

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 207 final

Brussels, 19 April 1982

Proposal for
COUNCIL REGULATION (EEC)

laying down general rules concerning the extension
of certain rules adopted by producers' organizations
in the fisheries sector

Proposal for
COUNCIL REGULATION (EEC)

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

Proposal for
COUNCIL REGULATION (EEC)

laying down general rules for the granting of a
carry-over premium for certain fishery products

(submitted to the Council by the Commission)

COM(82) 207 final

EXPLANATORY MEMORANDUM

I. Introduction

On 29 December 1981 the Council adopted a new common organization of the market in fishery products¹. This organization is to enter into force in the near future and will replace the system introduced by Regulation (EEC) No 100/76².

Where the internal aspects of the market are concerned, the new system makes three important changes, namely:

- the extension to non-members of certain rules laid down by producers' organizations;
- financial compensation for producers' organizations withdrawing products from the market, whereby the greater the quantities withdrawn, the lower will be the rate of compensation;
- the introduction of a carry-over premium for certain fishery products.

Council Regulations are needed to bring these provisions of the new basic Regulation into force. Such is the purpose of the present proposals.

In the very near future, the Commission will also present to the Council further proposals for regulations to implement the special arrangements for sardines and anchovies (Article 14 of the new basic Regulation provides for a special carry-over premium) and to grant, as a temporary measure, increased aid to producers' organizations.

¹ OJ No L 379, 30.12.1981, p. 1.

² OJ No L 20, 28. 1.1976, p. 1.

II. The extension to non-members of certain rules laid
down by producers' organizations

Under the common organization of the market in fishery products, the producers' organizations were given, from the outset, a key role in the everyday management of the market. Unfortunately, it has frequently been the case that the measures laid down by these organizations to stabilize the market have not achieved their full effect because of the disturbing influence of producers who do not belong to the organizations.

To help solve this problem, Article 7 of the new basic Regulation adopted by the Council provides that Member States may oblige non-members to comply with the marketing rules laid down by producers' organizations and to observe the withdrawal price, subject to the condition that the organizations in question should be representative of production and marketing in a given geographical area.

The Commission proposes that a producers' organization should be considered as representative where its production and marketing activity is of significant importance on the market for one or more products in the area concerned.

The marketing rules with which non-members may have to comply relate to such matters as all technical aspects of the products' presentation for initial sale and the preparation for sale; the stronger influence thus enjoyed by the producers' organizations should help to stabilize the market, in line with the Council's wishes.

On the other hand, the rules to be extended to non-members will apply only to the first stage of marketing. Where products have already been sold for the first time before they are landed in the area concerned (such direct sales are usually at prices lower than the auction prices, since fewer costs are entailed), provision should be made so that the minimum price to be observed at this first stage can be slightly lower than the withdrawal price. The Commission proposes to set this minimum at 95% of the withdrawal price.

Lastly, the measure cannot achieve its purpose if the rules are made compulsory for too short a period. For this reason, the Commission proposes that the period in question should be determined in accordance with the Management Committee procedure so that it will be easier to adjust the length of the minimum period should production and marketing requirements make this necessary. On the other hand, to prevent such extensions of marketing rules becoming "institutionalized", it is proposed that the period in question should not exceed 12 months.

III. The granting of financial compensation

One of the conditions for the granting of financial compensation, as referred to in Article 13 of the new basic Regulation, is that the producers' organizations should apply the Community withdrawal price. The purpose of the withdrawal system itself is to stabilize market prices without entailing the formation of structural surpluses in the Community.

The aim of the new system of degressive compensation introduced by the Council (Article 13 of the new Regulation) is to encourage producers' organizations to match their production more closely to the quantitative and qualitative needs of the market and to satisfy the requirements relating to the conservation and management of resources.

To achieve these aims, the Commission proposes that financial compensation should be paid to producers' organizations provided that they have applied the Community withdrawal price throughout the fishing year. Experience has shown that it must be clearly stipulated that the members of a producers' organization are obliged to observe the Community withdrawal price in cases where they are authorized to market their products in accordance with common rules laid down by their organization.

To prevent the large-scale withdrawals which might result if the Community withdrawal price were rigidly applied throughout the year, Article 13(1)(a) of the new basic Regulation allows producers' organizations to apply a margin of tolerance extending 10% below and 5% above the Community withdrawal price, depending on their assessment of the market. This should enable producers' organizations to take account of the frequent seasonal changes in the marketing conditions peculiar to each port and each region. Thus, any use which a producers' organization makes of the margin of tolerance will in fact depend on local or regional conditions.

To prevent any disturbance of local or regional markets which might result from several producers' organizations differing in their use of the margin of tolerance, the Commission proposes that, where a producers' organization or one of its members offers its products for sale in an area outside its own operational area, only the use made of the margin of tolerance in the area concerned should be taken into consideration for the determination of the withdrawal price applicable to the quantities in question.

Similarly, financial compensation should be granted only in respect of products caught by the members of producers' organizations which have rules to ensure that fishing activities take place along rational lines and that conditions for the sale of their products are improved. It would be wrong for non-members, who are not obliged to comply with these rules, to qualify for financial compensation.

The Commission proposes, therefore, that, subject to certain conditions, financial compensation should be payable only in respect of those products which have been offered for sale through a producers' organization or by one of its members, in accordance with the rules laid down by the organization.

Compensation should not be payable on products which are offered for sale without having been graded in accordance with the marketing standards provided for in the basic Regulation or which do not meet these standards at the time of their withdrawal from the market.

It must be borne in mind that one of the basic aims of the common organization of the market in fishery products is to improve the quality of products intended for human consumption and to exclude from the market any products which do not meet the standards laid down in the basic Regulation. The provisions to this effect would be a dead letter if products failing to meet these standards were allowed to qualify for financial compensation or if, having been graded according to these standards, products were stored and offered for sale at a later date but no longer satisfied the same marketing standards at the time of their withdrawal. This measure would prohibit any manipulation of the classification arrangements when products are being auctioned.

Again with a view to preventing any abuse, the Commission proposes that financial compensation should be granted only in respect of products which have been offered for sale in the usual manner but have failed to find a buyer at the Community withdrawal price. Otherwise, producers' organizations might be tempted to withdraw their products from the market before offering them for sale, so as to obtain a better price through fluctuations in supply as the sale was taking place. It would be wrong for products withdrawn in this way to qualify for any financial compensation.

Clearly, no financial compensation can be granted in respect of products qualifying for the carry-over premium provided for in Article 14 of the basic Regulation, since the purpose of this premium is to prevent the destruction of certain listed products with a high commercial value, subject to certain conditions.

Lastly, since the amount of the financial compensation is calculated on the basis of three factors (quantities offered for sale in each year, quantities withdrawn, quantities qualifying for the carry-over premium) which cannot be determined until the end of the fishing year, no financial compensation can be paid until then, especially as it is also necessary to ensure that producers' organizations which did not observe the Community withdrawal price throughout the year do not qualify for such compensation. The Commission proposes, however, that advances may be granted subject to the lodging of a security.

IV. The carry-over premium

The essential purpose of the carry-over premium introduced by Article 14 of the basic Regulation is to prevent the undesirable destruction of valuable products which could be marketed at a later stage as processed products. This measure serves to allay the concern, frequently expressed within the Community, over the denaturing of products intended for human consumption.

The Commission is well aware, however, of the difficulties presented by the implementation of this new measure. It does not rule out a review of the proposed arrangements at the end of a trial period.

For the time being, the Commission proposes that the carry-over premium should be granted only in respect of products which are known to be marketable after processing and storage for at least 30 days without creating any serious disturbance on the market. The Commission would also point out that the Community has a considerable trading deficit in the demersal species concerned. In the case of shrimps, the Commission considers that the carry-over premium should help to facilitate the disposal of occasional surpluses, in the form of frozen shrimps, for example.

To prevent the formation of structural surpluses on the market for processed products, it is proposed that as a rule, only top-quality products should qualify for the carry-over premium. As regards the sizes to be taken into consideration, the Commission proposes that the Management Committee should decide on this matter since account must be taken of all the distinctive characteristics of each species and the specific market concerned.

The carry-over premium is to be paid to producers' organizations which have themselves processed the products concerned or which have been responsible for having them processed. The aim of this provision is to prevent speculative operations from depressing prices on the market for fresh products and to facilitate more effective supervision by the Member States. The competent authorities in the Member States must be in a position to ascertain whether processing and storage has actually taken place in accordance with the conditions laid down. This will be easier to achieve if the authorities only have to deal with a single body, in this case the producers' organization.

Given the fluctuations affecting the markets in the species concerned and the marketing risks involved, the carry-over premium can only be effective if it applies throughout the fishing year. The Commission proposes, therefore, that the amount of the premium should be fixed at the beginning of the fishing year.

To the same end, it is proposed that the amount of the premium should be determined by the Management Committee. Account has to be taken of the interdependence of the various markets (both in fresh and in frozen products) and of the marketing conditions peculiar to each case. In addition, the amount of the premium must not exceed the limits laid down in the basic Regulation or entail windfall profits for certain producers' organizations.

For this reason, it is proposed that the amount of the premium should be calculated on the basis of the lowest technical processing and storage costs recorded in the Community during the preceding fishing year.

Article 14 of the basic Regulation provides that the premium should be granted only in respect of quantities not exceeding 15% of the total quantity of the product put up for sale each year. Since it is not possible, until the end of the fishing year, to ascertain whether this condition has been fulfilled and whether the 15% limit has been exceeded, the premium cannot be paid until the end of the year in question. However, to avoid excessive practical difficulties with the implementation of this provision, the Commission proposes that, as in the case of financial compensation, advances may be granted subject to the lodging of a security.

V. Budgetary aspects

The budgetary aspects of financial compensation and carry-over premiums were taken into consideration in the drafting of the new basic Regulation. The Council and the Commission estimated that these new measures would mean an increase of some 10% in the intervention expenditure of the EAGGF Guarantee Section in respect of fishery products.

The Regulation on the extension of producers' organizations' marketing rules to non-members will have no consequences for the Community Budget.

Proposal for
COUNCIL REGULATION (EEC)

laying down general rules concerning the extension of certain
rules adopted by producers' organizations in the fisheries sector

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

Having regard to the proposal from the Commission,

Whereas, under Article 7 of Regulation (EEC) No 3796/81, Member States may extend to non-members who market products in a given area certain rules laid down for its members by the producers' organization considered to be representative of production and marketing in that area;

Whereas the representativity of an organization must be determined from the scale of its production and marketing activities on the market of the area concerned;

in order
Whereas, to harmonize the implementation in Member States of the arrangements described above, the main marketing rules which may be extended to non-members should be defined; whereas, for the same purpose, the stage to which such rules apply should be specified;

Whereas certain quantities of fish are marketed before they are landed; whereas, therefore, the conditions governing application of the extended rules to such products should be laid down;

Whereas, in order that the arrangements in question should have the necessary

(1) OJ No L 379, 31.12.1981, p.1.

flexibility, the period for which such extended rules may apply should be limited; whereas, on the other hand, if the aims of these arrangements are to be achieved, the extended rules must apply for a minimum period to be determined,

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down the general rules for applying the arrangements whereby the marketing rules of producers' organizations in the fisheries sector may be extended to non-members.

Article 2

Within the meaning of Article 7 of Regulation (EEC) No 3796/81, hereinafter referred to as the basic Regulation, a producers' organization shall be considered to be representative where its production and marketing activities are of significant importance on the market for one or more products in the area concerned.

Article 3

The marketing rules referred to in Article 7(1)(a) of the basic Regulation shall cover the following:

- the quality, size or weight, and presentation of products offered for sale;
- sampling, receptacles for sales purposes, packaging and labelling, and the use of ice;
- preparation for sale.

Article 4

The rules which must be complied with pursuant to Article 7(1) of the basic Regulation shall relate to the first marketing stage. This stage shall extend to the first sale of the products on the market in the zone concerned after they have been landed. Where the first sale of the products takes place before they are landed in the zone concerned :

- they may not be sold, ^{on the} / occasion of this first sale, at a price lower than 95% of the withdrawal price;
- the marketing rules shall apply to the products in question after they are landed.

Article 5

The rules which must be complied with pursuant to Article 7(1) of the basic Regulation shall apply for a period not exceeding 12 months.

The minimum duration of this period shall be determined in accordance with the procedure provided for in Article 33 of the basic Regulation.

Article 6

This Regulation shall enter into force on

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

Done at Brussels,

For the Council
The President

Proposal for
COUNCIL REGULATION (EEC)

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 (1), 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 the Member States are to 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' organisations 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;

(1) OJ No L 379, 31.12.1981, p.1.

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, 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,

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 producers' organizations have, throughout the year, applied the Community withdrawal price in accordance with Article 13(1)(a) and (d) of the basic Regulation.
2. Where a producers' organization authorizes its members to dispose of their products in accordance with the common rules referred to in the first indent of Article 5(1) of the basic Regulation, drawn up by the organization, 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 the

3. Where a producer's 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 the area in question, 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 withdrawal price applicable to the quantities concerned

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 drawn up by the producers' organization,
 after grading in accordance with the marketing standards referred to in Article 2 of the basic Regulation, and where they meet the relevant standards at the time of their withdrawal;
- c) they have been offered for sale, prior to withdrawal, 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. To determine the amount of the financial compensation, account shall be taken of the quantities :
 - a) per product, graded in accordance with the marketing standards referred to in Article 2 of the basic Regulation and offered for sale during the fishing year through the producers' organization or by one of its members in accordance with common rules drawn up by the organization;
 - b) withdrawn from the market during the same fishing year and specified 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), 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 in which they were withdrawn from the market.

Article 5

Financial compensation shall be paid to producers' organizations, on application, after the end of each fishing year.

At intervals to be fixed, however, 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 equal to the amount advanced, plus a percentage to be determined on the basis of the commercial interest rates applicable in the Community.

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

Article 6

This Regulation shall enter into force on

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

Done at Brussels,

For the Council
The President

Proposal for
COUNCIL REGULATION (EEC)

laying down general rules for the granting of
a carry-over premium for 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 (1), and in particular Article 14(6) thereof,

Having regard to the proposal from the Commission,

Whereas Article 14 of Regulation (EEC) No 3796/81 provides that, subject to certain conditions, a carry-over premium may be granted in respect of the processing and storage, with a view to human consumption, of some of the products which are listed in Annex I (A) and (D) to the abovementioned Regulation and which have been withdrawn from the market;

Whereas products which undergo processing before they are marketed should be eligible for the premium;

Whereas the processing and storage of the products in question must be such as to preclude the risk of any fraudulent operations;

Whereas, to ensure effective supervision of the products eligible for the premium, the latter should be granted only in respect of quantities processed either directly by producers' organizations or on their responsibility;

Whereas the amount of the carry-over premium must be fixed in such a way that the balance of the market in the products concerned is not disturbed;

(1) OJ No L 379, 31.12.1981, p.1.

Whereas the carry-over premium may not be paid until the end of the fishing year; whereas, however, to facilitate the implementation of these arrangements, provision should be made for the grant of advances, in exchange for the lodging of a security;

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down the general rules for the granting of the carry-over premium referred to in Article 14 of Regulation (EEC) No 3796/81, hereinafter referred to as the basic Regulation.

Article 2

1. A carry-over premium may be granted only in respect of products listed in the Annex to this Regulation which satisfy :
 - the requirements as to freshness and presentation laid down in the said Annex;
 - the requirements to be laid down as regards size.
2. The premium shall be granted to the producers' organizations concerned only in respect of the quantities of products referred to in paragraph 1 which have been withdrawn from the market and :
 - which fulfil the conditions specified in Article 3(a), (b) and (c) of Regulation (EEC) No ;
 - which, within a time limit to be specified, are subjected by the producers' organization to one or more of the processing methods listed in Article 14(5) of the basic Regulation or are delivered by the producers' organization concerned to a processor with a view to undergoing one or more of the said processing methods;
 - which undergo final processing through an uninterrupted process;
 - which, after processing, are stored for a period exceeding 30 days in conditions such that the quantities in question may be identified at any time by the competent authorities of the Member State concerned;
 - which are notified by the producers' organization to the competent authorities of the Member State concerned in accordance with rules to be determined.

Article 3

The amount of the premium shall be fixed before the beginning of each fishing year in accordance with the procedure laid down in Article 33 of the basic Regulation. This amount shall be calculated on the basis of the lowest technical processing and storage costs recorded in the Community in the preceding fishing year.

Article 4

1. The carry-over premium shall be paid to the producers' organization concerned only when the competent authority of the Member State concerned has established that the quantities in respect of which the premium has been applied for :

- do not exceed the limit specified in Article 14(2) of the basic Regulation;
- have been processed and stored in the manner specified in this Regulation.

2. The premium shall be paid after the end of each fishing year by the Member State which granted recognition to the producers' organization in question. At intervals to be fixed, however, advances shall be granted, on application, to the producers' organization concerned, provided that the latter lodges a security

equal to the amount advanced plus a percentage to be determined on the basis of the commercial interest rates applicable in the Community.

Article 5

The Member States concerned shall establish a monitoring system to ensure that the products in respect of which a premium has been applied for are eligible.

Beneficiaries of the premium shall, for control purposes, keep a stock record which conforms to criteria to be established.

Article 6

This Regulation shall enter into force on

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

Done at Brussels,

For the Council,
The President

ANNEX

Common Customs			
<u>Tariff Heading No</u>	<u>Description of goods</u>	<u>Freshness¹</u>	<u>Presentation¹</u>
1. ex 03.01 3 I f) 1	Redfish (Sebastes spp.)	E, A	whole
2. ex 03.01 B I h) 1	Cod (Gadus Morhua)	E, A	gutted and with head
3. ex 03.01 B I ij) 1	Saithe (Pollachius virens)	E, A	gutted and with head
4. ex 03.01 3 I k) 1	Haddock (Melanogrammus aeglefinus)	E, A	gutted and with head
5. ex 03.03 A IV b) 1	Shrimps (Crangon crangon)	A	simply boiled in water

¹The freshness, and presentation categories are those defined pursuant to

Article 2 of Regulation (EEC) No 3896/81.

FINANCIAL STATEMENT

DATE: 23.3.1982

1. RELEVANT BUDGET CODE: Art. 401: Intervention for fishery products
Appropriations for 1982: 18.75 m ECU

2. TITLE OF MEASURE: Draft Regulations implementing Reg. No 3796/81 on the common organization of the market in fishery products.

3. LEGAL BASIS: Regulation No 3796/81 on the common organization of the market in fishery products, Articles 13 and 14.

4. OBJECTIVE(S): Implementation of the new arrangements for financial compensation and carry-over premiums in respect of certain fishery products.

5. FINANCIAL CONSEQUENCE	FOR THE MARKETING YEAR	CURRENT FINANCIAL YEAR (82)	FOLLOWING FINANCIAL YEAR (82)
5.0 EXPENDITURE			
- CHARGED TO THE EC BUDGET (REMAINDS/INTERVENTIONS)	+ 1 m ECU	+ 1 m ECU	+ 2 m ECU
- CHARGED TO NATIONAL ADMIN.			
- CHARGED TO OTHER NATIONAL GROUPS			
5.1 RECEIPTS			
- OWN RESOURCES OF THE EC (LEWIES/ CUSTOMS DUTIES)	token entry	token entry	token entry
- NATIONAL			

	YEAR ..1984....	YEAR ..1985....	YEAR
5.0.1 PLURIANNUAL PATTERN OF EXPENDITURE	+ 2 m ECU	+ 2 m ECU	
5.1.1 PLURIANNUAL PATTERN OF RECEIPTS			

5.2 METHOD OF CALCULATION

Under the new basic Regulation (Reg. No 3796/81), account has already been taken of the extra expenditure entailed by financial compensation and the carry-over premium (see Council doc. No 8359/81 of 20 July 1981, p. 4).

6.0 FINANCING POSSIBLE WITH APPROPRIATIONS ENTERED IN RELEVANT CHAPTERS OF CURRENT BUDGET? YES/NO

6.1 FINANCING POSSIBLE BY TRANSFER BETWEEN CHAPTERS OF CURRENT BUDGET? YES/NO

6.2 NECESSITY FOR A SUPPLEMENTARY BUDGET? YES/NO

6.3 APPROPRIATIONS TO BE ENTERED IN FUTURE BUDGETS? YES/NO

COMMENTS: