COMMISSION REGULATION (EEC) No 3138/82

of 19 November 1982

laying down detailed rules for the grant of a special carry-over premium for Mediterranean sardines and anchovies

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), and in particular Article 14 (7) thereof,

Having regard to Council Regulation (EEC) No 2204/82 of 28 July 1982 laying down general rules for the grant of a special carry-over premium for Mediterranean sardines and anchovies (2),

Whereas Regulation (EEC) No 2204/82 provides for a system of contracts between Community producers and processors;

Whereas to help stabilize the market in the products in question and ensure regular supplies to processors, the contracts concerned should be concluded for a certain period; whereas they must contain a minimum of details describing the operation; whereas, however, in order to ensure that the transactions based on these contracts are as effective as possible, the contracting parties should, within a certain limit, be enabled to amend, by means of a supplementary clause, the quantities initially specified in the contracts; whereas, in order to ensure, during specific periods, planning of production in line with market conditions, the number of contracts conferring a right to the special carry-over premium which may be concluded between the same contracting parties should be limited;

Whereas any revision of the amounts of the special carry-over premium of the purchase price or of the representative rate changes the economic conditions; whereas provision should therefore be made for the possibility of amending the abovementioned contracts accordingly;

Whereas a purchase price should be fixed at a sufficiently remunerative level to encourage producers to supply the processing industry; whereas the purchase price must reflect market trends for the products in question; whereas, however, this price may not be lower than the Community withdrawal price;

Whereas in order to permit constant monitoring recipients of the premium must keep the authority responsible for supervising their processing activities informed at all times;

Whereas in order to ensure the proper operation of the control provided for in Article 4 of Regulation (EEC) No 2204/82 recipients of the premium must keep stock records; whereas these stock records must contain the information required for the said control;

Whereas the health and technical provisions adopted by the national authorities make it possible to ensure that the products in question have completely and permanently undergone one or more of the processes referred to in Article 14 (5) of Regulation (EEC) No 3796/81; whereas it should be checked that the processed products in question conform to the said provisions;

Whereas in order to ensure payment of the special carry-over premium within a reasonable time for quantities which are eligible for it, the manner in which applications are to be submitted by those concerned should be specified;

Whereas the rules for granting an advance should be specified and the amount of the relevant security fixed; whereas the rules for the provision, release and forfeiting of the security must also be laid down;

Whereas the exchange rate applicable to the special carry-over premium and the advances should be fixed;

Whereas in order to ensure that a revision of the amounts of the special carry-over premium influences the conditions of supply of the Community industry without delay, the revised amounts should be applied to all quantities the processing of which commences a week after the date of the said revision;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fishery Products,

(1) OJ No L 379, 29. 12. 1981, p. 1.
(2) OJ No L 235, 10. 8. 1982, p. 7.

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the application of the special carry-over premium referred to in Article 14 (3) of Regulation (EEC) No 3796/81, hereinafter called 'the basic Regulation', for sardines and anchovies caught in the Mediterranean area and intended for the processing industry.

Article 2

1. The contracts referred to in Article 3 (1) (a) and (2) (a) of Regulation (EEC) No 2204/82, hereinafter called 'purchase contracts' shall be concluded in writing.

2. For the purpose of the provisions referred to in paragraph 1, processor shall mean any natural or legal person who:

— subjects Mediterranean sardines and anchovies to one or more of the processes referred to in Article 14 (5) of the basic Regulation,

— fulfils the conditions laid down by national legislation in the Member State concerned for executing one or more of the processes referred to in the preceding indent.

Article 3

1. Each purchase contract must be concluded for a period of at least two months and must contain at least the following information:

— the name and address of the contracting parties,

— the dates when the contract takes effect and when it expires,

— the quantities of raw material to which it relates, broken down by category of product and by type of processing envisaged,

— the schedule and place of deliveries,

— the prices to be paid to the vendors by category of product and the time limits and other conditions of payment.

2. During the period of validity of each purchase contract, the contracting parties may decide to amend, by a supplementary clause, the quantities initially entered in the contract. These additional clauses may relate to a total of up to 25 % of the initial quantities.

3. During the period of validity of each purchase contract the contracting parties may not conclude with each other new contracts for the products in question.

4. Where the amounts of the carry-over premium referred to in the Annex to Regulation (EEC) No 2204/82, the minimum purchase price referred to in Article 3 (1) of that Regulation or the representative rate are revised, the contracting parties may amend the provisions of current purchase contracts or put an end to their execution.

Article 4

1. The minimum purchase price referred to in Article 3 (1) of Regulation (EEC) No 2204/82 shall be equal to the Community withdrawal price for each category of product referred to in the Annex to that Regulation, plus 5 %.

2. If, following a change in the representative rate, the purchase prices laid down in current contracts, expressed in national currency, become lower than the minimum purchase price referred to in paragraph 1, expressed in national currency, the prices in question must be adjusted.

Article 5

1. In the cases referred to in Article 3 (1) (b) of Regulation (EEC) No 2204/82 each producers' organization shall keep a daily record in accordance with the specimen contained in the Annex. The producers' organization shall notify the authority responsible for supervision:

— before the 15th of each month of the quantities of fresh sardines and anchovies put up for sale during the preceding month,

— of the quantities to be processed by the organization or entrusted to a processor for processing as soon as any such decision has been taken.

2. For the purposes of this Article products put up for sale means the quantities disposed of without further processing through the producers' organization or sent by it for processing.

3. The provisions of this Article shall also apply to the producers referred to in Article 3 (2) (b) of Regulation (EEC) No 2204/82.

Article 6

1. The stock records provided for in Article 4 (2) of Regulation (EEC) No 2204/82 must be kept daily and contain at least the following information:

(a) as regards taking delivery of the products:

— the date on which the product is taken over,

— the quantity of the product concerned, by species and by category,

— the place of storage,

— in the case of purchase by the processing industry, the invoice number,

— where the product is entrusted by a producers' organization or one of the producers referred to in Article 3 (2) (b) of Regulation (EEC) No 2204/82 to a processing plant, the number of the transfer voucher;

(b) as regards the processing of the products:

— the quantity to be processed,

— the dates when processing commenced and ended;

— the types of processing,

— the quantity processed, by species and by category, and the place of processing,

— an identification of the lots processed for which the premium has been requested and their place of storage;

(c) as regards the intended use of the merchandise:

— for each lot removed, the quantity of finished product, the number and date of the invoice.

2. Where the purchase contract provides for the supply of one of the products referred to in the Annex to Regulation (EEC) No 2204/82, having undergone primary processing for the purpose of transport or stabilization and intended to undergo further processing in accordance with the Annex to that Regulation, the vendor shall be required to furnish the purchaser established in the same Member State with a certificate, issued by the competent authority of the Member State, attesting that the special carry-over premium has or has not been granted for the products in question at the time of their primary processing. Where a producers' organization or one of the producers referred to in Article 3 (2) (b) of Regulation (EEC) No 2204/82 entrusts the products in question to a processor established in the same Member State, the accounts of the processor concerned may be checked by the competent authority of that Member State.

3. Where one of the processes referred to in Article 14 (5) of the basic Regulation is carried out in a Member State other than that which recognized the producers' organization on whose behalf the processing is undertaken or, in the case of the producers referred to in Article 3 (2) (b) of Regulation (EEC) No 2204/82, in a Member State other than Greece, proof that this processing has taken place shall be furnished by the control document T No 5, in conformity with the provisions of Commission Regulation (EEC) No 223/77 [1] and the provisions of this Regulation.

The said copy must show:

— in section 41, the description of the merchandise in the state in which it was at the time of dispatch;

— in section 104, one of the following entries in capital letters:

— Processing qualifying for a special carry-over premium (specify the type of processing)
Regulation (EEC) No 3796/81, Article 14,

— Forarbejdning, der er omfattet af en særlig prolongationspræmie (forarbejdningens art skal angives)
Forordning (EØF) nr. 3796/81, artikel 14,

— Verarbeitung, für die eine Sonderübertragungsprämie (nähere Angabe über Form der Verarbeitung) gewährt wird
Verordnung (EWG) Nr. 3796/81, Artikel 14,

— Μεταποίηση πού άπολαμβάνει είδική πριμοδότηση (διευκρινίσατε τό είδος τῆς μεταποιήσεως)
Κανονισμός (ΕΟΚ) ἀριθ. 3796/81, ἄρθρο 14,

— Transformation bénéficiant d'une prime de report spéciale (préciser le type de transformation)
Règlement (CEE) n° 3796/81, article 14,

— Trasformazione che beneficia di un premio speciale di riporto (specificare il tipo di trasformazione)
Regolamento (CEE) n. 3796/81, articolo 14,

— Behandeling of verwerking die in aanmerking komt voor een speciale uitstelpremie (behandeling of verwerking omschrijven)
Verordening (EEG) nr. 3796/81, artikel 14.

(1) OJ No L 38, 9. 2. 1977, p. 20.

Where one of the processes referred to in Article 14 (5) of the basic Regulation is carried out under a purchase contract in a Member State other than that which recognized the producers' organization or, in the case of the producers referred to in Article 3 (2) (a) of Regulation (EEC) No 2204/82, in a Member State other than Greece, the competent authority of the Member State which recognized the producers' organization or, as the case may be, the competent Greek authority shall issue the vendor with a certificate stating that the product has or has not received a special carry-over premium in the Member State concerned. This certificate shall be passed on by the vendor to the purchaser.

Article 7

Only such products as have undergone one or more of the processes referred to in Article 14 (5) of the basic Regulation in accordance with the health and technical provisions in force in the Member State in which the recipient of the premium is established and relating to products for human consumption shall be eligible for the special carry-over premium.

The Member States concerned shall take such measures as are necessary to ensure compliance with these national provisions.

Article 8

1. Applications for payment of the special carry-over premium shall be submitted by those concerned to the competent authorities of the Member State concerned:

(a) in the cases provided for in Article 3 (1) (a) and (2) (a) of Regulation (EEC) No 2204/82, once the processing operations on all the quantities provided for in the purchase contract and supplementary clauses thereto have been completed, and at the latest within three months from the end of the processing of all the quantities purchased;

(b) in the cases provided for in Article 3 (1) (b) and (2) (b) of Regulation (EEC) No 2204/82, every month, in respect of the quantities processed during the previous month;

(c) in the case, however, where a producers' organization or one of the producers referred to in Article 3 (2) (b) of Regulation (EEC) No 2204/82 entrusts the merchandise in question to a processor and the contract relating thereto is valid for more than one month, once all processing operations have been completed, and at the latest within three months of the end of the operations provided for in the said contract.

2. Each application for the carry-over premium must contain at least the following information:

— the applicant's name and address,

— the quantities of the products concerned, by species and category and by type of processing and, in the case where the amount of the premium has been changed during execution of a contract, the dates when the processing commenced and ended,

— in the case of a purchase contract, the invoice number and the contract number,

— in the case of processing by a producers' organization or by the producer referred to in Article 3 (2) (b) of Regulation (EEC) No 2204/82, the date on which the product is taken over and the number of the notification referred to in the second indent of Article 5 (1),

— where the product is entrusted by a producers' organization or by one of the producers referred to in Article 3 (2) (b) of Regulation (EEC) No 2204/82 to a processing plant, the numbers of the transfer vouchers and the number of the notification referred to in the second indent of Article 5 (1),

— where appropriate, a certificate as referred to in Article 6 (2) and (3) or the reference of the control document T No 5,

— the quantities of finished products obtained, by type of processing.

Article 9

In the cases referred to in Article 8 (1) (a) and (c), the Member State may each month grant an advance on the special carry-over premium to persons applying therefor, provided that they provide a security equal to 105 % of the amount of the advance.

Advances shall be calculated on the basis of the quantities processed at the time of the application for the advance less the quantities for which an advance has already been paid.

Article 10

The security referred to in Article 9 shall be provided, at the choice of the applicant, in cash or in the form of a guarantee provided 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 Member State has checked that the conditions laid down in Article 8 (1) (a) and (b) of Regulation (EEC) No 2204/82 have been complied with, as well as the provisions

of this Regulation, in proportion to the quantities recognized as qualifying for the special carry-over premium.

The security shall be forfeit:

(a) immediately, for quantities for which the advance has been paid unduly;

(b) after completion of the processing operations provided for in the contracts referred to in Article 8 (1) (a) and (c);

— in its entirety, except in cases of *force majeure*, if within a period of three months from the end of the operations provided for in the abovementioned contracts application has not been made for the special carry-over premium. However, if the application is submitted not later than the second month after expiry of the period specified above, the security shall be refunded, less an amount equal to 10 % of the security lodged for each month's or part of a month's delay in submitting the application in question,

— in proportion to any quantities for which entitlement to the special carry-over premium is not recognized.

Article 11

The exchange rate applicable to the advance and the special carry-over premium shall be the representative rate in force on the day of:

— conclusion of the purchase contracts referred to in Article 2 (1),

— the notifications referred to in the second indent of Article 5 (1).

Article 12

In the event of revision of the amounts of the special carry-over premium referred to in the Annex to Regulation (EEC) No 2204/82 or of the minimum purchase price referred to in Article 3 (1) of that Regulation, the new amounts shall apply immediately to all quantities for which processing commenced one week after the said revision.

Article 13

1. Each Member State shall notify the Commission of the name and address of the agency or agencies designated for control and of the control measures which must be set up before 1 January 1983 in order to apply the special carry-over premium system.

2. Member States shall also notify the Commission before the 15th of each month of:

— the quantities of sardines and anchovies expected to be processed during the preceding month under purchase contracts or on the basis of information contained in the notifications referred to in the second indent of Article 5 (1), broken down by species and by type of processing,

— the quantities of sardines and anchovies expected to be delivered to processors during the current month and the next two months under purchase or processing contracts, broken down by type of processing envisaged,

— the quantities of sardines and anchovies for which the special carry-over premium has been paid during the preceding month, broken down by species and type of processing, and expenditure on the grant of the special carry-over premium for the quantities in question.

Article 14

This Regulation shall enter into force on 1 January 1983.

It shall apply until 31 December 1986.

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

Done at Brussels, 19 November 1982.

For the Commission
Giorgios CONTOGEORGIS
Member of the Commission

ANNEX

DAILY RECORD OF QUANTITIES OFFERED FOR SALE, WITHDRAWALS AND SPECIAL CARRY-OVER PREMIUMS FOR THE SPECIES .....

Name of the producers' organization, or of the producer referred to in Article 3 (2) (b) of Regulation (EEC) No 2204/82

(kilograms)

Date	Quantities offered for sale							
	Total (all categories taken together)	of which qualifying for financial compensation (all categories taken together)	of which qualifying for the special carry-over premium					of which quantities sold for final consumption or other uses (all categories taken together)
			Total		of which:			
			all categories taken together	individual categories	supplied to a processor on the basis of a purchase contract	processed by the producers' organization or the producer (Article 3 (2) (b))	sent by the producers' organization or the producer to a processor for processing (Article 3 (2) (b))	
1.1	...	...	...	E_3	...	a)	a)	
						b)	b)	
						c)	c)	
				E_4	...	a)	a)	
						b)	b)	
						c)	c)	
2.1								
January								
...								
...								
...								
Year								

a) Quantities intended for the manufacture of preserves falling within heading No 16.04 of the Common Customs Tariff.
b) Quantities intended for production of salted products, presented in hermetically sealed packs.
c) Quantities intended for other processing.
All figures are rounded in accordance with the rule of 5.