

Advice

Incorporation of Sustainability Aspects in the Marketing Standards Framework

Brussels, 15 October 2021

1. Introduction

In 2018, the European Commission launched an evaluation of the marketing standards framework for fishery and aquaculture products. In this context, the MAC adopted an opinion on the framework for fresh products¹, followed by an opinion on processed products². In April 2020, the Commission launched an inception impact assessment, while aiming to address identified shortcomings in the framework, particularly connected with the CMO Regulation³'s objectives of enabling the market to be supplied with sustainable products and helping to achieve a level playing field. Later that year, the Commission launched a public consultation on the topic⁴.

In April 2021, STECF published a report⁵ on criteria and indicators to incorporate sustainability aspects for seafood products in the marketing standards under the CMO Regulation. Based on the mandate from DG MARE, the report focuses primarily on environmental sustainability and partially on social sustainability. The report's conclusion recognises that information on social aspects is limited. Sustainability aspects along the value chain are not considered. The report also

¹ Advice and Commission's reply are available on the MAC's website: <https://marketac.eu/en/commission-responds-to-mac-opinion-on-marketing-standards-fresh-products/>

² <https://marketac.eu/en/commission-responds-to-mac-opinion-on-marketing-standards-processed-products/>

³ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products

⁴ <https://marketac.eu/en/commissions-reply-inception-impact-assessment-on-marketing-standards-framework/>

⁵ <https://publications.jrc.ec.europa.eu/repository/handle/JRC124927>

identifies the need for substantial work to develop an operational system. The scoring system recommended is a relative scoring system with a System 1 and System 2 to be fully developed.

In the context of the ongoing revision of the marketing standards framework, the Commission is expected to publish the impact assessment and Staff Working Document in October 2021 and the legislative proposal in Q1 2022.

2. Recommendations

In the preparation of the present advice, the MAC focused primarily on the socio-economic aspects of sustainability, since the environmental aspects are adequately covered in the STECF report. Presently, the MAC is putting forward recommendations on general aspects, social criteria, and economic criteria. At a later stage, additional recommendations might be provided. In the context of the ongoing revision of the marketing standards framework for fishery and aquaculture products and the potential incorporation of sustainability aspects in the framework, the MAC believes that the European Commission should⁶:

I - General

- a) Taking into account the concept of sustainability provided by the Common Fisheries Policy, assess whether the marketing standards framework is the most appropriate legal instrument to measure and communicate on sustainability or whether an alternative instrument would be more appropriate to reach the objectives of the CMO Regulation. It is worth noting that, as detailed in the Annex, there are diverging opinions among the MAC's membership on this matter⁷. In this assessment, consider the different nature of

⁶ The recommendations are not necessarily listed in order of priority or importance.

⁷ In the Annex, further information on the specific views of the MAC's membership is provided. Amongst the MAC, there are members that believe that the marketing standards framework is an appropriate legal instrument, while some other members believe that the marketing standards should remain as a technical tool.

existing technically measurable standards and potential new criteria dependent on evaluation;

- b) Respect the concept of sustainability in the Common Fisheries Policy (Art. 2.1) which covers the three pillars of sustainability: environmental, social and economic. If the word “sustainability” is used, then the three pillars must be assessed. In case the European Commission chooses to focus on one of the pillars of sustainability, the choice should be specified (e.g., “environmental sustainability”) and avoid using general references to “sustainability”⁸;
- c) Ensure coherence and consistency with the Common Fisheries Policy, existing legal instruments and other policy initiatives, such as the EU taxonomy and technical screening criteria, the initiative on substantiating green claims, and the sustainable corporate governance framework. In particular, the upcoming legislative proposal on sustainable food systems foresees laying down rules on the sustainability labelling of food products;
- d) If sustainability aspects are incorporated in the framework, ensure that it is applicable to all fishery and aquaculture products that reach the EU market, allowing operators and consumers to be aware of production methods, but avoiding trade barriers;
- e) Ensure that the revision increases awareness on sustainability, including through engagement between operators in the supply chain for improved sourcing;
- f) Ensure that the incorporation of sustainability aspects, particularly the suggested System 2 as recommended by the STECF report, does not create a disproportionate administrative burden for operators;

⁸ In the context of the present advice, references to “sustainability” refer to the concept provided by Article 2.1 of the Common Fisheries Policy, covering the three pillars of sustainability.

- g) Take into account the MAC's advice on voluntary sustainability claims on fishery and aquaculture products, including the recommendation to explore the usefulness of minimum requirements for voluntary sustainability claims and certification schemes⁹;
- h) Compare the added value of introducing a relative scoring system for fishery and aquaculture products with the added value of introducing an absolute scoring system for seafood products / all foodstuffs;
- i) Request STECF to proceed with the development of an initial scoring system, which respects the concept of sustainability, in line with recommendation b);
- j) If the developed system is not intended for or is not suitable for comparison with other food products, ensure that this is clearly stated whenever it is used;
- k) If a scoring system is estimated adequate enough to be developed, before its implementation, ensure that the system is adequately tested, guaranteeing its reliability, efficiency and robustness;
- l) Ensure that only products with sufficient and verifiable¹⁰ sustainability can receive a high ("green") positive score;
- m) Clarify the relationship between the proposed scoring system and existing private auditing schemes and inspection schemes by public administrative authorities;
- n) Clarify the selection, in the STECF report, of a "score by fleet segment", instead of a "company/vessel" basis, including whether a company in a given segment that cannot meet the required level of information would still be considered as belonging to that segment for all intents and purposes, plus the impact of this selection on the system's ability to promote a level-playing-field;

⁹ Advice adopted on 15 June 2021. The advice and the Commission's reply are available on the MAC's website: <https://marketac.eu/en/commissions-reply-voluntary-sustainability-claims/>

¹⁰ The European Commission could take into account efforts in that matter that exist for seafood ecolabels, for example the FAO Guidelines for Ecolabelling of Fish and Fishery Products, the GSSI benchmarks, and the ISEAL standards, among others.

II - Social Criteria

- o) In the future work, use the “working conditions for fishery and aquaculture products production”, “working conditions in the processing of fish” and “fair production – impact on local communities” criteria suggested by STECF;
- p) Expand the “fair production” criteria, which was suggested by the STECF report, to cover both production and processing;
- q) Promote the ratification and implementation of the relevant International Labour Organisation Conventions¹¹, especially Work in Fishing Convention (C188), as well as of other international agreements, such as the International Maritime Organisation Cape Town Agreement of 2012 and the Port State Measures Agreement;
- r) Assess the relevance and data requirements for the inclusion, under the social criteria, of additional criteria, such as number of working days per year, number of work accidents, average wages per fishery, and continuous training;

III - Economic Criteria

- s) Assess the relevance, appropriate criteria and data requirements of developing economic criteria for fisheries and aquaculture undertakings;
- t) Assess the potential negative trade-offs of using short-term economic criteria, vs longer-term environmental and social criteria, while taking into account the best available science on the matter¹²;

¹¹ E.g., ILO Conventions like on the Right to Organise and Collective Bargaining (C87 and C98), Forced Labour (C29 and 105), on Non-discrimination (C100 and C111) and on Child Labour (C138 and 182), and on Work in fishing (C188).

¹² In a recent scientific evaluation that scored 121 distinct fisheries systems, the trade-offs among the three pillars of sustainability were studied by analysing the Fishery Performance Indicators. The evaluation concluded that for well managed fisheries, ecological, social and economic objectives are not in conflict and are actually complementary. See Asche, F., et al, “Three pillars of sustainability in fisheries” in PNAS, Vol. 115, No 44, 2018.

IV - Environmental Criteria

(As mentioned above, the present advice focused primarily on the socio-economic aspects of sustainability, but the MAC wishes to highlight the importance of one additional criterion that was not covered by STECF)

- u) Assess the relevance and data requirements of criteria on “plastics generation” and “fresh water use” for aquaculture products¹³.

3. Conclusion

In the present advice, the MAC sets forward general views and recommendations, which are primarily focused on socio-economic sustainability aspects of the revision of the marketing standards framework for fishery and aquaculture products. The MAC is aware that the revision process will have additional stages. Plus, there are other ongoing initiatives that will have an impact on the measuring and communicating of sustainability in fisheries and aquaculture products, such as DG JUST’s initiative to empower consumers in the green transition and DG ENV’s initiative on substantiating green claims. Therefore, the MAC looks forward to further opportunities to exchange with the European Commission on the detailed and technical aspects of the marketing standards revision as well as on sustainability initiatives.

¹³ Rating in System 1 could be by production system, while System 2 could be by specific data collected at farm level.

Annex

1. Measuring and communicating on sustainability

Amongst the MAC's membership, Europêche, Oceana, Good Fish Foundation, ClientEarth, WWF, EJF, and FEDEPESCA believe that the marketing standards framework under the CMO Regulation is an appropriate legal instrument to measure and communicate on sustainability, including to the final consumer, in order to meet CMO Regulation's objectives of enabling the market to be supplied with sustainable products and helping to achieve a level playing field. The marketing standards framework already aims to meet the consumers' expectation to be adequately and transparently informed. Their mandatory nature allows a consistent level of consumer information and protection, for fair trading practices and a level playing field for operators in the internal market and beyond.

On the other hand, in the view of AIPCE-CEP, EAPO, and EuroCommerce, the marketing standards framework should remain as a technical tool to establish certain technical criteria, composition rules and designation requirements for specific products. Information provided by the current framework, such as size category, is often only relevant at the first sales stage before the fish is processed. Information about the marketing standards shall be put on labels on each lot, but there is no requirement to label consumer packaging with marketing standards¹⁴. The frame of the CMO Regulation and the reference to the marketing standards framework could be the legal background for another separate set of rules to establish a sustainability scoring system for all fisheries and aquaculture products. This can be done under Article 35 of the CMO Regulation or by revising the Regulation on Food Information to Consumers, which would promote coherence and a better understanding of labelling and a level-playing-field between food categories. The aim of the initiative seems to be the provision of sustainability information to other operators in

¹⁴ Except in the case of preserved tuna and bonito and of preserved sardines.



the supply chain and to final consumers, so that they can make informed choices when buying seafood.