



Brussels, 20.12.2019
SWD(2019) 453 final

COMMISSION STAFF WORKING DOCUMENT

EVALUATION

Marketing standards framework for fishery and aquaculture products

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Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
AAC	Aquaculture Advisory Council
AFNOR	French Standardisation Association (in French : Association Française de Normalisation)
ASC	Aquaculture Stewardship Council
BRC	British Retail Consortium
B2B	Business-to-Business
CFP	Common Fisheries Policy
CMO	Common Markets Organisation
COMEXT	EUROSTAT's reference database for detailed statistics on international trade in goods
DCF	Data Collection Framework
EFCA	European Fisheries Control Agency
EU	European Union
EUMOFA	European Market Observatory for fisheries and aquaculture products
EUROSTAT	Statistical Office of the European Union
FAO	Food and Agriculture Organization of the United Nations
FAO FISHSTAT	FAO's Fisheries and Aquaculture statistics
FAPs	Fishery and Aquaculture Products
FEAP	Federation of European Aquaculture Producers
FIC	Food Information to Consumers
FTE	Full-time equivalent
GI	Geographical Indication
ICES	International Council for the Exploration of the Sea
IFS	International Food Standard

ISO	International Organization for Standardization
MAC	Market Advisory Council
MCRS	Minimum Conservation Reference Size
MSC	Marine Stewardship Council
MMS	Minimum Marketing Size
MS	Member State
QIM	Quality Index Method
PEFA	Pan European Fish Auctions
PDO	Protected Designation of Origin
PGI	Protected Geographical Indication
RASFF	Rapid Alert System for Food and Feed
SWWAC	South Western Waters Advisory Council
TAC	Total Allowable Catch
WTO	World Trade Organisation

1. INTRODUCTION

Three regulations define today the EU marketing standards framework for fishery and aquaculture products. They cover fresh and chilled fishery products,¹ canned tuna and bonito² and preserved sardine and sardine-type products.³ The overarching objectives of EU marketing standards are set out in Regulation (EU) No 1379/2013 on the common organisation of the markets in fishery and aquaculture products (the ‘CMO’ Regulation). The goals of the standards are (i) to enable the EU market to be supplied with sustainable products, (ii) to allow realising the full potential of the internal market in fishery and aquaculture products, (iii) to help to improve the profitability of production by facilitating marketing activities based on fair competition and (iv) to ensure that imported products meet the same requirement and marketing standards as Union producers.⁴

In 2011, the proposal to revise the CMO Regulation drew a number of conclusions regarding the performance of marketing standards. While the standards were relevant in that they established a set of "minimum common rules" and played an important role in standardising product quality, hence facilitating marketing activities, they were also found too rigid and outdated.⁵

Existing legislation setting out marketing standards was confirmed under the revised CMO Regulation in 2013, while providing for the possibility to define new marketing standards.⁶ After more than two decades of implementation, it was however necessary to assess, in the context of the regular evaluation of the EU *acquis*, the performance of the legislation defining the marketing standards framework for fishery and aquaculture products. For this purpose, an evaluation was launched in 2018.⁷

Purpose of the evaluation

This Staff Working Document presents the results of a comprehensive evaluation, which assessed whether the framework defined by the existing marketing standards for fishery and aquaculture products is still fit for purpose and whether it allows achieving the objectives of the CMO Regulation.

¹ 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.

² 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.

³ 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.

⁴ 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).

⁵ SEC(2011)883 - Impact assessment accompanying the document Regulation of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, available at https://ec.europa.eu/fisheries/reform/impact_assessments.

⁶ Regulation (EU) No 1379/2013, Article 33.

⁷ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-594424_en

Given that the regulations defining the marketing standards framework have been in place for more than two decades and were never subject to a thorough check to assess whether they are still fit for purpose, the evaluation aimed to verify whether, in the new policy landscape brought about by the reform of CMO in 2013, the standards were still adequate to achieve their objectives.

The evaluation assesses the extent to which the framework defined by the marketing standards continues to deliver on its objectives in a manner that is effective and efficient, implying the minimum costs for the desired objectives for operators, consumers and control authorities. It also assesses whether the existing rules are coherent with other EU legislation and policies and relevant to stakeholder needs, considering recent market developments, and whether action at EU level continues to have added value. The assessment was informed by an external evaluation study⁸.

The evaluation provides evidence and conclusions that will form the basis for a possible future revision of the marketing standards framework so that it can achieve its objectives and produce the desired results.

Scope of the evaluation

The evaluation covers all fishery and aquaculture products as listed in Annex I of the CMO Regulation and all EU28 Member States. It focuses on the performance of the standards against their new objectives laid down in 2014 (i.e. the entry into force of the latest CMO Regulation), seeking to capture new demands in the market for fishery and aquaculture products wherever possible.

The evaluation covers the three regulations defining marketing standards for fishery and aquaculture products, as well as Chapter III of the CMO Regulation on Common Marketing Standards, and the processes involved in their implementation and enforcement. The evaluation assesses the performance of the marketing standards framework according to five criteria: relevance, effectiveness, efficiency, coherence and EU added value.

2. BACKGROUND TO THE INTERVENTION

Description of the intervention and its objectives

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. These standards apply to both EU and imported products. The standards do not cover other prepared/preserved products, or any frozen, filleted product, nor products subject to

⁸ [Study: Evaluation of the marketing standards framework for fishery and aquaculture products](#)

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.

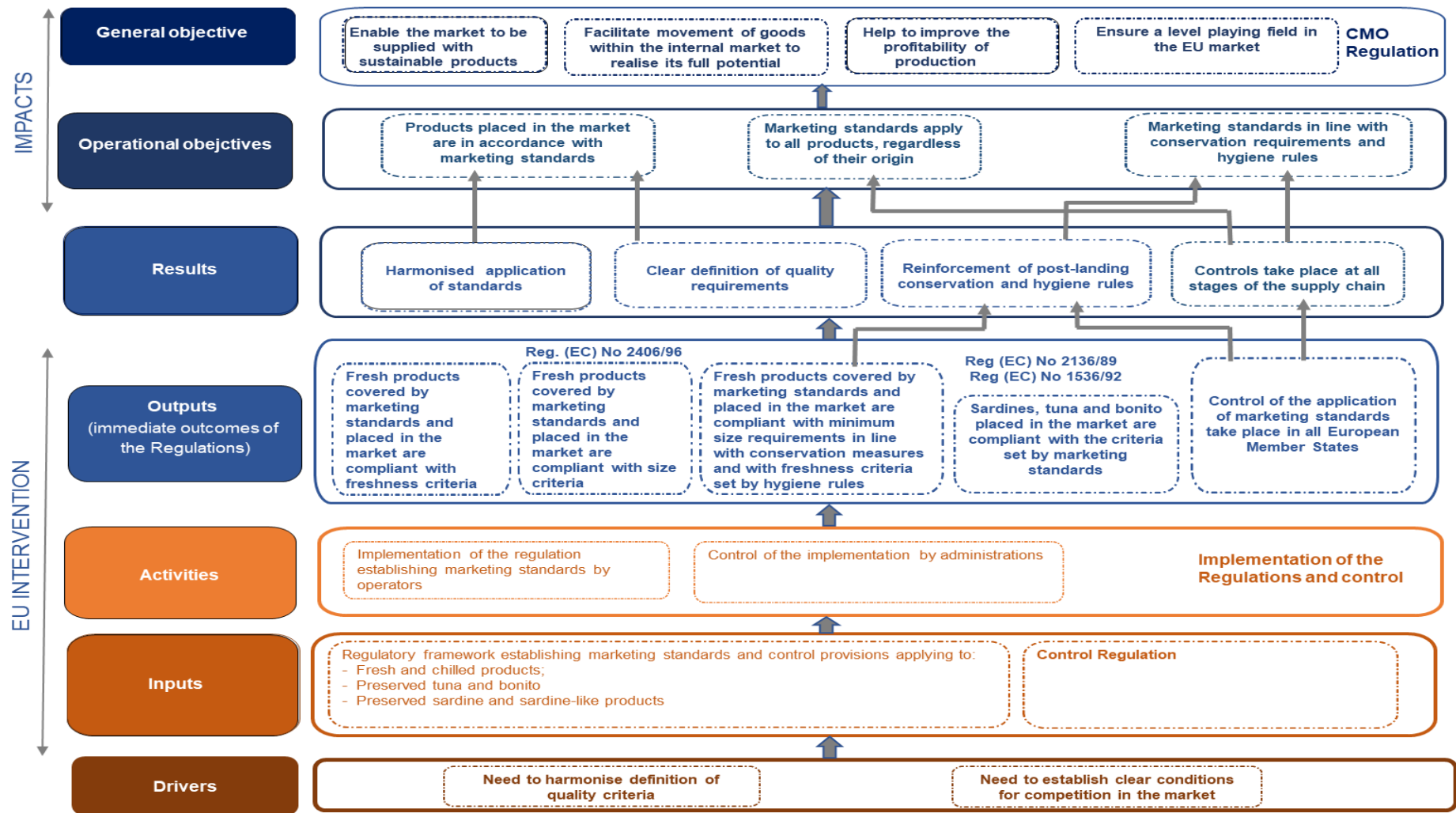
The standards apply alongside other legislation regarding the hygiene of foodstuff, conservation measures under the CFP and consumer information rules.

The standards are mandatory. This means that canned tuna and bonito and preserved sardine and sardine-type products might be placed on the market only in accordance with the rules laid down in the relevant regulations. This however does not prevent other products to be developed, provided they are not marketed as canned tuna and bonito or preserved sardine and sardine-type products. Similarly, the fresh and chilled products listed in the relevant marketing standard can be sold for human consumption only following the requirements of the standard. This however has not prevented operators from setting higher minimum requirements to achieve better market returns.

The marketing standards framework defined by the CMO rules has remained relatively stable since the adoption of the first CMO Regulation in 1970.⁹ Over time, however, standards have been introduced or amended. In 2013, the objectives of the marketing standards were reviewed and aligned with CFP goals. Building on the content of the successive versions of the CMO Regulation and of the standards, an intervention logic is presented below (see Figure 1). It shows the logical sequence and causal relationships between the drivers behind the adoption of the standards, based on identified needs, the inputs provided and activities undertaken and the intended outputs and results expected from the intervention with a view to achieving certain operational and general objectives.

⁹ Regulation (EEC) No 2142/70 of the Council of 20 October 1970 on the common organisation of the market in fishery products, OJ L 236, 27.10.1970, p. 5–20.

Figure 1: Intervention logic for the marketing standards framework



Baseline and points of comparison

Marketing standards have formed an integral part of the market policy for fishery and aquaculture products rules since the first CMO Regulation. Then, the standards set out to provide market stability and guarantee a fair income for producers. While the CMO Regulation underwent several revisions due to changes in production (e.g. over-exploitation of resources, development of aquaculture) and trade (e.g. reduction of trade barriers), its articles on marketing standards remained unchanged until 2013.

Changes to the specific regulations laying down the marketing standards have occurred over time, but have not substantially reviewed the content of the standards:

- The marketing standards for fresh and chilled fishery products were revised five times since their adoption in 1996, each time to add one or more species. On top of this, the lowest freshness grade (“C”) was abolished in 1976, the principle that minimum conservation reference sizes should prevail was included in 1996 and specific provisions on how to apply the standards to crustaceans and molluscs were added.
- The marketing standards for preserved sardines were established in 1989 and have been reviewed twice since. In 2003, following a WTO dispute, the labelling provisions of the standard had to include 10 species of sardine-type products. In 2005, a further species was added to the list of sardine-type products.
- The marketing standards for preserved tuna and bonito, adopted in 1992, were never modified.

The current CMO Regulation (Regulation (EU) No 1379/2013) forms an integral part of the Common Fisheries Policy (CFP) and aims to contribute to its overall objectives of economic, social and environmental sustainability. This led to a thorough revision of the rules governing the marketing standards framework laid down in the CMO Regulation (Chapter III of the CMO Regulation). In particular, the CMO Regulation:

- Abolished the withdrawal price system, which supported fishermen through a storage mechanism based on the marketing standards grades for fresh and chilled products;
- Introduced the notion of direct human consumption and the requirement that non-compliant products be only destined for uses other than direct human consumption, in line with the rules on the use of fish below the minimum conservation reference sizes (MCRS) landed under the landing obligation.

The impact assessment¹⁰ leading to the revised CMO Regulation, which confirmed the existing marketing standards, identified both benefits and weaknesses of the standards.

The impact assessment found that the marketing standards provided wide flexibility by allowing member states and operators to go beyond them when they consider it relevant and necessary for the regulation of their specific markets, and that the minimum

¹⁰ SEC(2011) 883

marketing sizes played an indirect role in preventing the marketing of juveniles of certain species without minimum biological sizes.

While common marketing standards had no direct effect on product quality, they had played an important role in the grading of freshness according to harmonised quality standards. Other external factors were found to have had a more direct effect on the improvement of quality, notably market constraints, fleet modernisation, EU funding and private initiatives.

The impact assessment also found some shortcomings, and particularly that the standards were preventing operators from exploiting the full potential of the internal market as they were too rigid, limiting the development of distance selling and e-commerce due to difficulties in obtaining homogenous and precise information on product characteristics.

The impact assessment also reported that stakeholders considered the current set of marketing standards useful in achieving a standardised supply facilitating the functioning of the internal market for these products. They noted some inconsistencies between minimum conservation and marketing sizes, and called for future standards to be more consistent with the conservation policy. Stakeholders also expressed the wish that future standards be clear, simple to follow, flexible and that they allow the industry to self-regulate.

In 2015, to cater for the introduction of the landing obligation, the *Omnibus* Regulation¹¹ aligned minimum marketing sizes to minimum conservation reference sizes, wherever the latter are defined. This alignment further stressed the close link between the conservation and market objectives of the CFP and responded to stakeholder demands for more consistency between the conservation and market policy.

The starting point of the evaluation is set at January 2014, when the revised CMO Regulation entered into force, with the exception of the provisions aligning minimum conservation reference sizes and minimum marketing sizes, which entered into force in June 2015 following adoption of the *Omnibus* Regulation. For control-related aspects, the evaluation covers a longer time span, i.e. since 2010, year of entry into force of Regulation (EC) No 1224/2009¹² establishing a control system to ensure compliance with CFP rules (the ‘CFP Control’ Regulation). When needed to draw conclusions on production and trade data, a longer timeframe was used.

¹¹ Regulation (EU) 2015/812 of the European Parliament and of the Council of 20 May 2015 amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009, and Regulations (EU) No 1379/2013 and (EU) No 1380/2013 of the European Parliament and of the Council, as regards the landing obligation, and repealing Council Regulation (EC) No 1434/98, OJ L 133, 29.5.2015, p. 1–20.

¹² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006, OJ L 343, 22.12.2009, p. 1–50.

3. IMPLEMENTATION / STATE OF PLAY

Description of the current situation

The regulations defining the marketing standards framework have been in place for much longer than the period cover by the evaluation. Data on the implementation of the three regulations defining product-specific marketing standards are not available as the regulations did not provide for any reporting by the Commission on their functioning. Control data can however provide some insight on their implementation.

Marketing standards are controlled by Member States under the CFP Control Regulation as well as under the EU official control rules¹³ along the agri-food chain. The evaluation study commissioned by the European Commission on the CFP Control Regulation noted an increase in the number of infringements of marketing standards between 2010 and 2014 (+21%), despite the fact that standards remained unchanged during the period¹⁴.

Figure 2: Infringements detected concerning common marketing standards. (Table based on data from 18 Member States)

	2010	2011	2012	2013	2014
Number of infringements detected (EU total)	780	741	835	880	990

The survey of the competent national authorities carried out as part of the evaluation study has shown however that inspections often combine control obligations stemming from different regulations and that the different control activities can hardly be isolated from one another. While this generates efficiency gains and synergies, it also makes difficult to identify the exact nature of the non-compliance in the infringements reported.

No quantitative evidence exists to illustrate quality improvements in terms of freshness and food safety brought about by the standard for fresh and chilled fishery products. With regard to prepared and preserved products, data reported through the EU's Rapid Alert System for Food and Feed (RASFF) shows that products covered by marketing standards

¹³ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, OJ L 165, 30.4.2004, p. 1–141.

Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) Text with EEA relevance, OJ L 95, 7.4.2017, p. 1–142.

¹⁴ Evaluation of the impact of Council Regulation (EC) No 1224/2009 of 20 November 2009 "establishing a Community control system for ensuring compliance with rules of the common fisheries policy" - [Synthesis report of the first five years report of Member States according to Art 118](#), p. 16.

were involved in only three out of 127 adulteration/fraud notifications relating to seafood products, and in three out of 70 notifications of incomplete, incorrect or absent labelling.

As control of marketing standards for fresh products is frequently combined with control of other CFP requirements e.g. under the CFP Control Regulation, the focus may often be on compliance with minimum sizes rather than ensuring the correct size and quality grading. The subjective nature of freshness grading also makes it more challenging to control effectively in the absence of laboratory tests. This leads to different implementations of the marketing standards for fresh and chilled products, and associated controls. The infringements reported illustrate this heterogeneity, as non-compliance mostly relates to respect of minimum sizes or minimum freshness requirements rather than grading.

The standard for fresh and chilled fishery products require that each Member State name experts to ensure that products are graded in line with the provisions of the standard. Member States must check that such procedures are in place. There is no evidence that these experts were appointed or notified to the Commission and other Member States.

Evolution in the standards applicable to fishery and aquaculture products

Alongside the marketing standards established at EU level, a number of other standards and norms have developed in the fishery and aquaculture sector.

International standards

The [FAO Codex Alimentarius](#) is a collection of internationally agreed food standards and related texts. Of the 27 Codex standards that relate to fishery and aquaculture products, two overlap with EU marketing standards:

- The [Codex STAN 94-1981](#), for canned sardines and sardine type products;
- The [Codex STAN 70-1981](#), for canned tuna and bonito.

The specifications contained in the Codex standards are similar to those laid down in EU standards. The differences are analysed in section 5 under the coherence criterion. While Codex standards are advisory in nature, they are a reference in trade dispute before the WTO given their nature of internationally agreed documents.

National Laws and codes of practices

The evaluation found national laws or mandatory codes of practices providing specific requirements in terms of product description or content which go beyond EU regulations in five Member States:

- Austria: definitions for various products, including frozen fish fingers, marinated herring, canned tuna and surimi packs;
- Germany: definitions for various products, including frozen fish fingers, frozen fish fillets and sauces used with fishery products;
- Latvia: marketing sizes for salmon caught in the Baltic Sea;

- Spain: definitions for the terms “fresh”, “frozen”, “salted”, etc. and quality standards for cooked and frozen mussels, cockles and clams and for canned mussels, clams and scallops. While not listed by the evaluation study, Spain also defined a mandatory list of designations for prepared/preserved products.
- France: mandatory standards or codes of practices for oysters, soups, tarama and derived products, chilled shrimps and salted anchovy, canned crustaceans and molluscs, semi-preserved products (except anchovy) and traditional fish soup.

Private standards in use in the fishery and aquaculture sector

Private marketing standards for fishery and aquaculture products are rare and were only identified in France, where several AFNOR¹⁵ standards exist, mainly for processed products and some aquaculture products. While these standards are voluntary, feedback received during the fieldwork for the evaluation study indicates that they might serve as reference in case of controls, especially for products for which there is no regulation. Large retailers can also use them as a basis to set their own purchasing requirements.

Other private standards used in the market mainly cover environmental aspects. These standards complement marketing standards and are gaining market relevance. Ecolabels are particularly important in Northern EU countries, where retailers increasingly use them as condition in their supply contracts. The Marine Stewardship Council (MSC), the world leading ecolabel, may include among its requirements minimum sizes, potentially interfering with EU conservation and marketing standards provisions.

Other instruments setting quality requirements

As of end 2018, there were 45 registered Geographical Indications (GIs, e.g. Protected Designation of Origin (PDO), Protected Geographical Indication (PGI)) covering FAPs, and 14 applications awaiting registrations. While FAPs account for less than 5% of GI sales,¹⁶ the number of registered GIs covering FAPs has grown exponentially (only 4 GIs were registered in 2000). For a few aquaculture products, the quality signs cover a significant share of the market (e.g. Mejillón de Galicia, Scottish Farmed Salmon or Huîtres Marenne d’Oléron).

Collective brands guaranteeing product origin and minimum quality and sustainability requirements have also emerged in the last few years (e.g. “*Pavillon France*” or “*Crianza de Nuestros Mares*”), as well as other initiatives such as certification systems for auctions (e.g. *PescadeRías* in Galicia) or grading systems for vessels (e.g. Urk, Netherlands).

Other tools, such as the French ecolabel “*Pêche durable*” were not assessed given their recent introduction and ensuing lack of information on their market role.

¹⁵ French Standardisation Association (AFNOR - Association Française de Normalisation)

¹⁶ Study: “[Value of production of agricultural products and foodstuffs, wines, aromatised wines and spirits protected by a geographical indication \(GI\)](#)”

Evolution in the share of products covered by EU marketing standards

EU production

Products covered by the standard for fresh products represented 62% to 74% of landings of fresh fish for human consumption and 35% to 45% of total EU landings since 2002 (2016: 73% of fresh landings for human consumption and 40% of total landings).

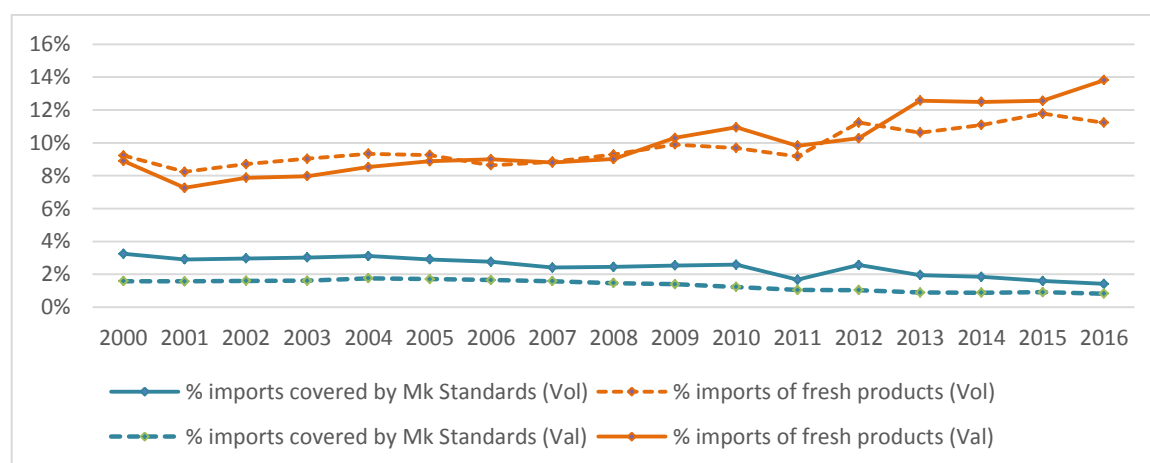
As regards prepared and preserved products, total EU production has expanded from 3.7 million tonnes in 1989, when the marketing standards for preserved sardines was established, to 5 million tonnes in 2015 (+36%). Over the same period, the production of prepared or preserved fish more than doubled from 0.8 million tonnes to 1.7 million tonnes. The production of canned tunas and sardines represents about 25% of those preparations and 10% of all processed fish products throughout the period and has almost doubled in volume (from 271 thousand tonnes in 1989 to 525 thousand tonnes in 2015).

Extra-EU Imports

Between 2000 and 2016, products covered by EU marketing standards accounted on average for 13% of EU imports of FAPs (in volume – 11% in 2016).

COMEXT¹⁷ trade data show that, between 2000 and 2016, fresh products accounted for 9-12% of import volumes (7-14% of value) of FAPs, excluding imports of prepared and preserved products. Fresh or chilled fishery products covered by marketing standards represented only 1-3% of the total volume of these imports, and between 1-2% of their value. While the share of fresh products out of total imports increased over time, the share of products covered by marketing standards has shown a slight decrease.

Figure 3: Imports of total fresh products and fresh products covered by marketing standards over total imports from third countries - 2000 to 2016



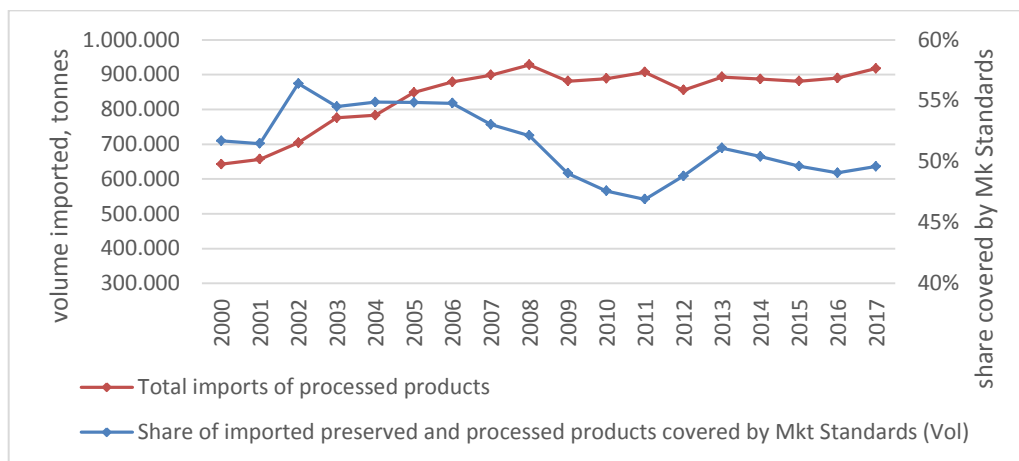
Source: evaluation study, based on COMEXT data

¹⁷ [COMEXT](#) is EUROSTAT's reference database for detailed statistics on international trade in goods.

Denmark, Sweden, Spain and the UK are the main EU importers of fresh products. In some cases, these imports take the form of landings into EU ports. In this case, products go through auctions and follow the same process as products landed by EU vessels. In other cases, products from third countries could enter the Union market by cargos or trucks. In these cases, controls are performed on samples.

Concerning canned products, available data does not allow isolating canned products from other preparations, but up to 50% of imports of processed (e.g. prepared/preserved, smoked, dried) products might be covered by EU marketing standards. However, this ratio tends to decrease since 2000, as global imports of processed products grew by 43% over the period, while imports of prepared and preserved tunas, bonitos and sardines increased at a lower rate (37%).

Figure 4: Imports of processed and preserved products covered by marketing standards over total imports from third countries between 2000 and 2017



Source: evaluation study, based on COMEXT data

The data above shows that during the period of application of the intervention, fresh whole products decreased in importance for the EU market. In parallel, imports have increased significantly, in part because of imports of fillets and frozen fish, but mainly thanks to imports of prepared and preserved products. Within this latter category, the share of imports of canned tuna and bonito and preserved sardine as sardine-type products has slightly decreased, as imports of other processed products increased.

Technological evolutions

Marketing standards are of particular importance for distance selling. Accurate communication on product quality allows operators to buy products from different auctions without being physically present.

The Pan European Fish Auctions (PEFA) was created ten years ago and constitutes an auction system for remote purchase in Denmark, Sweden, the Netherlands and Italy. This system involves the main Dutch fish auctions and over 400 vessels in the EU. Buyers have to be accredited, but do not need to be physically present at the auction site.

According to desk research and interviews, the development of electronic auctions varies across Member States, but remains marginal in most cases.

Among the countries where the evaluation study ran case studies,¹⁸ France is the only one where distant selling is becoming predominant in some areas. In these cases, operators showed concerns for the non-uniform application of marketing standards across auctions. Despite the freshness grading defined by the standards, its application varies across auctions due to subjective appreciation and use of other cues (e.g. vessel's reputation, gear type, time elapsed since the catch). The Brittany Region has undertaken a project to remedy the lack of harmonised application of the standards.¹⁹

4. METHOD

Short description of methodology

The evaluation follows the approach set out in the roadmap published in January 2018 and relied on an external evaluation study, carried out on behalf of the Commission from March 2018 to July 2019.²⁰ An inter-service group consisting of representatives of all relevant Commission services guided the evaluation.

The evaluation built on 11 questions.²¹ The analytical framework defined how the implementation of marketing standards should have worked in theory (through the analysis of the intervention logic) and assessed what happened in practice through standard and proven analytical tools, including triangulation and a mix of quantitative and qualitative analysis (e.g. cost-effectiveness analysis, stakeholder analysis, etc.).

The evaluation's findings are based on a research and analysis programme, which included:

- A review of relevant documentation, including the regulatory framework, international, national and private standards, interpretation questions submitted to the Commission and reports from other studies;
- Analysis of relevant databases, which included trade data and sectoral production data (COMEXT, FAO FISHSTAT²², EUMOFA²³, Eurostat), alerts on food (RASFF), fisheries control data (EFCA - European Fisheries Control Agency) and auction data;
- An online public consultation of 12 weeks designed to gather the views of a broader range of stakeholders on the evaluation questions in a reasonably high-level manner, receiving 155 responses;

¹⁸ Croatia, Denmark, France, Italy, the Netherlands and Spain

¹⁹ https://www.bretagne.bzh/jcms/prod_431540/fr/au-coeur-du-tri-des-produits-de-la-peche-hauturiere
²⁰ [Study: Evaluation of the marketing standards framework for fishery and aquaculture products](#)

²¹ See Annex 3

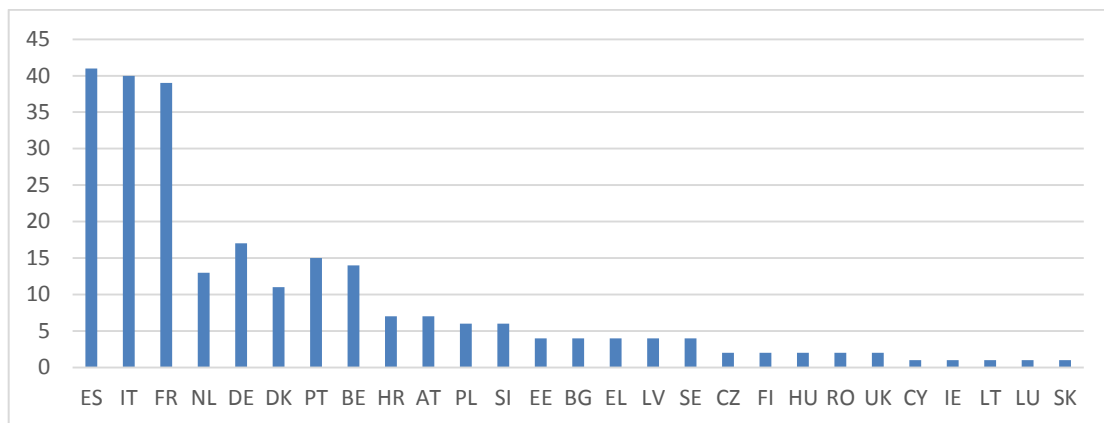
²² [FAO FISHSTAT](#) is the United Nations' Food and Agriculture Organization's (FAO's) Fisheries and Aquaculture statistics

²³ [EUMOFA](#) (European Market Observatory for fisheries and aquaculture products) is a market intelligence tool developed by the European Commission.

- A series of targeted consultation surveys addressing the evaluation questions in more depth, and with more focus in certain areas, depending on the interests, expertise and perspective of the group concerned. These included:
 - Targeted consultation performed in 6 Member States: Croatia, Denmark, France, Italy, Netherlands and Spain. The questionnaires used for these targeted consultations were also disseminated through the Commission’s Expert Group, leading to 10 additional answers (Austria (1), Belgium (1), Italy (2), Portugal (5) and Sweden (1));
 - Additional targeted stakeholder interviews: France (2), Poland (2) and Latvia (1);
 - An EU-wide survey of competent national authorities (i.e. ministries and control authorities) to collect information on enforcement, related costs and benefits;
 - Participation in one meeting of the European Commission’s Expert Group for Market and Trade in Fishery and Aquaculture Products and one meeting of the Market Advisory Council (MAC);
 - A stakeholder consultation to test preliminary recommendations with a selection of operators who had already contributed to the data collection phase.

In total, 259 stakeholders, covering all the supply chain stages and sub-sectors, as well as public authorities from 25 Member States, contributed to the evaluation study.

Figure 5: Number of contributions by Member State



The Commission services complemented the evaluation study with further research on aspects related to the demand for sustainable products in the EU market for fishery and aquaculture products and on the effects of other standards, based on review of existing studies and inputs from stakeholders, including the Market Advisory Council (MAC). (See for more detailed presentation of the consultation activities in Annex 2 as well as more insight about the used methods and analytical models in Annex 3.)

Limitations and robustness of findings

As already mentioned, the regulations defining the marketing standards framework for fishery and aquaculture products have been in place for decades, and never subject to a thorough evaluation. Consequently, it was not possible to carry out a comparative

analysis before and after their implementation and thus to assess their impact on the market of the fishery sector.

Statistics do not cover the period before the establishment of the regulations, and the absence of intermediary evaluations has not made it possible to analyse the impact of the standards on a shorter timeframe, which would have allowed detecting potential impacts.

To make up for this limitation, the supporting evaluation study based its analysis on triangulation of sources (desk research, statistics) and information collected during the consultation phase. Whenever possible and relevant, comparisons between products covered and products not covered by marketing standards are provided.

The scope of the marketing standards framework is wide. The evaluation study assessed the performance of the existing regulations in their relevant field of application, but also with regard to the overall goals defined in the CMO Regulation. This implied some limitations in terms of input to the data collection, which often focused on the content of the existing marketing standards and failed to address their objectives under the CMO Regulation, which would have required operators to look at aspects beyond the current scope of the standards. To cater for this, a second round of consultations was organised at the recommendations stage.

The evaluation was expected to use quantitative evidence in order to answer many of the evaluation questions. However, the availability of such data turned out to be limited.

For example, as authorities often combine controls of marketing standards with other controls under the EU's CFP and food rules, the number of infringements detected was not always strictly limited to marketing standards. Similarly, the nature of the infringements was unclear, given the lack of data on infringement of freshness/size grading or the lack of detail on the infringements detected on canned tuna or preserved sardine products. The absence of available data by freshness and size grades at first sale raises similar problems.

As a mitigating measure, evidence was extrapolated from a sample of reliable and comparable data, and was analysed as qualitative rather than quantitative information. Moreover, the consultations activities addressed issues of implementation and involved collection of primary data from auctions.

The level of responses received through the different consultations exceeded expectations for the evaluation study and provided good input for the analysis. While the greatest number of contributions is concentrated in a few Member States, these are also the countries with the biggest sector and where operators are mostly concerned by the marketing standards.

The number of responses did not make it possible to single out the view of specific groups (e.g. SMEs) whilst ensuring statistical representativeness. However, many of the industry associations consulted represent businesses of all sizes.

The risk of a self-selection bias is always present in the case of public consultations: the answers represent opinions of those who decided to participate. Finally, the robustness of the consultations targeting operators subject to the standards is possibly influenced by the fact that economic operators generally favour the status quo as changes in legislation generally lead to additional costs for industry.

Notwithstanding the specific limitations mentioned above, which were at least partially compensated by the several consultation activities, the overall availability and reliability of data and the approach taken to the evaluation are considered satisfactory.

5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

Relevance

Question 1: To what extent are the existing marketing standards still relevant?

Relevance of marketing standards for fresh and chilled products

Since intervention mechanisms have been phased out by the current CMO Regulation, the minimum marketing sizes set in the standard for fresh and chilled products are only relevant to the extent that they prevent the creation of a market for undersized fish.

This is not the case for species covered by MCRS, as the MCRS already prevails over the minimum marketing size. In the case of species not covered by MCRS, the relevance of minimum marketing sizes as opposed to other conservation measures is questionable. For species already subject to total allowable catches (TACs), minimum marketing sizes create an additional condition as specimen below the minimum marketing size, which must be landed, cannot be sold for direct human consumption. Minimum marketing sizes remain relevant for imports of fresh and chilled products caught in areas where no MCRS has been set. This, however, only accounts for 5% of the volumes of non-EU landings and imports of fresh fishery products for human consumption.

The evaluation study found that, despite some deviations in implementation across countries, size grades provide a common basis on which most first sale systems are based. Some auctions might build a more detailed system, while others (e.g. in the Mediterranean) might have simpler grading systems that only define “small”, “medium” and “large” sizes, with no link to the EU marketing standards.

Freshness grades are also generally used, although not very rigidly. As the quality of landed fish improved due to technological developments, less fresh products (“B” grade) are seldom available. The “E” (extra) grade is reserved for shorter trips (coastal fleet), type of gear (line) or based on the time elapsed between catch and landing (last hauls).

The organoleptic assessment on which freshness grading is based implies a certain level of subjectivity, so that grading may vary across auctions. Vessel reputation is also a common proxy to assess product quality. Often, including in the case of remote purchases, buyers resort to physical checks, when needed through agents present at the

auction. Beyond first sale, freshness and size grading lose their relevance: buyer requirements prevail and freshness is replaced by shelf-life.

The evaluation study identified some specific issues in terms of relevance of the standards applied to crustaceans, and notably that a large share of the catch is sold peeled (standards refer to shells), that grading takes place by number of tails and not individuals and that shrimps should not stick to one another. Also, marketing standards do not allow selling detached crab claws (while they can be kept on board and landed under EU conservation rules).

EU marketing standards constitute the only harmonised definition of product quality. Private standards are commonly used in addition to the EU marketing standards, but they cover sustainability issues (e.g. MSC, Friends of the Sea) or processes (e.g. ISO, BRC, IFS).

The evaluation investigated the relationship between first sale prices and freshness/size grades. Prices are primarily determined by supply and demand, depending on a number of external factors (e.g. on the one hand seasons, weather and on, the other hand, stocks held by trading and processing companies). Given the multiplicity of endogenous factors, the price-setting process is relatively volatile, and it can happen that fresher/larger products can fall temporarily below the price of less fresh/smaller products. In principle, however, larger size and better freshness should lead to higher prices.

Price statistics submitted by auctions during the consultation phase show that landed fish is of a relatively homogenous – high – freshness (“A” and “E”) and that this responds to a demand from the supply chain for a maximum shelf-life. Data confirm that as a rule bigger fish gets higher price. While this might be linked to the process of grading rather than the specific grading provided by the marketing standards, marketing standards have contributed to generalise grading practices. Conclusions on freshness are less clear.

In comparison, a very small number of public standards are used in aquaculture, and private standards used in business-to business (B2B) relations have a similar scope to the ones in use in fisheries (e.g. sustainability issues, processes).

A major difference between aquaculture and fishery products is that farmers can manage size and quality to fit buyer requirements. While marketing standards have not been laid down for farmed products, common practices regarding quality requirements have emerged over time (e.g. size grading for trout, seabass and seabream, colour for salmon).

Concern over a lack of a level playing field in the aquaculture sector, in particular between EU and non-EU operators, has been raised over the years. Generally, this relates to issues not covered by the current marketing standards, and in particular to differences in production costs due to stricter environmental constraints and higher labour costs. Other issues of concern relate to the lack of standardisation in terms used to convey information on product quality to consumers, e.g. the absence of a common definition for the term “superior”.

The canning industry processing tuna and bonito and sardines and sardine-type products generally considers EU marketing standards for preserved product as relevant to describe the products and aligned to market segmentations. Other operators and authorities raised issues of coherence in terms of product designations, but the criteria themselves and the product descriptions are not questioned. The need for a standardisation of the content of canned food was supported by 88% of respondents to the public consultation, and 79% considered that this standardisation should take place at EU level.

More than half of respondents to the public consultation considered the criteria laid down in the marketing standards for preserved products as rather or very useful, and that the standards ensure harmonisation of trade description and product composition.

While large-scale retailer might impose other criteria (e.g. organoleptic quality, histamine testing, compliance with specific schemes (e.g. MSC, IFS), limited information was collected as it relates to B2B negotiations. Additional quality standards were found in only two countries. In France, three private norms and one public '*professional decision*' provide additional definitions and specifications on product weight. In Austria, national law sets additional requirements for solid tuna pack fillets and canned tuna steaks.

For other processed products, some standards have been established at national level. In France, the industry has developed a set of both public and private standards covering a fairly wide range of products. Spain has established public national standards for canned molluscs and for cooked and frozen mussels, Germany for frozen fish fingers, frozen fish fillets and some sauces used with fishery products and Austria for frozen fish fingers, marinated herring and surimi packs. Large-scale retailers may also define their own standards for processed products.

The evaluation study and the public consultation did not raise any particular issue resulting from the absence of marketing standards for processed products comparable to those currently defined for canned tuna and bonito and for sardines and sardine-type products. The existence of national standards in the absence of harmonisation at EU level has however raised concerns in one case, widely reported in the international press in late 2017 with regard to the issue of dual food quality, which the Commission committed to address.²⁴ Fish fingers were one of the flagship products considered as an example of the dual quality of food products in the EU, since the fish fingers produced by some fish processors in one EU country and exported to Central and Eastern EU countries, where the German standards did not apply, had a lower fish content than those sold in Germany. The recent Commission study²⁵ comparing the characteristics of food products sold in the EU confirmed that the composition of some fish fingers sold in different groupings of EU countries differ. The brand owner responsible for placing these fish fingers on the market noted that the need to respect the German national standard (minimum fish content), leads to differences across certain countries.

²⁴ http://europa.eu/rapid/press-release_SPEECH-17-3165_en.htm

²⁵ Study: "[Results of an EU wide comparison of quality related characteristics of food products](#)"

Conclusions on relevance

Size and freshness criteria are considered relevant to define first sale prices for fresh whole fishery products. Size has the bigger impact, but higher freshness is also rewarded. Harmonisation of these criteria is considered beneficial, especially for distance selling.

The implementation of the standards remains heterogeneous, with auctions either using more detailed categories or not using the EU sizes at all. The subjective application of the freshness criterion leads to inconsistent implementation of the standards across auctions and Member States. In some cases, other proxies are used.

The freshness/size grading provided in the standards does not necessarily correspond to market segmentation at retail stage. In general, marketing standards criteria become irrelevant after first sale. The definition of minimum marketing sizes is also less relevant since the CMO establishes MCRS as minimum marketing sizes, except for imports.

Freshness and size are relevant for aquaculture products, but they can be controlled to meet buyer demand. While the standards in place for fresh fishery products are generally not considered relevant for aquaculture products, comparable shortcomings have been identified in the absence of standardised definitions for quality terms (e.g. “superior”).

Criteria for canned sardine and tuna are considered relevant throughout the supply chain by stakeholders. Some issues of coherence with trade designations exist, but the criteria themselves and the product descriptions are not questioned.

A few marketing standards were identified at national level (both public and private) for processed products not covered by EU standards. Other standards used by operators go beyond the product characteristics covered by the current marketing standards to address production methods (e.g. sustainability) and processes rather than product characteristics.

Effectiveness

Question 2. To what extent have the current marketing standards met the objectives?

Contribution of marketing standards to improve the quality of the products in the interest of producers, traders and consumers

Data available on the proportion of size grades at first sale, although very partial, indicate a trend towards greater sizes. Size grading ensures consistency and facilitates remote purchasing as it gives buyers confidence in the size of fish agreed at purchase.

Unlike size grade information, data on freshness grades are not routinely collected by Eurostat or EUMOFA. Data collected from a few auctions do not give an indication of increased freshness, but the prices per freshness grade show that better freshness is generally rewarded. Economic logic would suggest that, over time, quality will improve if the higher freshness grades are rewarded with higher prices.

The use of other informal proxies (e.g. vessel reputation) and physical inspections to assess product quality (through agents in the case of remote purchases) do not undermine the grading established according to product size and freshness, which supports the rewarding of quality and facilitates distance selling.

Factors hindering the marketing standards from further improving the quality of products include the ability to apply effective controls throughout the system. Stakeholders report a difference between the control of marketing standards for fresh and preserved products. The canning industry reports regular (sanitary) control visits and the requirement to report regular batch testing results to control authorities. Implementation is aided by the canning sector being characterised by a small number of large-scale operators and the fact that the products retain the same quality criteria throughout the chain.

By contrast, fresh products may change hands multiple times and may alter in terms of size and freshness along the chain. Control of marketing standards for fresh products is also frequently combined with other control requirements. While these are generally coherent with marketing standards, the focus may often be on compliance with minimum sizes rather than ensuring the correct product grading. This is reflected in the infringements reported by stakeholders, which mostly related to other regulations, and in the feedback from control authorities, which mostly refers to infringements related to minimum sizes or freshness rather than grading. Despite the detailed criteria definition in the regulation, freshness grading is inevitably more subjective and it is more challenging to control it effectively in the absence of laboratory controls than size grading.

Articles 12 and 13 of Regulation (EC) No 2406/96 require that each MS name an expert to ensure that grading of size and quality is in line with the Regulation and that MS carry out controls to see these are in place. There is no evidence that these experts have been appointed, also in connection with limited staff resources in control authorities and a lack of dedicated staff. This might have played a role in the lack of harmonised implementation of the marketing standards and associated controls across the EU.

While no quantitative evidence is available to illustrate quality improvements, most Member States consider that marketing standards have contributed to improving seafood quality (16 countries completely or somewhat agree, 4 disagree and 1 is neutral). The public consultation also showed that most respondents consider fresh seafood to be of good quality in their country (72% - 6.5% disagree).

Stakeholders consider that the quality of landed fish has improved for a variety of technical and economic reasons (i.e. increased availability and use of ice, improved on-board handling and storage, demand for better quality from buyers and higher prices for better quality). Although EU marketing standards are not implemented consistently, they are among the criteria used to assess fish quality at first sale. Since better quality is rewarded by better prices, EU marketing standards indirectly contribute to encourage quality improvements and act as a basis of information for first-hand buyers, particularly in situations such as remote purchasing where direct inspection does not occur.

scientific advice does not provide a recommendation in this sense. Moreover, agreements within the industry that limit supply (e.g. minimum sizes) may only take place within the boundaries of competition provisions (including CMO rules). The setting of a more stringent minimum size by the industry for all vessels catching *crangon* shrimps in the North Sea seeking certification under a private scheme may raise issues from a competition viewpoint in view of its potential restrictive effects on competition.

A counter argument is that in helping to reward larger size grades, the EU marketing standards create a greater incentive to high-grade (discard smaller sizes). High grading was prohibited in 2010 and discarding is being phased out through the landing obligation so this is being addressed through regulation. However, removing only the largest and most mature and fecund specimens from a stock can still negatively impact that stock. One example is Baltic cod, where fewer large individuals are present due to increased selectivity by trawls.²⁸

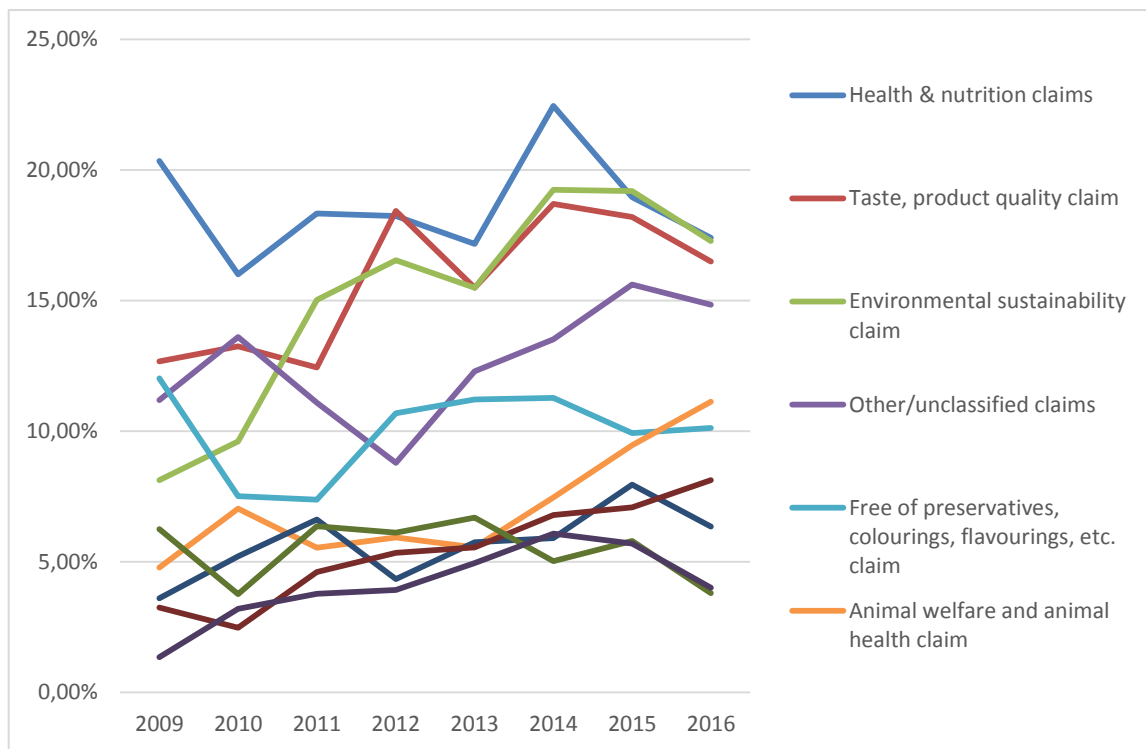
Overall, the role of EU marketing standards in enabling the market to be supplied with sustainable products is currently marginal and their impact is limited as they establish no further criterion beyond the confirmation of minimum conservation sizes.

Other market-driven initiatives, such as ecolabels, have been set up to inform the market and consumers about product sustainability. Market demand for sustainability information is confirmed by the increasing presence of voluntary allegations informing consumers on product sustainability over the past decade, as the figure below shows.²⁹

Figure 6: Evolution of voluntary allegations used on FAPs

²⁸ Svedäng H., & Hornborg S. (2014). [Selective fishing induces density- dependent growth](#). Nature Communication, 5:4152

²⁹ Study on "[Assessment of voluntary claims on fishery and aquaculture products \(FAPS\)](#)"



Other studies also indicate that the demand for ecolabels is often retail driven: private certifications are primarily used as an assurance mechanism and therefore have been incorporated into purchasing decisions and sourcing policies.³⁰ That private certifications are primarily a B2B tool is also confirmed by information provided by the retailers themselves, whom can decide to procure certified products but not display the certification logo to the consumer in order not to add confusion and to avoid paying royalty fees.³¹

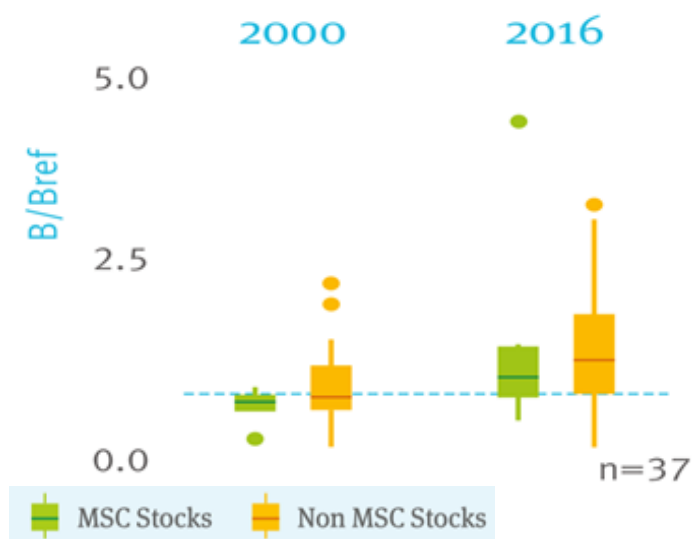
Whether these private tools enable the market to be supplied with sustainable products is also difficult to assess. The MSC global impacts report³² for instance shows that while certification might have an impact on biomass in other regions of the world, this was not the case in Europe, where both MSC-certified and non-MSC certified stocks show a positive trend, suggesting that other factors such as EU regulations are having a positive impact on the sustainability of fish stocks.

Figure 7: Status of stock biomass for MSC and non-MSC certified stocks in the EU 2000 and 2016

³⁰ "[Feasibility report on options for an EU ecolabel scheme for fishery and aquaculture products](#)"

³¹ <http://www.eumofa.eu/documents/20178/84590/Annex+2+-+Stakeholders+survey.pdf>

³² https://www.msc.org/docs/default-source/default-document-library/what-we-are-doing/global-impact-reports/msc-global-impacts-report-2017-interactive.pdf?sfvrsn=e95dea5d_16



Source: MSC

Moreover, given the voluntary nature of these private tools, a call on product sustainability can only be made on the products that have been subject to assessment. This is however only a relatively small share of worldwide production.³³

Finally, submissions by members of the Market Advisory Council also note that the variety of private certifications, each with its own requirements, creates confusions over what is actually sustainable.

Results of the survey of national authorities are coherent with the above analysis: 17 national authorities fully or partly agreed that EU marketing standards have contributed to the sustainability of the fishery products marketed in the EU. Some pointed out however that other regulations, including the CFP regulation are more important.

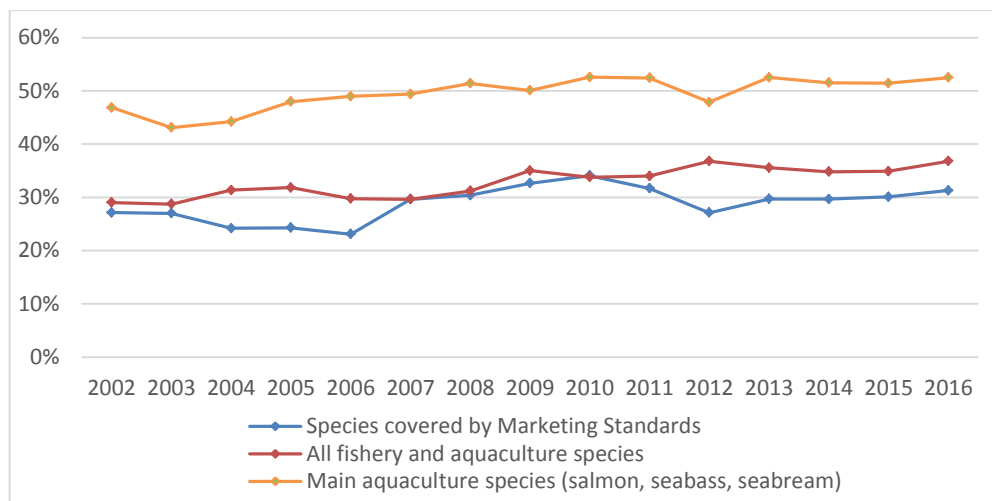
The current framework for marketing standards does neither define the concept of sustainable products nor the criteria for an assessment of product sustainability. It only makes a marginal contribution to the objective of “enabling the market to be supplied by sustainable products” as their product coverage is very limited (imports account for two thirds of seafood in the EU market, but only a minority are subject to minimum sizes). For EU production, in the few instances where there are minimum marketing standards for products without MCRS, although some sustainability benefit can be assumed, the impact of marketing standards is very limited compared to other CFP measures. There is no tool to pass on information on environmental sustainability such as e.g. stock status, let alone any information on social sustainability, and there is no common definition of what these mean. During the consultation on preliminary recommendations, 83% of respondents declared that their clients included products’ specifications related to sustainability, mostly through private certifications, such as MSC or ASC.

³³ About 14% of wild catches and 6% of farmed products worldwide were certified in 2015, <https://www.iisd.org/ssi/standards-and-the-blue-economy/>

Contribution of marketing standards to release the full potential of the internal market based on fair competition

In 2016, 31% of the products covered by EU marketing standards for fresh products were exchanged cross-border within the EU, compared to 27% in 2002. In comparison, this ratio increased from 29% to 37% for all fishery and aquaculture species, and from 47% to 52% for the main aquaculture products (salmon, seabass and seabream). Therefore, intra-EU exchanges increased for all products and not specifically for products covered by marketing standards.

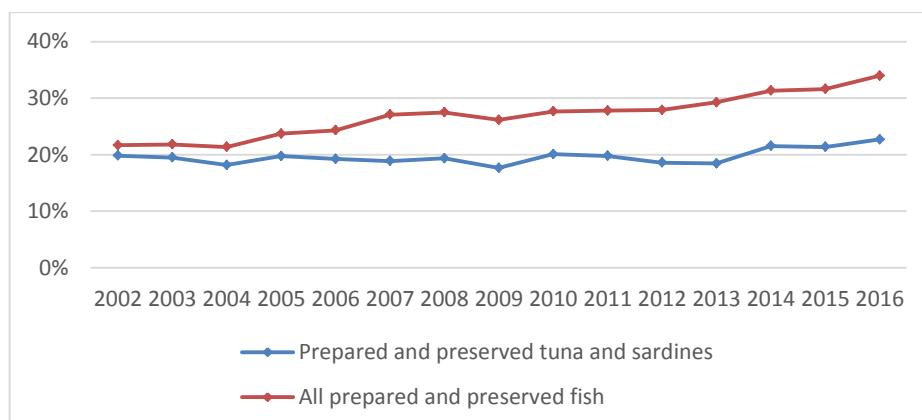
Figure 8: Share of non-processed products exchanged within the EU (volume)



Source: COMEXT and EUROSTAT

The share of preserved tunas, bonitos and sardines and sardine-type products out of total supply of these products grew from 19% in 2001 to 23% in 2016. Over the same period, the share of prepared and preserved products exchanged within the EU out of their supply grew from 21% to 34%. Intra-EU exchanges have increased more for all prepared and preserved products than for products covered by EU marketing standards.

Figure 9: Share of prepared and preserved products exchanged within the EU (volume)



Source: COMEXT and FISHSTAT

In theory, the EU legal framework ensures that products marketed in the EU follow the same rules, creating equal opportunities for operators to compete. 16 of the 19 national authorities responding to the question fully or partly agree that the EU marketing standards have contributed to fairness and transparency in the internal market.

Stakeholders also agree that the marketing standards safeguard a level playing field, facilitating fair competition, both across Member States and scales of enterprise as the standards do not place significant additional costs on operators. However, for fresh products, the ability of marketing standards to facilitate market activities based on fair competition is clearly limited by inconsistent implementation and lack of enforcement, even though non-compliance does not give operators any competitive advantage.

The existence of different MCRS for the same species raises issues in terms of level playing field. While these differences may have biological grounds, they work against the harmonisation pursued by marketing standards. The risk is increased by the fact that Member States can introduce higher MCRSs. One example was specifically mentioned in reply to the public consultation. In 2018, Belgium introduced a bigger landing size (25cm) for sole, compared to the MCRS of 24cm. The respondent to the public consultation noted that operators landing in the Netherlands can continue selling sole of 24cm, while in Belgium both the national MCRS of 25cm and the minimum marketing size are imposed. This exemplifies how national measures can reduce the harmonisation across the internal market intended by the marketing standards. Such measures are also at risk of being incompatible with EU competition rules.

EU marketing standards for preserved products are enforced more consistently, by the very nature of the criteria defined in the standards. Nevertheless, feedback from national authorities shows that control procedures differ among MS and that some provisions could lead to misinterpretation or discrepancies among operators or Member States (e.g. scope of the regulation for sardine-type products, application of commercial designations for canned tuna and bonito). One example of lack of harmonisation was raised by Cyprus and discussed within the European Commission's expert group for market and trade in fishery and aquaculture products:³⁴ the EU standard for canned tuna and bonito does not, unlike the Codex standard, regulate the use of the term "white", leaving Member States to do so. While the absence of a harmonised approach at EU level does not necessarily undermine fair competition or constitute a barrier to trade within the EU, it requires strengthened controls to ensure that the regulatory framework is respected.

Marketing standards are generally considered to contribute to market transparency as criteria are widely known and relevant for business activities, but they have no impact on cross-border exchanges. Inconsistent implementation and, more importantly, the co-

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<https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupMeeting&meetingId=366&Lang=EN>

existence of different MCRS, can have a negative impact on the level playing field within the EU, as can lack of harmonisation for preserved products.

Contribution of marketing standards to the profitability of production

The EU fleet's economic performance has improved significantly in recent years with a substantial increase in gross value added. The 2018 Annual Economic Report identified in lower fuel prices, increased fishing opportunities and higher average prices the triggers for the overall economic improvement.³⁵ Prices have overall increased between 2000 and 2016 for all landings, except tuna and tuna-like species. Marketing standards are assessed to have indirectly contributed to improved returns for fresh fish by providing common criteria to define quality, although they are not implemented consistently across the EU.

Overall, the economic performance of the processing sector has slightly deteriorated over the past decade, partly due to increase in prices of raw material.³⁶ As raw material is to a large extent imported frozen from third countries, the increase in prices is unlikely to be related to EU marketing standards. On the contrary, marketing standards for preserved products may have helped to avoid that competition takes place to the detriment of product quality by ensuring uniform quality requirements for EU and imported products.

Only a few national authorities agree that marketing standards improve profitability (10 respondents out of the 17 responding to this question). By contrast, feedback gathered from operators suggests that the standards help to establish a clear link between quality and price and this encourages vessel owners to spend more time on handling and presentation as it is rewarded with higher prices. For preserved goods, any impact of the marketing standards on profitability is difficult to disaggregate from other factors, such as variation in raw material costs.

Contribution of marketing standards to ensure a level playing field between EU and non-EU products

Imports of fresh products covered by EU marketing standards only represent 1-3% of total imports of non-processed products and so the marketing standards' impact on the level playing field between EU and non-EU products can only be limited. For imports of fresh products not sold through auctions, specific provisions apply but no evidence of their impact is available.

Imports of preserved products covered by marketing standards are estimated to represent about half of all EU imports of preserved and prepared products so the potential impact of marketing standards on the level playing field with non-EU products is significant, as far as product quality is concerned. Indeed, by setting e.g. minimum fish content rules, the standards have avoided that competition takes place to the detriment of product

³⁵ [The 2018 Annual Economic Reports on the EU Fishing Fleet](#) (STECF 18-07)

³⁶ [The economic performance of the EU fish processing sector 2017](#) (STECF-17-16)

quality. However, the share of imported processed fish products not covered by marketing standards has increased over time.

National authorities hold divergent views over whether the standards contribute to ensuring a level playing field between EU and non-EU products. This reflects the fact that a large share of imports is not covered by EU marketing standards.

The Market Advisory Council considers that more should be done to ensure a level playing field between EU and imported products, including e.g. from a social perspective. Control and enforcement are also regarded as an essential tool to maintain the level playing field. The canning industry submitted a diverging view, considering the standards in their current form fit for purpose. However, actions launched by the main canning operators reveal that the current situation does not help to ensure a level playing field beyond quality for them either,³⁷ unless aspects such as sustainability and social conditions are covered.

The CMO regulation seeks to ensure a level playing field between EU and third country producers. In their current form and scope, the marketing standards have a very limited impact and are not sufficient to deliver a level playing field.

Contribution of marketing standards to avoid fraudulent practices and misleading consumers in the trade description of preserved products

Preserved products covered by marketing standards were involved in a negligible number of adulteration/fraud (3) or mislabelling (3) cases notified through the Rapid Alert System for Food and Feed (RASFF). The ability to enforce trade description requirements is essential and overall, Member States have the requisite control systems in place to ensure generally acceptable levels of compliance.³⁸ However, control of marketing standards is not consistent and standards are a lower priority to control agencies than e.g. catch legality and food safety.

Although actual fraudulent practices seem limited, some internal inconsistencies of the standards on preserved products could be misleading for consumers.

The standard for sardine and sardine-type products lists the species that can be used for sardine-type products. However, it is not clear to what extent the provisions of the standard apply to those products. It could be misleading for consumers if certain minimum weight requirements and definitions for culinary preparations apply to preserved sardines but not to canned brisling sardines for instance.

³⁷

<http://www.anfaco.es/es/categorias.php?var1=Noticias&var2=Noticias&var3=&nar1=718&nar2=718&nar3=1140&vez=2&metatitle=Noticias+Presentaci%F3n+oficial+del+observatorio+de++trazabilidad&pagina=1>

³⁸ COM (2018) 627 final - Report from the Commission to the European Parliament and the Council On the overall operation of official controls performed in Member States (2014-2016) to ensure the verification of compliance with food and feed law, animal health and welfare rules

The trade descriptions used in the standard for canned tuna and bonito might also differ from national trade designations and hence risk misleading consumers. For instance, national rules on the designation of canned products (but also of non-prepared/preserved products) define that *Thunnus alalunga* should be called “bonito del norte”. The EU standard for canned tuna and bonito defines *Thunnus alalunga* as a tuna product, which cannot be called “bonito”. While the EU standards allows some exceptions based on established trade usage, other species considered of lesser quality can also be sold as canned bonito, with the risk of misleading consumers as to product quality/characteristics. This issue also extends to other species that can be called bonito (e.g. *Sarda sarda*), and other countries. For example, in Poland the term “bonito” is used for a tuna species, while bonito species (*Sarda* spp) are named “pelamida.”

The use of the term “white” for *Thunnus alalunga*, in some Member States but not in others also risks jeopardising consumer protection across the EU.

These cases show a lack of harmonisation in the trade designations of products covered by the standards, but also with the same product, sold under a different form, that consumers would buy in the same country. The fact that the same fish would change name according to how it is presented could, in the absence of an established tradition, mislead EU consumers.

A further risk of misleading EU consumers comes from the possibility under the EU marketing standards to mix tuna or bonito with other fish species in certain products. The standard includes no provision on informing consumers that the product is not fully composed of tuna or bonito.

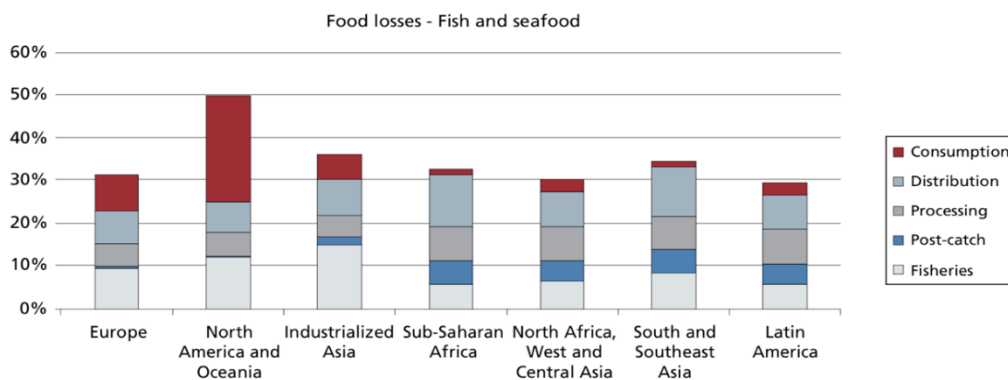
EQ3. To what extent has the implementation of marketing standards caused unexpected or unintended effects?

Post-harvest loss & food waste

The EU marketing standards have the potential for contrasting impacts on food waste: (a) by setting a minimum standard to enter the market, waste may increase; and (b) by better defining and rewarding quality, less would be lost through spoilage. Assessing these potential impacts is limited by the fact that data on food loss is not routinely collated and there is a variety of approaches to quantifying food waste so trends cannot be readily identified. Overall the available data show no clear trend in relation to food waste and the information is generally not disaggregated by food sector.

The FAO estimated the extent of food losses and waste in 2011.³⁹ The figure below shows that the proportion of food loss and waste in the seafood sector in Europe is below other industrialised regions (North America and Industrialised Asia), mainly due to the lower waste levels at the fisheries, post-catch and distribution stages. Marketing standards may have contributed to this as if the market defines and rewards quality, it pays operators to take care of the product at each supply chain stage.

Figure 10: % of fish and seafood catches lost or wasted at each stage per region



Source: FAO, 2011

Under the Landing Obligation, fish that does not conform to minimum sizes cannot be sold for direct human consumption, which can result in food waste. No stakeholders suggested that marketing standards had resulted in more food waste and several national authorities indicated that products below minimum sizes are directed to animal feed, fish meal and pet food. This suggests that the marketing standards may result in some food being re-directed to non-food chains, which sits within the UN definition of food waste and in the definition used by the European Court of Auditors in its special report on Combating Food Waste.

³⁹ <http://www.fao.org/docrep/014/mb060e/mb060e00.pdf>

Studies performed in view of the application of the Landing Obligation show that these industrial outlets are not adequate to receive the level of landings of fish under the minimum size the policy intends to achieve (i.e. minimise them), as industrial uses require large volumes of regular, standardised supply.⁴⁰ So, while the standards do incentivise quality improvements to avoid raw material entering these lower-value end markets, more could be done to ensure as much products enter the human consumption market as possible, in line with the EU's Circular Economy Strategy. In its special report on Combating Food Waste,⁴¹ the European Court of Auditors recommended that the Commission should encourage further exploitation of existing possibilities for donation and consider how to facilitate donation in other policy areas. Products that do not meet the minimum size requirements are a candidate area where donations could be facilitated, since they are fit for human consumption.

Over and above the objectives laid down in the CMO Regulations, national authorities consider the existence of marketing standards improved quality and traceability to the benefit of EU consumers, in turn potentially leading to increased fish consumption.

Consumer perceptions of seafood (understanding and confidence in the information related to the marketing standards)

A 2018 Eurobarometer report on consumer habits on seafood found that at an EU level, 83% of seafood consumers express trust in mandatory information, while 77% trust voluntary information (provided by the brand or the seller).⁴² Mariani et al (2015⁴³) undertook the largest seafood authenticity investigation conducted to date and noted that two findings indicated that the control and traceability systems across the EU were reducing seafood fraud: (a) overall levels had declined since previous studies in 2008/2010 and (b) mislabelling rates were low compared to rates reported in the US. The authors concluded that as these findings were consistent across countries, “a common, transnational set of factors is currently at play in regulating the European market” and “by contrast US regulations on food labelling are less detailed, often non-binding, and inconsistent.” This analysis highlights the importance of the EU's regulatory framework for food, in particular food labelling and traceability, but also marketing standards, in contributing to harmonization across the EU and to a culture of compliance despite national differences and cultures.

⁴⁰ https://ec.europa.eu/fisheries/cfp/fishing_rules/landing-obligation-in-practice_en

⁴¹ European Court of Auditors' Special Report 2016/34 “[Combating Food Waste: an opportunity for the EU to improve the resource-efficiency of the food supply chain](#)”

⁴² 2018 Eurobarometer on “[EU consumer habits regarding fishery and aquaculture products](#)”

⁴³ Mariani S et al. (2015) “Low mislabeling rates indicate marked improvements in European seafood market operations” *Frontiers in Ecology and Environment* 13:536–540.

Marketing standards as a technical barrier to trade

The EU is the biggest importer of seafood globally. The EU regulations on marketing standards operate at the product level and it is at this level that a *de facto* trade barrier could occur as a result of the regulations. The total imports of fresh fish have increased slightly since 2002. The imports showing the highest growth are in the prepared and preserved category, including imports of preserved products covered by the standards.

There is no indication that trade barriers exist and, as imports of canned tuna and sardine as well as imports of fresh fish from the main third countries supplying products under the standards have grown, there is no indication that the EU market regulations create a *de facto* trade barrier.

Unfair practices in the supply chain / antitrust policy

The consultation phase identified only one example of possible unfair practice, mentioned by the South West Waters Advisory Council (SWWAC) and reiterated by the Market Advisory Council (MAC).

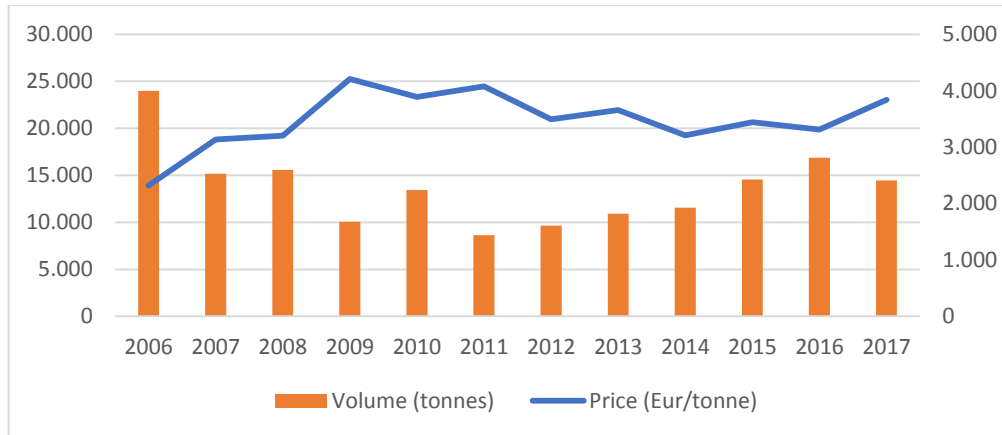
Marketing species other than *Thunnus alalunga* (e.g. *Auxis* spp) as “bonito” might have negative effects on consumers due to risks of associating them with the more valuable *Thunnus alalunga* (“bonito del norte”). The practice might also lead to unfair competition with producers of *Thunnus alalunga* as these products are sold at a much lower price.

To assess what impact the use of *Auxis* species for canned bonitos might have on fair competition, the evaluation relied on the findings of a 2008 study on the tuna supply chain⁴⁴. Albacore (*Thunnus alalunga*), Yellowfin tuna and skipjack are the species most used by the canning industry, while *Auxis* species account for a marginal share of landings of tuna and bonito species (2% worldwide) and are scarcely used by the canning industry. Prices are the consequence of global supply and demand.

Looking at first sale prices of *Thunnus alalunga* in the EU over the last decade, the evaluation confirms a clear correlation between volumes landed and prices and noted that while the term “bonito” might mislead consumers in Spain, the impact on prices and fair competition for EU producers is marginal.

⁴⁴ Study "[Etude sectorielle de la filière thonière européenne](#)" (Framework Contract FISH/2006/20 - Specific contract 16)

Figure 11: Volume and prices of Thunnus alalunga between 2006 and 2017 (EU)



Source: EUROSTAT

No antitrust issues linked to EU marketing standards were reported in the context of the evaluation. Contrary to EU marketing standards, which are publicly set, private alternatives involving agreements among operators on the volumes and characteristics of market supply might be at risk of raising competition issues. The risk might increase in cases of agreements that do not occur within individual recognised producer organisations, on which the EU Court of Justice concluded that they cannot be exempted from the application of competition rules.⁴⁵ The development of private instruments complementing marketing standards might increase the risk of unintended, restrictive effects on competition. The case of the minimum size for *crangon* shrimps agreed between operators from several countries in the framework of a private certification exemplifies this risk, particularly in the absence of an explicit scientific advice to set a minimum size above the one defined by the EU marketing standards.

Conclusions on effectiveness

There is broad consensus that the quality of landed fish has improved due to a variety of technical and economic reasons. There is also evidence that higher freshness and size grades are rewarded with better prices. By making grading mandatory, the EU marketing standards have indirectly contributed to improving quality at first sale. However, inconsistent and partial implementation limits their potential impact. The marketing standards do provide a minimum level of information to buyers, particularly in situations such as remote purchasing, but buyers of fresh product still use direct inspection along with other information such as vessel reputation. The lack of harmonised implementation obliges remote buyers to know the specific interpretation that a given auction makes of the different grades. This can limit the extent to which remote purchase will develop

⁴⁵ Judgment of the Court (Grand Chamber) of 14 November 2017, *APVE and others*, Case C-671/15, ECLI:EU:C:2017:860

across the internal market, in particular in the case of cross-border transactions, and the capacity of smaller operators or operators entering the market to purchase cross-border.

Despite growing market demand, the current marketing standards cannot deliver on their objective under the CMO Regulation of “enabling the EU market to be supplied with sustainable products” as (a) the concept of a sustainable product and underlying criteria are not defined in the Regulation, (b) minimum size is a very limited part of sustainability and (c) minimum sizes only apply to a small (decreasing) share of the supply to the EU market.

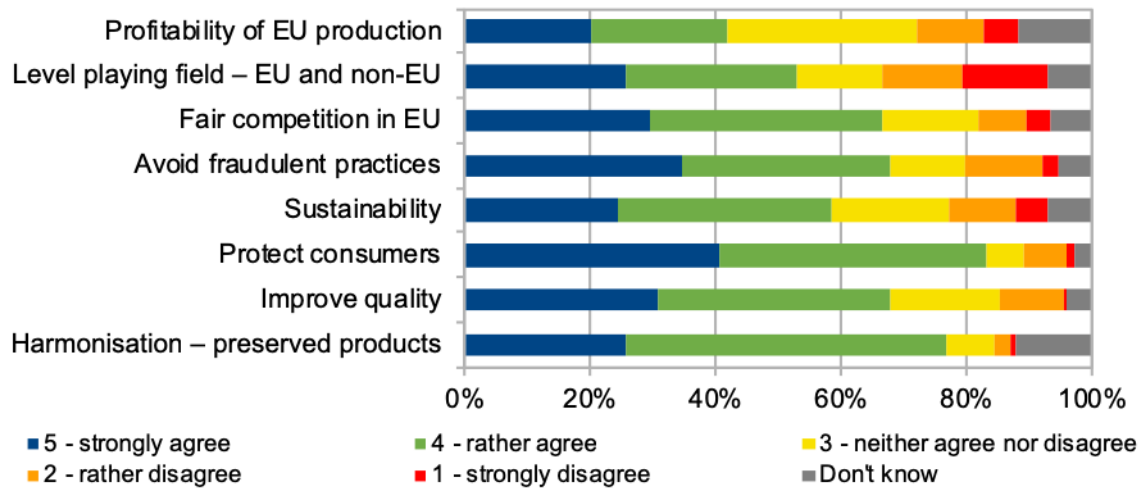
The contribution of the marketing standards for fresh products to a level playing field for producers and buyers is restricted by the inconsistent implementation and their application at first sale only. Co-existing different MCRS (across areas and countries) for the same product also reduce the harmonisation within the internal market, and hence the level playing field. As only 1-3% of imports of non-processed products are covered by the marketing standards for fresh products, their impact on the level playing field with non-EU products can only be limited.

On the other hand, preserved tuna and bonito and sardines and sardine-type products represent close to half of the imports of processed FAPs. The harmonisation of the quality criteria has therefore a positive impact on the level playing field between EU and imported products. Nonetheless, this level playing field is missing on other aspects such as sustainability and social aspects.

The impact of the standards on profitability is indirect and not quantifiable. Promoting improved quality at first sale for fresh fish that is rewarded with higher prices should mean increased profitability and therefore some positive contribution can be assumed. For preserved products, the marketing standards help to reduce unfair competition by lower-quality products.

The results of the public consultation concur with these conclusions. When asked about the impacts of EU marketing standards, respondents agreed most with ‘harmonisation of trade description and composition provision for preserved products’ and ‘protect consumers against the marketing of products unfit for consumption’. Then came ‘improve quality’, ‘avoid fraudulent practices’ and ‘fair competition in the EU’. The opinion of respondents on sustainability of seafood products was more variable and the contributions that respondents agreed the least with were ‘level playing field between EU and non-EU products’ and ‘profitability of EU production.’

Figure 12: Contributions of the marketing standards



Source: Public consultation, N=155

In relation to the objective of ‘releasing the full potential of the internal market’, intra-EU exchanges increased for all FAPs. Therefore, there is no evidence that the marketing standards contributed to increased exchanges within the EU.

There is little evidence of unexpected or unintended effects of the standards. Together with other EU rules, the standards have contributed to EU efforts to provide consumers with safe food as well as better information, although some provisions (analysed under the coherence criterion) might have the opposite effect of misleading consumers.

There is no evidence that the EU marketing standards have increased or reduced food waste. Marketing standards provide an incentive to maintain the highest possible quality. While products below the minimum size can be directed to non-food markets, this should be avoided as much as possible as per the EU circular economy strategy.

Seafood imports have risen over the period of implementation of the marketing standards, including for products under the marketing standards regulations. There is no indication that the EU marketing standards regulations create a *de facto* trade barrier.

There is no evidence either that EU marketing standards have resulted in unfair practices or issues with antitrust policy. While the evaluation did not look into possible unintended effects of private standards, recent case law indicates that agreements on e.g. minimum sizes outside individual producer organisations should be subject to competition rules. This is particularly relevant in the case of private standards.

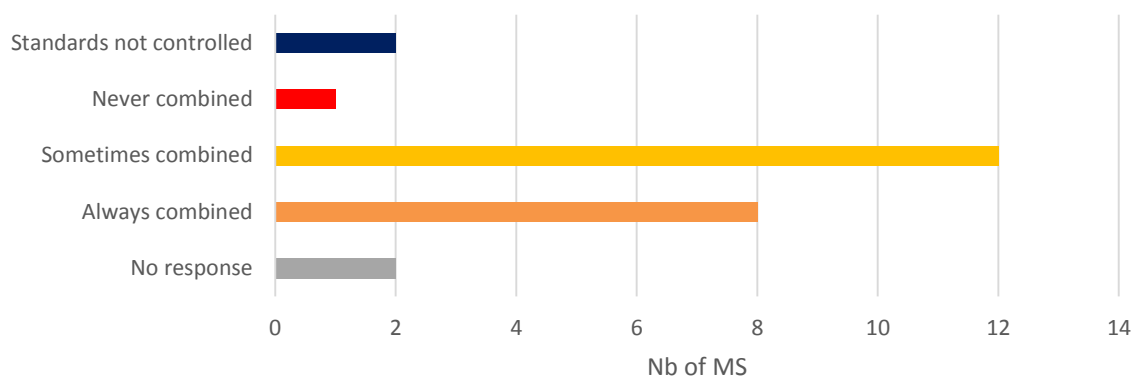
Efficiency

Question 4: To what extent are the incurred costs justifiable and proportionate to the benefits achieved?

Costs of controls

Data collected through the survey of national authorities on full-time equivalents (FTEs) dedicated to control activities rarely allows to clearly isolate costs specifically related to marketing standards. Indeed, those controls are fairly integrated with other controls (CFP, food safety). As a result, many authorities did not provide information on the amount of resources spent on controlling marketing standards or provided a number of FTEs that clearly encompasses a broader perimeter of control than just marketing standards.

Figure 13: Combination of marketing standards controls with other types of controls



Source: NA survey, N=25

The median duration of a control is 1 hour, but the cost of control appears more dependent on the organisational set-up (e.g. number of authorities involved, combined controls or not) than the actual duration of on-the-spot controls. The time spent inspecting EU marketing can be considered marginal in comparison to other controls.

While it is hard to isolate precise data on marketing standards, it is possible to estimate an order of magnitude of those costs, based on a small sample of MS.

Table 1: Estimated specific time costs incurred by public authorities for the control of EU marketing standards

	No of FTEs	Yearly FTE cost ⁴⁶	Estimated control costs / year
MS 1 and 2	0	-	0 €
MS 3	5	75 830 €	379 152 €
MS 4	2	71 416 €	142 833 €
MS 5	7	58 476 €	175 428 €
MS 6	8	47 507 €	285 043 €
MS 7	10	36 370 €	364 021 €

Source: NA survey, Eurostat

Based on the data collected the estimated cost per year for the control of marketing standards ranges from 0 to about 360.000 € per year, excluding costs on equipment (e.g. laptops, phones cameras, etc.), which are supposed common with other controls. Controls of preserved products subject to the standards might involve laboratory tests, otherwise little information on the controls performed is available. Feedback suggests that controls mainly focus on minimum requirements (minimum sizes/freshness) and labelling.

Table 2: Estimated control costs per value and volumes of products covered by EU marketing standards

MS	Costs / year (k€)	Volumes of canned tunas and sardines produced and imported (t)	Value of canned tunas and sardines produced and imported (k€)	Landings covered by marketing standards (t)	Landings covered by marketing standards (k€)	Cost of control / value of products covered by MKTS (%)	Cost of control (€/kg of product covered by MKTS)
MS1 & 2	0	-	-	-	-	0%	0
MS3	379	23,804	110,820	11,853	50,319	0.24%	0.011
MS4	599	7,186	26,163	43,616	23,389	1.21%	0.012
MS5	210	4,146	5,291	59,804	11,011	1.29%	0.003
MS6	143	10,916	57,423	0	0	0.25%	0.013
MS7	405	45,730	175,579	55,344	192,736	0.11%	0.004

Source: Evaluation study, based on NA survey and Eurostat (PRODCOM⁴⁷, COMEXT)

The above table shows fairly consistent results among MS, with control costs below 1.3 cents/kg in all cases and between 0% and 1.29% of the products value.

⁴⁶ Monthly hours worked and paid 2017 by MS adjusted to 2014 + non-wage labour costs + 25% overhead, applied to hours worked and paid, Technicians and associate professionals (ISCO 3).

⁴⁷ The term PRODCOM comes from the French "PRODUCTION COMMUNAUTAIRE" (Community Production). The database provides statistics on the production of manufactured goods.

Specific costs incurred by operators

For fresh and chilled products, the main task incurred for operators is the **grading** by size and freshness at first sale. This is generally carried out onboard and then checked at auction. Fish is sorted either by hand or by machine. In France, long-distance fisheries estimated the cost of grading and sorting onboard between 0.15-0.25 €/kg, depending on the service provided (only sorting, grading or also landing of the product). Operators do not consider that EU marketing standards add any cost, as grading would take place anyway. Specific costs were only identified in the Netherlands, as inspections are outsourced to a private company and costs are borne by operators (0.17% of sales value).

Feedback from the canning industry in France, Italy, Spain and Latvia (countries with significant production of the preserved products covered by EU marketing standards) also indicates that EU marketing standards for preserved products do not result in additional costs for operators as they are integrated in the production system.

Benefits vs costs

The costs of controls are the only specific costs resulting from EU marketing standards and represent a very small share of the total value of products covered by marketing standards (less than 1% in most MS). Even if not consistently applied, standards on fresh products provide common definitions and minimum information for first-hand buyers and contribute to some extent to a better rewarding of quality. Standards on preserved products provide minimum quality requirements and contribute to the level playing field. The impact on profitability is not measurable but likely to be positive. Member States show a rather positive attitude towards the standards, in line with stakeholder feedback.

There is consensus among stakeholders that the benefits of the marketing standards exceed the costs. While, as expected, the usefulness for consumers of marketing standards on fresh and chilled products is limited to the indirect impact on product quality, the lack of costs generated by the standards allows assuming that no costs are passed onto consumers either. Marketing standards on preserved products are integrated in production chains and reach the final consumer without any additional cost transferred.

EQ5. Could the use of other policy instruments or mechanisms have provided better cost-effectiveness?

Marketing standards and MCRS complement each other and do not entirely overlap. MCRS apply to fresh and frozen products while marketing standards only apply to fresh products. On the other hand, MCRS only apply to EU landings and to specific catch areas, while marketing standards apply to both EU and imported products.

The main added value of marketing standards compared to relying solely on MCRS resides in the grading system. The evidence collected shows that the grading system has indirectly contributed to better rewarding of quality and improved market transparency. These benefits would be lost without the marketing standards for fresh products or if MCRS constituted the only marketing standards for those products.

Other standards used by stakeholders dealing with fresh and chilled products are sustainability and process standards. Compliance costs are important, in addition to the access fees, and are borne disproportionately by the operators upstream in the supply chain rather than those downstream where the demands for certification originate. The other standards identified also do not cover quality aspects and cannot therefore be considered a more cost-effective alternative to EU marketing standards. Due to their cost-effectiveness, compared to both national and private standards, EU standards reduce the risks of market foreclosure.

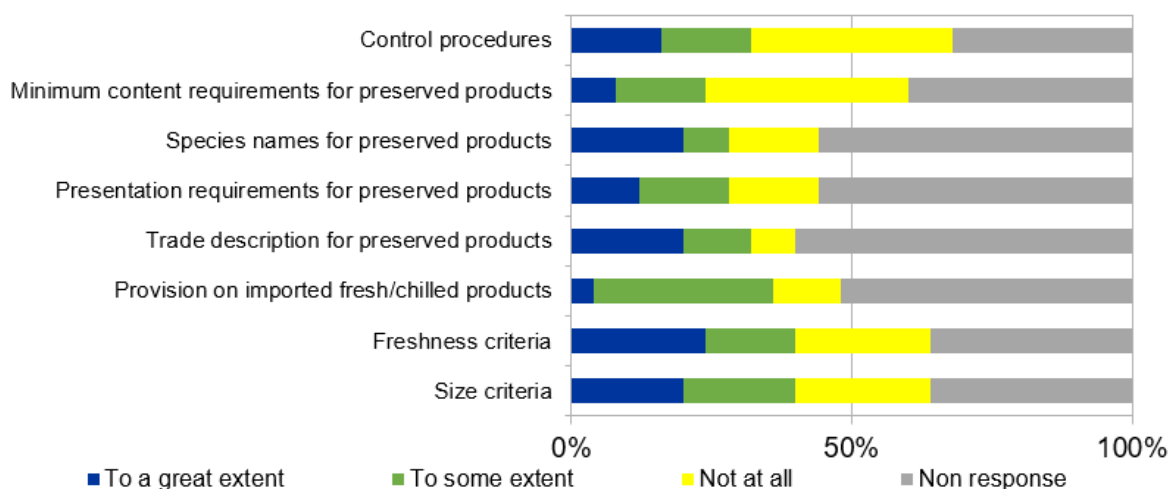
The analysis of other norms and standards for preserved products shows that similar standards under the FAO Codex Alimentarius exist but they are not used within the EU market. National norms and standards (whether private or public) were identified only in a limited number of Member States, as their establishing (particularly for private ones) is a time-consuming and costly exercise (the average management cost of a private standard is 30.000 EUR). Such standards could however only result in voluntary application (private standards) or imposition on national operators in light of the mutual recognition principle.

In conclusion, while the removal of marketing standards would allow some cost saving for control authorities in the short term, existing alternatives would not provide the same benefits and there is no evidence that it would be more cost-effective overall. This is confirmed by the public consultation. Less than 20% of respondents would agree to replace EU marketing standards with private standards, and less than 40% would agree to replace them by codes of practices or national standards.

EQ6. To what extent is there a potential for simplification of marketing standards?

Less than half of the national authorities consider that the criteria contained in the marketing standards should be simplified.

Figure 15: National authorities' feedback on the need for simplification of the marketing standards provisions without hindering the CMO achievements



Source: NA survey, N=25

10 out of 16 national authorities consider that **freshness criteria** could be simplified. Over a third of respondents to the public consultation concurred with this position. The relevance and effectiveness analysis shows that grading is not consistently applied through auctions and Member States, also due to the subjective assessment of some criteria, and that other criteria and practices are used to assess fish quality. Several operators suggested to support harmonising the implementation of the freshness criteria or the establishment of more objective criteria. The Market Advisory Council considers that while the maximum level of harmonisation should be ensured, the development of a standardised system for remote buying should be left to the business operators.

10 out of 16 national authorities suggested that **size criteria** could be simplified. Some respondents suggested that the minimum marketing sizes could be removed given the role of MCRS and the coexistence of minimum marketing sizes and MCRS might create situations where operators have to comply with both. It is not clear that keeping MCRS only would be more cost-effective.

Some stakeholders and over a third of respondents to the public consultation also deemed it possible to simplify size criteria without compromising their effectiveness. Suggestions included having only three categories (small, medium and large). Nevertheless, this appears in contradiction with practices identified in most countries, where operators tend to elaborate further categories based on the marketing standards.

9 out of 12 national authorities deemed that **provisions on imported products** could be simplified. However, imports of fresh products covered by EU marketing standards are concentrated in only five Member States (accounting for 93% of imports falling under the standard for fresh and chilled products). Of those five Member States, only one considered that provisions could be simplified to some extent, and suggested applying the same conditions as for EU products, which may not be possible when imports are not landed in the EU.

The national authority survey indicated that the **marketing standards for preserved products** could be simplified to some extent. The results are as follows:

- 8 out of 10 national authorities consider that trade description could be simplified;
- 7 out of 11 deem that species names could be simplified;
- 7 out of 11 think that presentation requirements could be simplified;
- 6 out of 10 indicated that minimum content requirements could be simplified.

However, respondents did not always provide examples of possible simplifications. Member States highlighted some problematic areas, including minimum content requirements and control thereof and trade descriptions. On the side of operators, the canning industry did not report any difficulty to implement the standards and opposed any change, without however providing arguments.

8 out of 13 national authorities consider that **provisions on control procedures** could be simplified. Only one country provided suggestions on how this could be done, and argued in favour of removing provisions on control of marketing standards and leave this to the market.

Feedback received from both the industry and the national authorities suggest that controls are enforced more systematically for marketing standards for preserved products than for fresh products. However, more detailed feedback from national authorities shows that procedures differ among Member States in both cases. As costs of controls are marginal, possible improvements mainly relate to clarifying the scope of checks and harmonising procedures, rather than simplifying existing checks.

Conclusions on efficiency

Control costs for public authorities are low, between 0 and 1.3c/kg of product covered by marketing standards (0-1.29% of their value). Costs for operators are marginal or null as tasks required by the standards would be part of their regular business activity, likely as a result of the fact that the standards are fully integrated in their operations.

The benefits identified, even if not always high and difficult to measure, are thus deemed to outweigh the costs, especially for the industry. This conclusion is supported by the fact that stakeholders generally express a rather positive opinion of the regulatory framework.

There are no equivalent standards for **fresh products** and the existing private ones complement EU standards. If EU standard on fresh products were removed, other existing standards would not deliver similar results. Based on precedents in the aquaculture sector, some common practices might arise, but no formal standards. Costs of control would be slightly reduced, but it is possible that in the long term the reported benefits would be lost.

For preserved products, similar standards to the EU marketing standards exist under the FAO Codex Alimentarius, but they only serve as reference for extra-EU trade. Were EU marketing standards to be removed, operators would probably continue to apply them, but they would not apply to imports. Removing the standards might generate cost savings for control authorities, but the benefits in terms of level playing field might be lost. There is no evidence that private standards would be more cost-effective either.

Stakeholder feedback confirms the efficiency of the current standards. They often recommend strengthening the system rather than simplifying it. There is no evidence that suggested areas of simplification would increase cost-effectiveness, and the main areas of improvement concern coherence of the standards with other regulatory provisions (e.g. MCRS, consumer information).

Coherence

EQ7. To what extent are marketing standards and other norms having the same effect as marketing standards coherent with one another?

Inconsistencies between minimum marketing sizes and MCRSs have mostly been addressed through revisions to the regulations. However, some inconsistencies persist in implementation, mainly due to the coexistence of both MCRSs (set both at EU and national level) and minimum marketing sizes. For example, sole has a minimum marketing size of 120 grams and a MCRS of 24cm in the North-East Atlantic. Under technical measures, some countries have raised this MCRS to 25cm. Operators reported during the consultation phase that they are required to comply with both minimum sizes (weight and length), while in other countries compliance with MCRS suffices. The inconsistency in the application of existing provisions, topped with the imposition of national MCRSs could create situations of unfair competition, particularly in the case of operators from neighbouring countries.

New inconsistencies have emerged with the regional discard plans as different MCRS for the same species may be set depending on the catch area (e.g. Atlantic and Mediterranean hake). In the absence of strong traceability controls, these inconsistencies might increase the risk of mislabelling (false catch area) to allow undersized fish into the supply chain, limiting the ability of marketing standards to ensure a level playing field.

Danish operators also consider that the failure to include witch (*Glyptocephalus cynoglossus*), an important product for the industry and subject to EU conservation rules, among the products covered by the standards on fresh and chilled products limits market transparency. A revision of the standard should include this species along with other important commercial species covered by conservation rules (e.g. turbot, halibut).

EQ8. To what extent are marketing standards coherent with other EU rules (e.g. EU rules on food safety, food information to consumers, conservation rules)?

The fact that most control authorities undertake combined control procedures is evidence of coherence between the **food safety** and market standards systems. Stakeholder in the industry confirmed that it is not always possible to distinguish which regulation a control procedure is applying as an inspection may check compliance against several regulations.

While no incoherence was detected, some parts of the existing regulations might be outdated as a result of the application of EU rules on food safety. This is the case for example of the category defining products not admitted for sale for human consumption under the marketing standard for fresh and chilled products.

The **CFP Control Regulation** is generally coherent with marketing standards, but gaps have been identified. Authorities tend to only check compliance with minimum standards (e.g. MCRS), not that the standards are met (i.e. correct grading). As sales notes do not convey size and freshness grade information beyond first sale, controls of marketing standards for fresh and chilled products along the supply chain is more difficult.

Inspection targets laid down in Annex I to the CFP Control Regulation confirm that the emphasis is on compliance with provision on fishing activities. The ability to undertake combined control does however show general coherence with EU marketing standards. The proposed revision to the CFP Control Regulation⁴⁸ is expected to facilitate controls along the supply chain.

Rules on **official controls in the agri-food chain** ensure the same procedures for products under the marketing standards as with other products, demonstrating coherence between control provisions and marketing standards.

Requirements on the provision of **food information to consumers** under Regulation (EU) No 1169/2011 (the 'FIC' regulation) are generally complementary to the EU marketing standards as well as to consumer information rules under the CMO Regulation, in that they all seek to achieve a high level of consumer protection.

However, some provisions contained in the marketing standard for canned tuna and bonito might undermine achieving this objective.

The standard allows marketing a product as canned tuna or bonito even when only 25% of the fish content is composed of tuna / bonito species, provided the muscular structure has disappeared. While it is unclear how this provision fits with the obligation under the FIC Regulation to mention all species in the ingredient, it does not seem in line with the goal of guaranteeing consumer right to information.

As regards coherence between the marketing standards and **consumer information provisions under the CMO Regulation**, quality criteria defined by the standards for fresh and chilled products are used at first sale and are not reported along the supply chain. EU rules on consumer information set out in the CMO Regulation present different information and are complementary to marketing standards.

For preserved products, marketing standard requirements are available to end-consumers. However, the analyses showed specific inconsistencies with consumer information rules under the CMO regulation, mainly linked to the fact that these products are not subject to mandatory labelling requirements, and particularly to the obligation to use specific commercial designations for given species. This derogation for prepared/preserved products has the potential of misleading consumers, especially when marketing standard provisions on trade descriptions conflict with the commercial designations established by Member States under the CMO Regulation.

Tuna labelling in Spain is an example where coherence of marketing standards with the CMO regulation was questioned by operators. The marketing standard defines *Thunnus alalunga* as a tuna, which cannot be called bonito. However, under the CMO provisions

⁴⁸ COM(2018) 368 final Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) No 2016/1139 of the European Parliament and of the Council as regards fisheries control

on consumer information, Spain has adopted ‘bonito del norte’ as commercial designation for *Thunnus alalunga*. While the marketing standards accepts some derogations from its rules on trade descriptions, coherence between the marketing standards and CMO provisions on consumer information remains wanting.

Food hygiene rules help to ensure establishments are hygienic and provides safe food. They are coherent and complementary with EU standards, which help to define quality.

EQ9. To what extent are EU marketing standards coherent with international standards (e.g. Codex)?

EU marketing standards on preserved products are generally coherent with, but more detailed than, FAO Codex standards. However, some inconsistencies are a source of confusion and lead to different interpretations among operators.

The EU standard for preserved sardines and sardine-type products was amended in 2003 following a WTO dispute to allow the use of the term “sardine” for sardine-type species (e.g. sprat), in line with the Codex standard. The provisions covering trade descriptions and minimum weight requirements were not revised and only cover sardines. Interpretations differ as to whether these provisions apply or not to sardine-type products.

Several provisions in the standard for canned tuna and bonito are not coherent with the relevant Codex standard. While the Codex standard regulates the use of descriptive terms such as ‘white’, there is no similar provision in the EU standard. Operators in some countries use the designation “white tuna” for *Thunnus alalunga* as they interpret the mention of this designation in their own language versions of the standard as an indication of how the product shall be named. However, the term is only mentioned in the annex listing the species covered by the standard, with no provision in the standard itself establishing that such designations should be used. In other countries, the term “white” is used to refer to the tuna colour, not the species. This inconsistency goes against the harmonisation intended by the marketing standards and risks misleading consumers.

While the Codex standard does not differentiate between tuna and bonito species, the EU standard does. This however contrasts some long-established national practices. For example, operators in Spain usually call *Thunnus alalunga* (a tuna species) “bonito del norte”. The species *Auxis thazard* and *Auxis rochei* are authorized for canned bonito in the EU regulation, but not in the Codex standard. Finally, the EU standard allows mixing tuna and bonito with other fish in preparations in which the muscular structure has disappeared, as long as tuna or bonito species represent at least 25% of the net weight. No similar exception is allowed in the Codex standard.

Several private initiatives aim to standardise quality definitions, such as the Quality Index Method (QIM) and private quality labels such as Label Rouge (France), and Silver Sealedkwaliteit (Ijmuiden). These may differ from or go beyond marketing standards to address aspects of interest for their customer base. Private quality standards focusing on

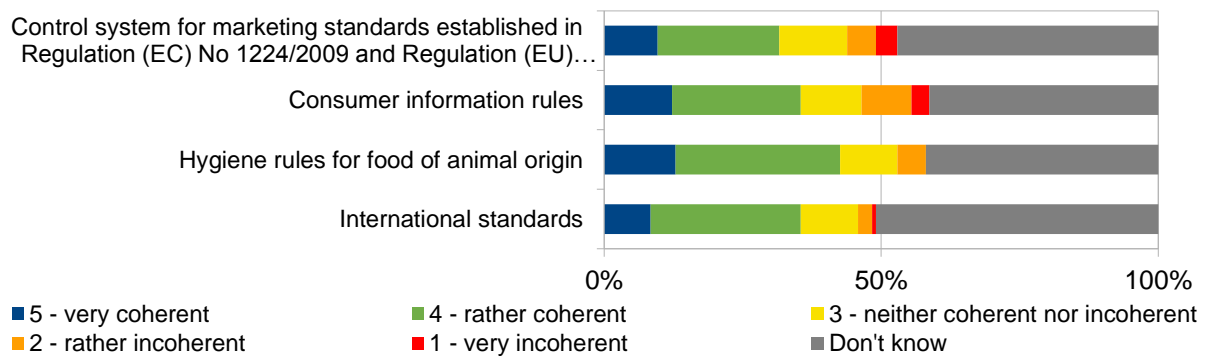
process are also widespread (BRC, IFS) and are regarded by stakeholders as important to retain market access. They are considered complementary to the marketing standards.

Sustainability standards are generally considered complementary to marketing standards. Only one example of overlapping with marketing standards was detected regarding brown shrimps. As input submitted by MAC members shows, these standards are increasingly important to retain market access, particularly in certain EU countries and for operators selling to large-scale retailers.

Among the national/regional standards inventoried by the evaluation study, some standards for preserved products include specific requirements for canned sardines and tuna. Operators did not identify any inconsistency between them and EU standards.

Few replies to the public consultation addressed the issue of coherence. Respondents either considered other standards complementary to EU standards or did not know. EU standards were generally considered as a minimum common reference.

Figure 16: Coherence with other standards



Source: Public consultation, N=155

Conclusions on coherence

EU marketing standards aim to ensure consistency in the quality definition of fishery products sold in the EU. This is coherent with and supported by control regulations, although controls are firstly focused on the legality of catches and food safety.

Consumer information rules and other international food standards and private standards are complementary to EU marketing standards. For preserved products, both marketing standards and consumer information provisions appear on consumer-facing labels and are important to reassure EU consumers about product quality.

The standard for canned tuna and bonito is not fully coherent with consumer information rules, so that in some countries the same species can be marketed under different names depending on whether it is sold fresh or canned, with a risk of misleading consumers.

EU marketing standards on preserved products are not fully coherent with the relevant Codex standards, leading to confusion and different interpretations among operators.

Some operators apply all requirements of the standard for sardines and sardine-type products to sardine-type species, while only labelling requirements apply to them.

Unlike the Codex standard, the EU standard on canned tuna and bonito imposes a distinction between tuna and bonito species. This is problematic in some Member States, and so is the inclusion in the EU standard of *Auxis* species, which are not listed in the Codex standard. Moreover, the Codex standard for canned tuna and bonito contains provisions on the use of descriptive terms for product colour. The absence of such provision in the EU standard results in different practices across the EU and a risk of misleading consumers.

Finally, the EU standard for tuna and bonito allows marketing products that are mixed with other fish, provided that they contain at least 25% of tuna or bonito and the muscular structure has disappeared. This is not allowed under the Codex standard. The lack of any provision on informing consumers about the presence of other fish also questions the coherence of such provision with consumer right to information.

Private standards are complementary to EU marketing standards. The EU market increasingly seeks assurance on sustainability (including labour standards) and private standards are more and more part of large-scale retailers purchasing conditions. In their current form, the EU marketing standards do not provide comparable information, despite this being one of their objectives under the CMO Regulation.

EU added-value

EQ10. To what extent are EU marketing standards justifiable and provide added value? Would national/regional standards provide the same result? What is the added value of the EU marketing standards compared to private standards in place in the supply chain?

National standards rarely overlap with EU marketing standards and mostly cover market niches (except in the case of fish fingers), processes and the use of additives. As they stand, none of the national standards identified would provide the same result as EU marketing standards. This is confirmed by the dual food quality issue that rose in 2017 and which prominently featured fish fingers.

The highly internationalised trade context and rising consumer awareness about hazardous additives and sustainability issues lead to an emerging consensus on the need to standardise practices beyond national borders, which national standards cannot do.

Only EU standards, as opposed to national ones, can improve the level playing field as they apply to all products entering the EU market. However, under the current framework the added-value of EU marketing standards in that regard is limited by their scope and by their focus on quality only.

Private standards currently used in the market, whether on process, sustainability or specific products, are not more cost-effective than the EU standards overall and the cost of entry for operators is much higher.

Marketing standards for fresh products provide a common set of criteria to define quality, even if only as a basis for more sophisticated systems. While freshness criteria are applied with some subjectivity, the criteria themselves are objective and similar to what can be obtained through private systems such as the QIM, for a fairly high cost. Public and freely available criteria for all operators across the EU is a clear added-value of marketing standards in terms of level playing field.

EQ11. To what extent would EU marketing standards have been useful for the sectors/products currently not covered?

Compared to fisheries, **aquaculture** is an activity with a higher degree of management. Production volume, size and freshness can be controlled and predicted. In the aquaculture supply chain, trade is based on long-term contracts defining client requirements. Product quality does not raise specific issues as products are directly delivered to clients after harvesting and freshness is defined by the slaughter date. Product sizes are established based on contractual agreements. Farmers favour keeping this flexibility as they plan their breeding programme based on the size categories requested by clients. This process ensures a certain market stability compared to fisheries.

Table 3: Comparison of some features of fisheries and aquaculture

Characteristics	Fisheries	Aquaculture
<u>Management</u>	<ul style="list-style-type: none"> External regulation of effort / limited in situ management of catching decisions. Conservation measures. 	<ul style="list-style-type: none"> Internal management of the production process. External regulation of resources access, management practices.
<u>Market</u>	<ul style="list-style-type: none"> Volatile, responding to a wide range of factors: supply and demand, quality, etc. Products are sold through auctions / pressure to sell. 	<ul style="list-style-type: none"> Producers may control outputs. Long-term supply trends. Long-term contracts.
<u>Outputs</u>	<ul style="list-style-type: none"> Highly variable within moderately definable stock / year-class boundaries. 	<ul style="list-style-type: none"> Originally seasonal, increasingly controlled and extended. Chosen species, quality and size.

In the case of products involving significant cross-border exchanges within the EU (i.e. seabass, seabream, trout, salmon and carp), product requirements contained in supply agreements consolidated over the years. In some countries, these have been formalised through standards. Alternatively, quality schemes detail freshness and/or size criteria and identify the premium segment (e.g. Label Rouge, GIs).

Aquaculture stakeholders consider that they can better meet changes in demand and client requirements in the absence of marketing standards, as these are too rigid. Beyond

quality criteria, the Aquaculture Stewardship Council (ASC) certification is being implemented by several farms across the EU, hinting to a growing demand for assurance regarding sustainable practices in the aquaculture supply chain as well.

In some countries, auction operators have developed freshness and size grading systems for **fresh products** not covered by marketing standards (mainly species caught by small-scale fisheries). These standards are based on the market needs concerning sizes and on marketing standards already applicable to species covered by the marketing standard for fresh products concerning freshness.

The characteristics of **processed products** are ‘demand-driven’ and may differ according to clients and between countries. Few examples of processed products were identified where national / private standards had been developed. These do not appear to have impacted cross-border exchanges. Nevertheless, in the case of standardised products, they have raised concerns in terms of consumer perception as the dual food quality issue highlighted.

To answer the evaluation question, two aspects have been investigated: on the one hand, the usefulness of the existing EU marketing standards and, on the other hand, the shortcomings in the supply chains of products not covered by EU marketing standards.

Assessment of the usefulness of EU marketing standards

Marketing standards on **fresh products** have indirectly contributed to improving product quality through the generalisation of a grading system and provided a common language between operators, thus increasing market transparency and helping to establish a level playing field among EU operators, despite their inconsistent implementation. As regards imported products, the limited share of products covered by the standards (1-3% of imports of non-processed FAPs) means that the impact on the level playing field between EU and non-EU products is only limited.

While marketing standards can be assumed to have indirectly contributed to profitability by making available a system to reward fresher and larger fish with higher prices, such contribution is not quantifiable and probably marginal compared to other factors. Beyond the alignment between minimum marketing sizes and MCRSs, the standards provide no contribution to enabling the EU market to be supplied with sustainable products. The standards for fresh products lose their importance after first sale, but they provide a reference for remote purchasing, despite the limited development of this system.

For **preserved products**, EU marketing standards are important to maintain a level playing field between EU and non-EU operators in terms of product quality, and are relevant throughout the supply chain. They help to maintain profitability by avoiding that competition takes place to the detriment of product quality. However, harmonisation at EU level is a challenge and some issues remain, despite their long period of implementation. Moreover, the standards contain no provision that would enable the EU market to be supplied with sustainable products.

Although sustainability aspects are barely covered by EU marketing standards, private certifications focusing on sustainability are increasingly sought (83% of respondents to the consultation on recommendations mention that clients have product specifications related to sustainability). This confirms a clear market demand for this information, which has given rise to a multiplicity of private solutions, each with its own definition of product sustainability.

Shortcomings in supply chains not covered by EU marketing standards

The shortcomings identified in the aquaculture supply chain could not be addressed by the EU marketing standards in their current form, with the exception of defining criteria for the term “superior” used for some aquaculture products (mainly salmon). The study carried out for the European Commission to assess voluntary allegations on fishery and aquaculture products confirms that many allegations on product quality are not linked to private schemes, making the verification of their true nature more difficult. In the absence of clear criteria defining when a product is of “superior” quality, unfair competition can occur, including with operators from non-EU countries as in the case of salmon.

The **aquaculture** sector is however very concerned by a lack of level playing field with non-EU products as regards e.g. social and environmental requirements.⁴⁹ These issues are only partially addressed through horizontal regulations (e.g. hygiene, consumer information). Private certifications (especially ecolabels) and GIs (for some products) are used in differentiation strategies and, increasingly, in response to buyer requirements. The possibility to use marketing standards to improve market transparency through common definitions has not been considered so far.

No shortcomings have been identified in the supply chain of **fresh products** not covered by marketing standards. Similar classification systems to the ones defined in the marketing standards have been defined for species not covered. The only potential issue this raises is the lack of harmonisation in relation to remote sales. By large, respondents to the public consultation support standardisation of fresh and chilled products currently not covered by the standards. This likely reflects a general call for further transparency in the supply chain rather than a need to address specific shortcomings in the supply chain.

The data collection identified no shortcomings in the supply chain of processed products that could be addressed by marketing standards in their current form either. The existence of national standards for standardised products marketed throughout the EU (e.g. fish fingers) however reveals that shortcomings exist, as highlighted by the dual food quality issue and poses the question of whether minimum criteria on fish content for such standardised products should not rather be set at EU level.

⁴⁹ https://www.aac-europe.org/images/AAC_Position_Paper_Level_Playing_Field.pdf

Conclusion on EU added-value

Comparable standards identified at national level cannot contribute to harmonisation and transparency at EU level, the creation of a level playing field with non-EU products, or to a common culture of compliance. Compared to private standards, EU marketing standards provide free access to a common set of definitions and quality criteria and therefore ensure that all operators can access the same information.

There is little evidence of shortcomings in the supply chains for products not covered by EU marketing standards that could be addressed by expanding the current standards. However, the public consultation calls for increased market transparency and stakeholder feedback indicates that the issue of level playing field, including with regard to social and environmental requirements, is not fully addressed. This is reflected in the opinion of the Market Advisory Council, in which the majority of stakeholders called for marketing standards to play a stronger role in (a) ensuring profitability of production through fair competition, (b) a level playing field, including on social aspects and (c) enabling the EU market to be supplied with sustainable products.

6. CONCLUSIONS

While there is consensus that the marketing standards have overall had a positive impact on the EU market for fishery and aquaculture products, their capacity to deliver on their objectives as defined in the CMO Regulation is limited by their current scope and nature.

The existing standards are still **relevant** for the products covered. Size and freshness criteria are the main criteria used to determine prices at first sale of fresh, whole fishery products, including imports, and standards provide a reference for remote sales. Expanding such criteria beyond first sale or to aquaculture products is not deemed useful, except for defining criteria for the use of some quality terms such as “superior.” Standards for preserved products are also considered relevant and by their nature are maintained throughout the supply chain. Only a few national standards (public and private) exist for processed products not covered by EU standards, so that the scope of current EU marketing standards is considered relevant, except in the case of standardised products such as fish fingers, for which the absence of EU minimum quality criteria has raised issues, and potentially for some fresh products based on industry demand (e.g. witch).

With regard to their **effectiveness**, the evaluation confirmed the findings of the impact assessment leading to the adoption of the current CMO Regulation that marketing standards have indirectly contributed to improvements in product quality by providing a grading system to assess and reward quality with better prices. While the current framework ensures that standards are not in conflict with conservation measures, they hardly provide any other contribution to enable the market to be supplied with sustainable products.

While the standards for fresh products have provided a minimum common set of information for buyers and sellers and facilitate remote sales, their impact is limited by inconsistent implementation across auctions and Member States. The co-existence of different EU and national minimum conservation reference sizes for the same species alongside minimum marketing sizes also limits the level playing field within the internal market.

As only 1-3% of imports of non-processed products are covered by the marketing standards for fresh products, their impact on the level playing field between EU and non-EU products can only be limited. In the case of preserved products, about half of the imports of processed fishery and aquaculture products are composed of products covered by EU marketing standards. In this case, the standards have a significant impact on the level playing field between EU and imported products as far as quality aspects are concerned.

Some positive impacts on maintaining profitability can be assumed as the standards allow preventing competition to the detriment of product quality.

As regards unexpected and unintended effects of marketing standards, while there is no evidence that the standards have either increased or reduced food waste, more could be done to ensure that products that do not meet the minimum size requirements enter the food chain, for example to be destined to donations, in line with the EU's Circular Economy Strategy and recommendations of the EU Court of Auditors.

Achievements against the objectives defined in the CMO Regulation are limited by the standards' narrow scope in terms of products covered and by their focus on quality. As a consequence, in their current form, the standards cannot enable the EU market to be supplied with sustainable products. There is no evidence that standards have facilitated exchanges within the internal market compared to products not covered by them. The standards are likely to have indirectly impacted profitability by facilitating rewarding of quality and preventing that competition takes place to the detriment of product quality. While the impact on level playing field is tangible for canned products as far as quality aspects are concerned, this is less the case for fresh products due to the inconsistent implementation within the EU and the small share of non-EU products covered. Moreover, the standards do not contribute to a level playing field as regards e.g. social and environmental aspects for any of the products covered. This is a concern for operators in all supply chains for fishery and aquaculture products, including those products currently not covered by the standards.

As regards **efficiency**, the evaluation showed that the enforcement costs for public authorities are marginal, and implementation costs borne by operators are marginal or null. No equivalent standards exist for fresh products and, the existing ones either complement or are built on the EU standards. There is no evident improvement or simplification that would reduce costs without losing the benefits of the current standards.

Similar standards to the marketing standards for preserved products are contained in the FAO Codex Alimentarius, but are only used as a reference for trade with non-EU countries. If the EU standards were removed, the level playing field may be lost. Overall the benefits outweigh the costs and there is no evidence that alternatives, such as private standards, would be more cost-effective.

Overall, there is little room for further simplification without risking the loss of the benefits obtained, and with very little cost-saving. However, the evaluation detected a lack of clear rules or guidance about what types of control should be carried out and at which stages of the supply chain.

EU marketing standards are generally **coherent** with both CFP and sanitary control regulations, even though controls are more focused on the legality of catch and food safety. Consumer information rules, other international and private standards provide additional information and so act in a complementary fashion. The standard for canned tuna and bonito is not fully coherent with consumer information rules, and some of its provisions risk misleading consumers instead of protecting them.

While the standards on preserved products are generally coherent with the FAO Codex Alimentarius standards, some inconsistencies were detected, which lead to confusion in the sector and diverging interpretations or risk misleading consumers.

EU added value is evident as other standards cannot contribute to harmonisation and transparency at an EU level, ensure a level playing field with non-EU products, or create a common culture of compliance. Compared to private standards, EU marketing standards also provide free access to a common set of definitions and quality criteria and therefore ensure that all operators have access to the same information.

The overall conclusion is that the standards are generally relevant, efficient and coherent and have EU added value. As regards their effectiveness, however, consultation activities showed significant shortcomings. The public consultation called for increased market transparency and feedback gathered from the sector indicates that the issue of level playing field, including on social and environmental aspects are not fully addressed by the current framework, while this issue is transversal to all product groups. Similarly, while market demand for sustainability assurance is increasing, leading to a multiplication of private initiatives, each with its own sustainability criteria, the marketing standards have not been equipped to deliver on this objective, introduced by the reform of the CMO Regulation in 2013.

The results of this evaluation will feed into a reflection on how to address the challenges and shortcomings identified and how to improve the overall performance of the marketing standards framework for fishery and aquaculture products.

ANNEX 1: PROCEDURAL INFORMATION

1. LEAD DG, DeCIDE PLANNING/CWP REFERENCES

Lead DG: Directorate-General for Maritime Affairs and Fisheries (DG MARE); Unit A4: Economic Analysis, Markets and Impact Assessment

Decide Planning reference: PLAN/2017/2168

2. ORGANISATION AND TIMING

The inter-service group (ISG) consisted of the Secretariat-General (SG), the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (DG GROW), the Directorate-General for (DG SANTE), the Directorate-General for Trade (DG TRADE) and other units of the Directorate-General for Maritime Affairs and Fisheries (DG MARE), dealing with CFP coordination, Fisheries control and inspection, Fisheries policy in the different sea basins, aquaculture, trade, IUU and scientific advice.

The group met 5 times during the evaluation process. The first meeting took place on 15 March 2018. A second meeting was held on 3rd May 2018, a third one on 5 September 2018, a fourth one on 13 December 2018 and a fifth one on 7 March 2019. As work progressed and the evaluation showed interactions with additional policy areas, the Directorate-General for Environment (DG ENV) and the Directorate-General for Justice and Consumers (DG JUST) were also invited to attend the meetings of the ISG. ISG members received all documents related to the consultation strategy and evaluation roadmap, as well as draft versions of the study carried out by the consultant, for their comments and review.

The ISG held a further meeting in September 2018 prior to the launch of the inter-service consultation, also involving the Legal Service.

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

Not applicable

4. CONSULTATION OF THE RSB (IF APPLICABLE)

Not applicable

5. EVIDENCE, SOURCES AND QUALITY

An evaluation study, outsourced to an external consultant, supported this evaluation.

Literature, open on-line sources and publicly available reports have been used. The main source of information was the stakeholder consultations and the Expert Group for markets and trade in fishery and aquaculture products, as well as Advisory Councils (SWWAC, MAC, AAC). During the consultation phase, the information was collected

via interviews (national authorities in charge of implementation and control), targeted consultations (operators at all stages of the supply chains for fishery and aquaculture products), an online public consultation to reaching out to a wider audience including SMEs and consumers and a consultation on recommendations.

General market information was collected through existing statistical databases but also during the consultation phase. Cost-related information was collected during the targeted consultation of operators and via the survey of national authorities.

As regards the robustness of the consultations:

- During the preparatory phase, the external consultant used existing studies and documents to prepare the next steps of the study. The work resulted in questionnaires for the survey of national authorities and the targeted and public consultations.
- An ISG composed of representatives of several Commission departments (see above) monitored the work of the consultant. The steering group paid particular attention to the independence of the evaluation team considering that information sources were limited and replies were potentially driven by commercial interests of the economic operators.
- The public consultation was widely publicised via indirect channels (Market Advisory Council, Expert Group for markets and trade in fishery and aquaculture products) to stimulate stakeholder participation.
- Contributions by industry appear to be coherent and representative of the sector. Through targeted interviews of national authorities information could be collected from almost all Member States. The public consultation resulted in 155 replies and confirmed identified shortcomings.
- By triangulating data from consultations and submissions and publicly available information, it has been possible to verify the extent of some alleged impacts of the standards.

As the number of replies and the level of coherence are high, the qualitative assessment can be considered reliable. However, information related to compliance costs need to be interpreted with care and should be seen as indications of an order of magnitude rather than as precise estimates. Also, costs for operators might be limited due to the long period of application of the standards, which means that they have been integrated in their business practices. The actual implementation costs could have only been assessed if data had been available for the period when the standards became applicable, which is not the case.

ANNEX 2: STAKEHOLDER CONSULTATION

Outline of the consultation strategy

The objective of this evaluation was to examine the relevance, effectiveness, efficiency, coherence and EU added value of the current marketing standards framework for fishery and aquaculture products (FAPs), in accordance with the Better Regulation Guidelines. The evaluation covers EU marketing standards rules laid down in the CMO Regulation, as well as the three following regulations:

- Council Regulation (EEC) No 2136/89: preserved sardines and sardine-type products;
- Council Regulation (EEC) No 1536/92: preserved tuna and bonito products, and
- Council Regulation (EC) No 2406/96: fresh and chilled fishery products.

In the context of the evaluation, the consultation strategy aimed to: (1) obtain information on the effects of the marketing standards and their contribution to a fair and sustainable market for FAPs, (2) gather feedback on the relevance of these standards in comparison to private/international standards, (3) identify benefits and burdens generated, and (4) detect issues in their implementation and enforcement.

The consultation strategy mapped the following as relevant stakeholder groups:

- Representative organisations/ associations at national and EU levels;
- Operators involved in supply chains covered by marketing standards;
- Operators involved in supply chains not covered by marketing standards;
- Standards setting bodies, whether private or public;
- National authorities in charge of controls as well as customs officials and any other relevant authority;
- Citizens as consumers, even though not directly affected by these standards.

To reach stakeholder groups, the following consultations were conducted:

- Public consultation of 4 weeks by the Commission prior to the evaluation to give stakeholders the opportunity to provide feedback on the evaluation roadmap;⁵⁰
- Public consultation of 12 weeks by the Commission to allow all stakeholders to express their views on the EU marketing standards framework;⁵¹
- Written consultation of Member States' authorities by the evaluators;
- Targeted consultations by the evaluators of stakeholders in several supply chains in six Member States, complemented by phone interviews in other Member States and submissions in five Member States based on the evaluation questionnaires.⁵²

⁵⁰ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-594424_en

⁵¹ https://ec.europa.eu/info/consultations/public-consultation-eu-marketing-standards-fishery-and-aquaculture-products_en#about-this-consultation

⁵² See Evaluation study for the detailed methodology and full list of interviews and written contributions.

The Market Advisory Council (MAC) and the South Western Waters Advisory Council (SWWAC) issued opinions on the topic.

The several consultations activities had the following objectives and design:

- **Public Consultation:** The European Commission's Directorate-General for Maritime Affairs and Fisheries ran a Public Consultation from 16 July to 9 October 2018. It aimed to gather opinions on the EU marketing standards from the broadest possible range of stakeholders – both expert and non-expert. The public consultation received 155 contributions.
- **Survey of national authorities:** it ran from June to September 2018 and targeted the 28 Member States through an online survey in four languages (EN, FR, DE and ES). All EU countries, except Portugal, Slovakia and Slovenia, replied. The survey provides information on how controls of marketing standards are organised, the resources allocated, the level of compliance, information on other norms in place at national level and the main impacts of the standards as perceived by the national authorities.
- **Targeted consultations:** Six case studies were carried out: Croatia, Denmark, France, Italy, the Netherlands and Spain. These countries include a large proportion of EU production and trade of FAPs and reflect the diversity of supply chains within the EU. The consultations addressed operators and representative organisations through individual interviews and focus groups, following tailored interview guides. To cater for the diversity of operators in France, Spain and Italy, a larger number of interviews took place in these countries. Fresh and chilled fishery products were covered in all case studies. In addition, the case studies addressed the following themes: shellfish farming in France, shellfish farming and canning industry in Spain, fish farming and canning industry in Italy, extra-EU trade in the Netherlands, processing in Denmark and fish farming and processing in Croatia. The case studies provide an understanding of how marketing standards are implemented and how operators deal with products not covered by them. In total, 63 private companies and representative organisations took part. The distribution of the tailored questionnaires to all Member States through the Commission's expert group for markets and trade in FAPs led to 10 additional written contributions from Austria, Belgium, Italy, Portugal and Sweden. Five additional interviews took place to complete the data collection on specific topics (aquaculture in Greece, canned sardine-type products in Latvia and aquaculture and intra-EU exchanges in Poland, Federation of European Aquaculture Producers - FEAP).
- **Consultation on recommendations:** in the final stage of the study, stakeholders interviewed during the data collection phase and who had expressed interest to be further involved were consulted on a set of recommendations. The questionnaire was available in the 6 languages of the case studies. When the questionnaire was sent in English, respondents were offered the possibility to answer in their language. Out of the 119 operators and organisations contacted, 31 replied.

Profile of stakeholder groups

In total, 259 stakeholders contributed to the evaluation. The figures below show the contributions by country and stakeholder group.

Figure 1: Distribution of contributions by Member States

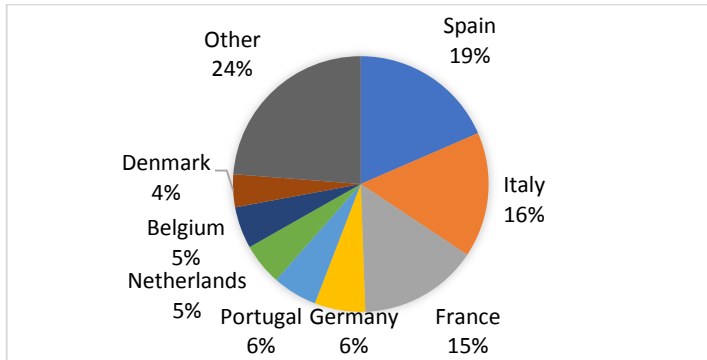
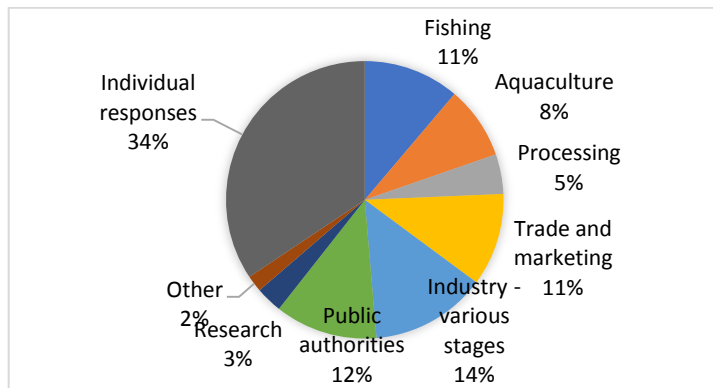
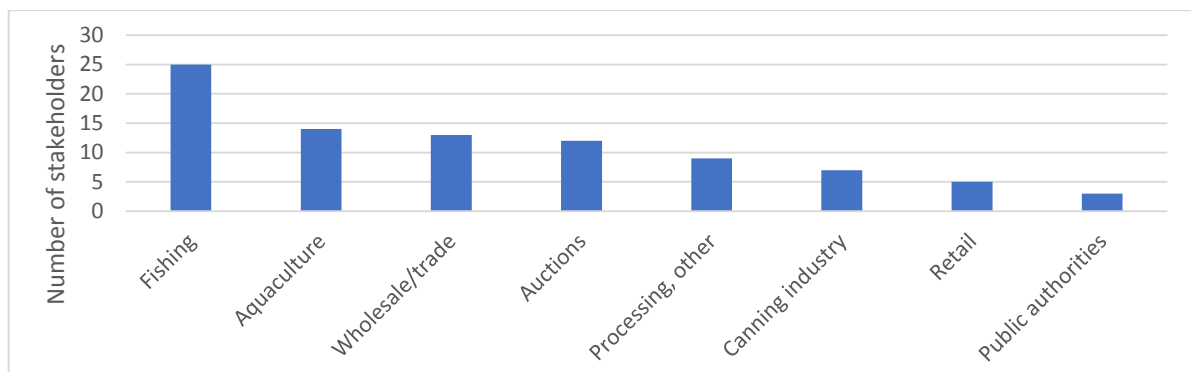


Figure 2: Distribution of contributions by stakeholder group



All sub-sectors and supply chain stages contributed to the targeted consultations⁵³.

Figure 3: Contribution of the different subsectors for the targeted consultations



⁵³ As each stakeholder can operate in more than one sub-sector, some overlap might occur.

Short description of the methodology and tools used to process the data

Data gathered through the consultations were mainly qualitative and were processed using qualitative methods. The only quantitative data collected from stakeholders were:

- **National authority survey:** the number of FTEs allocated to controls of marketing standards, number of controls, volumes of products controlled and number of infringements. The few reliable and comparable answers were processed as qualitative answers rather than through statistical analysis.
- **Auctions price statistics:** some auctions provided price series. The data did not allow carrying out statistical analysis but serve as examples.

Statistical techniques such as bivariate and multivariate analysis allowed identifying both overall patterns and differences between respondent groups. Qualitative data highlighted the reasons behind certain patterns or main variations.

Description of the results of the consultation phase

The consultation activities were complementary to one another. They provide a realistic and coherent picture of the implementation of the marketing standards framework. Views on its future evolution are more heterogeneous.

National Authority survey

Questions to national authorities focused on controls and on whether, in their view, the EU marketing standards had achieved the objectives of the CMO Regulation.

In general, between one and five entities are involved in implementation and control activities. The most common set-up involves both the Department of Agriculture and/or Fishery and the Veterinary Services. Market control services can also be involved. All these entities also carry out other types of controls.

In 20 out of the 23 countries that reported on the organisation of controls, these are combined with other inspections (e.g. hygiene, traceability, laboratory sample checks, storage conditions and labelling). When controls are not combined, this is either because standards are not checked at all (2) or because the legal framework does not allow so (1).

Only 13 countries provided information on the resources allocated to controls, and only six answers could feed the analysis. As controls of marketing standards are often combined with other controls, it is difficult to precisely assess the resources dedicated to their control. Reliable answers, confirmed by information collected through the case studies, suggest that 0 to 9 FTEs/year are allocated to the control of marketing standards. Similarly, it was not always clear whether answers regarding the number of inspections and reported anomalies referred to marketing standards only or if they covered other provisions. In general, Member States indicated a good level of compliance, noting that stringent buyer requirements reduce infringements. The most frequent irregularities relate to size issues, while anomalies regarding preserved products are the least frequent.

The vast majority of national authorities consider EU marketing standards as having positive effects on quality, sustainability, transparency of the market and fairness of trade. They also generally consider the standards coherent with other national and EU rules. Calls for simplification are limited. Simplification of freshness and size criteria has the highest support, with about a third of authorities without opinion, a quarter opposing simplification and about 40% favouring it, arguing in particular that MCRSs suffice.

Targeted consultation of stakeholders

The case studies, additional interviews and contributions provide an understanding of the level of implementation, benefits and costs of the marketing standards.

With the exception of the catching sector in Croatia, stakeholders involved in fresh fish supply chain are in general aware of the marketing standards. Operators in the canning industry are all very well acquainted with the marketing standards.

On the relevance of the criteria defined by marketing standards for fresh fish, operators in the supply chain indicate that first sale price statistics are kept by size categories, which illustrates the importance of this criterion. Freshness grading is also applied, but other criteria might be used to assess the product's quality (e.g. the vessel's reputation, time elapsed since the catch, fishing gear). Consequently, the quality assessment may differ somewhat between auctions and countries. The inconsistent application of marketing standards on fresh products does not compromise the benefits of having one basic common denominator to grading the most landed species. The specific context of the small polyvalent fisheries in the Mediterranean region (high number of species landed in small volumes) makes the standards difficult to implement in the area.

The consultation phase confirmed that marketing standards for fresh products are only relevant at first sale, as expected. As the products travel through the supply chain, the standards lose relevance. Concerning canned products, the criteria defined in the two regulations are considered highly relevant through the chain.

Operators consider that compliance with the standards has increased, because of both controls and the need to maintain trust in B2B relations. Operators indicate that controls on fresh fish occur at different frequencies across auctions and countries, and separating controls of marketing standards from other controls (e.g. conservation, hygiene, etc.) is not always possible, but detection of non-compliance is rare.

The consultation did not find any equivalent to marketing standards. More detailed grading in use in some countries is generally based on the EU system. Private standards and certification schemes have developed, but they focus on processes and sustainability, rather than quality. They can however have a significant impact when they become *de facto* mandatory to enter certain markets (e.g. large-scale retailers in some countries).

Some operators consider that standards for fresh products could be repealed, but the majority wishes to maintain them, as they meet the daily practice at first sale. Similarly,

operators in the canning supply chain consider that marketing standards for canned products serve well their purpose and should not be removed or simplified.

The fieldwork did not show a need or expectations to extend the existing marketing standards to products currently not covered.

Public consultation for the evaluation roadmap⁵⁴

AIPCE-CEP, representing EU fish processors and traders, and ANFACO-CECOPESCA, representing Spanish fish processors, provided feedback on the evaluation roadmap. The two contributions stress the usefulness of marketing standards for preserved products and defend that the rationale for the evaluation (e.g. reported lack of compliance and rigidity of the marketing standards) does not apply to these standards.

Public consultation for the evaluation⁵⁵

The public consultation aimed to gather feedback on respondent purchasing choices, their assessment of seafood quality and sustainability, the need for standardisation, the usefulness and impact of the marketing standards and potential ways to improve them.

Responses (which include both end consumers and business operators) show that appearance and origin clearly are the most important criteria when buying fresh seafood products. Size and, notably, price are less important. Respondents are the most satisfied with the quality of fresh seafood in their countries, but most have doubts about seafood sustainability and feel that information on seafood quality is not easily accessible. Public authorities are more trusted to ensure compliance than private certification bodies.

Very few respondents regarded the various criteria set by standards as lacking usefulness, but the number of respondents who did not know or were neutral is significant.

Among the standards' impacts, the most supported ones were the 'harmonisation of trade description and composition provision for preserved products' and 'protect consumers against the marketing of products unfit for consumption'. Then came 'improve quality', 'avoid fraudulent practices' and 'fair competition in the EU'. Answers were more mixed on the contribution that the existing standards provide to the sustainability of FAPs, and respondents agreed the least that standards provided for 'level playing field between EU and non-EU products' and 'profitability of the EU producers'.

The reported difficulties are often related to other aspects (e.g. labelling requirements) and while differences in implementation are mentioned, it is not always clear whether it is related to marketing standards (e.g. use of the term "white tuna") or other regulations (e.g. enforcement of the rules in third countries). Answers about possible improvements mainly relate new aspects such as consumer information, sustainability and conservation rather than the criteria included in the existing marketing standards.

⁵⁴ https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2018-594424_en

⁵⁵ https://ec.europa.eu/info/sites/info/files/summary-results-consultation-on-marketing-standard-framework-for-fishery-and-aquaculture-products_en.pdf

Views on simplification are mixed. Over a third of the respondents consider it possible to simplify criteria without compromising their effectiveness or to improve it. 20-25% of respondents does not know whether simplification is possible, and 20% believe it is not.

On the issue of coherence, EU standards are generally regarded as a minimum common reference. Of all alternatives (private standards, codes of practice or national standards), codes of practice were the likely candidate to replace EU marketing standards, but no option received more than 40% of support.

Respondents supported expanding marketing standards to other products (especially farmed products). However, they do not request expanding the current standards. Instead, general rules should be defined for all products to guarantee minimum quality for EU consumers, protect EU producers from unfair competition, increase transparency, contribute to better products creating value-added and to increase sustainability.

Consultation on recommendations

The consultation aimed to collect operators' views on recommendations resulting from the evaluation on both the current criteria and the general marketing standards framework. The 31 answers confirmed the findings of the first phase of consultations.

Stakeholders in the fresh fish supply chain held heterogeneous views, showing two contradictory situations. Some operators, generally from countries where standards are well known and implemented, call for maintaining, or even expanding (e.g. more size grades, new species) them, in view of the market transparency they provide. Other operators, generally from countries where marketing standards are less known or inconsistently applied, call for their simplification (e.g. removing minimum marketing sizes or simpler grading systems), or for repealing the regulation.

On the regulations laying down marketing standards for preserved products, operators held different views. The canning industry considers that these standards should remain unchanged. On the other hand, the tuna-fishing sector calls for some revisions (e.g. reconsidering the inclusion of *Auxis* species, changes in the trade description).

Looking at all FAPs, the consultations showed that expanding current marketing standards to other sectors would not address business needs. Most operators indicate that buyers include sustainability-related specifications. Views on the possibility to harmonise sustainability information at EU level were mixed.

Ad hoc contributions

On 24 December 2018, the SWWAC issued an opinion⁵⁶ recommending a revision of the species covered by the marketing standard for canned tuna and their trade designations on the grounds that they could mislead consumers and result in unfair competition.

⁵⁶ <http://cc-sud.eu/images/img-ccs/avis/Avis-2018-2019/126-ConservesThons/Avis126-conserves-EN.pdf>

On 28 March 2019, the MAC issued an opinion on the marketing standards for fresh products⁵⁷, noting that freshness categories were no longer useful, but size criteria are. It also recommended to increase the flexibility of marketing standards and to facilitate their harmonised implementation. A second advice, adopted on 12 July 2019, complemented this position and suggested consolidating all standards into a single legislative instrument to increase market transparency and a level playing field, including on social standards.

The MAC supports the development of standards to ensure supply of sustainable products to the EU market, the application of uniform and transparent criteria throughout the single market, fair competition between operators and an improved profitability of the EU production. In parallel, controls should be strengthened, including on related areas.

The advice calls for a revision of the annex to the standard on canned tuna and bonito to avoid practices that might lead to unfair competition or even consumer fraud. The EU canning industry covered by the standards holds a dissenting opinion, notably that the standards on preserved products are fit for purpose in their current shape.

Conclusion

Feedback received from the different consultation activities is generally coherent regarding implementation, control and usefulness of the existing marketing standards.

The feedback received from the Public Consultation, calling for increased transparency, especially as regards sustainability, confirms feedback from the industry that these requirements are included in purchase contracts.

Explanation on how the information gathered has been taken into account in the evaluation work

Information received through the consultations on the implementation and control of marketing standards was analysed and fed the answers to the evaluation questions. Stakeholders' opinions on the relevance, effectiveness, efficiency, coherence and EU added-value of the marketing standards were also used as indicators, among others, to answer the evaluation questions.

The SWWAC opinion fed the evaluation questions, triangulating its content with available data (e.g. tuna prices and production data, analysis of the relevant provisions). MAC opinions could not inform the evaluation study as their adoption came after completion of the evaluators' work. They feed the Staff Working Document as additional material.

⁵⁷ <https://marketac.eu/wp-content/uploads/2019/04/MAC-Advice-Marketing-Standards-FRESH-28.03.2019.pdf>

ANNEX 3: METHODS AND ANALYTICAL MODELS

The analytical framework of the evaluation of the marketing standards framework was developed based on the intervention logic presented on page 3 and evaluation questions. The evaluation questions were further broken down into sub-questions. The table below lists them, alongside the judgement criteria applied to answer the questions and the main sources used in the assessment.

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods
Relevance				
EQ1. To what extent are the existing marketing standards still relevant?	To what extent marketing standards are relevant for stakeholders involved in the supply chain?	<ul style="list-style-type: none"> Quality criteria used by stakeholders are based on the marketing standards 	<ul style="list-style-type: none"> Comparison of quality criteria and marketing standards 	<ul style="list-style-type: none"> Qualitative interviews with stakeholders (fishermen, wholesaler, importer, processor, retailer, Market Advisory Council) and UE staff (Market and Conservation) Desk research on criteria used by other relevant marketing standards
		<ul style="list-style-type: none"> No additional standards are necessary for stakeholders or additional standards rest on EU marketing standards 	<ul style="list-style-type: none"> Use of additional standards by stakeholders Content of additional standards compared to EU marketing standards 	<ul style="list-style-type: none"> Desk research: criteria defined in the marketing standard and other private standard Desk research on market penetration of other existing marketing standards
	For crustaceans and molluscs, to what extent the marketing standards are relevant with the characteristics of the products?	<ul style="list-style-type: none"> Key criteria used by stakeholders for the description of the products are defined in the marketing standards 	<ul style="list-style-type: none"> Comparison of key criteria and marketing standards 	<ul style="list-style-type: none"> Qualitative interviews with stakeholders (fishermen, wholesaler, processor, retailer) and UE staff (Market) Desk research: criteria defined in the marketing standard Desk research on certifications used for crustaceans and molluscs
	To what extent the marketing standards are relevant for the sales to the final consumer (size,	<ul style="list-style-type: none"> Coherence between marketing standards and market segmentation at retail stage (freshness and size) 	<ul style="list-style-type: none"> Comparison of marketing standards and market segmentation for final consumers 	<ul style="list-style-type: none"> Qualitative interviews with retailers and UE staff (Market and Health) and Public Consultation

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods
Relevance				
	freshness)?			
	To what extent the sizes and freshness defined in marketing standard are used for pricing of EU and imported products?	<ul style="list-style-type: none"> • Stakeholder opinion on the criteria for pricing of product • Existence of evidence showing differences in prices for different freshness and size categories 	<ul style="list-style-type: none"> • Ranking of the criteria for pricing • Comparison of prices by category based on available data from specific auctions or other stages of the supply chain 	<ul style="list-style-type: none"> • Qualitative interviews with stakeholders (Fishermen, wholesalers, importers, retailers) • National/regional sources on prices for each size and freshness state • Desk research by country expert+ Data from sales notes •
	To what extent the size defined in marketing standards are coherent with conservation issues for species not covered by MCRS	<ul style="list-style-type: none"> • Size from marketing standards are coherent with conservation issues 	<ul style="list-style-type: none"> • Relevance of minimum sizes defined in marketing standards for products not covered by minimum conservation reference size 	<ul style="list-style-type: none"> • Answer from other EQ on effectiveness and coherence • Qualitative interviews
	To what extent marketing standards allows a good trade description and composition provision for processed products covered by EU marketing standards compared to processed products not covered	<ul style="list-style-type: none"> • For canned tunas and sardines only: trade description and composition provision are based on EU marketing standards • For canned tunas and sardines only: no additional standards are needed for stakeholders for trade description and 	<ul style="list-style-type: none"> • Comparison of EU marketing standards for canned tunas and sardines with trade descriptions and provisions on composition used by stakeholders • Feedback from stakeholders on the use of other standards for canned tunas and sardines, and 	<ul style="list-style-type: none"> • Qualitative interviews with stakeholders (wholesalers, processors and retailers) • Qualitative interviews with stakeholders (operators in the trade and processing sector) and EU staff (Market)

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods
Relevance				
	by marketing standards.	<p>composition provision</p> <ul style="list-style-type: none"> For other canned and processed products only: some shortcomings in trade description and composition provisions are identified in the supply chains not covered by marketing standards. 	<p>comparison with actual trade description and provisions on composition</p> <ul style="list-style-type: none"> Feedback from stakeholders on standards used for trade descriptions or on the absence of standards for some products and the consequences for Intra and extra-EU trade. 	<ul style="list-style-type: none"> Qualitative interviews with stakeholders (operators in the trade and processing sector) and EU staff (Market)
	What are the consequences of the absence of EU marketing standards in the aquaculture supply chain? To what extent shortcoming in quality description are identified?	<ul style="list-style-type: none"> What are the methods for quality assessment in the aquaculture supply chain? Do stakeholders use standards for quality description (private / public)? Are there shortcoming identified in quality description between stakeholders? 	<ul style="list-style-type: none"> Method for quality description by stakeholders (standard, etc.) Identification and description of standards used by stakeholders Identification of shortcoming in product description 	<ul style="list-style-type: none"> Qualitative interviews (Operators in the aquaculture sector and trade) and EU staff (Market) Qualitative interviews (Operators in the aquaculture sector and trade) and EU staff (Market) Desk research on the content of standards Qualitative interviews (Operators in the aquaculture sector and trade) and EU staff (Market)

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Effectiveness				
EQ2. To what extent have the current marketing standards met the objectives?	To what extent have the marketing standards contributed to improve the quality of the products in the interest of producers, traders and consumers?	<ul style="list-style-type: none"> • Extent to which the marketing standards have improved the quality of products 	Change in quality grades of products placed on the market.	<ul style="list-style-type: none"> • Stakeholder Consultation Sources: EU-wide survey to control authorities, interviews with operators, designated experts and trade organisations and EU staff (market and conservation) and Public Consultation • Possibly sales notes data
		<ul style="list-style-type: none"> • Factors helping or hindering improved quality of products (including technical innovations). 		<ul style="list-style-type: none"> • Stakeholder Consultation Sources: EU-wide survey to control authorities, interviews with operators, designated experts and trade organisations and Public Consultation
	To what extent do the marketing standards ensure that the EU market is supplied with sustainable products?	<ul style="list-style-type: none"> • Extent to which the marketing standards have ensured the sustainability of seafood products in the EU market. • Factors helping or hindering ensuring the supply of sustainable products 	<ul style="list-style-type: none"> • Performance of the supply chain in relation to marketing standard requirements (level of infringements, sanctions). • Trend in share of EU landed/traded products covered by marketing standards. • Change in % of seafood products certified as sustainable. 	<ul style="list-style-type: none"> • Data analysis Sources: DCF data on discard levels, sustainable seafood availability in EU markets. • Stakeholder Consultation (interviews with operators of trade and processing sector, scientists, environmental NGOs and trade organisations) and an Public Consultation • Public Consultation

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Effectiveness				
	To what extent do the marketing standards facilitate market activities based on fair competition and improve the profitability of production?	<ul style="list-style-type: none"> • Extent to which the marketing standards have facilitated fair competition. • Extent to which the marketing standards have facilitated profitability. • Factors helping or hindering 	<ul style="list-style-type: none"> • Change in extent of seafood trade disputes within the EU. • Change in profitability within seafood chains. • Change in perceptions of operators regarding fairness/transparency and profitability. 	<ul style="list-style-type: none"> • Review of trade dispute instances. • Stakeholder Consultation Sources: interviews with operators of trade and processing sector, UE Staff on conservation and trade and trade organisations • Public Consultation • Stakeholder Consultation Sources: interviews with operators of trade and processing sector, UE Staff on conservation and trade • Data analysis Sources: DCF data on production and processing economics • Stakeholder Consultation Sources: interviews with operators of trade and processing sector, UE Staff on conservation and trade and trade organisations • Public Consultation

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Effectiveness				
	<p>To what extent do the marketing standards ensure a level playing field between EU and non-EU products?</p>	<ul style="list-style-type: none"> • Extent to which EU and non-EU products face the same regulatory requirements. • Factors helping or hindering achieving a level playing field. 	<ul style="list-style-type: none"> • Performance of the supply chain in relation to marketing standard requirements involving imports (level of infringements, sanctions). • Trend in share of imported products covered by marketing standards 	<ul style="list-style-type: none"> • Desk review Sources: WTO, DG Trade, Competition information and Review of trade dispute instances. • Data sources: COMEXT, FAO FISHSTAT (imports) • Stakeholder Consultation Sources: interviews with operators of trade and processing and trade organisations, UE Staff on conservation and trade • Public Consultation • Public Consultation
	<p>To what extent are the marketing standards effective in helping to avoid fraudulent practices and misleading consumers in the trade description of preserved products?</p>	<ul style="list-style-type: none"> • Extent to which marketing standards help to avoid fraudulent practices. 	<ul style="list-style-type: none"> • Level of compliance with marketing standards for preserved seafood products. • Change in the amount of fraudulent practices in preserved products. • Consumer perception of seafood products. 	<ul style="list-style-type: none"> • Desk review Sources: Control & compliance reports at all stages in the supply chain. Consumer perceptions of seafood. • Stakeholder Consultation Sources: EU-wide survey to control authorities, interviews with operators, designated experts and trade organisations and UE staff on Market, Health and Conservation • Public Consultation

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Effectiveness				
		<ul style="list-style-type: none"> Factors helping or hindering fraudulent practices and misleading consumers. 		<ul style="list-style-type: none"> Stakeholder Consultation Sources: EU-wide survey to control authorities, interviews with operators, designated experts and trade organisations Public Consultation
EQ3. To what extent has the implementation of marketing standards caused unexpected or unintended effects?	No sub-question	What unexpected or unintended effects were caused by the marketing standards?	<ul style="list-style-type: none"> Changes in levels of loss & waste throughout the seafood supply chain. Consumer perceptions of seafood (understanding and confidence in the information related to the marketing standards). 	<ul style="list-style-type: none"> Desk review Sources: DG ENV reports on food waste, consumer perceptions. Stakeholder Consultation Sources: EU-wide survey to control authorities, interviews with operators, designated experts and trade organisations and UE staff on Conservation, Health and Market

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Efficiency				
EQ4. To what extent are the incurred costs justifiable and proportionate to the benefits achieved?	No sub-question	<ul style="list-style-type: none"> Extent to which the benefits of having marketing standards in place outweigh the costs of implementation and control 	<ul style="list-style-type: none"> FTEs dedicated to control of MKTS and costs identified – examples from specific MS Costs compared to the benefits of EU marketing 	<ul style="list-style-type: none"> Sources: EU-wide survey to control authorities, interviews with processors, traders, and trade organization Answers from EQ 2 and 3, Eurostat (labour costs)

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Efficiency				
EQ5. Could the use of other policy instruments or mechanisms have provided better cost-effectiveness?	Could the same objectives be achieved without marketing standards regulations (<i>i.e.</i> without the related costs)?	<ul style="list-style-type: none"> • Extent to which minimum conservation reference sizes alone would allow to achieve the same objectives 	Standards (Questions on effectiveness) <ul style="list-style-type: none"> • Perception of stakeholders about costs vs benefits. 	Landings data : EUROSTAT EU-wide survey to public authorities, interviews with processors, traders, control agencies, designated experts and trade organization. Answers from EQ 1 to 4
		<ul style="list-style-type: none"> • Extent to which other applicable norms and standards alone would achieve similar results 	<ul style="list-style-type: none"> • % of landings covered (in volumes and value) • Relevance of minimum reference sizes compared to other quality criteria • Objectives that could be achieved by minimum conservation reference sizes • Objectives that would not be achieved 	
	To what extent do MS implementation choices	<ul style="list-style-type: none"> • Extent to which the cost-effectiveness of marketing 	<ul style="list-style-type: none"> • Relevance of those norms and standards for the different types of products and for the operators at the different stages of the supply chain • Objectives that could be achieved by minimum conservation reference sizes • Objectives that would not be achieved 	EU-wide survey to public authorities, interviews with processors, traders, control agencies, designated experts and trade organization. Answers from EQ 1 to 4 Public Consultation
			<ul style="list-style-type: none"> • Evidences of significant differences in terms of 	Cross-analysis based on previous questions and answers

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Efficiency				
	impact the cost-effectiveness of marketing standards?	standards depend on MS implementation choices	cost-effectiveness among MS <ul style="list-style-type: none"> • Identification of cost drivers related to MS implementation choices 	to Q4 + check opinion of NA and EU staff
EQ6. To what extent is there a potential for simplification of marketing standards?	To what extent is there a potential for simplification of freshness/size criteria?	Extent to which the implementation of freshness/size criteria leads to unnecessary/ disproportionate costs	<ul style="list-style-type: none"> • Evidence of unnecessary or disproportionate costs 	Analyses will build on Questions 4 and 5 and Interviews operators and public authorities, in particular control authorities, processors, trader, control services in airports
	To what extent is there a potential for simplification of the provisions on imported fresh/chilled products?	Extent to which the implementation of the provisions on imported fresh/chilled products leads to unnecessary/ disproportionate costs	<ul style="list-style-type: none"> • Evidence of unnecessary or disproportionate costs 	
	To what extent is there a potential for simplification of presentation requirements for preserved products?	Extent to which the implementation presentation requirements for preserved products leads to unnecessary/ disproportionate costs	<ul style="list-style-type: none"> • Evidence of unnecessary or disproportionate costs 	
	To what extent is there a potential for simplification of control procedures?	Extent to which control procedures lead to unnecessary/ disproportionate costs	<ul style="list-style-type: none"> • Evidence of unnecessary or disproportionate costs 	

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Coherence				
EQ7 To what extent are marketing standards and other norms having the same effect as marketing standards coherent with one another?	No sub-question	<ul style="list-style-type: none"> Extent to which conflicts have been identified with other norms and rules acting as marketing standards 	<ul style="list-style-type: none"> Identification and description of possible conflicts Volumes/value of products falling under conflictual rules (depending on previous indicator) 	<ul style="list-style-type: none"> Desk review Stakeholders' consultation: Control authorities, traders, processors, designated experts and EU staff in market and conservation Detailed interviews in several MS Landings data: Eurostat
EQ8. To what extent are marketing standards coherent with other EU rules (e.g. EU rules on food safety, food information to consumers, conservation rules)?	To what extent are the marketing standards coherent with other EU rules on food safety?	<ul style="list-style-type: none"> Extent to which the marketing standards are coherent with other EU rules on food safety. 	<ul style="list-style-type: none"> Stakeholder's feedback on perceived external coherence (or lack thereof) 	<ul style="list-style-type: none"> Desk review Stakeholders' consultation: Management authorities, control authorities, traders, processors, designated experts and EU staff in market and Health Public Consultation Detailed interviews in several MS
	To what extent are the marketing standards coherent with the control system for marketing standards established in Regulation (EC) No 1224/2009 and Regulation (EU)	<ul style="list-style-type: none"> Extent to which the marketing standards are coherent with regulation 1224/2009 and 2017/625 	<ul style="list-style-type: none"> Evidence of intra-policy coherence Stakeholder's feedback on perceived complementarity and/or synergies between the policies (or lack thereof) 	<ul style="list-style-type: none"> Desk review Stakeholders' consultation: Management authorities, national fisheries control and food safety agencies and EU staff in market Detailed interviews in several MS

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Coherence				
	2017/625.			
	To what extent are the marketing standards coherent with Consumer information rules (Regulation (EU) No 1169/2011 and Chapter IV of the CMO Regulation)?	<ul style="list-style-type: none"> • Extent to which the marketing standards are coherent with EU rules on consumer information. 	<ul style="list-style-type: none"> • Evidence of intra-policy coherence • Stakeholder's feedback on perceived complementarity and/or synergies between the policies (or lack thereof) 	<ul style="list-style-type: none"> • Desk review • Stakeholders' consultation: Management authorities, retailers, food safety agencies and EU staff in market and Health • Detailed interviews in several MS • Public Consultation
	To what extent are the marketing standards coherent with Hygiene rules for food of animal origin (Regulation 853/2004)?	<ul style="list-style-type: none"> • Extent to which the marketing standards are coherent with EU hygiene rules 	<ul style="list-style-type: none"> • Evidence of intra-policy coherence • Stakeholder's feedback on perceived complementarity and/or synergies between the policies (or lack thereof) 	<ul style="list-style-type: none"> • Desk review • Stakeholders' consultation: Management authorities, retailers, food safety agencies and EU staff in market and Health • Detailed interviews in several MS • Public Consultation
EQ9. To what extent are EU marketing standards coherent with international standards?	To what extent are the marketing standards coherent with international standards (e.g. Codex and Global	<ul style="list-style-type: none"> • Extent to which the marketing standards are coherent with Codex and FGSi 	<ul style="list-style-type: none"> • Evidence of intra-policy coherence • Stakeholder's feedback on perceived complementarity and/or synergies between the policies (or lack 	<ul style="list-style-type: none"> • Literature review of Codex, Global Food Safety Initiative and other recognised standards/codes. • Stakeholders' consultation: management authority, traders, processors, control agencies

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods and sources
Coherence				
	Food Safety Initiative)		thereof)	and designated experts and EU staff on market <ul style="list-style-type: none"> Detailed interviews in several MS Consultation with FAO Codex team.
	To what extent are the marketing standards coherent with private standards?	<ul style="list-style-type: none"> Extent to which the marketing standards are coherent with private marketing standards. 	<ul style="list-style-type: none"> Stakeholder's feedback on perceived complementarity and/or synergies between the policies (or lack thereof) 	<ul style="list-style-type: none"> Desk review of private marketing standards. Stakeholders' consultation: management authority, traders, processors and designated experts and EU staff on market Detailed interviews in several MS.

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods
European Added Value				
EQ10. To what extent are EU marketing standards justifiable and provide added value in addition to international marketing standards (e.g. Codex)? Would national/regional standards provide the same result? What is the added value of the EU marketing standards compared to	Would national/regional standards provide the same result?	<ul style="list-style-type: none"> National / regional organisation would not be able or interested to develop marketing standards 	<ul style="list-style-type: none"> Interest and ability of national / regional organisations to implement marketing standards 	<ul style="list-style-type: none"> Qualitative interviews to management authorities, designated experts, national and regional organisations dealing with certification COMEXT statistics on trade Desk analysis on national and EU marketing standards
		<ul style="list-style-type: none"> Fishery markets are international 	<ul style="list-style-type: none"> Level of internationalisation of the 	<ul style="list-style-type: none"> Qualitative interviews to management authorities,

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods
European Added Value				
private standards in place in the supply chain?			fishery market (intra-EU trade, level of imports)	designated experts, national and regional organisations dealing with certification <ul style="list-style-type: none"> • COMEXT statistics on trade • Desk analysis on national and EU marketing standards
		<ul style="list-style-type: none"> • What is the level of coherence of the different national standards the ones with the others and with EU marketing standards? 	<ul style="list-style-type: none"> • Comparison of the content of national and EU marketing standards 	<ul style="list-style-type: none"> • Qualitative interviews to management authorities, traders, processors, control agencies, designated experts, national and regional organisations dealing with certification and EU staff on market • COMEXT statistics on trade • Desk analysis on national and EU marketing standards
		<ul style="list-style-type: none"> • In case of high coherence between the national standards: to what extent mutual recognitions could be developed between these national standards? 	<ul style="list-style-type: none"> • Comparison of the content of national standards. Opinion of stakeholders on recognitions between national standards.	<ul style="list-style-type: none"> • Qualitative interviews to management authorities, traders, processors, control agencies, designated experts, national and regional organisations dealing with certification and EU staff on market • COMEXT statistics on trade • Desk analysis on national and EU marketing standards

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods
European Added Value				
		<ul style="list-style-type: none"> In case of low coherence between national standards, to what extent does it affect the functioning of the internal market? 	<ul style="list-style-type: none"> Comparison of the content of national standards. Opinion of stakeholders on the impact of national standards on internal market. 	<ul style="list-style-type: none"> Qualitative interviews to management authorities, traders, processors, control agencies, designated experts, national and regional organisations dealing with certification COMEXT statistics on trade Desk analysis on national and EU marketing standards
	<p>What is the added value of the EU marketing standards compared to private standards in place in the supply chain?</p>	<ul style="list-style-type: none"> Content and geographical scope of EU marketing standards are more relevant than existing private standards Applicability across supply chains is higher for EU marketing standards than for existing private standards. 	<ul style="list-style-type: none"> Comparison of relevance of the content and geographical scope of EU marketing standards and existing private standards Comparison of the applicability across supply chains of EU marketing standards and existing private standards 	<p>Qualitative interviews: Catching sector, traders, processors, control agencies and designated experts</p> <p>Qualitative interviews: Catching sector, traders, processors, control agencies and designated experts</p>
		<ul style="list-style-type: none"> Specific features of the fishery sectors would lower the impact of private standards (in particular the low concentration of the sector) 	<ul style="list-style-type: none"> Identification of features for the fishery sector which would lower the impact of private scheme 	<p>Qualitative interviews: Catching sector, traders, processors, control agencies and designated experts and EU staff on market</p>

Evaluation questions	Sub-questions	Judgement criteria	Indicators	Methods
European Added Value				
EQ11. To what extent would EU marketing standards have been useful for the sectors/products currently not covered?	• No sub-question	• Shortcomings are identified in the supply chains not covered by EU marketing standards	• Shortcoming identified in the aquaculture and processed products supply chains related to the absence of EU marketing standards	• Interviews with operators: Catching sector, traders, processors, control agencies and designated experts and EU staff on market
		• Marketing standards in the fishery sector are assessed to be useful	• EU marketing standards and their implementation in the fishery sector are assessed to be relevant, effective, coherent and efficient	• Interviews with operators: Catching sector, traders, processors, control agencies and designated experts
		• Specific features of supply chains covered and not covered by marketing standards which would impact the implementation of marketing standards.	• Specific features of supply chains	Interviews with operators: Catching sector, traders, processors, control agencies and designated experts

ANNEX 4: EXTERNAL EVALUATION AND BIBLIOGRAPHY

The full report and annexes of the external evaluation study can be found here:

Final report:

<https://op.europa.eu/en/publication-detail/-/publication/9480757a-100c-11ea-8c1f-01aa75ed71a1>

Annexes:

<https://op.europa.eu/en/publication-detail/-/publication/f4aeff70-100d-11ea-8c1f-01aa75ed71a1>

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ANNEX 5: LIST OF NATIONAL STANDARDS

MS	Type of standards	Concerned products
Austria	National law	The national law provides definitions for various products, including <u>frozen fish fingers</u> , <u>marinated herring</u> and <u>surimi packs</u>
Germany	National law	The national law provides definitions for few products, including <u>frozen fish fingers</u> (similar requirements as in Austria), <u>frozen fish fillets</u> and <u>sauces</u> used with fishery products.
Spain	National law	National laws provide some general definitions on the terms “fresh”, “ <u>frozen</u> ”, “ <u>salted</u> ”, etc. and there are two specific laws that establish quality standards for <u>cooked</u> and <u>frozen mussels</u> , <u>cockles</u> and <u>clams</u> and for <u>canned mussels</u> , <u>clams</u> and <u>scallops</u> , an important segment of the fish processing industry in Spain.
France	AFNOR voluntary use	NF V45-069 Canned product with topping (2013) – Canned tuna and sardine
		NF V45-071 Canned sardine « Traditional preparation » (2015) – Canned sardine
		NF V45-070 Level of fulfilment of cans for canned tuna (1997) – Canned tuna
		<i>NF V45-065 Saumon fumé (décembre 2012)</i> – Smoked salmon
		<i>NF V45-064 Conserves appertisées de maquereaux (août 2013)</i> – Canned mackrel
		<i>NF V45-073 Rillettes, terrines et mousses d’animaux aquatiques (septembre 2013)</i> – Spreadable / pâtés
		<i>NF V45-066 Anchois salés et préparations à base d’anchois salés (septembre 2014)</i> – Salted Anchovy
		<i>NF V45-068 Surimi et spécialités à base de surimi (février 2016)</i> – Surimi
		<i>NF V45-067 Filets de hareng fumé (septembre 1996)</i> – Smoked herring flet
	<i>NF V45-074 Portions de filet de poisson surgelé (avril 1999)</i> – Frozen pieces of fish (filled, back..)	
	Professional decision	<i>N°39 – Conserves de crustacés et de mollusques - 18/01/1955</i> - Canned crustaceans and molluscs
		<i>N°61 – Fabrication des semi-conserves – sauf « Anchois »</i> - Semi-preserved products (except anchovy)
		<i>N°64 – Article 3 « Bouillabaisse » - 16/10/2017</i> - Bouillabaisse (traditional meal from Southern part of France)
	Code conducts	<i>Soupes de poissons, bisques de crustacés et potages à base de poisson</i> - Soup
		<i>Tarama et produits dérivés</i> - Tarama and derived products
<i>Crevettes vendues réfrigérées</i> - Shrimps sold chilled		
		<i>Anchois salés et préparations à bases d’anchois salés</i> - Salted anchovy