



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

Brussels
MARE D3/PCO/mb/Ares (2020)

Mr. Guus Pastoor
Market Advisory Council
rue de la Science, 10
B-1000 Brussels
Secretary@marketac.eu

Subject: MAC Advice on Consumer Information on Fishery and Aquaculture Products (our ref. Ares(2020)4123451)

Dear Mr. Pastoor,

Thank you for the views submitted by the members of the Market Advisory Council on the current legal framework on compulsory and voluntary consumer information on Fishery and Aquaculture Products. We appreciate the MAC's efforts to share a thorough analysis on practical difficulties encountered by some of its members when implementing Chapter IV of the CMO Regulation in conjunction with the FIC Regulation. We also value the recommendations that you propose regarding the best way forward and the supporting research material that you enclose.

We agree that an efficient traceability system for processed products is necessary in order to allow the control of the accuracy of consumer information and in particular the origin of the products. The Commission proposal on the revision of the EU fisheries control system (COM(2018)368) includes a traceability system which covers processed products.

Your advice will feed into the preparatory work for the Commission's report on the implementation of the CMO Regulation to be issued by 31 December 2022. Without prejudging the content of this report, we would like to share some preliminary considerations in relation to your recommendations (annex).

Some of the aspects touched upon the Food Information to Consumers (FIC) Regulation, so we have shared your recommendations with our colleagues in DG SANTE and they have contributed to the replies attached. Should you have any further question on this reply, I invite you to contact Ms. Pascale Colson (pascale.colson@ec.europa.eu; +32 2 29 56273).

Kind regards,

Charlina VITCHEVA

Annex – Commission's comments

I. “Labelling requirements [Recommendations a), d)]”

The Commission notes that:

- The MAC believes that inconsistencies occur in the labelling requirements in the different regulations, leading to different understandings of the country of origin, which causes confusion among consumers.
- The MAC is of the opinion that the information required under the Commission Implementing Regulation (EU) 2018/775 is not equivalent to the mandatory information required under the CMO Regulation (the latter demands country of origin¹ and the former only applies to the primary ingredient when the origin of the food is voluntarily indicated. It also provides various options that can be used, e.g. simply stating whether the product is EU or non-EU; the country is not obligatory) and, as such, can create discrepancies not only among EU producers of differing fisheries products but also between EU producers and non-EU producers
- Therefore, to obtain a level playing field, when it comes to fishery and aquaculture products marketed within the Union, the European catching sector, the aquaculture producers, the small traditional fish retailers, and the environmental NGOs, believe that prepared and preserved fish products which are containing a minimum of 50 percent of seafood, thus a primary ingredient, should be included and subject to an adaptation of Article 35 of the CMO Regulation. According to MAC, this is supported by FIC Regulation, clearly indicating Recital 32.

MAC’s suggestions:

- The European Commission should undertake a thorough assessment, including socio-economic aspects and consumer behavioural studies, on Article 35 of the CMO Regulation provisions and their impact for all fisheries and aquaculture products. The mentioned assessment should especially take into account the cases of fish prepared or preserved food with a fish primary ingredient that represents more than 50% of whether single or several species and determine if alignment among labelling requirements for all fisheries and aquaculture products is necessary, possible and cost-effective. Moreover, it should also refer to inconsistencies between Implementing Regulation (EU) 775/2018 (Based on Regulation (EU) 1169/2011) with Regulation (EU) 1379/2013, and determine if alignment among these regulations in relation to the definitions of origin and provenance is necessary.

Commission’s considerations:

- The Commission thanks the MAC for the practical issues raised in the recommendation. While neither a revision, nor an impact assessment on the CMO Regulation as such is planned at this stage, this input will feed the upcoming report on the implementation of the CMO Regulation (cfr. Art. 48 CMO Regulation). We will also consider the best way to address your suggestion for further research on the results of the implementation of the provisions of Article 35 of the same Regulation.

¹ Please note that this statement is not fully correct. Article 35(1)c of the CMO Regulation requires the indication of the Catch or Production area, not the origin. This requirement is further explained in Article 38 of CMO Regulation.

- We would like to inform the MAC that we have tasked an external contractor to carry-out a behavioral study to grasp the consumers' understanding of origin-related claims (voluntary and compulsory) that are displayed in fishery and aquaculture products. The study is currently ongoing and it should be finished by the end of the year. It will be available to the public.
- As regards possible inconsistencies between Implementing Regulation (EU) 2018/775 and Regulation (EU) 1379/2013 with regard to the provision of information on origin, we do not think this is the case. Both regulations require the provision of clear and comprehensive information on the origin of the products, in order to enable the consumers to make informed choices. The two Regulations complement each other, as their scope of application differs; the provisions of Regulation (EU) 2018/775 apply mainly on processed foods, consisting of more than one ingredients, whereas Article 35 of Regulation (EU) 1379/2013 provides for the origin of whole or parts of fishery and aquaculture products. The different scope has significant implications. First, the interest of consumers to receive information on the origin of foodstuffs depends on the nature of the foodstuff. Secondly, the feasibility of the provision of such information by FBOs differs for complex processed foods, in comparison to whole or parts of fishery and aquaculture products. Thirdly, Article 35 of Regulation (EU) 1379/2013 only applies to certain fishery and aquaculture products, whereas Regulation (EU) 2018/775 is a horizontal legislation. Finally, the provision of information on origin is mandatory under Regulation (EU) 1379/2013, whereas it is voluntary under Regulation (EU) 2018/775. The voluntary character and the horizontal application of Regulation (EU) 2018/775 justify the flexibility provided by Regulation (EU) 2018/775 on the indication of origin.

II. “Scientific names (recommendations e), f)”

The Commission notes that:

- The MAC considers that the European Commission should advise Member States that, in those special instances where a scientific name is changed following a decision from the scientific community, allowances should be made for a well-defined transitional period where the product can be traded under both names.
- The MAC strongly urges the scientific community to exercise due diligence in changing scientific names, considering the disruption this may cause for trade
- The MAC considers that the European Commission should advise Member States that, in those special instances where a scientific name is changed following a decision from the scientific community, allowances should be made for a well-defined transitional period where the product can be traded under both names.
- The MAC strongly urges the scientific community to exercise due diligence in changing scientific names, considering the disruption this may cause for trade.

Commission's considerations:

- The Commission will share the MAC's concerns with the Member States in the framework of the next MTFAP meeting.
- As for the request for higher diligence from the scientific community when changing scientific names, please note that both Fishbase and ASFIS teams are independent from the European Commission. Therefore, we can only recommend the MAC to take direct contact with them.

III. “Making use of existing traceability systems for consumer information (Recommendation g)”

- The MAC suggests that the European Commission should provide guidelines on digital tools with the purpose of consumer information, while making use of the available data along the supply chain, including existing data platforms, which are often not connected, aiming to improve inter-operability and efficiency of the existing systems.

Commission's considerations:

- The Commission thanks the MAC for this suggestion, while encouraging it to be more specific in their requests.
- The Commission wishes to recall that its proposal on the revision of the EU fisheries control system (COM(2018)368) includes detailed provisions pertaining to the traceability of fishery and aquaculture products including processed products.
- In line with the rules on the traceability for food of animal origin, the proposal defines the set of information, which must be kept on record by operators, be made available to competent authorities upon request, and transferred to the operator to which the fishery and aquaculture product is supplied. One of the key elements for traceability of fishery products is the fishing trip identification number. In the fisheries sector, traceability is important not only for food safety purposes, but also to fight IUU fishing and to ensure the protection of consumers' interests. This traceability information, which is relevant for the control of fishery and aquaculture products, should be available along the supply chain. This will allow in particular that the information provided to the consumer concerning the species and the origin of the fishery or aquaculture product is accurate.
- The digitalisation of the traceability information and its electronic transmission is part of the proposal of the Commission and it is the intention of the Commission to set the technical requirements for such digitalisation by an implementing act. We concur that interoperability of the systems is a key element to achieve an effective traceability.
- These provisions are now being discussed by the co-legislators.

IV. “Assessment of Member States’ implementation [Recommendation h)] ”

- The European Commission should reassess how the CMO Regulation and the consumer information requirements are implemented in the different Member States through different retail channels to determine if harmonisation is guaranteed.

Commission’s considerations:

- We note that it is not clear to what specific harmonisation requirements this recommendation refers to, beyond the other recommendations in this advice.
- While control on national implementation of Chapter IV of the CMO Regulation lies on Member States, we take note of the MAC’s suggestion to get an EU level assessment of its application. The Commission will consider whether this is feasible and suitable.

V. “Information to the consumer in distance selling [Recommendation i)] ”

- The MAC considers that the European Commission and the Member States should ensure that the relevant consumer information is made available at the point of purchase even in the case of online purchases.

Commission’s considerations:

- Please note that Article 14 of the FIC Regulation (No 1169/2011) ensures that consumer information is available at the moment of purchase in distance selling.