COMMISSION REGULATION (EEC) No 3506/89

of 23 November 1989

amending Regulation (EEC) No 3703/85 laying down detailed rules for applying the common marketing standards for certain fresh or chilled fish

THE COMMISSION 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 on the common organization of the market in fishery products (1), as last amended by Regulation (EEC) No 1495/89 (2), and in particular Article 4 (4) thereof,

Having regard to Council Regulation (EEC) No 103/76 of 19 January 1976 laying down common marketing standards for certain fresh or chilled fish (3), as last amended by Regulation (EEC) No 33/89 (4), and in particular Articles 6 (7), 8 (5), and 9 thereof,

Whereas it is available to facilitate the implementation of the control arrangements; whereas sufficient time should be allowed for grading and labelling of certain fresh or chilled fish;

Whereas experience has shown that the sampling system should be extended to include pelagic fish species other than herring and mackerel; whereas detailed implementing rules should therefore be laid down for the species to be covered by that system;

Whereas Commission Regulation (EEC) No 3703/85 (5) should therefore be amended;

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

Regulation (EEC) No 3703/85 is hereby amended as follows:

1. Articles 7, 8 and 9 become Articles 10, 11 and 12. In the third indent of Article 11, 'Article 7' is replaced by 'Article 10'.

2. Article 6 is replaced by the following Articles 6 to 9:

'Article 6

Grading and the indication of the size category and degree of freshness, as referred to in Articles 7 and 8 of Regulation (EEC) No 103/76, shall take place allowing a reasonable period before the product is first offered for sale, so as to facilitate the inspection provided for in Article 4 of Regulation (EEC) No 3796/81.

Article 7

1. Grading of the species listed in Annex II into the various freshness and size categories on the basis of a sampling system, as provided for in Article 9 of Regulation (EEC) No 103/76, shall be carried out in accordance with the procedure laid down in the following paragraphs and in Article 8.

2. Samples shall be taken in such a way as to be representative of the given lot, account being taken of commercial practices applied in this matter in the Member States. Samples shall be taken in a regular manner depending on the weight of the samples to be taken and the total quantity to be offered for sale.

3. The samples shall be taken from the quantity to be offered for sale, as follows, provided they weigh not less than 0,08 % of any quantity over 100 tonnes:

Quantity offered for sale (tonnes)	Minimum weight to be sampled (kg)
Less than 5	8
5 or more but less than 15	20
15 or more but less than 40	40
40 or more but less than 60	60
60 or more but less than 80	80
80 or more but less than 100	100
100 or more	120

4. In cases where landings are made by a vessel equipped with fish tanks, samples shall be taken from the contents of each tank, account being taken of the above provisions.

Article 8

1. All fish in each sample shall be graded in accordance with Regulation (EEC) No 103/76. The freshness shall be determined in accordance with the criteria set out in point I of Annex A to that Regulation.

(1) OJ No L 379, 31. 12. 1981, p. 1.
(2) OJ No L 148, 1. 6. 1989, p. 1.
(3) OJ No L 20, 28. 1. 1976, p. 29.
(4) OJ No L 5, 7. 1. 1989, p. 18.
(5) OJ No L 351, 28. 12. 1985, p. 63.

The quantities intended for sale shall then be graded in the same categories as those resulting from the grading of the sample fish provided that visual inspection of the quantities in question raises no doubts as to whether the sample is representative.

Variations in size and freshness as provided for in Article 2 shall be allowed.

2. If a sample indicates that:

(a) a proportion of the fish examined, representing more than 10 % of the quantity in the sample, falls within category B, the minimum weight to be sampled must be at least double that specified in Article 7 (3). A suitable number of fish shall also be examined in accordance with the freshness criteria specified in point II of Annex A to Regulation (EEC) No 103/76. The quantities concerned may be graded in a higher category than B if the quality of all the fish of the second sample is higher than B;

(b) a proportion of the fish examined does not meet the requirements laid down for marketing for human consumption, the quantities concerned may not be used for that purpose, unless grading in accordance with Articles 6, 7 and 8 of Regulation (EEC) No 103/76 shows that a proportion thereof may be marketed for human consumption;

(c) some quantities may not be homogeneous in terms of freshness and size, the weight of the additional samples to be taken shall be decided by the experts referred to in Article 11 of Regulation (EEC) No 103/76.

3. If a visual inspection of the fish indicates that they have not been preserved on board the vessels as laid down in Article 6 (6) of Regulation (EEC) No 103/76 the method of assessment laid down in paragraph 2 (a) of this Article shall apply.

Article 9

Member States shall ensure by means of regular checks that Regulation (EEC) No 103/76 is complied with as regards products graded in accordance with the sampling procedure.'

3. The Annex becomes Annex I and the following Annex II is added:

'ANNEX II

1. Herring of the species *Clupea harengus.*
2. Sardines of the species *Sardina pilchardus.*
3. Mackerel of the species *Scomber scombrus.*
4. Mackerel of the species *Scomber japonicus.*
5. Horse mackerel *(Trachurus* spp.)
6. Anchovies *(Engraulis* spp.)
7. Picarels of the species *Maena smaris.'*

Article 2

This Regulation shall enter into force on the third day following 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, 23 November 1989.

For the Commission

Manuel MARÍN

Vice-President