**DRAFT ADVICE**

**EU marketing standards for fishery**

**and aquaculture products:**

**Regulations 2136/89 and 1536/92**

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**Introduction and context**

In accordance with the Better Regulation Package Guidelines, the European Commission launched an evaluation of the EU marketing standards to assess the extent to which these are still fit for purpose.

The current marketing standards cover some fresh and chilled products, preserved tuna and bonito and preserved sardines and sardine-like products and are mandatory requirements along the supply chain (between producers, retailers and potential intermediaries).

In its public consultation, the Commission aims to examine the **relevance, effectiveness, efficiency, coherence and the EU added** value of the current marketing standards for fishery products.

The regulatory framework under evaluation is:

* Council Regulation (EEC) No 2136/89 of 21 June 1989 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products;
* Council Regulation (EEC) No 1536/92 of 9 June 1992 laying down common marketing standards for preserved tuna and bonito;
* Council Regulation (EC) No 2406/96 of 26 November 1996 laying down common marketing standards for certain fishery products; and

Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products – Chapter III – Common Marketing Standards hereafter referred to as CMO;

In June 2018 MAC established a Focus Group to formulate advice on the basis of the following specific questions:

* awareness of current regulatory framework on marketing standards
* practical implementation of current regulatory framework on marketing standards
* relevance and usefulness of marketing standards
* standards the MAC would like to see implemented and reasons why
* standards the MAC would advise to eliminate and reasons why

A total of 15 responses were received from members, representing interests at national and EU association level.

REFERENCE TO POSSIBLY ADOPTED MAC OPINION ON MARKETING STANDARDS FRESH.

**Report on the MAC questionnaire**

**Awareness of current regulation on marketing standards**

MAC members are aware of the main standards relating to freshness and size that exist within the current regulatory framework.

All of the respondents mentioned Council Regulation (EC) No 2406/96, while most mentioned all of the Regulations under this public consultation. Codex and voluntary standards were also mentioned.

Some respondents felt that the standards currently used are not necessarily recognised as EU regulation, but reflect best practice guidelines from national bodies. This is not the case of preserved tuna and sardines Regulations.

**Practical implementation of current regulation on marketing standards**

The regulatory framework under evaluation was found to be respected, although not in all cases exactly as outlined within the regulations; in some cases national provisions[[1]](#footnote-1) are even stricter in order to respond to market demands.

**Relevance and usefulness of marketing standards**

**The MAC notes that these standards are almost 30 years old and as such they fall under the remit of the revision carried out by the European Commission. This revision takes place for the sake of simplification, legal certainty and level playing field of these standards and to assess whether they allow achieving the objectives of the revised Common Market Organisation.**

**Standards the MAC would like to see implemented and reasons why**

* **Council Regulation (EEC) No 2136/89 of 21 June 1989** laying down common marketing standards for preserved sardines;
* **Council Regulation (EEC) No 1536/92 of 9 June 1992** laying down common marketing standards for preserved tuna and bonito;

Common marketing standards, in particular tuna-bonito and sardine and sardine-type preserves, are a useful tool to establish a minimum and adequate criterion for marketing fisheries products such as tuna and sardines, whose supply chain is worldwide.

The regulations applicable to the commercialization of preserved tuna-bonito and sardines and sardines-type products are not in conflict with the corresponding CODEX standards which have been recently updated and are applied without any problem.

The existing standards and trade descriptions for preserved tuna and bonitos and sardines and sardine-type products were developed with the participation of EU stakeholders to ensure their adaptation to the real needs of the EU market and the EU processing industry.

These standards do not imply the application of stricter requirements than those established in B2B relationships, they ensure harmonized functioning of the common market, and a fair and sustainable market for these products.

* **Regulations should provide for a possibility to develop other marketing standards** in case this becomes a necessity in the market. Elaboration of such standards should involve the EU industry and pursue the level playing field among its main objectives[[2]](#footnote-5).

**Position of MAC**

* Council Regulation (EEC) No **2136/89** of 21 June 1989 laying down common marketing standards for preserved sardines and Council Regulation (EEC) No **1536/92** of 9 June 1992 laying down common marketing standards for preserved tuna and bonito **are fit for purpose and should not be revised.** Regulations 2136/89 and 1536/92 should be subject to revision and should be consolidated/updated in accordance with the requirements of today’s regulations and objectives, namely harmonisation, simplification and level playing field.
* The MAC insists on the importance of ensuring a level playing field with regards to traceability information provided on a business-to-business level**[[3]](#footnote-6)** by both imports and EU products. At the same time this level playing field should also be ensured with regards to social standards.[[4]](#footnote-7)
* Remote buying and selling may require a harmonised and standardized system, development of which should be left to the business operators. MAC recommends unification of standards, in line with similar best practices in other sectors in agribusiness. It should be the role of the MAC to research this further and provide advice.
* European Commission should identify an optimal degree of flexibility within this regulation so to allow business operators to meet the different market demands, while keeping the highest possible level of harmonised standards that would preserve the level playing field.
* MAC believes more efforts are needed when it comes to harmonised implementation of EU regulations and supports more controls in the market.
* MAC would like to stress the importance of coherence with other EU rules (food safety, hygiene, consumer information, conservation rules) as well as with other relevant norms and standards.

MAC believes that clearly defended standards are necessary in the market in order to ensure that the EU market is supplied with sustainable products, that uniform and transparent criteria are applied throughout the single market, that fair competition is guaranteed and the profitability of the EU production is improved.

1. In **Belgium**, the government imposes a different length standard for sole (25 cm). In addition, the producer’s organisation can impose its own measures regarding size and weight.

   **Scottish** demersal fish landings are predominantly graded on length rather than weight, although some species are sometimes graded by weight, with some purchasers requiring very specific sizes of fish.

   Practice in the **Netherlands** is similar to that in Scotland. Sorting by means of *length* after the spawning period could lead to results which are not in line with the regulation. The measuring of the length of individual fish is considered best practice, while establishing the weight for each individual specimen is not workable in the catching phase.

   In **France** categorization of hollow oysters is made mandatory by decree and applied by the French members of the inter-branch organisation (defined as such only under French law and not under EU law) and any operator exporting CG hollow oysters to the French market for human consumption. Categorization of flat oysters is a set of voluntary standards in France applied only to French members of inter-branch organisation under French law. [↑](#footnote-ref-1)
2. In accordance with CEN procedures - <https://www.cen.eu/Pages/default.aspx> [↑](#footnote-ref-5)
3. As stated in the MAC Opinion on EU Fisheries Control System, Page 4, Article 58, Traceability, 2, November 2018 [↑](#footnote-ref-6)
4. As dictated by the EU Regulation 1379/2013 when trading in fishery products with third countries, the conditions for fair competition should be ensued, in particular through respect for sustainability and the application of social standards equivalent to those which apply to Union products. [↑](#footnote-ref-7)