



FEDEPESCA

Federación Nacional de Asociaciones
Provinciales de Empresarios Detallistas
de Pescados y Productos Congelados

17th January 2019

Dear Sandra:

We thank you for your mail drawing our attention to the legal points governing the caviar market. We would like to express our opinion on this subject.

Currently, a set of obligations relating to the consumer information are provided for in Regulation (EU) No 1169/2011 on food information to consumers, and for certain fishery and aquaculture products in CMO's Regulation (EU) No 1379/2013. More specifically, Article 35 of the latter Regulation establishes as mandatory information for these products the following data:

- (a) *the commercial designation of the species and its scientific name;*
- (b) *the production method, in particular by the following words "... caught ..." or "... caught in freshwater ..." or "...farmed ...";*
- (c) *the area where the product was caught or farmed, and the category of fishing gear used in capture of fisheries, as laid down in the first column of Annex III to this Regulation;*
- (d) *whether the product has been defrosted;*
- (e) *The date of minimum durability, where appropriate.*

Prepared or preserved fish, crustaceans, mollusks and caviar - under codes 1604 and 1605 - are currently exempted from these mandatory requirements. We read in the CMO that caviar is listed in Annex I [under letter h)] and that this exempts it from the application of Article 35. Under code 1604, caviar is listed as 'prepared and preserved fish'. In this case, we believe that there is a clear misunderstanding in the legislation here.

The European caviar producers want to be excluded of this exemption, because they want to put in value the origin of their products and because they don't want be considered as a canned product. Under their opinion caviar is a pre-packaged, salted aquaculture product. We agree with their opinion and their proposal of considering caviar as a salted aquaculture product. This proposal could suppose a benefit for the European caviar producers and doesn't harm another sector. Furthermore, the canned presentation is simply a commercial presentation, this presentation doesn't mean that the caviar should be considered as a canned product.



FEDEPESCA

Federación Nacional de Asociaciones
Provinciales de Empresarios Detallistas
de Pescados y Productos Congelados

In fact, according to the following definitions, caviar is a pre-packaged, salted aquaculture product (as it should be the case for all the other fish farming roe):

Regulation 1379/2013:

Art. 5 b) '**Aquaculture products**' mean aquatic organisms **at any stage of their life cycle** resulting from any aquaculture activity or products derived therefrom, as listed in Annex I.

Art. 5 h) '**prepacked fishery and aquaculture products**' means fishery and aquaculture products which are '**prepacked food**' as referred to in point (e) of Article 2(2) of Regulation (EC) No 1169/2011.

Regulation 1169/2011:

Art. 2.2 e) '**prepacked food**' means any single item for presentation as such to the final consumer and to mass caterers, consisting of a food and the packaging into which it was put before being offered for sale, whether such packaging encloses the food completely or only partially, but in any event in such a way that the contents cannot be altered without opening or changing the packaging; 'prepacked food' does not cover foods packed on the sales premises at the consumer's request or prepacked for direct sale.

Furthermore, caviar cannot be assimilated to a processed fish since the following definition states that there must be a **significant modification** of the final product (which is not the case here):

Regulation 852/2004:

Art. 2 m) '**processing**' means any action that **substantially alters** the initial product, including heating, smoking, curing, maturing, drying, marinating, extraction, extrusion or a combination of those processes;

These demonstrative arguments having been made, we ask that the caviar does not make any exception to what it is by nature but that it is recognised again for what it is in Annex 1, namely:

Regulation 1379/2013:



FEDEPESCA

Federación Nacional de Asociaciones
Provinciales de Empresarios Detallistas
de Pescados y Productos Congelados

Annex I b) **'0305' Fish**, dried, **salted** or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption.

Taking in account all we said before, we think that is easy to support the European caviar producer's demand only changing the letter under what they are in the Annex I of the CMO. The caviar and all the other fish farming roe should be under letter b) in the Annex I or even under letter a) As Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen, in case not be salted. In both cases Article 35 will be mandatory for these products.

We thank you in advance for your interest in analyzing these new elements in this complicated issue. Yours sincerely,

Mª Luisa Álvarez Blanco
CEO

