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COUNCIL DIRETTIVE

of 22 July 1991

laying down the health conditions for the production and the placing on the market of fishery products

(91/493/EEC)

(OJ L 268, 24.9.1991, p. 15)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Council Directive 95/71/EC of 22 December 1995	L 332	40	30.12.1995
►**M2**	Council Directive 96/23/EC of 29 April 1996	L 125	10	23.5.1996
►**M3**	Council Directive 97/79/EC of 18 December 1997	L 24	31	30.1.1998
►**M4**	Council Regulation (EC) No 806/2003 of 14 April 2003	L 122	1	16.5.2003

Amended by:

►**A1**	Act of Accession of Austria, Sweden and Finland	C 241	21	29.8.1994
	(adapted by Council Decision 95/1/EC, Euratom, ECSC)	L 1	1	1.1.1995
►**A2**	Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded	L 236	33	23.9.2003

Corrected by:

►**C1** Corrigendum, OJ L 284, 12.10.1991, p. 32 (91/493/EEC)

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COUNCIL DIRETTIVE

of 22 July 1991

laying down the health conditions for the production and the placing on the market of fishery products

(91/493/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposals from the Commission ([1]),

Having regard to the opinions of the European Parliament ([2]),

Having regard to the opinions of the Economic and Social Committee ([3]),

Whereas, with a view to achieving the internal market and more especially to ensuring the smooth operation of the common organization of the market in fishery products established by Regulation (EEC) No 3796/81 ([4]), as last amended by Regulation (EEC) No 2886/89 ([5]), it is essential that the marketing of fish and fish products should no longer be hindered by disparities existing in the Member States in respect of health requirements; whereas this will enable production and placing on the market to be better harmonized and bring about competition on equal terms, whilst ensuring quality products for the consumer;

Whereas the European Parliament in its legislative resolution of 17 March 1989 ([6]) requested the Commission to come forward with comprehensive proposals on the hygienic production and placing on the market of fishery products, including solutions for the problem of nematodes;

Whereas fishery products freshly caught are in principle free of contamination with micro-organisms; whereas however contamination and subsequent decomposition may occur when handled and treated unhygienically;

Whereas therefore the essential requirements should be laid down for the correct hygienic handling of fresh and processed fishery products at all stages of production and during storage and transport;

Whereas it is appropriate to apply by analogy certain marketing standards which are laid down pursuant to Article 2 of Regulation (EEC) No 3796/81, in order to fix the health quality of these products;

Whereas it is the responsibility primarily of the fisheries industry to ensure that fishery products meet the health requirements laid down in this Directive;

Whereas the competent authorities of the Member States must, by carrying out checks and inspections, ensure that producers and manufacturers comply with the said requirements;

Whereas Community control measures should be introduced to guarantee the uniform application in all Member States of the standards laid down in this Directive;

Whereas, in order to ensure the smooth operation of the internal market, the measures should apply in an identical manner to trade within the Member States and to trade between the Member States;

([1]) OJ No C 66, 11. 3. 1988, p. 2; OJ No C 282, 8. 11. 1989, p. 7 and OJ No C 84, 2. 4. 1990, p. 56.
([2]) OJ No C 96, 17. 4. 1989, p. 29 and OJ No C 183, 15. 7. 1991.
([3]) OJ No C 134, 24. 5. 1988, p. 31 and OJ No C 332, 31. 12. 1990, p. 59.
([4]) OJ No L 379, 31. 12. 1981, p. 1.
([5]) OJ No L 282, 2. 10. 1989, p. 1.
([6]) OJ No C 96, 17. 4. 1989, p. 199.

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Whereas in the context of intra-Community trade, the rules laid down in Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ([1]) as amended by Directive 90/675/EEC ([2]) apply to fishery products;

Whereas fishery products from third countries intended to be placed on the market of the Community must not qualify for more favourable arrangements than those applied in the Community; whereas provision should therefore be made for a Community procedure for the inspection in third countries of the conditions of production and placing on the market in order to permit the application of a common import system based on conditions of equivalence;

Whereas the products in question are subject to the rules concerning checks and to safeguard measures covered by Council Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries;

Whereas, so that account may be taken of particular circumstances, derogations should be granted to some establishments already operating before 1 January 1993 so as to allow them to adapt to all the requirements laid down in this Directive;

Whereas the Commission should be entrusted with the task of adopting certain measures for implementing this Directive; whereas, to that end, procedures should be laid down introducing close and effective cooperation between the Commission and the Member States within the Standing Veterinary Committee;

Whereas the essential requirements laid down in this Directive may need further specification,

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I

General provisions

Article 1

This Directive lays down the health conditions for the production and the placing on the market of fishery products for human consumption.

Article 2

For the purposes of this Directive, the following definitions shall apply:

1. '*fishery products*' means all seawater or freshwater animals or parts thereof, including their roes, excluding aquatic mammals, frogs and aquatic animals covered by other Community acts;
2. '*aquaculture products*' means all fishery products born and raised in controlled conditions until placed on the market as a foodstuff. However seawater or freshwater fish or crustaceans caught in their natural environment when juvenile and kept until they reach the desired commercial size for human consumption are also considered to be aquaculture products. Fish and crustaceans of commercial size caught in their natural environment and kept alive to be sold at a later date are not considered to be aquaculture products if they are merely kept alive without any attempt being made to increase their size or weight;
3. '*chilling*' means the process of cooling fishery products to a temperature approaching that of melting ice;
4. '*fresh products*' means any fishery product whether whole or prepared, including products packaged under vacuum or in a modi-

([1]) OJ No L 395, 30. 12. 1989, p. 13.
([2]) OJ No L 373, 31. 12. 1990, p. 1.

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fied atmosphere, which have not undergone any treatment to ensure preservation other than chilling;

5. '*prepared products*' means any fishery product which has undergone an operation affecting its anatomical wholeness, such as gutting, heading, slicing, filleting, chopping, etc.;

6. '*processed products*' means any fishery product which has undergone a chemical or physical process such as the heating, smoking, salting, dehydration or marinating, etc., of chilled or frozen products, whether or not associated with other foodstuffs, or a combination of these various processes;

7. '*preserve*' means the process whereby products are packaged in hermetically sealed containers and subjected to heat treatment to the extent that any micro-organisms that might proliferate are destroyed or inactivated, irrespective of the temperature at which the product is to be stored;

8. '*frozen products*' means any fishery product which has undergone a freezing process to reach a core temperature of − 18 ºC or lower after temperature stabilization;

9. *'packaging'* means the procedure of protecting fishery products by a wrapper, a container or any other suitable device;

10. '*batch*' means the quantity of fishery products obtained under practically identical circumstances;

11. '*consignment*' means the quantity of fishery products bound for one or more customers in the country of destination and conveyed by one means of transport only;

12. '*means of transport*' means those parts set aside for goods in automobile vehicles, rail vehicles and aircraft, the holds of vessels, and containers for transport by land, sea or air;

13. '*competent authority*' means the central authority of a Member State competent to carry out veterinary checks or any authority to which it has delegated that competence;

14. '*establishment*' means any premises where fishery products are prepared, processed, chilled, frozen, packaged or stored. Auction and wholesale markets in which only display and sale by wholesale takes place are not deemed to be establishments;

15. '*placing on the market*' means the holding or displaying for sale, offering for sale, selling, delivering or any other form of placing on the market in the Community, excluding retail sales and direct transfers on local markets of small quantities by fishermen to retailers or consumers, which must be subject to the health checks laid down by national rules for checking the retail trade;

16. '*importation*' means the introduction into the territory of the Community of fishery products from third countries;

17. '*clean seawater*' means seawater or briny water which is free from microbiological contamination, harmful substances and/or toxic marine plankton in such quantities as may affect the health quality of fishery products and which is used under the conditions laid down in this Directive;

18. '*factory vessel*' means any vessel on which fishery products undergo one or more of the following operations followed by packaging: filleting, slicing, skinning, mincing, freezing or processing.

    The following are not deemed to be 'factory vessels':

    — fishing vessels in which only shrimps and molluscs are cooked on board;

    — fishing vessels on board which only freezing is carried out.

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Article 3

1. The placing on the market of fishery products caught in their natural environment shall be subject to the following conditions:

(a) they must have:

(i) been caught and where appropriate handled for bleeding, heading, gutting and the removal of fins, chilled or frozen, on board vessels in accordance with hygiene rules to be established by the Council acting by a qualified majority on a proposal from the Commission. The Commission shall submit proposals to that effect before 1 October 1992;

(ii) where appropriate, been handled in factory vessels approved in accordance with Article 7, and in accordance with the requirements of Chapter I of the Annex.

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The cooking of shrimps and molluscs on board must comply with the provisions of Chapter III, section I(5) and Chapter IV, section IV(7), of the Annex. Such vessels shall be specifically registered by the competent authorities;

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(b) during and after landing they must have been handled in accordance with Chapter II of the Annex;

(c) they must have been handled and, where appropriate, packaged, prepared, processed, frozen, defrosted or stored hygienically in establishments approved in accordance with Article 7, in compliance with the requirements of Chapters III and IV of the Annex.

The competent authority may, notwithstanding Chapter II, section 2 of the Annex, authorize the transfer of fishery products *ex quay* into containers for immediate delivery to an approved establishment or registered auction or wholesale market to be checked there;

(d) they must have undergone a health check in accordance with Chapter V of the Annex;

(e) they must have been appropriately packaged in accordance with Chapter VI of the Annex;

(f) they must have been given an identification mark in accordance with Chapter VII of the Annex;

(g) they must have been stored and transported under satisfactory conditions of hygiene, in accordance with Chapter VIII of the Annex.

2. Where gutting is possible from a technical and commercial viewpoint, it must be carried out as quickly as possible after the products have been caught or landed.

3. The placing on the market of aquaculture products shall be subject to the following conditions:

(a) they must have been slaughtered under appropriate conditions of hygiene. They must not be soiled with earth, slime or faeces. If not processed immediately after having been slaughtered, they must be kept chilled;

(b) they must, in addition, comply with the requirements laid down under 1 (c) to (g).

4. (a) The placing on the market of live bivalve molluscs shall be subject to the requirements laid down in Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs [1].

(b) When processed, bivalve molluscs must, in addition to the requirements in point (a), satisfy those of paragraph 1 (c) to (g).

[1] See page 1 of this Official Journal.