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COMMISSION REGULATION (EEC) No 3703/85

of 23 December 1985

laying down detailed rules for applying the common marketing standards for certain fresh or chilled fish

(OJ L 351, 28.12.1985, p. 63)

Amended by:

		Official Journal	
	No	page	date
► M1 Commission Regulation (EEC) No 3506/89 of 23 November 1989	L 342	11	24.11.1989
► M2 Commission Regulation (EC) No 1115/2006 of 20 July 2006	L 199	6	21.7.2006



COMMISSION REGULATION (EEC) No 3703/85

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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 1981 on the common organization of the market in fishery products ⁽¹⁾, as last amended by the Act of Accession of Spain and Portugal, 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 ⁽²⁾, as last amended by Council Regulation (EEC) No 3396/85 ⁽³⁾, and in particular Articles 6, 8 and 8a thereof,

Whereas experience has shown the need to clarify certain provisions concerning the application of the common marketing standards laid down by Regulation (EEC) No 103/76 to ensure that these standards are more uniformly applied in the Member States;

Whereas the grading of herring and mackerel by sample assessment, as provided for in Article 8a of Regulation (EEC) No 103/76, should be carried out so as to ensure compliance with the Community standards for these species; whereas, to ensure that extrapolation of the results of the grading by sample assessment to all the lots concerned is justified, the number of samples to be taken, the weight or volume of each sample and the methods of grading and checking the weight of the lots marketed should be specified, account being taken of the various ways in which products are offered for sale;

Whereas, to help improve the quality of fish graded on the basis of a sampling system and to prevent the marketing of fish which is not sufficiently fresh, the Member States concerned must introduce control arrangements including inspections of the preserving facilities on the vessels landing the fish concerned;

Whereas the measures provided for in this Regulation are in accordance with the opinion of the Management Committee Fishery Products,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation lays down detailed rules for the control of the conformity with the common marketing standards laid down by Regulation (EEC) No 103/76 for the grading and the weighing of certain species.

Article 2

A lot is to be considered as uniform within the meaning of Articles 7 (1) and 8 (3) of Regulation (EEC) No 103/76 if not more than 10 % of the total quantity in the lot falls within the freshness or size category immediately below and/or above that stated for the box or lot in question.

Article 3

When the quantities of a given product landed from a vessel are being graded, the total quantities of the lots considered to be small lots within the meaning of Articles 7 (1) and 8 (3) of Regulation (EEC) No 103/76 should not exceed 100 kg of the product in question which are landed

⁽¹⁾ OJ No L 379, 31. 12. 1981, p. 1.

⁽²⁾ OJ No L 20, 28. 1. 1976, p. 29.

⁽³⁾ OJ No L 322, 3. 12. 1985, p. 1.

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from the vessel and are intended to be marketed for a particular sale. However, the competent authorities of the Member States are authorized to fix a quantity less than 100 kg where specific production and marketing conditions require it.

Article 4

Member States shall take all necessary steps to ensure that the grading of the product in accordance with the provisions of Regulation (EEC) No 103/76 cannot be altered when the product is first offered for sale except under the supervision of the competent authorities.

Article 5

To ensure that the contents of standardized boxes are the same as their presumed contents, as provided for in 8 (4) of Regulation (EEC) No 103/76, at least one box in every hundred boxes must be weighed, without prejudice to more restrictive national provisions or commercial rules applied in Member States. The net weight may vary, as provided for in Article 8 (5) of Regulation (EEC) No 103/76, by 5 % above or below the weight stated or presumed, subject to more restrictive national provisions on matters of commercial law.

▼M1*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.

▼ **M1***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.

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.

▼ **B***Article ► **M1** 10 ◀*

1. In order to ascertain the weight of the quantities put up for sale and landed the recipient units, or the transport vehicle into which these quantities are loaded, shall be weighed.

If such weighing cannot be carried out, the weight of the landed quantities shall be calculated by addition of the contents of the standardized boxes in which the quantities must be landed. However, a supplementary weighing by sample shall be carried out for the standardized boxes.

2. If the quantities are presented for public auction in standardized boxes to be marketed for a particular sale, weighing shall be carried out according to the provisions of Article 5.

3. The weight of quantities transhipped on board a vessel shall be calculated by applying the coefficients shown in Annex I:

- on the one hand, to the volume of the catches taken by each vessel or to the contents of each tank as measured by the appropriate technical means,
- on the other hand, to the volume of the quantities transhipped to the processing vessel as measured by means of the recipient approved by the office responsible for weights and measures in the Member State concerned.

▼ **B***Article ► **M1 11** ◀*

Within the framework of the sampling system Member States shall take all necessary measures to ensure in particular:

- that all vessels possess appropriate facilities, and use these facilities for maintaining the quality of the products concerned in accordance with the criteria laid down in Regulation No 103/76,
- that, the vessels equipped with fish tanks, the tanks are properly cleaned, that the temperature in the tanks is suitable for the keeping of fish and that this temperature can be noted,
- that all quantities marketed are recorded, with a breakdown by freshness and size category. Recording shall be based, in the case referred to in Article ► **M1 10** ◀, paragraph 1, on the substantiating documents signed by the skipper of the vessel concerned and by the purchaser and, in the case referred to in Article ► **M1 10** ◀, paragraph 3, on those signed by the skippers of the vessels concerned.

*Article ► **M1 12** ◀*

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.

▼ **B**ANNEX ► **M1** I ◀

Species	Size ⁽¹⁾	Volume m ³	Coefficients
Herring	1	1	0,86
	2		
	3		
Mackerel	1	1	0,8
	2		
	3		
Sprat	1	1	0,92

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⁽¹⁾ The size categories are those defined pursuant to Article 2 of Regulation (EEC) No 3796/81.

▼ M1*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*.

▼ M2

8. Sprat of the species *Sprattus sprattus*.