

MINUTES
WORKING GROUP 3: EU CONTROL AND SANITARY ISSUES,
CONSUMER RULES

Thursday 18 October 2018
14:00-17:30
Place Jourdan 1, 1040 Brussels

Welcome from the Chair

The Chair of WG3, Georg Werner, welcomed those present.

Adoption of agenda and minutes last meeting (24.05.18)

The minutes of the Working Group 3 meeting on EU Control and Sanitary issues, Consumer Rules (24.05.18) and the agenda were adopted.

Ecolabels

The Chair invited the group to think about whether ecolabels may or may not be a market access requirement.

MSC had 3 points to address:

1. He did not think that the questions asked by the COM are fitting for the MAC, as the COM would only receive anecdotal information from the members. These questions would need thorough market research. He proposed to have something to focus on, e.g. the pilot study that was commissioned on the existence of voluntary claims on fishery and aquaculture products in the EU market, even if it has not yet been published or to look at the consultancy study that was carried out on behalf of the COM in support of the COM report (2016). His proposal is to have a paper with data to look at rather than having a general debate.
2. There are only a few scientific references in the framing paper from COM, however there is much more information on the relevance of ecolabeling programmes and certification programmes. More than 40 of such papers, to the extent they pertain to the MSC, have been shared by MSC with the MAC. It would be relevant to take those studies into account as well, and he offered to give a brief introduction of them.
3. He wanted to get to the core of what seems to be the problem that the COM is trying to solve, i.e. the COM is interested to find out if certification or other schemes actually have an impact on the free circulation of goods in the EU internal market. He made the following comments:
 - a. Ecolabels are *voluntary* information services, just as other services (e.g. fish guides, red lists, etc.)
There are many of such services options in the market, and they are often used as alternatives by brand-owners. This means that in their view, there is no monopolies

on sustainability. Preferring one information service supplier over another is a free market choice, and is embedded in the quality and value of the services provided for those that see sustainability assurance.

- b. Within that wide portfolio of available options, the MSC has a very specific programme, which is built in accordance with 3 international standards: the *FAO Guidelines*, *ISO Requirements* and *WTO Technical Barriers to Trade's Annex*. This means that it has been deliberately set up to not be a technical barrier to trade.
- c. MSC cannot understand the frame of Commission paper (monopolisation of sustainability information). MSC never claims that *only* by meeting MSC standards sustainability can be claimed. In other words we never say that products without MSC can not be sustainable. MSC never makes any statements on non certified fisheries, only on certified fisheries.
- d. MSC products sold on the EU market accounts for approximately 6% of the total seafood consumption in EU (2016 data compared to EUMOFA consumption data). 8% if counted as live weight. So it is hard to understand how MSC could be a hindrance to trade, as 94% of the consumption takes place without the ecolabel.

ANFACO-CECOPESCA stated that any private ecolabel standard must remain *voluntary*; however sometimes it is almost a mandatory requirement for certain markets segments.

Some standardization companies are looking for new schemes that apply some restrictions to competence and create barriers.

We have to keep an eye open (when an ecolabel standard grows and could become a mandatory requirement. The COM should recommend and limit those cases. Cases like the dolphin-safe labelling are important to mention. The reality on the market is complex and we have to be careful to not be in a position of creating barriers or a monopoly on a market by an ecolabel scheme.

Fedepesca agreed with ANFACO in that big ecolabelling companies are the ones pushing for the idea of ecolabels as the only way to ensure a product is sustainable, while small competitors cannot afford them.

FEAP added a comment regarding fish aquaculture. Europe imports up to 80% of aquaculture products and many of these products have an ecolabel. Nevertheless, these products do not comply with all the production rules that the EU has set up (e.g. antibiotic used) so there is not a level playing field.

EuroCommerce expressed that their members do not see the ecolabels being a particular barrier to trade; they do see it as a voluntary certification system that brings added value and that responds to consumers' demands. These labels are used in a way to promote more premium products. They see ecolabels the same as any other food voluntary labels (e.g. nutriscore). She underlined the importance for these labels to be trusted. She pointed out that some consumers do not trust EU sustainability rules, therefore, as long as the fisheries rules are not properly implemented and enforced, this perception is unlikely to change and the ecolabels will be needed to provide these consumers with trusted sustainable products.

VisNed disagreed with the last remark made by EuroCommerce. He expressed that VisNed is engaged in getting the labelling from MSC and has a huge project (with DE, DK, SE) to have a massive sustainability labelling of the fish which is costing money and effort. MSC's bar is raised almost annually but it does not say anything about quality, and all these efforts are not reflected in the price. The price of the fish is made at auction where all fish are treated the same. The cost invested in MSC is not coming back for the industry, even through "premium" products. He expressed that in the NL, if you do not have an MSC label you are no longer eligible to supply the markets, making it in a way mandatory to have the voluntary ecolabels.

AIPCE wondered why we are having some dominant labels in the market. The basis of the problem is that there is indeed a lack of trust in public policy; otherwise there would be no reason for these ecolabels to come in. The situation is the same in the food safety sector, only that in food safety there is no competition with regards to the schemes, while we do not have much choice in ecolabels in fish products. Unfortunately, this is why we are facing some problems; in some cases the market is asking for something that does not exist (e.g. MSC certification not possible for a certain fishery).

ANFACO-CECOPESCA underlined that we are not talking about positive differentiation with added value when using certain ecolabel schemes, but about the creation of a recognised brand that would like to impose its use in order to access some market, like a monopoly would do. We cannot accept that some consumers hesitate on the quality of EU products, we cannot afford that. We cannot say that a product labelled by a private service would be more sustainable than an EU product which accomplishes the legislation, because in the end the consumers or companies would be the ones paying an extra cost for something called "extra sustainable". This would also lead to a lack of trust in a system which is one of the best in the world.

PSPR was happy to hear that the COM is looking into this topic. He wondered why processors have to pay for the MSC label. Fishers should be the ones paying. He disagreed on the fact that consumers pay more for MSC products; it is only the processors that are paying for this added value of sustainability as without certification you cannot sell to the retailers.

Good Fish Foundation expressed that they give advice on sustainability, thus sometimes on ecolabels. She disagrees that MSC is the ecolabel that won the marketing battle as it does not do justice to MSC. She would not defend MSC as an ecolabel, however, they are quite happy that there are only a few ecolabels in seafood products, as consumers are confused about what they stand for. Some of those ecolabels are standing out because of their quality, but that does not mean that they have won the marketing battle.

She argued that if a product with no MSC label cannot access a certain market, then there are other markets in other parts of the EU or the world where this product can be sold.

MSC responded to a number of the points made in the discussion.

He reported that MSC's presence in the market is of 5% for PL, 12% for NL, and less than 0.5% for ES, so did not see how their label limits business opportunities. This is hardly a monopoly situation: how can one argue not finding a market when the use of the label is at this low level? .

Regarding the auction price mentioned by VisNed; this is factually incorrect - MSC plaice gets a better price at Dutch auctions; this is in fact enforced by the catch sector themselves. He referred to a number of scientific research papers he has supplied that find market premiums in the scientific research.

He also responded to VisNed's point that standards would change annually. This is also factually incorrect: it happens once every five years. This is a requirement of the FAO guidelines.

He underlined that the reason why MSC program may be preferred by partners is not about marketing but about the quality of the assurance that the programme provides. He referred to the FAO guidelines setting the relevant framework for ecolabelling schemes.. The EU actively contributed to the development of these guidelines. Only certain schemes have achieved the requirements stated in these FAO Guidelines; this has been benchmarked by the GSSI (the Global Seafood Sustainability Initiative). The MSC is the only global wild catch to have met the GSSI benchmark, alongside several regional schemes. This is the reason why the program is preferred in the market, as was also referred to by the representative of AIPCE as a reality

IS & WFPO, CLG gave the example of Celtic Sea herring fishery for which the scientists deemed that the precautionary plan was no longer precautionary. This had a detrimental effect on the certification of MSC having a dramatic effect and on the pricing structure of the fish. In this case MSC has a huge bearing on the monopolisation of getting into the market.

He also gave the example of the largest Irish filleting and processing factory that cannot access Irish fish because it is not MSC certified. This is a clear definition of monopolisation.

VisNed stressed that he was not complaining about MSC, which is a very professional standard, but they are still very successful entrepreneurs in the labelling business. However, the reality of life is that MSC's certification affects the access to the market.

ANFACO-CECOPESCA expressed that in some particular cases, when it comes to differentiate the products or to value a product, one possible way of doing this is through certification, always voluntary with current legislation. The question put by the COM is about monopolisation and trade barriers. And if there are very some big certifications with big market penetration, as exposed today, these are leading to a monopoly model without enough added value because a lot of products have them.

In the case of Spain, as the country is very aware of how the sea operator works, MSC certification has less of a presence However, Spain exports to third countries and this is where Spanish companies find these hindering schemes,. He emphasised that this is becoming a disinformation policy. This proliferation of certifications comes to the wholesalers, makes headlines in the press and in the end they become terrifying tools.

PSPR stressed their support for this initiative in order to protect our natural resources. The question is to know why processors also have to carry the costs of certification. He pointed out that Poland is

exporting much of its products, especially to Germany, where the presence of MSC certification is much higher than in Poland.

KFO expressed that we should try to get a MAC opinion, even if we have a wide variety of, and contradictory, comments within the MAC WG3.

Regarding the MSC, he expressed that it depends on which fisheries you are involved in. In the case of North-East Atlantic fisheries in terms of pelagic fisheries, which are by far the largest fisheries in the EU, more specifically mackerel, herring and blue whiting, you *do* need to have MSC certification in order to market your products, especially in the EU. Once you do not have your MSC certification you are at the mercy of the market. He underlined that MSC certification has nothing to do with quality, so we need to make a clear distinction.

Fedepesca agreed that quality and sustainability are not necessarily the same thing. She was concerned by the fact that Spain has a bigger share of distribution companies, there is less fresh fish being consumed and there are more products that want to be distinct through an ecolabel or any other kind of certification. Occasionally, it is not about the consumer demanding this labelling but the consumers are no longer sure if the products are sustainable and this is not reasonable. She offered to present a survey they have carried out about sustainability at the next meeting of the focus group. She reported that consumers feel guilty, and probably feel relieved if they buy a product with a label, and this is unacceptable.

The Chair wondered if there was an interest to create a Focus Group on this issue.

BVFi was not in favour, as we cannot answer the questions of the COM.

VisNed proposed to deal with this topic within the MAC WG1 Focus Group on Marketing Standards.

The Commission agreed with this proposal. This is actually a topic coming up in the context of the evaluation of the Marketing Standards, so this would fit perfectly. She expressed that, rather than percentages out of the overall volume of the EU market, the COM wants examples and stories about how things develop in the different supply chains. The MAC is the best place to provide this kind of feedback, even if at this stage it is only anecdotal evidence. If the COM sees a need to go further, it has the means to carry out more in depth analysis. She expressed that the wording of COM's questions were intended to provoke a debate. The COM will judge whether there is evidence or not on the stories provided.

MSC did not agree to have this issue dealt within the WG1 FG as they are not a member of that FG, and the FG was not set up with that purpose and scope. He highlighted the need to have clearer questions from the COM, and have a clear objective for any FG to be set up (e.g. draft an advice or an opinion, or provide information).

The Chair of WG3, upon suggestion from the Chair of the MAC, thanked VisNed for his willingness to tackle this issue within FG on Marketing Standards but considered it procedurally inappropriate

to hand over the matter to WG1, without giving all members of WG3 the possibility of participating in a FG created for this specific purpose.

KFO expressed the need to avoid conflict of interests when establishing the composition of the FG, specifically referring here to MSC.

The COM agreed with KFO's approach.

MSC stated that the issue refers to other schemes and labels, not only to MSC. In fact, since ecolabels and other information services are treated as alternatives in the market, they should also be covered when dealing with this issue. This then affects all MAC members engaged in such services, and their participation in this work. He would not be willing to join any focus group until the aim of the MAC, questions and tasks are clear.

The Chair proposed, as an option and given the differences in views, for members to send directly their positions to the COM instead of establishing a FG, should the MAC not be able to agree on this matter.

BVFi stressed once again that figures that would be provided to the COM would not be representative, and thus was concerned about the conclusions that the COM would draw from them.

COM felt that the questions were well understood as many members were able to give their input in this regard during the discussion. The COM has clarified several times what is the aim of the request on this topic and what they expect from the MAC. It seems to be a question of willingness.

ANFACO-CECOPESCA agreed with the COM and reminded attendees that this is something that MS have raised, probably after conversations with their industry. The problem exists.

KFO suggested that, if no FG was to be established, the MAC should stay involved in this topic, even if the MAC will not be able to give precise data for some of the COM questions. He suggested coming back on this at the next WG3 meeting in February 2019.

MSC said the issue is not whether the questions are understood – the issue is if they can be answered in any meaningful way; he says that at least 3 of the COM questions cannot be answered. And certainly not by the group as a whole. He suggested for the Chair and the Secretariat to liaise with the COM in order to rephrase the questions in line with what COM said.

The Chair expressed that he, together with the Secretariat, will meet with the COM (in the week of the 22 October) on how to approach these questions on ecolabels and how the MAC can give input.

Dual quality food

The Chair invited the members to share their knowledge on cases of dual quality food in canned tuna and fish fingers.

AIIPA/ANCIT indicated that he has submitted a reply to the Secretariat, in which he has expressed ANCIT's concern. ANCIT was concerned that during the MAC WG meeting of 24 May 2018, it was announced the potential anti-business practice in relation to dual quality products marketed under different brands (i.e. Rio Mare and Saupiquet, both belonging to a same leader company based in Italy). He disagreed with the comparison proposed by Prague University on those 2 natural canned tuna brands, as they are not marketed under the same brand. The JRC methodology's key points state that products marketed under different brands cannot be compared. The prerequisite that has to be respected is that the products are identically branded.

The reply to COM would therefore be straightforward: there is no canned tuna case.

Danish Seafood Association was concerned about declarations regarding glazing and injection on fish products which can vary a lot and is not always declared in the market. He was also concerned about the weight labelling, as some fish products are always expected to be of a certain weight, which is not good for the practice of aquaculture. Every stage of the chain should be sustainable.

The Chair suggested for the MAC to draft a letter informing the COM that the MAC cannot say that there is a dual quality problem in the canned tuna sector.

Presentation on Labelling of Caviar

Pier Antonio Salvador (AAC) gave a [presentation](#), on behalf of the Aquaculture AC, on the current situation and open issues regarding labelling of caviar.

He expressed that EU aquaculture is the world leader in sturgeon farming and caviar production. Currently, caviar labelling is mainly related to the compliance with CITES rules. CITES strings on caviar labels allow control by authorities but do not allow consumer to obtain clear and complete information about the origin of caviar: traceability under the CITES legislation is fulfilled but correct information to the consumer is lacking.

He highlighted that caviar is not covered by the consumer information requirements established by Regulation (EU) 1379/2013 (common organisation of the markets in fishery and aquaculture products) and therefore stressed the importance to include this aquaculture product within the scope of the Regulation.

He stated that Regulation (EU) 1169/2011 (food information for consumers, FIC) requires the country of origin or place of provenance of the food to be indicated where the failure to indicate such information could mislead consumers as to its origin or place of provenance. The Regulation does not specify the exact wording to be used when providing information on the country of origin or place of provenance of foods. Such specifications may be imposed by Member States in accordance with national law.

Mr Salvador stressed the importance of AAC/MAC representing to all EU institutions this problem for producers and the repercussions regarding the traceability of caviar. This is increasingly stringent considering the large amount of caviar produced by sturgeon farmers in Third Countries, repackaged in the EU in European plants and placed on the market without providing clear indications to the consumer about its true origin.

To protect EU aquaculture products, such as caviar, specific measures must be adopted to guarantee correct information on all types of food, including this aquaculture product, through the implementation of the aforementioned regulations in all the EU Member States.

WWF supported the points raised by the AAC (such as the origin and place of production, the commercial designation and scientific name, date of harvest (the day)) and acknowledged the traceability under CITES. WWF was also concerned about the current labelling system. Regarding the printed code, WWF sees an urgent need for a more fraud-resistant CITES label.

Mr Salvador added that, regarding the date of harvest, the EU sector is willing to provide it but when importing products from China, the date used is the date of repackaging and not the harvesting date.

AIIPA/ANCIT suggested modifying the scope of CMO Regulation 1379 only for caviar without enlarging the scope of the Regulation to other 1604 and 1605 products, but only for caviar.

BVFi did not see the problem exposed by the AAC, and did not see the need to refer to Regulation (EU) 1169/2011.

Mr Salvador stressed there is a need for the consumers to get more information.

AIIPA/ANCIT argued that Regulation (EU) 1169/2011 covers all food stuffs, thus food information to consumers is mandatory, even in the case of caviar.

BVFi wondered if more information on caviar products was really requested by the consumers.

Good Fish Foundation, FEAP and Fedepesca disagreed, underlining that there is indeed a demand for information on the origin of products, such as from hotel chains, and consumers themselves.

AIIPA/ANCIT reiterated that Regulation (EU) 1169/2011 is applicable to all food.

FEAP retorted that EU caviar products are subject to CITES Regulation which is stricter than FIC Regulation, and this is why such products are not included in Regulation (EU) 1169/2011. What is needed is to translate in consumer language, what is already on the CITES string, as for an EU consumer it is impossible to understand the information given by the string.

AIPCE expressed that the question is to know whether or not caviar is included in the scope of FIC Regulation. AIIPA/ANCIT expressed that the starting point is having a common reading of the current legislation on labelling, and on the requirement of giving the information concerning the origin and place of provenance. However, on a voluntary basis, anyone can declare the origin of a product. He added that Regulation (EU) 1379/2013 supplementary label requirements do not apply to caviar products as they are included in the exemptions.

FEAP underlined that there are labelling exceptions for caviar; however there are no exceptions for the file for the file from the fish that produced caviar.

Collège des Producteurs agreed with the lack of understanding of the CITES string, e.g. what does the date on the string correspond to.

AIIPA/ANCIT asked for clarification on this matter from the COM.

There is going to be a COM Implementing Regulation entering into force in 2020, which will lay down the rules for application of Art.26.3 of Regulation (EU) 1169/2011, which states:

«Where the country of origin or the place of provenance of a food is given and where it is not the same as that of its primary ingredient: (a) the country of origin or place of provenance of the primary ingredient in question shall also be given; [...] shall be indicated as being different to that of the food.»

BVFi invited the AAC to make a proposal including what they think is necessary to have on caviar.

Mr Salvador clarified that a [position paper from the AAC](#) had already been submitted to the COM. The COM had agreed with the AAC paper and suggested to get support from the MAC, in preparing a proper label for caviar.

The MAC should first have a clear identification of the legislative framework applying to caviar. Once this is done, the MAC can decide whether or not, and to what extent, it could support the AAC.

The Chair suggested to draft a letter asking for clarification, and look into this matter again within WG3.

AOB

Jarek Zielinski (PSPR) gave a [presentation](#) on the European Guide to Good Practice for Smoked Fish and/or Salted and/or Marinated. The Guide will apply to salmon processing, where Poland is the largest processor and supplier, not only in the EU but also globally. In result, the Guide provides the guideline for request that if a smoked product was kept stiffened, during the technological process, for more than 96 hours, prior to slicing, then it has to be labelled as “defrosted” and cannot be labelled as “fresh” anymore. He highlighted 3 of Poland’s concerns:

- If the current text of the Guide was to be adopted, without removing specific labelling requirement included and forced by ESSA, this will lead to breaking the general EU rule of the equal access to the EU market.
- If not being the collective outcome of the experience and cooperation of all EU industry, the Guide cannot be regarded as the European one.
- The Guide will favour particular groups of the EU processors against the others.

He called for the MAC to draft a recommendation to amend the text of the endorsed Guide with the compromise text worked out by Poland and the EC on June 25th 2018.

BVFi expressed that this Guide is not covering European opinions, as Poland and Germany are not in favour of this Guide. He will ask Germany to oppose this Guide, once it is published.

Procedural point

VisNed criticised the ongoing process of renewal of agendas, especially regarding the point on “Plastics”, which was taken out of the agenda and postponed to a next meeting. Members would like to tackle this issue within the MAC. VisNed and KFO supported the Chair’s suggestion to have a special MAC meeting dedicated to plastic, to which all 3 WGs would be invited, and which would take place before the MAC meetings of February.

KFO suggested involving others ACs to produce a joint position. EU LDAC welcomed the MAC members to attend the next LDAC WG5 meeting which will touch upon horizontal issues and



international ocean governance, and offered to work together with the MAC on this issue in the future.

BVFi stressed the need to clarify what would exactly be tackled during this plastic meeting as the subject is very wide.

End of the meeting

NAME		ORGANISATION
Alexandre	Rodriguez	EU Long Distance AC
Andrew	Kuyk	CEP
Anna	Boulova	FRUCOM
Arnault	Chaperon	FEAP
Benoit	Thomassen	Collège des producteurs
Bruno	Guillaumie	EMPA
Cécile	Fouquet	Aquaculture Advisory Council
Chiara	Bacci	European Commission
Christine	Absil	Good Fish Foundation
Eduardo	Miguez López	Puerto Celeiro s a OPP 77
Emiel	Brouckaert	EAPO
Erik	Bjorn Olsen	Living Sea
Georg	Werner	EJF
Giorgio	Rimoldi	AIIPA/ANCIT
Guus	Pastoor	AIPCE
Hans	Nieuwenhuis	MSC
Janne	Posti	MSC
Jarek	Zielinski	PSPR
Jean-Marie	Robert	Les Pêcheurs de Bretagne
Jens	Høj Mathiesen	Danish Seafood Association
Jessica	Demblon	Market Advisory Council
Jose Basilio	Otero Rodriguez	Federación Pescadores de Lugo
Julie	Mandrille	EuroCommerce
Katarina	SIPIC	Conxemar
Katrin	Vilhem Poulsen	WWF
Luisa	Alvarez	Fedepesca
Marco	Baldoli	AIPCE-CEP
Matthias	Keller	Bundesverband der deutschen Fischindustrie und des Fischgrosshandels e.V. (BVFi)
Micol	Bertoni	Federcoopesca - CopaCogeca
Mete	Karakaya	FEAP
Nicolas	Fernández	OPP 72
Patrick	Murphy	Irish South & West Fish Producers Organisation, CLG (IS&WFPO, CLG)
Paulien	Prent	Visfederatie
Pier Antonio	Salvador	Aquaculture Advisory Council
Pim	Visser	VisNed
Poul	Jensen	Danish Seafood Association
Roberto Carlos	Alonso	ANFACO-CECOPECA
Sabela	Perez Maiz	European Commission
Sandra	Sanmartin	Market Advisory Council
Sean	O'Donoghue	KFO
Sergio	López García	OPP Lugo

