

**COMMISSION REGULATION (EC) No 2183/2001
of 9 November 2001**

**laying down detailed rules for the application of Council Regulation (EC) No 104/2000 as regards
granting the compensatory allowance for tuna intended for the processing industry**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Community,

Article 1

This Regulation lays down detailed rules for granting the compensatory allowance referred to in Article 27 of Regulation (EC) No 104/2000.

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 27(6) thereof,

Article 2

The grant of the allowance and its maximum amount shall be determined by means of a Regulation adopted in accordance with the procedure referred to in Article 38 of Regulation (EC) No 104/2000, where it has been ascertained that the conditions laid down in Article 27(1) of that Regulation are met for the calendar quarter in question.

Whereas:

- (1) Article 27 of Regulation (EC) No 104/2000 provides for an allowance to be paid to producer organisations if it is found that the prices of given products, during a given calendar quarter, are below a specified triggering threshold.
- (2) For the purposes of applying the allowance system, the average selling price referred to in Article 27(1) of Regulation (EC) No 104/2000 should be defined.
- (3) For the quantities for which entitlement to the allowance has been established, rules should be laid down governing the submission of applications for and payment of the allowance, including conditions relating to furnishing proof of the Community origin and nature of the products.
- (4) The framework and objectives of the control procedure should be laid down, while it should be left to the Member States' control authorities to adopt suitable provisions for effective regular monitoring of the system introduced.
- (5) To ensure the correct operation of the system in question, certain rules should be laid down regarding the notifications to be made by the Member States.
- (6) Commission Regulation (EC) No 142/98 of 21 January 1998 laying down detailed rules for granting the compensatory allowance for tuna intended for the processing industry ⁽²⁾, as amended by Regulation (EC) No 150/2001 ⁽³⁾, should be repealed.
- (7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

Article 3

1. The allowance shall be granted to producer organisations, subject to the limits laid down in Article 27(3) of Regulation (EC) No 104/2000, for the products listed in Annex III to that Regulation, caught by their members and sold and delivered to processors established within the customs territory of the Community for complete and definitive processing into products covered by HS heading 1604.

2. The Member States shall check the maximum totals fixed in Article 27(3) of Regulation (EC) No 104/2000 with respect to any changes which might have occurred in the membership of producer organisations. They shall inform the Commission thereof.

Article 4

The average selling price recorded on the Community market referred to in the first indent of Article 27(1) of Regulation (EC) No 104/2000 shall be determined by the Commission on the basis of the monthly average prices notified by the Member States calculated on the basis of the value of the quantities sold and delivered to industry pursuant to Article 6 of Commission Regulation (EC) No 80/2001 ⁽⁴⁾.

Member States shall determine the monthly average prices on the basis of the selling prices at first-stage sale in the Community during the reference month as invoiced by the producer organisations or their members. The selling price shall be determined:

- in the case of products sold at landing, for merchandise on board, alongside quay,
- in the case of products sold following storage by the producer organisation or its members, at warehouse.

⁽¹⁾ OJ L 17, 21.2.2000, p. 22.

⁽²⁾ OJ L 17, 22.1.1998, p. 8.

⁽³⁾ OJ L 24, 26.1.2001, p. 10.

⁽⁴⁾ OJ L 13, 17.1.2001, p. 13.

Article 5

Within the limits of the volumes fixed in Article 27(3) of Regulation (EC) No 104/2000, the competent authorities of the Member State concerned shall grant the allowance to producer organisations in accordance with Article 27(4) of that Regulation.

Article 6

The operations to be taken into account for determining entitlement to the allowance shall be sales which have invoice dates within the relevant quarter and which have been taken into account for calculating the average monthly selling price referred to in Article 2.

Article 7

1. Applications for payment of the allowance, accompanied by the supporting documents referred to in paragraph 2, shall be submitted by the producer organisation concerned, for all the operations taken into account pursuant to Article 4, to the competent authorities of the Member State in which the producer organisation is established, not later than 45 days after the entry into force of the Regulation provided for in Article 1(1).

2. The supporting documents shall be as follows:

- (a) a copy of the invoice for the sale of the products, showing at least the names and addresses of the buyer and seller, as referred to in Article 1(2) and, for each consignment of a given category of product:
 - the quantity sold,
 - the selling price actually received,
 - the date of delivery,
 - the place of delivery;
- (b) proof of Community origin and hence of the Community nature of the products;
- (c) proof of delivery of the products in question to a processor established in the customs territory of the Community;
- (d) proof of payment for the goods at the price referred to in the second indent of point (a);
- (e) a declaration by the processor that the quantity purchased is intended for processing in accordance with Article 1(2).

Article 8

1. The proof of Community origin and nature required under Article 7(2)(b) shall be furnished by the T2M document in accordance with Articles 325 to 337 of Commission Regulation (EEC) No 2454/93⁽¹⁾.

To that end, the customs office which has validated the entry of the products into the customs territory of the Community in accordance with Article 334 of Regulation (EEC) No 2454/93 shall provide the applicant with a single copy of the T2M document bearing the words 'SOLE COPY FOR COMPENSATORY ALLOWANCES'.

The applicant whose name appears in box 1 of the T2M document must be the producer who caught the products for which the allowance application is submitted.

2. Where the customs authorities at the port where the products are landed have waived production of the T2M document within the meaning of Article 326(2) of Regulation (EEC) No 2454/93, proof of Community origin shall be furnished by the declaration provided for in Article 8(1) of Council Regulation (EEC) No 2847/93⁽²⁾ or by a document duly endorsed by the competent authorities of the Member State of landing certifying landing in the customs territory of the Community.

3. The document produced as proof of origin of the products shall clearly indicate the species, presentation and weight of the products. If necessary, it shall be supplemented by a certificate of weighing on landing in the customs territory of the Community issued by the competent authorities of the Member State of landing.

Article 9

1. The allowance shall be paid to the producer organisation by the Member State concerned within 75 days of receipt of the complete file as referred to in Article 7(1), except where an administrative inquiry into entitlement to the allowance has been initiated.

2. The allowance shall be passed on by the producer organisation to its members within 90 days of receipt of the amount from the Member State.

3. The Member States concerned shall notify the Commission each quarter, not later than one month after the end of the quarter in question, of the payments made by producer organisations and the period for which they are granted, in accordance with paragraph 1, and the quantities of each relevant species.

Article 10

1. The Member States concerned shall set up a monitoring system for checking that the products for which the allowance is claimed qualify for it and that all other relevant Community rules are observed.

2. Detailed rules governing the monitoring system shall provide at least for the following:

- (a) provisions concerning verification of the Community origin and Community nature of the products, particularly on the basis of ship's documents;
- (b) identification in the sales records of the producer organisations, their members or their service providers of the operations taken into account under these arrangements and, for each quantity in question, the reference to the T2M document or document replacing it, the date of sale and delivery, the buyer of the product, the price at which the said quantity was sold and the reference number of the invoice. The sales records shall therefore be designed accordingly;

⁽¹⁾ OJ L 253, 11.10.1993, p. 1.

⁽²⁾ OJ L 261, 20.10.1993, p. 1.

- (c) unannounced inspections at the premises of producer organisations, their members or their service providers in order to verify on the spot that the data referred to in Article 5(2) and (3) correspond to the actual situation;
- (d) direct inspections of the processing establishments, in particular with the aim of verifying on the spot that products purchased under these arrangements have in fact been sent for processing in accordance with Article 1(2).
3. Inspections shall be the subject of a detailed report indicating the extent to which the recipient of the allowance has fulfilled the commitments, as well as on the nature and scope of the checks carried out.
4. The Member States shall notify the Commission each quarter of the inspections undertaken and their outcome.

Article 11

The Member States concerned shall notify the Commission of the monitoring measures set up pursuant to Article 7 not later than three months after the date of entry into force of this Regulation and of any adjustments to those measures within three months of their introduction.

Article 12

Regulation (EC) No 142/98 is hereby repealed.

Article 13

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 2002.

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

Done at Brussels, 9 November 2001.

For the Commission
Franz FISCHLER
Member of the Commission
