

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

Minutes

Thursday, 20 September 2023 (09:00 – 12:30 CET)

Copa Cogeca, Rue de Trèves 61, 1040 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 (08.06.23): adopted

Action points of the last meeting

- **State-of-play of the action points of the last meeting - information**
- Substantiating Green Claims:
 - 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
 - Questionnaire circulated: 30 August – 8 September 2023
 - Draft advice circulated ahead of the meeting
- Hygiene and Sanitary Issues (Inorganic Arsenic):
 - Continue monitoring developments, while waiting for the collection and submission of data by the relevant professional organisations to DG SANTE
 - Ongoing
- Hygiene and Sanitary Issues (Stiffening):
 - Wait for a reply from the Commission to the letter of AIPCE-CEP
 - Update scheduled under the draft agenda
- EU Algae Initiative:
 - Agreed draft advice to be put forward to the Executive Committee for consideration and potential approval
 - Approved by Executive Committee on 9 June 2023
 - Reply from DG MARE on 11 July 2023
- Cell-Based Protein of Aquatic Animals:



- Agenda item to be rescheduled to the next meeting
 - Rescheduled to the present meeting

“Taste the Ocean” Campaign

- **Presentation of the launch of the third season by Commission representatives**

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

Charlotte Gugenheim and Alessandra Portis (DG MARE) presented the third season of the “Taste of the Ocean” campaign. The Commission representatives explained that the objectives of the campaign are: (1) to encourage consumers in the EU to buy and enjoy sustainable fish and seafood; (2) to help consumers make informed food choices; (3) to inspire people to have a green approach to fish and seafood, with the help of local chefs; and (4) to show who is behind our food. The representatives further explained that nine chefs are participating in the campaign. The idea is to have one chef, one recipe, one fish and one producer. The third season of the campaign features chefs from Austria, Germany, Hungary, Latvia, Luxembourg, Malta, Poland, Slovakia and Slovenia. The campaign concerns wild and farmed fish. The campaign also focusses on the producers, including through flyers with information on the producer and the fish. The campaign material consists of nine videos recipes, a social media campaign, a website, profiles of fishers and aquaculture producers, and roll-out in nine Member States, with the support of Commission’s representations and influencers, with content for all countries. The Commission representatives then projected the video of one of the recipes for brook trout (with carrot, velouté, hazelnut crumble). They added that the campaign was launched on 18 September and will end on 15 October. In terms of collaboration, the representatives asked to support the #TasteTheOcean campaign on social media.

- **Exchange of views**

Benoît Thomassen (FEAP) asked the Commission representatives about the availability of languages for the campaign.

Alessandra Portis (DG MARE) replied that the campaign materials are available in English and in the languages of all Member States involved.

Patrick Murphy (IS&WFPO) asked what the targeted audience for the campaign is arguing that the recipes were not easy. Additionally, sustainability should be considered.

María Luisa Álvarez Blanco (FEDEPESCA) agreed with Mr Murphy that the recipes should be simpler. Consumers perceive fish producers as hard to buy, maintain, and to cook. Ms Álvarez argued that the campaign should value the people behind the products, such as the fishers, the aquaculture farmers,



and the traders, since chefs already have significant social prestige. She further asked for information on the budget's campaign.

Roberto Alonso (ANFACO-CECOPESCA) also asked information on the budget and the resources of the campaign, including the use of TV campaigns, social media presence, and market priorities, expressing doubt that the Commission would have sufficient resources and budget. Mr Alonso provided the examples of campaigns in Spain that cost between 300.000 and 400.000 €. He argued that the campaign should be more targeted on health and diet perspectives, while evoking emotions from the consumers. Chefs provide prestige to campaigns, but are not the solution. He gave the example of Norway's clear messaging on their products, while encouraging the Commission services to continue undertaking promotional campaigns.

Alessandra Portis (DG MARE) explained that the targeted audience are the general consumer, including young professionals and families. The chefs and the influencers reduce the institutional aspect of the campaign, while allowing for a more specific approach to each Member State. In the first season of the campaign, Michelin star chefs used overly complex recipes. In the more recent seasons, the Commission selected other chefs, known from TV, books, and social media. In the case of the recipe of the video, the recipe did not take a long time and the treatment of the fish was simple. There was also a concern with the visually appealing visuals for social media. As for sustainability, the Commission focused on the sustainability of the products.

Patrick Murphy (IS&WFPO) emphasised that the target audience should be children and that the recipes should be simpler.

Juana Maria Parada Guinaldo (OR.PA.GU) argued that frozen fish should not be excluded for the campaign, as it is a conservation method, and it does not affect the sustainability of the product.

Christine Absil (Good Fish) asked how the chefs are selected and how the sustainability of the products is verified. Ms Absil recalled the experience of her own organisation and the difficulty with working with chefs, since the aim is to combine sustainability with seasonality, while chefs with experience in seafood sometimes use endangered species in their recipes.

Yannis Pelekanakis (FEAP) asked about the market studies undertaken for the campaign, as consumers tend to prefer simple recipes or ready-made meals. Mr Pelekanakis also asked about how the campaign was integrated with the promotional campaigns of the Commission directed at agricultural products.

Jennifer Reeves (MSC) argued that the criteria of selection for the recipes are arbitrary, misleading and can even lead to greenwashing. Ms Reeves agreed with Ms Parada that frozen products should be covered. She added that it only promotes the public EU ecolabels.



Charlotte Gugenheim (DG MARE) replied that the presentation of a video with fresh fish did not mean that frozen products were not included. The selection of the chefs took place with the assistance of the Commission's representation offices in each Member State, plus the assistance from a contractor, including "background checks" on the sustainability approach of the chefs. A small fee was paid to each chef for their work. The Commission tried to avoid recipes that require expensive fish. The focus was on fish that is sustainable. Certain species can be sustainable in one Member State, but not in another one. Concerning the connection with other campaigns, in the case of the aquaculture products, there will be a connection to the campaign foreseen in the strategic guidelines for EU aquaculture production, even though the campaigns will be separate. In terms of origin, the fish is of EU origin and locally sourced. As there is not a single EU label, it would be complex to focus on the use of labels.

Jennifer Reeves (MSC) underscored that the campaign promoted the EU ecolabel. The campaign should use sustainability labels and ecolabels that cover sustainability aspects.

Charlotte Gugenheim (DG MARE) replied that it was important to have simple messaging for consumers.

Roberto Alonso (ANFACO-CECOPECA) asked for information on the budget of the campaign and reemphasised the importance of "emotions" when communicating to consumers. Mr Alonso argued that the campaign should include fresh, frozen, and canned products.

Charlotte Gugenheim (DG MARE) informed that the budget for the third edition was 150.000€. The campaign was covering all kinds of fish products. "Emotions" were being transmitted through the chefs and the influencers. The Commission representative added that shorter versions of the videos were available for sharing on social media.

The Chair emphasised that members were favourable to awareness-raising campaigns. The Chair suggested that it would be useful for the Commission services to consult the MAC prior to the campaigns to receive feedback.

Yobana Bermúdez (AIPCE) recognised the good intention of the campaign. Ms Bermúdez highlighted that some of the chefs called for a reduction of imports, when the reality was that not all of the EU has access to local fish. Therefore, it was important to avoid a contradictory message that leads to a reduction in the consumption of fishery and aquaculture products.

Roberto Alonso (ANFACO-CECOPECA) argued that the MAC should recommend to DG MARE to increase the budget foreseen for the promotional campaign.



Alessandra Portis (DG MARE) informed that the budget was replicated for each season. The campaign did not replace national campaigns. Ms Portis expressed interest in hearing about the campaigns taking place at the national level.

The Chair asked whether the awareness campaign would take place every year.

Alessandra Portis (DG MARE) replied that the campaign would cover all the Member States. After that, it was not known when the next season would take place.

Miguel Lizaso (DG MARE) expressed support for the launch of an EU campaign and encouraged the members to use the available materials and provide support.

Patrick Murphy (IS&WFPO) disagreed with potential views that products from bottom trawling would not be sustainable.

Jennifer Reeves (MSC) emphasised that the campaign needs to look at the data of each activity.

Cell-Based Protein of Aquatic Animals

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

The Secretary General recalled that a questionnaire was circulated from 8 to 17 May 2023. The Secretary General added that replies were received from ALIF, FEDEPESCA, Conxemar, FEAP, MSC, ADEPALE, OPP Burela, and European Fishmeal, plus preliminary feedback from ADEPALE.

- **Consideration of draft advice**
- **Way forward**

The Working Group agreed on the draft advice on cell-based protein of aquatic animals.

Substantiation and Communication of Explicit Environmental Claims

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

The Secretary General recalled that a questionnaire was circulated from 30 August to 8 September 2023. The Secretary General added that replies were received from European Fishmeal, Oceana, ADEPALE, FEAP, EuroCommerce, MSC, and Conxemar, plus preliminary feedback from EAPO.

- **Consideration of draft advice**

The Secretary General presented the draft advice to the members, providing an overview of the nine sections of the text:



1. Background of the proposal
2. Requirements on substantiation of environmental claims (Article 3)
3. Requirements on substantiation of environmental claims (Article 4) (additional requirements for the comparative claims)
4. Requirements on communication of environmental claims (Article 5)
5. Provisions on environmental labels and labelling schemes
6. Ex-ante verification of environmental claims and labelling schemes (Article 10 & 11)
7. Small and medium sized enterprises (exemption for micro-enterprises and special measures for SMEs)
8. Enforcement of provisions
9. Recommendations

The Working Group proceeded with the consideration of section 9 “recommendations”.

Paul Thomas (EAPO) requested a clarification on the purpose of draft recommendation d) on the reinforcement of the principle of mutual recognition within the Single Market, which was based on feedback from EuroCommerce.

Jennifer Reeves (MSC) also requested a clarification of draft recommendation d).

Sofia Ghezzi (EuroCommerce) clarified that the principle of mutual recognition referred to Article 10.8 of the legislative proposal. This Article provides the possibility for Member States’ authorities to challenge the certificate of conformity without further specification. Ms Ghezzi expressed concern that the provision would allow for many different assessments of the certificate of conformity across different authorities. She added that the Commission services were aware of the issue and were willing to correct it via additional specifications on the possibility to challenge the certificate of conformity.

Paul Thomas (EAPO), concerning draft recommendation e) on “safe harbour” provisions, suggested adding “in a similar manner, create a shared secondary information database to facilitate the implementation and substantiation of green claims for SMEs without increasing the administrative burden”.

Pierre Commère (ADEPALE) asked for clarification on the term “safe harbour provisions”.

The Secretary General informed that the term came from EuroCommerce.

Quentin Marchais (ClientEarth) also asked for clarification on the meaning of the recommendation, since, if was an exemption from the directive, his organisation would be against.

Vanya Vulperhorst (Oceana) expressed the same position as Mr Marchais..



Paul Thomas (EAPO) explained that, from the perspective of his organisation, it would mean some kind of share database for methodology, but added that more clarification was needed.

Vanya Vulperhorst (Oceana) added that the addition about not increasing the administrative burden SMEs was somewhat counterintuitive. If companies use the word “sustainable” on a product, there must be evidence and documentation to demonstrate it. Therefore, her organisation would be against exemptions.

Jennifer Reeves (MSC) expressed concerns on the use of secondary data, explaining that there are number of examples where the use of secondary data can be misleading and lead to further greenwashing. Ms Reeves added that, if secondary data is used, it is necessary to consider why it is used and there should be incentives and requirements to collect primary data. She further explained that the work on the Product Environmental Footprint Category Rules for fishery products showed that, in many cases, if there is insufficient primary data, secondary data can be used, but a lower scoring is provided. Even then, secondary data can mean that it is the same fish species but caught in a different area with different implications in terms of scoring and sustainability. She emphasised that claims should be based on primary data and on evidence of the specific activity, to avoid the risk of greenwashing.

Paul Thomas (EAPO) explained that, when looking at the fishing sector, there can be many operators on the production side, so collecting primary data on all the fishing vessels could be complicated to implement. Therefore, Mr Thomas argued that the use of secondary data would allow for SMEs to use them to substantiate their green claims. He added that he understands the question on the quality insurance related to the secondary data.

Jennifer Reeves (MSC) expressed understanding for the difficulty and the cost to collect primary data and proposed, as a compromise, to include some requirements and incentives to collect them.

María Luisa Álvarez Blanco (FEDEPESCA), in terms of administrative burden, underscored the importance of finding a balance for microenterprises. Otherwise, smaller operators would be expelled from the market, while only the larger companies would remain in the market. The larger companies have increased funding and management abilities. For small operators, it was rather difficult to deal with the bureaucratic workload connected to legal requirements. This meant that smaller operators were not able to demonstrate that they were sustainable, while economic power was increasingly concentrated in large companies.

Jennifer Reeves (MSC), in relation to a potential provision of “safe harbour”, stated that a company must register their claim in the country of its legal registration. Otherwise, there was a risk of “window shopping” for the Member States with the weakest implementation. Ms Reeves added that, if such a reference was included with the “safe harbour” provision, then it would be acceptable.



Sofia Ghezzi (EuroCommerce) agreed on the necessity to avoid “window shopping”.

Quentin Marchais (ClientEarth), concerning draft recommendation g) on avoidance of duplication of effort, asked for clarification on the meaning of “second verification”.

The Secretary General responded that, from his understanding, when a trader wants to make a claim, they need to apply for this verification to prove it. Therefore, if someone already proved the claim, other people could use the same claim without going through the process all over again.

Jennifer Reeves (MSC) explained that recommendation g) was based on input from her organisation, but agreed that additional clarification is needed on the fact that there is a licencing procedures and agreements otherwise it will not be prescriptive enough.

Quentin Marchais (ClientEarth) agreed with Ms Reeves that further details should be added.

Patrick Murphy (IS&WFPO), concerning draft recommendation h) on further strengthening provisions on environmental schemes, disagreed with the use of the term “continuous improvement” and with the mandatory nature of the improvement. Mr Murphy asked for clarification on the meaning of the mentioned expression.

Jennifer Reeves (MSC) clarified that the purpose was to avoid outdated standards and for the standards to be up to date with the latest science and technology.

Patrick Murphy (IS&WFPO) asked to replace the word “improvement” with “review”.

Paul Thomas (EAPO) suggested to add a new recommendation reading “ensure the certificate of conformity is widely known by European consumers to limit potential abuse from microenterprises that are not subject to the directive”. Mr Thomas highlighted that microenterprises are not covered by the directive and could make green claims without having to substantiate. Therefore, the difference between a product coming from a microenterprise and a product coming from another company, for example a multinational, would be the certificate of conformity. Therefore, it was important to communicate about the certificate of conformity.

Jennifer Reeves (MSC) agreed with the point but was not certain on how it would be regulated and monitored therefore leading to risks. Ms Reeves argued that it would be unfair that small vessels could make claims without verification, which could lead to retailers making claims for multiple small vessels without verifications.

Bruno Guillaumie (EMPA) agreed with the comment but added that the problem is the labelling. Mr Guillaumie suggested to include the certifying entity on the label (“certified by”) and microenterprises that did not go through this certification will not be able to include it on the label.



He concluded that it would then differentiate the two products and the consumers would be informed about that.

María Luisa Álvarez Blanco (FEDEPESCA) emphasised that microenterprises meant enterprises with less than ten employees. Ms Álvarez argued that there must be a balance between avoiding the mentioned risks and the covered volumes. In the case of small traditional fishmongers, most operators had turnovers of less than 300.000€ per year. At a certain point, very small companies will not be able to demonstrate their good work, since it would be too expensive and burdensome.

Vanya Vulperhorst (Oceana) requested to have a discussion on the scope of the directive. Ms Vulperhorst explained that the aim of the directive is not to have claims that are not supported by evidence. Therefore, she questioned the exclusion of microenterprises and SMEs from the scope. She added that Oceana would be in favour of a wider scope. Otherwise, there would continue to be misleading claims present in the market.

The Secretary General proposed to reflect, in the main text of the draft advice, the difference in members' opinions regarding the scope of the directive.

Jennifer Reeves (MSC) agreed to highlight in the advice the risk of exclusion of microenterprises and SMEs from the scope. Ms Reeves suggested the addition of a system of simpler verification method, funding and support for microenterprises, instead of an exclusion from the scope that could undermine the purpose of the directive.

Quentin Marchais (ClientEarth) expressed agreement with Mr Vulperhorst on the scope.

María Luisa Álvarez Blanco (FEDEPESCA) recalled that the companies that introduced sustainability certification in the market were not microenterprises. In her view, this might explain why the Commission believed that there was a bigger risk with larger enterprises.

Sofia Ghezzi (EuroCommerce) recalled that microenterprises are excluded from the scope but not SMEs. Ms Ghezzi emphasised the significant and costly burden that the verification process represented for microenterprises. There would still be verifications by national authorities to avoid greenwashing. Therefore, EuroCommerce was supportive of the exemption for microenterprises.

Paul Thomas (EAPO) proposed a new recommendation that read “facilitate the use of secondary information use when claims need to be substantiated by large sets of suppliers as it is the case for fisheries and aquaculture”. Mr Thomas explained that the need to monitor and measure primary data could be complex and expensive. He offered to develop better wording for the suggested recommendation with the assistance of Ms Reeves.



Quentin Marchais (ClientEarth), concerning draft recommendation m) on improving the provisions on enforcement, called for the use of a more neutral word to replace “improve”, since there might not be agreement that the transition should be reduced or increased.

The Secretary General explained that the purpose would be for the Commission, the Member States and the Parliament to change the text of the proposal to make it more in line with the MAC’s views on enforcement, deadlines, etc., which the MAC believed to be improvements to the text.

Quentin Marchais (ClientEarth) stated that it would be preferable to reach agreement on the main text before agreeing on recommendation m).

Paul Thomas (EAPO) suggested to a new recommendation reading “ensure equal implementation of the directive across the EU but also across international supply chains to guarantee a level playing field”, plus a recommendation reading “clarify the status of imported products within the value chain and the connection between the legislation of the country of origin and that of the EU, particularly regarding the possibility of making environmental claims that surpass the standards of the country of origin but fall below those of the EU”. Mr Thomas argued that more information was needed on how the directive would apply to the international supply.

Pierre Commère (ADEPALE) argued that there was a lack of coherence between the end of the third paragraph of the draft text, which emphasises the difficulty in implementation to imported products, and the fifth paragraph that expresses satisfaction that the same rules apply to third countries. Mr Commère suggested to consider the main text before approving these recommendations.

Jennifer Reeves (MSC) commented that the legislative proposal was part of the package on corporate sustainability and due diligence that would apply to the whole supply chain.

Paul Thomas (EAPO) suggested to include a reference to the legislative package.

The Working Group proceeded with the consideration of the main text.

Jennifer Reeves (MSC), concerning section 2 “requirements on substantiation of environmental claims (Article 3)”, asked if EuroCommerce believes that the methodology is outlined in the mutual recognition.

Sofia Ghezzi (EuroCommerce) explained that it referred to the mutual recognition of the certificate of conformity.

Jennifer Reeves (MSC) suggested to split the sentences, meaning that there would be one sentence on the methodology and another on the certificate of conformity.



The Secretary General recalled that an explanation was already provided by EuroCommerce on “safe harbour” provision.

Vanya Vulperhorst (Oceana) suggested the addition of a footnote on the definition of “safe harbour”, plus additional time to consider the matter.

The Secretary General expressed agreement with Ms Vulperhorst, adding that he would consult with EuroCommerce on the text of the footnote.

Sofia Ghezzi (EuroCommerce) clarified that Article 10.8 of the proposed directive refers to the certificate of conformity and the mutual recognition, while “safe harbour” would be a new article granting presumption of conformity. In her view, iff there is an agreement with EU legislators and that there is a specific delegated act, then there is no necessity to go through a lengthy ex-ante verification process.

Quentin Marchais (ClientEarth) also suggested more time to reflect on that.

Paul Thomas (EAPO) suggested to have a specific meeting regarding the details of the draft advice with the interested members.

The Secretary General expressed support for Mr Thomas’s suggestion, adding that he would organise an informal meeting with the members that expressed the most interest in the text. The text would be formally circulated again in November 2023 for all members to consider.

María Luisa Álvarez Blanco (FEDEPESCA) requested for the informal meeting to take place online.

Jennifer Reeves (MSC) expressed concern about the reduction in impact of the advice, if there was a delay until November, as the consideration of the proposal by the co-legislators was already in an advanced stage.

The Secretary General explained that it would be difficult to proceed faster, since there were several divergences among the members on the content of the text.

Paul Thomas (EAPO) asked whether the draft advice could be put forward for approval by the Executive Committee via written procedure before the November meetings.

The Secretary General proposed to convene an informal meeting with the interested members and, afterward, to submit the draft advice to a written procedure for consideration and approval. If there was a significant amount of reactions, then a discussion could be scheduled for the November 2023 meeting.



Vanya Vulperhorst (Oceana), on the reference to “particularly for small companies” suggested to be more precise in the text, since her organisation would not agree to an exemption for SMEs.

Pierre Commère (ADEPALE) informed that he would need to check internally on that reference.

Quentin Marchais (ClientEarth), concerning subsection 2.1 “recognised scientific evidence and state of the art technical knowledge”, suggested to delete the last part of the sentence.

Sofia Ghezzi (EuroCommerce) stated that, in principle, she would not oppose Mr Marchais’s request, but added that she would check internally.

Vanya Vulperhorst (Oceana), concerning subsection 2.2 “demonstration of significance of impacts, aspects and performance”, explained that, in her view, the purpose of the directive was not to create added value for a product, but to ensure that there is evidence of the product’s sustainability. Ms Vulperhorst recognised that there would be additional costs. She suggested to rephrase the last sentence of the first paragraph or to delete it.

Jennifer Reeves (MSC) explained that the mentioned sentence referred to the “life cycle assessment” process and highlighted that it was an additional cost. Ms Reeves added that there are other methodologies to substantiate a claim without going through a “life cycle assessment”. She explained that the Commission appeared to be promoting “life cycle assessment” approach for everything, whereas it was not always the most appropriate methodology, as seen during the MAC’s work on the Product Environmental Footprint Category Rules.

John Lynch (ISEFPO) commented that there are added costs for the producers to prove compliance to any directive. Mr Lynch added that it does not always lead to benefits for the producer and agreed on keeping the sentence as it is.

Gaëtane Le Breuil (European Fishmeal) emphasised the very significant time and costs for a company to collect information throughout the value chain, even though it was, sometimes, without benefits. Ms Le Breuil recognised that the purpose of the directive was not to create added value for the products, but argued that, if there are costs for the companies, there should be a process of valorisation of the products. She agreed to work on a rewording of the sentence.

Jennifer Reeves (MSC) stated that the background of the directive was also to remove broad and general statements from the market, such as “sustainably fished”. The proposed directive refers to explicit environmental claims to target environmental sustainability.

Vanya Vulperhorst (Oceana) expressed agreement with a specification, in the last sentence, that the text referred to “life cycle assessment” processes.



Bruno Guillaumie (EMPA) underscored that the discussion was about producers, processors, and retailers. If it is a retailer or a processor that chooses to substantiate a claim, it should be on them to demonstrate, including on the producer's level, that the cycles are respective. It should not be for the producer to do this, except in the case of direct sales. Mr Guillaumie argued that small producers would do a cost/benefits analysis and that, if it costs outweigh the benefits, then they would not do it. He further argued that the advice should be specific that it concerns processors and retailers.

María Luisa Álvarez Blanco (FEDEPESCA) responded that the trader would be requesting for the producer to be certified, pushing the cost on the producer.

- **Way forward**

The Secretary General concluded that an informal meeting with the most active members would be convened to further analyse the pending points. Afterward, the draft advice would be formally circulated, via written procedure, to the Working Group for consideration. If there was agreement, the text would be put forward to the Executive Committee for adoption. If there were significant changes to the draft text, then a discussion would be scheduled for the November 2023 meeting.

Hygiene and Sanitary Issues

- **Update on the 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.

The Chair recalled that, at the previous meeting, it was agreed, as an action point, to follow up on the topic, so Mr Pyjor would provide an update.

Tomasz Pyjor (PSPR) explained that stiffening is related to an amendment to Regulation (EC) No 853/2004. Stiffening consists of semi-freezing smoked fillets to the temperature range of -7 ° C to -14°C to stiffen them prior to slicing. Mr Pyjor highlighted that there had been an earlier proposal for amendments but that, a few days prior to the meeting, changes were made, and processed fishery products were explicitly included. For context, he outlined that, a while ago, there were other amendments to the Regulation, such as the addition of the term “super chilling”, among other changes, based on experience and new scientific advice from EFSA. In his view, the inclusion of processed fishery products was not based in facts or scientific opinions, even though it was an important change for the industry.

Mr Pyjor recalled that AIPCE-CEP sent a letter to the Commission services with several questions about the amendment, but, in his view, the reply to the letter did not provide sufficient information to understand the reasoning behind it and the consequences. In the meantime, PSPR met with the



Commission services on the subject to present the result of a test and scientific results from an external laboratory, which showed that there is no safety risk from stiffening. PSPR also showed the scale of the self-control and the RASFF results. During the period of May 2018 to 2023, there were 116 RASFF notifications for smoked due to *Listeria monocytogenes*. Only two of the notifications related to Polish factories using the stiffening method, even though they produce 33% of all smoked fish products in Europe. Therefore, these factories had 30 times better results than the rest of the industry. He added that the Commission services acknowledged the excellent results. As such, the issue did not seem to be food safety.

Mr Pyjor explained that the purpose of the meeting with the Commission services was to discuss the results of the scientific testing, to request again an EFSA opinion, to discuss the results of the public consultation, to include the sector in the dialogue, and to request a fact-finding mission to the biggest, in the EU and in the world, salmon processing factories located in Poland. In the same day of that meeting, there was a meeting of the Commission's expert group that is debating stiffening. He argued that there is a common misunderstanding of what "fresh fishery products" is, because many believe it is "chilled", whereas fresh fishery products correspond to unprocessed fishery products. According to him, the French administration recognises that the Regulation does regulate the temperatures for processed fishery products. The Commission replied to PSPR that "saying that processed fishery products have no temperature requirements is not correct", which would imply that fresh products include processed products, which, in his view, is a false argument.

Mr Pyjor mentioned that it was possible for the internal temperature of products to be established by food operators. He drew attention to the consequences of the proposed amendment with the example of smoked salmon. It is a common claim that 24h or 96h was sufficient time for the managing of the products, but there could be 7 to 8 days storage after smoking and before slicing. Storage at this temperature was riskier than the practices of the Polish industry, because the temperature is around 0. In France, the storage of ready products after packing at a temperature of -2°C to -3°C was allowed.

Mr Pyjor underscored that the Polish sector had reservations concerning the amendment proposed by the Commission. In his view, there were misconceptions concerning the stiffening processing. At the 7 July 2023 meeting of experts, the experts were informed that stiffening is a technological process that involves thawing products, meaning raising their temperature from -18°C. However, stiffening is the opposite process. There are claims that 96h was not based on scientific data, when it is based on the code of good practices of EFSA. PSPR presented data about the safety of the process and is confident about these, asking the Commission services to justify their amendments and to request a scientific opinion from EFSA, which the Commission continues to refuse. In the case of "super chilling" (storage and transport of fishery products at -0.5° to -2°), a scientific opinion from EFSA was requested by the Commission.



Mr Pyjor argued that there is a need for a “buffer”, since the amendment concerns an important industry and significant employment. Concerning temperature, according to the Commission services, everything between 0°C and -18°C should be within 96h for the slicing, but the practice of the -2°C and -3°C already exists in France. The Polish industry has asked for *vacatio legis* to postpone the implementation, if the amendment is adopted. He emphasised that the Polish industry was not against a time limit, but that it must be justified and for the benefit of food safety. Therefore, the Polish proposed for the MAC to address the following the following questioning to the European Commission/DG SANTE: “Why does the process of regulating stiffening and thawing differs from the process of regulating super chilling? Both create exemptions from the temperature regime of 0 to -18°C”.

- **Exchange of views**

Pierre Commère (ADEPALE) stated that, at the level of the Member States, the subject was closed, since the expert group already voted on the matter. 26 Member States have the same opinion, while one Member State, Poland, has a different opinion. The text, as proposed, was voted and was following the legislative process. Mr Commère explained that the Commission’s reply to AIPCE was done via an email exchange, and he recognised that the reply lacked substance. In the wording of the letter, AIPCE was cautious to avoid promoting practices that are against the EU’s regulatory framework. The Commission simply replied that, if AIPCE is against such practices, it must support the proposal.

Mr Commère explained that there is a complete crystallisation of products with a temperature between -7°C and -12°C without reaching the freezing temperature of -18°C. There is a legal debate about the matter. The Commission estimates that these products are in the framework, in the same line as the Codex, while Poland believes that these are not. In the case of stiffening, there is a complete hardening of the products, while, for “super chilling”, there is a partial crystallisation, meaning that the products are still considered as nearly fresh products.

Jarek Zieliński (PFPA) asked Mr Commère if his intervention was on behalf of AIPCE or ADEPALE.

Pierre Commère (ADEPALE) clarified that he was speaking on behalf of ADEPALE, but that he was referencing the Commission’s reply to the letter of AIPCE, which had not been mentioned by Mr Pyjor, even though they had both seen it.

Jarek Zieliński (PFPA) argued that the discussions were not closed, as votes had not taken place, and there would be another meeting of the expert group on 3 October. In his view, Poland was a whistleblower in the process. There were three pillars to highlight: transparency, level-playing-field, and precedent setting in the EU’s legislative process. On transparency, Mr Zieliński argued that the European Salmon Smokers Association would not be able to become a member of the MAC, because



it was a lobbying company, not an association. The opinion of a recognised association, like PSPR, was being compared with the opinion of a lobbying company.

Mr Zieliński stated that the amendment on super chilling included very precise indications on the temperature allowed (-0.5°C and -2°C), the processes and the materials, and EFSA scientific opinion. In the case of stiffening, in the first amendment proposal of the Commission of December 2022, there were references to temperature and descriptions, but no opinion from EFSA. In March 2023, the reference to temperatures was removed, while additional procedure of thawing were added. The process of thawing corresponded to the increase of the temperature of the products stored in -18°C . In the proposal, stiffening and thawing would be in the same regulation, even though these are completely opposite processes. In the case of thawing, there were less precisions than for well known stiffening, so he questioned the risk for food safety. In terms of biohazards, comparing to the “super chilling” provisions, there were clear indications of the temperatures and of the derogations, while that was not the case for thawing.

On the level-playing-field, Mr Zieliński drew attention to a national derogation beneficial to the French industry for storing processed products, namely smoked salmon fillets, for an unlimited time at the temperature of -2°C and -3°C . The Polish industry is using -7°C to -10°C . According to European Salmon Smokers Association Guide, lowering the temperature to -11°C is not freezing and it is still a fresh product. For the Polish industry, it would not be a problem to label their products as “defrosted”, after 96 hours, as requested by the European Salmon Smokers Association’s guide. In the view of the Polish industry, the legislative procedure was driven by the French industry due to being pushed out of the German market by the Polish industry, which is able to produce 200 million portions of a cold smoked and sliced salmon a year. The Polish industry would like to provide that the combination of stiffening and hard slicing procedures developed by them were an innovative development of the stiffening procedure developed 20 years ago.

Mr Zieliński suggested for the MAC to invite representatives of DG SANTE or DG MARE to clarify the three pillars mentioned and to hold an exchange of views. He expressed concerns about the fact that DG SANTE requested an opinion from EFSA for “super chilling”, but not for stiffening and that, suddenly, thawing was included too without an opinion from EFSA.

The Chair emphasised that a discussion on the matter already took place, so, in his view, it would not be appropriate to request Commission representatives to come back on the matter. Nevertheless, he was favourable to the involvement of EFSA via a request from the MAC.

Miguel Lizaso (DG MARE) highlighted that the matter under discussion was quite complex, involving different countries, different institutions, and different associations. In a previous occasion, he had been asked to raise the questions of AIPCE to DG SANTE. It was always rather difficult to create exemptions to general rules. DG MARE participated in the process, but the decision would come from



DG SANTE. In his view, it would be difficult to support the proposed request to the Commission representatives to come back on the matter, since DG SANTE already replied and met with the concerned associations.

Tomasz Pyjor (PSPR), in response to Mr Commère's intervention, argued that the Polish industry was doing high quality work and, instead of being rewarded, it was being punished. Mr Pyjor questioned Mr Commère's assertion that the topic closed, since there would be a meeting of the experts on 3 October. He argued that there was a difference of treatment in relation to EFSA. In his view, lawyers would be needed, since the Commission was acting as the "only judge". As for Poland being the only Member State against the legislative amendment, he had the impression that the experts from the other Member States were not familiar or interested by the subject. As for partial crystallisation, he added that he did not understand Mr Commère's argument, as "crystallisation point" does not exist in EU law, and it was not documented, while the arguments of PSPR were well documented.

- **Way forward**

The Chair proposed the circulation of a draft letter to the Executive Committee addressed to Commission services, which would be focused on the lack of a scientific opinion from EFSA.

AOB

None.



Summary of action points

- “Taste the Ocean” Campaign:
 - Secretariat to circulate a questionnaire to the members on existing awareness campaigns at the national level as well as to collect suggestions for other potential EU-level campaigns
- Cell-Based Protein of Aquatic Animals:
 - Agreed draft advice to be put forward to the Executive Committee for consideration and potential adoption
- Substantiation and Communication of Explicit Environmental Claims:
 - Secretary General to hold an informal meeting with the most interested members to further analyse the draft advice, which will be followed by a written procedure for consideration by the Working Group
 - In case of significant comments under the written procedure, draft advice to be considered again in a future meeting of the Working Group
- Hygiene and Sanitary Issues:
 - Draft letter, addressed to be Commission services, on the lack of a scientific opinion from EFSA in the context of the legislative amendment affecting the stiffening procedure to be put forward to the Executive Committee via written procedure



Attendance List

Representative	Organisation	Role
Adien Simonet	Union du Mareyage Français (UMF)	Member
Alessandra Portis	European Commission	Expert
Alexandra Philippe	Market Advisory Council (MAC)	Secretariat
Alexandre Bonneau	Syndicat National du Commerce Extérieur des produits congelés et surgelés (SNCE)	Member
Anna Rokicka	Polish Association of Fish Processors (PSPR)	Member
Aodh O'Donnell	Irish Fish Producers Organisation (IFPO)	Member
Benoît Thomassen	Federation of European Aquaculture Producers (FEAP)	Chair
Charlotte Gugenheim	European Commission	Expert
Christine Absil	Good Fish Foundation	Member
Eduardo Míguez López	Puerto de Celeiro	Member
Gaëtane Le Breuil	European Fishmeal	Member
Georg Werner	Environmental Justice Foundation (EJF)	Member
Jaroslaw Zieliński	Polish Fish Producers Association (PFPA)	Member
Jean-Marie Robert	Les Pêcheurs de Bretagne	Member
Jennifer Reeves	Marine Stewardship Council (MSC)	Member
Jens Mathiesen	Danish Seafood Association	Member
John Lynch	Irish South and East Fish Producers Organisation (ISEFPO)	Member
José Basílio Otero	Federación Nacional de Cofradías de Pescadores	Member
Juan Manuel Elices López	Spain	Observer
Juan Manuel Trujillo Castillo	ETF	Member
Juana Maria Parada Guinaldo	OR.PA.GU.	Member
Laure Guillevic	WWF	Member
María Luisa Álvarez Blanco	FEDEPESCA	Member
Mariano García García	Federación Andaluza de Cofradías de Pescadores (FACOPE)	Member
Miguel Lizaso	European Commission	Expert





Market Advisory Council

Representative	Organisation	Role
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
Quentin Marchais	ClientEarth	Member
Roberto Carlos Alonso	ANFACO-CECOPECA	Member
Rosalie Tukker	Europêche	Member
Sergio López García	OPP Burela	Member
Sofia Ghezzi	EuroCommerce	Member
Tomas Pyjor	Polish Association of Fish Processors (PSPR)	Member
Vanya Vulperhorst	Oceana	Member
Yannis Pelekanakis	Federation of European Aquaculture Producers (FEAP)	Member
Yobana Bermúdez	EU Fish Processors and Traders Association (AIPCE)	Member

