

Working Group 3: EU control and sanitary issues, consumer rules

Draft Minutes

Thursday, 8 June 2023 (09:00 – 12:30 CET)

BusinessEurope, Av. de Cortenbergh 168, 1000 Brussels

Interpretation in EN, ES, FR

Welcome from the Chair, Benoît Thomassen

Click [here](#) to access the Chair's presentation.

Adoption of draft agenda and of the last meeting minutes (30.03.23): adopted

Action points of the last meeting

- **State-of-play of the decision made during the last meeting – information**
- Towards a Strong and Sustainable EU Algae Sector:
 - Secretariat to circulate a questionnaire to the members on measures to increase social awareness and market acceptance of algae and algae-based products
 - Secretariat to contact the Secretariat of the Aquaculture Advisory Council about their work on the topic and potential collaboration
 - Questionnaire circulated: 9-18 May 2023
 - The Aquaculture Advisory Council does not have advice on the topic, but is exchanging with EU4Algae Consortium
- Plant-based imitations of Fisheries and Aquaculture Products:
 - Agreed draft advice to be put forward to the Executive Committee for consideration and potential approval
 - Advice adopted: 8 May 2023
- Cultured Seafood (“Lab-Grown” / “Cell-Based”):
 - Secretariat to circulate a questionnaire to the members on their views
 - Questionnaire circulated: 8-17 May 2023
- Sustainable Food System Framework:
 - Monitoring legislative developments, particularly the Commission’s impact assessment
 - Ongoing
- Vice-Chair:
 - Approval of Paulien Prent (AIPCE-CEP) as Vice-Chair of WG3 to be suggested to the Executive Committee



- Approved by Executive Committee on 30 March 2023

Substantiating Green Claims

- **Presentation of proposal for a directive on substantiation and communication of explicit environmental claims by Eva Funcken, DG ENV**

Click [here](#) to access the presentation.

Eva Funcken (DG ENV) emphasised that the main objective of the legislative proposal is to protect consumers and companies from “greenwashing”, which is a widespread phenomenon across Europe. Several studies showed that around half of all claims made to consumer were vague and misleading, plus around 40% of the claims were completely unsubstantiated. The Commission wants to ensure that consumers are enabled to make purchasing decisions based on credible environmental claims and labels. The Commission wants to boost the competitiveness of the economic operators that are actually making an effort to increase their environmental sustainability compared to those who are not. For this, legal certainty and a level-playing-field across the EU market are required. These objectives contribute to the overall objective of accelerating the green transition towards a circular, clean and climate neutral economy.

On the scope of the proposal, Ms Funcken explained that the legislative proposal is articulated as a *lex specialis* to the current consumer protection framework, which is composed of the Unfair Commercial Practices Directive and its amending proposal on Empowering consumers for the green transition. It covers business-to-consumer commercial communications. It applies only to voluntary explicit environmental claims. These rules do not apply to environmental claims regulated by other Union rules, be they existing or future, such as the Ecodesign for Sustainable Products Regulation, the Regulation on labelling of organic products, the Energy Labelling Regulation, and the EU Ecolabel Regulation. The aim is to avoid double regulation.

On the substantiation of environmental claims, Ms Funcken underscored that reliable claims need credible and proportionate substantiation. These need to be backed by scientific evidence and take into account relevant international standards. These need to demonstrate that the claim addresses significant environmental issues from a lifecycle perspective. The trade-offs between impacts must be identified. There is no need for full life-cycle assessments for all types of claims. In the case of climate-related claims, the Commission wanted to ensure that, if a company makes claims about climate emissions and offsets, there is transparency on the assessments of the offsets, through high integrity and correct accounting of climate impacts. There should not be double counting and there should be a distinction made between greenhouse gas emission reductions vs removals. The proposal requires the use of high-quality data, both primary and secondary. There should be identification if it is a common practice or imposed by law. Microenterprises are exempt from substantiation requirements on claims unless they choose to opt in.

On communication of environmental claims, Ms Funcken stated the rules are complementary to the consumer protection framework. Companies will only be able to communicate on what has been substantiated. The information on substantiation, for example scientific studies, is to be made



available to consumers on the products, a weblink or a QR code. Microenterprises are also exempt from communication requirements on claims unless they choose to opt in.

Ms Funcken clarified that the requirements on substantiation and communication were targeted to specific claims and that labels are defined as a claim. The Commission is also introducing requirements for labelling schemes, meaning the organisations running and awarding the labels. There is a significant proliferation of environmental claims in the EU market with more than 200 labels present, which is highly confusing for the consumer. This proliferation is also not ideal for companies operating across borders. The proposal aims at avoiding the proliferation of schemes and reinforcing the trust in existing ones. Labelling schemes must be based on certification schemes with independent and transparent governance. The proposal includes a ban on labels presenting an aggregated scoring or indicator of the overall environmental impact, since these labels have a high potential to mislead consumers, as companies can dilute negative impacts with the aggregation with positive ones. Moreover, if different retailers develop their own aggregated system using different methodologies, a single product can have different ratings across different retailers.

To avoid proliferation, the Commission is proposing that no new public schemes will be allowed at regional or national level. In the spirit of harmonisation, new schemes would only be developed under Union law. In the case of private schemes, no new schemes would be allowed, unless if added value can be demonstrated to national authorities. No new third country schemes would be allowed, unless if added value can be demonstrated to EU or national authorities. The Commission representative reminded members that the described rules were only applicable to voluntary schemes. The development of mandatory schemes by Member States would continue to be allowed.

On the verification of environmental claims and labels, Ms Funcken explained that the Commission was introducing an ex-ante verification by independent and accredited verifiers competent to certify that substantiation and labelling schemes meet the requirements. If the requirements are met, the company will be issued a certificate of conformity, which will be recognised across the EU. Microenterprises can opt-in for verification of claims. To support SMEs, Commission foresees that the EU would finance flanking measures and acquisition of high-quality data sets, which would be useful to assess value chains. Member States would raise awareness on ways to comply, plus provide financial support, access to finance, and technical assistance.

- **Exchange of views**

Marine Cusa (Oceana) wanted to know, in case an EU sustainability label was created under the upcoming Sustainable Food System Framework, whether it would fall under the scrutiny of the proposed directive on substantiating green claims.

Eva Funcken (DG ENV) confirmed that, in order to avoid double regulation, if the EU develops an EU sustainability label for food that covers environmental aspects, it would be exempt.

Javier Ojeda (FEAP) emphasised the importance of the initiative. Mr Ojeda argued that, as there was confusion amongst EU consumers, it was important for the EU to have a clear perspective on labelling. In 2010, when the Commission developed the EU ecolabel, his organisation was disappointed that



food products were not covered. He expressed surprise that labels based on aggregated scoring would be banned, since, in the case of nutritional labels, these were quite common. He wondered if the Commission planned to enact a similar ban for nutrition and animal welfare claims.

Eva Funcken (DG ENV) agreed that there were as a wide range of labels available in the market. In the proposal, the aim was to cover all sectors, including food. Concerning the ban on labels based on aggregated scoring, Ms Funcken emphasised that the proposal only referred to environmental claims. There was no intention to extend the ban to other fields under the Green Claims Directive.

Gerd Heinen (DG MARE) explained that, under the Sustainable Food System Framework, the Commission was considering a general food sustainability labelling framework, which would have a broader scope. The Sustainable Food System Framework would presumably cover the environmental, economic and social sustainability dimensions, including animal welfare and nutritional aspects. Depending on the impact assessment, there could be implications for non-environmental claims and schemes.

Bruno Guillaumie (EMPA) requested more information on the provisions against the proliferation of voluntary public, private, and third country schemes, particularly the difference between a public scheme and a mandatory scheme. Regarding the exemption for microenterprises, Mr Guillaumie highlighted that, in France, 97% of enterprises in the shellfish industry were microenterprises. The national association of enterprises could create a label and ask the national government to make it a mandatory label.

Eva Funcken (DG ENV) mentioned the EU energy label as an example of a mandatory scheme, which was applicable to all household appliances. Microenterprises were required to follow the rules of the Unfair Commercial Practices Directive, which bans misleading and generic claims (e.g., “natural”, “green”, “eco-friendly”). Unsubstantiated claims will also be banned. The Commission thought it would be disproportionate to require microenterprises to follow the verification process, especially in terms of access to data. Ms Funcken clarified that “mandatory” referred to legal imposition. If a sector wanted to impose labelling for their industry, it would still need to conform with the verification and substantiation requirements.

Alessandro Manghisi (MSC) expressed satisfaction with the legislative proposal. Mr Manghisi wanted to know more about the pre-approval process. Regarding registration, it was unclear whether it should be in the country where the scheme was based or in any country. Mr Manghisi wondered about the provisions to avoid forum shopping, since there could be varying requirements across the Member States. He expressed concerns about the delegated acts on Product Environmental Footprint Category Rules, wanting to know whether these would have mandatory or voluntary nature. He also wanted to know if the Marine Stewardship Council was covered by the green claims proposal, the legislative proposal on Empowering the Consumers for the Green Transition, or by the upcoming legislative proposal on a Sustainable Food System Framework. Additionally, he asked about the perspective of the European Parliament, as several MEPs seemed surprised by the proposal.

Eva Funcken (DG ENV) responded that, in terms of harmonisation, a close transposition of the directive across the Member States was a priority for the Commission. Once the directive is approved,



the Commission would be able to make use of implementing and delegated acts on a variety of aspects, including the verification process and the format of the certificate of conformity, in order to avoid the phenomenon of “shopping” for certificates. Concerning the delegated acts on Product Environmental Footprint Category Rules, Ms Funcken explained that there was a provision that enables the Commission, if deemed appropriate, to adopt product-specific category rules, which could be Product Environmental Footprint Category Rules. The intention was not to prescribe these as mandatory, but to enable sectors, where Product Environmental Footprint Category Rules are present and relevant, to have a presumption of conformity.

Gerd Heinen (DG MARE) recalled that Product Environmental Footprint Category Rules for unprocessed marine fish were under development. In the past, there was some criticism of these rules, because the 16 impact categories of the PEF methodology do not include the impact on the targeted fish stock. The recital of the legislative proposal clarifies that Product Environmental Footprint Category Rules for marine fish will need to reflect this impact. The Commission services will exchange with the Technical Secretariat on how to achieve it.

Eva Funcken (DG ENV), on the interplay between the legislative proposal on Empowering Consumers for the Green Transition and the green claims proposal, explained that the Unfair Commercial Practices Directive covered all business-to-consumer communications. The legislative proposal on Empowering Consumers for the Green Transition amended the directive to include definitions and specific rules on environmental rules, in order to fight “greenwashing”. The green claims proposal bans unsubstantiated green claims and provides the rules for substantiation. Member States could transpose both directives together.

Gerd Heinen (DG MARE) recalled that the Sustainable Food System Framework would have a pillar on sustainability information to consumers. In principle, two possibilities were conceivable. The food-specific framework could take precedence over the green claims proposal and basically replace it. Alternatively, the Sustainable Food System Framework could complement the green claims proposal for the other characteristics of sustainability, in particular non-environmental aspects.

Patrick Murphy (IS&WFPO) drew attention to the increasing complexity of labelling rules and the potential add-ons. Mr Murphy exemplified that, in the case of his company, both MSC and organic certification was undertaken. Without organic certification, there would not be access to the markets. Under the proposal, there would be a lack of control over the accreditation body. He wanted to know whether the Commission would continue to adapt to certification developments. He also wanted to know about the measures against forum shopping.

Eva Funcken (DG ENV) clarified that the legislative proposal was about the communication/marketing, which included the labels. If a company chooses to display a label or make a claim, then the company must substantiate. The rules are general, in order to allow adaptation to different sectors.

Patrick Murphy (IS&WFPO) expressed concern about continuous expansion of requirements. Mr Murphy wanted to know, if a provider of label changes the requirements, the user that previously met the requirements would also have to change. Mr Murphy expressed concern that a producer



would be excluded from the market because their label was not considered as a good as the label from a competitor.

Eva Funcken (DG ENV) explained that the green claims proposal does not impose criteria for the labels. It is not about the stringency or ambition of the label, but about their credibility and the reliability of their governance.

Patrick Murphy (IS&WFPO) exemplified that an operator on the market could have one label, but then a competing operator could have two labels, putting the first operator in a disadvantage in the market. Therefore, the green claims proposal is not facing the problem. The labelling system becomes more complicated for the producer, including more costs.

Eva Funcken (DG ENV) expressed availability for a bilateral meeting with Mr Murphy.

Sean O'Donoghue (KFO) wanted to know whether the proposed green claims directive would be applicable to imported products with voluntary labels, including the certification. Mr O'Donoghue expressed support for the exemption for microenterprises, but wondered, in the case a microenterprise makes an environmental claim, whether it would have to go through the verification process. He also wanted to know how the ex-ante verification would take place, particularly if it would be required for every company or based on a risk-based sample. Additionally, he asked about what would happen if the authorities found a claim that is not verifiable.

Eva Funcken (DG ENV) responded, in the case of imported products, the communications made to EU consumers were covered by the legislation, meaning that there would have to be ex-ante verified. Ms Funcken explained that the microenterprises would be under the Unfair Commercial Practices Directive, which included an ex-post verification (e.g., spot checks on the market, responses to consumer complaints and reports of infringement). As for the ex-ante verification, third-party organisations would be accredited by national authorities. Every company wanting to make a claim would have to pay for the verification. If the criteria are not met, the verifier will not issue the certificate of conformity. The Commission representative underscored that the legislative proposal was exclusively for environmental claims, not for socio-economic sustainability aspects.

María Luisa Álvarez Blanco (FEDEPESCA) congratulated the Commission for the proposal. From her understanding, the legislative proposal meant that environmental claims could not be made without scientific backing. In the market, there are products being sold to consumers as “green”, which are not actually “green”. The aim should be to avoid confusion among consumers, since consumers might not be able to understand the difference between a label backed by scientific evidence and another label that does not have any backing. The proposal ensures a level-playing-field.

Eva Funcken (DG ENV) confirmed Ms Álvarez's interpretation and thanked her for the support.

The Chair wanted to know if the MAC's advice about substantiation of green claims and about Product Environmental Footprint Category Rules had been useful to the Commission, plus how these had been taken into consideration in the Commission's work.



Gerd Heinen (DG MARE) responded that both pieces of advice had been useful. The vast majority of the recommendations were reflected in the proposal. Similar feedback was received from other stakeholders. One of the main concerns reflected was avoiding the sole reliance on the Product Environmental Footprint Category Rules method. There were also concerns about this method not covering biodiversity impacts.

- **Way forward**

Pierre Commère (ADEPALE) suggested to reassess the previous advice on the topic of green claims and potentially update it, in order to account for the legislative proposal and the upcoming interinstitutional negotiations.

Bruno Guillaumie (EMPA) recalled that, in line with the Common Fisheries Policy Regulation, the recommendations of the Advisory Councils were addressed to the Commission and the Member States. Therefore, in the context of the interinstitutional negotiations, new advice would have to be addressed to the Member States.

Alessandro Manghisi (MSC) highlighted that the Commission would also be adopting delegated and implementing acts in the context of the directive on green claims. Therefore, it could still be relevant to provide advice to the Commission. Mr Manghisi informed that, according to meetings that he held with MEPs, the ECON and ENVI Committees would be working together, plus that the European Parliament was aiming to conclude the interinstitutional negotiations before the next elections.

Hygiene and Sanitary Issues (Inorganic Arsenic)

- **Exchange of views about upcoming legislation on the maximum levels of inorganic arsenic in certain foodstuffs with Veerle Vanheusden, DG SANTE E2**

Click [here](#) to access the presentation.

Veerle Vanheusden (DG SANTE) provided an overview of the regulatory framework on contaminants in food, including Council Regulation (EEC) No 315/93 and Commission Regulation (EU) 2023/915. Concerning inorganic arsenic, in 2009, EFSA published an opinion, which established a range of Benchmark dose lower confidence limit &% (BMDL 01) values between 0,1 and 8 µg/kg b.w. per day for cancers of the lung, skin and bladder, as well as skin lesions. The estimated dietary exposures for average and high consumers lies within the range of the BMDL01 and because typically a 100 to 1000 fold margin is needed, the possibility of a risk to some consumers cannot be excluded. Because of these health risks, there was a mandate for the Commission to establish maximum levels. Regulation (EU) 2015/1006 was adopted establishing maximum levels for rice and rice-based products. Recommendation (EU) 2015/1006 recommended monitoring during 2016, 2017 and 2018 of arsenic in a wide range of foods, preferably by determining the content of inorganic arsenic and, if possible, the organic and total arsenic content.

Ms Vanheusden informed that, in 2021, EFSA published an exposure assessment. The main contributors to the exposure are rice and rice-based products, other grains and grain-based products



not containing rice, food for infants and young children and fruit juices. In the adult population, fish and other seafood were an apparent source of exposure. Discussions with Member States on maximum levels for inorganic arsenic in rice and rice-products, foods for infants and young children, fruit juices, fish and other seafood took place. A targeted stakeholder consultation took place in December 2021. The proposal was notified to WTO in May 2022. Following these consultations, comments and new data on the occurrence of inorganic arsenic in specific fish and seafood species were received. The maximum levels for inorganic arsenic in fish and seafood were removed from the proposal. Member States agreed to deal with the maximum levels for these products in a separate proposal. The Commission representative outlined the maximum levels under Regulation (EU) 2023/465 on new or lowered maximum levels for arsenic in food as well as the maximum levels for inorganic arsenic notified to WTO.

Concerning the separate proposal on maximum levels for inorganic arsenic in fish and other seafood, Ms Vanheusden explained that new data were received from Member States, stakeholders and third countries. Based on the data, for several specific species, there are indications that the initially proposed maximum levels need to be increased. By 31 December 2022, member states, third countries and stakeholders were invited to send additional data on inorganic arsenic in specific fish and other seafood species to DG SANTE and, where possible, the data should also be submitted to EFSA. In Q2-Q3 2023, there will be a continuation of the discussions with the Member States in the Working Group on Industrial and Environmental Contaminants in Food and a targeted stakeholder consultation. Targeted adoption is planned for Q2-Q3 2024.

Pierre Commère (ADEPALE) thanked the Commission for the prompt reaction. When seeing the original proposal of maximum levels for fish and seafood products, his organisation realised right away that there was a problem and notified the Commission. Despite the limited available data, his organisation was able to send some input to the Commission services. Additional data were gathered in the past months. More comprehensive databases are now available. Mr Commère expressed that the upcoming would achieve a more adequate result.

Veerle Vanheusden (DG SANTE) thanked all stakeholders that submitted data, expressing her commitment to make good use of the data.

Bruno Guillaumie (EMPA) informed that, the previous week, in the Aquaculture Advisory Council, a technical debate on inorganic levels took place. His organisation was only made aware of these proposals at the end of 2022, since EMPA had not been included in the Commission's targeted consultation. Mr Guillaumie explained that the first analysis carried out by his organisation required hiring an Italian laboratory, which required a significant amount of time and money. The results were quite alarming, since 50% of the molluscs' production would be non-compliant. In February 2024, samples will be taken to gather more information. Concerning the Commission's proposals, Mr Guillaumie stated that the maximum levels for clams were acceptable, but that the other products were far above of the proposed maximum levels. In his view, it did not make sense, since clams and oysters were being produced in the same area and under the same conditions. He wanted to know if it made sense to continue with the analysis process, since it will only be launched in February 2024.



Veerle Vanheusden (DG SANTE) apologised for missing EMPA in the consultations and provided her contact for inclusion in the stakeholder consultations. Ms Vanheusden explained that DG SANTE received additional data on molluscs, so the proposal would be revised accordingly. Additional data would be welcomed. The maximum levels were established based on occurrence data.

- **Way forward**

Bruno Guillaumie (EMPA) suggested to wait for the professional organisations to collect and send data to DG SANTE and to the national health authorities. In a future opportunity, it could be relevant for the MAC to adopt joint advice with the Aquaculture Advisory Council. Mr Guillaumie suggested for the MAC to continue monitoring developments.

Hygiene and Sanitary Issues (Stiffening)

- **Presentation on ongoing update to food hygiene rules for products of animal origin, specifically stiffening of smoked fillets, by Tomasz Pyjor, PSPR**

Click [here](#) to access the presentation.

Tomasz Pyjor (PSPR) recalled that the issue of stiffening was previously discussed in the MAC in 2018 in the context of the European Salmon Smokers Association's "Good Practice Guide" and later in 2019. Mr Pyjor highlighted that there was an amendment concerning the stiffening of smoked fillets. proposed to EU Regulation (EC) 853/2004. Concerning the definition of the stiffening process, he delivered an overview of the definitions provided by the National Marine Fisheries Research Institute of Poland and by AIPCE.

Mr Pyjor argued that, while the proposed amendment to Regulation 853/2004 was about stiffening, the scope had been extended to go beyond processed products, covering also fresh. No temperature is indicated, since there are different conditions in different factories. Nevertheless, a time limit of 96 hours is foreseen. He expressed surprise regarding this time limit, since stiffening is considered to be safe, according to results from independent laboratories as well as validation from the European Union Reference Laboratory for Listeria, plus verification in factories.

Mr Pyjor expressed reservations about the lack of scientific evidence. In the case of rules for "super chilling", the European Commission requested EFSA to provide a scientific opinion, which was used in the regulatory process. In the case of the rules for stiffening, EFSA was not involved. Laboratory test results provided by the Polish salmon processing industry were not taken into account.

Mr Pyjor argued that the proposed amendments would have no impact on product safety, but would have very significant impacts on the profitability of production in Polish factories and the competitiveness in relation to other salmon in the EU. In his view, Poland, as Europe's salmon processing leader is being subjected to actions aimed at unfairly combating competition.

Mr Pyjor explained that the new rules were based on the recommendations of the European Salmon Smokers Association's "Good Practice Guide", which was based on the national French guide. He emphasised that the mentioned association was composed of companies, instead of industry



associations. AIPCE submitted a list of questions related to the ongoing legislative procedure to the European Commission, but these remain unanswered. Concerning the European Salmon Smokers Association's guide, he highlighted that, there the process is not about freezing. In the French guide, the 96h time limit is about the product being "frosted" or "defrosted", which affects the labelling as defrosted, but not food safety.

Mr Pyjor underscored, as a threat posed by the regulatory changes, that, as a consequence of the extension of the storage time, a healthy semi-product would be classified as illegal (not suitable for human consumption) leading to very significant food waste. This is contrary to the key objective of the Farm to Fork Strategy of avoiding food waste. Considering that, within the quantities of salmon processed in the EU, 60% of the final product is the cold smoked, sliced product, the possible level of food waste would be massive.

Mr Pyjor argued that, if stiffening was to be regulated, with regards to the requirements of the information to the consumer, for example labelling as "defrosted", then it should be under Regulation 1169/2011 on the provision of food information to consumers, instead of Regulation 853/2004 laying down specific hygiene rules for food of animal origin. He provided an overview of the feedback to the Commission's public consultation on the delegated act.

- **Exchange of views**

Guus Pastoor (Visfederatie) highlighted the complexity of the topic. AIPCE-CEP sent a list of questions to the Commission. A reply was pending. After the reply, it would be possible to determine the way forward. Mr Pastoor informed that, amongst AIPCE members, there are different views on the technicalities of stiffening. In his view, the MAC could encourage the Commission to reply to the questions submitted by AIPCE.

Jaroslaw Zieliński (PFPA) informed that the questions were sent by AIPCE to the Commission on 22 March 2023.

Miguel Lizaso (DG MARE) stated that he would check internally and respond as soon as possible.

Javier Ojeda (FEAP), in relation to the statements that freezing and defrosting has no food safety implications, highlighted that food safety authorities continuously advise against freezing food that was defrosted previously. In his view, stiffening was a euphemism for freezing. Since stiffening involves the product going below 0° degrees for several days, for a consumer, it would be rather difficult to distinguish from freezing. Mr Ojeda stated that, as a member, he would require more information before supporting stiffening.

Tomasz Pyjor (PSPR) responded that double freezing was common practice in the fish processing industry. Mr Pyjor exemplified that a fishery product could be frozen at sea, brought to the factory, defrosted, processed into fillets, and then sold as frozen or defrosted products. There are strict controls on the factories, which ensures that there are no food safety problems. It is a responsibility of the food business operator. He argued that, if a consumer wanted to be informed, there could be



information under Regulation 1169/2011, but the process was safe. For many years, Poland has processed significant amounts of products sold in different countries without issues.

Jaroslav Zieliński (PFPA) stated that he understood that there was political will to regulate the process, which he did not oppose. Nevertheless, the rules should be under the correct regulatory framework and there should be a scientific opinion from EFSA. Mr Zieliński recalled that, in 2019, in relation to “super chilling”, the MAC called for the involvement of EFSA. The scientific opinion of EFSA on “super chilling” served as a basis for the rules on that practice. He exemplified that, in the case of rules for matured meat, an opinion from EFSA was considered.

As for the differentiation between stiffening and freezing, Mr Zieliński highlighted that even the European Salmon Smokers Association considered stiffening not to be freezing, since the core of the processed fillet is not frozen. In any case, if deemed to be freezing, the industry would not be opposed to the “defrosted” labelling. The discussion was about the 96h time limit, which would lead to a classification as not suitable for human consumption, representing significant food waste. He argued that stiffening was safe, since listeria does not grow during the process.

Mr Zieliński highlighted that the majority of the responses to the Commission’s public consultation were against the proposed rules, so he wondered how it would be taken into account by the Commission services during regulatory process.

Miguel Lizaso (DG MARE) responded that public consultations were part of the broader legislative process, but that it was not mandatory to follow the results. The Commission could not be obliged to follow the results. The information provided by the stakeholders is taken into account by the Commission services.

Tomasz Pyjor (PSPR) highlighted that, usually, it is the food business operator that establishes the shelf life of the product. In the case of smoked salmon, the time can be 14 to 18 days. The temperatures are above 0°. It is not the food business operator that decides the time for storing before slicing at safe temperatures. In his view, the Commission was overly regulating stiffening, while not regulating the shelf life. Therefore, there was a lack of transparency in the approach.

María Luisa Álvarez Blanco (FEDEPESCA) wanted to know if the Commission’s public consultation had been circulated to the members.

The Secretary General responded that the public consultation was available on the Commission’s “have your say” portal.

Pierre Commère (ADEPALE) stated that, in the EU, “freezing” was defined as -18°. Temperatures between 0° and -18° are not allowed for transport or storage of products. Therefore, stiffening served as an exemption for specific processes to facilitate the slicing of smoked products. Across EU operators, different stiffening practices have developed. In some Member States, the practice is to have a process with a limited duration. In his view, the proposed legislation goes in the right direction, since it aims to harmonise the process. Without standardised practices, there would be unfair competition in the market. It is in line with the European Salmon Smokers Association’s “Good



Practice Guide”, which was approved two years prior. He expressed disagreement with the arguments about food waste. A well organised sector would avoid the wasting of products.

Mr Commère highlighted that, contrary to the statements in Mr Pyjor’s presentation, AIPCE was not opposed to stiffening. AIPCE did not take a clear position on stiffening, since there were diverging position among its members.

Javier Ojeda (FEAP) agreed with Mr Commère that the argument about food waste was not appropriate. The members of his association aim to put fresh fish in the market, which represents a significant challenge.

Tomasz Pyjor (PSPR) argued that food waste would be a factor. Mr Pyjor exemplified that some companies had to deliver 6.000 pieces of product, which meant matching with the supplier of raw material. This can be affected by weather and transport conditions. Aquaculture production would also be affected, since the possibilities to sell the product would be reduced. He highlighted that it would depend on practices of the retailers, exemplifying that, in France, the shelf life was usually 30 days, while, in Germany, it was usually 18 days.

Mr Pyjor further argued that the proposed harmonisation went in the direction of the French national code. National codes are not a source of law in the EU. Harmonisation should have a benefit, not to create problems. He recognised that AIPCE did not have a clear position on stiffening. Concerning the definition of “freezing”, he stated that the indication is merely that freezing must be quick. There was no definition of “frozen product”. Additionally, in the European Salmon Smokers Association’s code, stiffening is not regarded as freezing.

Jaroslav Zieliński (PFPA) argued that there was no scientific justification for the 96h time limit. When the European Salmon Smokers Association’s code was developed, the aim was 24h, but then it was extended to 96h to accommodate for potential holidays. Mr Zieliński called for a scientific opinion from EFSA to determine the appropriate time limit.

- **Way forward**

The Chair proposed, before further developments in the Working Group, to wait for a reply from the Commission to the letter of AIPCE.

Online Sales to Consumers

- **Presentation of the initiative “La Pescadería Artesanal” by María Luisa Álvarez Blanco, FEDEPESCA**

Click [here](#) to access the presentation.

María Luisa Álvarez Blanco (FEDEPESCA) outlined that “La Pescadería Artesanal” was a digitalisation project for the entire ecosystem of the more traditional fishing businesses in Spain, which was undertaken with support from the Spanish administration and the EU’s NEXT Generation funds. Ms Álvarez highlighted that her association represents 7.000 small fish shops of the 10.000 currently



existing in Spain, adding that 50% of the companies of the associates do not have employees. The average age is 48-58 years old and there is a lack of generational renewal. Digitalisation remains a challenge. Operators must wake up early in the morning to attend fish auctions. Shops are open six days per week. In Spanish cities, shops open early and close late in the evening.

Ms Álvarez delivered an overview of the objectives of her association. During the COVID-19 pandemic, FEDEPESCA decided to carry out in-depth study on digitalisation solutions available in the market. For small companies, it is quite difficult to find a competitive solution. Therefore, her association decided to develop a collective solution for small businesses under one label. In this project, the aim was to maintain the traditional values of the fishing sector: excellence in service, tailor-made treatment, transparency in consumer information, socio-economic and environmental sustainability, neighbourhood commerce, support for local and nearby products, and promotion of gastronomic culture and a healthy diet.

Ms Álvarez explained that “La Pescadería Artesanal” works as a digital tool with a common label that allows each seller to have a digital presence without diluting their brand, since the purchases are directly from the seller to the consumer. The purpose is to allow consumers to access healthy protein with a low carbon and water footprint footprint through a short value chain, which provides seasonal products from the local fleets. In cooperation with the Spanish administration, responsible packaging was developed, which uses the lowest amount of plastic and with all the indications for the consumer to manage it properly.

Ms Álvarez further explained that the main challenge was the logistics. Agreement was reached with SEUR Frío, which allows for order submitted before 13:30 to be delivered to the customer the next day. In the city of Madrid, there is an agreement with Paack, which allows delivery in 2h time windows. With the aim of reaching new costumers, an agreement was signed with Uber Eats to launch a pilot project with a limited number of shops in Madrid. Through the phone app of Uber Eats, it is possible for consumers to connect directly to a fishmonger. The operator receives the order on Uber Eats and on Pescadería Artesanal. The preliminary results of the pilot project were quite positive, since it allowed fishmongers to reach consumers that are willing to pay, but that want immediacy.

Ms Álvarez highlighted that the project involved four Autonomous Communities, 75 digitised fishmongers in different Autonomous Communities, 15 fishmongers with an e-commerce shop. In 2022, there were more than 43.000 sessions on their website. She mentioned the key performance indicators of the project. Following a month of integration in Uber Eats, there were 21 orders on La Pescadería Artesanal and 20 on Uber Eats. The average ticket was 52,52€ for La Pescadería Artesanal and 25,69€ for Uber Eats. The project includes 150 product references.

Ms Álvarez emphasised that, despite the digitalisation process, the physical shop continues to offer the best shopping experience. The experience of the professional fishmonger has an added value over the product that is impossible to value quantitatively. The fishmonger’s advice, recommendations and knowledge of the products makes them irreplaceable. At the store, consumers tend to spend 25% more than online.

- **Exchange of views**



Mariano García García (FACOPE) asked about more data on clients, such as average age of the user of the La Pescaría Artesanal platform.

María Luisa Álvarez Blanco (FEDEPESCA) responded that most of the clients were between 30 and 45 and between 45 and 55 years old. On Uber Eats, the average age was younger, but the data was still pending. Ms Álvarez informed that an agreement was about to be signed with another food delivery platform. Through this digital tool, the retailer only needs to check their food to address all the orders, since it is via an integrated platform.

Bruno Guillaumie (EMPA) highlighted that, between 2005 and 2008, the French shellfish farming sector launched a similar collective initiative. It was implemented by the producers for direct sales. Seven producer organisations and one national producers' association were involved. The tool worked quite well until it faced two problems. In 2007 and 2008, there were massive oyster deaths, which meant that there was nothing left to sell. Secondly, there are regulatory obstacles. As these are live products, which produce water, operators are required to overpackage. The available transport solution is highly expensive, which the average EU consumer would not be willing to pay for. Mr Guillaumie explained that, presently, in France, there was one food delivery platform, which offered a similar solution to the one presented. Nevertheless, logistic problems remained, especially due to humidity and water.

María Luisa Álvarez Blanco (FEDEPESCA) responded that, in the case of her project, the consumer was purchasing from a fish shop. The purpose was to digitise the offer. There are a wide range of products available. The consumer can choose the delivery platform or whether to pick-up the product at the store. Consumers are provided with a transparent tool, since they can compare prices of different fishmongers. If the consumer chooses for delivery, they must pay for the service.

EU Algae Initiative

- **Presentation of the results of the Secretariat's questionnaire**

The Chair recalled that a questionnaire was circulated by the Secretariat from 9 to 18 May 2023. Replies were received from Conxemar, MSC, ADEPALE, European Fishmeal, and FEAP. The draft advice was circulated by the Secretariat on 26 May 2023.

The Secretary General informed that, the previous day, via email, preliminary comments on the draft were sent by ADEPALE.

- **Consideration of draft advice**

The Working Group proceeded with the consideration of section 7 "recommendations".

Isabel Mariño Prieto (Conxemar), concerning the reference to "benefits" in draft recommendation a), expressed doubts about the appropriateness of referring to "benefits", wondering if it was possible to verify these benefits.



Javier Ojeda (FEAP) called for the removal of the parenthesis, maintaining the reference to “food safety recommendations”.

Bruno Guillaumie (EMPA) highlighted that shellfish producers were also involved in algae growing, which meant that the Commission should also involve them in these initiatives. Mr Guillaumie emphasised that, at the present time, the product of algae was low due to the quality of the water. The water quality continued to deteriorate due to arsenic and other contaminants. More space is needed to produce algae than to produce shellfish, while the offshore areas are exclusively for fishing. He warned that arsenic concentration in algae is even higher than in shellfish.

Pierre Commère (ADEPALE) argued in favour of maintaining the reference to food safety recommendations.

Isabel Mariño Prieto (Conxemar) suggested to refer to “food uses” instead of “benefits”.

Javier Ojeda (FEAP) stated that, along the text, there are references to “algae” and to “seaweed”, so a reader might believe that the advice might refer also to “microalgae”. Mr Ojeda suggested that the same term should be used across the text or to clarify in the text that it referred to “macroalgae”.

Emiel Brouckaert (EAPO) disagreed with the use of the expression “food uses”, suggestion to refer instead to “possibilities”.

Bruno Guillaumie (EMPA), concerning draft recommendation b), commented that, presently, the quantity of algae consumed in the EU was due to massive imports from Asia. Raising awareness about the benefits of algae was positive, but it can be detrimental to the EU industry. Therefore, EU funds would be spent in a way that benefits Asian companies.

The Secretary General mentioned that several of the issues raised by Mr Guillaumie were covered in other sections of the text. The Secretary General informed that ADEPALE had requested the addition of a reference to “circuit courts”.

Isabel Mariño Prieto (Conxemar), concerning draft recommendation c), suggested changing the reference to “sustainability profile” to “environmental impact”. Ms Mariño underscored that it was not yet known whether algae were sustainable. The definition of sustainable was still missing.

Patrick Murphy (IS&WFPO) asked Ms Mariño to clarify the meaning of “impact”.

Isabel Mariño Prieto (Conxemar) responded that it referred to the impact on marine ecosystems. The impact of algae farming on the ecosystem remains unknown.

Javier Ojeda (FEAP) stated that, in his view, the purpose of draft recommendation c) was to highlight the positive sustainability of EU production of seaweed, both environmental and social sustainability. Mr Ojeda emphasised that, besides market recommendations, it was important to raise the profile of EU production. He recognised that the impacts of algae production were unknown, since algae farming in the EU was quite small.



The Chair suggested to rephrase to “proceed with the efforts to assess the sustainability profile”.

Bruno Guillaumie (EMPA) expressed agreement with rephrasing to “assess”. Mr Guillaumie underscored that the three pillars of sustainability must be considered. He highlighted that the main carbon sink in the world is algae and macroalgae, so the environmental benefits had been demonstrated. On the socio-economic feasibility, such as access to space, industrial processing in the EU, local acceptability and consumption, there were many efforts to be made. The practical realities of algae farming were not being considered. In Asia, cultivation was quite successful. EU projects had demonstrated that algae cultivation could be successful in the EU. The interest of Member States in marine spatial planning needs to be analysed. Without specific space for cultivation, companies will be reluctant to invest the necessary millions of euros. Therefore, the EU initiative was not well set.

The Chair argued that it would make sense to make a reference to marine spatial planning.

The Secretary General stated that, when drafting the text, he tried to avoid going in depth about production matters, as it was a competence of the Aquaculture Advisory Council. Nevertheless, a general reference to marine spatial planning could be appropriate.

Emiel Brouckaert (EAPO) agreed that the spatial squeeze should be mentioned in some of the recommendations. Otherwise, there should be a general recommendation about it.

Sean O’Donoghue (KFO) wondered about the reference of “circuit courts” proposed by ADEPALE.

Pierre Commère (ADEPALE) clarified that it was about “short supply chains”.

Bruno Guillaumie (EMPA) argued that, in general, with the exception of processed products, in the fisheries and aquaculture sector, the supply chain was short.

Pierre Commère (ADEPALE) suggested rephrasing to “local value chains”.

Patrick Murphy (IS&WFPO) suggested adding “opportunity” to draft recommendation c).

Javier Ojeda (FEAP) suggested merging the recommendation about awareness-raising actions with draft recommendation a) due to the similarities.

Emiel Brouckaert (EAPO) suggested the deletion of the reference to the “blue economy”, since the advice was specifically about algae, not about the blue economy.

Bruno Guillaumie (EMPA), concerning draft recommendation d), emphasised that it was important to be precise and to refer to data collection for aquaculture. Information about species and production volumes were missing, which made economic analyses impossible.

Sean O’Donoghue (KFO) suggested replacing “commission” with “carry out”.

Bruno Guillaumie (EMPA), concerning draft recommendation e), highlighted that there had been requests from the Aquaculture Advisory Council to the European Commission to implement a



Common Aquaculture Policy. Aquaculture policy should be treated separately from fisheries policy, since specific objectives and tool, including on hygiene, sustainability, marine space, are needed.

Javier Ojeda (FEAP) expressed agreement about the importance of developing a Common Aquaculture Policy.

Sean O'Donoghue (KFO) stated that he would not be opposed to the development of a Common Aquaculture Policy, but that it was a matter for the Aquaculture Advisory Council.

Javier Ojeda (FEAP) responded that a Common Aquaculture Policy would also imply a Common Market Organisation for aquaculture products, but he recognised that the production aspects would be for the Aquaculture Advisory Council to address.

Guus Pastoor (Visfederatie) argued that, from a procedural perspective, there had been feedback and discussions based on the presented text, so an extension of the scope of the paper would require a reassessment of the entire text, since these new aspects had not been previously discussed in the Working Group.

Bruno Guillaumie (EMPA) expressed understanding for Mr Pastoor's view. Mr Guillaumie suggested that there could be, in another a future opportunity, a reflection in the MAC about the relevance of a Common Aquaculture Policy. Regarding draft recommendation e), he suggested referring to a "specific regulatory framework".

Emiel Brouckaert (EAPO), concerning draft recommendation f), suggested to add a reference to accounting for the spatial squeeze in the context of marine spatial planning.

The Working Group proceeded with the consideration of the remaining sections of the draft text.

Emiel Brouckaert (EAPO), concerning section 2 "Lack of awareness among EU consumers and citizens", commented that, to ensure coherence with the recommendations, there should be a reference to "possibilities", instead of "benefits".

The Secretary General explained that ADEPALE had requested to change "as food forms" to "used as food".

Bruno Guillaumie (EMPA) agreed that social awareness was important, but argued that there should also be a reference to the need of "adequate marine spatial planning". Without a change, there would not be EU products to promote, only Asian ones.

The Secretary General, concerning section 3 "Raising consumer awareness (action 21)", explained that ADEPALE had reordered and rephrased the paragraphs about the relevance of launching an EU-wide communication campaign. Concerning section 4 "Raising the sustainability profile (action 22)", the Secretary General suggested replacing the references of "raising" with "assessing", to ensure coherence with the recommendations. As regards to section 6 "market interest", he explained that ADEPALE suggested some redrafting of the section.



Bruno Guillaumie (EMPA) suggested to include a reference to “accounting for adequate marine spatial planning” in section 6.

Javier Ojeda (FEAP) highlighted that the efforts were about algae farming, which remained a very small section of the market. At the same time, there is a very significant industry gathering seaweed, which is used for food production.

Bruno Guillaumie (EMPA) agreed that references in the text should be to algae cultivation, instead of production.

Miguel Lizaso (DG MARE) wondered about the reference to “food safety recommendations” in draft recommendation a), particularly if it was about food safety concerns or about nutritional aspects.

Javier Ojeda (FEAP) responded that, from his perspective, it was about food safety risks. Mr Ojeda suggested replacing “recommendations” with “assessments”.

María Luisa Álvarez Blanco (FEDEPESCA) expressed support for the draft advice. Ms Álvarez highlighted that traditional fishmongers had started to sell, among the fisheries and aquaculture products, algae products. Therefore, it would be very useful to know the food safety assessments.

The Working Group agreed on the draft advice, as amended, on “EU Algae Initiative”.

- **Way forward**

The Chair proposed to put forward the agreed draft advice, as amended, to the Executive Committee for consideration and potential adoption.

Cell-Based Protein of Aquatic Animals

- **Presentation of the results of the Secretariat’s questionnaire**
- **Consideration of draft advice**
- **Way forward**

The agenda item was postponed to the next meeting.

AOB

None.



Summary of action points

- Substantiating Green Claims:
 - o Ahead of the next meeting, Chair and Secretariat to compare previous advice with the Commission's legislative proposal and to potentially prepare a questionnaire to gather input for new advice
- Hygiene and Sanitary Issues (Inorganic Arsenic):
 - o Continue monitoring developments, while waiting for the collection and submission of data by the relevant professional organisations to DG SANTE and to the national authorities
- Hygiene and Sanitary Issues (Stiffening):
 - o Wait for a reply from the Commission services to the letter of AIPCE-CEP
- EU Algae Initiative:
 - o Agreed draft advice to be put forward to the Executive Committee for consideration and potential approval
- Cell-Based Protein of Aquatic Animals:
 - o Agenda item to be rescheduled to the next meeting

DRAFT



Attendance List

Representative	Organisation	Role
Aitana López Baquero	Spain	Observer
Alen Lovrinov	Omega 3 Producers Organisation	Member
Alessandro Manghisi	Marine Stewardship Council (MSC)	Member
Alexandra Philippe	Market Advisory Council (MAC)	Secretariat
Anna Rokicka	Polish Association of Fish Processors (PSPR)	Member
Annie Seng	SNCE	Member
Benoît Thomassen	Federation of European Aquaculture Producers (FEAP)	Chair
Bruno Guillaumie	European Molluscs' Producers Association (EMPA)	Member
Catherine Pons	Federation of European Aquaculture Producers (FEAP)	Member
Daniel Voces	Europêche	Member
Emiel Brouckaert	European Association of Fish Producers Organisations (EAPO)	Member
Eva Funcken	European Commission	Expert
Gaëtane Le Breuil	European Fishmeal	Member
Garazi Rodríguez	APROMAR	Member
Gerd Heinen	European Commission	Expert
Guus Pastoor	Visfederatie	Member
Isabel Mariño Prieto	Asociación Española de Mayoristas, Importadores, Transformadores y Exportadores de Productos de la Pesca y Acuicultura (CONXEMAR)	Member
Jaroslav Zieliński	Polish Fish Producers Association (PFPA)	Member
Javier Ojeda	Federation of European Aquaculture Producers (FEAP)	Member
Jean-Marie Robert	Les Pêcheurs de Bretagne	Member
Joash Mathew	EU Fish Processors and Traders Association (AIPCE) / European Federation of National Organizations of Importers and Exporters of Fish (CEP)	Member
José Basilio Otero	Federación Nacional de Cofradías de Pescadores	Member
José Carlos Escalera	Federación de Cofradías de Pescadores de Cadiz	Member



Representative	Organisation	Role
Laure Guillevic	WWF	Member
María Luisa Álvarez Blanco	Federación de Asociaciones Provinciales de Empresarios Detallistas de Pescados y Productos Congelados (FEDEPESCA)	Member
Mariano García García	Federación Andaluza de Cofradías de Pescadores (FACOPE)	Member
Marine Cusa	Oceana	Member
Massimo Bellavista	Copa Cogeca	Member
Miguel Lizaso	European Commission	Expert
Nicolás Fernández Muñoz	OPP72	Member
Patrick Murphy	Irish South & West Fish Producers Organisation (IS&WFPO)	Member
Paul Thomas	European Association of Fish Producers Organisations (EAPO)	Member
Pedro Luis Casado López	Asociación de Armadores Punta del Moral (OPP80)	Member
Pedro Reis Santos	Market Advisory Council (MAC)	Secretariat
Pierre Commère	Association Des Entreprises de Produits Alimentaires Élaborés (ADEPALE)	Member
Pim Visser	VisNed	Member
Rosalie Tukker	Europêche	Member
Sean O'Donoghue	Killybegs Fishermen's Organisation (KFO)	Member
Sofia Ghezzi	EuroCommerce	Member
Tomasz Pyjor	Polish Association of Fish Processors (PSPR)	Member
Thomas Kruse	Danish Pelagic Producers Organisation (DPPO) / Danish Fishermen P.O.	Member
Vanya Vulperhorst	Oceana	Member
Veerle Vanheusden	European Commission	Expert
Xavier Pires	ALIF	Member
Yobana Bermúdez	EU Fish Processors and Traders Association (AIPCE)	Member

