

MAC Opinion

EU Fisheries Control System

Ver. 05.11.2018

Introduction

The Market Advisory Council (MAC) was not in a position to respond to the consultation exercises carried out by the European Commission prior to the adoption of the proposals for reform of the current Union Fisheries Control System (FCS) now contained in document COM (2018) 368 final. It also recognises that many of the issues raised fall within the remit of other Advisory Councils more directly involved in fisheries management.

There are nevertheless aspects of the proposals, notably those relating to the amendment of Regulation No 1224/2009, which impact directly on the marketing of fish and fishery products and which are therefore directly relevant to its own horizontal remit in relation to the market and the need for a coherent and effective legislative framework which is consistently and fairly applied across the entire supply chain and results in a level playing field for fishery products compared to other food products.

The MAC accordingly wishes to address the comments contained in this Advice notice to the co-legislators as they begin their work of examining the Commission's proposals in the hope that this will help to inform those discussions and provide material for further reflection as discussion proceeds, including on the part of the Commission itself.

Proposed amendments

Context of the proposal

As set out in the Explanatory Memorandum to the proposal, the Commission has identified 4 specific objectives that it wishes to achieve:

- 1) Bridge the gaps with the CFP and with other EU policies;
- 2) Simplify the legislative framework and reduce unnecessary administrative burden;
- 3) Improve availability, reliability and completeness of fisheries data and information, in particular of catch data, and allow exchange and sharing of information; and
- 4) Remove obstacles that hinder the development of a culture of compliance and the equitable treatment of operators within and across Member States.

The MAC hopes the legislators will take into account these principles, ensuring that the proposed articles and measures do not represent unnecessary additional burdens or costs to the sector. This is particularly relevant in relation with the second objective mentioned above.



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The [Report from the Commission to the European Parliament and the Council on the Implementation and Evaluation of the Regulation 1224/2009](#), drafted in the context of the Refit exercise evaluating the impact of the fisheries regulation, states that "The evaluation was carried out according to the five criteria of relevance, EU added value, coherence, effectiveness and efficiency set out in the Commission's Better Regulation Guidelines of May 2015". However in its own discussion of the proposals, with Commission representatives present, MAC representative have actively questioned some of these assertions, for reasons explained in more detail below. In particular it is not clear on what basis the Impact Assessment of Option 2 concludes that amending the FCS would result in socio-economic benefits such as "increased wages and competitiveness of the fishing industry, especially for the small fleet".

This advice refers only to fisheries and related products. We understand that the specificities of aquaculture are to be addressed in separate advice from the Aquaculture Advisory Council.

Article 55

The MAC would like to express its agreement with article 55 of the proposal laying down rules with regards to recreational fisheries concerning the registration/licensing systems, the collection of data, the tracking of vessels and the control and marking of gears used for recreational fisheries to any recreational fishing activities, including fishing activities organised by commercial entities in the tourism sector and in the sector of sport competition.

The MAC believes the obligation to report catches introduced by the Commission's proposal is an essential element to obtain greater accuracy on the status of fish stocks. In doing so, electronic means are recommended.

Article 56

1. Principles for the control of marketing

While the previous version stated that "Each Member State shall be responsible for controlling on its territory the application of the rules of the common fisheries policy at all stages of the marketing of fishery products, **from the first sale** to the retail sale", the amendment changes the formula and establishes the start of these controls on fishery products "**from their placing on the market**".

This change has been made in accordance with Regulation 1379/2013, on the common organisation of the markets in fishery and aquaculture products, which in its article 5.f) defines "placing on the market" as the first making available of a fishery or aquaculture product on the Union market.

The MAC supports this new draft provided it is clear that the reference to the CMO definition on "placing on the market" is clear and unambiguous.

2. Article 56.a)

Lots

1. The MAC does not understand the reason behind the restriction on mixing species in the same lot after placing on the market (i.e. Article 56a, point 5a): this should be permitted as long as the products are traceable. Any limitations on mixing will create new challenges and difficulties through the whole value chain, in particular for products such as those in CN 16.04/16.05, (prepared/preserved fish,



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crustaceans/molluscs) which are “processed fishery products” according to point 7.4 of Annex 1 of Reg. EC n. 853/2004, composed of several ingredients (not only fish). The restrictive definition is not practicable in the context of these products.

The MAC nevertheless supports the need for improving traceability, which must apply to all fishing products along the chain, including highly processed products. But it does not believe the proposal for article 56.a.5 and 6 as presently formulated will achieve this and notes that it would substantially change existing practice across the industry, create severe burdens and adding cost.

The MAC would like to therefore remove the reference to CN codes 16.04 and 16.05 from Article 56a, while amending Article 58 to ensure that they are covered by the more general requirements relating to traceability.

2. Article 56.a.5.c states that *After the placing on the market, a lot of fishery or aquaculture products may only be merged with another lot or split, if the lot created by merging or the lots created by splitting meet the following conditions: (c) the operator responsible for placing the newly created lot on the market is able to provide the information concerning the composition of the newly created lot, in particular the information relating to each of the lots of fishery or aquaculture products which it contains and the quantities of fishery or aquaculture products coming from each of the lots forming the new lot.*

The MAC considers that the requirements relating to identifying the quantities forming the new lots are in practice impossible to meet and are not therefore susceptible to proper control. They should accordingly be deleted.

3. Article 56.a.3 establishes a derogation from the exposed above on the constitution of the lots, stating that *quantities of fishery products totalling less than 30kg of fishery products of several species and coming from the same relevant geographical area and of the same presentation, per vessel and per day, may be put into the same lot by the operator of the fishing vessel, the producer organisation of which the operator of the fishing vessel is a member or by a registered buyer, prior to the placing on the market.*

The MAC is concerned that this derogation, which has existed since 2011 and is in the current Control Regulation, opens up the possibility of aggregating several such lots within supply chains, which would then create difficulties for subsequent buyers in complying with requirements placed on them in respect of species identification and information required under 58.5.c) the FAO alpha-3 code of the species and the scientific name. The MAC would therefore like to have clarification from the European Commission as to how any such adverse effects would be circumvented.

The MAC would also like to highlight that the threshold of 30 kg per vessel per day represents a quantity far higher than the average European consumption per person per year (25.1 kg), and raises practical issues of enforcement. This risks compromising the aim of improving traceability and could also lead to distortions of competition between different classes of operators.

Article 58

Traceability

1. Article 58.2 includes a provision on the need to keep record of information required for traceability in a digitalised manner. The MAC would like to point out that the wording “digitalised way” is ambiguous, and would ask the Commission for more precision on the range of possibilities for this requisite to be met. In addition, the MAC would like to stress the importance of harmonising the digitalisation of data

across Member States While the MAC is in favour of digitising information for the purposes of efficiency and accuracy, the MAC also expects no further unnecessary burdens on the operators in this regard. Should any additional systems be required to be established by operators to meet this requisite, the funding to cover the costs should be eligible for reimbursement under the EMFF.

2. The MAC notes that the traceability information required to be provided for lots of wild-caught, imported products under article 58.6 differs in quality and granularity from the information required for EU-caught products under article 58.5. In addition the MAC would like to emphasize the importance of maintaining the current regulation under article 58.5, allowing the operator to refer to either the date of catches for fishery products or the date of production where applicable, as the values of catches could differ between the first and last day of the fishing trip. In the case of EU-caught products, the link to the unique fishing trip identification number allows access to the full logbook information, if required, which provides very high quality and accurate information with respect to the origin of the product, which in turn allows for effective verification of the legality of the product by competent authorities. However for imported products, for which the traceability information comes from the catch certificate provided under the EU IUU Regulation, many of these details would be lacking, for example:
 - a. the unique vessel identification number (IMO number) – which allows verification of a vessel’s fishing history
 - b. fishing area – the current CMO Regulation requires a higher level of precision in relation to sub-areas and divisions than that provided for in the IUU Regulation, which refers only to the FAO catch area.

The MAC urges the European Commission, where possible, to address these gaps either in the current proposal or in future revisions to the IUU Regulation in order to ensure comparable traceability of imported fishery products, and a level playing field with those originating in the EU and with the EU fisheries sector.

3. The MAC expresses concern over the exemption under article 58.7 of traceability requirements for small quantities sold directly from fishing vessels to consumers, provided that these do not exceed 5kg of fishery products per consumer per day.

The MAC believes the amount may be excessive as it goes beyond the average daily consumption per person in EU countries with the highest fish consumption rates. Such an exemption could lead to significant quantities of fish being sold on to local restaurants and caterers, jeopardising traceability and depriving consumers of reliable information on the products they buy.

It is also unclear how Member States would in practice be able to ensure that a limit of 5kg would be respected in individual cases.¹

4. The MAC would also like to point out that molluscs should not be included in article 58.10.

¹ Minority opinion: Low Impact Fishers of Europe (LIFE) stresses that the above derogation is designed for small-scale operators to enable them to sell their catches directly to consumers and for private consumption. For such operators the potential value addition through direct sales may mean the difference between making a profit or suffering a loss.

Article 12

Catch Certificate- IUU

Although the MAC believes that any changes to the IUU Regulation should accompany a proper consultation, the MAC supports the idea of a full digitalisation of the IUU catch certificate, which will provide a decisive means to improve fishery products import controls and verifications, harmonising these practices among Member States. The MAC would like to stress as well that the Commission should provide support to ensure the interoperability of the IT system with regards to the catch certificate between Member States and with third countries.

With regards to transshipment, the MAC considers that in addition to the catch certification document, statements from the authorities of the third country in question, such as non-manipulation certificates could be provided as supplementary information.

Small Scale Fisheries

The small-scale coastal fleet is a major contributor to fish supplies, value addition and employment along the value chain, and an important source of livelihoods in coastal communities. It is therefore important that this contribution is fully recorded and documented, to balance fishing effort with available resources and fish supplies with market demand, as well as to safeguard the interests of fishing communities and consumers.

The MAC therefore supports the monitoring of position and movement of small-scale fisheries, together with the introduction of the electronic fishing logbook to record their catches. This would enable the market both to trace the source of the fishery products on offer, and to ensure that they have been caught legitimately.

Entry into Force

Finally the MAC notes that adequate time needs to be allowed before any changes enter into force in order to allow operators (and competent authorities) to make any necessary adaptations to their practices and procedures.