

INCEPTION IMPACT ASSESSMENT

Inception Impact Assessments aim to inform citizens and stakeholders about the Commission's plans in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are in particular invited to provide views on the Commission's understanding of the problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Review of the marketing standards framework for fishery and aquaculture products ¹
LEAD DG (RESPONSIBLE UNIT)	MARE – A4 (Economic Analysis, Markets and Impact Assessment)
LIKELY TYPE OF INITIATIVE	Legislative proposal
INDICATIVE PLANNING	End of 2020 (tbc)
ADDITIONAL INFORMATION	https://ec.europa.eu/fisheries/cfp/market_en

The Inception Impact Assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by the Inception impact assessment, including its timing, are subject to change.

A. Context, Problem definition and Subsidiarity Check

Context

The common organisation of the markets (the 'CMO') is the EU policy for managing the market in fishery and aquaculture products. It is an integral part of the Common Fisheries Policy¹ (CFP) and contributes to its objectives. One measure established under the CMO is regulatory marketing standards for fishery and aquaculture products. The current common marketing standards (all of which have existed for more than 20 years) lay down uniform characteristics for certain fishery products sold in the EU, whatever their origin, and are applied in accordance with conservation rules. Updated objectives of EU marketing standards² are set out in the CMO Regulation³:

- to enable the EU market to be supplied with sustainable products;
- to allow the full potential of the internal market in fishery and aquaculture products to be realised;
- to help to improve the profitability of production by facilitating marketing activities based on fair competition; and
- to ensure that imported products comply with the same requirements and marketing standards that Union producers have to comply with.

Previously existing marketing standards remained unchanged following the adoption of the current CMO Regulation. Furthermore, the CMO Regulation committed the Commission to preparing a feasibility report for an EU ecolabel scheme for fishery and aquaculture products. The report was adopted by the Commission on 18 May 2016⁴. The Council did not prepare any conclusions, however, and the European Parliament's PECH Committee decided not to take any action on the report, so the initiative did not proceed any further.

In 2018-2019, an evaluation of the implementation of the marketing standards was carried out to assess whether the existing marketing standards were still fit for purpose. The results of the evaluation are set out in a Commission Staff Working Paper⁵. The evaluation was informed by an external study⁶.

The evaluation identified significant shortcomings regarding the effectiveness of the current marketing standards framework in achieving the objectives set out in the current CMO Regulation. In particular, the current marketing standards are not sufficient to deliver on the objective of enabling the EU market to be provided with sustainable products. Consequently, revision of the marketing standards could form part of initiatives under the Green Deal and, more specifically, the Farm to Fork strategy for a fair, healthy and environmentally-friendly food system.

Problem the initiative aims to tackle

¹ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC

According to the evaluation mentioned above, the current marketing standards are a business-to-business tool that has positive, but marginal, value. It identified shortcomings in the marketing standards framework, however, in terms of its ability to effectively achieve the objectives of the CMO Regulation. More specifically, the evaluation identified the following key underlying issues in the current marketing standards framework:

- limited contribution to the sustainability (environmental, social, economic) of products marketed in the EU;
- restricted scope in terms of products covered (currently only 13% of total imports and up to 40% of EU landings, no aquaculture products covered);
- limited contribution to fair competition, including on environmental and social aspects;
- need for more transparency along the whole supply chain, including towards consumers.

Furthermore, the evaluation indicated a low level of control by national authorities to ensure compliance with the current standards.

The public consultation and targeted stakeholder consultations underpinning the external evaluation study indicated that respondents from certain stakeholder categories (consumers, retailers and NGOs) call for the sustainability aspect to be better and more transparently addressed, while respondents from the fisheries sector emphasise the importance of improving the level playing field. These findings need to be further substantiated in consultations during the impact assessment process.

Failure to better meet the sustainability objective must also be seen in a context where market demand for product sustainability is increasing, leading to a potentially confusing proliferation of private initiatives (currently more than 50), each with its own sustainability criteria.

The evaluation also identified a number of technical shortcomings in the current standards. These concern:

- a certain lack of harmonisation due to insufficient transparency of additional national measures;
- inconsistencies between the current marketing standards and the FAO Codex standard;
- lack of alignment between the list of species covered by minimum marketing size under the existing marketing standards and the species subject to minimum conservation reference sizes under the CFP;
- identified lack of quality criteria for certain processed products, in particular fish sticks;
- outdated freshness categories based on overly subjective criteria.

Basis for EU intervention (legal basis and subsidiarity check)

The legal basis for revised marketing standards for fishery and aquaculture products is Article 43(2) of the Treaty on the Functioning of the European Union (TFEU) on establishing the common organisation of agricultural markets provided for in Article 40(1) TFEU and the other provisions necessary for the pursuit of the objectives of the common agricultural policy and the common fisheries policy. According to Article 3.1(d) TFEU, the EU has exclusive competence in the conservation of marine biological resources under the CFP, and therefore the subsidiarity principle does not apply.

B. Objectives and Policy options

This initiative aims to address the shortcomings identified above, particularly the less than fully effective contribution to the CMO's objectives of enabling the market to be supplied with sustainable products and helping to achieve a level playing field. The initiative should also address the technical issues around the current standards that were identified in the evaluation.

The following preliminary policy options are considered (option 2 and 3 being cumulative):

- Option 1: no policy change. This amounts to keeping the marketing standards unchanged. This scenario represents the baseline against which to assess the impacts of the other proposed policy options.
- Option 2: moderate reform of the marketing standards, focusing on addressing the technical issues identified in the evaluation and simplifying the standards, where possible. This option aims to streamline the current standards and address the technical shortcomings listed in the last paragraph of section A.
- Option 3: extensive reform of the marketing standards. This option amounts to adding a sustainability component, in line with the Farm to Fork Strategy, to the changes envisaged under Option 2.
A number of aspects will have to be considered under this option:
 - scope in terms of products covered (fishery/aquaculture; EU products/imports);
 - dimensions of the sustainability component (environmental/social/economic);
 - coverage and transparency across the supply chain (voluntary/mandatory; applicable to part of/full supply chain, incl. consumers and potential labelling requirements).
- Option 4: discontinue the marketing standards. Given the positive but marginal value of the current standards, a possible option would be to discontinue the current marketing standards, for the sake of simplification. This would obviously prevent options 2 and 3 from being pursued.

C. Preliminary Assessment of Expected Impacts
At this stage, it is difficult to assess the expected impacts of each option against the baseline option 1. There is still a lack of relevant information and necessary data, in particular regarding the sustainability component.
Likely economic impacts
The likely impact of option 2 would be a more level playing field for fishery and aquaculture products. This could have a positive impact on EU <u>producers</u> , as imports and domestic production would be treated in a non-discriminatory manner and would be covered by the marketing standards (particularly processed and frozen products). In the case of option 3 (assuming it would also cover imports), there could be repercussions for EU <u>processors</u> , since most processors rely on imports. It is not clear if this would result in any cost increases for processors and if this would be passed on to consumers, especially if import prices increased only slightly. In any event, the option would need to be WTO compatible and take into account developments at international level. As regards option 4 (abolish the marketing standards), the evaluation found no evidence that it would be more cost-efficient to discontinue the marketing standards, since actual costs for operators and controls are marginal, and the existing standards are now fully integrated into the supply chain.
Likely social impacts
No impact expected for option 2 as it does not entail social aspects. Option 3 could have a positive social impact if the social sustainability dimension is integrated into the revised marketing standards. Option 4 would not have a noticeable social impact, as the current standards do not affect social aspects.
Likely environmental impacts
No impact expected for option 2, as it would not involve sustainability aspects. Option 3 is likely to have a positive impact on sustainability, since it would imply the integration of a sustainability component into the standards, creating more transparency in the supply chain. In any event, impact assessment of this option is complex, and depends on the selection of sustainability criteria and indicators as well as the weighting of the different sustainability dimensions (if applicable). Option 4 would not have a significant environmental impact, as the current standards do not directly affect environmental aspects. The potential impacts on post-harvest loss & food waste should be assessed for all policy options in line with the EU's Circular Economy Strategy.
Likely impacts on fundamental rights
n/a
Likely impacts on simplification and/or administrative burden
Option 2 may lead to some administrative burden and compliance costs if it broadens the scope of the product range covered, compared with the current standards. On the other hand, the option may aid simplification, as the technical adjustments may make the quality classifications covered by the current standards clearer and more consistent with existing classifications. Option 3 could result in management and administrative costs, depending on how the option is implemented (e.g. operational costs for producers/processors and administrative costs due to inspections by EU or national authorities). The potential benefits, however, in particular in environmental and possibly social terms, may well exceed the cost of compliance. Moreover, the current proliferation of private sustainability certifications could create consumer confusion that could be mitigated by regulatory marketing standards. As regards option 4, no impact on simplification would be expected for the reasons already mentioned for that option under 'economic impacts'.
D. Evidence Base, Data collection and Better Regulation Instruments
Impact assessment
An impact assessment will be prepared to support the legislative proposal of this initiative and to inform the Commission's decision. The impact assessment will include quantification of the impacts as far as possible.
Evidence base and data collection
The results of the evaluation serve as a basis for the impact assessment. The impact assessment will be supported by a study on sustainability criteria that will be developed with the assistance of experts from the Scientific, Technical and Economic Committee for Fisheries (STECF) in the first half of 2020. Some past studies and reports can also feed into the evidence base (such as the Feasibility report on EU ecolabel ⁷ , study on voluntary claims on fishery and aquaculture products ⁸ , Joint Research Centre (JRC) reports on behavioural sciences for product labelling policies, Eurobarometer 2018 ⁹).
Consultation of citizens and stakeholders
Extensive consultations were carried out during the evaluation ¹⁰ . Views of stakeholders – often conflicting, for example regarding the contribution of the marketing standards to the level playing field are reflected in the resulting Staff Working Document.

The Commission will carry out targeted consultations in 2020 with the aim of obtaining feedback on the options listed above and their likely impacts. As required by the better regulation framework, the initiative will also be subject to a 12-week public consultation. Finally, the Commission will present and discuss the policy options in the relevant advisory councils and expert groups to ensure broad coverage of the different stakeholder categories, also taking into account the regionalisation aspect of the CFP.

Stakeholders are invited to provide feedback on this inception impact assessment and in particular on the above listed policy options. The feedback period will close 4 weeks after the date of publication of this document.

All contributions will be published on the Commission's website¹¹.

Will an implementation plan be established?

No implementation plan is envisaged at this stage, as the legislative proposal would be directly applicable. However, the current lack of uniform controls and the fact that Member States have not clearly appointed responsible authorities for the current standards could indicate that an implementation plan might be required. This would also depend on the option finally chosen.

¹ The current marketing standards consist of the 3 following regulations:

- Council Regulation (EC) No 2406/96 of 26 November 1996 laying down common marketing standards for certain fishery products, OJ L 334, 23.12.1996, p. 1–15.
- Council Regulation (EEC) No 1536/92 of 9 June 1992 laying down common marketing standards for preserved tuna and bonito, OJ L 163, 17.6.1992, p. 1–4.
- Council Regulation (EEC) No 2136/89 of 21 June 1989 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products, OJ L 212, 22.7.1989, p. 79–81.

² Marketing standards define harmonised characteristics for canned tuna and bonito and preserved sardine and sardine-type products, and a harmonised grading system to make the quality of fresh and chilled fishery products transparent when placed on the market, based on freshness and size grades, including minimum freshness and size requirements. Standards apply to both EU and imported products. Standards do not cover other prepared/preserved products, or any frozen, filleted product, nor products subject to processing techniques such as smoking, salting, drying and brining. The grading system applicable to fresh products is limited to 47 species (or genera). Other fresh fishery products, not listed in Regulation (EC) No 2406/96, are not covered by marketing standards, and neither are products derived from aquaculture. The standards are mandatory and apply alongside other legislation regarding the hygiene of foodstuff, conservation measures under the CFP and consumer information rules.

³ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000, OJ L 354, 28.12.2013, p. 1–21, recitals (18) and (19).

⁴ [COM\(2016\)263 final](#) of 18 May 2016 REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL on options for an EU eco-label scheme for fishery and aquaculture products

⁵ Commission Staff Working Document [SWD\(2019\) 453 final](#) of 20 December 2019 on the evaluation of the marketing standards framework for fishery and aquaculture products.

⁶ [Study on the evaluation of the marketing standards framework for fishery and aquaculture products](#). Specific Contract No 5. Under Framework contract EASME/EMFF/2016/029.

⁷ https://ec.europa.eu/fisheries/sites/fisheries/files/docs/publications/feasibility-report-eu-ecolabel-scheme-for-fishery-and-aquaculture-products_en.pdf

⁸ <https://publications.europa.eu/en/publication-detail/-/publication/78fd2eb2-7b71-11e9-9f05-01aa75ed71a1/language-en/format-PDF/source-97519624>

⁹ <https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/survey/getsurveydetail/instruments/special/surveyky/2206>

¹⁰ https://ec.europa.eu/info/consultations/public-consultation-eu-marketing-standards-fishery-and-aquaculture-products_en

¹¹ https://ec.europa.eu/info/law/better-regulation/initiatives_en?facet_select_field_brp_inve_resource_type:parents_all=743&field_brp_inve_fb_status=All&field_brp_inve_leading_service=All&topics=All&stage_type=PLANNING_WORKFLOW&feedback_status=All&type_of_act=All