

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**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Treaty establishing the European Economic Community,

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.

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,

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.

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,

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 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.

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;

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.

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;

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.

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,

⁽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.

Article 6

1. The grading of herring or mackerel into the various freshness and size categories on the basis of a sampling system as provided for in Article 8a of Regulation (EEC) No 103/76, shall be carried out in accordance with the procedure laid down in the following paragraphs.

2. Samples shall be taken from the quantity to be offered for sale as follows:

- a sample of at least 50 kg shall be taken from any quantity less than 50 tonnes,
- two samples of at least 50 kg each shall be taken from any quantities between 50 and 100 tonnes,
- at least three 50 kg — samples shall be taken from any quantities exceeding 100 tonnes, or as many 50 kg — samples as necessary to give a total quantity of not less than 0,08 % of the quantities concerned.

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.

3. These samples are 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 number of samples to be taken and the total quantity to be offered for sale.

4. The quantities to be offered for sale concerned shall then be graded in accordance with the provisions of Regulation (EEC) No 103/76, in the light of the results of the sampling and subject to the following provisions and a visual inspection.

If a sample indicates:

- (a) that the fish examined fall within the same freshness and size category the quantities concerned shall be graded on the basis of this result. Variations in size and in freshness as provided for by Article 2, shall be permitted;
- (b) that a proportion of the fish examined, representing more than 10 % of the quantity in the sample, falls within category B, the number of the samples to be taken shall be doubled. However, the quantities concerned may not be placed in a category higher than category B;
- (c) that a proportion of the fish examined do not fulfil the conditions to be marketed for human consumption, the quantities concerned may not be used for this 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.

Article 7

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 transshipped 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 transshipped 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.

Article 8

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 7, 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 7, paragraph 3, on those signed by the skippers of the vessels concerned.

Article 9

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 December 1985.

For the Commission

Karl-Heinz NARJES

Vice-President

ANNEX

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

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