COUNCIL REGULATION (EEC) No 33/89

of 5 January 1989

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 Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products (1), as last amended by Regulation (EEC) No 3468/88 (2), and in particular Article 2 (3) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 103/76 (3), as last amended by Regulation (EEC) No 3940/87 (4), laid down common marketing standards for certain fresh or chilled fish;

Whereas Article 14b of Regulation (EEC) No 3796/81 provides for a flat-rate aid scheme for the species listed in Annex VI to that Regulation and common standards must be laid down for the species concerned to enable it to be applied; whereas those species must therefore be covered by the provisions of Regulation (EEC) No 103/76;

Whereas experience has shown the need to simplify the common marketing standards to ensure that they are applied more uniformly throughout the Community; whereas the arithmetic rating method should therefore be discontinued and minimum requirements introduced that will help raise the quality of the fish in each freshness category;

Whereas, in the assessment of fish quality, freshness is decisive; whereas rules for assessing freshness should therefore be specified;

Whereas the presence of parasites may affect the commercial value of products put up for sale; whereas it is necessary to specify that any adverse effect such parasites may have on the quality of the product must be taken into account during the classification;

Whereas provision should be made for the application of sampling arrangements to pelagic species other than mackerel and herring; whereas the Commission should consequently be authorized to adopt rules of application in regard to the species to be covered by those arrangements;

Whereas it is necessary to prevent the market in fishery products from being disturbed by the marketing of species of an unsatisfactory quality liable to deter consumers from purchasing these products; whereas certain minimum freshness criteria for marketing for human consumption should be laid down for all but anadromous species;

Whereas Regulation (EEC) No 103/76 should therefore be amended,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. Article 3 is replaced by the following:

'*Article 3*

Marketing standards are hereby laid down for the following species of sea fish, falling within CN code 0302, with the exception of fish meat:

— Plaice *(Pleuronectes platessa)*
— Albacore *(Thunnus alalunga)*
— Bluefin tuna *(Thunnus thynnus)*
— Bigeye tuna *(Thunnus* or *Parathunnus obesus)*
— Herring of the species *Clupea harengus*
— Cod of the species *Gadus morhua*
— Sardines of the species *Sardina pilchardus*
— Haddock *(Melanogrammus aeglefinus)*
— Coalfish *(Pollachius virens)*
— Pollack *(Pollachius pollachius)*
— Mackerel of the species *Scomber scombrus*
— Mackerel of the species *Scomber japonicus*
— Horse mackerel *(Trachurus* spp.)
— Piked dogfish *(Squalus acanthias)*
— Spotted dogfish *(Scyliorhinus* spp.)
— Redfish *(Sebastes* spp.)
— Whiting *(Merlangus merlangus)*
— Blue Whiting *(Micromesistius poutassou* or *Gadus poutassou)*
— Ling *(Molva* spp.)
— Anchovies *(Engraulis* spp.)
— Hake of the species *Merluccius merluccius*
— Megrim *(Lepidorhombus* spp.)
— Ray's bream *(Brama* spp.)
— Monkfish *(Lophius* spp.)
— Dab *(Limanda limanda)*

(1) OJ No L 379, 31. 12. 1981, p. 1.
(2) OJ No L 305, 10. 11. 1988, p. 1.
(3) OJ No L 20, 28. 1. 1976, p. 29.
(4) OJ No L 373, 31. 12. 1987, p. 6.

— Lemon sole *(Microstomus kitt)*

— Pout *(Trisopterus luscus)*

— Bogue *(Boops boops)*

— Picarel *(Maena smaris)*

— Conger eel *(Conger conger)*

— Gurnard *(Trigla* spp.)

— Mullet *(Mugil* spp.)

— Skate *(Raja* spp.)'

2. The third subparagraph of Article 5 is replaced by the following:

'On the basis of the freshness ratings in Annex A, fish shall be classified by lot in freshness categories "Extra", A or B'.

3. Article 6 is replaced by the following:

'Article 6

1. Fish in freshness categories "Extra", A or B shall attain at least the freshness ratings fixed for the category concerned in Annex A.

2. Fish in freshness category "Extra" must be free from pressure marks, injuries, blemishes and bad discoloration.

3. Fish in freshness category A must be free from blemishes and bad discoloration. A very small proportion with slight pressure marks and superficial injuries shall be tolerated.

4. For freshness category B, a very small proportion of fish with more serious pressure marks and slight injuries shall be tolerated. Fish must be free of blemishes and bad discoloration.

5. For the purpose of classifying products into the various freshness categories, without prejudice to the applicable health rules, account shall also be taken of the presence of parasites and any adverse effect they may have on the quality of the products having regard to their nature and presentation.

6. Fish taken by vessels, the voyage duration of which is more than about one day, that were not, after capture, properly iced or subjected to equivalent treatment or kept under equivalent temperature sufficient to assure their freshness, may not be classified in categories Extra or A unless appropriate examination so permits.

7. The detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 3796/81.'

4. Articles 8a to 12 are replaced by the following:

'Article 9

Pelagic species 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.'

Article 10

1. Fish as specified in Article 3 imported from third countries may be marketed in the Community for human consumption only if:

(a) it complies with the provisions of Articles 4, 5, 6, 7, 8 and 9;

(b) it is presented in packages on which the following information is clearly and legibly marked:

— country of origin, printed in roman letters which are at least 20 mm high,

— species of fish,

— presentation,

— freshness and size categories,

— net weight in kg of the fish in the package,

— date of grading and date of dispatch,

— name and address of sender.

2. However, fish landed in a Community port direct from the fishing grounds from vessels flying the flag of a third country and intended for marketing for human consumption shall be subject, when put on the market, to the same provisions as those applicable to Community catches.

Article 11

The industry shall grade fish for freshness and size in collaboration with experts designated for that purpose by the trade organizations concerned.

Article 12

Not later than one month before this Regulation begins to apply, each Member State shall supply the other Member States and the Commission with a list of the names and addresses of the experts and trade organizations referred to in Article 11. The other Member States and the Commission shall be informed of any amendments to this list.

Article 13

Sea fish with the exception of anadromous species falling under CN code 0302 that are not mentioned in Article 3 may not be marketed for human consumption within the Community if their freshness rating is equal to or below the "not admitted" level indicated in Annex A. The relevant inspections shall be carried out in accordance with the provisions of Article 11.'

5. Article 13 shall become Article 14.

6. Annex A shall be replaced by the text appearing in Annex I to this Regulation.

7. The table appearing in Annex II to this Regulation shall be added to Annex B.

Article 2

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

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

Done at Brussels, 5 January 1989.

For the Council

The President

F. FERNANDEZ ORDOÑEZ

ANNEX I

'ANNEX A

FRESHNESS RATINGS

	CRITERIA			
	Freshness category (2)			
	Extra	A	B	Not admitted
	APPEARANCE			
I. SKIN	Bright, iridescent pigmentation ; no discoloration Aqueous, transparent mucus	Pigmentation bright but not lustrous ; Slightly cloudy mucus	Pigmentation in the process of becoming discoloured and dull ; Milky mucus	Dull pigmentation (1) Opaque mucus
EYE	Convex (bulging) ; Transparent cornea ; Black, bright pupil	Convex and slightly sunken ; Slightly opalescent cornea ; Black, dull pupil	Flat ; Opalescent cornea ; Opaque pupil	Concave in the centre (1) Milky cornea ; Grey pupil
GILLS	Bright colour ; No mucus	Less coloured ; Slight traces of clear mucus	Becoming discoloured ; Opaque mucus	Yellowish (1) Milky mucus
II. FLESH (cut from abdomen)	Bluish, translucent, smooth shining ; No change in original colour ;	Velvety, waxy, dull ; Colour slightly changed	Slightly opaque	Opaque (1)
COLOUR ALONG THE VERTEBRAL COLUMN	Uncoloured	Slightly pink	Pink	Red (1)
ORGANS	Kidneys and residues of other organs should be bright red, as should the blood inside the aorta	Kidneys and residues of other organs should be dull red ; blood becoming discoloured	Kidneys, residues of other organs and blood should be pale red	Kidneys (1), residues of other organs and blood should be brownish in colour
	CONDITION			
I. FLESH	Firm and elastic ; Smooth surface	Less elastic	Slightly soft (flaccid), Less elastic ; Waxy (velvety) and dull surface	Soft (flaccid) ; (1) Scales easily detached from skin, surface rather wrinkled
II. VERTEBRAL COLUMN	Breaks instead of coming away	Sticks	Sticks slightly	Does not stick (1)
PERITONEUM	Sticks completely to flesh	Sticks	Sticks slightly	Does not stick (1)
	GILLS, SKIN,			
GILLS, SKIN, ABDOMINAL CAVITY	Seaweed	No smell of seaweed or any bad smell	Slightly sour	Sour (1)

(1) Or in a more advanced state of decay.

(2) In the case of monkfish from which the heads have been removed, classification shall be carried out on the basis of the headings applicable thereto.'

ANNEX II

'ANNEX B

SIZING

	Dab	Lemon sole	Albacore	Bluefin tuna
	kg/fish	kg/fish	kg/fish	kg/fish
Size 1	0,25 and over	0,6 and over	4 and over	70 and over
Size 2	From 0,13 up to but excluding 0,25	From 0,35 up to but excluding 0,6	From 1,5 up to but excluding 4	From 50 up to but excluding 70
Size 3		From 0,18 up to but excluding 0,35		From 25 up to but excluding 50
Size 4				From 10 up to but excluding 25
Size 5				From 6,4 up to but excluding 10

	Bigeye tuna	Pollack	Blue whiting	Pout
	kg/fish	kg/fish	kg/fish	kg/fish
Size 1	10 and over	5 and over	7 or less	0,35 and over
Size 2	From 3,2 up to but excluding 10	From 2,5 up to but excluding 5	From 8 to 14	From 0,25 up to but excluding 0,35
Size 3		From 1,5 up to but excluding 2,5	From 15 to 25	From 0,125 up to but excluding 0,25
Size 4		From 0,265 up to but excluding 1,5	From 26 to 50	From 0,06 up to but excluding 0,125

	Bogue	Picarel	Conger
	Number of fish to kg	Number of fish to kg	kg/fish
Size 1	5 or less	20 or less	7 and over
Size 2	6 to 31	21 to 40	From 5 up to but excluding 7
Size 3	32 to 70	41 to 90	From 0,5 up to but excluding 5

	Gurnard	
	Red gurnard	Other gurnards
Size 1	1 kg and over	0,25 and over
Size 2	From 0,4 up to but excluding 1 kg	From 0,2 up to but excluding 0,25
Size 3	From 0,2 up to but excluding 0,4	
Size 4	0,06 to 0,2	

	Horse Mackerel	Mullet	Skate	Skate (wings)
	kg/fish	kg/fish	kg/fish	kg/fish
Size 1	0,6 and over	1 and over	5 and over	3 and over
Size 2	From 0,4 up to but excluding 0,6	From 0,5 up to but excluding 1	From 3 up to but excluding 5	From 0,5 up to but excluding 3
Size 3	From 0,2 up to but excluding 0,4	From 0,2 up to but excluding 0,5	From 1 up to but excluding 3	
(a) Size 4	From 0,12 up to but excluding 0,2	From 0,1 up to but excluding 0,2	From 0,3 up to but excluding 1	
Size 5	From 0,02 up to but excluding 0,12			
(b) Size 4	From 0,08 up to but excluding 0,2			
Size 5	From 0,02 up to but excluding 0,08			
Mediterranean				