

Advice

Improving the Labelling Legislation for Plant-Based Imitations of Fisheries and Aquaculture Products

Brussels, 8 May 2023

1. Background

On 22 July 2021, the Market Advisory Council (MAC) provided advice to the European Commission on the labelling of plant-based imitations of fisheries and aquaculture products¹, which covered relevant legal framework, the lack of legislation for plant-based imitations, examples of unclear labelling practices, recommendations, plus an Annex with different ways for adequate labelling.

In the letter of reply sent on 5 October 2021, the European Commission concluded that, considering the existing regulatory framework, the legislation in place sufficiently regulates the labelling and presentation of plant-based imitations. As described in the previous advice, the regulatory framework for the labelling of fisheries and aquaculture products includes, among others, the Common Market Organisation Regulation² and the FIC Regulation³.

Considering the presence in the market of new cases of unclear labelling practices, the MAC would like to provide additional information to the Commission on these practices.

2. New examples of unclear labelling practices

Under the previous advice, several examples of plant-based imitations of tuna products were provided. Since then, the number of references has increased, including imitations of

¹ <https://marketac.eu/labelling-of-vegetarian-and-vegan-fish-imitations/>

² 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

³ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers

products such as salmon, hake, and shrimp, among others. The presence, in the near future, of additional products with similar practices is expected⁴.



Figure 1: Packages of vegetarian and vegan products sold in the Netherlands, Spain, and the Czech Republic, with names similar to “salmon”, “hake”, and “shrimps” in the corresponding national languages, respectively. Imagery associated with fish products is also used in the package.



⁴ Several news articles have been published about these products, for example:

- <https://www.alimarket.es/alimentacion/noticia/362371/isauki-arma-su-propuesta-plant-based-en-torno-a-nuevos-nichos-como-gulas-y-anchoas>
- <https://www.onegreenplanet.org/vegan-food/konscious-foods-sustainable-plant-based-seafood/>
- <https://www.cbc.ca/news/business/seafood-plants-canada-consumers-1.6752750>
- <https://www.just-food.com/interviews/the-plant-based-seafood-co-monica-talbert-remains-upbeat-about-the-nascent-market/>
- <https://www.japantimes.co.jp/news/2023/02/28/business/corporate-business/nippon-ham-plant-seafood/>

Figure 2: Packages of plant-based products sold in the Czech Republic, Sweden, and Hungary, with trademarks that allude to the sea and to the fishing sector as a way to capture the attention of consumers.

It is important to note that, beyond unclear messaging, some of the claims present in the packages include messaging that can be perceived as particularly detrimental to the image of the fishing sector, while also aiming to benefit from the image of fisheries and aquaculture products as healthy products. In some cases, the commercial description or/and pictorial references suggest the presence of a particular food or ingredient that has been substituted with a different ingredient, including through morphological variations.



Figure 3: Package of plant-based product sold in Hungary, which includes a registered trademark of the product that refers to fish, a mention of “white fillet” referencing white fish, and a picture of plants in the format of a fish.



Figure 4: Package of plant-based product sold in the Czech Republic, which includes a commercial designation that refers to fish, and a picture of a bivalve, which is incongruent with a vegan product.



Figure 5: Package of plant-based product sold in Poland. The name of the species “łosoś” (salmon) is morphologically modified to “łososia”. The package includes a claim, to gain the consumer’s attention, that the product contains Omega-3 fatty acid, which is most known as an attribute of fisheries products.



Figure 6: Package of plant-based product sold in Germany. The name of the species “lachs” (salmon) is morphologically modified to “lax”.



Figure 7: Package of plant-based product sold in the Czech Republic, which depicts an image of a squid, even though it is not an ingredient. The name of the species “calamari” (squid) is morphologically modified to “kalamariz”. The package includes a voluntary claim directed at the consumer “thank you for saving the planet”.



Figure 8: Package of plant-based product sold in Belgium. The commercial designation refers to the sea, even though no marine ingredients are present.

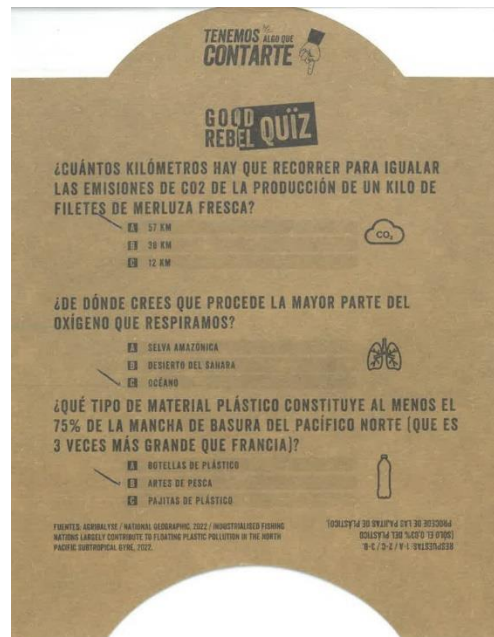


Figure 9: Cardboard sleeve of plant-based product sold in Spain, which includes a “quiz” focused on the environmental impact of the fishing sector. In English, it reads:

- How many kilometers do you have to travel to equalize the CO2 emissions from the production of one kg of fresh hake fillets?
 - 57 km
 - 38 km
 - 12 km
- Where do you think most of the oxygen we breathe comes from?
 - Amazon jungle
 - Sahara Desert
 - Ocean
- What kind of plastic material makes up at least 75% of the North Pacific garbage patch) which is 3 times more than France?
 - Plastic bottles
 - Fishing arts
 - Plastic straws

3. Recommendations

In the context of the emerging market of plant-based imitations of fisheries and aquaculture products, the MAC believes that the Commission should:

- a) Via the close cooperation of the services of DG MARE and DG SANTE, reassess whether the existing legal framework sufficiently regulates the labelling and presentation of plant-based imitations;

- b) Assess the relevance of specific rules, including labelling and presentation, to regulate the sector of plant-based products, ensuring a level-playing-field in the EU market and accurate information to consumers that avoids any misleading;
- c) Guarantee the presence of fair competition in the EU market, including through inspection activities by the relevant authorities, to ensure that products present in the EU market respect fair information practices, in particular the provisions of Article 7 of the FIC Regulation;
- d) Take into account the recommendations provided under the advice on labelling of vegetarian and vegan fish imitations, adopted on 27 July 2021⁵, and under the advice on substantiating green claims, adopted on 10 December 2020⁶;
- e) Through the involvement of the services of DG MARE, DG SANTE, and DG AGRI, commission a study on the development of these products, including:
- Size of the market presence and growth potential
 - Main ingredients and production methods to imitate the texture, sensorial properties, appearance, and flavour of fisheries and aquaculture products
 - Labelling practices (e.g., choice of names similar to commercial designations of fisheries and aquaculture products, use of descriptions and pictorial representations usually associated with fisheries and aquaculture products, health and environmental claims)
 - Dietary and health impacts of the replacement of fisheries and aquaculture proteins for plant-based proteins, particularly highly processed ones
 - Consumer understanding and perception of plant-based imitation products, specifically of the labelling practices
- f) Take into account national developments on the labelling of foodstuffs, such as the Spanish Royal Decree 474/2014, 13 of June, which developed quality standards for meat products and restricted some designations to products made of meat, and the

⁵ <https://marketac.eu/labelling-of-vegetarian-and-vegan-fish-imitations/>. The annex of the 27 July 2021 is included also in the present advice, which describes different potential ways for adequate labelling.

⁶ <https://marketac.eu/substantiating-green-claims/>. There was a follow-up advice on Product Environmental Category Rules (PEFCR) for Marine Fish for Human Consumption, adopted on 24 May 2022: <https://marketac.eu/recommendation-of-mac-concerning-product-environmental-category-rules-pefcr-for-marine-fish-for-human-consumption/>



French Decree no 2022-947 of 29 June 2022 regarding the use of certain names to designate foodstuffs containing vegetable proteins.

Annex⁷

The MAC's membership discussed different ways that adequate labelling of plant-based imitation seafood products could take place. These are available below, in no specific order:

Solution A⁸

Producers of plant-based imitation seafood products would not be allowed to use (part of) of the seafood commercial designation on the package, unless the fish name is accompanied by the word "imitation", in a similar structure to the labelling of defrosted unprocessed fisheries products (Article 35(1)(d) of the CMO Regulation).

- E.g.: "(Part of) Commercial Designation" + "Imitation"

Solution B⁹

Producers of plant-based imitation seafood products would not be allowed to use (part of) the seafood commercial designation on package, but the use of the unprotected designation "fish" would be allowed. In line with the German guidelines, in order to provide a more detailed description of vegan and vegetarian products, when there is sufficient sensory similarity, plant-based producers would be allowed to use designations for cut pieces of fish and molluscs (e.g., "fillet", "nugget") and designations for categories of fish products (e.g., "smoked fish product", "fried fish product"). The vegan or vegetarian character should be clearly indicated in a clearly visible and legible place by stating "vegan" or "vegetarian" or another clear indication.

- E.g.: "Vegan/Vegetarian/Plant-based/Etc" + "Fish".

⁷ The present annex is merely a repetition of the annex of the advice adopted on 27 July 2021. It is included in the present advice for convenience, in order to facilitate the understanding of different views on labelling.

⁸ Labelling solution mentioned by Visfederatie.

⁹ Labelling solution mentioned by Bundesverband der deutschen Fischindustrie und des Fischgrosshandels e.V.

Solution C¹⁰

Producers of plant-based imitation seafood products would not be allowed to use (part of) the seafood commercial designation on the package, but the use of the unprotected designation “fish” would be allowed. This should be accompanied by the word “imitation”, in a similar structure to the labelling of defrosted unprocessed fisheries products (Article 35(1)(d) of the CMO Regulation), meaning that the “imitation” reference should be retained in the same letter type and size as the “fish” designation.

- E.g.: “Fish” + “Imitation”

Solution D¹¹

Producers of plant-based imitation seafood products would not be allowed to use (part of) the seafood commercial designation on the package, unless that imitating product is clearly labelled on the front of the pack as “plant-based”, “vegan”, “vegetarian” or another clear indication, and, thus, conveying that it is actually a plant-based product and making sure that no consumer is misled. For this rule, a similar structure to the labelling of defrosted unprocessed fisheries products (Article 35(1)(d) of the CMO Regulation) could be used.

- E.g.: “Vegan/Vegetarian/Plant-based/Etc” + “(Part of) Commercial Designation”

Solution E¹²

Producers of plant-based imitation seafood products would not be allowed to use (part) of the seafood commercial designation or make references to any seafood products, including the use of the unprotected designation “fish”.

¹⁰ Labelling solution mentioned by CONXEMAR.

¹¹ Labelling solution mentioned by EuroCommerce.

¹² Labelling solution mentioned by ADEPALE, APROMAR, COPA COGECA, EAPO, FEDEPESCA, OPESCAAYA, OPP72, and OPPC3.