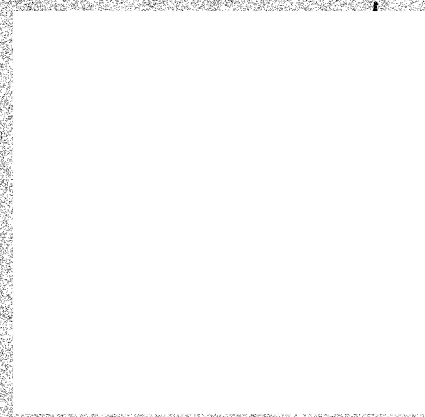


COMMISSION OF THE EUROPEAN COMMUNITIES

COM(84) 489 final

Brussels, 19 September 1984



Proposal for a
COUNCIL DIRECTIVE
on the approximation of the laws of the Member States relating
to quick-frozen foodstuffs for human consumption

(submitted to the Council by the Commission)

COM(84) 489 final

Official Journal C 267, 1984

EXPLANATORY MEMORANDUM

1. Quick-freezing is a method of preservation. Its results in terms of taste and appearance are generally better than those obtained by other preservation processes. The colour, texture and taste of the fresh product are maintained and the product retains its original nutrients.

A foodstuff is only entitled to be called quick-frozen if it is prepared from good-quality raw materials (as freezing does not improve the product) and undergoes a rapid freezing process such that the temperature is maintained at not more than -18°C (with a small tolerance). The proliferation of bacteria and enzyme activity are not inhibited at temperatures above -18°C . This method of preservation is equally good for processed and unprocessed products, such as fruit and vegetables, fish, shellfish, meat, poultry, eggs (unprocessed products), fruit juices, dairy products, soups, ready-cooked dishes and other culinary preparations.

The performance of some technical equipment now used for the local distribution or retail sale of frozen foods is not sufficient to ensure that the temperature limits laid down in this Directive are fully complied with in all cases; consequently a transitional system allowing normal depreciation of existing equipment is planned.

2. Community legislation of a horizontal nature covering all the links in the cold chain such as manufacturing, storage, transport, distribution and retail sale guarantees the consumer a high-quality finished product (since any shortcoming in the cold chain can have disastrous consequences) and by means of appropriate labelling rules enables him to distinguish a quick-frozen product from refrigerated or other frozen products.
3. The implementation of common rules should open up satisfactory conditions of competition: the consumer should be able to benefit from the products that suit him best regardless of their country of origin.

4. In 1983 quick-frozen food production in the Community was approximately 2 557 000 tonnes compared with 1 880 000 in 1978.¹ To give an example, per capita annual consumption of quick-frozen foods² in various Member States is as follows:

	<u>kg/inhabitant</u>
United Kingdom	16.6
Denmark	14.7
Netherlands	13.4
Federal Republic of Germany	9.1 ²
France	9.1
Italy	3.2

5. Although the quick-frozen market is growing steadily in individual Community countries, the volume of intra-Community trade remains low. The walling off of the quick-frozen market is almost watertight. This lack of permeability conflicts with the idea of a single market. According to the industries concerned, it stems from the lack of common rules and is a good demonstration of the benefits obtained from the introduction of common rules that will allow trade to develop and speed up the carriage of goods.

¹ Figure notified in March 1984 by the European Federation of Associations of Manufacturers of Frozen Food Products.

² Source: Industrial study. 1981 figures including raw meat except for the Federal Republic of Germany where the figures are for 1982 and raw meat, poultry and game are not included.

What is more the establishment of identical production conditions would reduce the need for checks which in the case of frozen food often have extensive and costly repercussions involving considerable delays.

In addition the increase in trade that would result from the application of common rules would be beneficial to the consumer as he would be offered a range of products of faultless quality.

6. At one time it was thought that the agreement on the international carriage of perishable foodstuffs and on the special equipment to be used for such carriage (ATP) concluded in Geneva in 1970¹ would in itself be sufficient to solve the trade problem. However, as this agreement covers only carriage by rail, by road and sea crossings of less than 150 km under certain conditions but not any other form of transport, it is of limited use for trade purposes.
7. Laws on frozen food in the Member States tend to put up technical barriers to intra-Community trade.

For example, the Italian Ministerial Decree of 15 June 1971 lays down a temperature of -18°C without tolerance and also makes provision for additional checks on frozen food at the production and retail stages. Article 16 concerning the importation of frozen food is particularly restrictive. It stipulates that quick-frozen food produced abroad may not be imported into the territory of the state (.....) unless it comes from establishments recognized as satisfactory by the Italian health authorities.

The French Decree of 9 September 1964 and the orders of 5 January 1967 and 1 February 1974 specify that freezing conditions must be maintained at -18°C (with certain tolerances) throughout the cold chain.

¹Economic Commission for Europe - Internal Transport Committee.

8. Directive 79/112/EEC on the labelling of foodstuffs¹ contains in Article 23 a derogation allowing certain Member States not to indicate the date of minimum durability for frozen foodstuffs. The reasons lie in the handling and transport conditions which differ from one Member State to another. Common rules should have an advantageous effect on the labelling Directive and enable the general dating rule to be extended to quick-frozen foods.
9. The Codex Alimentarius Commission (joint FAO/WHO programme on food standards) adopted, at stage 8 of the procedure for the preparation of Codex standards, the Code of Practice for the processing and handling of quick-frozen foods, together with a number of specific standards.

In order to promote trade and contribute to the development of international trade the Community should translate this code of practice into Community regulations; this would also avoid possible difficulties should the code not be applied uniformly by all the Member States.

10. In the light of what has been said above, the essential aims of this proposal are therefore to protect the consumer and to prevent unfair commercial transactions by guaranteeing product quality.
11. The Advisory Committee on Foodstuffs whose members include representatives of industry, consumers, agriculture, workers and the trade has given a favourable opinion on the content of this proposal for a Directive.
12. Implementation of this Directive would involve the amendment of laws in several Member States. Consequently it is necessary to consult Parliament and the Economic and Social Committee pursuant to Article 100 of the EEC Treaty.

¹ OJ No L 33, 8.2.1979, p. 1.

Proposal for a Council Directive on the approximation of the laws of the Member States relating to quick-frozen foodstuffs for human consumption

COM(84) 489 final

(Submitted by the Commission to the Council on 24 September 1984)

(84/C 267/07)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the manufacture of, and trade in, quick-frozen foodstuffs intended for human consumption ('quick-frozen foodstuffs') are assuming ever more importance in the Community;

Whereas the disparities between the laws of the Member States relating to quick-frozen foodstuffs hamper the free movement thereof; whereas they create unequal conditions of competition; whereas they therefore have a direct effect on the establishment and functioning of the common market;

Whereas it is therefore necessary to approximate these laws;

Whereas it is in any case appropriate to lay down the general principles which any quick-frozen foodstuffs must satisfy;

Whereas special provisions over and above the general principles may, where necessary, be adopted for certain categories of quick-frozen foodstuffs, in accordance with the procedure applicable to each of these categories;

Whereas quick-freezing is intended to preserve the intrinsic characteristics of foodstuffs by a quick-freezing process; whereas it is necessary to attain a temperature not exceeding -18°C at the centre of the product;

Whereas at -18°C all microbiological or enzymatic activity likely to impair the quality of a foodstuff is suspended; whereas it is therefore necessary to maintain a temperature not exceeding this value, subject to a certain technically inevitable tolerance,

during the storage and distribution of quick-frozen foodstuffs before their sale to the ultimate consumer;

Whereas upward fluctuations are necessary on technical grounds and may therefore be tolerated provided they are in accordance with good commercial practice and do not jeopardize the quality of the products;

Whereas, if there has been a break in the cold chain, the product in question should be examined in order to avoid unjustified losses whilst at the same time assuring the protection of consumers;

Whereas certain items of technical equipment at present used in retailing of quick-frozen foods do not perform sufficiently well in order to ensure that the temperature limits imposed by the present Directive are respected entirely in all cases; whereas it is therefore necessary to provide for a transitional arrangement allowing for existing material to be used for its normal lifetime;

Whereas this Directive need merely state the objectives to be attained as regards both the equipment used for the quick-freezing process and the temperatures to be adhered to in the installations and appliances for storage, handling and distribution;

Whereas it is incumbent on the Member States to ensure by means of official checks that the equipment used is suitable for the purpose intended;

Whereas such checking renders superfluous any system of official certification for trade purposes;

Whereas it is desirable to provide for the possibility of using cryogenic fluids in direct contact with quick-frozen foodstuffs; whereas these fluids must be sufficiently inert not to impart to the foodstuffs any constituents in quantities liable to constitute a hazard to human health, nor to give rise to an unacceptable change in the composition of foodstuffs, nor to impair their organoleptic characteristics;

Whereas, in order to attain this objective, it is necessary to adopt a list of these substances and to lay down criteria for their purity and conditions for their use;

Whereas quick-frozen foodstuffs intended for the ultimate consumer are subject, as far as their labelling is concerned, to the rules laid down by Council Directive 79/112/EEC of 18 December 1978 on the approximation of the laws of the Member States relating to the labelling, presentation and advertising of foodstuffs for sale to the ultimate consumer ⁽¹⁾; whereas the present Directive need therefore merely lay down the particulars which are specific to the case of quick-frozen foodstuffs;

Whereas, to facilitate trade, rules for the labelling of quick-frozen foodstuffs not intended for supply in the frozen state to the ultimate consumer should also be adopted;

Whereas, in order to simplify and speed up the procedure, the Commission should be assigned the task of adopting implementing measures of a technical nature;

Whereas, in all cases in which the Council empowers the Commission to implement the rules laid down for foodstuffs, a procedure establishing close cooperation between the Member States and the Commission within the Standing Committee on Foodstuffs set up by Council Decision 69/414/EEC ⁽²⁾ should be laid down,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive shall apply to quick-frozen foods intended for human consumption, hereinafter referred to as 'quick-frozen foodstuffs'.

2. For the purposes of this Directive, 'quick-frozen foodstuffs' means foodstuffs put up for sale which have undergone a suitable freezing process known as 'quick-freezing' whereby the temperature zone of maximum crystallization is spanned as rapidly as necessary, depending on the type of product, with the result that the temperature at the centre of the product is -81°C or lower.

For the purposes of this Directive, ice-cream and other edible ices shall not be regarded as quick-frozen foodstuffs.

3. This Directive shall apply without prejudice to Community provisions relating to:

- (a) the common organization of markets in the agricultural or fisheries sectors;
- (b) veterinary hygiene.

⁽¹⁾ OJ No L 33, 8. 2. 1979, p. 1.

⁽²⁾ OJ No L 291, 19. 11. 1969, p. 9.

Article 2

The designation 'quick-frozen foodstuffs' and the adjective 'quick-frozen' shall be applied only to the products defined in Article 1 (2).

Article 3

1. Raw materials used in the manufacture of quick-frozen foodstuffs must be of sound merchantable quality.

2. The quick-freezing operation must be carried out with the aid of appropriate equipment.

It shall take place immediately after preparation of the product to be processed.

Article 4

1. A list of cryogenic fluids authorized, to the exclusion of all others, for use in direct contact with quick-frozen foodstuffs shall be adopted in accordance with Article 100 of the Treaty.

This list may also specify:

- (a) the purity criteria to be satisfied by these fluids;
- (b) the maximum permissible content of the residues of these fluids in quick-frozen foodstuffs.

2. Any amendments to be made to the provisions of paragraph 1 in the light of developments in scientific and technical knowledge shall be adopted in accordance with the procedure laid down in Article 12, where appropriate after consultation with the Scientific Committee for Food.

Article 5

1. During storage and transport and in retail display cabinets, the temperature of quick-frozen foodstuffs shall, subject to the provisions of paragraphs 2 and 3, be maintained at -18°C or lower at the centre of the product.

2. Upward fluctuations in accordance with good storage and distribution practices shall be permitted, on condition that they do not exceed:

- (a) 3°C during storage and transport other than local distribution;
- (b) 6°C during local distribution and in retail display cabinets.

3. Should the tolerances allowed in paragraph 2 be either accidentally or unforeseeably exceeded, the product in question shall be examined to determine the use to which it may be put.

Article 6

1. Member States shall conduct random official checks on:

- (a) the equipment used for quick-freezing;
- (b) the temperatures of the quick-frozen foodstuffs during storage and transport and in retail display cabinets.

2. Member States shall not require that, prior to or during the marketing of quick-frozen foodstuffs, compliance with the conditions set out in paragraph 1 be attested by means of an official certificate.

Article 7

Quick-frozen foodstuffs intended for retail sale shall be packed by the manufacturer or packer in sealed packages which protect the products from any harmful influence and which must be delivered intact to the consumer.

Article 8

1. The sales name of quick-frozen foodstuffs intended for retail sale shall be supplemented by the terms 'quick-frozen' or 'quick-frozen foodstuff'.

2. The labelling of these foodstuffs must also state the period during which they may be stored in the home of the ultimate consumer, together with the storage temperature or type of storage equipment required.

Article 9

1. Subject to the provisions which may be laid down by the Community on this question, the labelling of quick-frozen foodstuffs not intended for retail sale shall contain only the following mandatory particulars:

- (a) the sales name defined in Article 5 of Directive 79/112/EEC and supplemented in accordance with Article 8 (1) of this Directive;
- (b) the net quantity, except for products put up in bulk;
- (c) the date of manufacture or some means of identifying the batch;
- (d) the name or business name and address of the manufacturer or packer, or of a vendor established on the territory of the Community.

2. The particulars provided for in paragraph 1 (a) and (d) shall appear on the package or on a label attached to the package.

The particulars provided for in paragraph 1 (b) and (c) shall appear either:

- on the package or on a label attached to the package, or
- on the shipping documents for the product in question.

3. The provisions of this Article shall not affect any more detailed or comprehensive Community metrological provisions.

Article 10

Member States shall not prohibit or restrict trade in any of the products defined in Article 1 for reasons related to their composition, manufacturing specifications, presentation or labelling.

Article 11

The sampling procedures and methods of analysis required for the monitoring of the conditions under which foodstuffs are quick-frozen and of the temperatures at which they are kept shall be laid down in accordance with the procedure provided for in Article 12.

Article 12

1. Where the procedure provided for in this Article is invoked, the matter shall be referred to the Standing Committee for Foodstuffs, hereinafter referred to as 'the Committee', by its chairman, acting either on his own initiative or at the request of the representative of a Member State.

2. The Commission representative shall submit to the Committee a draft of the measures to be adopted. The Committee shall deliver its opinion on the draft within a period to be determined by the chairman having regard to the urgency of the matter. It shall decide by a qualified majority, the votes of Member States being weighted as laid down in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the measures proposed where these are in conformity with the opinion of the Committee.

(b) Where the measures proposed are not in conformity with the opinion of the Committee or where no opinion is delivered, the Commission shall forthwith submit to the Council a proposal concerning the measures to be taken. The Council shall act by a qualified majority.