COMMISSION REGULATION (EEC) No 3646/84

of 21 December 1984

amending Regulation (EEC) No 3138/82 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 granting of a special carry-over premium for Mediterranean sardines and anchovies (2), and in particular Article 5 thereof,

Whereas experience gained since the entry into force of Commission Regulation (EEC) No 3138/82 (3) has shown the need for certain adjustments to the abovementioned Regulation, and in particular for greater flexibility in the application of the system of contracts taking into account the general characteristics of production of the species concerned;

Whereas, to this end, the contracting parties should be authorized to reduce the quantities initially agreed below the 25 % tolerance margin laid down at present, when it has not been possible to comply with this margin for reasons outside the operators' control;

Whereas significant differences have been found to occur in the granting of the premium where the quantities delivered have remained more than 25 % below the quantities initially agreed, and whereas the new more flexible provision should therefore be introduced in the interest of the operators concerned, with retroactive effect from 1 January 1983, and a new time limit should be fixed for the submission of applications capable of benefiting from this new provision;

Whereas since processors' supply requirements may lead to supplementary supplies being sought, the provisions relating to the conclusion of new contracts between the operators concerned should be amended;

Whereas the second paragraph of Article 10 of the same Regulation lays down that, in the event of late submission of an application for the premium, the security lodged against the grant of an advance on the premium can nevertheless be refunded subject to a deduction of 10 %; whereas the same provision should be laid down, with retroactive effect from 1 January 1983, for the grant of the premium itself, and a new time limit should be fixed for the submission of applications capable of benefiting from this provision.

Whereas, in particular where certain contracts are not fully executed, the processor may be forced to use, for the same lot of processed products, supplies of raw materials of various origins; whereas this situation entails serious difficulties in keeping stock records as regards the intended use of the merchandize; whereas it should consequently be made clear that, with a view to the control of the processed products at the marketing stage, the total daily output of the undertaking should be entered into the general records of stocks of total finished products;

Whereas, where an infringement of limited importance is committed against the special carry-over premium scheme, the limited financial benefit deriving from such an infringement should not be penalized by complete loss of entitlement to the premium but simply by a flat-rate reduction in the latter;

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

Regulation (EEC) No 3138/82 is hereby amended as follows:

1. The following subparagraph is added to Article 3 (2):

'However, the additional clauses may relate to quantities falling short of the quantities originally specified by more than the abovementioned 25 % tolerance if it is shown to the satisfaction of the Member State that the failure to comply with the tolerance in question is due to significant changes in the conditions affecting production of the raw material, in particular biological and climatic conditions, or to any other reason beyond the control of the operators.'

(1) OJ No L 379, 29. 12. 1981, p. 1.
(2) OJ No L 235, 10. 8. 1982, p. 7.
(3) OJ No L 335, 29. 11. 1982, p. 9.

2. Article 3 (3) is replaced by the following :

'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 unless the current contract has been fully executed by the date of expiry of the period of validity.'

3. Article 6 (1) (c) is replaced by the following :

'(c) as regards the intended use of the merchandize :

— total daily output as entered in the records of stocks of total finished products.'

4. The following subparagraph is added to Article 8 (1) :

'However, if the application is submitted at the latest in the second month following the dates of expiry of the abovementioned time limits, the premium or proportion thereof for which an advance has not been requested shall be paid, less an amount equal to 10 % of the amount of the premium for each month or part of a month by which the application in question overran the time limit.'

5. The third indent of Article 8 (2) is replaced by the following :

'— in the case of a purchase contract, the invoice number, the contract number and, where appropriate, proof of the circumstances mentioned in the last subparagraph of Article 3 (2).'

6. The first subparagraph of Article 9 is replaced by the following :

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

7. The following Article is inserted after Article 12 :

'Article 12a

1. Where a limited infringement against the system of special carry-over premium has been committed by the recipient of the premium and it is shown by the latter, to the satisfaction of the Member State concerned, that the infringement was not committed with fraudulent intent or as a result of serious negligence, the Member State shall withhold an amount equal to 10 % of the Community withdrawal price applicable to the quantities in respect of which the infringement was committed which are intended to qualify or already have qualified for the special carry-over premium.

2. Member States shall notify the Commission of cases where they have applied paragraph 1.'

Article 2

By way of derogation from Article 8 (1) of Regulation (EEC) No 3138/82, a new time limit of three months from the date of entry into force of this Regulation is set for the submission of an application for payment of the special carry-over premium relating to quantities processed before that date and capable of benefiting from the provisions set out in the second subparagraph of Article 3 (2) and the second subparagraph of Article 8 (1) of Regulation (EEC) No 3138/82.

Article 3

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

Article 1 (1), (4) and (5) shall apply with effect from 1 January 1983.

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

Done at Brussels, 21 December 1984.

For the Commission

Giorgios CONTOGEORGIS

Member of the Commission