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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 3396/85

of 26 November 1985

amending Regulation (EEC) No 103/76 laying down common marketing standards for certain fresh or chilled fish

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Treaty of Accession of Spain and Portugal, and in particular Article 2 (3) thereof and the Act annexed to the said Treaty, and in particular Articles 27 and 396 thereof,

Having regard to Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products (1), as amended by Regulation (EEC) No 3655/84 (2), and in particular Article 2 (3) thereof,

Having regard to the proposal from the Commission,

Whereas Article 2 of Regulation (EEC) No 3796/81 provides that common marketing standards may be set for the products listed in Article 1 of that Regulation or for groups of such products ;

Whereas the Act of Accession of Spain and Portugal makes provision for the inclusion of Spanish mackerel, megrim, Ray's bream and monkfish in the price system provided for by Regulation (EEC) No 3796/81 ;

Whereas the standardization of these products is of particular importance for the proper operation of the price system ;

Whereas the setting of common marketing standards is likely to help improve the quality of the products in question ; whereas, consequently, common marketing standards should be fixed for those products ;

Whereas, in addition, the standardization of products makes for fairer conditions of competition and greater transparency of the market ; whereas, this being the case, provision should be made so that the net weight in kilograms is stated on each lot marketed ;

Whereas, furthermore, given the characteristics of the market for certain pelagic species, experience has shown the need to provide in certain cases for adjustments to the grading system ;

Whereas, therefore, Regulation (EEC) No 103/76 (3), as last amended by Commission Regulation (EEC) No 3250/83 (4), should be amended,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 103/76 is hereby amended as follows :

1. Article 3 shall be replaced by the following :

'*Article 3*

Marketing standards are hereby laid down for the following species of saltwater fish, falling within subheading ex 03.01 B I of the Common Customs Tariff, with the exception of fish which is live, frozen or in pieces :

— Herring *(Clupea harengus)*,
— Sardines *(Sardina pilchardus)*,
— Spiny dogfish *(Squalus acanthias)*,
— Spotted dogfish *(Scyliorhinus,* spp.),
— Redfish *(Sebastes* spp.),
— Cod *(Gadus morhua)*,
— Saithe *(Pollachius virens)*,
— Haddock *(Melanogrammus aeglefinus)*,
— Whiting *(Merlangus merlangus)*,
— Ling *(Molva* spp.),
— Mackerel *(Scomber scombrus)*,
— Spanish mackerel *(Scomber japonicus)*,
— Anchovies *(Engraulis* spp.),
— Plaice *(Pleuronectes platessa)*,
— Hake *(Merluccius merluccius)*,
— Megrim *(Lepidorhombus* spp.),
— Ray's bream *(Brama* spp.),
— Monkfish *(Lophius* spp.).'

(1) OJ No L 379, 31. 12. 1981, p. 1.
(2) OJ No L 340, 28. 12. 1984, p. 1.
(3) OJ No L 20, 28. 1. 1976, p. 29.
(4) OJ No L 321, 18. 11. 1983, p. 20.

2. The following shall be added to Article 8 (4):

'A clearly visible and perfectly legible statement of the net weight in kilograms shall be affixed to each lot. In the case of lots put up in standardized boxes, the net weight need not be stated, if the weighing prior to sale indicates that the content of the boxes corresponds closely to their presumed content.';

3. The following paragraph shall be added to Article 8:

'5. The rules of application of this Article and in particular the weighing method and the determination of a variation in net weight lower or higher than that stated or presumed which is tolerated for each lot shall be adopted in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 3796/81 (1).

(1) OJ No L 379, 31. 12. 1981, p. 1.';

4. The following Article shall be inserted:

'Article 8a

Herring and mackerel may be classified under the various categories of freshness and size on the basis of a sampling system. This system must ensure that the freshness and size of the fish contained in the lot are as uniform as possible.

Detailed rules for the application of this Article and in particular the determination of the number of samples to be taken, the weight or volume of fish in each sample and the methods for assessing the classification and checking the weight of lots offered for sale shall be adopted in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 3796/81.';

5. In the first column of Annex A, after the words 'Parts of fish inspected', a '(2), shall be added to refer to the following new footnote:

'(2) In the case of monkfish from which the heads have been removed, grading into three freshness categories will be carried out on the basis of the arithmetical mean of the headings applicable thereto.';

6. Annex B shall be replaced by the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 1986 in respect of the Community as at present constituted with the exception of the provisions concerning Spanish mackerel, megrim, Ray's bream and monkfish which shall apply from 1 March 1986.

It shall apply to Spain and Portugal from 1 March 1986.

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

Done at Brussels, 26 November 1985.

For the Council

The President

J. F. POOS

ANNEX

'ANNEX B

SIZING (1)

	Herring	
	kg/fish	number of fish to kg
Size 1	0,125 and over	8 or less
Size 2	from 0,085 up to but excluding 0,125	from 9 to 11
Size 3	(a) from 0,050 up to but excluding 0,085	from 12 to 20
	(b) from 0,033 up to but excluding 0,085 for Baltic herring	from 12 to 30

	Sardines	
	kg/fish	number of fish to kg
Size 1	0,100 and over	10 or less
Size 2	from 0,055 up to but excluding 0,100	from 11 to 18
Size 3	from 0,031 up to but excluding 0,055	from 19 to 32
Size 4	(a) from 0,015 up to but excluding 0,031	from 33 to 67
	(b) from 0,011 up to but excluding 0,031 for Mediterranean sardines	from 33 to 91

	Dogfish	
	Scyliorhinus spp. kg/fish	*Squalus acanthias* kg/fish
Size 1	2 and over	2,2 and over
Size 2	from 1 up to but excluding 2	from 1 up to but excluding 2,2
Size 3	from 0,5 up to but excluding 1	from 0,7 up to out excluding 1

	Redfish	Cod
	kg/fish	kg/fish
Size 1	2 and over	7 and over
Size 2	from 0,6 up to but excluding 2	from 4 up to but excluding 7
Size 3	from 0,35 up to but excluding 0,6	from 2 up to but excluding 4
Size 4	—	from 1 up to but excluding 2
Size 5	—	from 0,3 up to but excluding 1

(1) (a) The minimum sizes expressed in weight laid down in this Annex shall also be regarded as being respected if the fish comply with the minimum biological sizes expressed in terms of length in the technical measures for the conservation of fishery resources.

(b) In any case, the minimum biological sizes applicable in each region in accordance with Regulation (EEC) No 171/83 must be observed.

	Saithe	Cod
	kg/fish	kg/fish
Size 1	5 and over	1 and over
Size 2	from 3 up to but excluding 5	from 0,57 up to but excluding 1
Size 3	from 1,5 up to but excluding 3	from 0,3 up to but excluding 0,57
Size 4	from 0,3 up to but excluding 1,5	from 0,17 up to but excluding 0,3

	Whiting	Ling
	kg/fish	kg/fish
Size 1	0,5 and over	5 and over
Size 2	from 0,35 up to but excluding 0,5	from 2,5 up to but excluding 5
Size 3	from 0,25 up to but excluding 0,35	from 0,5 up to but excluding 2,5
Size 4	from 0,11 up to but excluding 0,25	—

	Mackerel/Spanish mackerel	
	kg/fish	number of fish per 25 kg
Size 1	0,5 and over	50 or less
Size 2	from 0,2 up to but excluding 0,5	51 to 125
Size 3	(a) from 0,1 up to but excluding 0,2 (b) from 0,08 up to but excluding 0,2 for Mediterranean mackerel	(a) from 126 to 250 (b) from 126 to 325 in the case of Mediterranean mackerel

	Anchovies	
	kg/fish	number of fish to kg
Size 1	0,033 and over	30 or less
Size 2	from 0,020 up to but excluding 0,033	from 31 to 50
Size 3	from 0,012 up to but excluding 0,020	from 51 to 83
Size 4	from 0,008 up to but excluding 0,012	from 84 to 125

	Plaice	Hake
	kg/fish	kg/fish
Size 1	0,6 and over	2,5 and over
Size 2	from 0,4 up to but excluding 0,6	from 1,2 up to but excluding 2,5
Size 3	from 0,3 up to but excluding 0,4	from 0,6 up to but excluding 1,2
Size 4	from 0,15 up to but excluding 0,3	from 0,28 up to but excluding 0,6
Size 5	—	(a) from 0,2 up to but excluding 0,28 (b) from 0,15 up to but excluding 0,28 in the case of Mediterranean hake

	Megrim	Ray's bream
	kg/fish	kg/fish
Size 1	0,45 and over	0,80 and over
Size 2	from 0,25 up to but excluding 0,45	from 0,20 up to but excluding 0,80
Size 3	from 0,20 up to but excluding 0,25	—
Size 4	(a) from 0,11 up to but excluding 0,20 (b) from 0,050 up to but excluding 0,20 in the case of Mediterranean megrim	— —

	Monkfish	
	whole, gutted	without heads
	kg/fish	kg/fish
Size 1	10 and over	3,75 and over
Size 2	from 6 up to but excluding 10	from 2 up to but excluding 3,75
Size 3	from 3 up to but excluding 6	from 1 up to but excluding 2
Size 4	from 1 up to but excluding 3	from 0,5 up to but excluding 1
Size 5	from 0,5 up to but excluding 1	from 0,2 up to but excluding 0,5