Commission Regulation (EC) No 543/2008 of 16 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007 as regards the marketing standards for poultrymeat

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation)[(1)], and in particular Article 121(e) in conjunction with Article 4 thereof,

Whereas:

(1) As from 1 July 2008, Regulation (EEC) No 1906/90 of 26 June 1990 on certain marketing standards for poultry[(2)] is repealed by Regulation (EC) No 1234/2007.

(2) Some of the provisions and obligations in Regulation (EEC) No 1906/90 were not taken over in Regulation (EC) No 1234/2007.

(3) As a result, certain provisions and obligations, as appropriate, must be adopted in a Regulation laying down detailed rules for the application of Regulation (EC) No 1234/2007 to enable the common market organisation and in particular the marketing standards to continue to function properly.

(4) Regulation (EC) No 1234/2007 lays down certain marketing standards for poultrymeat, the application of which requires the adoption of provisions concerning in particular the list of those poultry carcases, parts thereof and offal to which the said Regulation applies, classification by conformation, appearance and weight, types of presentation, the indication of the name under which the products in question are to be sold, the optional use of indications concerning chilling methods and the type of farming, conditions for storage and transport of certain types of poultrymeat and the supervision of these provisions in order to ensure their uniform application throughout the Community. Commission Regulation (EEC) No 1538/91[(3)], which lays down detailed rules for the application of Regulation (EEC) No 1906/90, should therefore be repealed and replaced by a new Regulation.

(5) In order to provide for the marketing of poultry in different classes according to conformation and appearance, it is necessary to lay down definitions relating to species, age and presentation in the case of carcases, and anatomical conformation and content in the case of poultry cuts. In the case of the product known as ‘foie gras’ the high value

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and consequent risk of fraudulent practices make it necessary to lay down especially precise minimum marketing standards.

(6) It is not necessary for these standards to be applied to certain products and presentations which are of local or otherwise limited importance. However, names under which such products are sold should not be such as to mislead the consumer to a material degree by causing him to confuse these products with products which are subject to the standards. Similarly, additional descriptive terms used to qualify the names of such products should also be subject to the standards.

(7) With a view to the uniform application of this Regulation, the terms ‘marketing’ and ‘batch’ should be defined in the poultrymeat sector.

(8) Storage and handling temperature is of crucial importance to the maintenance of high standards of quality. Therefore, it is appropriate to lay down a minimum temperature at which chilled poultrymeat products are to be kept.

(9) The provisions of this Regulation and in particular those relating to surveillance and enforcement should be applied uniformly throughout the Community. Detailed rules adopted to those ends should also be uniform. It is therefore necessary to lay down common measures in the matter of sampling procedures and tolerances.

(10) It is necessary, in order that the consumer be provided with sufficient, unequivocal and objective information concerning such products offered for sale, and to secure the free movement of such products throughout the Community, to ensure that poultrymeat marketing standards take into account as far as is practicable the provisions of Council Directive 76/211/EEC of 20 January 1976 on the approximation of the laws of the Member States relating to the making-up by weight or by volume of certain pre-packaged products[(4)].

(11) Among the indications which may optionally be used on the labelling are those concerning the method of chilling and particular types of farming. The use of the latter, in the interest of consumer protection, needs to be subject to compliance with closely defined criteria concerning both husbandry conditions and quantity thresholds for stating certain criteria such as age at slaughter or length of fattening period and content of certain foodstuff ingredients.

(12) When ‘free-range farming’ is indicated on the label for meat from ducks and geese kept for foie gras production, it is necessary also to provide an indication of the latter on the label to ensure that the consumer has full information on the products’ characteristics.

(13) It is desirable that the Commission should exercise permanent surveillance of the compatibility with Community law, including the marketing standards, of any national measures adopted in pursuance of these provisions. Particular provision should also be made for the registration and regular inspection of undertakings authorised to use terms referring to particular types of farming. Such undertakings should therefore be obliged to maintain detailed records for this purpose.

(14) In view of the specialised nature of these inspections, the competent authorities of the Member States concerned should be able to delegate responsibility for them to properly

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qualified and duly licensed outside bodies, without prejudice to appropriate supervision and precautions.

(15) Operators in third countries may wish to make use of the optional indications concerning chilling methods and types of farming. Provision should be made for them to do so, subject to appropriate certification by the competent authority of the third country concerned, which appears on a list established by the Commission.

(16) In view of economic and technological developments in both the preparation of poultry and checks, and given that water content is of particular interest in the marketing of frozen or quick-frozen poultry, the maximum water content of frozen or quick-frozen poultry should be fixed and a monitoring system both in slaughterhouses and at all marketing stages should be defined without violating the principle of the free circulation of products in a single market.

(17) Water absorption in the production establishment should be verified and reliable methods for the determination of the content of water added during the preparation of carcases of frozen or quick-frozen poultry should be established without a distinction being made between physiological liquid and other water originating from the preparation of the poultry given that such a distinction would entail practical difficulties.

(18) The marketing of non-conforming frozen or quick-frozen poultry without a suitable indication on the packaging should be prohibited. As a result, it is necessary to adopt practical rules with regard to the indications to be marked on individual and bulk packaging depending on their destination so as to facilitate checks and to ensure that they are not used other than for their intended use.

(19) It is necessary to lay down the action to be taken if a check reveals an irregularity in a consignment, where the products do not satisfy the requirements of this Regulation. A procedure should be established for the settlement of disputes which may arise in respect of intra-Community consignments.

(20) In the event of a dispute, the Commission should be able to take action on the spot and by adopting measures appropriate to the situation.

(21) The harmonisation of requirements concerning water content presupposes the designation of Community and national reference laboratories.

(22) Community financial assistance should be provided.

(23) A contract should be concluded between the Community and the Community reference laboratory setting out the conditions governing payment of financial assistance.

(24) Provision should be made for the Member States to adopt practical arrangements for checking the water content of frozen and quick-frozen poultry. With a view to ensuring the uniform application of this Regulation, provisions should be made for Member States to inform the Commission and the other Member States of the arrangements.

(25) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for the Common Organisation of Agricultural Markets,

HAS ADOPTED THIS REGULATION:

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Article 1

The products referred to in Article 121(e)(ii) of Regulation (EC) No 1234/2007 are hereby defined as follows:

1. **Poultry carcases**

(a) DOMESTIC FOWL (*Gallus domesticus*)

— chicken, broiler: fowl in which the tip of the sternum is flexible (not ossified),

— cock, hen, casserole or boiling fowl: fowl in which the tip of the sternum is rigid (ossified),

— capon: male fowl castrated surgically before reaching sexual maturity and slaughtered at a minimum age of 140 days: after castration the capons must be fattened for at least 77 days,

— poussin, coquelet: chicken of less than 650 g carcase weight (expressed without giblets, head and feet); chicken of 650 g to 750 g may be called ‘poussin’ if the age at slaughter does not exceed 28 days. Member States may apply Article 12 for the checking of this slaughter age,

— young cock: male chicken of laying strains in which the tip of the sternum is rigid but not completely ossified and of which the age at slaughter is at least 90 days;

(b) TURKEYS (*Meleagris gallopavo dom.*)

— (young) turkey: bird in which the tip of the sternum is flexible (not ossified),

— turkey: bird in which the tip of the sternum is rigid (ossified);

(c) DUCKS (*Anas platyrhynchos dom., Cairina muschata*), Mulard ducks (*Cairina muschata x Anas platyrhynchos*)

— young duck or duckling, (young) Muscovy duck, (young) Mulard duck: bird in which the tip of the sternum is flexible (not ossified),

— duck, Muscovy duck, Mulard duck: bird in which the tip of the sternum is rigid (ossified);

(d) GEESE (*Anser anser dom.*)

— (young) goose or gosling: bird in which the tip of the sternum is flexible (not ossified). The fat layer all over the carcase is thin or moderate; the fat of the young goose may have a colour indicative of a special diet,

— goose: bird in which the tip of the sternum is rigid (ossified); a moderate to thick fat layer is present all over the carcase;

(e) GUINEA FOWL (*Numida meleagris domesticus*)

— (young) guinea fowl: bird in which the tip of the sternum is flexible (not ossified),

— guinea fowl: bird in which the tip of the sternum is rigid (ossified).

For the purpose of this Regulation, variants of the terms used in (a) to (e) relating to sex shall be construed as equivalent.

2. **Poultry cuts**

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(a) half: half of the carcase, obtained by a longitudinal cut in a plane along the sternum and the backbone;

(b) quarter: leg quarter or breast quarter, obtained by a transversal cut of a half;

(c) unseparated leg quarters: both leg quarters united by a portion of the back, with or without the rump;

(d) breast: the sternum and the ribs, or part thereof, distributed on both sides of it, together with the surrounding musculature. The breast may be presented as a whole or a half;

(e) leg: the femur, tibia and fibula together with the surrounding musculature. The two cuts shall be made at the joints;

(f) chicken leg with a portion of the back: the weight of the back does not exceed 25 % of that of the whole cut;

(g) thigh: the femur together with the surrounding musculature. The two cuts shall be made at the joints;

(h) drumstick: the tibia and fibula together with the surrounding musculature. The two cuts shall be made at the joints;

(i) wing: the humerus, radius, and ulna, together with the surrounding musculature. In the case of turkey wings, humerus or radius/ulna together with the surrounding musculature may be presented separately. The tip, including the carpal bones, may or may not have been removed. The cuts shall be made at the joints;

(j) unseparated wings: both wings united by a portion of the back, where the weight of the latter does not exceed 45 % of that of the whole cut;

(k) breast fillet: the whole or half of the breast deboned, i.e. without sternum and ribs. In the case of turkey breast, the fillet may comprise the deep pectoral muscle only;

(l) breast fillet with wishbone: the breast fillet without skin with the clavicle and the cartilaginous point of the sternum only, the weight of clavicle and cartilage not to exceed 3 % of that of the cut;

(m) magret, maigret: breast fillet of ducks and geese referred to in point (3) comprising skin and subcutaneous fat covering the breast muscle, without the deep pectoral muscle;

(n) deboned turkey leg meat: turkey thighs and/or drumsticks, deboned, i.e. without femur, tibia and fibula, whole, diced or cut into strips.

For the products listed under (e), (g) and (h) the wording ‘cuts shall be made at the joints’ is to mean cuts made within the two lines delineating the joints as shown in the graphical presentation in Annex II.

Products listed under (d) to (k) may be presented with or without skin. The absence of the skin in the case of products listed under (d) to (j) or the presence of the skin in the case of the product listed under (k) shall be mentioned on the labelling within the meaning of Article 1(3)(a) of Directive 2000/13/EC of the European Parliament and of the Council[(5)].