



Study – Evaluation of the marketing standards framework for fishery and aquaculture products

Specific Contract No. 5

under Framework contract EASME/EMFF/2016/029

Final Report

Consortium led by Coffey International

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Evaluation of the marketing standards framework for fishery and
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TABLE OF ACRONYMS

Acronyms/ Abbreviations	Definition
AC	Advisory Councils
AFNOR	French standards association (<i>Association Française de normalisation</i>)
CAFIA	Czech Agriculture and Food Inspection Authority
CFP	Common Fisheries Policy
CMO	Common Market Organisation
CSR	Corporate Social Responsibility
DG MARE	Directorate-General for Maritime Affairs and Fisheries
EASME	Executive Agency for Small and Medium-sized Enterprises
EMFF	European Maritime Fisheries Fund
EQ	Evaluation Question
EQM	Evaluation Questions Matrix
EU	European Union
EUMOFA	European Union Market Observatory for Fisheries and Aquaculture products
IUU	Illegal, Unreported and Unregulated
JC	Judgement criteria
Lwe	Live Weight Equivalent
MAC	Market Advisory Council
MCRS	Minimum Conservation Reference Size
MMS	Minimum Marketing Size
MSC	Marine Stewardship Council
MS	Member State
NA	National Authority
PC	Public Consultation
PDO	Protected Designation of Origin
PGI	Protected Geographical Indication
PEFA	Pan European network of Fish Auctions
PO	Producer organisation
RASFF	Rapid Alert System for Food and Feed
SCM	Standard Cost Model
SME	Small and Medium-sized Enterprise
TOR	Terms of Reference

ABSTRACT

The evaluation of EU marketing standards for fishery and aquaculture products in the Common Market Organisation (CMO) regulation (1379/2013) and three specific regulations for fresh and chilled fishery products (2406/96), preserved tuna and bonito (1536/92) and preserved sardines and sardine-like products (2136/89) explored their continued relevance, effectiveness, efficiency, coherence and EU added value. EU Marketing Standards aim to provide clear definitions of quality requirements at EU level. They should contribute to the objectives defined in the CMO, *i.e.* enable the market to be supplied with sustainable products, facilitate the movement of goods within the internal market to realise its full potential, improve the profitability of production and ensure a level playing field in the EU market. Data analysis was supported by extensive consultation through a National Authorities survey; interviews with Professional Organisations; case studies in Croatia, Denmark, France, Netherlands, Italy, Spain; and a Public Consultation (PC).

RÉSUMÉ

L'évaluation des normes de commercialisation de l'UE concernant les produits de la pêche et de l'aquaculture dans le cadre du règlement portant organisation commune des marchés (OCM) (1379/2013) et de trois règlements spécifiques, pour les produits de la pêche frais et réfrigérés (2406/96), pour le thon et la bonite en conserve (1536/92) et pour les sardines et produits du type sardine en conserve (2136/89), a analysé leur pertinence, leur efficacité, leur efficience, leur cohérence et la valeur ajoutée de l'action de l'UE. Les normes de commercialisation de l'UE visent à apporter des définitions claires des critères de qualité au niveau de l'UE. Elles doivent contribuer à la réalisation des objectifs définis dans l'OCM, à savoir permettre l'approvisionnement du marché en produits durables, faciliter la circulation des marchandises au sein du marché intérieur pour réaliser pleinement son potentiel, améliorer la rentabilité de la production et assurer des conditions de concurrence équitables sur le marché de l'UE. L'analyse des données s'est basée sur une vaste consultation menée au moyen d'une enquête auprès des autorités nationales, d'entretiens avec des organisations professionnelles, d'études de cas en Croatie, au Danemark, en Espagne, en France, aux Pays-Bas et en Italie, et d'une consultation publique (CP).

EXECUTIVE SUMMARY

This report presents the findings from an evaluation of EU marketing standards for fishery and aquaculture products, which are required by the Common Market Organisation (CMO) regulation (1379/2013) and three specific regulations:

- Council Regulation (EC) No 2136/89: preserved sardines and sardine-like products;
- Council Regulation (EC) No 1536/92: preserved tuna and bonito products; and
- Council Regulation (EC) No 2406/96: fresh and chilled fishery products.

Marketing standards apply to the species and products included under these regulations that are traded within the EU internal market, including imports from third countries. Given their long establishment, the study explores the continued relevance, effectiveness, efficiency, coherence and EU added value of the framework for common marketing standards, particularly following the CMO revision in 2013. The study compares products covered by standards with products not covered (i.e. aquaculture products and other processed seafood products) to support the assessment of the impact of the standards.

Analysis of secondary information (e.g. trade and market price data) was supported by stakeholder consultations: responses from 25 Member State National Authorities (NAs); interviews with EU Professional Organisations and fieldwork in six Member States (Croatia, Denmark, France, Netherlands, Italy and Spain). These, along with a Public Consultation (PC), led to 259 stakeholders from the 28 MS providing input to the evaluation. The input provided includes feedback from public authorities as well as private operators of different sizes, at the different stages of the supply chain and from the different sub-sectors of the fisheries and aquaculture industry.

The main findings of the study are presented here for the evaluation criteria.

Relevance: Size and freshness criteria are considered relevant in the determination of prices at first sale of fresh, whole fishery products, but implementation in auctions is inconsistent and the criteria are not applied further down the supply chain. Due to different types of fisheries and market needs, some auctions have developed more sophisticated grading system, while other apply simpler or no system, especially around the Mediterranean Basin. The implementation of freshness criteria through quick visual checks and sometimes proxies like 'date of catch' also results in discrepancies among auctions. The criteria for canned sardine and tuna are considered relevant throughout the supply chain.

Effectiveness: The quality of landed fish has improved since the entry into force of the marketing standards for a variety of technical and economic reasons. EU marketing standards have made some indirect contribution to these improvements, as the grading done under EU marketing standards has favoured the rewarding of quality (based on size and freshness) with better prices. The CMO framework ensures that EU marketing standards are not in conflict with conservation measures, but there is hardly any other contribution to sustainability. In the very few instances where a Minimum Conservation Reference Size (MCRS) for fish is not set, the standards do help to ensure under-sized fish

are not sold, but sustainability is mainly ensured by other regulations under the CFP. For exchanges within the internal market, the marketing standards for fresh products have made a limited contribution to establishing a level-playing field for producers and buyers (irrespective of scale and location) as they set minimum information for first-hand buyers and facilitate remote purchasing but, again, the impact is restricted by the inconsistent implementation across the EU and the fact that it is only relevant at first sale. The co-existence of different MCRS for different catch areas also raises issues of consistency across the internal market. The EU mainly imports frozen and processed products from third countries and imported fresh products are mainly fillets and farmed fish. As a result, only 1-3% of imports of non-processed fishery and aquaculture products are covered by the marketing standards for fresh products. Their impact on the level-playing field with non-EU products can therefore only be limited. On the other hand, preserved tuna and bonito and sardines and sardine-type products represent close to half of the imports of processed fishery and aquaculture products. The harmonisation of the quality criteria between EU and non-EU products has therefore a significant impact on the level-playing field between EU and imported canned products. There are no data available to show that the standards for fresh products impact profitability, but obtaining higher prices for better quality can be assumed to result in improved profitability. As for preserved goods, the marketing standards helped to prevent low-priced low-quality products from entering the market and reducing prices. Compliance is generally considered to have improved over time by all categories of stakeholders although controls are clearly not carried out consistently across the EU. Existing data on fraud does not allow to precisely identify the types of infringements and whether they are related to marketing standards, but data analysed indicates that fraud directly related to marketing standards is limited or marginal. The main compliance issue is the lack of implementation of the standards for fresh products in some areas, but there is no evidence that it results in market distortion.

Unexpected and unintended effects of marketing standards have also been analysed. There is no evidence that the standards have either increased or reduced food waste. Non-conforming products enter lower-value, non-human consumption markets. In line with the EU's Circular Economy Strategy, more could be done to minimise waste, but reported non-conforming products are not specifically related to the implementation of marketing standards. By helping to reward quality, the standards create an economic incentive to avoid low-value markets, which could actually reduce waste. There is no indication that the Marketing Standards create a *de facto* trade barrier, unfair practices or issues with antitrust policy.

The overall impact of EU marketing standards on the market for fishery and aquaculture products is limited by their narrow scope in terms of products covered. Marketing standards have contributed to define common quality criteria for the main species of fresh fish landed in the EU and for the main traded processed products within the EU and from third countries. As such, they contributed to create a common language across the EU, even despite their inconsistent implementation in the case of fresh products, as most detailed grading systems use EU marketing standards as a basis. The achievements as regards the objectives defined in the CMO are however difficult to measure and at best marginal. Quality criteria have by definition no impact on sustainability. The only requirement directly related to sustainability is the prevalence of MCRS over Minimum Marketing Sizes for fresh

products and it has no impact beyond ensuring coherence with conservation measures. There is no evidence of a significant impact on the internal trade of fishery and aquaculture products as internal trade of products not covered by marketing standards develops faster than trade of products covered. There is a likely indirect, but not measurable, impact on profitability due to a better rewarding of quality for fresh products and limiting unfair competition from low-priced low-quality canned products. The impact on the level-playing field is tangible for canned products, but less obvious for fresh products due to the inconsistent implementation within the EU and the small share of non-EU products covered.

Efficiency: Additional costs for the national authorities caused by the fulfilment of the EU marketing standards are marginal (between 0 and 1.3c/kg of product¹) as control of their fulfilment is usually combined with other regulatory controls. For operators, additional costs are also marginal or null, as the required tasks would be done anyway. For fresh products, there are no equivalent standards, but many auctions have developed their own grading systems, generally based on the EU standards. In the absence of EU standards, these grading systems would probably remain, and some common practices might arise, as found for farmed fresh products. But the impacts are unpredictable. The costs of their control would only be slightly reduced and in the long term it is possible that the benefits identified would be lost. For preserved products there are criteria similar to the EU standards under the FAO Codex Alimentarius, but these only serve as a reference for extra-EU trade, as they are not a mandatory standard. If the EU regulations were removed, the benefits in terms of common quality criteria and level-playing field would be lost. Similar private standards remain scarce, they only exist at national level and they are not assessed to be more efficient. Overall, the benefits of the current EU marketing standards outweigh the costs and there is no evidence that further simplification would result in improved cost-effectiveness. However, the analysis of control procedures in Member States shows that control procedures and the degree of enforcement are very different from one Member State to another, especially for fresh products, which also contributes to the inconsistent implementation.

Coherence: EU control regulations are coherent with the EU marketing standards, even though controls are more focused on the legality of catch and food safety. Consumer information rules, other international food standards and private standards (addressing company processes, origin or sustainability) provide additional information to the EU marketing standards and are therefore complementary. By their nature, marketing standards for tuna and bonito are not fully coherent with national commercial designations for tuna species as, unlike commercial designations, they aim to harmonise trade description at EU level. This corresponds to the objective of the standards, but it can raise issues in specific cases where well-known traditional names are not compliant with the EU regulation. The preserved sardine and canned tuna EU marketing standards are overall coherent with the provisions of the Codex Alimentarius for those products despite some differences. For instance, the Codex is more restrictive on the species included in canned tuna and the use of 'white tuna' in trade descriptions, but trade descriptions for canned sardines and weight requirements for tuna, bonito and sardines are more detailed in EU

¹ Only few MS provided reliable data on the number of FTEs or costs specifically related to marketing standards. MS that provided data represent about 13% of the EU market for products covered by MS and they show a total cost of 1.7 million Euros.

marketing Standards). The absence of weight requirements or trade description for sardine-type products, although they are covered by the standards, also raises some internal coherence issues.

EU added value: EU added value lies in the harmonisation at EU level, which in turn improves the level-playing field with non-EU products and sets a common language among MS. Other standards cannot deliver these effects. Compared to private standards, EU marketing standards also provide free access to a common set of definitions and quality criteria and therefore ensure that all operators, regardless of their size and country of origin, have access to the same information. There is no evidence of shortcomings related to the absence of marketing standards in their current shape, for products currently not covered. Nevertheless, the Public Consultation (PC) showed expectations for further improvements in terms of market transparency, in particular regarding safety, social and environmental requirements, which cannot be achieved within the current framework.

SYNTHESE

Le présent rapport présente les résultats d'une évaluation des normes de commercialisation de l'UE concernant les produits de la pêche et de l'aquaculture, imposées par le règlement portant organisation commune des marchés (OCM) (1379/2013) et trois règlements spécifiques:

- Le Règlement (CEE) n° 2136/89 du Conseil portant fixation de normes communes de commercialisation pour les conserves de sardines;
- Le Règlement (CEE) n° 1536/92 du Conseil fixant les normes communes de commercialisation pour les conserves de thon et de bonite; et
- Le Règlement (CE) n° 2406/96 du Conseil fixant des normes communes de commercialisation pour certains produits de la pêche.

Les normes de commercialisation s'appliquent aux espèces et aux produits visés par ces règlements, qui sont commercialisés sur le marché intérieur de l'UE, y compris les importations en provenance de pays tiers. Compte tenu de l'ancienneté de ces normes, l'étude explore la pertinence, l'efficacité, l'efficience, la cohérence et la valeur ajoutée actuelles pour l'UE du cadre de normes communes de commercialisation, en particulier à la suite de la révision de l'OCM en 2013. Pour examiner l'impact des normes, l'étude les compare aux produits non couverts (c.-à-d. les produits de l'aquaculture et autres produits de la mer transformés).

L'analyse des informations secondaires (par exemple, les données sur le commerce et les prix du marché) a été complétée par des consultations des parties prenantes : réponses des autorités nationales (AN) de 25 États membres, des entretiens avec des organisations professionnelles de l'UE et un travail sur le terrain dans six États membres (Croatie, Danemark, France, Pays-Bas, Italie et Espagne). Ces consultations, ainsi qu'une consultation publique (CP), ont permis d'obtenir la participation de 259 parties prenantes provenant des 28 États membres. Les informations ainsi obtenues comprennent les réactions des autorités publiques ainsi que d'opérateurs privés de différentes tailles, aux différents stades de la chaîne d'approvisionnement et dans les différents sous-secteurs de l'industrie de la pêche et de l'aquaculture.

Les principales conclusions de l'étude sont présentées ici pour chaque critère d'évaluation.

Pertinence: Les critères de taille et de fraîcheur sont jugés pertinents pour la détermination des prix lors de la première vente de produits de la pêche frais et entiers, mais leur application dans les criées est irrégulière et ces critères ne sont pas appliqués en aval de la chaîne d'approvisionnement. Compte tenu des différents types de pêche et des besoins du marché, certaines criées ont développé un système de classification plus sophistiqué, tandis que d'autres appliquent un système plus simple ou inexistant, en particulier dans le bassin méditerranéen. Des différences d'une criée à l'autre s'observent également dans l'application de critères de fraîcheur par le biais de contrôles visuels rapides et parfois d'indications indirectes telles que la «date de capture». Les critères applicables aux conserves de sardines et de thon sont jugés pertinents d'un bout à l'autre de la chaîne d'approvisionnement.

Efficacité: La qualité du poisson débarqué s'est améliorée depuis l'entrée en vigueur des normes de commercialisation pour diverses raisons techniques et économiques. Les normes de commercialisation de l'UE ont contribué indirectement à ces améliorations, puisque la classification effectuée conformément aux normes de commercialisation de l'UE a tendance à récompenser la qualité (basée sur la taille et la fraîcheur) par de meilleurs prix. Le cadre de l'OCM garantit que les normes de commercialisation de l'UE ne sont pas incompatibles avec les mesures de conservation, mais il ne comporte guère d'autre contribution à la durabilité. Dans les rares cas où aucune taille minimale de référence de conservation du poisson n'est fixée, les normes participent bel et bien à garantir que les poissons trop petits ne sont pas vendus, mais la durabilité est principalement assurée par d'autres règlements de la PCP. En ce qui concerne les échanges au sein du marché intérieur, les normes de commercialisation pour les produits frais ont contribué de manière limitée à garantir des conditions de concurrence équitables pour les producteurs et les acheteurs (indépendamment de leur taille et de leur localisation), étant donné qu'elles définissent les informations minimales dont doivent pouvoir disposer les acheteurs directs et facilitent les achats à distance, mais, là encore, leur impact est limité par leur application irrégulière au sein de l'UE et le fait qu'elles ne sont pertinentes que pour la première vente. La coexistence de différentes tailles minimales de référence de conservation du poisson pour différentes zones de capture soulève également des problèmes de cohérence au sein du marché intérieur. L'UE importe principalement des produits congelés et transformés en provenance de pays tiers et les produits frais importés sont principalement des filets et du poisson d'élevage. Les normes de commercialisation des produits frais ne s'appliquent dès lors qu'à 1 à 3 % des importations de produits de la pêche et de l'aquaculture non transformés. Elles n'ont par conséquent qu'un impact limité sur l'égalité des conditions de concurrence avec les produits en provenance de pays tiers. En revanche, les conserves de thon et de bonite ainsi que les sardines et les produits du type sardines représentent près de la moitié des importations de produits transformés de la pêche et de l'aquaculture. L'harmonisation des critères de qualité entre les produits de l'UE et ceux en provenance des pays tiers a donc un impact significatif sur l'égalité des conditions de concurrence entre les produits en conserve importés et ceux produits dans l'Union. Il n'existe pas de données disponibles indiquant que les normes relatives aux produits frais ont une incidence sur la rentabilité, mais on peut supposer que le fait d'obtenir des prix plus élevés pour une meilleure qualité se traduit par une rentabilité accrue. En ce qui concerne les produits en conserve, les normes de commercialisation ont contribué à empêcher l'entrée sur le marché de produits de faible qualité à bas prix et susceptibles de faire baisser les prix. Toutes les catégories de parties prenantes estiment en général que la conformité s'est améliorée au fil du temps, même si les contrôles ne sont de toute évidence pas effectués de manière systématique à l'échelle de l'UE. Les données existantes sur la fraude ne permettent pas d'identifier avec précision les types d'infractions et leur lien potentiel avec les normes de commercialisation, mais les données analysées indiquent que la fraude directement liée aux normes de commercialisation est limitée ou marginale. Le principal problème de conformité concerne l'absence d'application des normes concernant les produits frais dans certaines régions, mais rien n'indique qu'il en résulte une distorsion du marché.

Les effets inattendus et involontaires des normes de commercialisation ont aussi été analysés. Il ne semble pas que les normes aient augmenté ou réduit le gaspillage

alimentaire. Les produits non conformes se retrouvent sur les marchés de consommation non humaine de moindre valeur. Conformément à la stratégie de l'UE en faveur de l'économie circulaire, davantage d'efforts pourraient être consentis pour réduire les déchets, mais les produits non conformes signalés ne sont pas spécifiquement liés à l'application des normes de commercialisation. En contribuant à récompenser la qualité, les normes créent un incitant économique pour éviter les marchés de faible valeur, ce qui peut en fait amener à une réduction des déchets. Rien n'indique que les normes de commercialisation créent *de facto* un obstacle au commerce, des pratiques déloyales ou des problèmes de politique antitrust.

L'impact global des normes de commercialisation de l'UE sur le marché des produits de la pêche et de l'aquaculture est limité par leur champ d'application étroit en termes de produits couverts. Les normes de commercialisation ont contribué à définir des critères de qualité communs pour les principales espèces de poisson frais débarquées dans l'UE et pour les principaux produits transformés commercialisés dans l'UE et en provenance de pays tiers. Elles ont dès lors participé à la création d'un langage commun à l'échelle de l'Union, malgré leur application non systématique dans le cas des produits frais, étant donné que la plupart des systèmes détaillés de classification mis en place s'appuient sur les normes de commercialisation de l'UE. Les résultats obtenus en ce qui concerne les objectifs définis dans l'OCM sont cependant difficiles à mesurer et, au mieux, limités. Les critères de qualité n'ont par définition aucun impact sur la durabilité. La seule exigence directement liée à la durabilité est la prévalence des tailles minimales de référence de conservation du poisson par rapport aux tailles minimales de commercialisation pour les produits frais et elle n'a d'autre impact que d'assurer la cohérence avec les mesures de conservation. Rien n'indique qu'il y ait une incidence significative sur le commerce intérieur des produits de la pêche et de l'aquaculture, le commerce intérieur des produits non couverts par les normes de commercialisation se développant plus rapidement que le commerce des produits couverts. Il y a probablement un impact indirect, mais non mesurable, sur la rentabilité compte tenu du fait que la qualité des produits frais est davantage récompensée et que la concurrence déloyale des produits en conserve de mauvaise qualité à bas prix est limitée. L'impact sur l'égalité des conditions de concurrence est tangible pour les produits en conserve, mais moins évident pour les produits frais en raison de l'application incohérente au sein de l'UE et de la faible part des produits non communautaires couverts.

Efficience: Les coûts supplémentaires pour les autorités nationales qui résultent du respect des normes de commercialisation de l'UE sont marginaux (entre 0 et 1,3c/kg de produit²), le contrôle de leur respect étant généralement combiné à d'autres contrôles réglementaires. Pour les opérateurs, les coûts supplémentaires sont là aussi marginaux ou nuls, car les tâches requises seraient de toute façon effectuées. Pour les produits frais, il n'existe pas de normes équivalentes, mais de nombreuses criées ont développé leur propre système de classification, généralement basé sur les normes européennes. En l'absence de normes communautaires, ces systèmes de classification subsisteraient probablement et

² Seuls quelques États membres ont fourni des données fiables sur le nombre d'ETP ou les coûts spécifiquement liés aux normes de commercialisation. Les États membres qui ont fourni des données représentent environ 13 % du marché de l'Union pour les produits couverts par les États membres et elles représentent un coût total de 1,7 million d'euros.

certaines pratiques courantes pourraient apparaître, comme celles que l'on trouve pour les produits frais d'élevage, mais les impacts sont imprévisibles. Les coûts liés à leur contrôle ne seraient que légèrement réduits et, à long terme, il est possible que les bénéfices identifiés disparaissent. Pour les produits en conserve, il existe des critères similaires aux normes de l'UE dans le cadre du Codex Alimentarius de la FAO (Organisation des Nations Unies pour l'alimentation et l'agriculture), mais ils ne servent que de référence pour le commerce extracommunautaire, ces critères ne constituant pas une norme obligatoire. Supprimer les règlements de l'UE reviendrait à perdre les avantages en termes de critères de qualité communs et de conditions de concurrence équitables. Les normes privées similaires restent rares; elles n'existent qu'au niveau national et ne sont pas jugées plus efficaces. Dans l'ensemble, les avantages des normes de commercialisation actuelles de l'UE l'emportent sur les coûts et rien n'indique qu'une simplification plus poussée permettrait d'améliorer le rapport coût-efficacité. Toutefois, l'analyse des procédures de contrôle dans les États membres montre que celles-ci sont très différentes d'un État membre à l'autre, tout comme leur degré d'application, en particulier pour les produits frais, ce qui participe également à l'incohérence de la mise en œuvre.

Cohérence: Les règlements de l'UE en matière de contrôle sont cohérents avec les normes de commercialisation de l'UE, même si les contrôles sont davantage axés sur la légalité des captures et la sécurité alimentaire. Les règles en matière d'information des consommateurs, les autres normes alimentaires internationales et les normes privées (concernant les processus d'entreprise, la provenance ou la durabilité) permettent de compléter les informations obtenues grâce aux normes de commercialisation de l'UE et agissent donc de manière complémentaire. Par leur nature, les normes de commercialisation du thon et de la bonite ne sont pas pleinement cohérentes avec les dénominations commerciales nationales des espèces de thon car, contrairement aux désignations commerciales, elles visent à harmoniser les dénominations commerciales au niveau de l'Union. Bien qu'il s'agisse de l'objectif des normes, cela peut soulever des problèmes dans des cas spécifiques où des dénominations traditionnelles bien connues ne sont pas conformes à la réglementation européenne. Les normes de commercialisation de l'UE pour les conserves de sardines et de thon sont généralement cohérentes avec celles du Codex Alimentarius pour ces produits, mais avec quelques différences (par exemple, le Codex est plus restrictif en ce qui concerne les espèces incluses dans le thon en conserve et l'utilisation du «thon blanc» dans les désignations commerciales, mais les désignations commerciales pour les sardines en conserve et les critères de poids pour le thon, la bonite et les sardines sont plus détaillés dans les normes de commercialisation européennes). L'absence de critères de poids ou de désignation commerciale pour les produits du type sardines, bien qu'ils soient couverts par les normes, soulève également certaines questions de cohérence interne.

Valeur ajoutée pour l'UE: La valeur ajoutée pour l'UE est évidente dans la mesure où les autres normes ne peuvent contribuer à l'harmonisation au niveau de l'UE, afin d'améliorer les conditions de concurrence avec les produits non communautaires et d'établir un langage commun aux États membres. Par rapport aux normes privées, les normes de commercialisation de l'UE prévoient également le libre accès à un ensemble commun de définitions et de critères de qualité et garantissent ainsi que tous les opérateurs, quels que soient leur taille et leur pays d'origine, ont accès aux mêmes

informations. Il n'existe aucune preuve de défaillance liée à l'absence de norme de commercialisation dans leur forme actuelle, pour les produits non couverts. La consultation publique a néanmoins montré que des améliorations étaient souhaitées en termes de transparence du marché, en particulier en ce qui concerne les exigences de sécurité, sociales et environnementales, que le cadre actuel ne permet pas de satisfaire.

1. INTRODUCTION

1.1. Objectives and scope

The objective of the evaluation is to examine the relevance, effectiveness, efficiency, coherence and EU added value of the current marketing standards framework for fishery and aquaculture products, in accordance with the Better Regulation Guidelines. The present evaluation analyses the extent to which the marketing standards framework is coherent with current policy, develops recommendations on whether marketing standards should still be applied and identifies the main areas of improvement and/or simplifications.

The 13-month evaluation was formally launched at the kick-off meeting held on March 15th, 2018 in Brussels. The work was implemented through three phases: i) inception phase, ii) data collection phase, and iii) analysis and reporting phase.

In particular, the study assesses whether:

- existing marketing standards are still fit for purpose;
- the current scope of marketing standards is adequate / aligned to market needs;
- the current marketing standards are applicable to imported products;
- the current marketing standards are enforceable and ensure the supply of the EU market with sustainable products.

The evaluation covers EU marketing standards that are underpinned by the CMO Regulation for fishery and aquaculture products. This regulation includes specific reference to marketing standards in its Chapter III as well as in Article 47 as part of the regulation's final provisions. The analysis focuses on the three regulations laying down common marketing standards for specific groups of products from both the internal market and imported products:

- Council Regulation (EC) No 2136/89: preserved sardines and sardine-like products;
- Council Regulation (EC) No 1536/92: preserved tuna and bonito products; and
- Council Regulation (EC) No 2406/96: fresh and chilled fishery products.

The study also compares the situation of products covered by marketing standards with products not covered (i.e. aquaculture products and processed products other than canned sardines and tunas) to assess the relevance of marketing standards.

The study also analyses the policy context in which the marketing standards have evolved since their establishment and the coherence of the regulatory framework with other relevant EU regulatory instruments and mechanisms (e.g. minimum sizes under conservation rules, control regulation, consumer information rules, hygiene rules for food of animal origin).

To the extent possible (i.e. availability of statistics), the analysis focuses on the period starting from the establishment of marketing standards and covers the application of the revised CMO, since end 2013. In the course of the analysis, we paid particular attention to

understanding the extent to which the revised CMO has affected the implementation, relevance, effectiveness, efficiency, coherence and EU added value of the common marketing standards.

The evaluation covers the implementation of EU marketing standards for fishery and aquaculture products in the 28 EU Member States.

1.2. Evaluation questions and tasks

Eleven evaluation questions (EQs) have been set for this evaluation. The questions consider the standard evaluation criteria set out in the Better Regulation Guidelines, as follows:

- **Relevance:** an assessment of the relationship between the needs and problems in the supply chain of fishery products and the objectives of the common marketing standards – with a focus on the different aspects of marketing standards (freshness, size, etc.) – and what the current needs are;
- **Effectiveness:** an assessment of the common marketing standards as an effective method to foster product quality and sustainability and to ensure fair competition, market transparency and a level-playing field;
- **Efficiency:** an assessment of relationship between the resources used to implement common marketing standards and the benefits achieved;
- **Coherence:** an assessment of synergies (how the different instruments fit together) as well as possible contradictions and redundancy with other relevant policy instruments and mechanisms;
- **EU added-value:** an assessment of the correlation and causality effect between the EU intervention and the evidence for goal achievement, while bringing together the findings of the other criteria.

2. BACKGROUND TO THE INTERVENTION

2.1. Evolution of the CMO and Marketing Standards Regulations

The first regulation on the Common Market Organisation (CMO) set out to achieve the objectives laid down in Article 33 of the Treaty in the fishery sector, in particular to provide market stability and to guarantee a fair income for producers. This first regulation was adopted in 1970 (Articles 2, 3 and 4 of the regulation (EEC) No 2142/70 on the Common Market Organisation), originally as part of the Common Agriculture Policy (CAP). Initially, the specific objectives of the CMO were to help to improve the quality of the fish marketed and facilitate their sale. Since 1983, the fisheries policy has become a fully-developed common policy with the creation of the Common Fisheries Policy (CFP), which today includes the CMO as one of its pillars.

The changing context both in terms of production (decrease of marine resources and strong development of aquaculture, etc.) and trade (reduction of barriers to trade, multilateral trade agreements, etc.) have resulted in several reforms and modifications of the CMO since 1970. However, the articles laying down rules on marketing standards have remained unchanged until the reform of 2013, with the new CMO regulation (Regulation (EU) No 1379/2013) aiming to support the objectives of the new Common Fisheries Policy (Regulation (EU) No 1380/2013). In this new regulation, marketing standards were entirely redrafted and moved from article 2, 3 and 4 of the CMO regulation (which was the case in the previous CMO) to articles 33 and 34. Moreover, in connection with the introduction of the landing obligation and the restriction on the uses of undersized fish, these new articles introduced the notion of direct human consumption and the possibility of using products that do not comply with marketing standards only for other purposes than direct human consumption. However, the Regulation provided no definition of “direct human consumption”.

The **new regulation abolishes the “withdrawal price system”**, which existed under the previous regulations and which was based on marketing standards and provided a system of storage aid. Provisions regarding controls of marketing standards were removed from the CMO regulation as the regulation (EC) No 1224/2009 establishing a Community control system to ensure compliance with the CFP rules aims to consolidate all the existing control provisions into one single regulation.

In 2015, a new paragraph is introduced in Art. 47 of the CMO Regulation: “Where minimum conservation reference sizes are established, they shall constitute minimum marketing sizes.”

Currently, Regulation (EU) No 1379/2013 constitutes the legal framework of the CMO in fishery and aquaculture products. In comparison to the previous CMO regulations, the objectives of the marketing standards evolved to include and prioritise the notion of products’ sustainability and to reinforce the objective of marketing based on fair competition. The objective related to improving the profitability of production is replaced by “helping to improve the profitability” of production.

The regulations establishing the specific standards have also been revised over time, mainly to expand their scope to additional species, but also, to adapt their specific objectives to those of the CFP, as illustrated in Figure 1 next page.

Marketing standards for certain fresh and chilled fishery products were first established in 1970 through Regulation (EEC) No 2455/70 and have been revised five times since then:

- 1976 (Regulation (EEC) No 103/76 and Regulation (EEC) No 104/76): expansion of the species covered by marketing standards (hake and shrimps of the genus '*Crangon*' spp.) and exclusion of the category C for freshness;
- 1995: expansion to deep-water prawns;
- 1996 (Regulation (EC) No 2406/96): expansion to additional species and alignment with minimum conservation sizes through Art. 2 of Reg. 2406/96 which states that the implementation of minimum marketing sizes "shall apply without prejudice to the minimum lengths required under" the different technical measures regulations;
- 2000: expansion to striped or red mullet, black sea bream, common scallop and common whelk and introduction of specific provisions to specify how freshness and size categories should apply to some crustaceans and molluscs;
- 2005: expansion to sprat, following the accession of 10 new Member States³.

The marketing standards for preserved sardines were established in 1989, with the adoption of Regulation (EEC) No 2136/89 and have subsequently been modified twice:

- 2003: expansion of labelling provisions to sardine-type products (10 species including sprat, herring, anchovy, *sardinella* spp., *Sardinops* spp.), following a WTO dispute with Peru on the grounds that the EU marketing standards did not comply with existing international standards and could not provide evidence that those standards were "ineffective or inappropriate" to fulfil the "legitimate objectives" pursued by the EC Regulation.
- 2005: expansion to *Strangomera bentincki* and reviewed provisions on the trade descriptions to be used for sardine-type products (Art. 7a).

The marketing standards for preserved tuna and bonito were established in 1992, with the adoption of Regulation (EEC) No 1536/92, and have never been modified.

³ Act of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union.

Figure 1: Evolution of the regulation framework of the CMO and the marketing standards of fresh products (orange) and preserved products (green)



2.2. Intervention logic

In the diagram below, we present a reconstructed intervention logic for EU intervention in marketing standards, which was developed based on the intervention logic presented in the TOR and the analysis of the regulatory framework of the CMO as well as regulations establishing marketing standards and control provisions⁴. The full analysis was carried out for the regulations that are currently in place, except for drivers, which were identified according to the situation before the implementation of marketing standards. Evaluating if the needs and drivers for establishing marketing standards are still relevant in the current market context is one of the subjects of this evaluation. To aid reading the diagram, the following narrative gives an overview of the marketing standards' main features:

- **General objectives:** They correspond to the overarching long-term objectives of the regulation. As stated in Regulation (EU) No 1379/2013, the establishment and application of common marketing standards should enable the market to be supplied with sustainable products and should facilitate the movement of goods within the internal market to realise its full potential. Moreover, other impacts should be the improvement of the profitability and sustainability of production and ensuring a level-playing field in the EU market.
- **Operational objectives:** they constitute the strategic operational objectives of the application of marketing standards and can be described as follows:
 - Products placed in the market are in accordance with marketing standards,
 - Marketing standards apply to all products, regardless of their origin,
 - Marketing standards are in line with conservation and hygiene requirements.
- **Results:** they constitute the intermediate outcomes of the application of the marketing standards Regulation. In the following, we provide an explanation of how these results could be achieved. These intermediate outcomes are interlinked, and a result could contribute to the achievement of another one.
 - Harmonised application of standards,
 - Clear definition of quality requirement,
 - Post-landing reinforcement of conservation and hygiene rules,
 - Controls take place at all stages of the supply chain.
- **Outputs:** they constitute the immediate outcomes of the application of the marketing standards Regulation. These outputs are as follows:
 - Fresh products covered by marketing standards and placed in the market are compliant with freshness criteria as set in Reg. (EC) No 2406/96.
 - Fresh products covered by marketing standards and placed in the market are compliant with size criteria as set in Reg. (EC) No 2406/96.
 - Fresh products covered by marketing standards and placed in the market are compliant with minimum size requirements, in line with conservation measures as set in Reg. (EC)

⁴ An intervention logic of the CMO regulation (Regulation (EC) 1379/2013) is presented in Annex 1.

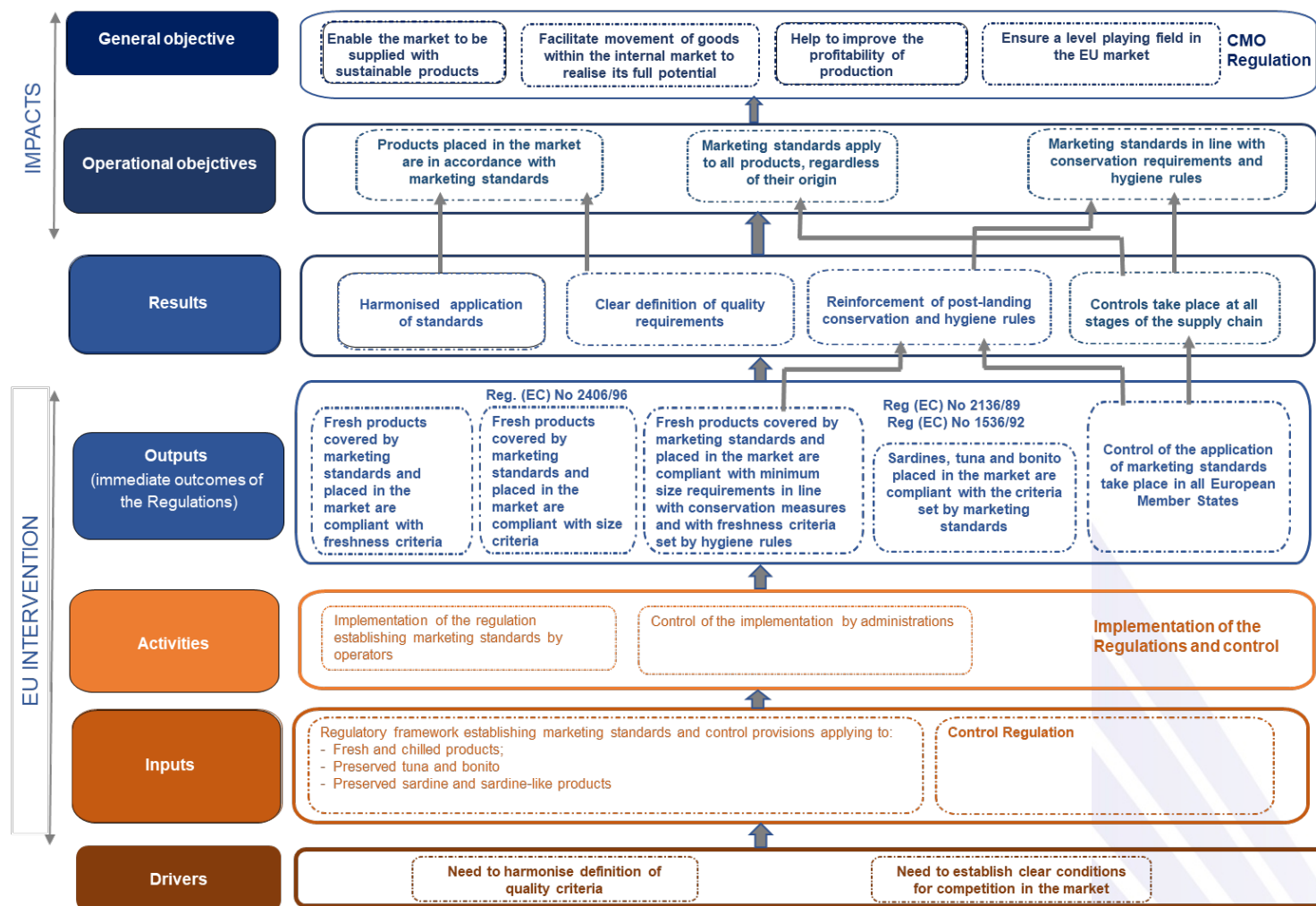
No 2406/96 and regulations on minimum conservation reference sizes and with minimum freshness criteria, in line with hygiene rules.

- Canned tuna and bonito and preserved sardine and sardine-type products placed in the market are compliant with the criteria set by the relevant marketing standards (Regulation (EC) No 2136/89 (preserved tuna and bonito) and Regulation (EC) No 1536/92 (preserved sardines and sardine-like products)).
- **Activities:** they constitute the operational stages of the inputs: they include the implementation of the regulation provisions by private operators and the monitoring and control of this implementation by public authorities.
- **Inputs:** the application of the marketing standards is governed by the regulations on marketing standards - Regulation on the common organisation of the markets in fishery and aquaculture products, Regulation on fresh and chilled products, for preserved tuna and bonito and for preserved sardines and sardine-type products - and regulations on control provisions – Regulation on Community control system for ensuring compliance with the rules of common marketing standards and Regulation on official controls and other official activities.

The available data do not allow to compare the situations before and after the implementation of the regulations. In addition, this comparison would not be meaningful considering the number of factors that have impacted the profitability of operators, the product sustainability and the general organisation of the market since 1970 and even since the early 90's. The evaluation relies therefore on the analysis of how marketing standards are implemented and enforced in practice, the impact perceived by stakeholders and, to the extent possible, the comparison between products covered by marketing standards and products not covered, taking into account that those products have different characteristics.

Evaluation of the marketing standards framework for fishery and aquaculture products

Figure 2 : Intervention logic diagram



3. IMPLEMENTATION AND STATE OF PLAY

3.1. Control activities

Official controls by Member States on fishery and aquaculture products cover a wide range of activities. In order to ensure compliance with all the rules of the CFP, a Community system for control was established by Regulation (EC) No 1224/2009. This regulation provides measures for control, inspection, and enforcement of the CFP rules with a global and integrated approach. Other existing relevant EU regulations concern control rules regarding food and feed law and hygiene rules⁵.

The key feature of national control activities is that they must cover the whole food chain. Inspections are carried out at different places, on vessels, at landings, during transportation, processing, storage and exportation. These control systems concern the enforceability of the following elements:

- EU conservation measures, in particular the MCRS;
- EU marketing standards, including the minimum marketing sizes, freshness and size categories as well as provisions on imported products;
- EU traceability rules;
- EU consumer information rules;
- EU legislation on food and feed, animal health and welfare;
- EU specific hygiene rules for foodstuffs.

The National Authorities survey carried out during this study shows that inspections often combine control obligations stemming from different regulations and that the different control activities can hardly be isolated from one another. This generates efficiency gains and synergies, but it also makes difficult to clearly identify which regulations and provisions are not complied with when infringements are reported.

3.2. Other relevant norms and standards

Various norms and standards are in use in the fisheries and aquaculture sector in addition to EU marketing standards⁶.

3.2.1. International standards

The FAO Codex Alimentarius is a collection of internationally agreed food standards and related texts presented in a uniform manner. There are 24 CODEX Standards for Fishery Products (mainly for processed products)⁷ and three overarching Standards of which the CAC/RCP 52-2003, Code of Practice for Fish and Fishery Products, is the most important one. Although standards set by the CODEX Alimentarius focus mainly on sanitary issues, they also include requirements related to the product description.

⁵ Control activities are detailed in Annex 2

⁶ This section presents a brief overview of the relevant norms and standards, Annex 3 presents a more detailed analysis

⁷ The list of the 24 Codex standards is provided in Annex 4

Two CODEX standards overlap with EU marketing standards:

- The CODEX STAN 94-1981, for canned sardines and sardine type products;
- The CODEX STAN 70-1981, for canned tuna and bonito.

Codex specifications for those products are similar to the EU ones, but there are some differences in the species to which the standards apply and the detailed specifications on names and trade descriptions. These differences are analysed in more detail under the coherence section. Annex 5 provides a comparison between those Codex standards and EU marketing standards.

Codex standards are advisory in nature but the WTO dispute on the marketing standards for preserved sardines (see section 2.1) show that they are used as a reference in trade disputes.

3.2.2. National Laws and codes of practices

National laws or mandatory codes of practices including specific requirements beyond the EU regulations, as regards products description or contents have been identified only in five Member States⁸:

- Austria: the national law provides definitions for various products, including frozen fish fingers, marinated herring, canned tuna (with requirements going beyond EU marketing standards⁹) and surimi packs.
- Germany: the national laws also provide definitions for a few products, including frozen fish fingers (similar requirements as in Austria), frozen fish fillets and sauces used with fishery products.
- Latvia: the national law establishes marketing sizes for salmon caught in the Baltic Sea.
- Spain: national laws provide some general definitions of the terms “fresh”, “frozen”, “salted”, etc. and there are two specific laws that establish quality standards for cooked and frozen mussels, cockles and clams and for canned mussels, clams and scallops, an important segment of the fish processing industry in Spain.
- France: mandatory standards or codes of practices¹⁰ have been established for oysters, soups, tarama (fish eggs salad) and derived products, chilled shrimps and salted anchovy, canned crustaceans and molluscs, semi-preserved products (except anchovy) and traditional fish soup.

⁸ Annex 6 provides details about specific laws, their scope and content.

⁹ For canned tuna flakes, the majority (more than 85%) have a length of 4 mm, and a diameter of 6 mm (See Annex 6).

¹⁰ Although they are not laws, those norms are established by professional and interprofessional organisations, they are freely available and they are controlled by public agencies in charge of control. They also apply to imported products.

3.2.3. Private standards in use in the fishery and aquaculture sector

Private marketing standards for fishery and aquaculture products are exceptional and were only identified in France where several AFNOR standards have been established, mainly for processed products as well as some aquaculture products (fresh or processed)¹¹. Those standards are voluntary, but according to the feedback received during the field work, they can be used as a reference in case of controls, especially for products for which there is no regulation. Large retailers can also use them as a basis to establish their own purchasing requirements.

Other private standards in use are mainly related to the environmental aspects of fishery products. They claim to guarantee that the fish is coming from well-managed fisheries and that the species are not overfished. Although these standards do not directly relate to marketing standards, they are worth mentioning as they have had a growing importance on the market of fishery products in the past two decades. The first “green stamps” were launched in the early nineties in the USA. Those standards initially focused on specific by-catch issues and species, such as the dolphin by-catch by tuna seiners (Dolphin Safe), or the turtle by-catch of shrimpers (Turtle Safe). In 1997, the Marine Stewardship Council (MSC), today the world leading ecolabel, was created. Some of the MSC requirements now may include criteria on minimum sizes, therefore interfering with EU conservation and marketing standards regulations (e.g. MSC certification for shrimp¹²).

Over the following years, other labels certifying environmentally friendly practices came also to the market. The below figure shows the large number of labels existing in the EU. Among the most important ones in terms of market presence are MSC, ASC, Friends of the Sea (FoS) – for sustainable capture fisheries and sustainable aquaculture, Earth Islands – for dolphin free tuna fisheries, Naturland – for organic aquaculture production, Krav – for organic fish products in Sweden.

¹¹ Annex 3 provides details about other standards for processed products.

¹² Example provided in the case study in the Netherlands.

Figure 3 – Logos of the main private standards used in fishery and aquaculture sectors in EU



Source: H. Josupeit: Seafood policy and landscape – certification, GOAL, 2012

Ecolabels for fishery and aquaculture products are particularly important in Northern EU MS where they are increasingly becoming a pre-requisite to sell in supermarkets.

Other standards mainly focus on quality assurance for production processes and social responsibility (e.g. HACCP, ISO, BRC, IFS).

3.2.4. Other instruments setting quality requirements

There are 45 Protected Designations of Origin (PDO) and Protected Geographical Indications (PGI) for fresh fish, molluscs, crustaceans and products derived therefrom registered in the EU, and 14 applications waiting for registrations¹³. The last data available on the value of EU agriculture products and foodstuffs under PDO/PGI¹⁴ show that in 2010 for a total sales value of EUR 15.8 billion, less than 5% concern fisheries and aquaculture products. However, the number of quality schemes in this sector has grown significantly from 4 in 2000, to 19 in 2010 (when the above figures were estimated) to 45 in 2018. There are also a few products, mainly in the aquaculture sector, for which those quality schemes represent a significant share of the market - e.g. Mejillón de Galicia, Scottish Farmed Salmon or Huîtres Marenne d'Oléron¹⁵.

A few collective brands guaranteeing product origin as well as minimum quality and sustainability requirements have also emerged in the last few years in some MS, like "*Pavillon France*" established by the inter-branch organisation *France Filière Pêche* or "*Crianza de Nuestros Mares*" established by the professional organisation APROMAR for some marine aquaculture fish in Spain.

¹³ Data from DOOR as of the 31/12/2018

¹⁴ https://ec.europa.eu/agriculture/external-studies/value-gi_en

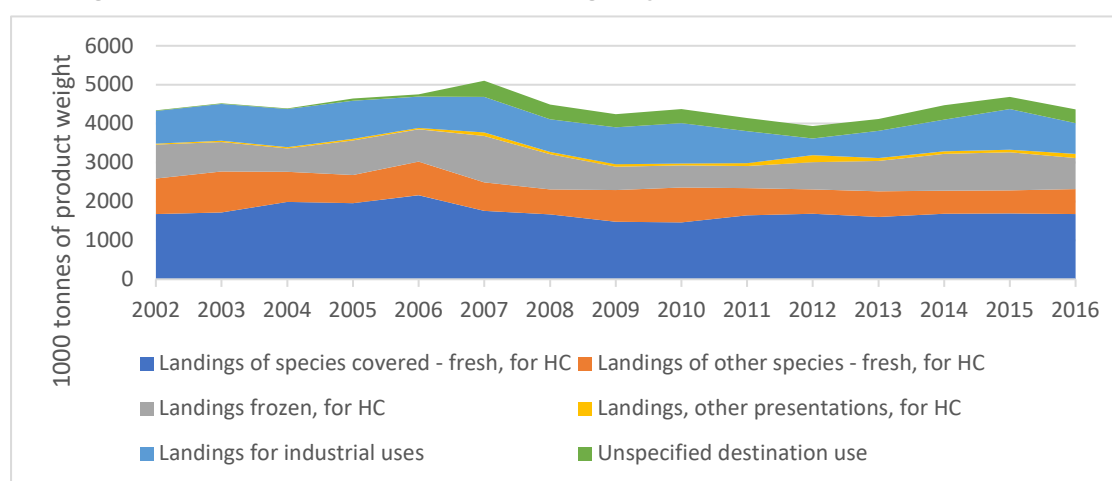
¹⁵ There are no detailed production data available per POD/PGI but based on data provided on their website the production of Mejillón de Galicia is estimated between 15% and 20% of the production of mussels in Spain, and Scottish Farmed Salmon and Huîtres Marenne d'Oléron are the main PDO/PGI for fish and shellfish products respectively in the UK and in FR and these two MS were estimated to represent almost 90% of the total production of PDO/PGI for fish, molluscs, crustaceans and derived products in 2010.

Finally, other initiatives are being developed like certification systems for the auctions (e.g. *PescadeRías* in Galicia, Spain, mainly for auctions dealing with small-scale fisheries) or a system to grade vessels in addition to the products themselves (e.g. grading system based on 19 criteria in the auction of Urk, Netherlands).

3.3. Evolution of the share of fishery and aquaculture products covered by marketing standards

3.3.1. EU production

Figure 4: Evolution of EU 28 landings by destination use and presentation



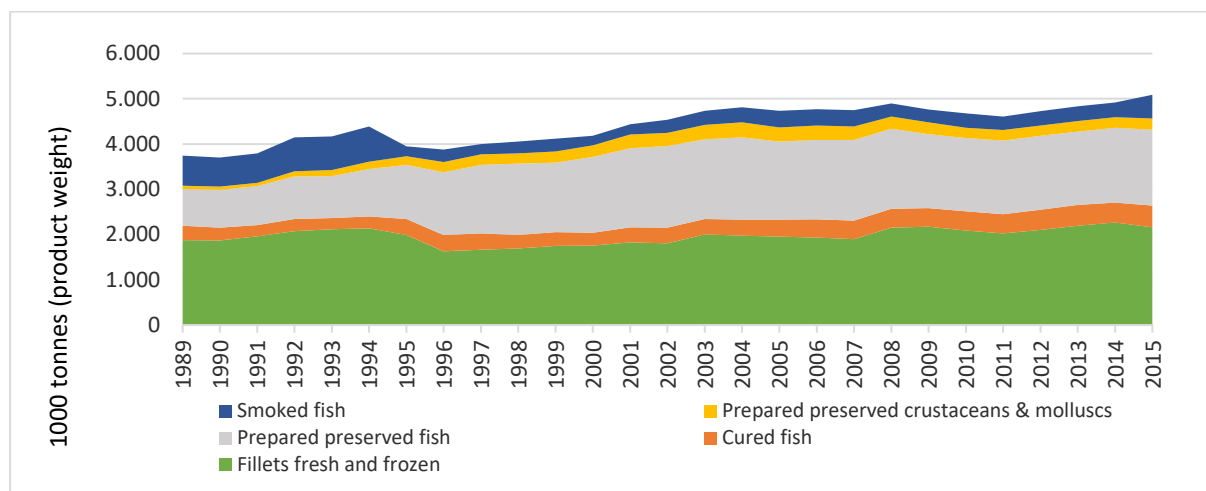
Source: Evaluators, based on Eurostat data

The analysis of landings by destination use and presentation shows that the share of landings covered by EU marketing standards (Reg. 2406/96) has fluctuated between 62% and 74% of landings of fresh fish for human consumption and between 35% and 45% of total landings since 2002¹⁶. In 2016, they represented about 73% of fresh landings for human consumption and 40% of total landings.

When taking into account landings of species covered by MCRS (including landings of frozen whole fish), which constitute marketing standards since 2015 (Art. 47.2 of Regulation (No) 1379/2013), the share of landings of products covered by EU marketing standards potentially rises up to 64%¹⁷ of the total EU landings in 2016.

¹⁶ The approximation is due to missing data in the breakdowns per destination use, in particular from the UK.

¹⁷ This percentage takes into account species covered by MCRS (including one species of tuna, Bluefin tuna covered by the Regulation (EC) No 302/2009 establishing a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean) and by marketing standards (including sprat and blue whiting, for which only the share used for human consumption was taken into account and two species of tuna: Albacore and Bigeye tuna).

Figure 5: EU 28 Production of Processed Fishery Products, by product forms

Source: evaluators based on FAO FISHSTAT

The total EU production of processed fishery products has expanded from 3.7 million tonnes in 1989, when the marketing standards for preserved sardines was established, to 5 million tonnes in 2015 (+36%). Over the same period, the production of prepared or preserved fish more than doubled from 0.8 million tonnes to 1.7 million tonnes. The production of canned tunas and sardines represent about 25% of those preparations and 10% of all processed fish products throughout the period and has almost doubled in volume (from 271 thousand tonnes in 1989 to 525 thousand tonnes in 2015).

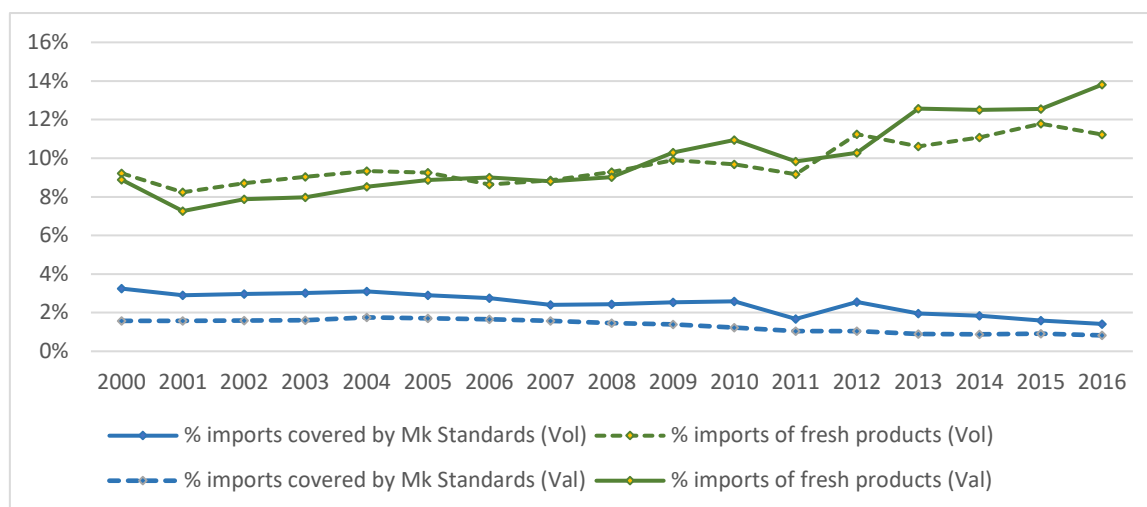
3.3.2. Extra-EU Imports

The share of products covered by marketing standards represented on average 13% of the total EU imports of fish products in the period between 2000 to 2016 in terms of volume. In 2016, this accounted for 11% of EU imports.

According to COMEXT trade data, the share of fresh or chilled products accounted for 9 to 12% of import volume of non-processed fish¹⁸ and for 7 to 14% of their value between 2000 and 2016. It is estimated that fresh or chilled fish covered by marketing standards and imported from third countries represented only 1-3% of the total import volume of non-processed fish products and between 1-2% of their value between 2000 and 2016. Although the overall share of fresh imported products is increasing in both volume and value, the share of products covered by marketing standards has shown a slight decrease in the period between 2000 and 2016.

¹⁸ Code 03 of the Combined Nomenclature

Figure 6: Imports of total fresh products and fresh products covered by marketing standards over total imports from third countries - 2000 to 2016

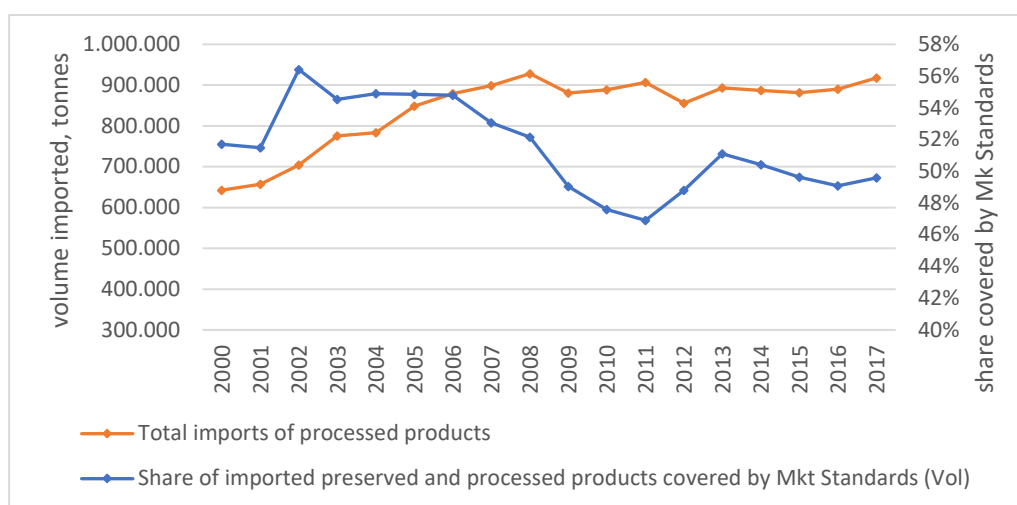


Source: evaluators, based on COMEXT data

The main countries importing fresh fish from third countries are Denmark, Sweden, Spain and the UK. In some cases, imports from third countries are landed directly in EU ports (the case of some Moroccan vessels landing in Spain). In this case and according to interviews with operators in Spanish auctions, products go through auctions and follow the same process as products landed by EU vessels. In other cases, products from third countries could enter the Union market by cargos (e.g. UK imports from Iceland) or trucks (Swedish imports from Norway) and thus are not sold through auctions. Swedish authorities have reported that controls by sampling are performed on imported products from Norway, which constitute an important share of their importations of fresh fish.

Concerning canned products, available data does not allow to isolate canned products from other preparations, but up to half the imported products may be covered by EU marketing standards. However, this ratio tends to decrease since 2000, as global imports of processed products have risen up by 43% over the period, while imports of prepared and preserved tunas, bonitos and sardines increased by a lower rate (37%).

Figure 7: Imports of processed and preserved products covered by marketing standards over total imports from third countries between 2000 and 2017



Source: evaluators based on COMEXT data

3.3.3. Conclusion

The main change in the supply of fishery and aquaculture products is the decreasing importance of fresh products sold whole. The share of landings covered by EU marketing standards can be considered stable over the period, but a larger share of those products is processed to some extent after landing (fileted, frozen or other preparations).

In parallel, imports have increased significantly, in part because of imports of fillets and frozen fish, but the main increase has been in imports of prepared and preserved fish products.

The share of products covered by EU marketing standards within prepared and preserved products has slightly decreased because of the increasing importance of other imported processed products from third countries.

3.3.4. Development of electronic auctions

The application of marketing standards is more important in the case of remote purchasing. Specifically, an accurate communication on the product quality is important as this system allows operators to buy products from different auctions without being physically present and seeing and analysing the content of each lot.

At European level, the Pan European Fish Auctions (PEFA) was created ten years ago and constitutes an auction system for remote purchase in Denmark, Sweden, the Netherlands and Italy. This system involves the main Dutch fish auctions and over 400 vessels in the EU. The buyers have to be accredited, but do not need to be physically present at the auction site.

According to desk research and interviews, the development of electronic auctions is different across the EU Member States but remains marginal in most cases.

Among the case study countries, France is the only example where distant selling is becoming predominant in some areas and the fieldwork has revealed operators' overall concern regarding the non-uniform application of marketing standards across auctions. In fact, despite the existence (through marketing standards) of well-defined criteria for each freshness category, their application differs across auctions as the sorting is based on agents' subjective appreciation and other informal practices (e.g. classification according to vessel's reputation, to gear or time elapsed since the catch). One example of actions undertaken to remedy the lack of harmonised application of the standards is the regional quality system currently developed by Regional Council of the Brittany Region, which aims to implement marketing standards in a more uniform manner across auctions.

If at this stage distance selling is not developed in all EU Member States, the non-uniform application of marketing standards across locations in the same country and between MS may accentuate this trend and constitute a barrier for the development of this new marketing model and for cross-border transactions. It would in turn limit operators' capacity to fully exploit the potential of the internal market.

4. METHOD

The evaluation was carried out from March 2018 to April 2019.

The answers to the evaluation questions followed the principles and requirements of the Better Regulation Guidelines for ex-post evaluations, and a theory-based design. This gave us a framework to define how the implementation of marketing standards should have worked in theory (through the analysis of the intervention logic) and assess what happened in practice through standard and proven analytical tools, including triangulation and a mix of quantitative and qualitative analysis (e.g. cost-effectiveness analysis, stakeholder analysis, etc.).

The following evaluation questions were provided by the Terms of Reference.

Relevance

EQ1. To what extent are the existing marketing standards still relevant?

Effectiveness

EQ2. To what extent have the current marketing standards met the objectives?

EQ3. To what extent has the implementation of marketing standards caused unexpected or unintended effects?

Efficiency

EQ4. To what extent are the incurred costs justifiable and proportionate to the benefits achieved?

EQ5. Could the use of other policy instruments or mechanisms have provided better cost-effectiveness?

EQ6. To what extent is there a potential for simplification of marketing standards?

Coherence

EQ7 To what extent are marketing standards and other norms having the same effect as marketing standards coherent with one another?

EQ8. To what extent are marketing standards coherent with other EU rules (e.g. EU rules on food safety, food information to consumers, conservation rules)?

EQ9. To what extent are EU marketing standards coherent with international standards?

EU Added Value

EQ10. To what extent are EU marketing standards justifiable and provide added value in addition to international marketing standards (e.g. Codex)? Would national/regional standards provide the same result? What is the added value of the EU marketing standards compared to private standards in place in the supply chain?

EQ11. To what extent would EU marketing standards have been useful for the sectors/products currently not covered?

The annex 15 presents the list of evaluation questions, sub-questions, judgement criteria applied to answer the questions and the main sources used.

The data collection included desk research and secondary data collection, in particular for the analysis of the regulatory framework, production systems, trade flows and value chain models as well as primary data collection through consultations at EU and at national levels:

- Participation in one of the European Commission's Expert Group for Market and Trade in Fishery and Aquaculture Products meetings and in one meeting organised by the Market Advisory Council;
- EU-wide survey of relevant ministries and national control authorities with the aim to collect information on the control of marketing standards at national level, as well as on related costs and benefits for the public authorities¹⁹;
- Fieldwork, including focus groups and individual interviews in a selection of six MS to gather operators' feedback at the different levels of the supply chain on implementation issues, related costs, benefits for operators, etc. Fieldwork in the case study MS focused on auctions and wholesale markets, which are key stages of the supply chain for fresh products. Where relevant, operators from the canning industry were also interviewed, as well as operators with activities not covered by EU marketing standards (processing industry and aquaculture)²⁰. The questionnaires used for fieldwork were also disseminated through the Commission's Expert Group and 10 additional answers were received (Austria (1 answer), Belgium (1), Italy (2), Portugal (5) and Sweden (1));

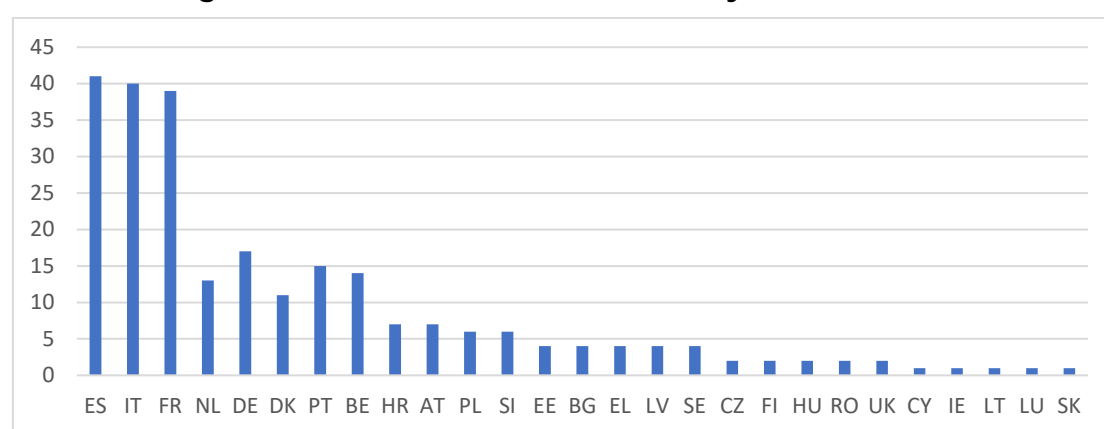
¹⁹ See questionnaire in annex 7 and summary of the results of answers to the national authorities survey in annex 8.

²⁰ See list of interviews and contributions in Annex 9, discussion guides for case studies in Annex 10, summary of case studies in Annex 11.

- Additional interviews with specific stakeholders: France (2 interview), Poland (2) and Latvia (1);
- A Public Consultation to gather higher-level information from a broader range of stakeholders;
- A consultation in the final stage of the study to test preliminary recommendations with a selection of stakeholders who had already contributed to the study through interviews, focus groups or the PC²¹.

In total, 259 stakeholders from 28 MS, covering all the supply chain stages and sub-sectors contributed, as well as the national public authorities from 25 Member States.

Figure 8 – Number of contributions by Member State



Given the date of the implementation of regulations laying down marketing standards, we were not able to carry out a comparative analysis before and after their implementation and thus to assess their impact on the market of the fishery sector. Statistics do not cover the period before the establishment of regulations. Thus, our analysis and answers to the evaluation questions are based on triangulation of different sources (desk research and existing statistics) as well as information gathered during the consultation phase (statistics gathered from operators, consultation of national authorities, field work in seven Member States and the Public Consultation). Whenever possible and relevant, comparisons between products covered and products not covered by marketing standards are also provided.

The answers to the evaluation questions are provided in the next section.

The table below lists the key challenges encountered during the evaluation, the resulting risks to the evaluation and any mitigation strategies applied to minimise the negative impact of the challenges/ risks identified.

²¹ See questionnaire for the consultation on recommendations in Annex 12 and summary of answers to the consultation in Annex 13.

Table 1: Evaluation challenges, risks and mitigating actions

Challenge / risk	Mitigating action
Lack of relevant statistical data related to marketing standards (e.g. no breakdown of prices by size/freshness in price or trade statistics)	Available statistical data were used to describe the general context at EU, national and where relevant, regional level. When more detailed data were required (e.g. to assess the impact of marketing standards on price), specific examples and stakeholders' feedback were sought (e.g. examples of publicly available prices from specific auctions, wholesale markets and retail outlets that differentiate by size or category of freshness, as well as stakeholders' feedback on standard practices as regards the setting of prices in auctions and in contractual relationships).
Recruiting relevant operators for the focus groups and the individual interviews. Operators are often reluctant to spend time on being interviewed for public studies as they do not perceive a direct benefit for themselves.	<p>National and regional trade organisations, the MAC, cooperatives, professional organisations, port authorities, etc. that are interested in this topic were approached early in the process to facilitate contacts with operators.</p> <p>Statistical representativeness for the sample of participants to focus groups and individual interviews was not sought, but possible bias related to the type of participant is recognised in the analysis.</p>
Access to detailed data and information considered to be confidential by operators (e.g. content of contracts, examples of non-compliance, etc.)	The detailed interview transcripts remain confidential and were only disseminated among the evaluation team. Country reports were only used as raw material for the evaluation. The level of reliability of the information/data provided is also indicated where relevant (e.g. number of interviewees that provided relevant data, degree of convergence of the answers, etc.). All interviews were carried out in the interviewees' native language.
The diversity of the value chain depending on the products and the MS means that it is not possible to take a uniform approach to the data collection and analysis.	The selection of MS for the fieldwork ensured that different sub-sectors and types of supply-chain organisation were covered. The data collection adopted a common overall approach and covered horizontal questions and issues. However, the choice of stakeholders and data collection tools (e.g. group meetings vs individual interviews, interview guidelines, etc.) was adjusted to the different sectors and MS. The analysis takes this supply chain diversity into account, appreciating that different stakeholder groups may have differing views.

Challenge / risk	Mitigating action
<p>Assessing impacts in ex-post evaluation often relies on before / after comparisons. Given the length of time marketing standards have been in place and the lack of directly related statistical data, this type of comparison is difficult.</p> <p>Comparisons with aquaculture or processed products, that are not currently covered, is only partially relevant as their value chains are very different.</p>	<p>Analysis has focused on establishing the causal link between the implementation of common marketing standards and the expected effects. Feedback from operators was a key element to understand how marketing standards are implemented and how they concretely affect the marketing of fish products.</p> <p>Any differences in the supply chains for products that are not covered under the marketing standards are made explicit in the evaluation and considered as a reason for differences in impact (other than the absence of marketing standards).</p> <p>These differences and their meaning in terms of the relative relevance of marketing standards were highlighted in the analysis.</p>
<p>There may be a bias in the stakeholders' responses regarding control: authorities and industry may both wish to report that there is effective control.</p>	<p>External reviews of control systems such as by the Directorate of Health Food Audits and Analysis and Commission reporting (e.g. COM (2018) 627) were reviewed alongside information from primary data collection to inform the evaluation.</p>
<p>One of the initial assumptions was that the lack of compliance was a major issue in the implementation of EU marketing standards, and it was originally planned to use small-scale trials based on behavioural insights to test the effectiveness of recommendations to improve compliance. This assumption was not confirmed by the analyses.</p>	<p>The small-scale trials were replaced by an email consultation and additional analyses to complement specific issues not covered by indicators foreseen in the Evaluation Question Matrix.</p>

5. ANSWERS TO THE EVALUATION CRITERIA

Our assessment of the evaluation criteria is based on the Evaluation Questions Matrix (EQM) provided in Annex 15. Key findings for each question are presented in the following sections.

5.1. Relevance

5.1.1. EQ 1: To what extent are the existing marketing standards still relevant?

To answer this question, we explored the existence of private standards in the supply chain for fishery and aquaculture products. We also analysed the existence of standards in the supply chain for aquaculture products and any other method for evaluating the quality of aquaculture products to understand whether any shortcoming exist for these products compared to fishery products, which can be linked to the absence of marketing standards for aquaculture products.

This question assessed to what extent the quality criteria established in EU marketing standards for fishery products were relevant for stakeholders in the context of **B to B relations** and with regard to the general objectives set in the CMO for marketing standards:

- Enabling the market to be supplied with sustainable products
- Release the full potential of the internal market
- Facilitate marketing activities based on fair competition
- Help to improve the profitability of production

The existence of common rules and standards is relevant by definition to achieve the second and third objectives. The effectiveness section below assesses to what extent this was actually achieved. Under the relevance question, we focus on the importance of the specific criteria set in the regulations as regards the objectives of sustainability and profitability of production.

The answer to this question relies mainly on the feedback provided during the fieldwork in the six case study countries and to a lesser extent on the feedback provided through the PC. Available price statistics as well as data provided by the auctions visited for fieldwork were used for the price analyses.

Relevance of quality criteria in the supply chain for fresh products

Among other things, marketing standards define the **minimum sizes** of fish that may be sold for human consumption. When the Regulation was put in place, an important aspect of the minimum size related to the calculation of the compensation based on withdrawal prices under the then CMO regulation (Reg (EC) No 3759/1992) and its revisions, up to the 2013 reform. Only landings of fish above the minimum marketing size were eligible for the compensation.

This compensation was abolished in 2013 and was completely phased out at the end of 2018. Since then, the minimum sizes are only relevant insofar as they prevent the creation

of a market for undersized fish, so their relevance is mainly related to sustainability issues. This will be further analysed in the following sections of effectiveness.

Even if some deviations exist among MS in the implementation of **size grades**, they provide a common basis at EU level, on which most size classification systems at first sale are based in the countries covered by the case studies. Some auctions use a lot more detailed grading systems (e.g. in Galicia (Spain), hake is often sorted by size classes of 200 gr up to 8 kgs instead of the 5 size classes (200 g to 2.5 Kg and over) in the regulation). The EU grading system is also less relevant for small-scale polyvalent fisheries. Feedback from the fieldwork has shown that, in Italy, it is often replaced by a simpler grading system, “small”, “medium” and “large”, with no link to the EU marketing standards, and that it is not implemented at all in Croatia (where there are no auctions)²².

At auctions, the freshness classes E, A and B are generally used, although not very rigidly. Three main comments are:

- The quality of landed fish has improved due to available technologies. Consequently, in many MS A-quality is predominant, while B-quality is relatively rare. The E-quality is often attributed based on the duration of the fishing trip (coastal fleet), type of gear (line) or period between catch and landing (last hauls).
- The organoleptic assessment, based on the criteria specified in the EU marketing standards, still allows a certain level of subjectivity. Various interviewees indicated that allocation to freshness classes is different in different auctions.
- Buyers often buy fish from specific vessels because they know what quality they may expect. Consequently, they rely less on the freshness assessment by the auction staff.
- In auctions where the buyers are physically present, they assess the freshness themselves, through visual checks and based on their own knowledge and experience (IT, ES). In case of distant (internet) trading, the buyers must rely on the information obtained from the auction or their knowledge of the vessel from which they buy. Sometimes they use intermediaries, who are physically present at the auction and can assess the quality for them.

Marketing size criteria are hardly relevant beyond the first sale as freshness deteriorates and shelf-life becomes the most important criterion for operators down the supply chain and size classifications and presentations are adapted to specific buyers' requirements.

As presented under section 3.2, some private standards are commonly used in the sector in addition to the EU marketing standards, but they relate to sustainability issues (e.g. MSC, Friends of the Sea) or processes (e.g. ISO, BRC, IFS), and not to the product characteristics. EU marketing standards therefore constitute the only harmonised criteria for the products quality.

²² Additional feedback provided by a French auction and Spanish regional authorities on the Mediterranean coast indicates that some auctions also use the “small”, “medium”, “marge” classification instead of EU marketing standards despite some pressure from the public authorities to apply them.

Relevance of the quality criteria for crustaceans and molluscs

The feedback gathered for the case studies did not indicate specific issues with molluscs.

The issues identified for crustaceans are:

- Criteria on edible crab that prevent from selling detached crab claws whereas EU technical measures allow their retention and landings;
- Criteria for *penaeid* shrimps that do not take into account that an important part of the catch is peeled and that the classification is done by number of tails rather than number of individuals;
- Criteria for shrimps do not take into account that shrimps should not stick to each other.

Relevance of criteria used in marketing standards for fresh products for the final consumer

Criteria of size and freshness are relevant for consumers but the grading system was established for the first sale only and does not correspond to the final market segmentation.

Relationship between prices at first sale and freshness and size categories

Prices are primarily determined by supply and demand. Supply depends on seasons, weather, biology of the fish (recruitment, state of stocks) or fisheries management measures (TACs and quota, closures or other restrictions). Demand depends on general consumption patterns and availability of substitutes. Also, stocks held by the trade and processing companies in relation to their contractual delivery obligations play a role in setting prices in the short term as they reduce the impact of fluctuations of catches. This leads to a relatively volatile price setting process, in which price of higher quality or larger fish can fall temporarily below the price of lower quality or smaller fish. However, stakeholders' feedback, as well as statistics obtained from the auctions, clearly indicate that larger size and better quality lead in general to higher prices.

The auctions maintain price statistics by size and in some cases also by quality, e.g. Le Guilvinec (FR), Hanstholm and Nord (DK). The statistics by quality show that the landings of B-quality represent only a very small percentage of total landings. In 2014-2017, in Le Guilvinec, the B-quality represented 10 % of total landings, while A was 80 %, E 5% and V (live) also 5%. In the same period, in Hanstholm, the B-quality represented only 0.3 % of total landings, while A was 48 % and E 52 %. These figures demonstrate that (a) the landed quality is relatively homogenous (A and E) and (b) the high quality is a response to the requirements of the chain for a maximum shelf life.

The following graphics show the structural differences of price levels by size and quality grade at the interviewed auctions.

- NL: Urk – plaice and sole, by size
- ES: Burela – hake and albacore, by size
- IT: Chioggia – cuttlefish and sole, by size

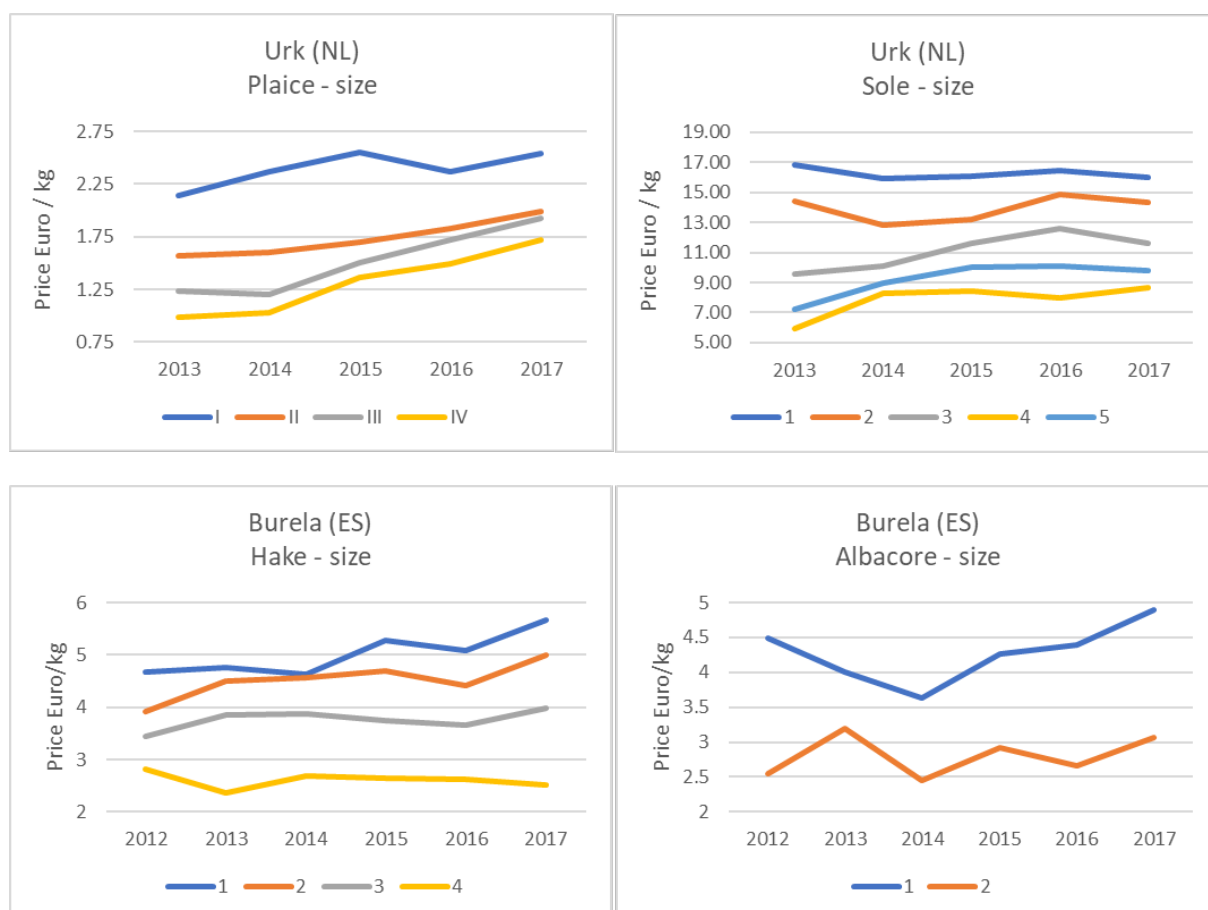
- FR: Le Guilvinec – anglerfish and haddock, by size and quality
- DK: Hanstholm – cod and saithe, by size and quality

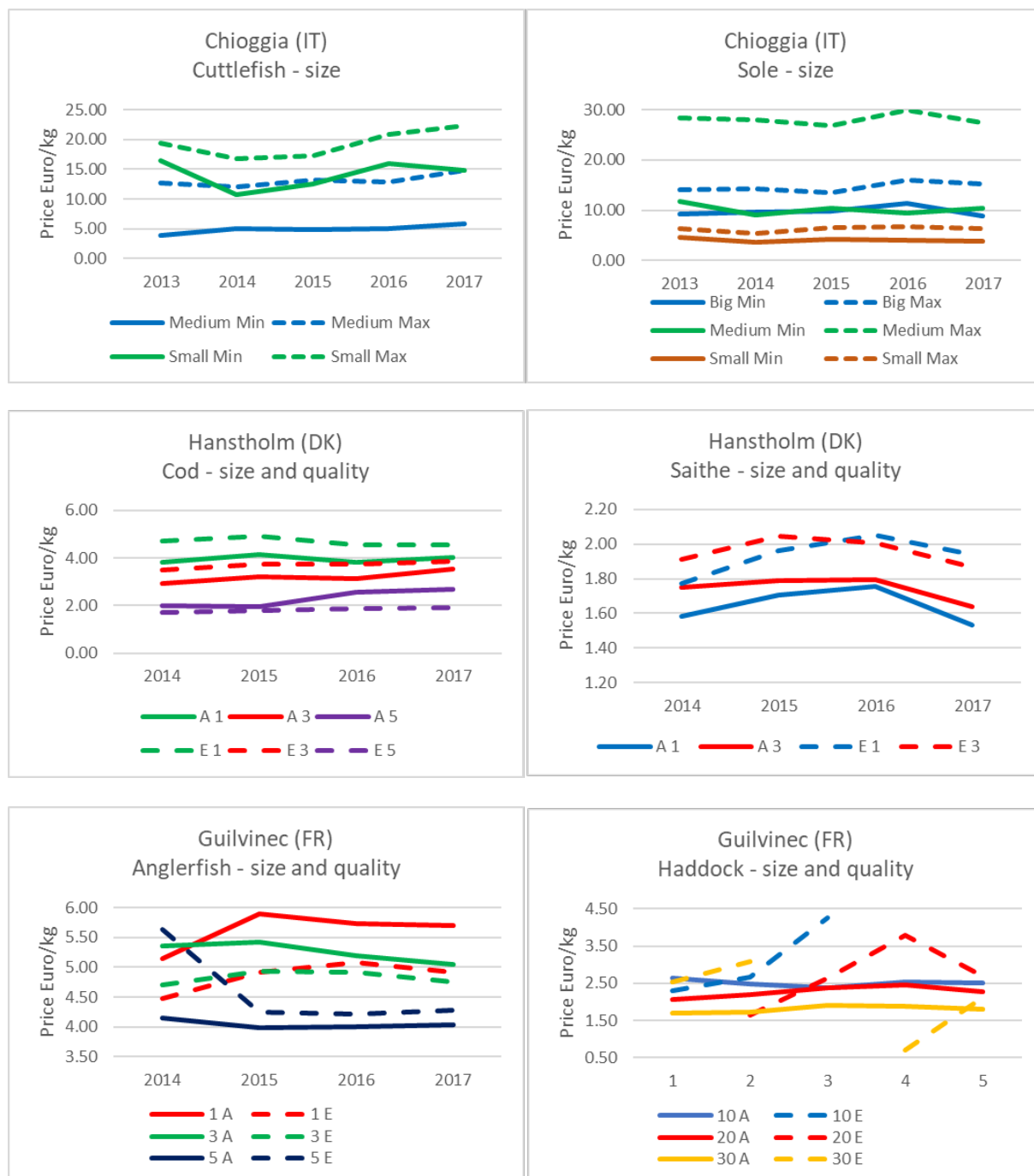
In some cases, smaller sizes get higher price than larger size, or A-quality is better priced than E. This can be a consequence of small volumes, specific market segmentation coupled with the level of demand at a given moment. Overall, the following graphics confirm that:

- Bigger fish gets higher price. The fact that the Italian market does not sort fish according to marketing standards indicates that higher price may be related to a process of grading rather than marketing standards *per se*. However, marketing standards may have contributed to generalise these grading practices.
- Conclusions on quality are less clear. Trends in Hanstholm (DK) clearly show better prices for better quality, but that is not the case in Le Guilvinec (FR).

In the case of Italy, the available data provides minimum and maximum price, so that the graphics show the price range.

Figure 9: Prices by size and freshness for a sample of auctions/species





Source: Evaluators based on data provided by the auctions

Relevance of the size of fish defined in marketing standards for fresh products in relation to the objectives and requirements of conservation measures

Where a MCRS has been established, it constitutes the minimum marketing size (Art. 47(2) of the CMO Reg.). For species covered by both MCRS and MMS (between 55% and 60% of landings fresh for human consumption²³ and around 90% of landings covered by marketing

²³ Based on Eurostat data, 2008-2016.

standards), the MCRS prevails but they only apply to EU products or products caught in waters where the EU has set a MCRS, while marketing standards apply to both EU and imported products. In this case, minimum marketing sizes remain relevant for non-EU products, which represent about 5% of the volumes of landings and imports of fresh fishery products for human consumption²⁴.

For species covered by minimum marketing sizes and not by MCRS²⁵, the relevance of minimum sizes is questionable, as the same conservation outcomes could be achieved with other measures. On top of this, for species under TACs, for which no MCRS has been established, minimum marketing sizes imply that all catches of the species will have to be landed, but specimen smaller than the minimum marketing size cannot be sold for direct human consumption.

Comparison with criteria and standards used in aquaculture

There is a very small number of public standards used in aquaculture (mainly in France for oysters) and the private standards commonly used are similar to those used for fishery products (ecolabels, retailers standards, HACCP, ISO, etc.).

A major difference between aquaculture products and fishery products is that aquaculture producers can manage size and quality to fit their buyers' requirements. Over time, common practices have emerged as regards some quality requirements (for instance on size for trouts, seabass and seabream or colour for salmon) without the need for formal marketing standards.

Issues of level-playing field in the aquaculture sector, in particular with third countries, have been extensively reported over the years, but they are mainly related to differences in production costs due to stricter environmental constraints and higher labour costs. Several minimum requirements applicable to both EU and non-EU products are tackled through transversal regulations (consumer information, labelling, hygiene and food regulations). Beyond that, the sector tends to respond mainly through differentiation strategies (e.g. organic production, ecolabels, PDO/PGI schemes, collective and private brands).

The sector is generally more concerned by the information provided to consumers than by the terminology used exclusively in B2B activities, as in current marketing standards for fresh products. The example of the lack of common definition for "salmon superior", which could be misleading for consumers, was raised for instance.

Relevance of criteria used in marketing standards for preserved tuna and bonito and sardines and sardine-type products

The criteria from EU marketing standards for canned product are generally considered by representatives of the main companies involved in the canning industry covered by the

²⁴ Source: Eurostat for landings and Comext for imports. As presented in section 3.3, most imports of fresh fish covered by marketing standards are landed directly in EU ports and go through the same process as EU catches. There is also a small share of imports that arrives by cargo or truck. The 5% include both.

²⁵ Annex 18 provides a detailed list of the species covered by marketing standards without MCRS and the relevant technical measures.

standards as relevant to describe the products and corresponding to actual market segmentations. Other operators and authorities raised issues of coherence in terms of trade designations, which are analysed under the coherence questions, but the criteria themselves and the product descriptions are not questioned.

In addition, 88% of the PC respondents indicated that they agreed or fully agreed that it is necessary to have standard definitions for the content of canned seafood, and 79% of the respondents considered that standard definitions for canned seafood should be established at EU level.

Based on the PC, each criterion for canned products (description of commercial presentation, culinary preparation and ratio related to weight) is considered as “rather useful” or “very useful” by more than half of respondents (54 to 63% for each criterion), more than a quarter has no opinion or neutral opinion and only 10 to 12% considered it was not useful.

More than half of respondents to the PC (56%) consider that EU marketing standards ensure the harmonisation of trade description and composition provision for preserved products. A quarter of the respondents has no opinion (26%) and 17% neither agree nor disagree.

Criteria more detailed than EU marketing standards and other criteria may be defined by large-scale retailers: organoleptic quality, histamine testing, compliance with specific quality schemes or ecolabel (MSC, IFS...), etc. However, limited information has been collected on this theme as this is related to business negotiation between processors and their clients (in particular large-scale retailers).

Additional standards for these products have been found in two MS: France and Austria. In France, there are three private norms and one public ‘*professional decision*’ which provide additional definitions (e.g. “*millésime*”, “*à l’ancienne*”) and specifications on product weight (voluntary private norm). In Austria, the national law has set additional requirements for solid tuna pack fillets and canned tuna steaks.

Comparison with criteria and standards used for other processed products

Although there is a wide range of Codex Standards for processed fish products, none of the stakeholders interviewed or PC respondents mentioned using them.

As presented in section 3.2, some standards have been established at national level for some processed products. In France, the industry has developed a set of both public and private standards covering a fairly wide range of products. Spain has established public national standards for canned molluscs and for cooked and frozen mussels, Germany for frozen fish fingers, frozen fish fillets and some sauces used with fishery products and Austria for frozen fish fingers, marinated herring and surimi packs.

Large-scale retailers may also define their own standards for processed products.

The fieldwork and the PC did not bring forward any particular issue resulting from the absence of marketing standards for processed products comparable to those currently defined for canned tuna and bonito and for sardines and sardine-type products. The existence of national standards, without harmonisation at EU level, has raised issues in only one specific case. Fish fingers produced by German fish processors and exported to

Central and Eastern EU countries, where the German standards did not apply, had a lower fish content than those sold in Germany. It was perceived negatively by part of the Eastern European consumers and widely reported in the international press in late 2017.

5.1.2. *Conclusions on relevance*

Size and freshness criteria are considered relevant criteria in the determination of prices for the first sale of fresh whole products from fisheries. Size criteria have the bigger impact on prices, but available auction statistics show that a higher-level of freshness (E vs A) is also rewarded (B has become marginal). Harmonisation of those criteria to some degree is also considered beneficial, especially in the case of remote sales.

Nevertheless, the implementation of those criteria remains heterogeneous. Auctions often use more detailed size categories in addition to the EU calibres to meet the buyers' needs. In some cases, on the contrary, the EU sizes are not used at all, either because fish are sold without any classification (e.g. Croatia, where there is no auction) or because other size categories are used (e.g. in Italy, the categories small, medium or large are considered sufficient). The freshness criterion is subjective and as a result is not implemented consistently across auctions, even within the same MS. In some auctions, the assessment of freshness relies more on the date of catch than on the organoleptic criteria defined in the regulation.

Although freshness and size are important criteria for consumers, the way it is implemented at first sales (*i.e.* in auctions) does not necessarily correspond to the market segmentation at retail stage, and in general the marketing standards criteria become irrelevant after the first sale. The definition of minimum marketing sizes has also become less relevant since the CMO establishes MCRS as minimum marketing sizes, except for imports.

Freshness and size are also relevant criteria for aquaculture products, but they can be controlled to meet buyers' demand. Marketing standards similar to those existing for fishery products are generally not considered relevant for aquaculture products. The only shortcoming identified that could be addressed through marketing standards comparable to the existing ones is the lack of definition for certain terms used in reference to product quality, such as "salmon superior".

Criteria for canned sardine and tuna are considered relevant throughout the supply chain by stakeholders²⁶. Some issues of coherence with trade designations have been reported and are analysed under the coherence questions, but the criteria themselves and the product descriptions are not questioned.

A few marketing standards were identified at national level (both public and private) for products not covered by EU standards, but for different products in different MS. Other standards used by operators go beyond the product characteristics covered by the current

²⁶ On the one hand, respondents to the PC who agree (rather agree or strongly agree) with the fact that EU marketing standards contribute to ensure the harmonisation of trade description and composition provision for preserved products include different types of respondents including wholesalers and retailers. On the other hand, operators interviewed during the fieldwork confirmed that, in contrary to fresh products, marketing standards for preserved products are relevant downstream the supply chain and ensure a better information of the final consumer.

marketing standards to address production methods (e.g. sustainability) and processes rather than product characteristics.

5.2. Effectiveness

Effectiveness analysis considers how successful an EU action has been in achieving or progressing towards its objectives and explain why, including if no progress or contribution is identified.

Question 2 looks at the expected effects, i.e. the contribution towards CMO objectives, while question 3 considers any other unexpected or unintended effects of the EU intervention.

5.2.1. EQ2. To what extent have the current marketing standards met the objectives?

We evaluated the achievement of the following objectives:

- Contribute to improve the quality of the products in the interest of producers, traders and consumers;
- Enable the EU market to be supplied with sustainable products;
- Release the full potential of the internal market based on fair competition;
- Improve the profitability of production;
- Ensure a level-playing field between EU and non-EU products;
- Preserved products: effectiveness of trade description provisions to avoid fraudulent practices and misleading consumers.

A key challenge is in determining the influence of the marketing standards over other interventions and developments that have influenced the achievement of the objectives.

The answer to this question relies on both secondary data (Eurostat, EUMOFA, statistics provided by some auctions, data on infringements from EFCA and MSC data) and primary data (case studies and additional interviews, NA survey, PC).

EQ2.1 Contribution of marketing standards to improve the quality of the products in the interest of producers, traders and consumers

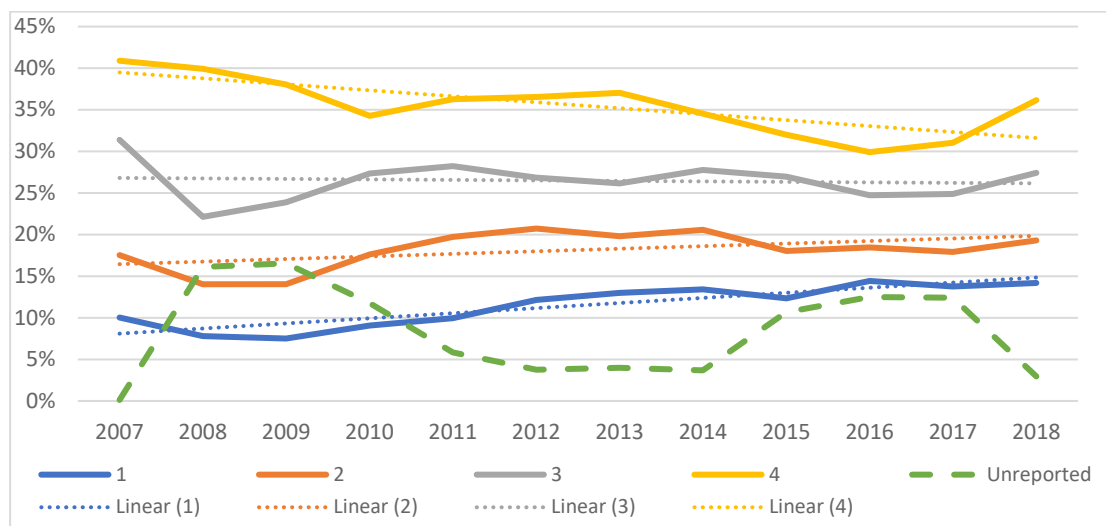
The analyses under the relevance questions showed the impact of size and freshness criteria on prices at first sale in some auctions.

The EUMOFA database contains data on first sales by **size grade** from fifteen Member States²⁷. For non-pelagic species with four and five size grades under the standard (Figure 10 and Figure 11), there is a trend towards the larger size grades (1 and 2) and a decrease in the smaller size grades (3, 4 and 5) across all species reported in EU markets. A direct

²⁷ Belgium, Denmark, Estonia, France, Germany, Ireland, Italy, Latvia, Lithuania, Netherlands, Poland, Spain, Sweden, United Kingdom provide disaggregated first sales data

comparison with species not covered by the marketing standards is not possible as none have first sales reported by four or five size grades.

Figure 10: Proportion of size grades at first sale for non-pelagic species under marketing standards with 4 size grades 2007-2018*

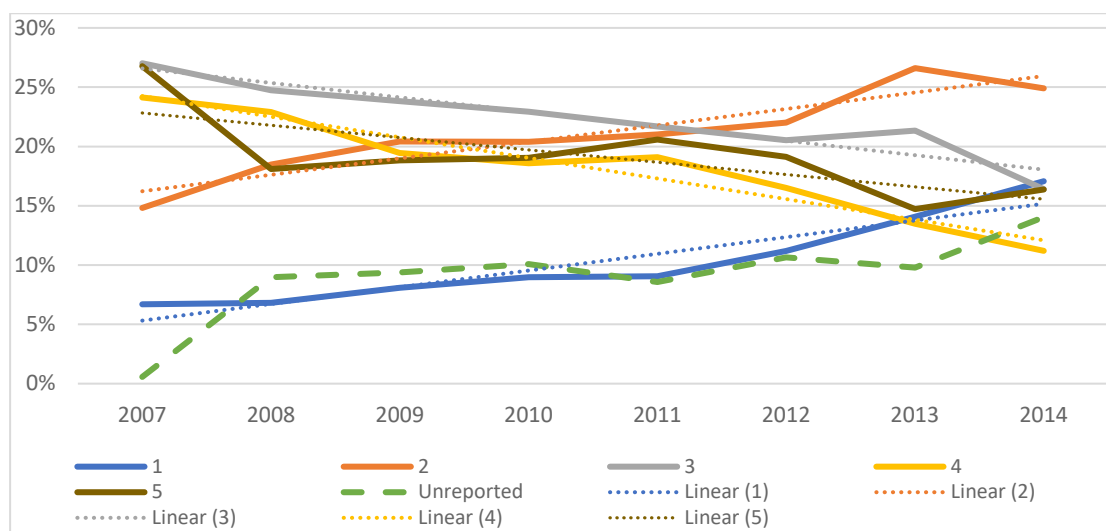


Source: EUMOFA

*First sales of pelagic species with 4 size grades show no discernible trend. They represent an average of 23% of first sales of species with four size grades over this timeframe.

The increase in the proportion of all 4 sizes in 2018 is related to the decrease in unreported size grades.

Figure 11: Proportion of size grades at first sale for species under MKTS with 5 size grades 2007-2014*



Source: EUMOFA.

*species are cod, hake, anglerfish and bluefin tuna. The proportion of first sales not recorded as a grade between 1 to 5 increased to the extent that data from 2015 onwards was not used in the analysis.

The analysis for species with three size grades or two size grades is not meaningful due to the lack of exploitable data for the main species.

Overall, data available, although very partial, indicate a trend towards greater sizes.

Even for those auctions using the EU sizes, stakeholders report that the grading becomes less relevant after first sale as wholesalers grade to customer requirements. However, at first sale the size grade is important to stakeholders as it ensures consistency and facilitates remote purchasing as it gives buyers more confidence in the size of fish agreed at purchase.

Unlike size grade information, data on **freshness grades** are not routinely collected by Eurostat or EUMOFA²⁸. To determine changes in freshness grades of products placed on the market, we are reliant on data from the few auctions that record and publish data on freshness grades, namely: Hantsholm and Nord (DK) and Guilvinec (FR). Some Galician auctions record freshness grades, but the data are not comprehensive²⁹.

The trends in proportions of landed fish per freshness grade do not give an indication of improved quality, but the prices per quality grade (see Figure 9, p.25) show that quality is generally rewarded. 'E' grades of saithe at Hantsholm show a 12% higher average price than 'A' grade saithe. This is not always evident in the figures for Guilvinec when there are limited volumes of some grades, but on average 'E' grade fish on Guilvinec between 2014-17 showed significantly higher prices than 'A' grade fish³⁰.

Economic logic would suggest that, over time, quality will improve if the higher freshness grades are rewarded with higher prices. Informally, this establishes the reputation of the vessels landing to auctions, which are known to the buyers on the auction. For most auctions, this 'insider knowledge' is important for the buyers, who are also there in person to inspect the fish directly. Even where remote purchasing on electronic auctions does occur, buyers do not wholly rely on the EU freshness grades. Remote buyers often have a representative in the auction to report back on quality and/or knowledge and trust has been built over time regarding what a grade in a certain auction actually means. However, prices are set separately for different EU freshness grade. This distinction in the market supports the rewarding of quality and facilitates remote purchasing by buyers, especially when there is no physical assessment of the fish at the auction.

Freshness grading loses relevance after the auction and first sale. Stakeholders determine the freshness when they receive the fish via direct inspection. The freshness classes of the EU's marketing standards are replaced by length of shelf life, the most important criterion at the retail stage.

Factors hindering the marketing standards from further improving the quality of products include the ability to apply effective controls throughout the system. Stakeholders report a difference between the control of marketing standards for fresh and preserved products.

²⁸ EUMOFA data collection methods are described here: <http://www.eumofa.eu/documents/20178/24415/Metadata+1+-+DATA+COLLECTION.pdf/ce349b1c-f73a-413a-b6f0-7dfee54fa042?version=1.7>

²⁹ 2017 data provided to the evaluation team shows that over 85% of megrim and anglerfish are recorded by freshness grade, while for hake and bluefish freshness grade is recorded for less than 10%.

³⁰ Annex 16 provides more details about fish sold by quality grades in a sample of auctions.

The canning industry reports regular (sanitary) control visits and the requirement to report regular batch testing results to control authorities. Implementation is aided by the canning sector being characterised by a small number of large-scale operators with the necessary resources to comply with requirements and the fact that the products retain the same quality criteria throughout the chain.

By contrast, fresh products may change hands multiple times and may alter in terms of size and freshness along the chain. This prevents full control of marketing standards other than at first sale. Control of marketing standards for fresh products is also frequently combined with other control requirements e.g. under Reg.1224/2009. While these are generally coherent with marketing standards (see 'coherence' section), the focus may often be on compliance with minimum sizes rather than ensuring the correct size and quality grades. Despite the detailed criteria definition in the regulation, freshness grading is inevitably more subjective and it is more challenging to control it effectively in the absence of laboratory controls than size grading.

The different application of the marketing standards and associated controls in MS is illustrated by the infringements reported by stakeholders, which mostly related to other regulations. Market controls check operator compliance against several regulations and those checks tend to use a risk-based approach. The feedback from the NA survey also shows that the most common infringements to marketing standards are infringements related to minimum sizes or freshness rather than grading. Articles 12 and 13 of Regulation (EC) No 2406/96 require that each MS has a named expert to ensure that grading of size and quality is in line with the Regulation and that MS carry out controls to see these are in place. There is no evidence that these experts have been appointed, also in connection with limited staff resources in control authorities and a lack of dedicated staff.

There is no quantitative evidence to illustrate quality improvements in terms of freshness and food safety³¹. Auction reporting rarely includes the freshness grade, which implies that it is not of major significance to the sector. Nevertheless, most MS interviewed³² considered that marketing standards have contributed to improvements in seafood product quality (9 MS from 21 MS answering the question in the NA survey completely agree and 7 MS agree somewhat). Only four NAs said that the marketing standards don't really improve the quality of products and one NA was neutral about the statement.

The PC showed that most respondents considered fresh seafood to be of good quality in their country (72%) and only a few (6.5%) disagreed with this statement³³. It also revealed that most respondents consider the standards criteria to be useful. 13 out of 17 respondents involved with the canned bonitos/tunas or sardines sector found at least one criterion useful, with the 'weight ratio' considered the most important criterion. For respondents dealing with fresh products covered by marketing standards, 27 out of 37

³¹ A desk review, including European Food Safety Authority (EFSA) & EC Safe Seafood project sources, was undertaken, but no data or reports were found to inform this aspect of the evaluation.

³² National Authorities survey

³³ Other respondents did not answer or neither agreed nor disagreed

found at least one criterion useful, with 'freshness grading' considered slightly more important than size; 3 had a neutral opinion and 7 said the criteria were not useful.

Most consultees stated that the quality of landed fish had improved for a variety of technical and economic reasons:

1. increased availability and use of ice;
2. improved on-board handling and storage;
3. demand for better quality from buyers;
4. higher prices for better quality.

Although EU marketing standards are not implemented consistently across Member States, and not at all in some cases, especially in the Mediterranean area, they are some of the criteria used by stakeholders to assess fish quality in many auctions across the EU. Since there is evidence that better quality is rewarded by better prices, EU marketing standards indirectly contribute to encourage quality improvements. The marketing standards act as a basis of information for first-hand buyers, particularly in situations such as remote purchasing where direct inspection does not occur.

Further down the supply chain, the EU marketing standard grades are rarely carried forward at wholesale and are not used at the level of the consumer as freshness changes and the size grades are not applied.

For preserved products, the EU marketing standards remain important at consumer level as the requirements are carried forward to consumer product labelling. This is discussed further in the EQ 2.6 on preserved products below.

EQ2.2 Contribution of marketing standards to enable the EU market to be supplied with sustainable products

The marketing standards have not been revised since the objective of sustainability was introduced for them in the CMO, therefore none of the provisions of marketing standards, except for the alignment with Minimum Conservation Reference Sizes are related to sustainability.

In addition, the EU's marketing standards are only expected to have a limited impact on the supply of sustainable products to the EU market as imports account for two thirds of seafood consumed in the EU. Of these, only 1-3% of non-processed imports are covered by the fresh marketing standards, which have a very limited sustainability dimension with the imposition of a minimum size, while the standards for processed products do not contain any sustainability requirement.

For EU production, the status of European fish stocks has improved overall in recent years. A report on progress towards ending overfishing in the European Union indicated that 61% of assessed stocks are fished consistently with MSY, increasing from 2% in 2005, 12% in

2008 and 53% in 2012³⁴. The overall improvements in EU fish stocks over time can to an extent be attributed to reductions in fishing capacity in terms of fleet composition (number of vessels) and features (i.e. engine power and gross tonnage)³⁵ and more generally to the implementation of the different fisheries management tools across EU fisheries. The EU employs a variety of these tools, including conservation measures listed in Article 7 of the CFP regulation (e.g. Minimum Conservation Reference Sizes, MCRS) and limits to total allowable catch (TAC) of key commercial species in the North-East Atlantic and Baltic Sea Regions. The fishing pressure in the North-East Atlantic is decreasing steadily and the overall exploitation levels, on average, are close to F_{MSY} ³⁶. The situation is less positive in the Black Sea and the Mediterranean, where TACs are less established.

Marketing standards reinforce the implementation of MCRS by ensuring that species below minimum biological sizes cannot be marketed. For species where marketing standards (and thus minimum marketing sizes) have been established, but not MCRS, the sustainability of these stocks is primarily ensured by other means e.g. TACs, technical measures, etc. as described under the relevance question. For instance, the main commercial tuna species covered by marketing standards (e.g. albacore, big-eye tuna) have stocks that are assessed and TACs set by Regional Fisheries Management Organisations. For the species covered by the marketing standards, preventing the sale of small fish does support these stock management measures. However, the examples presented below show that the impact of minimum sizes on sustainability can also be complex to determine.

In some cases, operators and national authorities can set minimum sizes that are larger than the minimum marketing size. One example of this relates to the North Sea brown shrimp (*crangon crangon*) fishery; for which there is no MCRS, but there is a marketing standard of 6.8mm carapace length for size 1 and 6.5mm for size 2, the minimum market size. Stakeholders in the Netherlands have highlighted that minimum size is a contentious issue and the recent shortage of shrimp has increased prices and the demand for small shrimp. Scientific advice provided in 2014³⁷ found that due to the lack of a management system for the North Sea *crangon* fishery, 'shrimp are being harvested at a sub-optimal (too low) average size', but it does not explicitly state that an increased minimum size is required to ensure stock sustainability. Nevertheless, the management plan developed in the context of the MSC certification by Danish, German and Dutch shrimp fishing interests in 2017 (Belgian and French interests may join at a later date)³⁸ committed to only landing shrimp >6.8mm (equating to size 1 shrimp under the EU marketing standard). The plan requires the use of vessel and land-based sorting grids as well as incremental increases in mesh size. The few operators not under the certificate are not subject to these rules and

³⁴ Nimmo, F., Cappell, R., 2017. Taking Stock – Progress towards ending overfishing in the EU. Report produced by Poseidon Aquatic Resource Management Ltd for The Pew Charitable Trusts

³⁵ Retrospective evaluation of Dcapping and Temporary Cessation Measures in the EFF for the European Commission, November 2013, MRAG et al.

³⁶ Communication from the Commission on the State of Play of the Common Fisheries Policy and Consultation on the Fishing Opportunities for 2019 {COM(2018) 452 final}.

³⁷ http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2014/Special%20Requests/Germany_NL_Crangon_advice.pdf

³⁸ <https://fisheries.msc.org/en/fisheries/north-sea-brown-shrimp/@assessments>

can fish for market size 2 shrimp of 6.5mm and above, which is in line with the EU marketing standard.

The larger minimum size set by the plan could be considered to be more precautionary, but the scientific advice from ICES does not provide a recommendation in this sense. A larger minimum size applied for all vessels in the whole North Sea fishery seeking MSC recognition may have an impact on competition in the market (see section on competition below).

A counter argument is that in helping to reward larger size grades (as described in relation to quality above), the EU marketing standards create a greater incentive to high-grade (discard smaller sizes). High grading was prohibited from 2010 onwards and discarding is being phased out through the Landing Obligation so this potentially negative impact on stock sustainability is being addressed through regulation. However, removing only the largest and most mature and fecund specimens from a stock can still negatively impact that stock. One example is Baltic cod where fewer large individuals are present due to increased selectivity by trawls (Svedang & Hornborg, 2014³⁹).

The 2017 evaluation of the Community Control System⁴⁰ found that the number of infringements detected concerning marketing standards across 18 Member States increased from 780 in 2010 to 990 in 2014. During this reporting period the number of onshore inspections increased, representing close to 80% of total inspections (20% offshore inspections). The ratio of infringements detected increased from 8.3% of inspections in 2010 to 12.6% of inspections in 2014. These results are thought to represent improved control and inspection procedures rather than an increased tendency towards non-compliance with marketing standards. Indeed, the NA survey suggested that most non-compliance identified from market inspections were not related to the marketing standards, but to hygiene, traceability and MCRS⁴¹. Stakeholders interviewed in the case study countries stated that in general compliance had improved.

It should be noted that the introduction in 2015 of Art. 47(2) in the CMO Regulation, establishing MCRS as marketing standards, has raised the coverage of marketing standards from about 53% to 64% of total EU landings⁴² and therefore increased the potential impact of marketing standards, as MCRS apply to all presentations, unlike Reg. 2406/96 which only applies to landings of fresh products, for human consumption. However, the contribution of marketing standards to sustainability remains exclusively linked to the enforcement of minimum sizes, so there is no significant impact of the CMO revision in terms of sustainability.

Other market-driven initiatives, such as ecolabels have a wider scope. The MSC global impacts report⁴³ for instance shows the positive change in biomass for MSC certified stocks

³⁹ Svedäng H., & Hornborg S. (2014). Fishing induces density-dependent growth. *Nature Communication*, 5, 4152

⁴⁰ <https://publications.europa.eu/en/publication-detail/-/publication/0edfa926-d328-11e6-ad7c-01aa75ed71a1>

⁴¹ Annex 17 provides details on inspections and infringements in joint deployment plans.

⁴² See section 3.3.1, p. 30, on the evolution of the EU production and share of landings covered by EU marketing standards

⁴³ https://www.msc.org/docs/default-source/default-document-library/what-we-are-doing/global-impact-reports/msc-global-impacts-report-2017-interactive.pdf?sfvrsn=e95dea5d_16

and the number of stocks certified under the scheme continues to rise, now amounting to 37 EU stocks. Interestingly, while in other regions of the world there is a clear positive impact of MSC compared to non-MSC certified stocks, that positive change in Europe is also evident for the non-MSC certified stocks in EU waters. This suggests that other factors such as EU regulations, although not specifically marketing standards, are having a positive impact on the sustainability of fish stocks.

Figure 12: Status of stock biomass for MSC and non-MSC certified stocks in the EU 2000 and 2016



Source: MSC

Results of the NA survey are coherent with the above analyses. 17 National Authorities responding to the question fully or partly agreed that the EU marketing standards have contributed to the sustainability of the fishery products marketed in the EU. Some NAs pointed out that numerous other regulations, including the CFP regulation are more important to ensure sustainable products in the EU.

The current framework for marketing standards only makes a partial contribution to the objective of “enabling the market to be supplied by sustainable products” as their product coverage is very limited (imports account for two thirds of seafood in the EU market, but only 1-3% of these are subject to minimum sizes). For EU production, in the few instances where there are minimum marketing standards for products without MCRS, some sustainability benefit can be assumed in most cases, but there is no scientific assessment of this and these species are covered by other technical measures, so even here the impact of marketing standards is very limited. While traceability provisions allow the transfer of some information such as capture method and fishing gear along the supply chain, there is no tool to pass on other information on environmental sustainability such as e.g. stock status, let alone any information on social sustainability, and there is no common definition of what these mean. During the consultation on preliminary recommendations, 83% of respondents declared that their clients included products’ specifications related to sustainability, mostly through private certifications, such as MSC or ASC. Only two respondents mentioned detailed product specifications (e.g. species, stocks, size, fishing gear...).

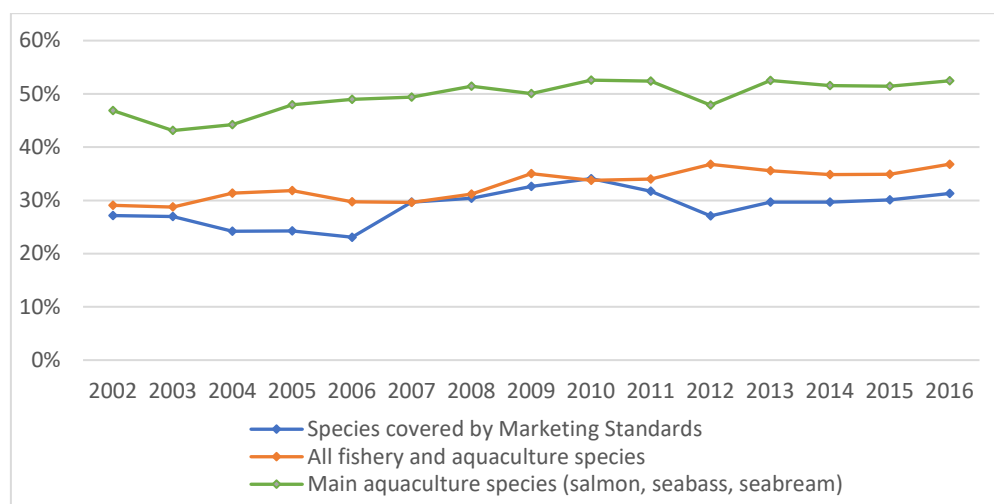
EQ2.3 Contribution of marketing standards to release the full potential of the internal market based on fair competition

In relation to achievements towards the objective of releasing the full potential of the internal market, we compared the evolution of intra-EU exchanges in products covered by marketing standards to the evolution of intra-EU exchanges for all fishery and aquaculture products in order to analyse to what extent marketing standards have contributed to increased exchanges within the EU.

In 2016, 31% of the products covered by EU marketing standards for fresh products were exchanged among EU MS, compared to 27% in 2002⁴⁴. In comparison, this ratio increased from 29% to 37% for all non-processed fishery and aquaculture species⁴⁵. For the main aquaculture species (salmon, seabass and seabream), this ratio increased from 47% to 52% over the same period. Therefore, intra-EU exchanges increased for all products and not specifically for products covered by marketing standards.

It would have been interesting to look at the evolution of exchanges in species recently added in the Reg. 2406/96, but production volumes are too small for most of those species. Volumes of sprat are significant, but it is mainly used for industrial use, except in Latvia and Estonia, who joined the EU in 2004, one year before it was included in the marketing standards (landings statistics for both MS are not available before 2006).

Figure 13: Share of the volume of fresh and frozen products exchanged within the EU



Source: COMEXT and EUROSTAT

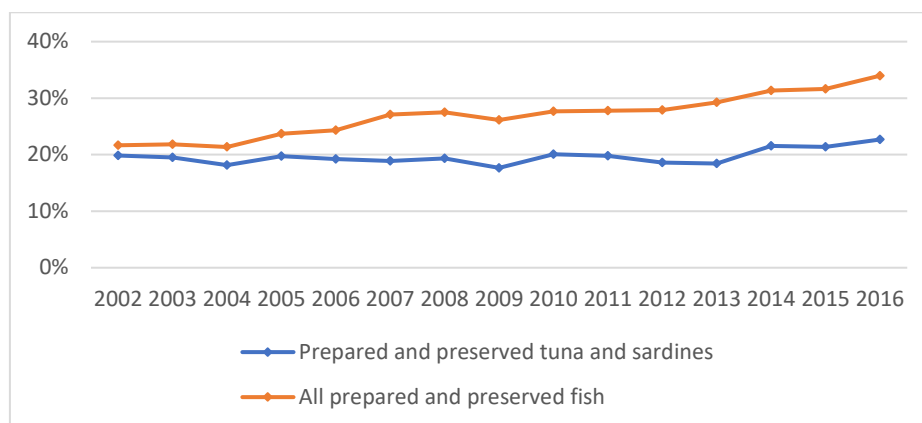
The amount of prepared and preserved tunas, bonitos and sardines and sardine-type products exchanged within the EU represented 23% of the supply in 2016 against 19% in 2001, while the amount of all prepared and preserved fish exchanged within the EU represented 34% of the supply in 2016 against 21% in 2001. Therefore, intra-EU

⁴⁴ Landings are used as a proxy here for the total supply of fresh fishery products covered by marketing standards as imports from third countries are limited and partially landed in EU ports.

⁴⁵ The total supply = landings + aquaculture production + extra-EU imports of live, fresh and frozen products (landings from non-EU countries is considered marginal within the total supply)

exchanges have increased relatively more for prepared and preserved fish as a whole than for canned tunas and bonitos and canned sardines and sardine-type products, which are covered by EU marketing standards.

Figure 14: Share of the volume of prepared and preserved products exchanged within the EU



Source: COMEXT and FISHSTAT

In theory, the EU legal framework (the CMO regulation including marketing standards and other rules on traceability, consumer information, etc.) ensures that European operators, irrespective of their size or financial strength follow the same rules to market fishery products and therefore have equal opportunity to compete. This requires operators in the supply chain to implement these rules and authorities to ensure they are adequately applied by all operators. Indeed, 16 of the 19 National Authorities responding to the question fully or partly agreed that the EU marketing standards have contributed to fairness and transparency in the internal market.

The stakeholders interviewed during fieldwork also agree that the marketing standards safeguard a level-playing field, facilitating fair competition. This applies both in different Member States and through different scales of enterprise as the EU standards do not place significant additional costs on operators. Despite this view, for fresh products, the ability of marketing standards to facilitate market activities based on fair competition is clearly limited by inconsistent implementation across the EU and the lack of enforcement in some MS, even though the lack of compliance in those MS does not give any competitive advantage to their operators. There are MS in which marketing standards are fairly well known and understood by operators (e.g. Denmark, France, Spain, Netherlands) and other MS in which marketing standards are less known by operators and are not applied or not strictly applied (e.g. Croatia and Italy). Overall, the fieldwork showed that difficulties are encountered in particular by operators in the Mediterranean region to implement marketing standards⁴⁶ given the nature of Mediterranean fisheries, which are characterised by many small-scale operators, small volumes and high species diversity.

⁴⁶ The case studies in France and Spain focus on the Atlantic coast but additional phone interviews were carried out to gather feedback from auctions on the Mediterranean coasts in these two countries to complement the feedback from Italy and Croatia.

The existence of different minimum sizes for different marine regions raises an issue in terms of a level-playing field. In terms of marine regions, the MCRS for several species differ between the North Sea and the Skagerrak/Kattegat. While these differences can be justified in biological terms as species grow and mature at different sizes in different areas, this works against the goal of marketing standards to improve harmonisation in the internal market. Member States can introduce additional management measures if these are deemed to be more conservative than EU rules, including the introduction of bigger minimum sizes than those specified in EU regulations. One example is sole: a very important species to Belgium, which introduced a bigger landing size (25cm) in 2018 compared to the MCRS of 24cm⁴⁷. There are more examples from fisheries for non-quota species. UK & French regulators have introduced minimum landing sizes for scallops in their fisheries that are higher than the 100mm required under EU regulation. This again reduces the harmonisation across the EU internal market intended by the marketing standards.

EU marketing standards for preserved products are enforced more consistently than EU marketing standards for fresh products, by the very nature of the criteria of setting the standards. Nevertheless, the feedback from national authorities shows that control procedures differ among MS and that some provisions could lead to misinterpretation (e.g. the scope of the regulation for sardine-type products and the application of commercial designations for preserved tunas and bonito⁴⁸), which can result in discrepancies among operators or MS.

Finally, there is no evidence of barriers to trade for fishery and aquaculture products, whether covered by marketing standards or not. Marketing standards are generally considered to contribute to market transparency, regardless of the type or size of stakeholders, as the criteria are widely known and correspond to relevant criteria in business activities, but there is no evident impact on the amount of trade within the EU. The inconsistent implementation of marketing standards for fresh products and, more importantly, the co-existence of different MCRS for the same species, can have a negative impact on the level-playing field within the EU.

EQ2.4 Contribution of marketing standards to the profitability of production

The EU fleet's economic performance has improved significantly in recent years with a substantial increase in gross value added. During the period between 2002 to 2016, the fleets in 15 out of 22 MS have seen their gross value added increase⁴⁹. Average salaries in the EU fleet have also risen in recent years, while overall employment continues to decline as a result of the decrease of the EU fleet. Decommissioning with or without public support has contributed to vessels with difficult economic situations exiting the fleet. Despite this overall economic progress, performance varies considerably between regions, MS and

⁴⁷ Except for beam trawlers below 70GT fishing in the southern North Sea (IVc) that can continue to land 24cm sole. <https://v.vlaanderen.be/nl/visserij/beroepsvisserij/minimum-instandhoudingsreferentiegrottes-beroepsvisserij>

⁴⁸ This is further analysed under the coherence questions

⁴⁹ Source: STECF Annual Economic Reports from 2002 to 2016. The evolution of the gross added value has been calculated from the year for which data were available for the MS.

fisheries. The North Sea and North-East Atlantic fleets tend to perform better than those in the Mediterranean and Black Sea.

The Annual Economic Report of 2018 explained that the overall economic improvement was due to lower fuel prices, increased fishing opportunities and higher average prices for some important fish stocks⁵⁰. The analysis of fish prices⁵¹ showed that from 2000 to 2016 there is an overall increase of fresh fish prices in almost all fish groups (i.e. Cephalopods, Crustaceans, Groundfish, Other marine fish, small pelagics), except for tuna and tuna-like species. Prices are primarily determined by supply and demand but as shown previously, marketing standards is assessed to have indirectly contributed to improved returns for fresh fish by providing common criteria to define quality, which are still in use, although they are not implemented consistently across the EU.

There are significant differences depending on the MS and the sector, but overall the economic performance of the processing sector has been slightly deteriorating over the past ten years, in part as a consequence of the increase in prices of raw material⁵² that are not compensated by improvements in efficiency or increased prices for the final products. Raw material for the processing industry to a large extent is imported frozen from third countries, so the increase is unlikely to be related to EU marketing standards for fresh products. Analyses below show that marketing standards for preserved products may have contributed positively to the profitability of the tuna and sardine canning industry by ensuring that imported products comply with the same product requirements and therefore by preventing competition from third countries to the detriment of product quality.

Only a few NAs agreed that marketing standards improved profitability (10 respondents out of the 17 NA responding to this question in the NA survey partly or fully agreed), while 5 respondents were neutral or did not know. Two respondents partly disagreed with the statement.

By contrast, feedback gathered from the fieldwork in Spain suggested that the marketing standards established a clear link between quality and price and this has encouraged vessel owners to spend more time on handling and presentation as it is rewarded with higher prices. Analyses on quality above corroborate this feedback and since marketing standards do not result in additional costs for operators in most countries (see EQ 4 on efficiency) it can be assumed that marketing standards for fresh products have indirectly contributed to profitability. For preserved goods, any impact of the marketing standards on profitability is difficult to disaggregate from other factors, such as variation in raw material costs.

EQ2.5 Contribution of marketing standards to ensure a level-playing field between EU and non-EU products

⁵⁰ Annual Economic Reports, STECF, 2018.

⁵¹ Data from EUMOFA, 2000-2016.

⁵² STECF report, The Economic Performance of the EU fish processing sector 2017

Imports of fresh products covered by EU marketing standards only represent 1-3% of total imports of non-processed fishery and aquaculture products and so the impact on the level-playing field between EU and non-EU products can only be limited. 93% of those imports enter the EU through 5 Member States. Marketing standards ensure that non-EU products landed in the EU (the majority of those imports⁵³) go through the same processes as EU products in auctions. For products not going through auctions, the provisions for third country products apply. There is no evidence of the impact of those provisions. The Member States concerned did not raise specific issues, but it is unclear how the freshness grading in particular is applied.

Preserved products present the greatest challenge coming from a wide variety of third countries, often with less developed national control systems. Imports of preserved products covered by marketing standards are estimated to represent about half of all imports of preserved and processed fishery products from third countries so the potential impact of marketing standards on the level-playing field with non-EU products is significant, as far as product quality is concerned. However, the share of imported processed fish products not covered by marketing standards has increased over time.

There is no evidence that marketing standards have prevented imports from third countries over the period analysed, given that they are largely aligned with international standards⁵⁴. However, they do ensure that imported products comply with the same minimum requirements and use the same definitions as the ones produced in EU, facilitating fair competition with third countries and market transparency. One example is that for preserved products in olive oil, which is a costly ingredient, other oils cannot be mixed or substituted. At the same time, the standards are deemed flexible enough by the canning industry to not be an obstacle to innovation and the development of new products, as other preparations are allowed as long as they cannot be confused with those described in the regulations.

A level-playing field can only occur with effective control of both EU production and imports. The EU-level agencies such as the EFSA and the development of information-sharing initiatives such as the RASFF, the FFN and DG SANTE auditing activities all support national control authorities in ensuring preserved products are safe and meet the required standards irrespective of whether they are produced in the EU or imported.

Effective control systems are a key factor in ensuring the marketing standards can help to ensure a level-playing field. National authorities face budgetary constraints, but these are being supported by EU-level bodies and information-sharing networks. Spanish canning industry respondents suggested that the level of compliance for products from outside the EU also depends on the companies (many are Spanish-owned and so have the same knowledge).

⁵³ This is the generally the case in Spain (landings from Moroccan vessels) and Denmark (landings from Norwegian vessels), which alone represent 51% of imports covered by marketing standards for fresh products.

⁵⁴ It can be assumed that before the entry into force of EU Reg. 1181/2003 amending the marketing standards for prepared and preserved sardines, to include sardine-type products, those specific marketing standards constituted a barrier to trade. However, in practice, import data show that Extra-EU imports did not increase for those products after the entry into force of the regulation.

Croatia was very positive about the impact of the standards for preserved products to contribute to a level-playing field. Croatia's main market was the EU prior to becoming a member and they confirmed that they complied with the EU standards in order to access the market prior to their accession to the EU.

The NAs were not unanimous in agreeing that the standards ensured a level-playing field between EU and non-EU products. 10 of the 21 NAs responding in the NA survey agreed to some degree, but the question did not differentiate between fresh and preserved products. This also reflects the fact that a large share of imports is not covered by EU marketing standards.

The CMO regulation seeks to ensure a level playing field between EU and third country producers with respect to sustainability and social standards for fishery and aquaculture products. As developed in the answer to EQ2.3, the marketing standards have a very limited impact on sustainability. In their current form, the marketing standards are not sufficient to deliver these objectives of the CMO regulation as their scope is limited in terms of the products covered and the criteria included.

EQ2.6 Contribution of marketing standards to avoid fraudulent practices and misleading consumers in the trade description of preserved products

Out of 127 adulteration/fraud notifications on RASFF⁵⁵ relating to seafood products, none involved canned tuna and only three involved canned sardine products (in 2007, 2010 and 2012 relating to illegal imports through fraudulent health certificates). In terms of mislabelling, out of 70 RASFF notifications, three related to canned tuna (from Ecuador in 2010, Portugal in 2009 and Italy in 2004) but no details are provided on the nature of the infringements.

The Croatian NA stated that the marketing standards requiring certain practices and minimum information for the consumer on canned goods has certainly helped to create a uniform system and enables fair competition within the EU and in what is a global market. This was confirmed by an Austrian professional body (supermarkets' association) as the criteria defined in the EU marketing standards are the basis for all companies involved in the supply chain and these are especially helpful for public procurement where large amounts of equivalent products have to be compared.

As with ensuring a level-playing field, the ability to enforce trade description requirements is essential and the Commission reports that "overall, Member States have the requisite control systems in place which ensure generally acceptable levels of compliance"⁵⁶. However, the control of marketing aspects is not applied consistently and these are a lower priority to control agencies than aspects such as catch legality and food safety.

Although actual fraudulent practices seem to remain limited, some internal incoherences of the regulations, as analysed in the next section, could be misleading for consumers.

⁵⁵ <https://webgate.ec.europa.eu/rasff-window/portal/?event=searchForm>

⁵⁶ COM (2018) 627 final

Reg. 2136/89 for sardine and sardine-type products specifies under Art. 1a which species can be used for sardine-type products but it is not clear to what extent articles referring to trade descriptions apply to those products. Art. 3 to 7 (excluding Art. 7a) defining the different trade descriptions and minimum weight requirements have not been revised with the introduction of the new species and only mention “sardines”. Those articles therefore do not apply to other products. It could be misleading for consumers if certain minimum weight requirements and definitions for culinary preparations apply to canned sardines but not to canned brisling sardines for instance.

The trade descriptions used in Reg. 1536/92 for preserved tuna and bonito can differ from national trade designations, which can be misleading for consumers in Member States where that occurs. For instance, *Thunnus alalunga* is traditionally designated under “Bonito del Norte” in Spain while according to Reg. 1536/92, the label for a can of *Thunnus alalunga* cannot contain the word “Bonito”. In practice, the term is still used and canned *Thunnus alalunga* is sold as canned *Bonito del Norte* in Spain. On the other hand, other species considered of lesser quality can be sold as canned bonito which could be misleading for Spanish consumers. Although it should be noted that according to Spanish official trade designations, other species are named Bonito (e.g. *Sarda sarda*), so the issue does not only arise from the EU regulation. Other examples of contradiction have been identified in Poland where the term ‘bonito’ is used for the tuna species *Euthynnus (Katsuwonus) pelamis* (striped tuna); and the term ‘pelamida’ is used for *Sarda* species. Another issue comes from the fact that the term “white tuna” is used in some countries (e.g. Spain and France) as a trade designation for *Thunnus alalunga*, while in other MS (e.g. Cyprus) the term “white tuna” can refer to a product of light colour, regardless of the species. As, according to the CMO Reg., trade designations do not apply to preserved products, this leaves room for practices that could be misleading for consumers. . Finally, the EU marketing standards allows mixing tuna or bonito with other fish species in certain products where the muscular structure of the fish has disappeared (*i.e.* excluding solid, chunks, fillets, flakes). This is further analysed under the coherence questions.

5.2.2. EQ3. To what extent has the implementation of marketing standards caused unexpected or unintended effects?

In answering those questions, we considered notably the overlapping with the following issues:

- Circular economy and reduction of food loss and waste;
- Unfair practices in the supply chain / antitrust policy.

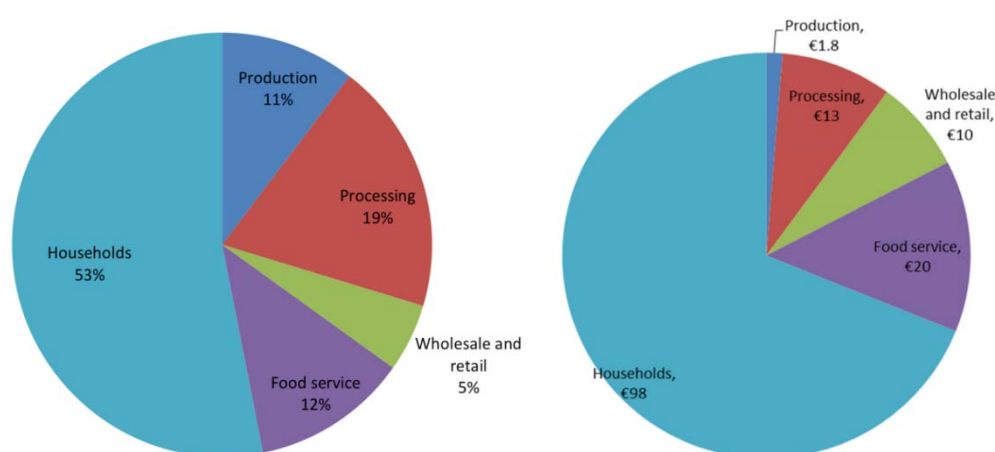
Marketing standards could have a wider effect on the level of post-harvest loss and waste throughout the seafood supply chain or unfair practices in the supply chain / antitrust policy. There is also the potential for marketing standards, in seeking to apply a level-playing field between EU and non-EU products, to act as *de facto* trade barrier. However, it should be noted that these potential unexpected effects were suggested in advance of the consultation, rather than by consultees; only general benefits to consumers were cited by consultees as possible additional benefits of the marketing standards. The answer to this question therefore mainly uses information from the case studies as well as relevant studies on food waste, consumer perception and trade.

Post-harvest loss & food waste

The EU marketing standards have the potential for contrasting impacts on food waste: (a) by setting a minimum standard to enter the market, waste may increase; and (b) by better defining & rewarding quality, less would be lost through spoilage. Assessing these potential impacts is limited by the fact that data on food loss is not routinely collated and there is a variety of approaches to quantifying food waste so trends cannot be readily identified. Also, there are few sector-specific reports to enable comparisons⁵⁷.

The FUSIONS research project generated an estimate of food waste in the EU-28 of 88 million tonnes in 2012 (Figure 14). The total equates to 173 kilograms of food waste per person in the EU-28. The 2011 total amounts of food produced in the EU of around 865 kg / person², means that in total we are wasting 20 % of the total food produced (Stenmarck et al, 2016⁵⁸).

Figure 15: Estimated food waste by sector across the EU 28 in 2012: % volume (left) and value (right)



Source: Stenmarck et al, 2016

The FUSIONS total is very close to the 89 million tonnes estimated by an earlier study (BioIS, 2010⁵⁹), but the proportions by sector differ substantially with manufacturing amounting to 39% compared to the 19% estimated by Stenmarck et al. However, it is difficult to directly compare this recent estimate with other studies as the Food Waste accounting method is substantially different. Eurostat developed a 'foodwaste plug-in' to provide statistics for the EU platform on food losses and food waste⁶⁰. A mixed picture was found across the 14 MS that participated with varying levels of waste and some showing an increase in food waste per capita from 2012 to 2014, with others showing a decrease.

⁵⁷ A selection of food waste reports was reviewed: https://ec.europa.eu/food/safety/food_waste/library_en

⁵⁸ Stenmarck, A., Jensen, C., Quedsted, T., Moates, G., 2016. Estimates of European Food Waste Levels. IVL Swedish Environmental Research Institute.

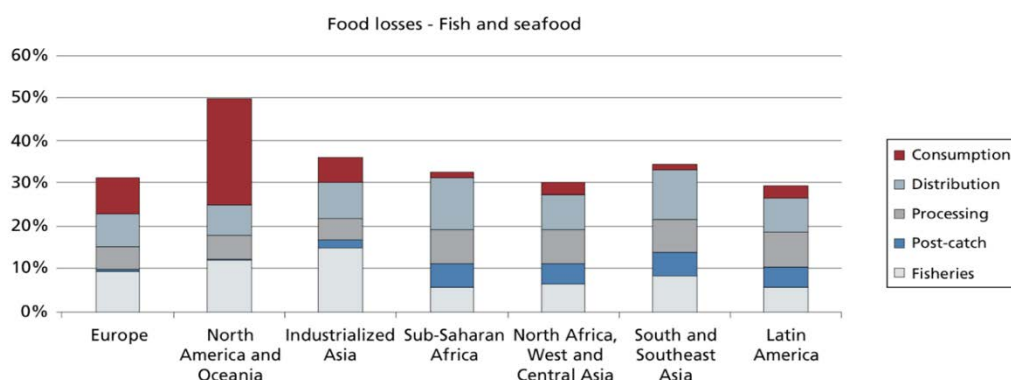
⁵⁹ https://ec.europa.eu/food/sites/food/files/safety/docs/fw_lib_bio_foodwaste_report_en.pdf

⁶⁰ https://ec.europa.eu/food/sites/food/files/safety/docs/fw_eu-platform_20170331_statistics.pdf

Overall the available data show no clear trend in relation to food waste and the information is generally not disaggregated by food sector.

The FAO estimated the extent of food losses and waste in 2011⁶¹ and found that food losses in industrialized countries are as high as in developing countries, but in developing countries more than 40% of the food losses occur at post-harvest and processing levels, while in industrialized countries, more than 40% of the food losses occur at retail and consumer levels (FAO, 2011). Figure 15 indicates that the proportion of food loss and waste in the seafood sector in Europe is below other industrialised regions (North America and Industrialised Asia), mainly due to the lower waste levels at the fisheries, post-catch and distribution stages. The marketing standards may have made some contribution to this as if the market defines and rewards quality, it pays operators to take care of the product at each production stage.

Figure 16: Proportion of fish and seafood catches lost or wasted at each stage per region



Source: FAO, 2011

As with the Landing Obligation, fish that does not conform to minimum marketing standards cannot be sold for direct human consumption, which can result in food waste. No stakeholders consulted suggested that the marketing standards had indeed resulted in more food waste. In the NA survey, three MS (Croatia, Finland and Lithuania) stated that, in case of non-conformity with the standards, the main outlet is animal feed and raw material for fish meal and pet food. This suggests that the marketing standards may result in some food being re-directed to non-food chains (which sits within the UN definition of food waste⁶²). The standards do incentivise quality improvements to avoid raw material entering these lower-value end markets, but (in line with the EU's Circular Economy Strategy⁶³) more could be done to ensure as much enters the human consumption market as possible.

Few additional impacts of the marketing standards over and above those stated in the objectives were identified by the NAs in the survey. Several NAs stated that the final

⁶¹ FAO. 2011. Global food losses and food waste – Extent, causes and prevention. Rome <http://www.fao.org/docrep/014/mb060e/mb060e00.pdf>

⁶² <http://www.fao.org/food-loss-and-food-waste/en/>

⁶³ <http://ec.europa.eu/environment/circular-economy/>

consumer benefited from the existence of the marketing standards as quality and traceability is improved. Hungary suggested that the standards have contributed to increased fish consumption as consumer trust in seafood has increased, but there is no data available to support those statements.

Consumer perceptions of seafood (understanding and confidence in the information related to the marketing standards).

A 2018 Eurobarometer report on seafood habits found that at an EU level, 83% of seafood consumers express trust in mandatory information, while 77% trust voluntary information (provided by the brand or the seller) (Eurobarometer, 2018⁶⁴). Mariani et al (2015⁶⁵) undertook the largest seafood authenticity investigation conducted to date, spanning six European countries and nine different seafood products/species. Overall, less than 5% of samples were found to be mis-labelled in relation to EU law. Two findings indicated that the control and traceability systems across the EU were reducing seafood fraud: (a) overall levels had declined since previous studies in 2008/2010 and (b) mislabelling rates were low compared to rates reported in the US. The authors concluded that as these findings were consistent across MS, “a common, transnational set of factors is currently at play in regulating the European market” and “by contrast US regulations on food labelling are less detailed, often non-binding, and inconsistent” (Mariani et al, 2015). This analysis highlights the importance of the EU’s regulatory framework for food, in particular food labelling and traceability, but also marketing standards, in contributing to harmonization across the EU and to a culture of compliance despite national differences and cultures.

Marketing standards as a technical barrier to trade

The EU is the biggest importer of seafood globally. It requires imports and the non-EU countries exporting to the EU to be compliant with EU food law. Imports of fish products into the EU are subject to official certification, which is based on the recognition of the competent authority of the non-EU country by the European Commission⁶⁶. The EU regulations on marketing standards operate at the product level and it is at this level that a *de facto* trade barrier could occur as a result of the regulations. As section 3.3 describes, the total imports of fresh fish have increased slightly since 2002. The seafood imports showing the highest growth are in the prepared and preserved category, including imports of preserved goods under the EU marketing standards.

Imports of fresh fish (other than aquaculture products) come mainly from Norway, Iceland and Morocco and are mostly landed in EU ports, which was also confirmed by the interviews carried out in Spain and Denmark. EU marketing standards are applied to Norwegian vessels landing into Denmark in the same manner as Danish vessels and no issues were expressed by respondents in the Danish case study. Similarly, the Spanish case study

⁶⁴<http://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/search/fish/survey/Ky/2206>

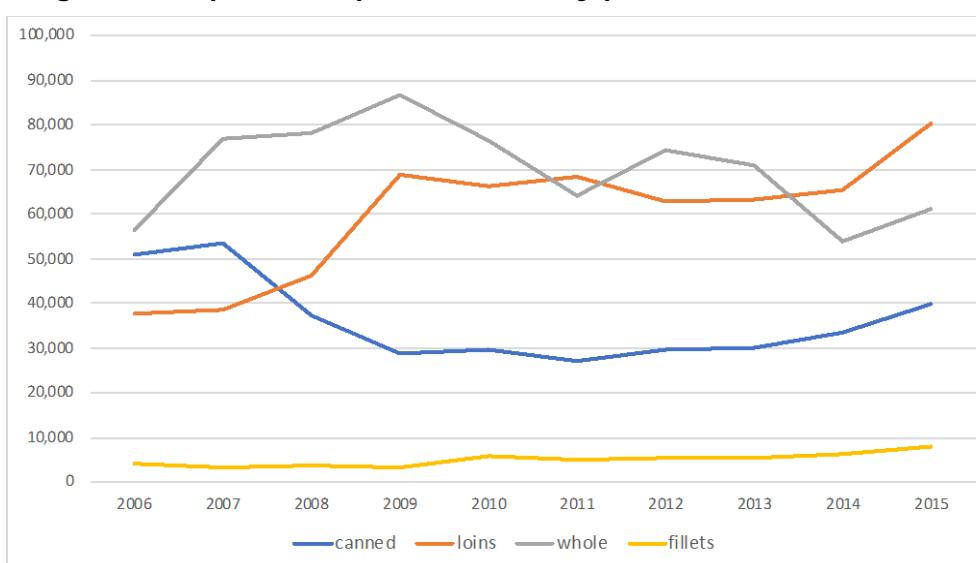
⁶⁵https://www.eumofa.eu/documents/20178/84590/EU+consumer+habits_final+report+.pdf/5c61348d-a69c-449e-a606-f5615a3a7e4c

⁶⁶https://ec.europa.eu/food/sites/food/files/safety/docs/ia_trade_import-cond-fish_en.pdf

revealed that Moroccan vessels landing fresh fish directly into Spanish ports would comply with the regulations at Spanish auctions in the same way as Spanish vessels.

The largest importer and consumer of tuna in the EU is Spain. As the figure below illustrates, the amount of imported canned tuna decreased substantially in 2008 but has since shown year on year growth. This is related to the growth in another product form, tuna loins, to supply Spain's own canning industry and consumers.

Figure 17: Spanish imports of tuna by product form 2006-2015



Source: EUMOFA, 2017⁶⁷

There is no indication that a trade barrier exists and as imports of canned tuna and sardine as well as imports of fresh fish from the main third countries supplying products under the standards have grown, there is no indication that the EU market regulations create a *de facto* trade barrier.

Unfair practices in the supply chain / antitrust policy

During the consultation, the only example of possibly unfair practice that was reported was brought up by the South West Waters Advisory Council (SWWAC). They raise the issue of some operators marketing species other than *Thunnus alalunga* (such as *Auxis* species) under the term 'bonito' or 'white tuna'⁶⁸. The argument is that, on the one hand, this has the potential to confuse the Spanish consumer who is likely to associate the term 'bonito' with the more valuable species, *Thunnus alalunga*, and on the other hand, the products are sold at a much lower price, which leads to unfair competition with the high-quality product of 'bonito del Norte'. The issue of the coherence of EU marketing standards with national trade designations has been mentioned under the previous evaluation questions

⁶⁷ Canned Tuna in Spain, June 2017 <https://www.eumofa.eu/documents/20178/103086/Price+structure+-+canned+tuna+in+Spain.pdf>

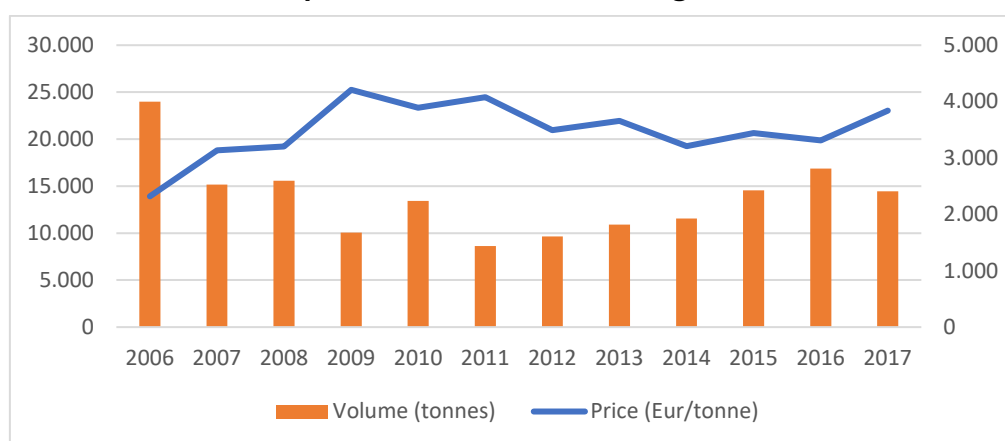
⁶⁸ <http://cc-sud.eu/index.php/fr/agenda-du-ccsud/item/comite-executif-12>

and will be analysed again under the coherence question. The analysis here focuses on the alleged unfair practice and the impact on tuna and canned tuna prices.

A study carried out for the EC in 2008⁶⁹ on the supply chain in the tuna sector showed that most of the supply of raw material for EU canned tuna came from three species (Albacore - *Thunnus alalunga*, Yellowfin tuna and skipjack), mainly caught in the Pacific and Indian Oceans, including by some EU fleets, and imported frozen whole and increasingly as loins. Price of raw materials represented about half of the price of the final product and depended mainly on the global supply and demand for these three species⁷⁰, with Albacore being scarcer and more expensive than the other two species. *Auxis* species represent only a marginal part of the supply of tuna and bonito species (2% of landings worldwide) and are scarcely used by the canning industry.

The analysis of prices of *Thunnus alalunga* landed in the EU in the last 10 years also show a clear correlation between volumes landed and prices. While it is possible that the use of the term “Bonito” in Spain, without the latin name, which is not mandatory under the current regulation, could mislead consumers, the impact on prices and fair competition is at most, extremely marginal.

Figure 18: Volume and prices of *Thunnus alalunga* between 2006 and 2017



Source: EUROSTAT

There has been no report of possible issues with antitrust policy related to the implementation of EU marketing standards for fishery and aquaculture products. Examples of competition issues reported were not related to marketing standards, but to other instruments (e.g. in the Dutch *crangon* fishery, it was catch limits being set that were the subject of a case raised by the Dutch competition authority). Contrary to EU marketing standards, which are publicly set, private alternatives involving agreements among operators on the volumes and characteristics of market supply are at risk of raising competition issues. The development of private instruments complementing marketing standards might increase the risk of unintended effects on the competitive landscape.

⁶⁹ Contrat cadre FISH/2006/20 convention spécifique n°16 étude sectorielle de la filière thonière européenne

⁷⁰ First sale prices in Bangkok, Thailand were cited as the reference prices worldwide.

5.2.3. Conclusions on effectiveness

There is broad consensus that the quality of landed fish has improved due to a variety of technical and economic reasons (improved cold chains and higher customer demands). There is also evidence that higher freshness and size grades are rewarded with better prices. By making grading mandatory, the EU marketing standards have indirectly contributed to improve quality at first sale. However their inconsistent and partial implementation limits the potential impact. The marketing standards do provide a minimum level of information to inform first-hand buyers, particularly in situations such as remote purchasing where direct inspection does not occur, but buyers of fresh product still use direct inspection along with other information such as vessel reputation. The lack of harmonised implementation obliges remote buyers to know the specific interpretation that a given auction makes of the different grades. This can limit the extent to which remote purchase will develop across the internal market, in particular in the case of cross-border transactions, and the capacity of smaller operators to purchase cross-border.

The EU marketing standards do not conflict with conservation measures, but their limited coverage, especially as far as non-EU products are concerned, means that they cannot “enable the market to be supplied with sustainable products”. Marketing standards can complement technical conservation measures in the few instances where MCRS is absent and to this extent help to ensure under-sized fish are not sold, but they can also create unneeded constraints (with a risk of generating waste) if the minimum size is not justified by conservation goals.

The marketing standards cannot currently contribute to the CMO’s general objective of enabling the EU market to be supplied with sustainable products as: (a) minimum size is a very limited part of sustainability (rather than identifying other aspects such as stock status or fishing gear used); (b) they only apply to certain products; and (c) information does not extend along the supply chain.

The contribution of the marketing standards for fresh products to establishing a level-playing field for producers and buyers (irrespective of scale and location) is restricted by the inconsistent implementation across the EU and the fact that it is only relevant at first sale. The co-existence of different MCRS for different catch areas and countries within the same sea basin also raises issues of consistency across the internal market. The EU mainly imports frozen and processed products from third countries and imported fresh products are mainly fillets and farmed fish. As a result, only 1-3% of imports of non-processed fishery and aquaculture products are covered by the marketing standards for fresh products. Their impact on the level-playing field with non-EU products can therefore only be limited.

On the other hand, preserved tuna and bonito and sardines and sardine-like products represent close to half of the imports of processed fishery and aquaculture products. The harmonisation of the quality criteria between EU and non-EU products has therefore a positive impact on the level playing field between EU and imported products.

The impact of the standards on profitability is indirect and not quantifiable. Marketing standards do not result in operators incurring additional significant cost, nor do they result in identifiable savings for producers or buyers. In theory, promoting improved quality at

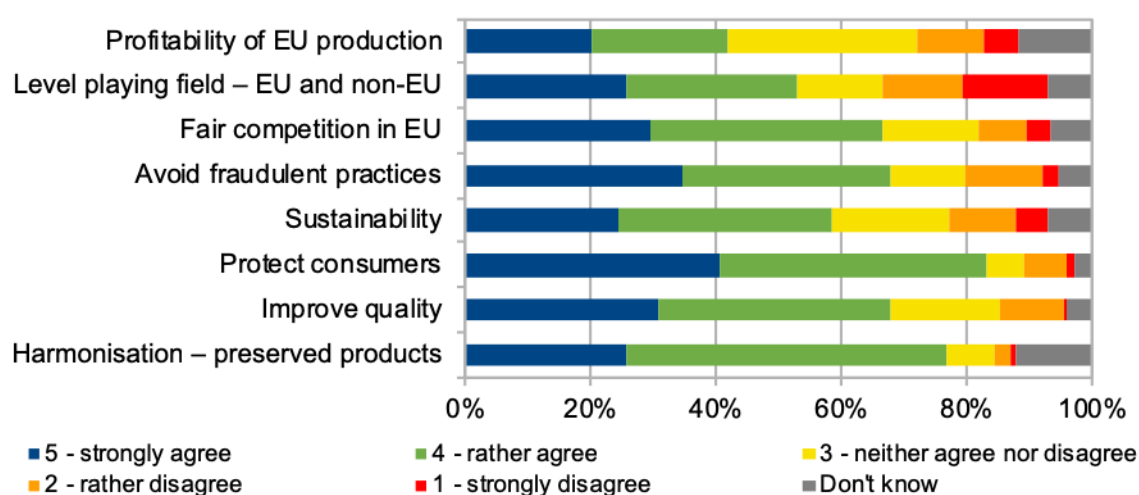
first sale for fresh fish that is rewarded with higher prices should mean increased profitability and therefore some positive contribution to profitability can be assumed. For preserved goods, the marketing standards help to prevent inferior products entering the market that would unfairly undercut prices.

Compliance is generally considered to have improved over time by all categories of stakeholders although controls are clearly not carried out consistently across the EU. Existing data on fraud does not allow to precisely identify the types of infringements and whether they are related to marketing standards, but data analysed indicate that fraud directly related to marketing standards is limited or marginal. The main compliance issue is the lack of implementation of the standards for fresh products in some areas, but there is no evidence that it results in market distortion.

By their nature, the marketing standards for preserved goods can be controlled throughout the supply chain. This is not the case for the standards for fresh products, which are also not applied consistently in all MS.

The results of the PC concur with these conclusions, with responses from professionals within the fishery and aquaculture sector similar to the whole sample. When asked about the impacts of EU marketing standards, respondents agreed most with 'harmonisation of trade description and composition provision for preserved products' and 'protect consumers against the marketing of products unfit for consumption'. Then came 'improve quality', 'avoid fraudulent practices' and 'fair competition in the EU'. The opinion of respondents on sustainability of seafood products was more variable and the contributions that respondents agreed the least with were 'level-playing field between EU and non-EU products' and 'profitability of EU production'.

Figure 19: Contributions of the marketing standards



Questions: To what extent do you agree or disagree with the following statements: EU marketing standards contribute to...? [options]

Source: European Commission Open Public Consultation, N=155

In relation to the objective of 'releasing the full potential of the internal market', intra-EU exchanges increased for all fisheries products and growth was not higher for products

covered by marketing standards. Therefore, there is no evidence that the marketing standards have contributed to increased exchanges within the EU.

There is little evidence of unexpected or unintended effects. With the CMO regulations, the EU marketing regulations have contributed to EU efforts to provide consumers with safe food as well as better information to consumers through its labelling requirements, although some derogations included in the regulation might have the opposite effect of misleading consumers.

There is no evidence that the EU marketing standards have increased or reduced food waste. Marketing standards provide an economic incentive to maintain the highest possible quality. While non-conforming products can still be directed to lower-value non-human consumption markets, this should be avoided as much as possible as per the EU circular economy strategy.

Seafood imports have risen over the period of implementation of the marketing standards, including for products under the marketing standards regulations. There is no indication that the EU marketing standards regulations create a *de facto* trade barrier.

There is no evidence either that EU marketing standards have resulted in unfair practices or issues with antitrust policy. The evaluation study did not look into possible unintended effects of private standards in terms of unfair practices or antitrust policy. Overall, despite the impacts analysed above, achievements against the objectives defined in the CMO remain difficult to measure.

5.3. Efficiency

5.3.1. EQ4. To what extent are the incurred costs justifiable and proportionate to the benefits achieved?

Under this question, we assess:

- The cost (including administrative burden) and benefits of compliance with marketing standards for food business operators;
- The cost (including administrative burden) and benefits of controls for Member States;
- The usefulness of marketing standards for consumers.

Costs analysed under the efficiency question are “administrative costs” imposed by the implementation of marketing standards. The Commission defines administrative costs as “the costs incurred by enterprises, the voluntary sector, public authorities and citizens in meeting legal obligations to provide information on their activities (or production), either to public authorities or to private parties”.⁷¹

⁷¹ Commission (2006), Commission working document: Measuring administrative costs and reducing administrative burdens in the European Union, COM(2006)691, p.3.

Considering that the policy instrument has not changed during the timeframe covered by the evaluation, **analyses focuses on recurring specific costs** (*i.e.* costs that would not incur under business as usual), at the different stages of the supply chain – first sale, wholesale, retail – for operators and the public authorities.

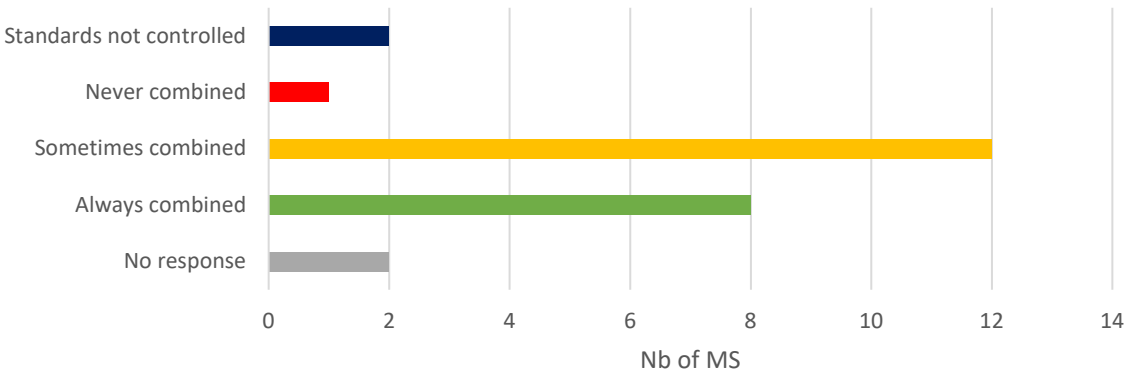
Analyses also **look at enforcement costs**. These are the costs associated with activities linked to the implementation of an initiative such as monitoring, enforcement and adjudication. They are different from the direct costs related to the policy changes. Unlike direct costs, enforcement costs do not come from actions explicitly described in the policy options but would be necessary to guarantee that operators comply with the regulatory amendments and that sanctions are applied if they do not. This includes in particular the cost of controls for MS.

The answer to this question relies mainly on data provided on the organisation of controls and FTEs dedicated to control activities through the NA survey and data provided by stakeholders during the fieldwork. Data on average costs/FTE/MS comes from Eurostat. Answers to the previous questions are used for the cost-benefit analysis.

Cost of controls for MS

Some data has been collected through the National Authorities survey on FTEs dedicated to control activities. However, the data provided rarely allows to clearly isolate costs specifically related to marketing standards. Indeed, those controls are fairly integrated with other control activities under the Control Regulation and Health Regulation (only one Member State answered that controls of marketing standards were never combined with other control activities). As a result, many National Authorities did not provide information on the amount of resources spent on controlling marketing standards or provided a number of FTEs that clearly encompasses a broader perimeter of control than just marketing standards.

Figure 20 : Combination of marketing standards controls with other types of controls



Source: NA survey, N=25
Question: Are controls of marketing standards combined with other types of controls?

The median duration of a control is 1 hour, based on the responses provided by 15 MS in the NA survey. The cost of control specifically related to marketing standards however

appears to be more dependent on the global organization of the controls (i.e. number of authorities involved, combining controls or not, etc.) than the actual duration of on-the-spot controls. The share of the time of inspection on EU marketing standards checks can be considered as marginal in comparison with the time spent on other control activities.

According to the NA survey, even authorities in charge of controls could hardly isolate precise data on marketing standards. It is however possible to estimate an order of magnitude of those costs, based on a small sample of MS, where the information provided seems reliable and specific to marketing standards.

Table 2: Estimated specific time costs incurred by public authorities for the control of EU marketing standards

	No of FTEs	Yearly cost per FTE ⁷²	Estimated costs of control/ year
MS 1 and 2	0	-	0 €
MS 3	5	75 830 €	379 152 €
MS 4	2	71 416 €	142 833 €
MS 5	7	58 476 €	175 428 €
MS 6	8	47 507 €	285 043 €
MS 7	10	36 370 €	364 021 €

Source: NA survey, Eurostat

Based on the data collected the estimated cost per year for the control of marketing standards ranges from 0 to about 360.000 € per year.

Only time costs here are considered as other expenditures reported (e.g. laptops, phones cameras, etc.) are considered to be used also for other control activities. Some MS have indicated that for controls of canned tuna, bonito and sardines, laboratory tests are carried out, but otherwise there is little information on the types of controls carried out. Based on the comments and feedback gathered during the case studies, it seems that in most cases controls mainly focus on minimum requirements (minimum sizes and minimum freshness requirements) and labelling.

⁷² Monthly hours worked and paid 2017 by MS adjusted to 2014 + non-wage labour costs + 25% overhead, applied to hours worked and paid, Technicians and associate professionals (ISCO 3).

Table 3: Estimated control costs per value and volumes of products covered by EU marketing standards

MS	Costs / year (k€)	Volumes of canned tunas and sardines produced and imported (t)	Value of canned tunas and sardines produced and imported (k€)	Landings covered by marketing standards (t)	Landings covered by marketing standards (k€)	Cost of control / value of products covered by MKTS (%)	Cost of control (€/kg of product covered by MKTS)
MS1 & 2	0	-	-	-	-	0%	0
MS3	379	23,804	110,820	11,853	50,319	0.24%	0.011
MS4	599	7,186	26,163	43,616	23,389	1.21%	0.012
MS5	210	4,146	5,291	59,804	11,011	1.29%	0.003
MS6	143	10,916	57,423	0	0	0.25%	0.013
MS7	405	45,730	175,579	55,344	192,736	0.11%	0.004

Source: Evaluators, based on NA survey, Eurostat, Prodcom, Comext

The above table shows fairly consistent results among MS, with control costs below 1.3 cents/kg in all cases and between 0% and 1.29% of the products value. In the MS where control costs reach over 1% of the products value, it is because Atlantic herring, which is a low-price fish, represents a significant share of the landings.

Specific costs incurred by operators

For fresh and chilled products, the main task incurred for operators is the **grading** by size and freshness at first sale. This is generally carried out onboard by the fishing companies and then checked at the auction. Fish is sorted either by hand or by machine. For instance, in Hanstholm Harbour, Denmark, 70% of the fresh fish is sorted and packed onboard. In France, long-distance fisheries estimated the cost of grading and sorting onboard between 0.15 €/kg and 0.25 €/kg, depending on the service provided (only sorting, grading or also landing of the product). However, operators underlined that EU marketing standards are not considered to add any cost as the classification would take place anyway. The only case study where specific costs for operators have been identified is the Netherlands, as routine inspections have been outsourced to a certified private company and costs have been transferred to operators (0.17% of sales value for marketing standards specifically).

Feedback gathered from the canning industry in France, Italy, Spain and Latvia also indicates that EU marketing standards for preserved products do not result in additional costs for operators as the standards are integrated in the production system.

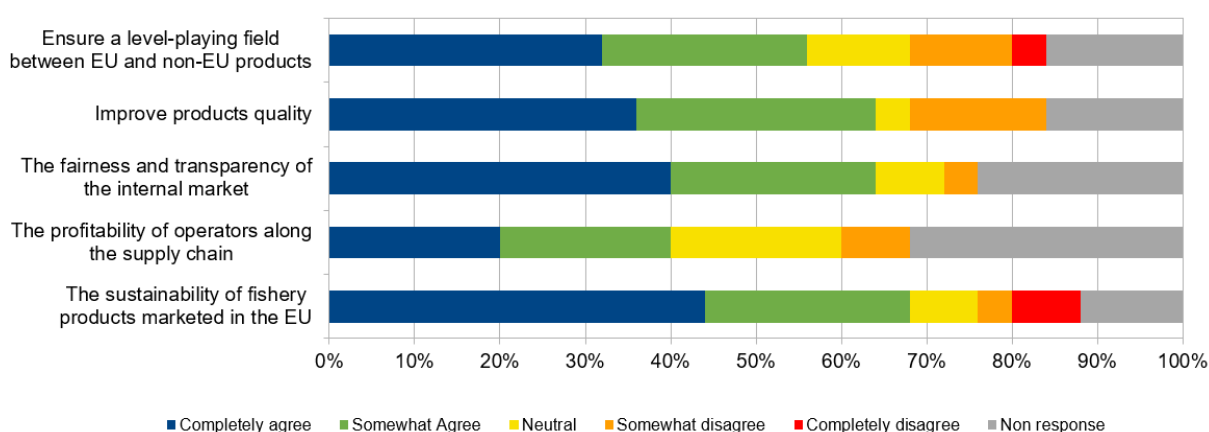
Benefits vs costs

The cost analysis shows that the costs of controls are the only specific costs resulting from EU marketing standards and that they represent a very small share of the total value of products covered by marketing standards (less than 1% in most MS).

As shown under the effectiveness question, even if not consistently applied, EU marketing standards for fresh products provide a set of common definitions and minimum information for first-hand buyers and they contribute to some extent to a better rewarding of the quality of fish landed, through mandatory grading. EU marketing standards for preserved products provide common definitions and minimum requirements and contribute to the level-playing field among EU producers and with third-country producers. The impact on profitability is not measurable but likely to be positive.

MS, in particular, which bear the costs of control show a rather positive attitude towards the regulation, which supports the feedback provided by stakeholders through the PC (see effectiveness question).

Figure 21 : MS feedback on the impacts of marketing standards



Questions: To what extent do you agree with the EU marketing standards contributing to the following [options]

Source: NA survey, N= 25

There is also a very large consensus among stakeholders interviewed for the case studies to say that the benefits exceed the costs.

As expected, the usefulness of marketing standards for consumers, in the case of fresh and chilled products is limited to the indirect impact on products quality, but since operators do not incur additional costs (or marginal ones if they bear the control costs), it can be assumed that there are no costs passed onto consumers either.

The marketing standards for preserved products on the other hand apply throughout the supply chain and reach the final consumer without any additional cost transferred

5.3.2. EQ5. Could the use of other policy instruments or mechanisms have provided better cost-effectiveness?

Under this question, we assess the two following topics:

- The extent to which the same benefits could be achieved through minimum conservation reference sizes only or through other norms and standards (including private standards)
- The extent to which MS implementation choices impact the cost-effectiveness of marketing standards

The answer to this question relies on the feedback gathered through the fieldwork as well as desk research and regulatory analysis.

Alternatives to marketing standards regulations: MCRS alone

Marketing standards and MCRS complement each other and do not entirely overlap. MCRS apply to fresh and frozen products while marketing standards under Reg. 2406/96 only apply to fresh products. On the other hand, MCRS only apply to EU landings and to specific catch areas for which they are established, while marketing standards apply regardless of the origin.

There are also 22 products covered by marketing standards and not covered by MCRS⁷³. The most important species are sprat and blue whiting which are mainly used for fishmeal (share of landings used for fish meal are respectively 73% and 54%), cuttlefish, black scabbardfish, etc. For these species, minimum marketing sizes are established. According to the Regulation (EEC) No 2406/96, species caught under these minimum marketing sizes shall not be marketed for direct human consumption. Considering only the landings falling under marketing standards (i.e. used for human consumption), these species represent at most 11% of the EU total landings in 2016, which would not be covered at all under MCRS. The analysis under the effectiveness question also shows that the majority of those landings are covered by other technical measures (e.g. TACs) and that the impact of minimum marketing sizes is likely to be marginal at best in terms of sustainability.

The main added value of marketing standards compared to relying solely on MCRS resides therefore in the grading system. The answer to the effectiveness question provided evidence that the grading system had indirectly contributed to a better rewarding of quality and to improved market transparency for the products covered (mainly EU landings). Those benefits would be lost without the marketing standards for fresh products or if MCRS constituted the only marketing standards for those products.

⁷³ Species/products covered by marketing standards and are not covered by MCRSs are: Ray's bream (*Brama spp.*), Anglerfish (*Lopbuis spp.*), Dab (*Limanda limanda*), Lemon sole (*Microstomus kitt*), Blue whiting (*Micromesistius poutassou* or *Gadus poutassou*), Pouting (*Trisopterus luscus*), Poor cod (*Trisopterus minutus*), Boghe (*Boops boops*), Picarel (*Maena sararis*), Conger eel (*Conger conger*), Gurnard (*Trigla spp.*), Frostfish (*Lepidopus caudatus*), Black scabbardfish (*Aphanopus carbo*), Cuttlefish (*Sepia officinalis* and *Rossia macrosoma*), Crangonid shrimps (*Crangon crangon*), Pandalid shrimps (*Pandalus borealis*), dogfish (*Squalus acanthias* and *Scyliorbinus spp.*), redfish (*Sebastes spp.*), skate (*Raja spp.*), Sprat (*Sprattus sprattus*), Albacore tuna (*Thunnus alalunga*) and Bigeye tuna (*Thunnus* or *Parathunnus obesus*).

Alternatives to marketing standards regulations: other standards

Concerning fresh and chilled products, the identified standards used by stakeholders in the different EU countries are sustainability standards and process standards (e.g. HACCP, ISO, BRC, IFS). They are mainly developed in the Northern countries (e.g. Denmark, Netherlands, Belgium) and are less applied in the Southern EU Member States. Compliance costs are important, in addition to the access fees, and are borne disproportionately by the operators upstream in the supply chain rather than those downstream where the demands for certification originate. The other standards identified also do not cover quality aspects. They cannot therefore be considered as a more cost-effective alternative to EU marketing standards.

The analysis of other norms and standards for preserved products shows that similar standards under the FAO Codex Alimentarius exist but they are not used within the EU market, due to the existence of the EU marketing standards. National norms and standards were identified only in France with private standards developed by the industry and in Germany and Austria with national standards. These standards concern two types of products: i) products for which the production is very important at MS level (e.g. smoked salmon in France and fish fingers in Germany) and ii) niche products (e.g. traditional products in France). In both cases, the standards ensure a certain level of standardisation of production process in the domestic market. Operators in France highlighted the fact that establishing standards is a time-consuming exercise, which requires compromises between stakeholders. In terms of costs, it is estimated that in average the management cost of an AFNOR standard is 30.000 EUR. Considering that in France there are 10 AFNOR standards for processed products, their management costs amount to approximately 300.000 EUR, completely covered by the industry. Overall, as the case of marketing standards, the cost-effectiveness of these standards is ensured by the market size, despite the differences of the production amount between products (i.e. these costs cover both products with small volumes where the cost per Kg would be important and products with important production where the cost per Kg would be low).

In both cases, the removal of marketing standards would allow some cost saving for control authorities in the short term, but existing alternatives would not provide the same benefits and there is no evidence that it would be more cost-effective overall.

Results from the PC corroborate those findings as they show that less than 20% of respondents would agree to replace EU marketing standards with private standards, and less than 40% would agree to replace them by codes of practices or national standards. Results also show that there is no relationship between the perception of the quality of seafood products at national level and the willingness to replace EU standards by national ones.

Impact of MS implementation choices on the cost-effectiveness of marketing standards

There is no evidence that EU marketing standards for preserved products are implemented differently among MS.

On the contrary, it is largely highlighted among the Member States covered by the case studies and the National Authority survey that EU marketing standards for fresh and chilled products are implemented in various ways. MS can be divided into two:

- MS in which marketing standards are fairly well-known and understood by operators. In this case, stakeholders have a good understanding of both freshness and size criteria (e.g. Spain, Denmark, France, the Netherlands). In those MS, the supply chain is well organized: the catching sector is usually in charge of the grading and sorting, performed on-board or at auction level. Downstream industries apply client-specific requirements and process standards to comply with the demand of quality services of other operators, e.g. the processing industries or retailers.
- In other MS, marketing standards are not strictly applied and are less known by operators (e.g. Croatia and Italy).

It can be assumed that the level (and therefore cost) of control is related to the extent of actual implementation of EU marketing standards.

Even with evidence of differences in implementation among MS, there is no hard evidence of implementation choices really influencing cost-effectiveness. It seems fairly obvious that in MS where EU marketing standards are only partially implemented, the effectiveness will be lower. In MS where EU marketing standards are fully implemented, the analysis under EQ4 has shown that costs are similar from one MS to the other and remain marginal in all cases.

5.3.3. EQ6. To what extent is there a potential for simplification of marketing standards?

In answering those questions, we explored the following issues in particular:

- Can efficiency gains be achieved by simplifying the freshness/size criteria without jeopardising their effectiveness?
- Can efficiency gains be achieved by simplifying the provisions on imported fresh/chilled products without jeopardising their effectiveness?
- Can efficiency gains be achieved by simplifying the presentation requirements for preserved products without jeopardising their effectiveness?
- Can efficiency gains be achieved by streamlining controls?

Simplification of the legislative framework is one of the cornerstones of the Better Regulation Package. It aims to **reduce the burden** of the EU regulation **without undermining policy objectives**. There are mainly two aspects to take into consideration in terms of simplification:

- Simplification of legal texts in order to make the legislative framework clear and accessible;

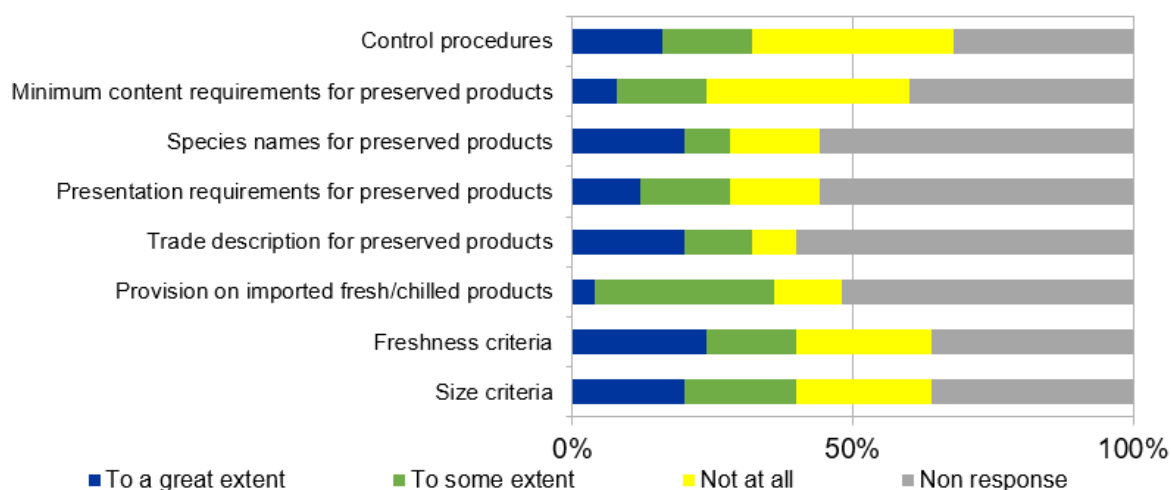
- Reduction of the administrative burden, compliance costs and enforcement costs.

It was initially foreseen to focus on the latter. However, previous analyses have shown that administrative burden, compliance costs and enforcement costs remain low and that there is no evidence of disproportionate costs.

Instead, therefore, we discuss here stakeholders' suggestions to simplify the framework.

The figure below shows to what extent the national authorities consider that the marketing standards provisions shall be simplified. The first observation is that less than half of the National Authorities are explicitly in favour of simplification of the different criteria, regardless of the criteria.

Figure 22: Feedbacks of National Authorities on the need for simplification of the marketing standards provisions without hindering the CMO achievements



Source: NA survey, N=25

Freshness criteria

10 out of the 16 national authorities that replied to this question indicated that freshness criteria could be simplified to some or to a great extent. The PC results showed that over a third of the respondents thought it was possible to simplify freshness criteria without compromising the effectiveness of marketing standards.

Through the relevance and effectiveness analysis, it is clear that freshness grades are not consistently applied in all MS (e.g. in Italy, marketing standards are not used to assess product quality) and their application is different across auctions as the organoleptic assessment, based on EU standards of freshness allows a certain level of subjectivity. Besides, other criteria and practices are used to assess fish freshness (e.g. vessels reputation, gear used, time elapsed since the catch, Quality Index Method (QIM), etc.). Several operators suggested to support harmonising the implementation of the freshness

criteria or the establishment of more objective criteria (e.g. date of capture, information on storage methods, establishment of organoleptic criteria through the QIM⁷⁴).

Minimum size criteria

10 out of the 16 national authorities that replied to this question indicated that the size criteria could be simplified to some to great extent.

Some respondents suggested that the minimum marketing sizes could be removed as the sustainability of stocks is ensured by the MCRS and specific situations of conflicts or uncertainty have been identified when operators have to comply with both regulations (marketing standards and the conservation measures)⁷⁵. The alternative of only keeping MCRS was already analysed under the previous question but it is not clear that it would be more cost-effective.

Size grades

Some stakeholders interviewed (e.g. in Italy and Croatia) and over a third of the PC respondents thought it was possible to simplify size criteria without compromising their effectiveness. Some respondents to the PC suggested for instance to simplify size categories to three categories: small, medium and large, which corresponds to what is done in practice in many Mediterranean auctions. Nevertheless, this seems in contradiction with the practices identified during the consultation in most Member States. On the contrary, operators in auctions on the Atlantic coast tend to elaborate further categories (particularly in France and Spain).

The importance of the marketing standards is that the first sale system is based on it and that the uniformity of sizes and qualities allows for price comparison, which makes the market more transparent at national and EU levels. As already analysed, sorting according to marketing standards do not involve additional costs as some sorting would take place anyway. Moreover, it was highlighted that in principle larger fish and higher levels of freshness are rewarded with better prices.

Potential areas for simplification in provisions on imported fresh or chilled products

9 out of the 12 national authorities that replied to this question indicated that provisions on imported products could be simplified to some or to a great extent. However, it is important to underline that imports of fresh products covered by EU marketing standards from third countries are concentrated in only a few Member States, namely Denmark, Spain, Sweden, the UK and the Netherlands, which represent 93% of imports falling under Reg. 2406/96⁷⁶. Out of those five Member States, only one answered that those provisions could be simplified to some extent, but the suggestion was to apply the same conditions as for EU products, which may not be possible when imports are not landed in the EU. Indeed, it is not clear, which share of those go through auctions (e.g. Moroccan vessels

⁷⁴ The Quality Index Method is used by some operators to establish the organoleptic criteria corresponding to specific shelf-life.

⁷⁵ This aspect is further analysed under the coherence question.

⁷⁶ Source: EUMOFA, 2017

landing directly in Spain) and which share enters the EU by cargo (e.g. Icelandic exports to the UK), truck (e.g. Norwegian exports to Sweden) or plane. Provisions on imported fresh and chilled products apply mainly in the latter case as they cover packaged products. None of those MS reported specific issues related to the implementation of those provisions. There is no evidence that controls on imported products occur in the other countries.

Potential areas for simplification of the regulation laying down marketing standards for preserved products

The national authority survey indicated that the marketing standards for preserved products could be simplified to some extent. The results are as follows:

- 8 out of the 10 national authorities that replied to this question indicated that the trade description for preserved products could be simplified;
- 7 out of 11 indicated that species names could be simplified;
- 7 out of 11 indicated that presentation requirements could be simplified;
- 6 out of the 10 national authorities that replied to this question indicated that minimum content requirements could be simplified.

However, respondents did not always provide examples of possible simplifications.

Two MS indicated that provisions on minimum content requirements fall under other regulations, namely the consumer information regulation concerning food labelling (e.g. quantity of ingredients) and prohibition of misleading labelling and traceability and food safety regulations concerning the minimum requirements. However, the regulation laying down marketing standards for canned products act as a *lex specialis* detailing provisions that go beyond the consumer information regulation and are specific to the species covered (e.g. the net weight is considered after sterilisation, the species that could be used, the culinary presentations, etc.).

Two MS raised issues with trade descriptions, which are analysed in more details under the coherence questions. These issues have also been raised by some of the PC respondents as well as within the EU expert group and the South Western Waters Advisory Council.

Two MS also mentioned issues with the application of the minimum weight requirements. One MS for instance, requested more guidance on how inspections should be carried to control minimum weight requirements.

Feedback from the canning industry in France, Spain and Italy did not provide evidence of difficulties in implementing the current standards and opposed any change to the regulation, without however providing arguments.

Potential areas for simplification in control procedures

8 out of the 13 national authorities that replied to this question consider that provisions on control procedures could be simplified to some or to great extent, without providing further

explanation. Only one MS suggested to remove provisions on control of marketing standards and to leave this to the market (control by operators).

Feedback received from both the industry and the national authorities suggest that controls are enforced more systematically for marketing standards for preserved products than for fresh products. However, more detailed feedback from national authorities shows that procedures differ among Member States in both cases.

In general, answers on the inspections carried out to control marketing standards were missing or vague. For the control of marketing standards for preserved products, six Member States explicitly mentioned sampling and laboratory tests at different stages of the supply chain (processing where relevant, wholesale and sometimes retail), three Member States answered that inspections focused on labelling and one Member State indicated that inspections were carried out only following complaints. Minimum sizes, freshness and size grades for fresh products are primarily controlled at first sale. In a majority of cases they are combined with other controls (traceability, hygiene, MCRS). Six Member States stated that the implementation of marketing standards for fresh products was carried out throughout the supply chain. Nevertheless, downstream the supply chain, the issue of controllability is raised for different reasons including manipulation of products, absence of marketing standards indication in the transport documents and in labelling, etc.

The analyses under EQ 4 has already shown that controls usually covered requirements under various regulations and not only marketing standards and that the overall cost could be considered marginal.

Thus, possible improvements here are more about clarifying what is expected and what is relevant, as well as harmonising procedures among MS, rather than simplifying existing procedures.

5.3.4. Conclusions on efficiency

Control costs for public authorities are assessed to remain low, between 0 and 1.3c/kg of product covered by marketing standards, and between 0 and 1.29% of the value of products covered.

Costs for operators are estimated to be marginal or null, as tasks involved would be incurred as a regular business activity (for both preserved and fresh products), likely as a result of the fact that these standards have been fully integrated in their operations.

It is therefore considered that the benefits identified, even if not always high and hardly measurable, outweigh the costs, especially for the industry, which generally do not bear the cost of controls.

This conclusion is also supported by the fact that stakeholders generally express a rather positive opinion towards the regulatory framework.

The analysis of the other norms and standards for **fresh products** shows that there are no equivalent standards and that the existing ones are used to complement the EU standards and are in some cases based on them (e.g. the private freshness standard in France). If the EU's standards for fresh products were removed, the existing standards

would not deliver similar results and the impacts would be unpredictable, even though in the short term, stakeholders would not change their practices (especially when they are used to detailed classifications). The comparison with the aquaculture sector under relevance indicates that probably some common practices would arise but no formal standards. Costs of control would be slightly reduced in some MS where controls are not always combined, but in the long term, it is possible that the reported benefits would be lost.

The analysis of other norms and standards for preserved products shows that similar standards under the FAO Codex Alimentarius exist but they only serve as reference for extra-EU trade. In case EU marketing standards for preserved products were removed, stakeholders would probably continue to use the current standards, which would however not apply to non-EU products. In terms of costs, the removal of marketing standards might generate cost saving for control authorities in the short-term, but the benefits in terms of level-playing field within the EU and with non-EU products may be lost in the long term. There is no evidence that private standards would be more cost-effective either.

The feedback from stakeholders on potential simplification is coherent with the cost-effectiveness analysis and confirms the efficiency of the current standards. Stakeholders often recommend strengthening the system (e.g. develop more sophisticated freshness criteria or make the standards useful beyond first sale) rather than simplifying it. There is no evidence that suggested areas of simplification would increase cost-effectiveness (e.g. only keep MCRS, only keep three size categories per species, rely on horizontal food labelling regulation for preserved products).

For fresh products, the main issue relates to the implementation of the minimum size criteria, which is further analysed under the coherence question.

Likewise, for preserved products, the main issues relate to inconsistencies of trade designations and is analysed in the next chapter.

5.4. Coherence

The three evaluation questions under the coherence analyses explored the following aspects:

- Are marketing standards and other norms with the same effect as marketing interventions coherent with one another?
- Are marketing standards coherent with other EU rules?
- Are EU marketing standards coherent with international standards (e.g. Codex)?

5.4.1. EQ7. To what extent are marketing standards and other norms having the same effect as marketing standards coherent with one another?

This question assesses to what extent other norms and rules pursuing different objectives than the organisation of the market, but that act as marketing standards indirectly, are coherent with the marketing standards. These norms and rules include in particular conservation and technical measures.

Inconsistencies between minimum marketing sizes and MCRS have mostly been addressed through revisions to the regulations (the CMO regulation stresses that MCRS prevails). However, some inconsistencies persist in implementation due to the coexistence of both minimum length (set both at EU and national level) and minimum weight grades⁷⁷. For example, the EU MMS requires dover sole to weigh a minimum of 120 grams and the MCRS for sole in the North Sea is 24 cm, while MCRS under technical measures established in some North Sea countries is 25 cm. Some Member States insist on compliance with the minimum weight and the length, while others only seek compliance with the length. The application of the MCRS established under national legislation for technical measures (setting a larger minimum size) on top of EU MCRS could create situations of unfair competition between operators from different countries, particularly in the case of neighbouring countries.

New inconsistencies have emerged with the regional discard plans as different MCRS for the same species may be set depending on the catch area. This issue was raised by the Spanish stakeholders in relation to Atlantic and Mediterranean hake. It increases the risk that mislabelling (concerning catch area) introduces undersized fish to the supply chain, limiting the ability of marketing standards to ensure a level-playing field in the EU market.

Danish market operators identified a gap in the marketing standards relating to witch (*Glyptocephalus cynoglossus*) that is not included in regulation 2406/96 Annex II, despite the importance of its landings in Denmark both in terms of volume and value. Danish market operators suggested to include this species along with other commercial species (turbot, halibut, catfish) in an updated version of the marketing standards⁷⁸.

5.4.2. EQ8. To what extent are marketing standards coherent with other EU rules (e.g. EU rules on food safety, food information to consumers, conservation rules)?

The coherence of EU marketing standards with each of the regulatory framework mentioned above, as well as with the Hygiene rules for food of animal origin, is analysed in separate sub-questions below.

Coherence of marketing standards with other EU rules on food safety

The General Food Law⁷⁹ created a European food safety system in which responsibility for risk assessment (science) and for risk management (policy) are kept separate. The European Food Safety Agency (EFSA) is responsible for the science, while under DG Health and Food Safety (DG SANTE), the Directorate on Health and Food Audits and Analysis⁸⁰ conducts audits. A Rapid Alert System for Food and Feed (RASFF)⁸¹ was set up to support

⁷⁷ Annex 19 provides a comparison between minimum marketing sizes and MCRSs.

⁷⁸ A mistake in the regulation on size 3 sole was also noted (it should be 0.33 instead of 0.35).

⁷⁹ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety - OJ L 31, 01.2.2002, p.1.

⁸⁰ Named the Food and Veterinary Office (FVO) until 2016

⁸¹ The effectiveness section (EQ2) considers the impact of the marketing standards on food safety in terms of trends in RASFF notifications, alerts and border rejections.

EU food safety policy. Since 2013, the EU Food Fraud Network (FFN) also allows Member States to cooperate on a voluntary basis in matters related to violations of the EU agri-food legislation of cross-border nature. The RASFF and the FFN are both information-sharing mechanisms that support the EU's food safety policy and are complementary to and coherent with the EU marketing standards. The EFSA⁸² provides independent scientific advice in response to partner requests, often resulting from an expert working group. Much of the work relates to risk assessment within the supply chain, e.g. the risk from chemical residues found in certain products. It supports the work of food safety authorities that may be checking for size and freshness (marketing standards) and analysing samples for residue and contaminant levels (food safety standards). Its activities are therefore complementary to the marketing standards as it explores aspects beyond the quality criteria specified in the marketing standards.

The fact that most control authorities undertake combined control procedures is evidence of coherence between the food safety and market standards systems. The industry consultees confirmed that it is not always possible to distinguish which regulation a control procedure is applying as an inspection may check compliance against several regulations.

The Directorate on Health Food Audits and Analysis carries out audits to ensure that EU legislation on food safety, animal health, animal welfare, plant health and some areas of human health is properly implemented and enforced. It inspects individual food production plants and checks that EU and non-EU governments can ensure that their own food producers meet the EU's high food safety standards. The work on audits and analysis contributes to several key priorities of the Commission which are coherent with objectives of EU marketing standards, notably⁸³:

- A regulatory environment which facilitates jobs, growth and investment by ensuring high levels of safety supported by sound control and enforcement systems.
- A deeper and fairer internal market by providing a level-playing field where citizens and businesses can be confident of uniform and high levels of safety.
- A strong EU presence on international markets through the promotion of EU values and the Union regulatory approach on food safety and in its trading relations with non-EU countries.

While no incoherence was detected, some parts of the existing regulations might be outdated as a result of the application of EU rules on food safety. This is the case for example of the category defining products not admitted for sale for human consumption under Regulation (EC) No 2406/96.

⁸² The EFSA is a research and technical assistance body that supports the EC and national food safety authorities. The agency was legally established by the EU under the General Food Law - Regulation 178/2002.

⁸³ DG Health and Food Safety, Health and Food Audits and Analysis Programme 2018. https://ec.europa.eu/food/sites/food/files/hfaa_prog_en_2018.pdf

Coherence of marketing standards with the control system for marketing standards established in Regulation (EC) No 1224/2009 and Regulation (EU) 2017/625.

Regulation (EC) No 1224/2009 establishes a Community control system for ensuring compliance with the CFP. The regulation notes that “In order to establish a comprehensive control regime, the whole chain of production and marketing should be covered by such a regime...”. This shows that the control regulation aims to be coherent with the general food law as are the EU marketing standards. Article 57 of Regulation (EC) No 1224/2009 requires operators to prove that “the products comply with the minimum marketing standards at all stages”. While this regulation is generally coherent with marketing standards, some gaps have been identified. Authorities tend to only check that the minimum standard is met (the MCRS or if none set, the MMS), not that the marketing standards are met (i.e. the correct specification of size and freshness grades). The sales notes do not convey size and freshness grade information along the supply chain past first sale and so do not help to perform control further along the supply chain. Operators stated that control systems mainly relate to compliance with fisheries regulations or hygiene and any parts of an inspection that relate to the marketing standards are not differentiated.

As stated in Annex I to the Control Regulation, the inspection targets for multi-annual plans are 20% of landings of all species and for marketing, 5% of quantities of species subject to multi-annual plans. These aspects show that although inspections are to be carried out in port at the point of landing and marketing of the catch, the emphasis is on inspecting compliance with fishing regulations rather than marketing regulations. The ability to undertake combined control does demonstrate a general coherence with the EU marketing standards.

The proposed revision to the Control Regulation is expected to clarify the above aspects with the aim of ‘improved synergies with other Union policies. The Commission proposal (COM 2018 368 final⁸⁴) states in relation to Common marketing standards (Article 57):

1. Member States shall check that the products to which common marketing standards apply are made available on the market in compliance with these standards.
2. Checks may take place at all stages in the supply chain including transport. In the case of products to which common marketing standards apply only at the placing on the market, checks carried out at further stages in the supply chain can be of a documentary nature.
3. Operators at all stages of the supply chain responsible for purchasing, selling, stocking or transporting lots of fishery and aquaculture products shall be able to prove that the products comply with the minimum marketing standards.

Regulation (EU) No 625/2017 provides a single legislative framework for official controls on food production, animal and plant health and animal welfare. This regulation relates to all food, but explicitly recognizes “the Union rules on marketing standards for fisheries and

⁸⁴ https://ec.europa.eu/fisheries/sites/fisheries/files/docs/com-2018-368_en.pdf

aquaculture products". It recognizes that specific requirements are in place for fishery products but sets common levels of control for all food being produced in and entering the EU. In so doing, it ensures the same procedures for products under the marketing standards as with other products. This demonstrates coherence between Reg. 625/2017 and the EU marketing standards.

The EU marketing standards perform a different function in terms of product standardisation and are generally coherent with these control regulations. The recent revision of official controls with Reg. 625/2017 and the imminent revision of the Control regulation (1224/2009) should provide greater clarity on how and where control functions are to be applied (especially as regards the control of marketing standards for fresh products along the supply chain), which should further improve coherence with marketing standards.

Coherence of marketing standards with consumer information rules (Regulation (EU) No 1169/2011 and Chapter IV of the CMO Regulation).

Regulation (EU) No 1169/2011 (the 'FIC' regulation) concerns the provision of food information to consumers. It recognises that mandatory information on origin and species are required for fish products and also that defrosted fish products should be distinguished from 'fresh'. The requirements are generally complementary to the EU marketing standards in this regard, as well as to consumer information rules under the CMO Regulation. However, Reg. No 1536/92 allows to market a product as canned tuna or bonito even when only 25% of the fish content is composed of tuna / bonito species, provided the muscular structure has disappeared (Article 2.2). How this provision fits with the obligation under Reg. No 1169/2011 to mention all species in the ingredient list is unclear. However, the provision in Article 2.2 of the standard on canned tuna and bonito does not seem in line with the goal of Regulation (EU) No 1169/2011 to guarantee consumer right to information.

For **fresh products**, where quality criteria are used at first sale and are not reported along the supply chain, EU rules on consumer information set out in the CMO Regulation present different information and are complementary to marketing standards.

For **preserved sardine and tuna**, the marketing standard requirements are generally consistent with consumer information requirements and these are available to end-consumers. However, the analyses showed the two following specific inconsistencies with chapter IV of the CMO regulation:

- i. Product assurances from mandatory consumer labelling requirements (i.e. including the scientific name) do not apply to preserved fish. This creates the potential for consumer confusion.
- ii. The issue of tuna labelling in Spain is an example where the coherence of marketing standards with the CMO regulation (chapter IV) was questioned by operators. It was suggested that there was a contradiction between the Council Regulation (EEC) No 1536/92 and the national legislation (decision of 8 March 2017 establishing the list of commercial designation in Spain⁸⁵). This incoherence (the use of regional

⁸⁵ http://noticias.juridicas.com/base_datos/Admin/rd1521-1984.html

market terms such as '*Bonito del Norte*' for *Thunnus alalunga*, which is Albacore) could be explained by the fact that article 37 of the CMO (Council Regulation (EEC) No 1536/2013) which provides the basis for the adoption of national lists of commercial designations for fishery and aquaculture products excludes canned products.

Coherence of marketing standards with Hygiene rules for food of animal origin (Regulation 853/2004).

Regulation 853/2004 'laying down specific hygiene rules for foodstuffs' specifies a number of implementing measures for fishery products in addition to the general requirements set out for all food stuffs. For fresh products under the marketing standards, this includes freshness criteria and for preserved products such as tuna it includes histamine levels. The focus of 853/2004 is on identifying hazards to human health and reducing the risk that unsafe food enters the EU food chain either through unsafe production, transport or import. This regulation helps to ensure food establishments are hygienic and provides safe food, which is coherent with and complementary to the EU marketing standards that help to define quality.

5.4.3. EQ9. To what extent are EU marketing standards coherent with international standards (e.g. Codex)?

In this question we analyse the coherence of EU marketing standards with international and private standards under two separate sub-questions.

Coherence of marketing standards with international standards (e.g. Codex and Global Food Safety Initiative)

The Codex Alimentarius is a collection of international food standards, guidelines and codes of practice developed by the FAO and WHO.

The EU marketing standards relating to preserved products are generally coherent with, but more detailed than the international product standard, the Codex Alimentarius. However, some inconsistencies have been a source of confusion and of different interpretations among operators.

Art. 1a of the Regulation (EEC) No 2136/89 was amended following the WTO dispute in 2003 to expand the use of the name "sardine" to other sardine-type species (e.g. sprat). However, Art. 3 to 7 (excluding Art. 7a) defining the different trade descriptions and minimum weight requirements have not been revised with the introduction of the new species and only mention "sardines". Therefore, those articles do not apply to other products.

A number of elements between Regulation (EEC) No 1536/92 and the Codex are not coherent with each other. While the Codex standard for canned tuna and bonito states that the name of product may be accompanied by a descriptive term of the product colour, there is no related provision in the Regulation (EEC) No 1536/92. Operators in some MS use the term "white tuna" for *Thunnus alalunga* (stated in some MS regulations on canned tuna (FR, ES, IT, PO, DE), albeit not in the regulation's enacting parts and hence with no

legal implications), but some operators in other MS (e.g. CY) use this term to make reference to a light colour of tuna, regardless of the species. This inconsistency goes against the harmonisation intended by marketing standards. Additionally, in contrast to the Codex standard, which indicates in the same list the species that could be called tuna or bonito, the EU regulation indicates in its annex which species are considered 'bonito' and which species are 'tuna'. Operators in Spain usually use the term 'Bonito del Norte' for *Thunnus alalunga* which is under the 'tuna' category in the EU regulation. *Auxis thazard* and *Auxis rochei* are authorized for canned bonito in the EU regulation, but not in the Codex standard. Finally, Art. 2.2 of the marketing standards regulation also allows to mix tuna and bonito species with other fish species in preparations in which the muscular structure of tuna/bonito has disappeared as long as tuna or bonito species represent at least 25% of the net weight. This provision does not exist in Codex standards. We could not obtain information on the extent to which this provision is actually used.

Other international standards such as the Global Food Safety Initiative (GFSI) and the British Retail Consortium (BRC) food standard consider the companies rather than the products. Stakeholders viewed them as complementary to EU marketing standards.

Coherence of marketing standards with private standards

The CMO regulation 1379/2013 (article 47) indicates that Council Regulation (EC) No 2406/96 still applies. This requires three grades E, A and B. However there have been a number of private sector initiatives to refine this, such as the Quality Index Method (QIM), where a more detailed standardised quality/freshness scoring is used. There are also marketing standards developed and applied by major purchasers and retailers, as well as private quality labels that go beyond marketing standards such as Label Rouge (France), covering some seafood products, and Silver Sealedkwaliteit (Ijmuiden), which is a wild-caught specific standard. These may differ from or expand upon the standards in specific areas to increase requirements for elements of particular interest to their customer base and/or to differentiate themselves in the market.

Several stakeholders stated sustainability standards such as Friends of the Sea or the Marine Stewardship Council (MSC) are complementary to the marketing standards. These focus on the sustainability of the fish in terms of the management of stocks and the wider environmental impact. Other than a perceived influence of the MSC on brown shrimp minimum sizes mentioned by NL stakeholders (c.f. efficiency), there is no reported overlap between the size and quality criteria set by the marketing standards and the sustainability criteria under these standards.

Private quality standards are also widespread within the European seafood processing sector, e.g. the BRC global standards and the International Food Standard (IFS) are mentioned by several stakeholders as being private standards that are important to retain market access, particularly for those selling into supermarkets and exporting to and within the EU. The IFS food standard⁸⁶ similarly requires that policies and procedures are in place to ensure compliance with food safety at origin and in destination markets, which includes the EU and US markets. These are complementary to the marketing standards as they

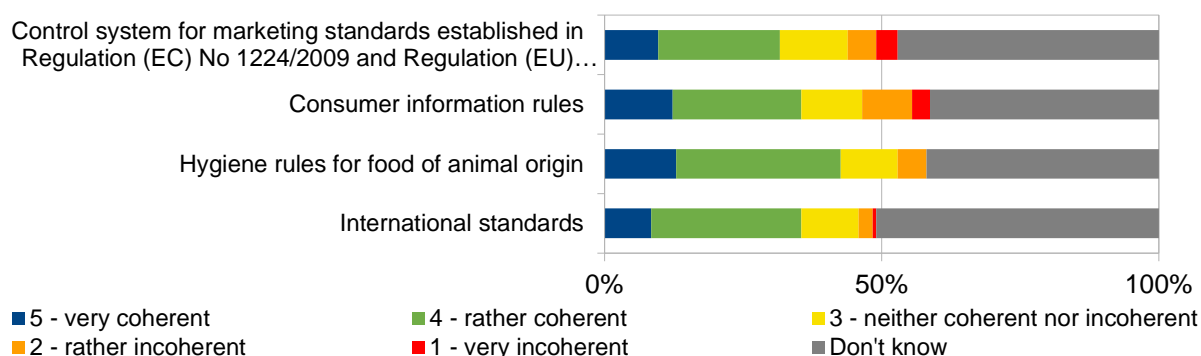
⁸⁶ <https://www.ifs-certification.com/index.php/en/standards/251-ifs-food-en>

ensure robust management is in place to *inter alia* maintain food safety compliance and reduce food fraud.

A few seafood standards have been developed at a regional or national level. In relation to preserved products, the French case study identifies AFNOR⁸⁷ as a supplier of several private standards. These include specific requirements for canned sardines and tuna and operators did not identify any coherence issues with the marketing standards.

Very few PC respondents could comment on the coherence of the marketing standards and other standards. They were either seen as complementary to the EU standards or the respondents did not know. Some respondents also mentioned internal or client-based, as well as national and regional standards. The EU standards were generally considered as a minimum common reference.

Figure 23: Coherence with other standards



Questions: To what extent are EU marketing standards for fishery products coherent with...? [instrument]

Source: European Commission PC. N=155

5.4.4. Conclusions on coherence

The EU's marketing standards aim to ensure consistency in fishery products sold in the EU market. This is coherent with and supported by control regulations even though the control systems are more focused on the legality of catches and food safety.

Consumer information rules, other international food standards and private standards (addressing company processes, provenance or sustainability), provide additional information to the EU marketing standards and so act in a complementary fashion. For preserved sardine and canned tuna, marketing standards and consumer information regulations are both evident in end-consumer labelling and are considered to be important in assuring EU consumers of quality.

⁸⁷ <https://www.afnor.org/en/>

Marketing standards for tuna and bonito are not fully coherent with national commercial designations for tuna species (e.g. Spain allows *Thunnus alalunga* to be sold as 'bonito del Norte' . As a result, in some Member States, the same species can be marketed as either tuna or bonito depending on whether it is marketed fresh or canned. This can be misleading for consumers especially considering that the scientific name is not mandatory for canned tuna and bonito.

The EU's marketing standards relating to preserved products are not fully coherent with the international product standard, the Codex Alimentarius. These inconsistencies have been the source of confusion and have resulted in different interpretations among operators and include the following:

- i) Some operators apply all requirements under the Regulation (EEC) No 2136/89 to other-sardine type species (which are only concerned by labelling requirements);
- ii) Regulation (EEC) 1536/92 distinguishes between species as being either 'tuna' or 'bonito', while the Codex lists the recognised species all together as 'canned tuna or bonito';
- iii) Two *Auxis* species are included in the EU regulation for canned tuna and bonito, but these are not included in Codex standards⁸⁸; and
- iv) The EU regulations on canned tuna and sardines lack provisions on descriptive terms permitted for the product colour. However, the Codex indicates the product name may include a term descriptive of its colour, but requires the term 'white' to only apply to *Thunnus alalunga*.

The possibility, provided by EU marketing standards, to use the terms tuna or bonito to market preserved products containing at least 25% of tuna or bonito but mixed with other fish species, if the muscular structure has disappeared, is not provided under Codex standards. The fact that the Regulation does not include any provision on informing consumers about the presence of other fish also questions the coherence of such provision with consumer right to information.

The scope of other international food standards considers company processes. These, along with private standards for operators and products relating to provenance and sustainability, provide additional information and can be considered as complementary to the EU marketing standards. Information on these aspects, including labour standards, are increasingly demanded by EU consumers, but the EU marketing standards in their current form do not provide these despite this objective being specifically assigned to marketing standards by the CMO Regulation.

5.5. EU added-value

These questions analysed to what extent the EU level was relevant for the implementation of marketing standards and to what extent the EU's intervention was needed compared to that of other public or private organisations.

⁸⁸ Analyses have shown no evidence that *Auxis spp* is of lower quality than other species under the bonito categories in the EU regulation and the impact on the market is very marginal.

These EQs also identified to what extent EU marketing standard would be useful in supply chains where they have not been implemented so far (aquaculture products, frozen products, algae, large number of crustaceans and molluscs, majority of prepared products).

5.5.1. EQ10. To what extent are EU marketing standards justifiable and provide added value? Would national/regional standards provide the same result? What is the added value of the EU marketing standards compared to private standards in place in the supply chain?

This question was partially addressed under the questions on efficiency and the comparison with alternative methods. We summarise here the main elements justifying the existence of EU marketing standards compared to other standards.

Added value of EU marketing standards over national/regional standards

National standards rarely overlap with EU marketing standards and are mostly concerned with specific market niches (except in the case of fish fingers), process criteria (hygiene, animal health, etc) and the use of additives. As they stand, none of the national standards identified would provide the same result as EU marketing standards.

The share of imports in the EU fishery and aquaculture market is increasing and exceeds that of EU production. Despite trusting their industrial practices, the agents in the sector increasingly deal with highly internationalised trade and rising consumer awareness of hazardous additives and sustainability issues. There is an emerging consensus regarding the need to standardise the practices, as national standards stop at national borders.

Only EU standards, as opposed to national ones, can improve level-playing field both within the EU and with non-EU products as they apply to all products entering the EU market. However, under the current framework the added-value of EU marketing standards in that regard is limited by their scope (barely relevant beyond canned products for the level-playing with non-EU products) and by their focus on quality only.

Added value of EU marketing standards over private standards in place in the supply chain

The analysis shows that the most commonly used private standards for fishery fresh products in the EU are mainly related to process of preparation (e.g. HACCP, ISO, BRC, IFS) and to products sustainability which are increasingly becoming a pre-requisite to sell in supermarkets, particularly in northern Member States.

The only comparable private standards are the few national private standards identified for processed products (mainly in France). Beyond the fact that the geographical scope is more limited, what the analysis shows is that they are not more cost-effective than the public EU standards overall but the cost of entry for operators is much higher, which could be deterrent for smaller operators. When covering topics that are considered relevant for public intervention, public standards can guarantee equal access to all operators.

Likewise, marketing standards for fresh products provide a common, freely accessible set of definitions of size and freshness grades that are used, even if only as a basis for more

sophisticated systems, across many auctions in different Member States. There is some subjectivity in the implementation of the freshness criteria due to the fact that fish are usually sorted based on quick visual checks and that other proxies are used (e.g. date of catch, last hauls, etc.), but the organoleptic criteria themselves are objective criteria, similar to what some private operators obtain through the Quality Index Method, for a fairly high cost, to assess fish quality. Having these criteria publicly and freely available for all across the EU is a clear added-value of marketing standards in terms of level-playing field.

Benefits that could not be achieved without EU intervention

EU marketing standards are the only instrument that can guarantee equal requirements for all operators across the EU as national standards would only apply to MS where they are implemented and private standards can only apply on a voluntary basis, and imply a cost for operators, as is the case, for example for private certifications related to sustainability issues.

5.5.2. EQ11. To what extent would EU marketing standards have been useful for the sectors/products currently not covered?

In answering these questions, the following specific issues should be considered:

- Absence of marketing standards for aquaculture products.
- Absence of marketing standards for frozen products.
- Absence of marketing standards for algae and for a large number of crustaceans and molluscs.
- Absence of marketing standards for the majority of prepared products.
- Conflicts with standards established by private organisations or in private certifications

The evaluation explores the extent to which the EU marketing standards would be useful for the products currently not covered by marketing standards. The evaluation requires to recall the extent to which EU marketing standards are useful and to identify specific features and shortcoming in the supply chain not covered by marketing standards that would impact the implementation of marketing standards.

Analyses consider the current framework for marketing standards established in the CMO Regulation, which states that “The standards referred to in paragraph 1 may relate to the quality, size, weight, packing, presentation or labelling of the products” (Art. 33).

Comparison of the specific features of supply chains covered and not covered by marketing standards

Under this question, we assess the specific features of the supply chains of products covered by marketing standards and products not covered by marketing standards (aquaculture products, fresh and processed products not covered by marketing standards) in order to assess the extent to which the implementation of marketing standards can be replicated in other supply chains.

Aquaculture products

In comparison to fisheries, aquaculture is an activity with a higher degree of management and control. Production volume, size and freshness can be known and estimated directly, in contrast to fisheries, which is to a certain extent uncertain (e.g. management measures could limit the fishing volumes having effects on the supply and then the prices). In the aquaculture supply chain, trade is based on long-term contracts in which client requirements are specified. Aquaculture products' quality does not raise specific issues as harvested products are directly transported to clients and freshness is defined through the slaughter date. In contrast, product sizes are established according to agreements between producers. Producers would prefer to keep this flexibility (they plan their breeding programme according to the size categories required by the clients). This provides a certain market stability in comparison to the fisheries market, which is more volatile as prices depend on other elements than the product size and quality, namely supply and demand.

Table 4: Comparison of some features of fisheries and aquaculture

Characteristics	Fisheries	Aquaculture
<u>Management</u>	External regulation of effort / limited in situ management of catching decisions. Conservation measures.	Internal management of the production process. External regulation of resources access, management practices.
<u>Market</u>	Volatile, responding to a wide range of factors: supply and demand, quality, etc. Products are sold through auctions / pressure to sell.	Producers may control outputs. Long-term supply trends. Long-term contracts.
<u>Outputs</u>	Highly variable within moderately definable stock / year-class boundaries.	Originally seasonal, increasingly controlled and extended. Chosen species, quality and size.

In the case of standardized products for which intra-EU exchanges is important, namely seabass and seabream, trout, salmon and carp, B2B relations are characterized by agreements consolidated over the years between operators. In some countries, these agreements have become formal through the establishment of standards (e.g. national standards for oysters and AFNOR standards for trout in France, a standard for carp in Poland). Other quality schemes have been identified for shellfish products. They detail freshness and/or size criteria and constitute the premium segment of aquaculture products (e.g. fish and shellfish under Label Rouge or Protected Designation of Origin).

During the consultation, producers suggested that given the changing demand and the client requirements, they are more able to meet these requirements in the absence of marketing standards, while the regulatory framework is hardly changeable.

Beyond quality criteria, ASC certification is being implemented by several farms across the EU, which indicates a growing demand for a certain assurance regarding sustainable practices in the aquaculture supply chain as well.

Fresh fishery products not covered by marketing standards

In some countries, auction operators have developed freshness and size grading systems for species not covered by marketing standards (mainly species caught by small-scale fisheries). These standards are based on the market needs concerning sizes and on marketing standards already applicable to species covered by Council Regulation (EC) No 2406/96 concerning freshness.

Processed products not covered by marketing standards

The characteristics of the processed products are “demand-driven” (e.g. weight of fillets/portions, etc.) and may differ according to clients and between countries.

For processed products not covered by marketing standards and for which national production is important, few examples were identified where the industry has developed its own production (AFNOR standard for salmon in France and standards for fish fingers in Germany and Austria). The analysis of imports before and after the implementation of most of these standards showed that they did not constitute any barrier to enter the market as producers from other MS continue to sell products in these countries. Nevertheless, the difference in national standards raised issues in terms of consumer perception.

Assessment of the usefulness of EU marketing standards

For fresh products, the analysis under effectiveness and relevance shows that EU marketing standards have indirectly contributed to quality improvements through the generalisation of the grading system by size and freshness (i.e. higher prices for better quality incites producers to improve handling and storage conditions). Marketing standards also provide a common language between operators, which helps to increase transparency in the market and to establish a level-playing field for EU producers and buyers even if in practice the implementation remains inconsistent across the EU.

Concerning non-EU products, theoretically, the level-playing field is ensured by the CMO regulation (Article 33 of the regulation (EC) No 1379/2013) as marketing standards including minimum marketing sizes apply also to imported products. However, in practice imports of fresh products from third countries concern small quantities (1-3% of total imports of non-processed fishery and aquaculture products), concentrated in specific countries, namely Denmark, Spain, Sweden and UK. When these imports are not sold through auctions (e.g. landings from Moroccan in the Spanish ports), the level-playing field depends on the extent to which border controls are operated, which vary between MS. The majority of other imports concern frozen fishery products or fresh and frozen aquaculture products, which are not covered by marketing standards. Thus, the impact on the level-playing field between EU and non-EU products is only limited.

While opinions on the contribution of marketing standards to improve profitability differ, the statistical data collected from auctions during the consultancy phase assume that in general better quality and larger fish are rewarded by higher prices and that marketing standards indirectly contribute to profitability. But this contribution is not quantifiable and probably marginal compared to other factors. The current framework of marketing standards ensures that marketing standards are aligned with MCRS (i.e. with the

introduction of Art. 47(2) in the CMO regulation), but there is no other contribution to products sustainability, which is ensured by the other pieces of the EU regulation (e.g. CFP regulation). It should be noted that although sustainability aspects are barely covered in EU marketing standards, private certifications focusing on sustainability are increasingly sought in the EU market. During the consultation on preliminary recommendations, 83% respondents indicated that their clients included product specifications related to sustainability. For fresh products, the EU marketing standards are specifically important at first sale level and lose their importance further down the supply chain. They are neither used in the B2B relations beyond the first sale nor at consumer level. However, marketing standards are considered important in situations such as remote purchasing, even though this tool is not well developed across MS, and the non-homogeneous application of marketing standards constitutes a challenge for its further development.

For **preserved products**, the EU marketing standards are important at consumer level as the requirements are carried forward to consumer on product labelling. However, previous analyses have shown that harmonisation at EU level is a challenge and that some issues remain, especially as regards trade designations, even after 30 years of implementation.

Shortcomings in the supply chains not covered by EU marketing standards

Aquaculture products

No major shortcomings have been identified in the aquaculture supply chain in relation to the absence of EU marketing standards as they are defined in the current framework. The only relevant issue raised is the absence of definition criteria for the term “superior” used for some aquaculture products (mainly salmon). These practices could lead to unfair competition, especially with operators from third countries in the case of salmon, but there are no data available to assess the legitimacy of the criteria used and the extent to which this is actually used.

However, the aquaculture sector is very concerned by issues of level-playing field with non-EU products as regards quality, safety, social and environmental requirements⁸⁹. These issues are only partially addressed through horizontal regulations on hygiene, traceability, etc. and through consumer information provisions under the CMO. Private certifications, especially on sustainability and in some cases EU quality schemes are used in differentiation strategies, and increasingly in response to buyers’ requirements, but the possibility to use marketing standards to improve market transparency through common definitions has not really been considered so far.

Fresh products not covered by marketing standards

No shortcomings have been identified in the supply chain of fresh products in relation to the absence of marketing standards as defined in the current framework. In several countries, operators (POs in France and auctions in Spain) have developed similar classification systems for species not covered by marketing standards. There is no harmonisation of those systems but there is no evidence that it raises issues, except potentially in the case of remote sales in France. Nevertheless, 50 out of 53 respondents

⁸⁹ See Position paper on the level-playing field published by the Aquaculture Advisory Council.

to the PC support the standardisation of fresh and chilled products currently not covered. We assume that this reflects a general call for further transparency in the supply chain more than a need to address a specific challenge related to shortcomings in the supply chain.

Processed products not covered by marketing standards

The data collection phase has not identified any shortcoming in the supply chain of processed products (frozen, smoked and dried products and canned products other than tunas and sardine-type species) in relation to the absence of marketing standards as defined in the current framework. The characteristics of the processed products are “demand-driven” (e.g. weight of fillets/portions, etc.) and may differ according to clients and between countries. The only cases where national or private standards have been developed concern countries where the production are important such as fish fingers for Germany (national standards) and smoked salmon in France (AFNOR norms) and some specific products for intra MS use (e.g. traditional preparations in France). In addition, there are many Codex Standards for fishery products that could probably be transposed, but there is no evident need from the sector.

5.5.3. Conclusion on EU added-value

The EU added-value of marketing standards has been analysed from two points of view: i) regarding the existing public and private standards and ii) regarding the sectors currently not covered by marketing standards. First, the only comparable standards identified are national standards (no transnational standards have been identified). Considering their scope, these standards cannot contribute to harmonisation and transparency at EU level, the creation of a level-playing field with non-EU products, or to a common culture of compliance. Compared to private standards, EU marketing standards also provide free access to a common set of definitions and quality criteria and therefore ensure that all operators regardless of their size and country of origin have access to the same information.

There is no evidence of shortcomings related to the absence of marketing standards in their current shape, for products currently not covered. The only example identified as regards quality claims that could be misleading to consumer or result in unfair competition is the use of the term “superior” for some aquaculture products, salmon in particular. Nevertheless, the PC results call for increased market transparency and the feedback gathered from the sector indicates that the issue of level-playing field, within the EU and between EU and non-EU products, as regards quality, but also social and environmental requirements, are not fully addressed by current market policy instruments.

6. CONCLUSIONS AND RECOMMENDATIONS

6.1. Conclusions

Relevance: Size and freshness criteria are relevant in the determination of prices at first sale of fresh, whole fisheries products. The existence of common standards is particularly relevant for remote sales. Nevertheless, standards are not applied consistently. Auctions often use grading systems, based on the EU standards, but more detailed, in order to meet the buyers' needs. In some cases, on the contrary, the EU grades are not used at all, either because fish are sold without any classification (e.g. Croatia, where there is no auction) or because other simpler systems are used (e.g. in Italy, the categories small, medium or large are considered sufficient). The freshness criterion is generally assessed through a quick visual check and sometimes through a proxy (e.g. date of catch) and as a result is not implemented consistently across auctions, even within the same MS. Those criteria are also only relevant at first stage and do not correspond to market segmentation for consumers. Not applying those criteria to aquaculture products is also considered relevant as freshness and size can be controlled in aquaculture to fit specific client's requirements. The criteria for canned sardine and tuna are considered relevant by stakeholders and by their nature are maintained throughout the supply chain. A few marketing standards were identified at national level (both public and private) for other processed products not covered by EU standards, but for different products in different MS, so the scope of current EU marketing standards for preserved products is also assessed to be relevant.

Effectiveness: The quality of landed fish has improved since the entry into force of the marketing standards for a variety of technical and economic reasons. EU marketing standards have made some indirect contribution to these improvements, as the grading done under EU marketing standards has favoured the rewarding of quality (based on size and freshness) with better prices.

The CMO framework ensures that EU marketing standards are not in conflict with conservation measures, but there is hardly any other contribution to sustainability. In the very few instances where a Minimum Conservation Reference Size (MCRS) for fish is not set, the standards do help to ensure under-sized fish are not sold, but sustainability is mainly ensured by other regulations under the CFP.

For exchanges within the internal market, the marketing standards for fresh products have made a limited contribution to establishing a level playing field for producers and buyers (irrespective of scale and location). They set minimum information for first-hand buyers and facilitate remote purchasing but the impact is restricted by the inconsistent implementation across the EU and the fact that it is only relevant at first sale. The co-existence of different MCRS for different catch areas also raises issues of consistency across the internal market.

The EU mainly imports frozen and processed products from third countries and imported fresh products are mainly fillets and farmed fish. As a result, only 1-3% of imports of non-processed fishery and aquaculture products are covered by the marketing standards for fresh products. Their impact on the level-playing field with non-EU products can therefore only be limited. However, preserved tuna and bonito and sardines and sardine-like

products represent close to half of the imports of processed fishery and aquaculture products. The harmonisation of the quality criteria between EU and non-EU products has therefore a significant impact on the level playing field between EU and imported products.

There are no data available to show that the standards for fresh products impact profitability, but it is assumed that by obtaining higher prices for better quality, there could be some positive impact. For preserved goods, the marketing standards help to prevent inferior products entering the market that would unfairly undercut prices.

Compliance is generally considered to have improved over time by all categories of stakeholders although controls are clearly not carried out consistently across the EU. Existing data on fraud does not allow to precisely identify the types of infringements and whether these relate to marketing standards, but data analysed indicates that fraud directly related to marketing standards is limited. The main compliance issue is the lack of implementation of the standards for fresh products in some areas, but there is no evidence that it results in market distortion.

Unexpected and unintended effects of marketing standards were analysed. There is no evidence that the standards have either increased or reduced food waste. Non-conforming products enter lower-value, non-human consumption markets. In line with the EU's Circular Economy Strategy, more could be done to minimise waste, but reported non-conforming products are not specifically related to the implementation of marketing standards. By helping to reward quality, the standards create an economic incentive to avoid low-value markets, which could actually reduce waste. There is also no indication that the Marketing Standards create a *de facto* trade barrier, unfair practices or issues with antitrust policy.

Overall the impact of EU marketing standards on the market for fishery and aquaculture products is limited by their narrow scope in terms of products covered. Marketing standards have contributed to define common quality criteria for the main species of fresh fish landed in the EU and for the main traded processed products within the EU and from third countries. As such, marketing standards contribute to a common language across the EU, despite their inconsistent implementation in the case of fresh products, as most detailed grading systems use EU marketing standards as a basis.

Achievements against the objectives defined in the CMO are difficult to measure but are at best very limited given the marketing standards' level of coverage in the EU market and the limited impacts identified for those products that are covered. Quality criteria have by definition no impact on sustainability. The only requirement directly related to sustainability is the prevalence of MCRS over Minimum Marketing Sizes for fresh products and it has no impact beyond ensuring coherence with conservation measures. There is no evidence of a significant impact on the internal market for fishery and aquaculture products as exchange of products not covered by marketing standards has developed faster than exchange of products covered. There is a likely indirect, but not measurable, impact on profitability due to the rewarding of quality for fresh products and limiting unfair competition from low-priced low-quality canned products. The impact on level-playing field is tangible for canned products, but not evident for fresh products due to the inconsistent implementation within the EU and the small share of non-EU products covered.

Efficiency: Additional costs to authorities are marginal (between 0 and 1.3c/kg of product) as they are usually combined with other regulatory controls. Costs for operators are marginal or null, as the required tasks would be done anyway. There are no equivalent standards for fresh products. Those that do exist complement the EU standards and, in some cases, use them (e.g. the French private freshness standard). Without EU standards some common practices may arise, as found in the aquaculture sector, but the impacts are unpredictable. Costs of control would only be slightly reduced and in the long term it is possible that the benefits identified would be lost. For preserved products there are similar standards under the FAO Codex Alimentarius, but these only serve as a reference for extra-EU trade (very limited for these products). If the regulations were removed, the benefits from the level-playing field applied across EU and imported products may be lost and some additional costs would be incurred with such a change. Overall the benefits outweigh the costs and there is no evidence that alternatives, such as private standards, would be more cost-effective. There is little room for further simplification without risking the loss of those benefits that are observed and with very little cost-saving. However, there is a lack of clear rules or guidance about what types of control (e.g. document-based, laboratory tests on samples, etc.) should be carried out and at which stages of the supply chain, which may result in differences in cost-effectiveness among Member States.

Coherence: EU control regulations are coherent with the EU marketing standards, even though controls are more focused on the legality of catch and food safety.

Consumer information rules, other international food standards and private standards (addressing company processes, provenance or sustainability), provide additional information to the EU marketing standards and so act in a complementary fashion.

Marketing standards for tuna and bonito are not fully coherent with national commercial designations for tuna species as, unlike commercial designations, they aim to harmonise trade description at an EU level. This supports the objective of the standards, but it can raise issues in specific cases where well-known traditional names are not compliant with the EU regulation.

The preserved sardine and canned tuna EU marketing standards are generally coherent with the Codex Alimentarius for those products, but with some inconsistencies (e.g. Codex is more restrictive on the species included in canned tuna and the use of 'white tuna' in trade descriptions, but trade descriptions for canned sardines and weight requirements for tuna, bonito and sardines are more detailed in EU marketing Standards). The absence of weight requirements or trade description for sardine-type products, although they are covered by the standards, also raise some internal coherence issues.

EU added value: EU added value is evident as other standards cannot contribute to harmonisation and transparency at an EU level, the level-playing field with non-EU products, or to a common culture of compliance. Compared to private standards, EU marketing standards also provide free access to a common set of definitions and quality criteria and therefore ensure that all operators regardless of their size and country of origin have access to the same information. For aquaculture, frozen and other processed products, there is no perceived need for similar marketing standards. One example of quality claims that could deserve harmonisation at EU level was identified for aquaculture

products (*i.e.* the use of the term “superior”, especially for salmon) but the study does not provide further analysis of the criteria used or the actual existence of unfair practices. Nevertheless, the PC results call for increased market transparency and the feedback gathered from the sector indicates that the issue of level-playing field, within the EU and between EU and non-EU products, as regards quality, but also social and environmental requirements, are not fully addressed by current market policy instruments. There is therefore a gap to be filled in.

6.2. Recommendations

EU marketing standards for fresh products contribute to define common quality criteria for the main species of fresh fish landed in the EU. As such, they contribute to create a common language across the EU, even if they are not implemented consistently. Size and freshness criteria are assessed to be relevant quality criteria and therefore should be maintained. Greater harmonisation is difficult to achieve due to the great diversity of contexts and markets and due to the fact that most fish landed are sorted manually mainly through visual checks in a very short time, which necessarily implies a part of subjectivity, in particular in the case of freshness criteria. Although the lack of consistent implementation undermines the usefulness of the standards it does not result in major issues for operators (*e.g.* market distortion or unfair competition). Therefore there is no evident improvement or simplification that would either allow to significantly improve the effectiveness of current marketing standards for fresh products or to reduce costs without losing the benefits of the current standards. The existence of a freely accessible common definition of ‘extra-fresh’ based on organoleptic criteria specific to the different species is considered positive and could be relevant to improve the level-playing field for other products (*e.g.* aquaculture products) even if a full grading system does not seem appropriate.

EU marketing standards for preserved products are considered relevant and effective in improving the level-playing field within the EU and between EU and non-EU products and therefore should be maintained. However, for canned tuna, there should be some explicit derogatory provisions for specific cases, such as the canned ‘Bonito del Norte’ (*Thunnus Alalunga*) in Spain, which is recognised by consumers as a traditional, high-quality product, but is not in line with the EU regulation that states that only species of the genus *Sarda*, *Euthynnus* and *Auxis* should be called ‘Bonito’. The fact that sardine-type products are covered by marketing standards but that none of the quality criteria apply to them (presentation, covering media, weight requirements) can also be misleading for operators in the supply chain and for consumers. Product description for sardines may not be relevant for sardine-type products (with or without bones, skin...) but there should be at least some minimum weight requirements for those products.

Although compliance did not come out as a major issue, the evaluation has shown the lack of visibility as regards procedures in place to control marketing standards in the Member States and the lack of harmonization at EU level. Combining controls of marketing standards with other types of controls allows to keep the costs of marketing standards at a proportionate level and this should be maintained whenever possible, but there should be more guidance and harmonization on which types of controls (*e.g.* labelling only or laboratory tests on samples) should be carried out at which stages of the supply chain.

Finally, the current marketing standards only partially address the objectives set by the CMO. The objective of sustainability in particular, which was introduced after the establishment of current standards, is not taken into account in the existing criteria. If new marketing standards were to be established in the future, they should focus on sustainability criteria at least as much as on quality criteria in order to better take into account the objectives of the CMO, but also the expectations of stakeholders and consumers as expressed in the public consultation.



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