shall be in accordance with the specimen set out in Annex II, and shall transmit at the same time, through official channels, a copy of this to the body responsible for granting the financial compensation in the other Member State.

Applications for the issue of the certificate shall be submitted to the competent authority concerned immediately after the products are put up for sale.

Article 8

1. Member States shall introduce a control system to verify that the information given in applications for payment corresponds to the quantities actually put up for sale and withdrawn from the market by the producer organisation concerned.

2. Member States shall inform the Commission of the measures taken pursuant to paragraph 1 as soon as they are adopted, and in any case by 31 January 2001.

Member States shall inform the Commission of existing measures in the field covered by paragraph 1 by 31 January 2001.

Article 9

Regulation (EEC) No 3902/92 is repealed.

Article 10

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

It shall apply from 1 January 2001.

For the Commission
Franz FISCHLER
Member of the Commission

ANNEX I

CALCULATION OF ADVANCES ON FINANCIAL COMPENSATION ⁽¹⁾

Species:

Month:

- A. Quantity of freshness categories 'Extra' and 'A' offered for sale between 1 January and last day of month: kg
- B. Total cumulated withdrawals for freshness categories 'Extra' and 'A' over the same period: kg
- C. Average withdrawal percentage over the same period: % (B/A × 100)

First band: compensation level 85 %

Financial compensation = (withdrawal price × 0,85 — standard value)

- D1. Total quantities withdrawn to be included in this band (up to and including 4 % of products put up for sale)

Month	Withdrawals by category and size (kg)	Amount to be reimbursed (EUR) ⁽¹⁾	Exchange rate on 22 of previous month	Amount to be reimbursed in national currency
Total				

⁽¹⁾ Amount by month in Euro: total amount to be reimbursed corresponding to each category and size multiplied by the withdrawn quantities of these categories and sizes.**Second band: compensation level 55 % ⁽²⁾**

Financial compensation = (withdrawal price × 0,55 — standard value)

- D2. Total quantities withdrawn to be included in this block (from 4 % to and including 8 %
- ⁽³⁾
- of products put up for sale)

Month	Withdrawals by category and size (kg)	Amount to be reimbursed (EUR) ⁽¹⁾	Exchange rate on 22 of previous month	Amount to be reimbursed in national currency
Total				

⁽¹⁾ Amount by month in Euro: total amount to be reimbursed corresponding to each category and size multiplied by the withdrawn quantities of these categories and sizes.**Third band: no compensation**

Monthly advance

The Advance for the month in question is equal to the sum of the advances in respect of each band

1	2	3
Total estimated advance (band 1 + band 2)	Cumulated advance received for previous months	Advance to be received for the month in question (1 - 2)

⁽¹⁾ If necessary, the calculation to be based on provisional data (to be finalised during the two months following the month in question).⁽²⁾ In 2001, this percentage shall be 75 % and in 2002, it shall be 65 %.⁽³⁾ This percentage shall be 10 % for all the pelagic species of Annex I to Regulation (EC) No 104/2000 (albacore or longfinned tuna of the species *Thunnus alalunga*, herring of the species *Clupea harengus*, sardines of the species *Sardina pilchardus*, mackerel of the species *Scomber scombrus* and *Scomber japonicus*, anchovy of the species *Engraulis* spp.).

ANNEX II

MEMBER STATE:

Certificate issued under Article 7

1. Applicant

- (a) Producer organisation (name and address):
-
- (b) Member acting in name of that organisation (name):
-
- (c) Internal fleet register number:
-

2. Quantities sold (by product and weight in kg)

3. Date:

4. Was the Community withdrawal price (see Article 20(1) of Regulation (EC) No 104/2000) applied to the quantities indicated at paragraph 2?

yes	no
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Was the regional withdrawal price (see Article 20(2) of the above Regulation) applied?

yes	no
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5. Of the quantities indicated at paragraph 2, the following volumes were withdrawn from the market so that financial compensation could be granted:

(a)	product	product category	quantity by product (kg)
.....
.....
.....

(b) the products withdrawn were, in line with Commission Regulation (EEC) No 1501/83 ⁽¹⁾ disposed of as follows:

product	quantities (kg)	option
.....
.....
.....

Original issued to producer organisation or to the member named at 1.

Copy to body responsible for granting compensation in Member State in which producer organisation at 1 is recognised.

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(applicant's signature)
(signature/stamp of competent authority of Member State)

⁽¹⁾ OJ L 152, 10.6.1983, p.22.