

Explanatory meetings of the EU acquis – Chapter 13

Common organisation of the markets in fishery and aquaculture products

The CFP's market pillar

These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union

Common Market Organisation (CMO)

Fisheries-specific regulation that applies in the context of EU *acquis* on the free movement of goods within the internal market:

- Prohibition of restrictions applies
- Principle of mutual recognition and relevant *acquis* applies

Common Market Organisation (CMO)

- Established in 1970 – first pillar of the Common Fisheries Policy (CFP)
- Today an integral part of the CFP alongside conservation and financial measures
- Transition over time:

Intervention logic

- stability of supply for processors and consumers
- fair income for producers



**Empowerment of
producers, better
planning and
sustainability**

Common Market Organisation (CMO)

Latest reform adopted in December 2013:

- Fewer and simpler rules and procedures
- Strengthened role of actors in the supply chain
- Reduction of intervention mechanisms
- Level-playing field in the EU internal market

5 areas of action

**Professional
organisations**

**Common
marketing
standards**

**Consumer
information**

**Competition
rules**

**Market
intelligence**

CMO – Legal basis

1 Regulation: Regulation (EU) 1379/2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products

3 Commission Implementing Regulations:

Commission implementing regulation (EU) No 1418/2013 concerning production and marketing plans

Commission Implementing Regulation (EU) No 1419/2013 concerning the recognition of producer organisations and inter-branch organisations, the extension of the rules of producer organisations and inter-branch organisations and the publication of trigger prices – consolidated version

Commission Implementing Regulation (EU) No 1420/2013 (repealing 19 Commission Regulations)

1 Commission Recommendation of 3 March 2014 on the establishment and implementation of the Production and Marketing Plans

CMO – Legal basis / 2: Confirmed rules

The following rules on marketing standards continue to apply:

Species-specific standards

Council Regulation (EEC) No 2136/89 laying down common marketing standards for preserved sardines and trade descriptions for preserved sardines and sardine-type products

Council Regulation (EEC) No 1536/92 laying down common marketing standards for preserved tuna and bonito

General standards (freshness and size categories)

Council Regulation (EC) 2406/96 laying down common marketing standards for certain fishery products

Rules on control

Commission Regulation (EEC) No 3703/85 laying down detailed rules for applying the common marketing standards for certain fresh or chilled fish

CMO – Application of the *acquis*

Regulations and
Commission
Implementing
Regulations

***Acquis*
law**

Commission
Recommendation

Not binding

+ Staff working document
on implementing Chapter II
(recognition of professional
organisations and extension
of their rules)

Area 1: Professional Organisations

Main principles of this chapter (Chapter II)

- Stronger role of professional organisations (POs, APOs and IBOs) to better implement CFP and CMO objectives
- Measures tailored to specificities of fishery or aquaculture activities
- Shift of focus from intervention to collective planning and management

Elements of Chapter II CMO

1. Establishment, objectives and measures of professional organisations
2. Recognition
3. Extension of rules
4. Production and marketing plans (PMPs)
5. Storage aid (ended in 2018)

On this basis, operators in the fishery and aquaculture sectors have the right to set up professional organisation and make use of the instruments of the CMO (extension of rules, PMPs and storage aid)

Elements of Chapter II CMO

Establishment, objectives
and measures of professional
organisations

Recognition

Existence of procedures
for recognition and of
specific rules for
recognition (e.g. criteria
of representativeness)

Extension of rules

Production and marketing
plans

Storage aid

Existence of professional
organisations

Abolition of existing
intervention mechanisms

POs – in practice

Example from fishery PO in Scotland

- Voluntary Conservation Credit Scheme
- Optional selectivity measures around Cod Recovery Plan
- Grading done by PO prior to marketing
- Advanced landing system to alert processors of impending supply
- Founding and participation in Seafood Scotland (IBO) to promote Scottish seafood throughout the world and enhance fish handling techniques
- Annual Seafood Awards scheme to raise standards and reward best practice in different sectors of the Industry.
- Fish and Chip Shop of the Year competition to encourage higher standards and improve the consumption of fish
- Certification scheme

Elements of Chapter II CMO – in practice

Professional organisations: It is not compulsory to have professional organisations. But operators must have the possibility to apply for recognition on the basis of the requirements established in the CMO. This right implies for Member States the capacity to manage such applications (e.g. guidelines, support to sector, establishment of procedures for verification of applications, later on: approval of PMPs)

See [staff working document](#)

Storage aid: This intervention mechanism was only applicable to existing POs/APOs. According to the *acquis*, no other intervention mechanisms than storage aid is allowed.

Area 2: Common marketing standards

Main principles of this chapter (Chapter III)

- Supply of the market with sustainable products (alignment with minimum conservation reference sizes)
- Full exploitation of the internal market potential
- Fair competition

Elements of Chapter III CMO

- Existing common marketing standards apply to all products marketed in the EU, whether Union or imported
- No new standards introduced so far, so existing legislation continues to apply

Common marketing standards are key to the functioning of the internal market

Example: mackerel (*Scomber scombrus*)



Can be graded "Extra" only if:

Skin	Skin mucus	Flesh	Gill cover	Eye	Gills	Smell of gills
Bright pigmentation and colours; clear distinction between dorsal and central surfaces	Aqueous, transparent	Very firm, rigid	Silvery	Convex, bulging; blue-black bright pupil, transparent 'eyelid'	Uniformly dark red to purple. No mucus	Fresh seaweed; pungent; iodine

And size 1 only if (in the Mediterranean):

Kg/fish	Number of fish/kg
0,08 to 0,2	126 to 325

Example: sardine (*Sardina pilchardus*)



Can be graded "Extra" only if:
see requirements for mackerel
(bluefish)

And size 1 only if (in the Mediterranean):

Kg/fish	Number of fish/kg
0,011 to 0,028	36 to 91

But also, if preserved:

- Labelled as sardine only if of the *sardina pilchardus* species
- Headed and gutted and caudal fin removed
- Adequate level of presentation (e.g. reasonably uniform in size and orderly arrangement, readily separable)
- Adequate ratio product/covering medium
- Covering medium must be part of the trade name

Elements of Chapter III CMO – in practice

Checks: Measures should be in place to ensure compliance with common marketing standards (see Article 57 of Control Regulation). Compliance should be ensured at all stages of the supply chain

+ controls of marketing standards can take place under the Official Controls Regulation (EU) 2017/625 (consolidated version)

Elements of Chapter III CMO – evaluation

It has however become apparent that the standards may no longer be fit for purpose.

For this reason, the Commission services have launched an evaluation of the marketing standards framework applicable to fishery and aquaculture products.

Results will become available in the 2nd half of 2019, but it appears that market demand increasingly looks at sustainability issues (social, environmental)

Area 3: Consumer information

Main principles of this chapter (Chapter IV)

- Empowerment of consumers
- Complementarity with general food labelling rules (Food information to consumers regulation (EU) No 1169/2011 – consolidated version)
- Framing of voluntary information

Elements of Chapter IV CMO

Mandatory information on unprocessed and some processed products (fish, molluscs, crustaceans and algae)

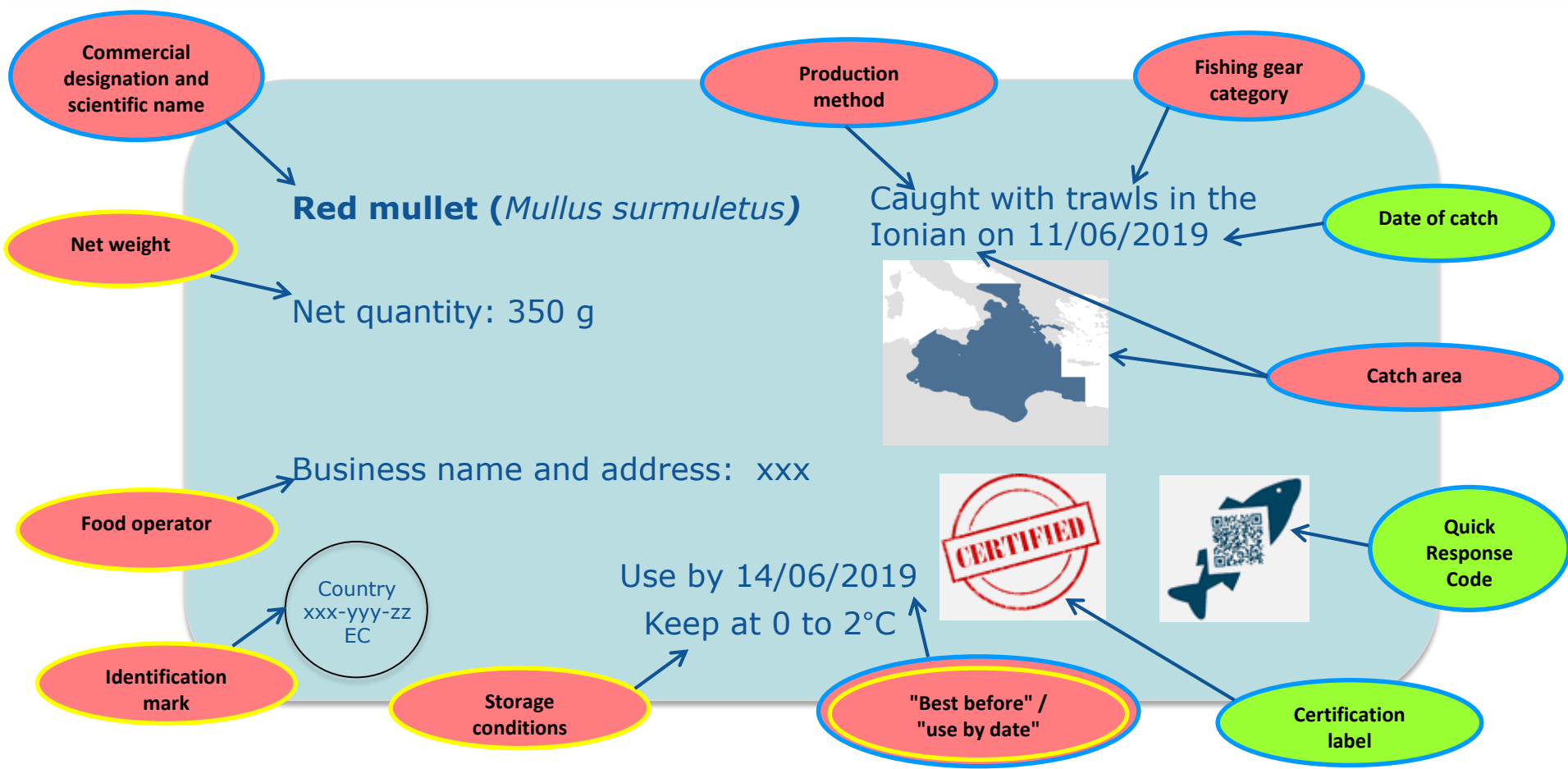
- Commercial designation and scientific name
- Production method (caught/caught in freshwater/farmed)
- Catch or production area (in writing)
- Fishing gear used (7 categories)
- Defrosted product
- Date minimum durability, if appropriate

Voluntary information must be clear, unambiguous and verifiable

Examples: date of catch / harvest, date of landing, environmental information, ethical/social information

For information: no follow-up debate on Commission report on feasibility of an ecolabel

Example: unprocessed prepacked product



MANDATORY

VOLUNTARY

CMO Regulation

FIC Regulation

Consumer information



Elements of Chapter IV CMO – in practice

Labelling rules are essential to ensure consumer protection and empowerment throughout the internal market

Checks: Measures should be in place to ensure compliance with relevant traceability rules (see Article 58(5) of Control Regulation). Compliance should be ensured at all stages of the supply chain

Area 4: Competition rules

Main principles of this chapter (Chapter V)

- Competition rules on undertakings apply to marketing and production of fishery and aquaculture products

This means that practices falling under Art 101 and 102 TFEU are in principle prohibited.

Area 4: Competition rules

These are:

Article 101(1) TFEU	Article 102 TFEU
Agreements between undertakings, decisions by associations of undertakings and concerted practices that, in particular:	Any abuse by one or more undertakings of a dominant position that consists, in particular, in:
(a) directly or indirectly fix purchase or selling prices or any other trading conditions;	(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
(b) limit or control production, markets, technical development, or investment;	(b) limiting production, markets or technical development to the prejudice of consumers;
(c) share markets or sources of supply;	
(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;	(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.	(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Area 4: Competition rules

Due to the weak bargaining power of producers in the fisheries and aquaculture sector, Art 42 of the Treaty on the Functioning of the EU (TFEU) leaves it to the European Parliament and Council to determine the extent to which competition rules apply to the production of and trade in fishery and aquaculture products.

Derogations from the application of competition rules acceptable provided that all criteria set out in Article 41 of the CMO Regulation are met (or that the practice is covered by Art 101(3) TFEU)

Area 4: Competition rules

Case law established that derogations from the application of general competition rules under Article 41 of the CMO Regulation should be interpreted strictly and be limited to cases where they are conducive to the attainment of all the objectives of Article 39 TFEU (or at least that they allow to reconcile these objectives).

Art 41 of the CMO Regulation also integrates case law providing that derogations must be necessary for the attainment of the objectives of Article 39 TFEU.

Area 4: Competition rules

Relevant case law:

Judgment of the Court Of Justice of 12 December 1995, Case C-399/93, *Oude Luttikhuis*, ECLI:EU:C:1995:434

Judgment of the Court of Justice of 15 May 1975, Case 71/74, *Frubo v Commission*, ECLI:EU:C:1975:61

Judgment of the General Court of 14 May 1997, *Joined Cases T-70/92 and T-71/92*, ECLI:EU:T:1997:69

Judgment of the General Court of 13 December 2006, *Joined Cases T-217/03 and T-245/03, FNCVB v Commission*, ECLI:EU:T:2006:391

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

Elements of Chapter V CMO – in practice

Competition rules ensure that effective competition is maintained in the markets for fishery and aquaculture products

Checks: Measures should be in place to ensure compliance with competition rules. Derogations from the application of competition rules are only allowed if conditions under Art 41 CMO are met.

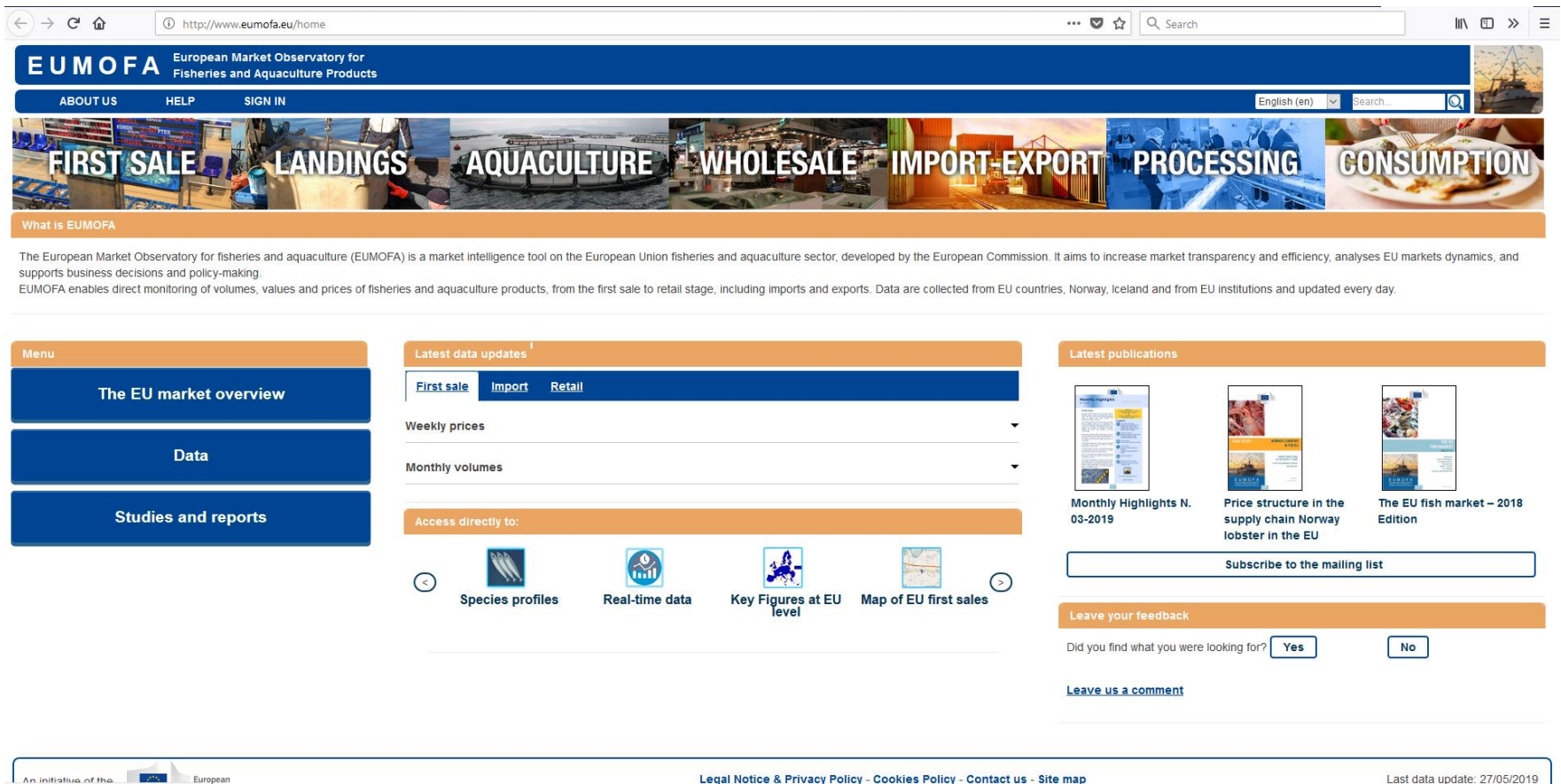
Area 5: Market intelligence

Main principles of this chapter (Chapter VI)

- Need to improve the gathering, processing and dissemination of economic information on the markets in FAPs in the EU
- Provision of practical support to stakeholders:
 - data on sales, imports and exports (prices, value, volumes)
 - monthly and yearly publications analysing the main market trends and phenomena
 - ad hoc market studies on prices formation, import-export trends, production...

Elements of Chapter VI CMO – in practice

Cooperation-based approach: we will ask you if you can contribute data



The screenshot shows the homepage of the European Market Observatory for Fisheries and Aquaculture Products (EUMOFA). The browser address bar displays <http://www.eumofa.eu/home>. The website features a blue header with the EUMOFA logo and navigation links: ABOUT US, HELP, and SIGN IN. A search bar is located on the right. Below the header is a banner with seven categories: FIRST SALE, LANDINGS, AQUACULTURE, WHOLESALE, IMPORT-EXPORT, PROCESSING, and CONSUMPTION. A section titled "What is EUMOFA" provides a brief description of the observatory's mission and data sources. The main content area is divided into three columns. The left column contains a "Menu" with links to "The EU market overview", "Data", and "Studies and reports". The middle column, titled "Latest data updates", includes tabs for "First sale", "Import", and "Retail", and sections for "Weekly prices" and "Monthly volumes". It also features a "Access directly to:" section with icons for "Species profiles", "Real-time data", "Key Figures at EU level", and "Map of EU first sales". The right column, titled "Latest publications", displays three recent publications: "Monthly Highlights N. 03-2019", "Price structure in the supply chain Norway lobster in the EU", and "The EU fish market – 2018 Edition". Below these is a "Subscribe to the mailing list" button and a "Leave your feedback" section with a "Yes/No" poll and a "Leave us a comment" link. The footer includes the text "An initiative of the European Commission", a "Legal Notice & Privacy Policy - Cookies Policy - Contact us - Site map" link, and the date "Last data update: 27/05/2019".

EUMOFA European Market Observatory for Fisheries and Aquaculture Products

ABOUT US HELP SIGN IN English (en) Search

FIRST SALE LANDINGS AQUACULTURE WHOLESALE IMPORT-EXPORT PROCESSING CONSUMPTION

What is EUMOFA

The European Market Observatory for fisheries and aquaculture (EUMOFA) is a market intelligence tool on the European Union fisheries and aquaculture sector, developed by the European Commission. It aims to increase market transparency and efficiency, analyses EU markets dynamics, and supports business decisions and policy-making. EUMOFA enables direct monitoring of volumes, values and prices of fisheries and aquaculture products, from the first sale to retail stage, including imports and exports. Data are collected from EU countries, Norway, Iceland and from EU institutions and updated every day.

Menu

- The EU market overview
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- Studies and reports

Latest data updates

[First sale](#) [Import](#) [Retail](#)

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**Market
intelligence**

<http://www.eumofa.eu/home>



Common Market Organisation (CMO)

For more information:

CMO questions & answers

http://ec.europa.eu/fisheries/cfp/market/faq/index_en.htm