

Commission Regulation (EEC) No 3460/85 of 6 December 1985 laying down detailed rules for the granting of a compensatory allowance for Mediterranean sardines

COMMISSION REGULATION (EEC) No 3460/85  
of 6 December 1985

laying down detailed rules for the granting of a  
compensatory allowance for Mediterranean sardines

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 171 and 358 thereof,

Having regard to Council Regulation (EEC) No 3117/85 of 4 November 1985 laying down general rules for the granting of compensatory allowances for sardines<sup>(1)</sup>, and in particular Article 4 thereof,

Whereas Article 3 of Regulation (EEC) No 3117/85 sets out the conditions for the granting of compensatory allowances, as regards eligible products and forms of processing, the limit of 43 000 tonnes and the beneficiaries of the scheme, and fixes the method of calculating the said allowance;

Whereas this scheme must be applied to those categories of sardines which are likely to be marketed most easily after processing;

Whereas the health and technical provisions laid down by the national authorities ensure that the products in question have been subjected fully and definitively to one of the processes referred to in Article 3 (1) of Regulation (EEC) No 3117/85; whereas compliance of the processed products in question with the said provisions should be subject to verification;

Whereas the responsibility for deciding the quantities in respect of which each producer established on its territory is eligible for the allowance should be left to the Member States;

Whereas, in order to comply with the Community quantitative limit of 43 000 tonnes provided for this scheme, each Member State should inform the Commission at the beginning of the marketing year of overall quantities granted; whereas, where appropriate, it is necessary to provide for methods of reducing the overall quantities if the maximum quantitative limit is exceeded;

Whereas to ensure that payment of the said allowance for those quantities in respect of which entitlement is established takes place within a reasonable period, the maximum period for processing and the lodging by the processor of the application for payment of the allowance should be fixed at six months after the delivery date;

Whereas, to speed up payment of the allowance, provision should be made for the producer or producers' organization to issue a written attestation certifying that each quantity sold forms

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part of the quantity eligible for the allowance as determined for the producer or producers' organization concerned; whereas, moreover, for the purposes of checks on attestations issued, provision should be made for Member States to exchange the necessary information relating to such attestations;

Whereas, in order to ensure constant control, those qualifying for the allowance must keep the inspection authority informed of their processing activities at all times;

Whereas, pursuant to Article 2 (3) of the Treaty of Accession, the institutions of the Community may adopt before accession the measures referred to in Articles 171 and 358 of the Act;

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*

This Regulation lays down detailed rules for the granting of the compensatory allowance, hereinafter referred to as the 'allowance', referred to in Article 3 of Regulation (EEC) No 3117/85 in respect of Mediterranean sardines.

#### *Article 2*

1 The allowance shall be granted only in respect of sardines which are sold to a processor for the purposes of full and definitive processing under the conditions laid down by Article 3 of Regulation (EEC) No 3117/85, in accordance with the health and technical provisions relating to products intended for human consumption in force in the Member State where the processor is established.

2 For the purposes of paragraph 1, processor means any natural or legal person who:

- processes Mediterranean sardines by one of the methods provided for in Article 3 of Regulation (EEC) No 3117/85,
- satisfies the conditions laid down in the national legislation of the Member State concerned for processing by one of the said methods.

#### *Article 3*

1 The quantity eligible for the allowance shall be determined annually for each marketing year and for each producer or producers' organization at its request, provisionally by the Member State where the producer or producers' organization is established, on the basis of the average annual quantity which the producer or the producers' organization sold to the Community processing industry for the purposes of processing operations eligible pursuant to this Regulation, during the reference period 1982 to 1984.

2 Member States shall notify the Commission, one month before the beginning of each marketing year, of the overall quantity eligible for the allowance as provisionally determined for the coming marketing year, broken down by category of product and processing operation. Furthermore, the Member States concerned shall forthwith inform the Commission of any change in this quantity.

Where the sum of the quantities provisionally determined by each of the Member States exceeds the ceiling provided for in the second indent of Article 3 (1) of Regulation (EEC) No 3117/85, the Commission, after consulting the Member States concerned, shall

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decide the overall quantities eligible for the allowance or each Member State, according to the criteria set out in paragraph 1.

The Commission shall take a decision on the quantities concerned within a period of 30 days following notification thereof, failing which the quantities determined shall be considered to have been accepted.

3 Final allocation of the quantities referred to in paragraph 1 shall take place after the Commission has taken a decision on the overall quantity determined by each Member State, in accordance with paragraph 2.

#### *Article 4*

1 The producer or producers' organization referred to in Article 3 (1) shall issue to the processor, at the time of each sale, a written attestation which shall include the name of the vendor, the name of the purchaser, the quantity and the price of products covered by the sale, and shall state that this quantity is part of the eligible quantity allocated to the producer or producers' organization in accordance with Article 3 (1).

The producer or producers' organization in question shall forward a copy of this attestation without delay to the Member State which fixed the eligible quantity.

2 Before the allowance is paid, the Member State in which the producer or producers' organization selling the product is established shall check that the aggregate of the quantities sold under each attestation does not exceed the eligible quantity allocated to the producer or producers' organization in question for the marketing year concerned.

3 Where the product is processed in a Member State other than that in which the vendor of the product is established, the Member State in which processing takes place shall forward each month to the Member State where the vendor of the product is established, with a view to the check referred to in paragraph 2, a list of the attestations which it received in the previous month in accordance with Article 5. The check shall be made immediately on receipt of the list in question and the outcome thereof shall be notified without delay to the Member State which had the check carried out.

4 In cases where the Member State carrying out the check referred to in paragraph 2 is unable to reach a final decision on a given attestation, this Member State shall request the producer or producers' organization which issued the attestation in question to justify the latter within a period not exceeding one month.

#### *Article 5*

1 On completion of processing operations and not later than six months after the date of actual delivery of the products, the processor concerned may lodge an application for payment of the allowance.

2 The allowance shall be paid to the processor by the Member State where processing has taken place, upon submission of:

- the sales invoice or receipt for the product, which must state at least the names and addresses of the parties concerned and the quantity, the purchase price actually paid to the producer or to the producers' organization and the delivery date for each category of product purchased;
- proof of payment for the goods at the price referred to in the first indent;
- the attestation referred to in Article 4;

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in respect of not more than the quantities eligible for the allowance as determined in accordance with Article 3 and after checking attestations pursuant to Article 4 (2).

3 Where the check referred to in Article 4 (2) indicates that the quantities sold by a producer or producers' organization exceed the eligible quantity allocated to the producer or producers' organization for the marketing year concerned or where the producers' organization fails to provide a satisfactory reply within the period specified in Article 4 (4), the allowance shall not be paid.

#### *Article 6*

1 The Member States concerned shall set up a control system to verify the eligibility of products in respect of which the allowance has been applied for and compliance with the provisions of this Regulation.

2 The detailed rules for the operation of the control system shall be drawn up by the Member State and must include at least the following requirements:

- submission by the processor of the supporting documents used for determining his entitlement to payment of the allowance,
- the keeping, by the producer or the producers' organization, of records of sales made under the terms of this Regulation specifying, for each sales operation, the date, purchaser, quantity and quality of the product sold,
- for the purposes of verifying full and definitive processing, the keeping of daily stock accounts by the processor showing, in particular:
  - the quantity of product purchased, by species and category, the date of acceptance and the number of the invoice or receipt,
  - the dates when processing began and ended,
  - the quantity processed, by species, category and type of processing, and the place of processing,
- direct inspections in the processing industries concerned,
- definition of the particulars to be included in the application for the allowance referred to in Article 5.

#### *Article 7*

1 Where an infringement of the allowance scheme, with limited implications, has been committed by a beneficiary of the allowance and it is shown by the same beneficiary, to the satisfaction of the Member State concerned, that such infringement was committed without intention to defraud or as the result of grave negligence, the Member State shall withhold an amount equal to 10 % of the Community withdrawal price for Atlantic sardines applicable to the quantities which are the subject of the infringement and which were intended to qualify for the allowance or in respect of which the allowance has been granted.

2 Each month, Member States shall notify the Commission of those cases where they have applied paragraph 1.

#### *Article 8*

The quantities sold pursuant to this Regulation shall be specifically entered in the last column of the register, a specimen of which is given in the Annex to Commission Regulation (EEC) No 3138/82<sup>(2)</sup>.

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### *Article 9*

1 The Member States concerned shall notify the Commission, not later than two months after the date of entry into force of this Regulation, of the control measures introduced pursuant to Article 6 (1).

2 The Member States shall also notify the Commission, every month, of the quantities processed which qualified for the allowance during the previous month, broken down by commercial category and type of processing carried out, and of the expenditure relating to the grant of the allowance in question.

### *Article 10*

The conversion rate applicable to the allowance shall be the representative rate in force on the delivery date of the product.

### *Article 11*

This Regulation shall enter into force on 1 March 1986 subject to the entry into force of the Treaty of Accession of Spain and Portugal.

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

Done at Brussels, 6 December 1985.

*For the Commission*

Frans ANDRIESEN

*Vice-President*

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- (1) [OJ No L 297, 9. 11. 1985, p. 1.](#)
- (2) [OJ No L 335, 29. 11. 1982, p. 9.](#)

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