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*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EEC) No 2202/82**

of 28 July 1982

**laying down general rules for the granting of financial compensation in respect of certain fishery products**

THE COUNCIL 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<sup>(1)</sup>, and in particular Article 13 (6) thereof,

Having regard to the proposal from the Commission,

Whereas Article 13 of Regulation (EEC) No 3796/81 provides that Member States shall grant financial compensation to producers' organizations which, in certain circumstances, withdraw from the market the products specified in Annex I (A) and (D) to the said Regulation;

Whereas, in order to give maximum encouragement to efforts to stabilize the market, those producers' organizations which do not apply the Community withdrawal price throughout the fishing year should not qualify for financial compensation;

Whereas, to facilitate the application of the Community withdrawal price system where fishery products are offered for sale by an organization or by one of its members outside the operational area of that organization, the withdrawal price to be observed should be determined by applying the margin of tolerance, if any, for the area in which the quantities concerned are offered for sale;

Whereas the measures taken by the producers' organizations are intended to ensure that fishing is carried out along rational lines and that conditions for the sale of their members' products are improved; whereas, to this end, it is necessary that financial compensation should be granted only in respect of the products supplied by the members of such organizations;

Whereas, since demand may fluctuate over a given marketing period, products should not be withdrawn from the market before they have been offered for sale; whereas, therefore, financial compensation should be granted only in respect of products which, having been offered for sale in the usual manner, have failed to find a buyer at the Community withdrawal price;

Whereas, in the event of certain products being withdrawn from the market, the carry-over premium provided for in Article 14 of Regulation (EEC) No 3796/81 is intended to prevent the destruction of products of a high commercial value; whereas, therefore, compensation should be granted only in respect of products which do not qualify for the carry-over premium;

Whereas, pursuant to the second subparagraph of Article 13 (4) of Regulation (EEC) No 3796/81, 80 % of the volume of products having benefited under the carry-over premium is taken into account when calculating the financial compensation; whereas, therefore, the quantities referred to in Article 14 (2) of the aforesaid Regulation vary depending on the quantities withdrawn from the market and referred to in Article 13 (3); whereas, consequently, the maximum aggregate quantities which may be taken into account pursuant to these two Articles vary between 20 and 23 % of annual quantities put up for sale;

Whereas, if the system of differential-rate financial compensation is to function properly, rules should be laid down to specify how the quantities withdrawn should be taken into consideration for the purpose of determining the amount of compensation applicable to the various bands of quantities withdrawn;

Whereas no financial compensation may be paid until the end of the fishing year; whereas, to facilitate the operation of the producers' organizations, provision should be made for granting advances in exchange for the lodging of a security,

<sup>(1)</sup> OJ No L 379, 31. 12. 1981, p. 1.

HAS ADOPTED THIS REGULATION :

*Article 1*

This Regulation lays down the general rules for granting the financial compensation referred to in Article 13 of Regulation (EEC) No 3796/81, hereinafter referred to as the basic Regulation.

*Article 2*

1. The granting of financial compensation shall be subject to the condition that the producers' organization has applied the Community withdrawal price in accordance with Article 13 (1) (a) and (d) of the basic Regulation throughout the year.

2. Where a producers' organization authorizes its members to dispose of their products in accordance with the common rules drawn up by the organization which are referred to in the first indent of Article 5 (1) of the basic Regulation, it shall be considered to have satisfied the condition laid down in paragraph 1 if its members observe the Community withdrawal price referred to in that paragraph.

3. Where a producers' organization or one of its members offers its products for sale in an area other than its own area of operations, any use made in that area of the margin of tolerance provided for in Article 13 (1) (a) of the basic Regulation shall be taken into consideration for the determination of the level of the withdrawal price applicable to the quantities concerned.

If the use made of the margin of tolerance in the area in question leads to the fixing of more than one level at which products are withdrawn by the producers' organizations established in that area, the producers' organization referred to in the first subparagraph or one of its members who offers its products for sale in that area shall choose at which of those levels its withdrawals will be made.

*Article 3*

Quantities withdrawn from the market shall be eligible for financial compensation only where :

- (a) they have been caught by a member of a producers' organization ;
- (b) they have been offered for sale
  - through the producers' organization, or
  - by a member in accordance with the common rules as drawn up by the producers' organization and referred to in the first indent of Article 5 (1) of the basic Regulation ;

after grading in accordance with the marketing standards referred to in Article 2 of the basic Regulation, provided they comply within this grading at the time of withdrawal ;

- (c) they have been offered for sale prior to withdrawal to all interested operators in accordance with customary regional and local practice but have failed to find a buyer at the price fixed in accordance with Article 13 (1) (a) of the basic Regulation ;
- (d) they have not qualified for the carry-over premium referred to in Article 14 of the basic Regulation.

*Article 4*

1. For the purposes of determining the amount of the financial compensation, account shall be taken of the quantities :

- (a) per product, previously graded in accordance with the marketing standards referred to in Article 2 of the basic Regulation, which have been offered for sale during the fishing year through the producers' organization or one of its members in accordance with the common rules drawn up by the organization and referred to in the first indent of Article 5 (1) of the basic Regulation ;
- (b) which are withdrawn from the market during the same fishing year and referred to in Article 3, with the exception of quantities below a minimum to be determined pursuant to Article 13 (2) of the basic Regulation.

2. The quantities referred to in paragraph 1 (b) above, including those qualifying for the carry-over premium provided for in Article 14 of the basic Regulation, shall be taken into consideration in the chronological order of their withdrawal from the market.

As and when the transactions provided for in Article 14 (1) of the basic Regulation occur, 80 % of the quantities benefiting under the carry-over premium shall be taken into account when calculating the quantities benefiting from financial compensation and the rates pertaining thereto. Once the sum of the quantities withdrawn which benefit from financial compensation and of 80 % of those benefiting from the carry-over premium exceeds 20 % of the quantities put up for sale, no further financial compensation or carry-over premium shall be granted.

*Article 5*

The financial compensation shall be paid to the producers' organization, on application, after the end of each fishing year.

However, at intervals to be determined, one or more advances shall be paid, on application, to the producers' organization concerned in respect of the quantities withdrawn, on condition that:

- the provisions of Article 3 have been complied with for the period in question,
- the applicant lodges a security at least equal to the amount advanced.

The amount of the advance(s) shall be determined on the basis of the provisional ratio between the quantities withdrawn and the quantities offered for sale during the period concerned.

*Article 6*

This Regulation shall enter into force on 1 January 1983.

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

Done at Brussels, 28 July 1982.

*For the Council*

*The President*

O. MØLLER

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