

Advice

Upcoming Delegated Act on Additional Rules for Traceability of Fresh and Frozen Fishery and Aquaculture Products and Marking of Lots

Brussels, 12 March 2025

1. Background

On 9 January 2024, the revised Fisheries Control Regulation¹ entered into force. Some provisions are immediately implementable, while other provisions will enter into force after six months, two years, four years, or in 2029/2030. Under paragraph 12 of Article 58, the Commission is empowered to adopt delegated acts concerning:

- a) minimum technical requirements for the recording and transmission of the information referred to in paragraph 5, pursuant to paragraph 6;
- b) methods of marking lots and the physical affixing of traceability information on lots of fishery and aquaculture products; c) further cooperation between Member States on the access to information accompanying a lot;
- c) the traceability requirements for lots of fishery or aquaculture products falling under Chapter 3 of the Combined Nomenclature containing several species as referred to in Article 56a(3) and (4), and for lots of fishery or aquaculture products falling under Chapter 3 of the Combined Nomenclature resulting from the merging or splitting of different lots as referred to in Article 56a(5); and
- d) the information on the relevant geographical area.

¹ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202302842. When the proposal was published, the MAC adopted advice on the matter: <https://marketac.eu/eu-fisheries-control-system/>

The Commission services are preparing the draft content of a delegated act covering some of the issues listed above to be presented for adoption in the first half of 2025. At a recent meeting, a DG MARE representative delivered a presentation on the ongoing preparatory work for additional rules for traceability of fresh and frozen fishery and aquaculture products and marking of lots². Under the Work Programme of Year 9 (2024-2025), the Market Advisory Council (MAC) committed to providing advice to the European Commission and Member States on the market-related aspects of the revised Fisheries Control Regulation³.

2. Article on traceability information of lots of fisheries and aquaculture products falling under Chapter 3 of the Combined Nomenclature

In accordance with the preparatory work of the Commission services, the legal provisions are expected to require that the recording and transmission of the minimum traceability information set in Article 58(5) of the Fisheries Control Regulation shall be digitalised using international or global standards which ensure interoperability and verifiability. The recording is expected to be required for a minimum of three years.

For each lot of fishery products containing several species as referred to in Article 56a(3) of the Fisheries Control Regulation, concerning the minimum traceability information, the FAO alpha-3 code of the species and the scientific name are expected to concern only the three main species in weight in that lot. The total quantity of fishery products in the lot would have to be provided instead of the quantities per species. For lots containing several species as referred to in Article 56a(4) of the Fisheries Control Regulation, the traceability information would have to indicate

² [Meeting of Working Group 2 of 2 December 2024](#)

³ On 24 May 2024, the MAC adopted [advice](#) on “Terms of Reference of the Study on Feasible Traceability Systems and Procedures for Prepared and Preserved Fishery and Aquaculture Products”.

that the lot contains several species of individuals below minimum reference size and that the fisheries products composing the lot are not intended for direct human consumption.

In case of the definition of “aquaculture production unit” the legal provisions are expected to allow a reference to “aquaculture establishment” as referred in Regulation (EU) No 2016/429.

2.1. International / global standards to ensure interoperability and verifiability

Recitals 56, 57, 58 and 60 of the Fisheries Control Regulation (EU) 2023/2842) state “that a specific set of information must be kept on record by operators, be made available to competent authorities upon request, and transferred to the operator to which the fishery or aquaculture product is supplied”, “in line with Implementing Regulation (EU) No 931/2011 the traceability information relevant for the control of fishery and aquaculture products should be available from the first sale to the retail stage”, and that “in order to ensure an effective and timely transmission of the traceability information concerning fishery and aquaculture products, operators should make information on products falling under Chapter 3 of the Combined Nomenclature, established by Council Regulation (EEC) No 2658/87 (18), available in a digital way within the supply chain and to competent authorities upon their request”.

The Fisheries Control Regulation goes beyond Regulation (EU) 931/2011 by establishing a total traceability scheme, which tracks operators until retail stage. This system covers both operators, and a wide range of information related to the batches they distribute. However, transmitting and ensuring the availability of this information up to the retail stage requires significant effort.

The digital provision of lot information in the updated Fisheries Control Regulation foresees two types of transmission of lot information: within the supply chain, acting in the same supply chain, and from business to authority (B2A) in the case of a control. According to AIPCE, CEP, Fischverband, and PACT’ALIM, no currently existing traceability and lot identification system is fit

for purpose to serve the needs of all supply chain requirements and business structures from B2B. For B2A transmission, hardly any solutions exist today at all. Hence, the mentioned members strongly encourage to maintain flexibility and freedom of choice with regards to the systems used.

Within the supply chain, as long as the information is passed in a digital format, it should be at the supply chain partners discretion to decide on the technicalities of the marking of the unique identification number and the provision of digital information, including the free choice of standards and data formats, while ensuring that the minimum lot information required by Article 58.5 is digitally transmitted.

For B2A purposes, operators and Member State authorities should have the flexibility to decide on systems and standards that fit their control needs and possibilities to transmit the information digitally. The interoperability of digital lot information systems among businesses (B2B) and authorities (B2A) will automatically be of high interest to all partners involved without prescribing a specific set of standards. Guidance from the European Commission for the implementation of the digital traceability for Chapter 03 products, including the exchange of best practises, is therefore requested by the MAC to ensure that small and medium size businesses have fair access to the available technology and manage to comply. Additionally, in the view of AIPCE, CEP, Fischverband, PACT'ALIM and UMF, other aspects, such as economic efficiency of implementation and the confidentiality of additional lot information beyond Article 58.5 should also be accounted for.

In the view of the MAC, beside the legal provisions, the Commission should, through the recitals, preamble or subsequent guidance, provide examples of international standards that guarantee interoperability. Since, in certain regions, operators, across the supply chain, may not have such systems due to the inherent costs and practical logistical reasons, the Commission should provide

further guidance on the applicability of this system for such operators. Besides the digitalisation of the minimum information of each lot through international or global standards, efforts should be made for the digitalisation of the method of transmission between operators.

When developing the applicable legal provisions, the European Commission should consider the entities authorised to verify compliance with the international or global standards, ensuring that the systems available in each Member State can meet these requirements. The entities responsible to verify lot identification should be explicitly identified in the legal provisions.

2.2. Minimum recording period

In the view of the MAC, the reasoning for the proposed three-year data recording period (e.g., financial and human capacity, server storage capacity, including energy consumption and carbon footprint, shelf life of products, etc.) should be explained. Overall, even for small-scale fishing, the overall volume of data is substantial and demands significant server storage capacity.

In some Member States, for example, in Spain, for the accreditation of the origin of beef⁴, the agreed retention period is currently of one-year, which has proven to be sufficient to meet the needs of the competent authorities. As another example, in the case of live bivalve molluscs, the label affixed to packaging other than unit packaging for sale to the final consumer can be retained by the retailer for 60 days following the splitting of the contents⁵.

In the view of the majority of the MAC's membership, since lot information is recorded in addition to commercial data, it becomes unclear who would need and be entitled to access this information beyond one year – in the case of fresh products, as the shelf life does not generally

⁴ [Real Decreto 1698/2003, de 12 de diciembre, por el que se establecen disposiciones de aplicación de los Reglamentos comunitarios sobre el sistema de etiquetado de la carne de vacuno.](#)

⁵ [Regulation \(EC\) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin](#)

exceed ten days, such high retention period appears particularly unnecessary. In their view, a more flexible approach would be preferable, in line with the criteria outlined in the Commission's interpretation document on the conservation of records⁶, which takes into account that the product's shelf life plus an additional period of six months. On the other hand, in the view of EJF, Feedback EU, Good Fish Foundation, Oceana, and WWF, the proposed three-year data recording period would be preferred, as there can be many reasons why authorities may have to access this database retrospectively.

2.3. Requirements for lots of fishery products containing several species

In the view of the AIPCE, CEP, FEDEPESCA, Fischverband, and UMF, the Commission services should analyse the relevance of extending the foreseen flexibility to lots composed of fish from different fishing vessels. In the case of small-scale fisheries, it is common practice for fish processing companies to combine lots from various fishing vessels to standardise the size and the quality of the fish. These practices allow the downstream supply chain to deliver standardised lots that meet consumer expectations.

On the other hand, EJF, Feedback EU, Good Fish Foundation, Oceana, and WWF disagree with the introduction of exemptions for the provision of less information to all Chapter 03 products. In their view, the definition of "lot" already allows for the possibility of lots containing products from different fishing vessels, so there is no need for further exemptions from minimum information requirements.

⁶ GPSD and GFL, Guidance on the Implementation of Articles 11, 12, 14, 17, 18, 19 and 20 of Regulation (EC) N.º 178/2002 on General Food Law Conclusions of the Standing Committee on the Food Chain and Animal Health, p. 21, which reads "For highly perishable products, which have a "use by" date less than 3 months or without a specified date, destined directly to final consumer, records could be kept for the period of 6 months after date of manufacturing or delivery" and that "For other products with a "best before" date, the shelf-life plus 6 months".

Under point 5 of Article 58 of the Fisheries Control Regulation, for lots of fishery or aquaculture products falling under Chapter 3 of the Combined Nomenclature, information on the FAO alpha-3 code of the species and the scientific name, the relevant geographical area or catch / production area, and, for fishery products, the category of fishing gear, among other minimum information must be transmitted. Point 3 of Article 56a allows for products of several species and coming from the same geographical area and of the same catching vessel be put in the same lot, but no reference is made to the fishing gear. If, under the upcoming delegated act, for such lots, the minimum traceability information on the species would concern only the three main species, it would be important to clarify what information on the fishing gear would have to be transmitted, particularly if various fishing gears were used to capture the products composing the lot.

Further clarity would also be needed concerning as to how the legal provisions on the three main species and the provision of the total quantity of fishery products in that lot instead of quantity per species would be implemented. For example, in a lot with 150 Kg composed of five different species, of which the three main species represent 100 Kg, it would be important to know whether information would only have to be transmitted for the 100Kg. Additionally, it would be important to clarify whether the total quantity would be 100Kg or the 150Kg.

In the case of fishery products falling under Chapter 3 of the Combined Nomenclature containing several species as referred to in Article 56a(4) of the Fisheries Control Regulation, it would be relevant to clarify the expectations for the indication that the lot contains several species of individuals below minimum reference size, particularly whether it should be in the same manner as the references to the FAO alpha-3 code and the scientific name of the three main species.

2.4. Aquaculture production unit

In the view of the MAC, for the purpose of paragraph 5(b)(ii) and (c)(ii), a more specific and clearer definition of “aquaculture production unit” would help operators in the collection of this information for their records. If the possibility to refer to Regulation (EU) 2016/429 is maintained, it would be relevant to further specify the cases when this is possible, including references to the articles and paragraphs.

In a similar manner to the legal possibility of forming lots of fishery products coming from the same group of fishing vessels, there should be the possibility of forming lots of aquaculture products coming from the same group of aquaculture production units.

Additionally, it would also be relevant to allow the formation of lots of live animals, as it is the case with live tanks.

3. Article on marking of lots of fishery and aquaculture products

In accordance with the preparatory work of the Commission services, the legal provisions are expected to require that each lot of fishery and aquaculture products would have to be marked in a way that any fishery and aquaculture compositing that lot is clearly identified. As a minimum, lots would have to be marked with a unique identification number. Additionally, the provisions would allow for the marking to be affixed to each lot by way of an identification tool such as a QR code, barcode, electronic chip or a similar device or marking system. The lot identification tools would have to be developed based on internationally recognised standards and specifications, such as GS1 standards.

3.1. Identification of lots

In the view of the MAC, to avoid potential confusion, clear reference to the definition of “lot” provided by the revised Fisheries Control Regulation should be made. The difference in the concepts of “lot” and “unique identification number” should be accounted for. More clarity, for

example via subsequent guidance, should be provided on the development of the unique identification number and on who is responsible for identification.

It is important to keep in mind that the use of QR codes, barcodes, marking systems, etc. involves additional costs that are reflected in the price of fishery and aquaculture products and in production costs. As the aquaculture and fisheries products systems in the EU are mainly composed of small and medium-sized enterprises, there should be sharing of best practices and funding opportunities to assist them, or an easy to use, free of charge digital system, such as a phone application, should be offered as a possible tool.

The majority of the MAC's membership calls for the definition of lot formation procedures that accommodate the several previously described technical and structural constraints, including through the following:

- Gatekeeper approach: a lot formation procedure where the legal entity physically entitles another entity to provide the digital lot information on their behalf. The gatekeeper can be the owner of the fishery and aquaculture product or be a contracted service provider outside the chain. The gatekeeper assures that the lot information provided by business A (see figure 1 below) is correctly collected from the entity forming the lot or another adequate source. The gatekeeper translates the lot information in a digital format and makes it accessible to the further partners in the supply chain and/or authorities. The digital lot information is attached to the lot in such a way that the information is accessible in a digital way (e.g. QR, 2D code) at any stage of the supply chain.
- Lot splitting and merging procedure: a business splitting or merging a lot or several lots of fishery and aquaculture products can form new lots upon their own discretion at any time, as long as all relevant information, according to Article 58.5, stays attributed to the lot.

- Reformatting procedure: any business in the supply chain has the possibility, at any stage of the supply chain, to reformat the digital lot information and the way the lot is labelled in such a way that it fits the business’s technical and procedural needs, as long as all relevant information, in accordance to Article 58.5, stays attributed to the lot.

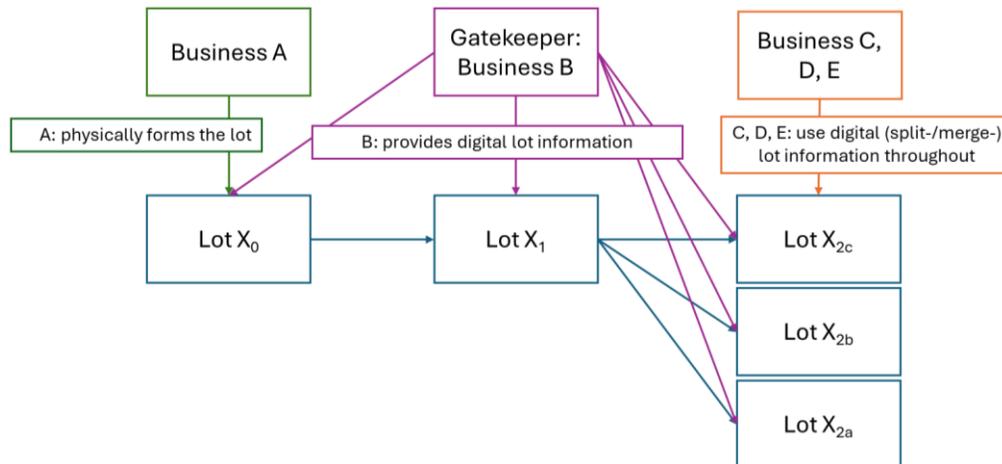


Figure 1 - Gatekeeper lot formation procedure

In the view of Oceana and WWF, the legal provisions should not prescribe lot formation procedures to include the gatekeeper approach. In their view, it should be up to individual Member States to put in place the systems that would allow the authorities and companies to digitally access the information required to be transmitted as per Article 58.5.

3.2. Marking

The legal provisions should make it clear that the marking of the lot must be placed digitally, allowing for various tools, as currently stated in Implementing Regulation (EU) 404/2011. Further detail should be provided on the notion of “internationally recognised standards”.

It is important to keep in mind that, while the GS1 standards can cover how to identify goods and how to transmit the information in a standardised way, these are rather recent and do not represent all traceability standards implemented by EU operators. As identified internationally

recognised standards may evolve or be replaced, any examples should be provided via the recitals, preamble or subsequent guidance, instead of on the legal provisions.

In the case of fresh and frozen products, it is also important to consider the challenges related to the physical affixation of labels for the transmission of traceability information, as even water-proof labels may come off during storage, transport or other steps. The delegated act could include provisions on the material of traceability labels to ensure that information is available for digital capture. If the label is damaged due to water and moisture, it becomes impossible to accurately capture the mandatory information.

4. Preamble, recitals and subsequent guidance

The preamble of the delegated act provides the possibility to further outline the intentions of the legislation and to include other elements to assist in the interpretation. In the view of the MAC, the preamble should highlight the commitment of Member States, under the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing⁷, to improve transparency in their markets and to allow the traceability of fish and fisheries products. It should also contain references to the FAO's guidance document on traceability in fisheries and aquaculture value chains⁸.

In the view of the MAC, the recitals, preamble and subsequent guidance should provide examples of international standards that guarantee interoperability. The guidance could also potentially include references to best practices in stakeholder-led initiatives⁹.

5. Recommendations

⁷ <https://openknowledge.fao.org/items/dda4ea4e-5603-4984-b22b-ae6cacbf2d1c>

⁸ <https://www.fao.org/3/cc5484en/cc5484en.pdf>

⁹ E.g., Global Dialogue on Seafood Traceability's standards, MSC and ASC's Chain of Custody standards, Visserij Verduurzaam tool

In the context of the development of the upcoming delegated act on additional rules for traceability of fresh and frozen fishery and aquaculture products (Chapter 03 of the Combined Nomenclature) and marking of lots, the MAC believes that the European Commission should:

- a) Guarantee that control provisions limit unfair competition, ensuring the competitiveness of the fisheries and aquaculture sector, and exacerbation of potential supply shortages;
- b) In the recitals, preamble or subsequent guidance, provide examples of international standards that guarantee interoperability;
- c) Explicitly identify the entities responsible for verifying lot identification, while previously ensuring that the systems available to them can meet the requirements;
- d) Explain the reasoning for the proposed three-year data recording period (e.g., financial and human capacity, server storage capacity, shelf life of products), including the potential appropriateness of an alternative one-year period, in line with other legal requirements;
- e) Develop a more specific and clearer definition of “aquaculture production unit” or, alternatively, provide further detail on the use of the definition provided by Regulation (EU) 2016/429, while also allowing for the possibility to form lots composed of aquaculture products coming from the same group of aquaculture production units;
- f) When drafting the legal provisions on the marking of lots, make clear reference to the definition of “lot” of the Fisheries Control Regulation, account for the difference in the concepts of “lot” and “unique identification number”, and provide further clarity on the development of the unique identification number and on the identification;
- g) Provide information on best practices and funding opportunities for small and medium-size operators with limited access to digital tools to offset additional costs incurred by the operators due to the use of QR codes, barcodes, marking systems, etc.;



- h) Provide further details on the notion of “internationally recognised standards”, while keeping in mind the various standards available and their continuous evolution;
- i) When drafting the preamble, highlight the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, and the FAO’s guidance document on traceability in fisheries and aquaculture value chains;
- j) Take into account the relation to other applicable pieces of legislation, such Regulation (EU) 2016/679 on data protection, and the rules on trade secrets.