COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 527 final

Brussels, 13 December 1991

Proposal for a

COUNCIL REGULATION (EEC)

laying down common marketing standards for preserved tuna and bonito

(presented by the Commission)

EXPLANATORY MEMORANDUM

At the time of the studies which led the Council to adopt, on 21 June 1989, Reg. (EEC) N 2136/89 fixing common marketing standards for preserved sardines, several Member States and the Commission deemed necessary to extend the exercise to other fishery products, with priority being given to tuna and bonito.

The present draft regulation is intended to meet this objective by fixing, on the basis of Art. 2 of Council Reg. (EEC) N 3796/81 on the common organization of the market for fishery products, itself based on Arts. 42 and 43 of the Treaty, common marketing standards for preserved tuna and bonito marketed in the Community for human consumption. Generally speaking, these standards, which apply only to the finished product, do not affect the rules which already exist or which are under preparation concerning the various ingredients used as raw materials in the preparation of the finished product, the public health aspects or the provision of information to consumers by means of labelling. Their main purpose is to ensure the clarification, the transparency and the stabilization of the market and, consequently to garantee fair competition conditions on the Community market and to improve the profitability of tuna production in the Community.

With a view to ensuring market transparency in the interests of both tuna and bonito producers and consumers, the draft standards lay down provisions for the sale of the products concerned and forbids the marketing of any product which does not meet these provisions. In this context, a list has been drawn up defining the species which may be marketed under the terms of tuna and bonito respectively.

The non-exhaustive list of presentations for each type of fish (tuna or bonito) and the covering media further makes it possible, with a view to providing better information to the consumer, to adapt the trade description of the finished product by taking into account the type of the culinary preparation concerned.

Pursing the same objective of market transnparency, the labelling should indicate the fish content.

Proposal for a

COUNCIL REGULATION (EEC) No /
of

laying down common marketing standards for preserved tuna and bonito

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 3571/90,[2] and in particular Article 2(3) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 3796/81 provides for the possibility of adopting common marketing standards for fishery products in the Community, particularly in order to keep products of unsatisfactory commercial quality off the market and to facilitate trade relations based on fair competition;

Whereas the adoption of such standards for preserved tuna and bonito is likely to improve the profitability of tuna production in the Community, and the market outlets therefor, and to facilitate disposal of the products;

Whereas it must be specified in this context, particularly in order to ensure market transparency, that the products concerned must be prepared exclusively from well defined species;

Whereas, in order to ensure clarity in the trade description of the products concerned, the presentations in which they are marketed should be defined and the method of designation of the covering media laid down;
whereas these criteria must not, however, be such as to preclude the introduction of new products onto the market;

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1 OJ No L 379, 31.12.1981, p. 1.
2 OJ No L 353, 17.12.1990, p. 10.

Whereas Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States related to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer,[3] as last amended by Directive 89/395/EEC,[4] and Council Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to making-up by weight or by volume of certain prepackaged products,[5] as last amended by Directive 78/891/EEC,[6] specify the particulars required for correct information and protection of the consumer as regards the contents of packages; whereas, for preserved tuna and bonito, the trade description should also be determined with regard to the proposed commercial presentation or culinary preparation and, where appropriate, the covering medium used; whereas the labelling of the products concerned should be required to state the fish content in the container; whereas the meaning of the trade description "natural" should be defined;

Whereas the purpose of the Council Directive 91/493/EEC of 22 July 1992 laying down the health conditions for the production and the placing on the market of fishery products[7], is to harmonize the health requirements to be respected when marketing Community fishery products and to protect public health; whereas, the requirements laid down in this marketing standard are applied without prejudice to the health regulations in force;

Whereas the Commission should have responsibility for the adoption of any technical implementing measures,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation defines the standards governing the marketing of preserved tuna and bonito in the Community.

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3 OJ No L 33, 8.2.1979, p. 1.
4 OJ No L 186, 30.6.1989, p. 17.
5 OJ No L 46, 21.2.1976, p. 1.
6 OJ No L 311, 4.11.1978, p. 21.
7 OJ L No L 268, 24.09.1991, p. 15.

Article 2

1. The trade description of preserved tuna or bonito, as defined in Article 5, shall be reserved for products which satisfy the following conditions:

1) Preserved tuna must :

- *be covered by CN codes 1604 14 10 and ex 1604 20 70,*
- *be prepared exclusively from fish of one of the species listed in point I of the Annex to this Regulation,*

2) Preserved bonito must :

- *be covered by CN codes 1604 14 90, ex 1604 20 50, 1604 19 30, ex 1604 20 70, ex 1604 19 99 and ex 1604 20 90,*
- *be prepared exclusively from fish of one of the species listed in point II of the Annex to this Regulation.*

2. Under no circumstances may different species be mixed in the same container. However, culinary preparations using tuna or bonito flesh entailing disappearance of the muscular structure may contain the flesh of other fish which has undergone the same treatment provided at least 25% of the preparation consists of tuna or bonito or a mixture of the two.

Article 3

1. If any of the following forms of commercial presentation of the product form part of the trade description referred to in Article 5, they shall comply with the following definitions:

(i) solid: the musculature is cut transversely and is presented as a whole slice formed by a single portion or reconstituted by the compact assembly of several portions of flesh. Both sides of the cut surface of the slice must be regular and parallel to the bottom of the container.

The presence of flakes, accounting for up to 18% of fish weight, shall be tolerated.

However, when the musculature is canned raw, the presence of flakes shall be prohibited; a fragment of flesh may be added as a makeweight;

(ii) *chunks: fragments of flesh, the initial muscle structure of which is maintained and the shortest side of which is not less than 1.2 cm.*

The presence of flakes, accounting for up to 30% of fish weight, shall be tolerated;

(iii) *fillets: a) longitudinal strips of muscle taken from the musculature parallel with the vertebral column and with the skin removed, closely packed along the container;*

b) strips of muscle from the abdominal wall, with the skin removed, closely packed along the container; in this case, the fillets may be described as abdominal fillets, too;

(iv) *flakes: fragments of flesh of heterogeneous size.*

2. *Any form of presentation other than the above or other culinary preparation shall be permitted, provided that it is clearly identified in the trade description.*

Article 4

If the covering medium used forms an integral part of the trade description, it shall conform to the following provisions:

- *"in olive oil" is reserved for products using only olive oil, excluding any mixture with other oils;*

- *"natural" is reserved for products using the natural juice (the liquid exuding from the fish during cooking), a saline solution or water, eventually added of herbs, spices or aromatizing preparations;*

- *"in vegetable oil" is reserved for products using refined vegetable oils, used singly or in mixtures;*

- *where any other covering medium is used, it shall be identified clearly and explicitly using its usual trade name.*

Article 5

1. *Without prejudice to Directives 79/112/EEC and 76/211/EEC, the trade description on the prepackaging of preserved tuna or bonito shall state:*

(a) *in the case of the presentations referred to in Article 3(1),*

- *the type of fish (tuna or bonito),*

- *the presentation in which the fish is marketed, using the appropriate description as referred to in Article 3; this provision shall be optional, however, in the case of the presentations referred to in Article 3(1) (i),*

- *the description of the covering medium used, subject to the conditions set out in Article 4;*

(b) *in the case of the presentations referred to in Article 3(2),*

- *the type of fish (tuna or bonito);*

- *the precise nature of the culinary preparation.*

2. *Without prejudice to the Community provisions referred to in the previous paragraph, and in particular Articles 7 and 8 of Directive 79/112/EEC, the fish content (whether tuna or bonito), expressed in grams or as a percentage of the net weight, shall be clearly stated after the type of fish in the list of ingredients.*

3. *The trade descriptions of preserved tuna and bonito, as defined in Article 2 (1) and (2) respectively, may under no circumstances associate the words "tuna" and "bonito."*

4. *Without prejudice to Article 2 and paragraph 3 of this Article, where there is an established trade usage, the type of fish used (tuna or bonito) and the species may appear in the trade description under the name normally used in the Member State in which the products are marketed.*

5. *The trade description "natural" may be used only for preserves marketed in the presentations referred to in Article 3(1)(i) and in the covering medium as described in the second indent of Article 4.*

Article 6

This regulation is applicable without prejudice to Council Directive 91/493/EEC of 22 July 1992, laying down the health conditions for the production and the placing on the market of fishery products.

Article 7

As required, the Commission shall adopt, in accordance with the procedure laid down in Article 33 of Regulation (EEC) No 3796/81, the measures necessary for the application of this Regulation.

Article 8

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

It shall apply from 1st July 1992.

However, the products in stock which had been labelled before the
can be sold until

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

Done at Brussels, *For the Council*

ANNEX

I. TUNA

1. Species of the genus Thunnus

a) Albacore or longfinned tuna (Thunnus alalunga)
b) Yellowfin tuna (Thunnus (neothunnus) albacares)
c) Bluefin tuna (Thunnus thynnus)
d) Bigeye tuna (Thunnus (parathunnus) obesus)
e) Other species of the genus Thunnus.

2. Skipjack or stripe-bellied tuna

(Euthynnus (Katsuwonus) pelamis)

II. BONITO

1. Species of the genus Sarda

a) Atlantic bonito (Sarda sarda)
b) Pacific bonito (Sarda chiliensis)
c) Oriental bonito (Sarda orientalis)
d) Other species of the genus Sarda.

2. Species of the genus Euthynnus, with the exception of the species Euthynnus (Katsuwonus) pelamis

a) Atlantic little tuna (Euthynnus alleteratus)
b) Eastern little tuna (Euthynnus affinis)
c) (Euthynnus lineatus)
d) Other species of the genus Euthynnus.

3. Species of the genus Auxis

Frigate mackerel (Auxis thazard)

ISSN 0254-1475

COM(91) 527 final

DOCUMENTS

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Catalogue number : CB-CO-91-582-EN-C

ISBN 92-77-78782-1

Office for Official Publications of the European Communities
L-2985 Luxembourg