



Evaluation of marketing standards

Contained in the CMO Regulation, the "Breakfast Directives" and CMO secondary legislation

Final Report

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Contact: AGRI Evaluation

E-mail: agri-evaluation@ec.europa.eu

*European Commission
B-1049 Brussels*

This report has been prepared by



Areté s.r.l. – Research & Consulting in Economics

Agra CEAS Consulting Ltd | IEG

Agribusiness intelligence | Informa

Via del Gomito, 26/4 – 40217 Bologna (IT)

20-22 rue du Commerce – 1000 Brussels (BE)

Tel: +39.051.4388500

Tel: +32.2.7360088

Fax: +39.051.511186

Fax: +32.2.7321361

Email: info@areteonline.net

Email: info@ceasc.com

Web: www.areteonline.net

Web: www.ceasc.com

The evaluation study was carried out by:

Areté s.r.l. (IT)

Enrica Gentile (Project Manager)

Alberico Loi

Mario Gentile

Mauro Bruni

Serena Berisio

Paola Parisi

Agra CEAS Consulting Ltd (BE)

Dylan Bradley

Maria Christodoulou

Michela Bisonni

Jakub Puzniak

Subcontractors:

Sector experts:

Tomas Garcia Azcarate

Gabriele Canali

Conrad Caspari

AFC Public Services (DE)

Volker Ebert

Elisabeth Gerwing

Anselm Elles

Agro.GES (PT)

Pedro Serrano

Blezat Consulting (FR)

Bertrand Oudin

Camille Michel

Institute for Food Studies & Agroindustrial Development (IFAU) (DK)

Karen Thorsted Hamann

Incatema Consulting (ES)

Miguel Salvo Mendivil

Ana González Altozano

National experts:

Lubica Bartova (SK)

Iveta Boskova (CZ)

Iuliana Ionel (RO)

Dimitre Nikolov (BG)

Laszlo Rieger (HU)

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ABSTRACT

Marketing standards have been a feature of the CAP since its early days, with a view to taking into account the expectations of consumers and to contributing to the improvement of the economic conditions for the production and marketing of agricultural products, as well as to the improvement of their quality. The evaluation aims at assessing the effectiveness, efficiency, relevance, coherence and EU added value of marketing standards established by Regulation (EU) No 1308/2013, by secondary CMO legislation and by the “Breakfast Directives”. Recommendations aimed at addressing the most significant issues emerged from the assessment focus on: i) the need to investigate on the implications of improper use of protected dairy terms (e.g. milk, butter) for marketing plant-based substitutes for dairy products; ii) possible updates to specific provisions concerning poultry meat and olive oil; iii) improving consumer awareness about marketing standards; iv) clarifying to national competent authorities the hierarchical relationship between EU marketing standards and EU legislation on food safety and provision of food information to consumers; v) promoting empirical research on the potential implications of EU marketing standards in terms of increased/reduced food losses and waste; vi) investigating the possible benefits of establishing a harmonised EU definition for cider.

RÉSUMÉ

Les normes de commercialisation sont une caractéristique de la PAC depuis ses débuts, en vue de tenir compte des attentes des consommateurs et de contribuer à l'amélioration des conditions économiques en matière de production et de commercialisation des produits agricoles ainsi qu'à l'amélioration de leur qualité. L'évaluation vise à évaluer l'efficacité, l'efficacité, la pertinence, la cohérence et la valeur ajoutée européenne des normes de commercialisation établies par le Règlement (UE) n°1308/2013, par le droit dérivé de l'OCM et par les Directives « petit-déjeuner ». Les recommandations visant à résoudre les problèmes les plus importants, révélés par l'évaluation, portent sur les points suivants : i) La nécessité d'étudier les conséquences d'une utilisation inappropriée de termes laitiers protégés (par ex. lait, beurre) pour la commercialisation de substituts végétaux aux produits laitiers ; ii) Les éventuelles mises à jour des dispositions spécifiques concernant la viande de volaille et l'huile d'olive ; iii) Une sensibilisation renforcée des consommateurs concernant les normes de commercialisation ; iv) Une clarification auprès des autorités nationales compétentes concernant la relation hiérarchique entre les normes de commercialisation de l'UE et la législation de l'UE en matière de sécurité alimentaire et d'informations aux consommateurs sur les produits alimentaires ; v) La promotion de la recherche empirique sur les implications potentielles des normes de commercialisation de l'UE en termes d'augmentation/diminution des pertes et du gaspillage alimentaires ; vi) L'examen des éventuels avantages liés à la mise en place d'une définition harmonisée du cidre au niveau de l'UE.

EXECUTIVE SUMMARY

EU marketing standards: an overview

Marketing standards have been a feature of agricultural and food product quality policy in the overall framework of the Common Agricultural Policy (CAP) since its early days. EU marketing standards have usually been defined by sectors or products; they serve the purpose of taking into account the expectations of consumers and of contributing to the improvement of the economic conditions for the production and marketing of agricultural products, as well as to the improvement of their quality¹. In the current framework, EU marketing standards aim at enabling the market to be easily supplied with products of a standardised and satisfactory quality, and concern technical definitions, classification, presentation, marking and labelling, packaging, production method, conservation, storage, transport, related administrative documents, certification and time limits, restrictions of use and disposal².

The existing EU marketing standards are set out in three main bodies of legislation: i) the Common Market Organisation (“single CMO”) established by Regulation (EU) No 1308/2013³; ii) a number of Regulations (“secondary CMO legislation”) setting up product-specific marketing standards⁴; iii) a number of Directives establishing rules on description, definition, characteristics and labelling of a number of agricultural and food products usually consumed for breakfast⁵ (those Directives are hence known as the “Breakfast Directives”).

Evaluation methodology

The overall approach to the evaluation was structured around four main tasks, i.e. structuring, observing, analysing and judging. The five evaluation themes - effectiveness, efficiency, relevance, coherence and EU added value of the current applicable marketing standards for food products – were assessed through twelve evaluation questions: some of these included specific sub-questions, which were often sector- or product-specific, standard-specific or even focused on specific elements of well-defined marketing standards. Conclusions drawn from the replies to the evaluation questions were aimed at: i) assessing which marketing standards can be considered as good practices, or bad examples, independently from the sector, but with regard to their type and targeted stakeholder; ii) identifying needs, problems and issues which have not been adequately addressed by EU marketing standards, and which would hence need to be addressed; iii) identifying the needs for intervention (or lack thereof) in the sectors currently not covered by EU marketing standards. The final goal of the evaluation was to provide insights for policy recommendations aimed at addressing the identified issues through the improvement of existing provisions or the design of new ones. A

¹ Regulation (EU) No 1308/2013, recital 65.

² Regulation (EU) No 1308/2013, recital 71.

³ The “single CMO” Regulation sets out: A) marketing standards for: olive oil and table olives; fruit and vegetables; processed fruit and vegetable products; bananas; live plants; eggs; poultry meat; spreadable fats intended for human consumption; hops; B) definitions, designations and sales descriptions for: beef and veal; wine; milk and milk products intended for human consumption; poultry meat; eggs; spreadable fats intended for human consumption; olive oil and table olives; C) optional reserved terms for: poultry meat, eggs and olive oil.

⁴ Secondary CMO legislation establishes marketing standards for: olive oils; fresh and processed fruits and vegetables; bananas; eggs; hatching eggs and poultry chicks; poultry meat; bovine meat; hops; spreadable fats; milk and milk products.

⁵ Coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption; dehydrated milk; fruit juices; honey.

combination of multiple data collection methods and tools⁶ was used to gather the vast and varied evidence base needed for the evaluation.

Conclusions for the five evaluation themes

Effectiveness

The evaluation concluded that **EU marketing standards have generally been effective in achieving their intended objectives**, and **have not caused significant unintended/unexpected effects** (including “deadweight”⁷). The few limitations of EU marketing standards in terms of effectiveness were found to affect specific sectors, and to be related to specific aspects⁸. The assessment identified a number of **success stories in terms of effectiveness of EU marketing standards**.

The **rules on the optional reserved terms for indicating on the label the types of poultry farming** (Regulation (EC) No 543/2008) are perceived by operators as an effective instrument for promoting alternative production systems for poultry meat production in the EU. Operators also deem that **provisions on classification of poultry meat in terms of product definitions and of quality and weight grading** (Regulation (EU) No 1308/2013 and Regulation (EC) No 543/2008) have adequately reflected the current market reality. The assessment found that the **rules for indicating the farming methods applied for laying hens** (Regulation (EC) No 589/2008) have been effective in promoting animal welfare-friendly production methods for eggs, and alternative uses of egg production in the EU, albeit with some potentially negative implications, mainly related to the so called “standard inflation” issue⁹. A specific assessment focusing on the effectiveness of the **provisions on classification for fresh fruit and vegetables** (Regulation (EU) No 543/2011) in supporting the interests of producers and traders and in facilitating trade confirmed the overall satisfaction of business stakeholders. A specific assessment focusing on the effectiveness of the **provisions on minimum brix level for reconstituted fruit juices** (Directives 2001/112/EC, 2009/106/EC and 2012/12/EU) in creating a level playing field for producers confirmed the overall positive judgment and the absence of significant issues. Also the specific assessment focusing on the **effectiveness of the provisions on the certification of hops** (Regulation (EC) No 1952/2005 and Regulation (EC) No 1850/2006) in creating a level playing field for producer organisations/producer groups, traders and retailers confirmed the overall positive judgment of the concerned stakeholders, and the absence of significant issues.

A partial exception to the overall conclusion is the **replacement of specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard**, whose implications in terms of effectiveness were found to be controversial in the eye of stakeholders: however, no adverse effects of such replacement on intra-EU trade and price volatility of the concerned products were observed.

⁶ Desk research; in-depth structured interviews with competent authorities, stakeholders and independent experts; surveys targeted at business stakeholders, consumer associations and competent authorities; focus groups with business associations, consumer associations and independent experts; four thematic case studies.

⁷ “Deadweight”: effects that would have arisen even if the intervention – i.e. the establishment of EU marketing standards - had not taken place.

⁸ Besides the implications in terms of effectiveness of the replacement of specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard, which are discussed below, the assessment identified some limitations of EU marketing standards in effectively addressing: i) the issue of degradation of the quality of olive oils over time; ii) the issue of improper use of protected dairy terms (e.g. milk, butter, cheese, yogurt) for marketing plant-based substitutes for dairy products.

⁹ Decreasing market advantage for barn eggs produced in more costly animal welfare-friendly rearing systems, which could reduce the economic incentive for producers to switch from enriched cage production to barn production.

Efficiency

The overall judgment about the efficiency of EU marketing standards¹⁰ emerged from the assessment was also positive. Nonetheless, a limitation may be that consumers were found to be not really aware of marketing standards and of their benefits: this may limit the robustness of the assessment of the proportionality of costs versus benefits of EU marketing standards from a consumer standpoint. The evaluation found that the **potential for simplification of EU marketing standards** (including the certification procedure for hops and the marketing standards for fresh fruit and vegetables and olive oil) is **generally limited**, except in the case of the standards on water absorption in poultry meat, where some potential in that respect was identified¹¹.

Relevance

The evaluation concluded that there is some **room for improving EU marketing standards in terms of relevance**. Even if EU marketing standards were found to be **generally pertinent to the original needs identified by stakeholders**, the assessment revealed that their **capacity to address new needs, problems and issues of stakeholders emerged after their setting could be improved**. In particular, the assessment identified some limitations of EU marketing standards in following the evolution of technology, marketing strategies and consumer preferences without impeding innovation, in addressing potential side effects in terms of food waste in certain sectors (eggs and fresh fruit and vegetables), as well as a number of sector-specific limitations affecting the fruit juices¹², poultry meat¹³, dairy¹⁴ and olive oil¹⁵ sectors.

Coherence

The findings of the assessment allowed to **judge positively the coherence of EU marketing standards**, both within the related regulatory framework (internal coherence) and vis-à-vis other EU rules that are relevant for

¹⁰ I.e. the proportionality of costs versus benefits for the various stakeholders affected by the standards (producers, processors, intermediate operators/traders, retailers, competent authorities, final consumers).

¹¹ The Commission has carried out two studies into the processing technologies used and the absorption of water in poultry meat; issues around these are dealt with comprehensively in these reports: 1) *The Study of physiological water content of poultry reared in the EU* (LGC, 2012), 2) *The Study on state of play of processing technologies and the absorption of water in poultry meat* (LGC, 2016). However, those studies were not concerned with simplification *per se*.

¹² The assessment identified an issue related to labelling provisions concerning fruit juices under Directive 2001/112/EC, as amended by Directive 2012/12/EU. The 2012 amendment established – among others - that the addition of sugars to fruit juices was not (longer) allowed, mainly to follow the evolution of consumer preferences and to respond to emerging trends towards a healthier diet. The transitional measures under Article 3 of Directive 2012/12/EU established that the statement “from 28 October 2015 no fruit juices contain added sugars” could appear on the label until 28 October 2016, to inform consumers about the exclusion of added sugars from the list of authorised ingredients. After 28 October 2016, putting on a fruit juice pack the “no added sugar, in line with the legislation” statement, or similar statements referring to the fact that all fruit juices do not contain added sugar, is no longer permitted. However, the fact that competing beverages, such as juice containing drinks, are still allowed to use the claim “with no added sugar” may create confusion among consumers, and may result in unfair competition.

¹³ A specific assessment found that provisions on water content and alternative production systems could be updated to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation.

¹⁴ Two main issues emerged from a specific assessment. Improper use of protected dairy terms such as “milk”, “butter” and “cheese” in the marketing of plant-based substitutes for dairy products was found to cause issues in terms of unfair trading practices and provision of misleading information to consumers. The potential implications of the absence of an EU definition of cheese for stakeholders were found to be more disputed. The analysis of the state of play concerning national legislation-based definitions of cheese in the EU revealed significant differences especially in the definition of the raw materials from which cheese can be made, and of the ingredients that can be used in its production. The assessment identified a potentially crucial aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production.

¹⁵ The most significant limitations emerged from the assessment are related to: organoleptic assessment of olive oils and the lack of uniformity of results deriving from tasting panels; excessive number of quality parameters that must be determined; redundant information on labels; relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils. A specific assessment also revealed significant limitations of the different categories of olive oils defined by Member States in reflecting the needs of the market.

production and marketing of agricultural and food products, as well as vis-à-vis international¹⁶ and private¹⁷ marketing standards (external coherence). The only significant cross-sectoral issue in terms of coherence identified in the assessment is the **combination in EU marketing standards of requirements that are related to product quality, to food safety** (e.g. those concerning storage temperatures, or minimum durability (best before) date for eggs) **and to provision of food information to consumers** (requirements concerning labelling of products): according to some consulted national competent authorities, such combination may result in some overlaps and inconsistencies, and may pose challenges for enforcement and controlling activities.

EU added value

EU marketing standards were found to provide **significant added value vis-à-vis international and private marketing standards**, mainly stemming from their mandatory nature (the related requirements must be complied with across the EU), from requirements tailored to the specific operational and market situation of the EU, and from the fact that the minimum quality requirements for many products set by EU marketing standards are already rather demanding. The **main potential advantages stemming from the establishment of EU marketing standards for the sectors/products currently not covered** were identified in the **opportunities for tackling unaddressed needs**, and in **increased benefits for stakeholders**¹⁸. This view specifically in relation to **possible development of an EU definition of cider** was reinforced and confirmed by a Focus Group discussion, which also noted how beneficial the introduction of EU marketing standards had been in a range of sectors now covered by such standards. By contrast, no perceived need to develop EU marketing standards emerged from the Focus Group discussion for such products as potatoes (fresh and for processing), fruit spreads and processed fruit and vegetables. As for the **possible development of an EU definition of cheese**, the consulted sectoral association deemed that it would address the potentially negative implications of different definitions applying at Member State level¹⁹; however, the views of the consulted national competent authorities on whether the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector were found to be divided. In any case, according to the consulted business stakeholders, the elaboration of an EU definition of cheese would be a challenging task, mainly due to significant differences in the relevant national legislation, while it can be argued that Member States would probably ask for derogations in order to keep some flexibility with respect to special ingredients currently included in their national definitions of cheese.

¹⁶ The evaluation assessed EU marketing standards against the voluntary international product-specific standards developed by the Codex Alimentarius Commission (CAC), by the United Nations Economic Commission for Europe (UNECE) and by the International Olive Council (IOC).

¹⁷ The evaluation assessed EU marketing standards against some voluntary private standards with wide uptake in the EU, plus some private sector-specific standards.

¹⁸ More specifically: improved market access for producers; improved transparency on the market; promotion of intra-EU trade in the products concerned stemming from harmonisation of varying national legislation (i.e. removal of technical barriers to trade); definition of minimum quality standards for the products concerned, to the benefit of both consumers and business stakeholders; contribution to improved average quality of the products concerned; provision of improved and more homogeneous information on the concerned products to consumers.

¹⁹ According to the consulted business stakeholders, and in line with the outcomes of the discussion in the Focus Group, the process of developing an EU definition of cheese (beyond the one deriving from the protected definitions, designations and sales descriptions for dairy products) should take the Codex General Standard for cheese as a basis. Indeed, several legislation-based definitions of cheese currently in force in the most significant cheese-producing Member States are rather similar to the one provided by the Codex, at least for what concerns the production process; less so for what concerns the raw materials to be used for cheese production and the allowed ingredients.

Recommendations

Recommendations aimed at improving the effectiveness and relevance of marketing standards

1. Sectoral associations and several Member State competent authorities highlighted the issue of **improper use of protected dairy terms** (e.g. milk, butter, cheese, yogurt) **for marketing plant-based substitutes for dairy products**. The issue was found to derive from a non-homogenous enforcement at Member State level of the list of national exemptions (EU Commission Decision 2010/791/EU of 20 December 2010) from the prohibition to use protected dairy terms for the marketing of non-dairy products. The assessment found that the issue has implications in terms of consumer protection, fair competition and level playing field for operators, as well as in addressing the needs of the market. However, **no evidence allowing to appreciate the actual magnitude of the economic implications of those marketing practices for the dairy sector** (e.g. in terms of erosion of market shares of the affected dairy products by the concerned plant-based products) **could be retrieved**. A **deeper investigation on the nature and extent of the implications of the issue for both consumers and business stakeholders is hence recommended**, with a view to understanding whether some regulatory adjustments should be made.
2. The assessment revealed some **sector-specific limitations of EU marketing standards in following the evolution of technology, marketing strategies and consumer preferences without impeding innovation**. More specifically:
 - a. In the **poultry meat** sector, it emerged from a specific assessment that provisions on water content²⁰ and alternative production systems²¹ could be updated to follow the evolution of technology, marketing strategies and consumer preferences.
 - b. In the **olive oil** sector, the assessment identified limitations related to organoleptic assessment²² and the relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils²³. Furthermore, a specific assessment also revealed significant limitations of the different categories of olive oils defined by Member States in reflecting the needs of the market²⁴.

Also considering that sectoral stakeholders have made (or are elaborating) concrete proposals in that respect, it is recommended to **consider whether the aforementioned provisions should be updated**.

3. The assessment revealed that **consumer organisations, and even more so consumers, have limited awareness of EU marketing standards**. This implies that any effort for improving awareness of EU marketing standards among consumer associations and consumers, in order to involve them more actively in the related policy-making process, can contribute to a better adaptation of the provisions in EU

²⁰ According to one consulted EU-level sectoral association, the requirements of EU marketing standards for poultry meat would need to adapt further to the evolution of genetics, as well as to that of animal feeding solutions. Poultry genetics have evolved since EU marketing standards were established: this translates into problems for water content control of poultry meat. Animals of recent poultry strains hold more water than 15 or 20 years ago.

²¹ A consulted EU-level sectoral association suggested that the age of chickens at slaughter in the different farming systems covered by optional reserved terms could be lowered; for instance, the age of slaughter of free range chickens could be lowered from the current 56 to 50 days, to follow the evolution of genetics and rearing techniques. It also observed that more flexibility may be considered on the aspects being labelled, to follow technological innovation in the sector and the evolution of consumer preferences: for instance, the possibility of labelling poultry produced using electricity coming from solar panels as “environmentally friendly poultry production” should be considered.

²² Besides the alleged subjectivity of the method in the views of some consulted sectoral associations, according to one of the consulted sectoral associations tasting panels have shown clear limitations in addressing technological evolution in fraudulent practices. For instance, tasting panels are usually unable to detect deodorised oils marketed as extra virgin olive oils. According to that association, organoleptic assessment should be combined with traceability systems and with other analytical methods that technological innovation may offer in the future to effectively address more and more sophisticated fraudulent practices in the marketing of olive oils.

²³ According to one of the consulted sectoral associations, the set would not fully cover the extremely rich variety of scents and flavours of virgin olive oils, and also includes attributes (“bitter” and “pungent”) that are often not appreciated by consumers.

²⁴ A consulted business association observed that the adaptation of the categories of olive oil to follow the evolution of market needs is of paramount importance, also considering that large volumes of marketed extra virgin olive oils in certain Member States (and especially in Italy) meet much more demanding quality requirements than the minimum ones.

marketing standards targeting consumers and business-to-consumer relationships to the needs of the consumers themselves. In practical terms, this would entail the **organisation of events (workshops, seminars) dealing with the role of EU marketing standards in the framework of the CAP and of EU food policy**, and the **elaboration and dissemination of informative material on the topic in a language accessible to a wider, non-specialist audience**, such as the representatives of consumer associations and individual consumers.

Efficiency of marketing standards

The evaluation did not identify any significant limitations of EU marketing standards in terms of efficiency²⁵. Some potential for simplification of EU marketing standards was identified mainly by business stakeholders in relation to the implementation of Commission Regulation (EC) No 543/2008, which is said to lead to unnecessary delays in placing poultry meat products on the market. However, competent authorities and business stakeholders were unable to identify the costs and losses associated to these delays. In all other sectors, the potential for simplification was found to be limited. In the absence of concrete evidence on the extent of the potential benefits from addressing the issues related to the standards on water absorption in poultry meat under Commission Regulation (EC) No 543/2008, the evaluation team sees no scope for the elaboration of a specific recommendation.

Recommendations aimed at improving the coherence of marketing standards

4. The most significant issue in terms of coherence identified in the assessment is related to the **combination in EU marketing standards of requirements that are related to product quality, to food safety** (e.g. those concerning storage temperatures, or minimum durability (best before) date for eggs) **and to provision of food information to consumers** (requirements concerning labelling of products). A possible solution to this issue may be to **enhance the efforts in clarifying to national competent authorities the hierarchical relationship among the concerned provisions in the three legislation bodies** (marketing standards, food safety, provision of food information to consumers). In practical terms, this would entail the **organisation of events (workshops, seminars)** to provide the needed clarifications to national competent authorities.
5. The assessment identified potential implications of EU marketing standards for eggs and fresh fruit and vegetables in terms of increased food losses and waste. More specifically:
 - a. **Increased food waste volumes for eggs** at packing centres, retail outlets and at home were related by some consulted national competent authorities especially to provisions on sell-by date (Regulation (EC) No 853/2004) and also to those on minimum durability of eggs (Article 13 of Regulation (EC) No 589/2008). However, no consulted CA provided any quantitative evidence on the volumes of food waste that can be related to EU marketing standards for eggs. By contrast, business stakeholders did not see clear linkages between the aforementioned effect and EU marketing standards for eggs. The reviewed literature²⁶ suggests that there is a linkage between increased waste and date marking in the case of eggs, even if the underlying reasoning is not backed by specific concrete evidence.
 - b. As for the potential implications in terms of increased waste stemming from **“aesthetic requirements”** (concerning colour, shape, size, grading) set out in the remaining **10 product-specific EU marketing standards for fresh fruit and vegetables**, whereas the consulted business

²⁵ The assessment found that the current cost of compliance to EU marketing standards incurred by operators is justifiable, i.e. proportionate to the results achieved, and that EU marketing standards contribute important benefits that by far outweigh the costs involved.

²⁶ See for instance: Vittuari et al. (2015), *Review of EU Member States legislation and policies with implications on food waste*, FUSIONS project report, Department of Agricultural and Food Sciences, University of Bologna; ICF (2018), *Market study on date marking and other information provided on food labels and food waste prevention – Final Report*, funded by the European Commission, Directorate-General for Health and Food Safety.

stakeholders did not identify any negative implications, the reviewed literature²⁷ suggests a linkage between increased waste and “aesthetic requirements”, even if very limited concrete evidence is available to substantiate the underlying reasoning. By contrast, some consulted CAs and some studies²⁸ suggest that **EU marketing standards for fresh fruit and vegetables would instead contribute to reduced food waste and losses**, and that **most of the grading losses²⁹ for fresh fruit and vegetables would derive from particularly demanding private standards**, rather than from EU marketing standards.

In the light of the **limited evidence available on unintended/unexpected effects** of the concerned provisions - and more in general **of EU marketing standards** - in terms of **increased (or reduced) food losses and waste**, any initiative aimed at **promoting empirical research on the matter would help to appreciate the actual nature, extent and severity of those effects**, with a view to understanding whether some regulatory adjustments should be made to address the issue.

Possible development of EU marketing standards for sectors/products currently not covered (EU added value)

6. Even with some limitations deriving from the limited awareness among the consulted stakeholders of the relevant topics, the evaluation identified the **main potential advantages stemming from the establishment of EU marketing standards for the sectors/products currently not covered** in the **opportunities for tackling unaddressed needs** and in **increased benefits for stakeholders**. Whereas the views of the consulted stakeholders on the need to elaborate an EU harmonised definition of cheese were rather divided³⁰, the case of **cider** was found to present a more favourable environment. The consulted business stakeholders deem that the **development of an EU definition for cider** (and pear cider/“perry”) would respond to unaddressed needs in terms of more homogeneous levels of consumer protection, more level playing field and removal of barriers to intra-EU trade. A Focus Group discussion held for the purposes of the evaluation specified that **the key element of a standard would be the confirmation that to be called “cider” or “perry”, the product needs be derived from apples or pears “by fermentation only”**: this issue was not contentious. A “light” marketing standard established through EU legislation was hence considered to be relatively easily achievable; however, the issue of the minimum content of apple (pear) juice in the product called “cider” (“perry”) was found to be more complex to address, due to the differing national standards in this regard. Also considering that sectoral stakeholders have already undertaken initiatives aimed at elaborating a proposal for a harmonised EU definition of cider, it is deemed that any initiative aimed at **investigating more in depth the possible benefits of establishing such definition**, as well as at **promoting dialogue among the concerned stakeholders** (business operators and competent authorities) on the matter, would be beneficial.

²⁷ See for instance: European Court of Auditors (2016), *Combating Food Waste: an opportunity for the EU to improve the resource-efficiency of the food supply chain*, Special Report No 34, European Union; Vittuari et al. (2015), *Review of EU Member States legislation and policies with implications on food waste*, FUSIONS project report, Department of Agricultural and Food Sciences, University of Bologna; De Hooge et al. (2018), “Cosmetic specifications in the food waste issue: Supply chain considerations and practices concerning suboptimal food products”, *Journal of Cleaner Production*, 183 (2018), pp. 698-709.

²⁸ See for instance: WRAP (2011), *Fruit and vegetable resource maps - Mapping fruit and vegetable waste through the retail and wholesale supply chain*, Final Report, Waste & Resources Action Programme; Jordbruksverket (2014), *Why do we throw away edible fruit and vegetables?*, Rapport 2014:5 EN; AND International (2010), *Normes de commercialisation dans le secteur des fruits et légumes*, study carried out for the EU Commission DG Agriculture, September 2010.

²⁹ Fruits and vegetables diverted to alternative outlets (e.g. processing) or disposed of in the grading phase because they do not meet quality requirements.

³⁰ A consulted EU-level sectoral association would welcome the establishment of a harmonised definition establishing the essential characteristics that would entitle a dairy product to be denominated “cheese”; by contrast, the consulted CAs were equally split in two groups: one deeming that the absence of a harmonised EU definition of cheese has left some specific sectoral needs unaddressed, and one deeming the contrary.

RÉSUMÉ EXÉCUTIF

Normes de commercialisation de l'UE : présentation

Les normes de commercialisation font partie de la politique de qualité des produits agricoles et alimentaires dans le cadre général de la Politique Agricole Commune (PAC) depuis ses débuts. Les normes de commercialisation de l'UE ont généralement été définies par secteurs ou par produits, le but étant de tenir compte des attentes des consommateurs et de contribuer à l'amélioration des conditions économiques en matière de production et de commercialisation des produits agricoles ainsi qu'à l'amélioration de leur qualité³¹. Dans le cadre actuel, les normes de commercialisation de l'UE visent à faciliter l'approvisionnement du marché en produits d'une qualité normalisée et satisfaisante et concernent les définitions techniques, les classements, la présentation, le marquage et l'étiquetage, le conditionnement, la méthode de production, la conservation, le stockage, le transport, les documents administratifs s'y rapportant, la certification et les échéances, les restrictions concernant l'usage et l'écoulement³².

Les normes de commercialisation en vigueur dans l'UE sont définies dans trois principaux textes législatifs : i) L'Organisation commune des marchés (« OCM unique »), établie par le Règlement (UE) n°1308/2013³³ ; ii) Un certain nombre de Règlements (« droit dérivé de l'OCM »), définissant des normes de commercialisation spécifiques aux produits³⁴ ; iii) Un certain nombre de Directives établissant des règles relatives à la description, à la définition, aux caractéristiques et à l'étiquetage d'un certain nombre de produits agricoles et alimentaires généralement consommés pour le petit-déjeuner³⁵ (ces Directives sont donc connues sous le nom de Directives « petit-déjeuner »).

Méthodologie d'évaluation

L'approche globale de l'évaluation était structurée autour de quatre tâches principales, à savoir structurer, observer, analyser et juger. Les cinq thèmes d'évaluation (efficacité, efficience, pertinence, cohérence et valeur ajoutée européenne des normes de commercialisation actuelles applicables aux produits alimentaires) ont été analysés par le biais de douze questions d'évaluation : certaines comprenaient des sous-questions spécifiques, généralement spécifiques à un secteur ou à un produit, spécifiques à une norme ou même axées sur des éléments spécifiques de normes de commercialisation clairement définies. Les conclusions établies à partir des réponses aux questions d'évaluation visaient les actions suivantes : i) évaluer quelles normes de commercialisation peuvent être considérées comme de bonnes pratiques, ou de mauvais exemples, indépendamment du secteur, mais en tenant compte de leur type et de leur partie prenante ciblée ; ii) identifier les besoins, les problèmes et les questions qui n'ont pas été traités correctement par les normes de commercialisation de l'UE et qui devraient donc l'être ; iii) identifier les besoins d'intervention (ou leur absence) dans les secteurs qui ne sont pas couverts actuellement par les normes de commercialisation de

³¹ Règlement (UE) n°1308/2013, considérant 65.

³² Règlement (UE) n°1308/2013, considérant 71.

³³ Le Règlement « OCM unique » prévoit : A) Des normes de commercialisation pour : l'huile d'olive et les olives de table ; les fruits et légumes ; les produits de fruits et légumes transformés ; les bananes ; les plantes vivantes ; les œufs ; la viande de volaille ; les matières grasses tartinables destinées à la consommation humaine ; le houblon ; B) Des définitions, dénominations et dénominations de vente pour : la viande bovine ; le lait et les produits laitiers destinés à la consommation humaine ; la viande de volaille ; les œufs ; les matières grasses tartinables destinées à la consommation humaine ; l'huile d'olive et les olives de table ; C) Des mentions réservées facultatives pour : la viande de volaille, les œufs et l'huile d'olive.

³⁴ Le droit dérivé de l'OCM établit des normes de commercialisation pour : les huiles d'olive ; les fruits et légumes frais et transformés ; les bananes ; les œufs ; les œufs à couver et poussins de volaille de basse-cour ; la viande de volaille ; la viande bovine ; le houblon ; les matières grasses tartinables ; le lait et les produits laitiers.

³⁵ Extraits de café et de chicorée ; produits de cacao et de chocolat ; sucres destinés à l'alimentation humaine ; confitures, gelées et marmelades de fruits et crème de marrons destinées à l'alimentation humaine ; lait déshydraté ; jus de fruits ; miel.

l'UE. L'objectif final de l'évaluation était de donner un aperçu des recommandations stratégiques visant à régler les problèmes identifiés en améliorant les dispositions existantes ou en établissant de nouvelles dispositions. De multiples méthodes et outils de collecte de données³⁶ ont été combinés pour rassembler la base de données probantes, étendue et variée, nécessaire à l'évaluation.

Conclusions concernant les cinq thèmes d'évaluation

Efficacité

L'évaluation a conclu que **les normes de commercialisation de l'UE se sont généralement avérées efficaces pour atteindre leurs objectifs prévus, et qu'elles ne se sont pas traduites par des effets involontaires/inattendus significatifs** (y compris un effet « d'aubaine »³⁷). Il a été constaté que les quelques limites des normes de commercialisation de l'UE en termes d'efficacité concernaient des secteurs spécifiques et étaient liées à des aspects spécifiques³⁸. L'évaluation a identifié un certain nombre de **réussites en termes d'efficacité des normes de commercialisation de l'UE**.

Les **règles relatives aux mentions réservées facultatives pour l'indication sur l'étiquette des types d'élevage de volailles** (Règlement (CE) n°543/2008) sont perçues par les exploitants comme un instrument efficace pour promouvoir les systèmes de production alternatifs pour la viande de volaille dans l'UE. Les exploitants considèrent également que les **dispositions relatives à la classification de la viande de volaille en termes de définitions des produits et de classement de la qualité et du poids** (Règlement (UE) n°1308/2013 et Règlement (CE) n°543/2008) sont un reflet approprié de la réalité actuelle du marché. L'évaluation a révélé que les **règles pour l'indication des méthodes d'élevage appliquées aux poules pondeuses** (Règlement (CE) n°589/2008) ont été efficaces pour promouvoir les méthodes de production d'œufs respectueuses du bien-être animal et les utilisations alternatives de la production d'œufs dans l'UE, bien qu'elles soient liées à des impacts potentiellement négatifs, notamment le problème dit de « l'inflation standard »³⁹. Une évaluation spécifique axée sur l'efficacité des **dispositions relatives à la classification des fruits et légumes frais** (Règlement (UE) n°543/2011), dans le cadre de le soutien des intérêts des producteurs et des négociants et de la simplification des échanges a confirmé la satisfaction globale des parties prenantes du secteur. Une évaluation spécifique axée sur l'efficacité des **dispositions relatives à la valeur Brix minimale des jus de fruits reconstitués** (Directives 2001/112/CE, 2009/106/CE et 2012/12/UE) pour créer des conditions de concurrence équitables pour les producteurs a confirmé le jugement globalement positif et l'absence de problèmes significatifs. L'évaluation spécifique axée sur **l'efficacité des dispositions relatives à la certification du houblon** (Règlement (CE) n°1952/2005 et Règlement (CE) n°1850/2006) pour créer des conditions de concurrence équitables pour les organisations de producteurs/groupements de producteurs, les négociants et les détaillants a également confirmé le jugement globalement positif des parties prenantes concernées et l'absence de problèmes significatifs.

³⁶ Recherche documentaire ; entretiens structurés approfondis avec les autorités compétentes, les parties prenantes et les experts indépendants ; enquêtes ciblant les parties prenantes des entreprises et les experts indépendants : enquêtes ciblant les parties prenantes des entreprises, les associations de consommateurs et les autorités compétentes ; groupes de discussion avec les associations d'entreprises, les associations de consommateurs et les experts ; quatre études de cas thématiques.

³⁷ « Aubaine » : effets qui se seraient produits même si l'intervention (c'est-à-dire l'établissement des normes de commercialisation de l'UE), n'avait pas eu lieu.

³⁸ Outre les implications en termes d'efficacité du remplacement de certaines normes de commercialisation spécifiques relatives à 26 types de fruits et légumes frais par une seule norme de commercialisation générale, lesquelles seront examinées ci-dessous, l'évaluation a identifié certaines limites des normes de commercialisation de l'UE, dans leur capacité à résoudre efficacement : i) la question de la dégradation de la qualité des huiles d'olive au fil du temps ; ii) la question de l'utilisation inappropriée de termes laitiers protégés (par ex. lait, beurre, fromage, yaourt) pour la commercialisation de substituts végétaux pour les produits laitiers.

³⁹ La baisse de l'avantage commercial des œufs de poules élevées dans des systèmes d'élevage plus coûteux et respectueux du bien-être animal, pourrait se traduire par une réduction de l'intérêt économique des producteurs à passer de la production en cage aménagée à la production au sol.

Une exception partielle à la conclusion générale réside dans **le remplacement de normes de commercialisation spécifiques destinées aux 26 types de fruits et légumes frais par une norme de commercialisation générale**. Les implications de celle-ci en termes d'efficacité ont été jugées controversées aux yeux des parties prenantes : toutefois, aucun effet négatif d'un tel remplacement sur les échanges intracommunautaires et la volatilité des prix des produits concernés n'a été observé.

Efficiences

L'évaluation a également confirmé un jugement global⁴⁰ positif sur l'efficacité des **normes de commercialisation de l'UE**. Néanmoins, une éventuelle limitation s'expliquerait par le fait que les consommateurs n'ont pas été réellement sensibilisés aux normes de commercialisation et à leurs avantages : cela pourrait restreindre la solidité de l'évaluation de la proportionnalité des coûts par rapport aux avantages des normes de commercialisation de l'UE du point de vue des consommateurs. L'évaluation a révélé que le **potentiel de simplification des normes de commercialisation de l'UE** (y compris la procédure de certification pour le houblon et les normes de commercialisation pour les fruits et légumes frais et l'huile d'olive) **est généralement limité**, sauf en ce qui concerne les normes sur l'absorption d'eau dans la viande de volaille, où un certain potentiel à cet égard a été identifié⁴¹.

Pertinences

L'évaluation a conclu qu'il existe une certaine **marge de manœuvre en matière d'amélioration de la pertinence des normes de commercialisation de l'UE**. Même si les normes de commercialisation de l'UE se sont généralement avérées **pertinentes par rapport aux besoins initiaux identifiés par les parties prenantes**, l'évaluation a révélé que leur **capacité à répondre aux nouveaux besoins, problèmes et questions des parties prenantes apparus après leur mise en place, pouvait être améliorée**. L'évaluation a notamment identifié certaines limites des normes de commercialisation de l'UE dans les situations suivantes : suivi de l'évolution de la technologie, des stratégies de commercialisation et des préférences des consommateurs sans entraver l'innovation ; prise en compte des effets secondaires potentiels en termes de déchets alimentaires dans certains secteurs (œufs et fruits et légumes frais) ainsi que d'un certain nombre de limites sectorielles affectant les secteurs des jus de fruits⁴², de la viande de volaille⁴³, des produits laitiers⁴⁴ et de l'huile d'olive⁴⁵.

⁴⁰ À savoir la proportionnalité des coûts par rapport aux avantages pour les différentes parties prenantes concernées par les normes (producteurs, transformateurs, exploitants/négociants intermédiaires, détaillants, autorités compétentes, consommateurs finaux).

⁴¹ La Commission a réalisé deux études sur les technologies de transformation utilisées et l'absorption de l'eau dans la viande de volaille ; les questions relatives à ce sujet sont traitées de manière exhaustive dans les rapports suivants : 1) *Study of physiological water content of poultry reared in the EU* (LGC, 2012), 2) *Study on state of play of processing technologies and the absorption of water in poultry meat* (LGC, 2016). Toutefois, ces études ne portaient pas sur la simplification proprement dite.

⁴² L'évaluation a identifié un problème lié aux dispositions d'étiquetage relatives aux jus de fruits en vertu de la Directive 2001/112/CE, telle que modifiée par la Directive 2012/12/UE. L'amendement de 2012 a établi, entre autres, que l'ajout de sucres aux jus de fruits n'était pas (plus) autorisé, principalement afin de suivre l'évolution des préférences des consommateurs et de répondre aux tendances émergentes vers une alimentation plus saine. Les mesures transitoires prévues à l'article 3 de la Directive 2012/12/UE ont établi que la mention « à partir du 28 octobre 2015, aucun jus de fruit ne contient de sucres ajoutés » pourrait figurer sur l'étiquetage jusqu'au 28 octobre 2016, afin d'informer les consommateurs de l'exclusion des sucres ajoutés de la liste des ingrédients autorisés. Après le 28 octobre 2016, il ne sera plus autorisé d'indiquer sur un emballage de jus de fruits la mention « sans sucre ajouté, conformément à la législation », ou des mentions similaires faisant référence au fait que tous les jus de fruits ne contiennent aucun sucre ajouté. Cependant, les boissons concurrentes, telles les boissons contenant du jus de fruit, sont toujours autorisées à utiliser la mention « sans sucre ajouté », cela crée une confusion chez les consommateurs et entraîne une concurrence déloyale.

⁴³ Une évaluation spécifique a montré que les dispositions relatives à la teneur en eau et aux systèmes de production alternatifs pouvaient être mises à jour pour suivre l'évolution de la technologie, les stratégies de commercialisation et les préférences des consommateurs, sans faire obstacle à l'innovation.

⁴⁴ Deux questions majeures sont ressorties d'une évaluation spécifique. Tout d'abord une utilisation inappropriée de termes laitiers protégés tels que « lait », « beurre » et « fromage » dans la commercialisation de substituts végétaux aux produits laitiers ; celle-ci pose des problèmes en termes de pratiques commerciales déloyales et de fourniture d'informations mensongères aux consommateurs. Les implications potentielles de l'absence de définition européenne du fromage pour les parties prenantes se sont avérées plus contestées. L'analyse de l'état d'avancement des définitions du fromage, basées sur la

Cohérence

Les résultats de l'évaluation ont permis de **juger positivement de la cohérence des normes de commercialisation de l'UE**, à la fois dans le cadre réglementaire connexe (cohérence interne) et vis-à-vis des autres règles de l'UE qui sont pertinentes pour la production et la commercialisation des produits agricoles et alimentaires, ainsi que vis-à-vis des normes de commercialisation internationales⁴⁶ et privées⁴⁷ (cohérence externe). Une seule question intersectorielle importante en termes de cohérence a été identifiée dans l'évaluation : il s'agit de la **combinaison dans les normes de commercialisation de l'UE d'exigences liées à la qualité des produits, à la sécurité alimentaire** (par ex. celles concernant les températures de stockage, ou la date de durabilité minimale (à consommer de préférence avant) par les œufs) **et de la mise à la disposition des consommateurs d'informations sur les aliments** (exigences concernant l'étiquetage des produits). Selon certaines autorités nationales compétentes, une telle combinaison peut entraîner certains chevauchements et certaines incohérences et peut poser des problèmes concernant les activités d'application et de contrôle.

Valeur ajoutée européenne

Il a été constaté que les normes de commercialisation de l'UE apportent **une valeur ajoutée significative par rapport aux normes de commercialisation internationales et privées**, principalement en raison de leur caractère obligatoire (les exigences correspondantes doivent être respectées dans l'ensemble de l'UE), des exigences adaptées à la situation opérationnelle et commerciale spécifique de l'UE et du fait que les exigences minimales de qualité pour de nombreux produits fixées par les normes de commercialisation de l'UE sont déjà relativement exigeantes. Les **principaux avantages potentiels découlant de la mise en place de normes de commercialisation de l'UE pour les secteurs/produits actuellement non couverts**, ont été identifiés dans les **opportunités de répondre aux besoins non satisfaits** et dans les **avantages accrus pour les parties prenantes**⁴⁸. Ce point de vue qui concerne spécifiquement **l'élaboration éventuelle d'une définition européenne du cidre** a été renforcé et confirmé par un groupe de discussion, qui a également noté à quel point l'introduction de normes de commercialisation de l'UE avait été bénéfique dans un certain nombre de secteurs désormais couverts par ces normes. En revanche, le groupe de discussion n'a identifié aucun besoin quant à une élaboration de normes de commercialisation de l'UE pour les produits tels que les pommes de terre (fraîches et destinées à la transformation), les pâtes à tartiner à base de fruits et les fruits et légumes transformés. En ce qui concerne **l'éventuelle élaboration d'une définition européenne du fromage**, l'association sectorielle consultée a estimé qu'elle répondrait aux implications négatives éventuelles des différentes définitions applicables au niveau des États membres⁴⁹ ; cependant, les points de vue des autorités

législation nationale, au sein de l'UE a révélé des différences significatives, notamment en ce qui concerne la définition des matières premières à partir desquelles le fromage peut être fabriqué et des ingrédients qui peuvent entrer dans sa fabrication. L'évaluation a identifié un point crucial potentiel dans l'utilisation du lait en poudre reconstitué et du lait concentré comme matière première pour la production de fromage.

⁴⁵ Les limitations les plus significatives identifiées par l'évaluation sont liées aux éléments suivants : évaluation organoleptique des huiles d'olive et manque d'uniformité des résultats issus des jurys de dégustateurs ; nombre excessif de paramètres de qualité qui doivent être déterminés ; redondance des informations sur les étiquettes ; ensemble relativement limité d'attributs positifs qui peuvent éventuellement être rapportés sur les étiquettes des huiles d'olive vierges. Une évaluation spécifique a également révélé des limitations significatives en ce qui concerne les différentes catégories d'huiles d'olive définies par les États membres et la prise en compte des besoins du marché.

⁴⁶ L'évaluation a analysé les normes de commercialisation de l'UE par rapport aux normes internationales spécifiques à chaque produit et mises en place de manière volontaire par la Commission du Codex Alimentarius (CAC), par la Commission économique des Nations Unies pour l'Europe (CEE-ONU) et par le Conseil oléicole international (COI).

⁴⁷ L'évaluation a analysé les normes de commercialisation de l'UE par rapport aux certaines normes privées volontaires avec une large adoption dans l'UE, ainsi que certaines normes spécifiques au secteur privé.

⁴⁸ C'est-à-dire de manière plus spécifique : amélioration de l'accès au marché pour les producteurs ; promotion du commerce intracommunautaire des produits concernés grâce à l'harmonisation des législations nationales variables (c'est-à-dire élimination des entraves techniques au commerce) ; définition de normes de qualité minimales pour les produits concernés, au bénéfice à la fois des consommateurs et des entreprises ; contribution à l'amélioration de la qualité moyenne des produits concernés ; fourniture aux consommateurs d'informations améliorées et plus homogènes sur les produits concernés.

⁴⁹ Selon les parties prenantes consultées, et conformément aux résultats des échanges au sein du groupe de discussion, le processus d'élaboration d'une définition européenne du fromage (au-delà de celle découlant des définitions, désignations et

nationales compétentes consultées divergent sur la question de savoir si l'absence d'une définition européenne harmonisée du « fromage » a délaissé certains besoins spécifiques du secteur. Dans tous les cas, selon les parties prenantes consultées, l'élaboration d'une définition européenne du fromage constituerait une tâche ardue, principalement en raison de différences significatives dans la législation nationale pertinente.

Recommandations

Les recommandations visant à améliorer l'efficacité et la pertinence des normes de commercialisation

1. Des associations sectorielles et plusieurs autorités compétentes des États membres ont mis en évidence la question de **l'utilisation inappropriée de termes laitiers protégés** (par ex. lait, beurre, fromage, yaourt) **pour commercialiser des substituts végétaux aux produits laitiers**. Il a été constaté que la question découlait d'une application non homogène au niveau des États membres de la liste des dérogations nationales (Décision de la Commission UE n°2010/791/UE du 20 décembre 2010), relatives à l'interdiction d'utiliser des termes laitiers pour la commercialisation de produits non laitiers. L'évaluation a révélé que la question présente des implications en termes de protection des consommateurs, de concurrence loyale et de conditions de concurrence équitables pour les exploitants, ainsi que de réponse aux besoins du marché. Cependant, **il n'a pas été possible de relever une preuve permettant d'apprécier l'ampleur réelle des implications économiques de ces pratiques commerciales pour le secteur laitier** (par ex. en termes d'érosion des parts de marché des produits laitiers touchés par les produits végétaux concernés). Il est donc **recommandé de procéder à une enquête plus approfondie sur la nature et l'étendue des implications de cette question à la fois pour les consommateurs et les parties prenantes des entreprises**, afin de comprendre si certains ajustements réglementaires doivent être apportés.
2. L'évaluation a révélé certaines **limitations sectorielles des normes de commercialisation de l'UE dans le suivi de l'évolution de la technologie, des stratégies de commercialisation et de préférences des consommateurs sans faire obstacle à l'innovation**. Plus concrètement :
 - c. Dans le secteur de la **viande de volaille**, une évaluation spécifique a révélé que les dispositions relatives à la teneur en eau⁵⁰ et aux systèmes de production alternatifs⁵¹ pourraient être mises à jour pour suivre l'évolution de la technologie, des stratégies de commercialisation et des préférences des consommateurs.
 - d. Dans le **secteur de l'huile d'olive**, l'évaluation a identifié des limitations liées à l'évaluation organoleptique⁵² et à l'ensemble relativement limité d'attributs positifs qui peuvent éventuellement

dénominations de vente protégées pour les produits laitiers) devrait s'appuyer sur la Norme générale du Codex pour le fromage. En effet, plusieurs définitions du fromage basées sur la législation, actuellement en vigueur dans les États membres producteurs de fromage les plus importants sont relativement similaires à celle fournie par le Codex, du moins en ce qui concerne le processus de production ; c'est moins le cas en ce qui concerne les matières premières utilisées pour la production de fromage et les ingrédients autorisés.

⁵⁰ D'après une association sectorielle au niveau de l'UE, la portée et les exigences des normes de commercialisation de l'UE relatives à la viande de volaille devraient s'adapter davantage à l'évolution de la génétique ainsi qu'à celle des solutions d'alimentation animale. La génétique avicole a évolué depuis la définition des normes de commercialisation de l'UE : cela se traduit par des problèmes de contrôle de la teneur en eau de la viande de volaille. Les animaux des dernières souches de volaille contiennent davantage d'eau qu'il y a 15 ou 20 ans.

⁵¹ Une association sectorielle au niveau de l'UE a suggéré d'abaisser l'âge de l'abattage du poulet élevé dans les différents systèmes d'élevage ; par exemple, l'âge de l'abattage du poulet élevé en plein air pourrait être abaissé de 56 à 50 jours, afin de suivre l'évolution de la génétique et des techniques d'élevage. Il a également été observé qu'une plus grande flexibilité serait nécessaire au niveau des étiquetages, afin de suivre l'innovation technologique dans le secteur et l'évolution des préférences des consommateurs : par exemple, il faudrait envisager la possibilité d'étiqueter le poulet élevé à l'aide d'électricité provenant de panneaux solaires comme étant issu d'un « élevage de volaille respectueux de l'environnement ».

⁵² Outre l'allégation d'une méthode subjective d'après les associations sectorielles consultées, l'une des associations sectorielles consultées considère que les panels de dégustation ont clairement montré des limites dans la prise en compte de l'évolution technologique des pratiques frauduleuses. Par exemple, les jurys de dégustateurs sont généralement incapables de détecter les huiles désodorisées commercialisées comme des huiles d'olive extra vierges. Selon cette association, l'évaluation

être rapportés sur les étiquettes des huiles d'olive vierges⁵³. En outre, une évaluation spécifique a également révélé des limitations significatives en ce qui concerne les différentes catégories d'huiles d'olive définies par les États membres et la prise en compte des besoins du marché⁵⁴.

Compte tenu également des propositions concrètes énoncées (ou encore à l'état d'élaboration) par les parties prenantes du secteur, il est recommandé **d'examiner si les dispositions susmentionnées doivent être mises à jour.**

3. L'évaluation a révélé que **les organisations de consommateurs, et plus encore les consommateurs, ont une connaissance limitée des normes de commercialisation de l'UE.** Cela implique que tout effort visant à renforcer la sensibilisation des associations de consommateurs et des consommateurs eux-mêmes aux normes de commercialisation de l'UE, afin de les associer plus activement au processus décisionnel associé, peut contribuer à une meilleure adaptation des dispositions des normes de commercialisation de l'UE, axées sur les relations entre les entreprises et les consommateurs, aux besoins des consommateurs eux-mêmes. Concrètement, cela impliquerait **l'organisation d'événements (ateliers, séminaires) abordant le rôle des normes de commercialisation de l'UE dans le cadre de la PAC et de la politique alimentaire de l'UE, et l'élaboration et la diffusion de matériel d'information sur le sujet dans une langue accessible à un public plus large et non spécialisé,** comme les représentants des associations de consommateurs et les consommateurs individuels.

Efficiences des normes de commercialisation

L'évaluation n'a pas mis en évidence de limites significatives en termes d'efficacité⁵⁵ des normes de commercialisation de l'UE. Certaines possibilités de simplification des normes de commercialisation de l'UE ont été identifiées principalement par les parties prenantes du secteur en ce qui concerne la mise en œuvre du Règlement (CE) N°543/2008 de la Commission, ce qui entraînerait des retards inutiles dans la mise sur le marché des produits à base de viande de volaille. Toutefois, les autorités compétentes et les parties prenantes n'ont pas été en mesure d'identifier les coûts et les pertes associés à ces retards. Dans tous les autres secteurs, les possibilités de simplification se sont révélées limitées. En l'absence de preuves concrètes de la portée des avantages potentiels découlant de la résolution de questions liées aux normes sur la teneur en eau dans la viande de volaille en vertu du Règlement (CE) N°543/2008 de la Commission, l'équipe d'évaluation ne voit aucune possibilité d'élaboration d'une recommandation spécifique.

organoleptique devrait être combinée à des systèmes de traçabilité et à d'autres méthodes analytiques susceptibles d'être proposées à l'avenir par l'innovation technologique, pour lutter efficacement contre des pratiques frauduleuses de plus en plus sophistiquées dans la commercialisation des huiles d'olive.

⁵³ Selon l'une des associations sectorielles consultées, l'ensemble ne couvrirait pas entièrement la variété extrêmement riche de parfums et de saveurs des huiles d'olive vierges, et inclurait également des attributs (« amer » et « piquant »), qui ne sont souvent pas appréciés des consommateurs.

⁵⁴ Une association professionnelle consultée a observé qu'il est d'une importance primordiale que les catégories d'huile d'olive s'adaptent à l'évolution des besoins du marché. Il convient également de prendre en compte le fait que de grands volumes d'huiles d'olive extra-vierges commercialisées dans certains États membres (et en particulier en Italie) répondent à des exigences de qualité beaucoup plus strictes que les exigences minimales.

⁵⁵ L'évaluation a révélé que le coût actuel supporté par les exploitants dans le cadre de leur mise en conformité avec les normes de commercialisation de l'UE peut être justifié, c'est-à-dire proportionné aux résultats obtenus, et que les normes de commercialisation de l'UE apportent des avantages importants qui l'emportent de loin sur les coûts encourus.

Les recommandations visant à améliorer la cohérence des normes de commercialisation

4. La question la plus significative en termes de cohérence a été identifiée dans l'évaluation : il s'agit de la **combinaison dans les normes de commercialisation de l'UE d'exigences liées à la qualité des produits, à la sécurité alimentaire** (par ex. celles concernant les températures de stockage, ou la date de durabilité minimale (à consommer de préférence avant) par les œufs) **et de la mise à la disposition des consommateurs d'informations sur les aliments** (exigences concernant l'étiquetage des produits). Une solution possible pour résoudre cette question pourrait consister à **renforcer les efforts pour clarifier auprès des autorités nationales compétentes la relation hiérarchique entre les dispositions concernées dans les trois organes législatifs** (normes de commercialisation, sécurité alimentaire, fourniture aux consommateurs d'informations sur les aliments). Concrètement, cela impliquerait **l'organisation d'événements (ateliers, séminaires)** afin de fournir les éclaircissements nécessaires aux autorités nationales compétentes.
5. L'évaluation a identifié les implications potentielles des normes de commercialisation de l'UE pour les œufs et les fruits et légumes frais en termes d'augmentation des pertes et du gaspillage alimentaires. Plus concrètement :
 - a. **Une augmentation des volumes de déchets alimentaires pour les œufs** dans les centres de conditionnement, les points de vente au détail et à domicile a été rapportée par certaines autorités nationales compétentes consultées, notamment en ce qui concerne les dispositions relatives à la date limite de vente (Règlement (CE) n°853/2004) et ainsi que celles relatives à la date de durabilité minimale des œufs (Article 13 du Règlement (CE) n°589/2008). Toutefois, aucune AC consultée n'a fourni de preuves quantitatives sur les volumes de déchets alimentaires pouvant être liés aux normes de commercialisation de l'UE relatives aux œufs. En revanche, les parties prenantes des entreprises n'ont pas constaté de liens évidents entre l'effet susmentionné et les normes de commercialisation de l'UE relatives aux œufs. La documentation examinée⁵⁶ suggère qu'il existe un lien entre l'augmentation des déchets et le marquage de la date dans le cas des œufs, même si le raisonnement sous-jacent n'est pas étayé par des preuves concrètes spécifiques.
 - b. En ce qui concerne les implications potentielles en termes d'augmentation des déchets résultant « **d'exigences esthétiques** » (couleur, forme, taille, classification) définies dans les **10 normes spécifiques de commercialisation de l'UE relatives aux fruits et légumes frais**, bien que les parties prenantes des entreprises n'aient pas constaté d'implications négatives, la documentation examinée⁵⁷ suggère un lien entre l'augmentation des déchets et les « exigences esthétiques », même si des preuves concrètes très limitées sont disponibles pour étayer le raisonnement sous-jacent. En revanche, certaines AC consultées et certaines études⁵⁸ suggèrent que **les normes de commercialisation de l'UE relatives aux fruits et légumes frais contribueraient plutôt à réduire les déchets et le gaspillage alimentaires**, et que la **plupart des**

⁵⁶ Voir par exemple : Vittuari et al. (2015), *Review of EU Member States legislation and policies with implications on food waste, FUSIONS project report*, Department of Agricultural and Food Sciences, University of Bologna ; ICF (2018), *Market study on date marking and other information provided on food labels and food waste prevention – Final Report*, funded by the European Commission, Directorate-General for Health and Food Safety.

⁵⁷ Voir par exemple : European Court of Auditors (2016), *Combating Food Waste: an opportunity for the EU to improve the resource-efficiency of the food supply chain*, Special Report No 34, European Union; Vittuari et al. (2015), *Review of EU Member States legislation and policies with implications on food waste*, FUSIONS project report, Department of Agricultural and Food Sciences, University of Bologna; De Hooge et al. (2018), "Cosmetic specifications in the food waste issue: Supply chain considerations and practices concerning suboptimal food products", *Journal of Cleaner Production*, 183 (2018), pp. 698-709.

⁵⁸ Voir par exemple : WRAP (2011), *Fruit and vegetable resource maps - Mapping fruit and vegetable waste through the retail and wholesale supply chain*, Final Report, Waste & Resources Action Programme; Jordbruksverket (2014), *Why do we throw away edible fruit and vegetables?*, Rapport 2014:5 EN; AND International (2010), *Normes de commercialisation dans le secteur des fruits et légumes*, study carried out for the EU Commission DG Agriculture, September 2010.

pertes de classement⁵⁹ des fruits et légumes frais découleraient des normes privées particulièrement exigeantes, plutôt que des normes de commercialisation de l'UE.

À la lumière des **preuves limitées disponibles sur les effets involontaires/inattendus** des dispositions concernées, et plus généralement **des normes de commercialisation de l'UE**, en termes **d'augmentation (ou réduction) des déchets et du gaspillage alimentaires**, toutes les initiatives visant à promouvoir la **recherche empirique à ce sujet, seraient utiles pour apprécier la nature, l'étendue et la gravité réelles de ces effets**, afin de comprendre si certains ajustements réglementaires doivent être apportés.

Élaboration éventuelle de normes de commercialisation de l'UE pour les secteurs/produits actuellement non couverts

6. Bien qu'il existe certaines limitations découlant d'une connaissance restreinte des parties prenantes consultées par rapport aux sujets pertinents, l'évaluation a identifié les **principaux avantages potentiels découlant de l'élaboration de normes de commercialisation de l'UE pour les secteurs/produits actuellement non couverts**, à savoir : des **opportunités de répondre aux besoins non satisfaits** et des **avantages accrus pour les parties prenantes**. Alors que les points de vue des parties prenantes consultées divergent⁶⁰ en ce qui concerne la nécessité d'élaborer une définition harmonisée du fromage au niveau de l'UE, le cas du **cidre** s'est avéré présenter un environnement plus favorable. Les parties prenantes des entreprises consultées estiment que **l'élaboration d'une définition européenne pour le cidre** (et le cidre de poire/« poiré ») répondrait à des besoins non satisfaits en termes de niveaux plus homogènes de protection des consommateurs, de conditions de concurrence plus équitables et d'élimination des obstacles aux échanges intracommunautaires. Un groupe de discussion mis en place aux fins de l'évaluation a précisé que **l'élément clé d'une norme serait la confirmation que pour être appelé « cidre » ou « poiré », le produit doit provenir de pommes ou de poires « par fermentation uniquement »** : cette question n'était pas litigieuse. Une norme de commercialisation « légère », établie par le biais de législation européenne, a donc été considérée comme relativement facile à atteindre ; toutefois la question de la teneur minimale en jus de pomme (poire) dans le produit appelé « cidre » (« poiré ») s'est avérée plus complexe à traiter, en raison des normes nationales différentes à cet égard. Compte tenu également du fait que les parties prenantes sectorielles ont déjà pris des initiatives visant à élaborer une proposition de définition harmonisée du cidre au niveau de l'UE, il est estimé qu'il serait bénéfique d'encourager toute initiative visant à **étudier plus en profondeur les avantages éventuels de l'élaboration d'une telle définition**, ainsi qu'à **promouvoir le dialogue entre les parties prenantes** (exploitants professionnels et autorités compétentes) sur la question.

⁵⁹ Fruits et légumes utilisés à d'autres fins (par ex. transformation) ou éliminés au cours de la phase de classement parce qu'ils ne répondent pas aux exigences de qualité.

⁶⁰ Une association sectorielle consultée au niveau de l'UE serait favorable à l'élaboration d'une définition harmonisée au niveau des caractéristiques essentielles permettant à un produit laitier d'être désigné « fromage » ; en revanche, les AC consultées étaient divisées en deux groupes égaux : l'un estimant que l'absence d'une définition harmonisée du fromage au niveau de l'UE n'avait pas permis de répondre à certains besoins sectoriels spécifiques, l'autre estimant le contraire.

Section A – Descriptive part

1 HISTORIC EVOLUTION OF EU MARKETING STANDARDS

1.1 Overview of existing EU marketing standards

Marketing standards have been a feature of agricultural and food product quality policy in the overall framework of the Common Agricultural Policy (CAP) since its early days. EU marketing standards have usually been defined by sectors or products; they serve the purpose of taking into account the expectations of consumers and of contributing to the improvement of the economic conditions for the production and marketing of agricultural products, as well as to the improvement of their quality⁶¹. In the current framework, EU marketing standards aim at enabling the market to be easily supplied with products of a standardised and satisfactory quality, and concern technical definitions, classification, presentation, marking and labelling, packaging, production method, conservation, storage, transport, related administrative documents, certification and time limits, restrictions of use and disposal⁶².

The **existing EU marketing standards** are set out in **three main bodies of legislation** (a more detailed description of the current scope of EU marketing standards and of the related instruments is provided at § 2):

1. The **Common Market Organisation** (“single CMO”) established by Regulation (EU) No 1308/2013. This includes:
 - a. marketing standards for: olive oil and table olives; fruit and vegetables; processed fruit and vegetable products; bananas; live plants; eggs; poultry meat; spreadable fats intended for human consumption; hops;
 - b. definitions, designations and sales descriptions for: beef and veal; wine; milk and milk products intended for human consumption; poultry meat; eggs; spreadable fats intended for human consumption; olive oil and table olives;
 - c. optional reserved terms for: poultry meat, eggs and olive oil.
2. A number of **Regulations** (“secondary CMO legislation”) setting up specific marketing standards for: olive oils; fresh and processed fruits and vegetables; bananas; eggs; hatching eggs and poultry chicks; poultry meat; bovine meat; hops; spreadable fats; milk and milk products.
3. A number of **Directives** (“Breakfast Directives”⁶³) establishing rules on description, definition, characteristics and labelling of: coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption; dehydrated milk; fruit juices; honey.

The scope of the present evaluation of EU marketing standards does not include the wine and beef and veal sectors: the related marketing standards are hence not covered in the description provided here and under § 2.

1.2 Evolution of EU marketing standards

The following paragraphs provide a sector/product-specific overview of the evolution of EU marketing standards up to the entry into force of the current regulatory framework, indicating the main relevant provisions and highlighting the most important changes (if any). An overview for each sector/product to be

⁶¹ Regulation (EU) No 1308/2013, recital 65.

⁶² Regulation (EU) No 1308/2013, recital 71.

⁶³ So defined because they mainly cover agricultural and food products usually consumed for breakfast.

covered in the evaluation is provided; the historic evolution of EU marketing standards in the sectors to be covered more-in-depth is outlined in more detail.

1.2.1 Fresh fruits and vegetables

The setting of marketing standards in the sector dates back to Council Regulation No 158/66/EEC of 25 October 1966, which established “Common quality standards” for fruit and vegetables marketed within the Community.

According to Article 2 of Regulation (EEC) No 1035/72 of the Council of 18 May 1972 establishing a CMO for fruit and vegetables, common standards (referred to in the Regulation as “quality standards”) could be established, by product or product group, for products to be delivered fresh to the consumer. Articles 2 to 12 of Regulation (EEC) No 1035/72 dealt with - among others – the products that might be subject to quality standards, quality classes, marking and labelling of products, exemptions and derogations.

Product-specific standards drawn up through *ad hoc* provisions pursuant to Article 2 of Regulation (EEC) No 1035/72 remained in force till the adoption of a new set of standards pursuant to Article 2 of Council Regulation (EC) No 2200/96 of 28 October 1996 (CMO for fruit and vegetables). This new set of standards had to take into account UNECE standards for fresh fruit and vegetables (see § 1.3.1).

Starting from 2007, standards set up according to Council Regulation (EC) No 2200/96 were gradually replaced by a new set of standards developed according to Article 2 of Council Regulation (EC) No 1182/2007 of 26 September 2007, taking into account the Standard recommendations adopted by UNECE. Commission Regulation (EC) No 1580/2007 of 21 December 2007 laid down implementing rules for Regulations (EC) No 2200/96 and (EC) No 1182/2007 in the fruit and vegetables sector, including detailed provisions on the marketing of products (exceptions and exemptions, information particulars, sales packages) and on the related conformity checks. Commission Regulation (EC) No 1221/2008 of 5 December 2008 amended Regulation (EC) No 1580/2007, introducing – among others – a “general marketing standard” for fresh fruit and vegetables, which covered a number of products no longer covered by specific marketing standards.

Regulation (EC) No 1580/2007 was finally repealed by Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011, laying down detailed rules for the application of Regulation (EC) No 1234/2007 (“single CMO Regulation”) in the fruit and vegetables sectors (both fresh and processed). Regulation (EU) No 43/2011 is currently in force.

The main changes introduced by Regulation (EC) No 1221/2008 and Regulation (EU) No 543/2011 have concerned:

- the definition of “sound, fair and of marketable quality”, setting the new “general marketing standard” for fresh produce;
- a reduction in the number of specific marketing standards (from 36 to 10⁶⁴);
- a simplification and rationalisation of checking operations.

The general marketing standard (GMS) is applicable to all fresh produce covered by the regime, with the exception of:

- 10 products still covered by specific marketing standards, i.e.: apples, citrus fruit, kiwifruit, lettuces, curled-leaved and broad-leaved endives, peaches and nectarines, pears, strawberries, sweet peppers, table grapes, tomatoes.
- 16 products exempted from the general marketing standard⁶⁵.

⁶⁴ The products no longer covered by specific marketing standards are: apricots, artichokes, asparagus, aubergines, avocados, beans, Brussels sprouts, carrots, cauliflower, cherries, courgettes, cucumbers, cultivated mushrooms, garlic, hazelnuts in shell, headed cabbages, leeks, melons, onions, peas, plums, ribbed celery, spinach, walnuts in shell, watermelons and chicory.

Under the GMS, products are required to bear the full name of their country of origin. In the case of fruit and vegetables not covered by a specific standard, operators are left free to choose whether to meet the GMS or the applicable UNECE standard (see § 1.3.1).

1.2.2 Processed fruits and vegetables

Article 7 of Council Regulation (EEC) No 426/86 of 24 February 1986 (CMO for products processed from fruit and vegetables) established that “Common quality standards” could be introduced for the products listed in Annex I, Part A of that Regulation⁶⁵. It also left open the possibility for the Council to designate other products to be made subject to quality standards.

The new CMO for processed fruit and vegetable products, set out by Council Regulation (EC) No 2201/96 of 28 October 1996, established (Article 8) that Common standards might be introduced for the products listed in Annex 1 of the Regulation, as well as for dried grapes of the sultana and Muscatel varieties and for currants.

Commission Regulation (EC) No 1666/1999 of 28 July 1999 established detailed rules for the application of Regulation (EC) No 2201/96 as regards the minimum marketing characteristics for sultana and Muscatel varieties of dried grapes, as well as for currants. This Regulation is currently in force.

It is worth noting that, according to Article 4 of Commission Implementing Regulation (EU) No 543/2011, (fruit and vegetable) products intended for industrial processing that are clearly marked with the words “intended for processing” are not required to conform to the marketing standards (GMS; product-specific standards) set out by the Regulation for fresh produce.

The evolution of EU marketing standards covering:

- fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption;
- fruit juices and certain similar products intended for human consumption;

is outlined at § 1.2.8 (sectors/products covered by the “Breakfast Directives”).

1.2.3 Poultry

The definition of marketing standards for poultry meat dates back to the CMO established by Regulation (EEC) No 2777/75 of the Council of 29 October 1975. According to article 2 of Regulation (EEC) No 2777/75, marketing standards:

- had to be adopted for dead poultry (fowls, ducks, geese, turkeys and guinea fowls) and edible offal thereof (except liver), fresh, chilled or frozen;
- might be adopted for the remaining products covered by the CMO (live poultry, poultry liver, poultry fat, other prepared or preserved poultry meat or poultry offal).

Those standards might concern grading by quality and weight, packaging, storage, transport, presentation and marking of the relevant products.

⁶⁵ These are: non-cultivated mushrooms (CN code 0709 59); capers (CN code 07099040); bitter almonds (CN code 08021110); shelled almonds (CN code 080212); shelled hazelnuts (CN code 080222); shelled walnuts (CN code 080232); pine nuts (CN code 08029050); pistachios (CN code 08025000); macadamia (CN code 08026000); pecans (CN code ex08029020); other nuts (CN code 08029085); dried plantains (CN code 08030090); dried citrus (CN code 0805); mixtures of tropical nuts (CN code 08135031); mixtures of other nuts (CN code 08135039); saffron (CN code 091020).

⁶⁶ These included: peeled tomatoes, whether or not whole; peeled tomatoes, whether or not whole, preserved by freezing; tomato flakes; tomato concentrate; tomato juice; tomato juice (including passata); dried figs; sultanas and currants; prunes derived from dried “d'Ente” plums; peaches in syrup; Williams pears in syrup; cherries in syrup.

Marketing standards in relation to grading by quality and weight, packaging, storage, transport, presentation and marking were briefly mentioned in Article 2(2) of Regulation (EEC) No 2777/75⁶⁷. However, the first common standards for the water content of frozen and deep-frozen chickens were defined by Council Regulation (EEC) No 2967/76 of 23 November 1976, which also defined the related control procedures and methods.

Council Regulation (EEC) No 1906/90 of 26 June 1990 laid down Common marketing standards for certain types and presentations of poultry meat of the following species: *Gallus domesticus*; ducks; geese; turkeys; guinea fowls. These standards covered, among others: classification; conditions of marketed poultry meat (fresh, frozen, quick-frozen); labelling, presentation and advertising. Article 5(6) gave indications about the procedure to adopt detailed rules concerning optional indications of the method of chilling used and of the type of farming used.

Regulation (EC) No 1234/2007 (“single CMO Regulation”) repealed Regulation (EEC) No 1906/90: it established EU marketing standards for - among others – poultry meat (Annex XIV(B)), covering the same products under the scope of the repealed Regulation. The new set of standards concerned definitions and quality and weight grading.

Detailed rules for the application of Regulation (EC) No 1234/2007 as regards the marketing standards for poultry meat were laid down by Commission Regulation (EC) No 543/2008 of 16 June 2008, which is currently in force. Those rules cover, among others: definitions; conditions of marketed poultry meat (fresh, frozen, quick-frozen); quality and weight grading; water content in poultry meat; packing, labelling, transportation and presentation for sale; optional reserved terms (indication of type of farming); control procedures and methods.

Finally, Regulation (EU) No 1308/2013 (“single CMO Regulation”) has established a basic set of standards for poultry meat, covering:

- definitions, marketing conditions and sales descriptions (Annex VII, part V);
- optional reserved terms (regarding type of farming, age at slaughter, length of the fattening period; Annex IX).

1.2.4 Eggs

Article 2(2) of Regulation (EEC) No 2771/75 of the Council of 29 October 1975 (CMO for eggs) established that standards on grading by quality and weight, packaging, storage, transport, presentation and marketing should be adopted for the products covered by the CMO, i.e.:

- Poultry eggs in shell, fresh or preserved.
- Eggs not in shell and egg yolks suitable for human consumption, fresh, dried or otherwise preserved, sweetened or not.

These standards were laid out through Regulation (EEC) No 2772/75 of the Council of 29 October 1975, which covered - among others – detailed provisions on grading by quality and weight, marking, packaging and labelling of eggs.

Regulation (EEC) No 2772/75 was repealed by Council Regulation (EEC) No 1907/90 of 26 June 1990, which established a new set of marketing standards for eggs, with a view to providing better guarantees and more accurate information to final consumers, also in the light of evolving trade practices. The new set of standards covered – among others – definitions, exemptions, quality grading, marking, packaging and labelling.

A revised and simplified set of marketing standards for eggs was introduced by Council Regulation (EC) No 1028/2006 of 19 June 2006, which repealed Regulation (EEC) No 1907/90. Regulation (EC) No 1028/2006

⁶⁷ With respect to frozen and deep-frozen chickens, hens and cocks.

covered - among others – definitions, quality and weight grading, marking of eggs, packing centres, compliance checks and penalties for infringements.

Regulation (EC) No 1234/2007 (“single CMO Regulation”) repealed Regulation (EC) No 1028/2006, introducing a new set of marketing standards for eggs. The standards defined at Annex XIV(A) of Regulation (EC) No 1234/2007 concerned quality and weight grading and marking of eggs.

Detailed rules for the application of Regulation (EC) No 1234/2007 as regards the marketing standards for eggs were laid down by Commission Regulation (EC) No 589/2008 of 23 June 2008, which is currently in force. Those rules cover, among others: definitions; quality characteristics and grading by quality; grading by weight; packing centres; information displayed on transport packaging; marking of eggs and packs; identification of farming method; indication of the date of minimum durability; indication of how laying hens are fed; recordkeeping by producers and packing centres; compliance checks; tolerance.

Regulation (EU) No 1308/2013 (“single CMO Regulation”) includes some provisions on marketing standards for eggs, covering:

- quality and weight grading; marking (Annex VII, part VI);
- optional reserved terms⁶⁸ (Annex IX).

1.2.5 Dairy products

Whereas the references to “common quality standards” in Regulation (EEC) No 804/68 of the Council of 27 June 1968 (CMO for milk and milk products) were related to the functioning of the intervention system for certain dairy products⁶⁹, Regulation (EEC) No 1411/71 of the Council of 29 June 1971 set out the framework for establishing quality standards for fresh milk and cream with a view to increasing the market for these products by providing a guarantee of quality and products which fulfil consumers’ needs and wishes.

The protection of certain designations used in the marketing of milk and milk products was introduced by Council Regulation (EEC) No 1898/87 of 2 July 1987. The protected designations listed in the Annex to Regulation (EEC) No 1898/87 are: whey; cream; butter; buttermilk; butteroil; caseins; anhydrous milkfat (AMF); cheese; yoghurt; *kephir*; *koumiss*; *viili – fil*; *smetana*; *fil*.

Council Regulation (EC) No 2991/94 of 5 December 1994 laid down definitions, sales descriptions and marketing standards for milk fats (butter and dairy spreads).

Detailed rules for the application of Regulation (EEC) 1898/87 and of Regulation (EC) No 2991/94 were laid down in Commission Regulation (EC) No 577/97 of 1 April 1997. This Regulation was substantially amended several times, and finally repealed by Commission Regulation (EC) No 445/2007 of 23 April 2007, which is currently in force. Regulation (EC) No 445/2007 establishes marketing standards for milk fats.

Council Regulation (EC) No 2597/97 of 18 December 1997 repealed Regulation (EEC) No 1411/71. Regulation (EC) No 2597/97 laid down marketing standards for milk, setting out: definitions; sales descriptions (raw milk, whole milk, semi-skimmed milk, skimmed milk); allowed modifications for drinking milk (e.g. enrichment with milk proteins, mineral salts or vitamins); quality standards for drinking milk.

Regulation (EC) No 1234/2007 (“single CMO Regulation”) established marketing standards for:

- Milk and milk products (Article 114; Annex XII on definitions and designations; Annex XIII on rules for marketing of milk for human consumption).
- Milk fats (Article 115; Annex XV on sales descriptions, labelling and presentation, terminology, relationship with national rules).

⁶⁸ fresh; extra or extra fresh; indication on how laying hens are fed.

⁶⁹ Butter, skimmed milk powder, Grana padano and Parmigiano Reggiano cheeses, casein.

Finally, Regulation (EU) No 1308/2013 (“single CMO Regulation”) in its Article 78 states that, in addition, where relevant, to the applicable marketing standards, the definitions, designations and sales descriptions provided for in Annex VII shall apply to the following sectors or products: (...)

- Milk and milk products intended for human consumption (Annex VII, parts III and IV).
- Milk fats (Annex VII, part VII; Appendix II).

EU legislation reserves the use of certain definitions, designations and sales descriptions to the marketing of dairy products (the so called “reserved/protected dairy terms”). The first paragraph of point 5 of Annex VII, Part III of Regulation (EU) No 1308/2013 establishes that designations referred to in points 1, 2 and 3⁷⁰ of Annex VII, Part III may not be used for any product other than those referred to in that point. In addition, point 6 of Annex VII, Part III establishes that “in respect of a product other than those described in points 1, 2 and 3” (of Part III) “no label, commercial document, publicity material or any form of advertising as defined in Article 2 of Council Directive 2006/114/EC or any form of presentation may be used which claims, implies or suggests that the product is a dairy product”. Two exceptions to the aforementioned provisions are foreseen:

- According to point 5, second paragraph, the provision at the first paragraph of that point “shall not apply to the designation of products the exact nature of which is clear from traditional usage and/or when the designations are clearly used to describe a characteristic quality of the product”.
- According to point 6, second paragraph, “in respect of a product which contains milk or milk products, the designation ‘milk’ or” (the designations of milk products at the second subparagraph of point 2; see note 70) “may be used only to describe the basic raw materials and to list the ingredients in accordance with Directive 2000/13/EC or Regulation (EU) No 1169/2011”.

The exception at point 5, second paragraph has been further detailed by the Commission through the adoption of a list of exceptions laid down in EU Commission Decision 2010/791/EU of 20 December 2010. Annex I to Decision 2010/791/EU lists, for each Member State and in the relevant national languages, the terms exempted from the provision at the first paragraph of point 5 of Annex VII, Part III of Regulation (EU) No 1308/2013. Each exemption only applies for the Member State for which it is specified, and cannot be extended to other Member States.

The European Court of Justice repeatedly confirmed the legal protection of the definitions, designations and sales descriptions of milk and milk products in a number of court cases⁷¹ concerning the use of the terms “cheese”, “butter” and “milk” for the marketing of plant-based substitutes for dairy products.

The evolution of marketing standards for dehydrated milk is outlined at § 1.2.8 in the framework of products covered by the “Breakfast Directives”.

1.2.6 Olive oil

Regulation No 136/66/EC of the Council of 22 September 1966 establishing a CMO for oils and fats set out descriptions and definitions of olive oil⁷² according to defined quality standards (Article 35 and related Annex).

⁷⁰ Point 1: “milk”. Point 2: “milk products”, which include the following: whey, cream, butter, buttermilk, butteroil, caseins, anhydrous milk fat (AMF), cheese, yogurt, *kephir*, *koumiss*, *vili/fil*, *smetana*, *fil*, *rjaženka*, *rūgušpiens*. Point 3 sets out specific provisions for composite products: “The term “milk” and the designations used for milk products may also be used in association with a word or words to designate composite products of which no part takes or is intended to take the place of any milk constituent and of which milk or a milk product is an essential part either in terms of quantity or for characterisation of the product”.

⁷¹ “Diät-Käse” (December 16, 1999; C-101/98); “Pomazánkové máslo” (May 12, 2015; T-51/14); “Tofu Town” (June 14, 2017; C-422/16).

⁷² Virgin olive oil (extra, fine, ordinary, lampante); refined olive oil; pure olive oil; olive-residue oil; refined olive-residue oil; refined olive-residue oil and olive oil; olive-residue oil for technical use.

Regulation 136/66/EC was amended several times. Commission Regulation (EEC) No 2568/91 of 11 July 1991, which is currently in force, defined the physical and chemical characteristics of the various types of olive oil and olive-residue oil, the organoleptic characteristics of virgin olive oil, and the relevant methods of analysis.

Commission Regulation (EC) No 2815/98 of 22 December 1998 laid down provisions concerning the optional nature of the designation of the origin of extra virgin and virgin olive oil on packagings intended for consumers in the Member States or on labels attached to those packagings.

Commission Regulation (EC) No 1019/2002 of 13 June 2002 mainly covered packaging and labelling of olive oils (information on origin, optional indications, information on blending, etc.) and the related enforcement arrangements.

Regulation (EC) No 1234/2007 (“single CMO Regulation”) established marketing standards for olive oils and olive-pomace oils (Article 118), with specific respect to descriptions and definitions⁷³ (Annex XVI).

Regulation (EC) No 1019/2002 was repealed by Commission Implementing Regulation (EU) No 29/2012 of 13 January 2012, which is currently in force. Regulation (EU) No 29/2012 established a new set of specific standards for retail-stage marketing of olive oils and olive-pomace oils: it mainly covers packaging and labelling (i.e. the information items reported on labels), and the related enforcement arrangements.

Finally, Regulation (EU) No 1308/2013 (“single CMO Regulation”) includes some provisions on descriptions and definitions for olive oil and olive pomace oils⁷⁴ (Annex VII, part VIII).

1.2.7 Hops

Regulation (EEC) No 1696/71 of the Council of 26 July 1971 (CMO for hops) established under Article 2 that the products covered by the CMO (hop cones and lupulin) should be subject to a certification procedure in respect of the designation of origin, to be adopted by the Council upon proposal by the Commission.

General provisions on the certification of hops were established by Council Regulation (EEC) No 1784/77 of 19 July 1977, whereas detailed rules were laid down by Commission Regulation (EEC) No 890/78 of 28 April 1978. Regulation (EEC) No 1784/77 and Regulation (EEC) No 890/78 were amended several times, and were finally repealed by Commission Regulation (EC) No 1850/2006 of 14 December 2006, which is currently in force. Regulation (EC) No 1850/2006 established a new set of detailed rules for the certification of hops and hop products, covering – among others – hops presented for certification, marketing requirements, sampling, certification procedure, certificates, marking and information on the package, exceptions and certification bodies.

Provisions on the certification for hops were also included in Regulation (EC) No 1234/2007 (“single CMO Regulation”), under Article 117, and in Regulation (EU) No 1308/2013 (“single CMO Regulation”), under Article 77.

1.2.8 Sectors/products covered by the “Breakfast Directives”

The evolution of EU marketing standards in the sectors / for the products covered by the so called “Breakfast Directives” is outlined in the following sections. Sectors/products where marketing standards have been in force for the longest time span are covered first.

⁷³ Virgin olive oils (extra virgin, virgin, lampante); refined olive oil; olive oil – composed of refined olive oils and virgin olive oils; crude olive-pomace oil; refined olive-pomace oil; olive-pomace oil.

⁷⁴ The typologies defined by Regulation (EU) No 1308/2013 are the same defined by Regulation (EC) No 1234/2007 (see previous note).

Cocoa and chocolate products

Council Directive 73/241/EEC of 24 July 1973 on the approximation of the laws of the Member States relating to cocoa and chocolate products intended for human consumption laid out the first Common marketing standards for these products. Directive 73/241/EEC covered – among others – definitions, allowed ingredients, formats (bars/tablets) and related weights, labelling, and supplementary quality-related declarations or adjectives.

Directive 73/241/EEC was repealed by Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000, which is currently in force. Directive 2000/36/EC covers: sales names, definitions and characteristics of the products under its scope (Annex I); allowed ingredients (Annex II); labelling. Article 4 of Directive 2000/36/EC prohibits Member States from adopting national provisions not provided for by the Directive itself for the products defined in Annex I.

Sugars intended for human consumption

Common marketing standards for these products were first laid out by Council Directive 73/437/EEC of 11 December 1973. Directive 73/437/EEC covered – among others – definitions of products according to quality standards, derogations from quality standards, packaging and labelling.

Directive 73/437/EEC was repealed by Council Directive 2001/111/EC of 20 December 2001, which is currently in force. Directive 2001/111/EC covers: product names and definitions according to quality standards (Annex to the Directive, Part A), and the related derogations. Article 3 of Directive 2001/111/EC prohibits Member States from adopting national provisions not provided for by the Directive itself for the products defined in its Annex.

Honey

Council Directive 74/409/EEC of 22 July 1974 dealt with the harmonisation of national laws relating to honey. Directive 74/409/EEC established the first common marketing standards for honey, covering among others: types of honey (defined according to origin or mode of presentation); derogations; compositional criteria (listed in an Annex to the Directive) and quality standards; packaging and labelling.

Directive 74/409/EEC was repealed by Council Directive 2001/110/EC of 20 December 2001, which is currently in force. Directive 2001/110/EC established marketing standards for honey concerning: names, product descriptions and definitions (Annex I); composition criteria for honey (Annex II); labelling. Article 5 of Directive 2001/110/EC prohibits Member States from adopting national provisions not provided for by the Directive itself for the products defined in its Annex I.

Fruit juices

Common marketing standards for fruit juices were first laid out by Council Directive 75/726/EEC of 17 November 1975. Directive 75/726/EEC covered among others: product definitions and descriptions according to quality standards; allowed and prohibited practices and treatments; packaging and labelling; special provisions relating to fruit nectars (minimum total acid content and minimum juice and/or purée content).

Directive 75/726/EEC was repealed by Council Directive 93/77/EEC of 21 September 1993, which established a new set of standards for fruit juices. Similarly to Directive 75/726/EEC, also Directive 93/77/EEC included provisions on: product definitions and descriptions according to quality standards; allowed and prohibited practices and treatments; labelling; special provisions relating to fruit nectars (minimum total acid content and minimum juice and/or purée content).

Directive 93/77/EEC was repealed by Council Directive 2001/112/EC of 20 December 2001, which is currently in force. Directive 2001/112/EC established a new set of marketing standards for fruit juices, concerning: product names, definitions of products and characteristics (Annex I, part I); authorised ingredients, treatments and substances (Annex I, part II); definitions of raw materials (Annex II); labelling; particular

designations for certain products (Annex III); special provisions relating to fruit nectars (minimum juice and/or purée content; Annex IV). Directive 2001/112/EC has been amended:

- By Commission Directive 2009/106/EC of 14 August 2009, which introduced minimum Brix values for a list of fruit juices obtained by reconstituting concentrated fruit juice (referred to as “fruit juice from concentrate” in the Directive). These minimum Brix values are listed in an Annex to Directive 2009/106/EC, which becomes Annex V of the amended Directive 2001/112/EC.
- By Directive 2012/12/EU of the European Parliament and of the Council of 19 April 2012. Among others, Directive 2012/12/EU introduced amendments concerning the Annexes to Directive 2001/112/EC, including Annex V on minimum Brix values for reconstituted fruit juice and reconstituted fruit purée.

Dehydrated milk

Council Directive 76/118/EEC of 18 December 1975 established the first set of common marketing standards for partly or wholly dehydrated preserved milk for human consumption. Directive 76/118/EEC covered, among others, designations and definitions of products (Annex to the Directive), allowed ingredients and treatments, labelling.

Directive 76/118/EEC was repealed by Council Directive 2001/114/EC of 20 December 2001, which is currently in force. Directive 2001/114/EC established a set of marketing standards for partly or wholly dehydrated preserved milk concerning definitions of products and product names, particular designations for certain products, and labelling. Article 4 of Directive 2001/114/EC prohibits Member States from adopting national provisions not provided for by the Directive itself for the products that it covers.

Coffee and chicory extracts

Common marketing standards for coffee and chicory extracts were first laid out by Council Directive 77/436/EEC of 27 June 1977. Directive 77/436/EEC included provisions concerning, among others, descriptions and definitions of products, packaging and labelling.

Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 established a new set of marketing standards for coffee and chicory extracts, repealing Directive 77/436/EEC. Directive 1999/4/EC is currently in force; it covers, among others, product descriptions, definitions and characteristics, as well as labelling. Article 3 of Directive 1999/4/EC prohibits Member States from adopting national provisions not provided for by the Directive itself for the products defined in its Annex.

Fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption

The first set of common marketing standards for this group of products was laid out by Council Directive 79/693/EEC of 24 July 1979. The Directive covered, among others: definitions for finished products (Annex I); definitions for raw materials and the related authorised treatments (Annex II); substances that may be added to the products covered by the Directive (Annex III); labelling.

By repealing Directive 79/693/EEC, Council Directive 2001/113/EC of 20 December 2001 laid out a new set of marketing standards for fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption. Directive 2001/113/EC is currently in force; it covers, among others: names, product descriptions and definitions (Annex I); allowed additional ingredients (Annex II); definitions of raw materials and allowed treatments of the same (Annex III); labelling. Article 3 of Directive 2001/113/EC prohibits Member States from adopting national provisions not provided for by the Directive itself for the products defined in its Annex I.

1.2.9 Other sectors/products

The following sections provide a brief outline of the evolution of common marketing standards for a number of sectors / products that are not assessed in depth in the framework of this evaluation.

Hatching eggs and poultry chicks

Common marketing standards for these products were first laid out by Regulation (EEC) No 2782/75 of the Council of 29 October 1975. Regulation (EEC) No 2782/75 was then repealed by Regulation (EC) No 1234/2007 (“single CMO Regulation”). Finally, Commission Regulation (EC) No 617/2008 of 27 June 2008 laid down detailed rules for implementing Regulation (EC) No 1234/2007 as regards marketing standards for eggs for hatching and farmyard poultry chicks. Regulation (EC) No 617/2008 is currently in force.

Pig meat

A Community scale for grading pig carcasses, and the related bases, were first introduced by Council Regulation No 211/67/EEC of 27 June 1967. Regulation No 211/67/EEC was then repealed by Regulation (EEC) No 2108/70 of the Council of 20 October 1970. Regulation (EEC) No 2760/75 of the Council of 29 October 1975 repealed Regulation (EEC) No 2108/70. In 1984, Council Regulation (EEC) No 3220/84 of 13 November 1984 established a new Community scale for grading pig carcasses, repealing Regulation (EEC) No 2760/75. Regulation (EEC) No 3220/84 was then repealed by Regulation (EC) No 1234/2007 (“single CMO Regulation”).

Union scales defined at Annex IV(B) of Regulation (EU) No 1308/2013 (“single CMO Regulation”) are currently applied for the classification of pig carcasses in the EU.

Sheep meat

Council Regulation (EEC) No 338/91 of 5 February 1991 defined the standard quality of fresh or chilled sheep carcasses pursuant to Article 4 (1) of Council Regulation (EEC) No 3013/89 of 25 September 1989 (CMO for sheep meat and goat meat). Council Regulation (EEC) No 2137/92 of 23 July 1992 established the Community scale for the classification of carcasses of ovine animals and determined the Community standard quality of fresh or chilled sheep carcasses. Regulation (EEC) No 2137/92 was then repealed by Regulation (EC) No 1234/2007 (“single CMO Regulation”).

Union scales defined at Annex IV(C) of Regulation (EU) No 1308/2013 (“single CMO Regulation”) are currently applied for the classification of sheep carcasses in the EU.

Bananas

Common quality standards for bananas pursuant to Council Regulation (EEC) No 404/93 of 13 February 1993 (establishing the first CMO for bananas) were first laid out by Commission Regulation (EC) No 2257/94 of 16 September 1994. Regulation (EC) No 2257/94 was then repealed by Commission Implementing Regulation (EU) No 1333/2011 of 19 December 2011, which laid down marketing standards for bananas, rules on the verification of compliance with those marketing standards and requirements for notifications in the banana sector. Regulation (EU) No 1333/2011 is currently in force.

1.3 Main international and private marketing standards: recent evolution

1.3.1 International marketing standards

World Trade Organisation (WTO) Sanitary and Phyto-Sanitary Agreement (SPS) and the Technical Barriers to Trade Agreement (TBT) provide a general framework for the setting of marketing standards at international level. According to SPS and TBT, no country should be prevented from taking measures necessary to ensure the quality of its imports, or for the protection of human, animal or plant life or health, of the environment, or for the prevention of deceptive practices. However, these measures should not be applied in a way that might result in arbitrary or unjustifiable discrimination between countries where the same conditions prevail or a disguised restriction on international trade. SPS and TBT Agreements request WTO members to base the aforementioned measures on international standards, guidelines and recommendations. The SPS Agreement officially recognises three international standard-setting bodies: the Codex Alimentarius Commission (CAC), the World Organisation for Animal Health (OIE), and the Secretariat of the International Plant Protection

Convention (IPPC) (European Commission, 2013⁷⁵). A number of other international bodies has set up marketing standards. These include, among others, the United Nations Economic Commission for Europe (UNECE) and the International Olive Council (IOC). The following sections provide an overview of the standard-setting activities of the aforementioned bodies, providing information on the main marketing standards and on their recent evolution.

Codex Alimentarius Commission (CAC)⁷⁶

The **Codex Alimentarius Commission** has established standards for agricultural and food products since its foundation in 1963. The Codex Alimentarius is a collection of internationally adopted food standards and related texts, aimed at protecting consumers' health and at ensuring fair practices in food trade. Codex standards are voluntary, and are hence neither substitutes nor alternatives to mandatory legislation-based standards.

The **Codex Committee on Fresh Fruits and Vegetables (CCFFV)** was established in 1987⁷⁷ by the 17th Session of the CAC (1987). Its name and Terms of Reference were amended in 1995 by the 21st Session of the CAC. It is responsible for elaborating worldwide standards and codes of practice for fresh fruits and vegetables, and for consulting - as needed - with other international organisations in the standards development process to avoid duplication. Table 1.1 provides an overview of the standards laid out by the CCFFV, highlighting the ones that were introduced or modified since 2009. Most of the initial activity of the CCFFV focused on establishing standards for tropical fruits. From 2001 onwards, the CCFFV started to develop standards also for non-tropical fruits and vegetables (asparagus, oranges, table grapes, tomatoes and tree tomatoes, apples, aubergines). Many standards were modified in 2011 (including oranges and table grapes).

Table 1—1 – Marketing standards for fresh fruits and vegetables adopted by the CCFFV of the CAC

Year when the standards were first issued	Products covered by the standards (<i>last modification of the standard – year</i>)
1993	Pineapples (2011), papaya (2011) , mangoes, nopal, prickly pear, carambola, baby corn
1995	Litchi (2011), avocado (2013)
1997	Mangosteens, bananas
1999	Limes (2011), pummelos (2011), guavas (2011), chayotes (2011), Mexican limes (2011), ginger, grapefruits (2011), longans (2011)
2001	Tannia (2011), asparagus, Cape gooseberry (2011)
2003	Pitahayas (2011), sweet cassava (2013)
2004	Oranges (2011)
2005	Rambutan
2007	Table grapes (2011)
2008	Tomatoes
2010	Apples, bitter cassava (2013)
2011	Tree tomatoes, chilli peppers
2013	Pomegranate
2014	Passion fruit, durian, okra
2018	Aubergines

The standard-setting activity of the **Codex Committee on Processed Fruits and Vegetables (CCPFV)** dates back to the early 1980s. The CCPFV is responsible for elaborating worldwide standards and related texts for all types of processed fruits and vegetables, including but not limited to canned, dried and frozen products as well as fruit and vegetable juices and nectars. Table 1.2 provides an overview of the standards laid out by the CCPFV, highlighting the ones that were introduced or modified since 2009. Standards for a wide range of

⁷⁵ European Commission (2013), *Working document on standards & trade of agricultural products*, DG Agriculture – Dir. A.

⁷⁶ Section based on information retrieved in the CAC website: <http://www.fao.org/fao-who-codexalimentarius/home/en/>

⁷⁷ Originally as the as the Codex Committee on Tropical Fresh Fruits and Vegetables.

products were issued already in 1981; some of these standards were reviewed in 2013 (table olives) and 2017 (among others, preserved tomatoes, tomato concentrates, fruit cocktails). Other products of interest for the evaluation covered by Codex standards that were modified in the last decade include: canned chestnuts and canned chestnut purée; canned stone fruits; canned citrus fruits; canned vegetables; jams, jellies and marmalades; canned fruits; quick frozen vegetables.

Table 1—2 - Marketing standards for processed fruits and vegetables adopted by the CCPFV of the CAC

Year when the standards were first issued	Products covered by the standards (<i>last modification of the standard – year</i>)
1981	<p>Preserved tomatoes (2017), processed tomato concentrates (2017)</p> <p><u>Canned products</u>: applesauce (2017), pineapple, raspberries, strawberries, fruit cocktail (2017), tropical fruit salad (2017)</p> <p><u>Quick frozen products</u>: peas, strawberries, raspberries, peaches, blueberries, spinach, blueberries, broccoli, cauliflower, Brussels sprouts, green and wax beans, French fried potatoes</p> <p><u>Dried products</u>: edible fungi, apricots</p> <p><u>Other products</u>: edible fungi and fungus products; table olives (2013); raisins; pickled cucumbers (2017); unshelled pistachio nuts</p>
1985	Dates, canned chestnuts and canned chestnut purée (2017)
1987	Mango chutney
1991	Desiccated coconut (2011)
2001	Kimchi (2017)
2003	Aqueous coconut products, coconut milk and coconut cream, canned bamboo shoots (2015), canned stone fruits (2017)
2007	Certain canned citrus fruits (2013), pickled fruits and vegetables (2017)
2009	Jams, jellies and marmalades (2017), certain canned vegetables (2015)
2015	Certain canned fruits (2018), quick frozen vegetables (2017), ginseng products

The **Codex Committee on Milk and Milk products (CCMMP)** elaborates worldwide standards, codes and related texts for milk and milk products. Codex standards cover a wide range of dairy products: besides the general standard for cheese (first issued in 1978), the Codex has issued specific standards for numerous types of cheese, for fermented milks, for butter, for cream and prepared creams, for milk, cream and whey powders, for dairy fat spreads, for edible casein products, etc. Table 1.3 provides an overview of the standards laid out by the CCMMP. The first standards were issued in the late 1960s; with the exception of the standard for dairy permeate powders (first issued in 2017), all the relevant standards listed in Table 1.3 were last modified in 2018.

Table 1—3 - Marketing standards for dairy products adopted by the CCMMP of the CAC

Year when the standards were first issued	Products covered by the standards
1966	Cheddar, Danbo, Edam, Gouda, Havarti, Samsø
1967	Emmental
1968	Tilsiter, Saint-Paulin, Provolone, Cottage Cheese
1969	Coulommiers
1971	Butter; evaporated milks; sweetened condensed milks; whey cheeses
1973	Cream cheese, Camembert, Brie; milkfat products
1976	Cream and prepared creams
1978	General standard for cheese; standard for extra hard grating cheese
1995	Whey powders; edible casein products
1999	Milk powders and cream powder; group standard for cheeses in brine
2001	Group standard for unripened cheese including fresh cheese
2003	Fermented milks
2006	Mozzarella; blend of evaporated skimmed milk and vegetable fat; blend of skimmed milk and vegetable fat in powdered form; blend of sweetened condensed skimmed milk and vegetable fat; dairy fat spreads
2017	Dairy permeate powders

Finally, among the products covered by the evaluation, the Codex issued standards for **olive /olive-pomace oils** (first issued in 1981, last modified in 2013).

United Nations Economic Commission for Europe (UNECE)⁷⁸

The United Nations Economic Commission for Europe (UNECE) was set up in 1947. Among its various activities, UNECE sets out norms, standards and conventions to facilitate international cooperation within and outside the European region. UNECE standard-setting activities for agricultural and food products date back to the early 1950s⁷⁹. Marketing standards developed by UNECE are voluntary and cover a wide range of agricultural and food products, fresh and processed. The main groups of products covered by UNECE standards are:

- Fresh fruit and vegetables (see Table 1.4 for an overview of their scope and evolution).
- Dry and dried produce (see Table 1.5 for an overview of their scope and evolution).
- Meats, with standards issued for (among others):
 - bovine meat carcasses and cuts (first issued in 2004, last revised in 2016);
 - veal meat carcasses and cuts (issued in 2011);
 - porcine meat carcasses and cuts (first issued in 2008, last revised in 2018);
 - ovine meat carcasses and cuts (first issued in 2007, last revised in 2018);
 - chicken meat carcasses and parts (issued in 2007, revised in 2013);
 - turkey meat carcasses and parts (issued in 2009, revised in 2013);
 - processed poultry meat (issued in 2015);
 - retail meat cuts (issued in 2013, revised in 2016).

⁷⁸ The following section is based on information retrieved in the UNECE website: <http://www.unece.org/info/ece-homepage.html>

⁷⁹ 1951 Geneva Protocol on standardisation of fresh fruit and vegetables and dry and dried fruit intended for international trade, managed by UNECE Working Party on Agricultural Quality Standards.

- Eggs and egg products. The first four standards (for in-shell eggs, processed eggs, chilled eggs, production eggs) were issued in 1994; with the second edition (issued in 2009/2010) the original four standards were consolidated into two standards (in-shell eggs; egg products); the third edition of these two standards was issued in 2017.

The earliest UNECE standards for **fresh fruit and vegetables** (covering, among others: apples, pears, peaches and nectarines, citrus fruits; tomatoes, beans, carrots, peas) date back to the early 1960s. Marketing standards for a number of products - including berry fruits, leafy vegetables, roots and tubercle vegetables - were adopted only in the last ten years. All UNECE standards for fresh fruit and vegetables issued prior to 2009 have been revised in the last ten years (see Table 1.4).

Table 1—4 - Marketing standards for fresh fruits and vegetables adopted by UNECE

Year when the standards were first issued	Products covered by the standards (<i>last modification of the standard – year</i>)
1960	Apples (2017), pears (2017)
1961	Apricots (2014), cauliflowers (2010), lettuce and endives (2012), onions (2010), peaches and nectarines (2010), plums (2017), table grapes (2016), tomatoes (2017)
1962	Artichokes (2010), beans (2010), carrots (2010), cherries (2017), chicory (2016), peas (2010), strawberries (2010)
1963	Asparagus (2010), citrus fruit (2016)
1964	Brussels sprouts (2010), headed cabbages (2017), cucumbers (2010), ribbed celery (2010), watermelons (2015)
1966	Garlic (2016)
1969	Fennel (2017), sweet peppers (2018)
1970	Aubergines (2016), cultivated mushrooms (2012), leeks (2016), rhubarb (2017)
1975	Melons (2012)
1979	Fresh figs (2017)
1983	Sweet chestnuts (2016)
1986	Avocados (2016)
1988	Courgettes (2010), kiwifruit (2017), mangoes (2012)
1991	Chinese cabbages (2014)
1994	Annonas (2016), broccoli (2010)
2003	Pineapples (2012)
2006	Potatoes (early and ware) (2011), truffles (2016)
2007	Ceps (2010)
2009	Chanterelles (2014)
2010	Berry fruits, leafy vegetables (2012), root and tubercle vegetables, shallots (2013)
2013	Chilli peppers
2014	Quince
2015	Lambs lettuce, persimmons

UNECE marketing standards for **dry and dried produce** were first issued in 1970 for walnuts and hazelnuts (in-shell). Standards for a number of other products followed in the 1980s, with the bulk of marketing standards for this group of products adopted since the late 1990s. Most UNECE standards for dry and dried produce issued prior to 2009 have been revised in the last ten years, the only exceptions being standards for dried tomatoes (issued in 2007) and for dried peaches (issued in 2008) (see Table 1.5).

Table 1—5 - Marketing standards for dry and dried produce adopted by UNECE

Year when the standards were first issued	Products covered by the standards (<i>last modification of the standard – year</i>)
1970	Hazelnuts (in-shell) (2007), walnuts (in-shell) (2014)
1983	Walnut kernels (2017)
1986	Almond kernels (2016)
1987	Dates (dried) (2015)
1988	Prunes (2003)
1990	Pistachio nuts (in-shell) (2016)
1992	Grapes (dried) (2016)
1993	Pine nut kernels (2013)
1996	Apricots (dried) (2016), figs (dried) (2016), pears (dried) (2012)
1998	Apples (dried) (2012)
1999	Cashew kernels (2013)
2007	Tomatoes (dried)
2008	Peaches (dried)
2009	Almond kernels (blanched)
2010	Hazelnut kernels, macadamia nuts (in-shell), pistachio kernels and peeled pistachio kernels
2011	Macadamia kernels
2013	Brazil nuts (in-shell) and Brazil nut kernels, chilli peppers (whole dried), mangoes (dried)
2014	Pineapples (dried)
2017	Almonds (in-shell)
2018	Bananas (dried)

International Olive Council (IOC)⁸⁰

The International Olive Council⁸¹ was set up in 1959 under the auspices of the United Nations. It is the only international intergovernmental organisation in the field of olive oil and table olives. The Technical Division of the IOC is responsible – among other tasks - for the setting of standards. One of the objectives of the IOC is the definition of voluntary standards for the marketing of olive oils and table olives that are applicable to all IOC member countries.

To this end, the IOC has developed a **trade standard for olive oils and olive-pomace oils**. The first version of the standard dates back to 1963. The standard fixes the physico-chemical and distinguishing quality and purity criteria of each designation (grade) of olive oil and olive-pomace oil mentioned in the International Agreement on Olive Oil and Table Olives, which was last renewed in 2015⁸². The latest revised version of the standard was issued in 2018.

The IOC has also developed a trade standard applying to **table olives**. The standard was first issued in 1980; it was last revised in 2004.

⁸⁰ The following section is based on information retrieved in the IOC website: <http://www.internationaloliveoil.org/>

⁸¹ the institution was known as the International Olive Oil Council (IOOC) until 2006.

⁸² The certified text of the Agreement is available at https://treaties.un.org/doc/Treaties/2015/10/20151009%2010-35%20AM/Ch_XIX-49.pdf

1.3.2 Private marketing standards

Private standards have historically been developed by trading organisations (e.g. auction houses, port authorities, governing authorities of town markets etc.) as well as – in more recent times – private companies and business associations operating at different stages of food supply chains (from farming to retailing). These standards often take the form of voluntary certification schemes, and concern a wide range of aspects that are relevant for production and marketing of agricultural and food products, such as health and hygiene, environmental protection, animal welfare, organoleptic qualities, fair trade, etc. (EU Commission, 2013⁸³). The scope of individual private schemes can therefore vary significantly, and may cover aspects that are generally not covered by mandatory marketing standards established at EU level. These schemes often cover - among others - labelling of products.

An inventory of certification schemes for agricultural products and foodstuffs marketed in the EU Member States was compiled in 2010 for DG Agriculture (Areté, 2010). The inventory identified a total of 441 voluntary certification schemes, of which 424 developed in the EU-27, and 17 developed in non-EU countries (but nevertheless applying also to products marketed in the EU). Many of these schemes covered meat products, fruit and vegetables, dairy products and cereal products (a number of schemes covered multiple products).

A 2013 study funded by the European Union (Ipsos and London Economics Consortium, 2013) identified 901 voluntary food labelling schemes across the EU-27 plus Iceland and Norway, and schemes that operate across the EU as a whole. The study found that the products most widely covered by voluntary food labelling schemes in Europe were meat and fruit and vegetables.

Even in the absence of more up-to-date figures, the high number of private schemes that are of some relevance for the marketing of agricultural and food products in the EU emerges clearly. However, many of those schemes have national or sub-national (regional, local) importance.

This paragraph provides an overview of three sets of private standards that have EU-wide importance, i.e. those developed by British Retailer Consortium (BRC) Global Standards, by Global Good Agricultural Practices (GLOBALG.A.P.) and by International Featured Standards (IFS).

British Retailer Consortium Global Standards (BRCGS)⁸⁴

BRC Global Standards began its standard-setting activity in 1996, when the British Retail Consortium (BRC) developed the BRC Food Technical Standard, first issued in 1998.

The **BRC Global Standard for Food Safety**, first issued in 1998, was used to evaluate manufacturers of retailers' own brand food products, with a view to helping retailers and brand owners to safely produce food products of consistent quality. The main focus of the standard – now in its eighth version – is food safety.

The first issue of the **BRC Packaging Standard** was published in 2002. The focus of the standard – now in its fifth version – is on safety for packaging and compliance with customer specifications. It is aimed at any manufacturer producing primary, secondary and tertiary packaging materials for all types of products, including food products.

The **BRC Global Standard for Storage and Distribution** was originally introduced in 2006. The standard aims at ensuring that product integrity during the storage and distribution are maintained. The third version of the standard was issued in 2016.

The **BRC Global Standard for Retail** was introduced in 2016. Aimed at organisations that retail food products, it covers retailing, commissary, sourcing and in-store production. The standard is designed to promote best

⁸³ European Commission (2013), *Working document on standards & trade of agricultural products*, DG Agriculture – Directorate A.

⁸⁴ The following section is based on information retrieved in the BRCGS website: <https://www.brcgs.com/>

practice on product safety, quality and the operational criteria required to fulfil obligations with regard to legal compliance and consumer protection.

Global Good Agricultural Practices (GLOBALG.A.P.)⁸⁵

The GLOBALG.A.P. initiative began in 1997 as EUREPGAP, an initiative by retailers belonging to the Euro-Retailer Produce Working Group. Its goal was to develop an independent certification system for Good Agricultural Practice (G.A.P.), focusing on food safety, sustainable production methods, worker and animal welfare, and responsible use of water, compound feed and plant propagation materials. EUREPGAP changed its name to GLOBALG.A.P. in 2007.

The GLOBALG.A.P. certification currently covers:

- Food safety and traceability.
- Environment (including biodiversity).
- Workers’ health, safety and welfare.
- Animal welfare.
- Includes Integrated Crop Management (ICM), Integrated Pest Control (IPC).
- Quality Management System (QMS), and Hazard Analysis and Critical Control Points (HACCP).

GLOBALG.A.P. has developed specific standards for (among others): **crops for processing** (CfP standard); **produce safety** (Harmonized Produce Safety Standard – HPSS); and **livestock transportation**.

International Featured Standards (IFS)⁸⁶

IFS was founded in 2003 under the name International Food Standard. It currently manages 8 standards, of which 6 have relevance for the marketing of food products, even though their main focus is either on safety or on compliance with customer specifications for products or processes:

1. **IFS Food** is a standard for the auditing of companies that process food or companies that pack loose food products. It is only applied where the product is “processed or handled”, or if there is a danger of product contamination during the primary packaging. Its main focus is on food safety and the quality of processes and products. Version 6.1 of the standard, currently in force, was issued in November 2017.
2. **IFS Global Markets – Food** is a standardised food safety assessment program for retailers as well as industry branded food products, aimed at supporting “small and/or less developed businesses” in the development of their food safety management systems, with a view to making the first step towards the implementation of the IFS Food standard (see point 1).
3. **IFS Wholesale/Cash & Carry Standard** was developed to optimise the audit procedures of wholesalers and cash & carry markets, which handle a wide range of products and can also carry out certain treatment and/or processing activities and develop their own brands. It mainly focuses on food quality, food safety and customer satisfaction. Version 2 of the standard, currently in force, was issued in May 2016.
4. **IFS Logistics** is a standard applicable to both food and non-food products. It covers all logistics activities (such as loading, unloading and transportation) and all transportation modes (road, rail, sea and inland waterways, air). The standard covers handling and transportation of frozen/refrigerated products or ambient stable products, in liquid, solid or gaseous form. It also applies to (un-)freezing service providers as well as to logistics companies using service providers for their transportation and/or storage activities. Version 2.2 of the standard, currently in force, was issued in December 2017.
5. The **IFS Global Markets Logistics** standard is aimed at small and less developed logistics service providers. It constitutes a first step for companies willing to achieve a full IFS Logistics certification (see point 4).

⁸⁵ The following section is based on information retrieved in the GLOBALG.A.P. website: https://www.globalgap.org/uk_en/

⁸⁶ The following section is based on information retrieved in the IFS website: <https://www.ifs-certification.com/index.php/en/>

6. Finally, the **IFS PACsecure** is a standard for auditing primary and secondary packaging material manufacturers and converters. Its main focus is on ensuring food safety for packaging, as well as compliance with customer specifications on packaging.

1.4 EU marketing standards vs. the main international and private marketing standards

1.4.1 EU standards vs. international standards

The development of international marketing standards for a number of sectors/products pre-dates the development of EU marketing standards.

This is especially the case of UNECE standards for **fresh fruit and vegetables**, whose development process was started within the framework of 1951 Geneva Protocol on standardisation of fresh fruit and vegetables and dry and dried fruit intended for international trade (European Commission, 2009⁸⁷). Indeed, as explained at § 1.3.1, the first UNECE standards for fresh fruit and vegetables were established in the early 1960s.

As for **processed fruit and vegetables**, the range of products covered by Codex and UNECE standards is much wider, spanning from dried products to canned and quick-frozen ones (see § 1.3.1). To date, EU marketing standards have been established only for the following typologies of processed fruit and vegetables:

- dried grapes and currants (first established by Commission Regulation (EC) No 1666/1999);
- fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption (first established in 1979 by Council Directive 79/693/EEC);
- fruit juices and certain similar products intended for human consumption (first established in 1975 by Council Directive 75/726/EEC).

Focusing on **dairy products**, it is worth noting that the Codex issued several standards for specific types of cheese (e.g. Cheddar, Edam, Gouda etc.) starting from 1966, and first issued its General Standard for Cheese in 1978, whereas no harmonised EU definition of cheese has been established to date.

By contrast, the development of EU marketing standards for animal products (eggs and meat) and for olive oil pre-dates the development of most international standards for these products.

Whereas the first EU marketing standards for **eggs** were established in 1975 (Regulation (EEC) No 2772/75), the first UNECE standards for eggs and egg products were issued in 1994 only.

The first EU marketing standards for the different types of meats mostly pre-date the development of analogous international standards. Besides the cases of bovine and porcine meat⁸⁸, in the case of **poultry meat** EU marketing standards were first laid out in 1976 (Council Regulation (EEC) No 2967/76), whereas analogous UNECE standards date back to 2007 (chicken meat), 2009 (turkey meat) and 2015 (processed poultry meat).

As for **olive oils**, the first marketing standards set at Community level date back to 1966 (Regulation No 136/66/EC); whereas the Codex standard for olive/olive pomace oils was first issued in 1981, the IOOC (currently IOC) first established a “Trade standard for olive oils and olive pomace oils” in 1963.

⁸⁷ European Commission (2009), *Agricultural Quality Policy: Impact Assessment – Annex A(II): Marketing Standards*, Version 08-04-2009.

⁸⁸ Standards at Community level were first set in 1968 for beef and veal meat and in 1967 for pig meat, whereas analogous UNECE standards were only issued in 2004 (beef meat), 2011 (veal meat) and 2008 (pig meat).

1.4.2 EU standards vs. private standards

The development process of the main private standards described at § 1.3.2 started in the mid-1990s/early 2000s, i.e. at a time where the first harmonised marketing standards had already been laid out for most of the products currently covered by EU legislation.

The most important elements to consider when comparing EU standards with private standards are the nature, the focus and the scope of those standards.

Whereas the **nature** of EU marketing standards is mandatory (all the concerned subjects must comply with the relevant provisions), the uptake of private standards is voluntary (even if the pressure to comply with those standards put by certain customers on their suppliers may be substantial). Private standards are therefore regulated by private contracts/agreements. The EU neither mandates nor encourages the development of private standards, which fall outside the regulatory area; however, in an effort to promote improved clarity and transparency in those private schemes, the Commission has developed EU best practice guidelines for voluntary certification schemes for agricultural products and foodstuffs, which were adopted in 2010 (Commission Communication 2010/C 341/04)⁸⁹. The guidelines were designed to describe the existing legal framework and to help improving the transparency, credibility and effectiveness of voluntary certification schemes and ensuring that they do not conflict with regulatory requirements⁹⁰.

Whereas the **focus** of EU marketing standards is on products/groups of products, the focus of the standards described at § 1.3.2 is on company systems and/or on specific functions/processes within those systems. In general, those private standards are aimed at promoting best practices with a view to fulfilling obligations concerning both legal compliance and requirements/specifications set by customers. This implies that the requirements for compliance with those private standards go beyond the mandatory ones established by legislation. In addition, in all the cases where the standards described at § 1.3.2 are focused on processes or products, these are general / aggregated ones (e.g. “crops for processing”, “produce”, “livestock”, “logistics”, etc.).

Finally, the **scope** of private standards described at § 1.3.2 is usually wider than those of EU marketing standards. Whereas the latter mainly cover aspects concerning the marketing of products (product definition and description, product features, grading, packaging, labelling, etc.), private standards usually also cover product/process/workers' safety, customer satisfaction, continuous improvement of company performance, etc., i.e. aspects that are covered by other bodies of EU legislation, or non-regulated aspects.

⁸⁹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:341:0005:0011:EN:PDF>

⁹⁰ Among others, the Guidelines provide indications on how to: i) avoid consumer confusion and increase the transparency and clarity of the scheme requirements; ii) reduce the administrative and financial burden on farmers and producers, including those in developing countries; iii) ensure compliance with EU internal market rules and principles on certification (European Commission, 2013, *Working document on standards & trade of agricultural products*, DG Agriculture – Directorate A.).

2 CURRENT SCOPE OF EU MARKETING STANDARDS

2.1 Sectors and products covered

The evaluation covers EU marketing standards underpinned by three sets of legal acts:

1. **The Common Market Organisation (CMO Regulation).**
2. **Secondary CMO legislation.**
3. **The so called "Breakfast Directives".**

The **CMO Regulation** (Reg. (EU) No 1308/2013) sets out a number of specific rules concerning:

- Marketing standards for the following sectors/products: olive oil and table olives; fruit and vegetables; processed fruit and vegetable products; bananas; live plants; eggs; poultry meat; spreadable fats intended for human consumption; hops.
- Definitions, designations and sales descriptions for the following sectors/products: beef and veal; wine; milk and milk products intended for human consumption; poultry meat; eggs; spreadable fats intended for human consumption; olive oil and table olives.
- Optional reserved terms for the following sectors/products: poultry meat; eggs; olive oil.

Secondary CMO legislation includes a number of specific regulations concerning different products, as outlined in Table 2.1.

Table 2—1 – Products concerned by the secondary CMO regulation

Product	Relevant regulation
Olive Oil	Commission Implementing Regulations (EU) No 29/2012 of 13 January 2012 and (EEC) No 2568/91 of 11 July 1991.
Fruits and vegetables and processed fruits and vegetables	Commission Implementing Regulation (EU) No 543/2011 of 7 June 2011.
Dried grapes	Commission Regulation (EC) No 1666/1999 of 28 July 1999.
Bananas	Commission Implementing Regulation (EU) No 1333/2011 of 19 December 2011.
Eggs	Commission Implementing Regulation (EC) No 589/2008 of 23 June 2008 laying down detailed rules for implementing Council Regulation (EC) No 1234/2007.
Hatching eggs and poultry chicks	Commission Regulations (EC) No 617/2008 of 27 June 2008 laying down detailed rules for implementing Regulation (EC) No 1234/2007.
Poultry meat	Commission Regulation (EC) No 543/2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007.
Bovine meat	Commission Implementing Regulation (EC) No 566/2008 of 18 June 2008 laying down detailed rules for the application of Council Regulation (EC) No 1234/2007.
Hops	Commission Regulation (EC) No 1850/2006 of 14 December 2006.
Spreadable fats, milk products	Commission Regulation (EC) No 445/2007 of 23 April 2007 laying down certain detailed rules for the application of Council Regulation (EC) No 2991/94 and of Council Regulation (EEC) No 1898/87.
Other dairy products	Commission Decision (2010/791/EU) of 20 December 2010 listing the products referred to in the second subparagraph of point III(1) of Annex XII to Council Regulation (EC) No 1234/2007.

Finally, the so called “**Breakfast Directives**” regulate marketing standards for a set of products, establishing rules on description, definition, characteristics and labelling, as described in Table 2.2.

Table 2—2 – Products concerned by the “Breakfast Directives”

Product	Relevant regulation
Coffee and chicory extracts	Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999.
Cocoa and chocolate products	Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000.
Sugars intended for human consumption	Council Directive 2001/111/EC of 20 December 2001.
Fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption	Council Directive 2001/113/EC of 20 December 2001.
Dehydrated milk	Council Directive 2007/61/EC of 26 September 2007 amending Directive 2001/114/EC.
Fruit juices and certain similar products	Council Directive 2001/112/EC of 20 December 2001.
Honey	Council Directive 2001/110/EC of 20 December 2001.

2.2 Applicable instruments

The Roadmap for the evaluation⁹¹ classifies the instruments pertaining to EU marketing standards in three broad categories:

1. Instruments defined under Article 73 of the CMO Regulation (Reg. (EU) No 1308/2013), which are grouped into:
 - a. **obligatory rules** for specific sectors and products (subsection 2, Articles from 74 to 83⁹²);
 - b. **optional reserved terms** established on a sectoral or product basis (subsection 3, Articles from 84 to 88).
2. Instruments defined by secondary CMO legislation and by the so called “Breakfast Directives” (see Tables 2.1 and 2.2), which include **definitions, minimum requirements, production method, presentation and labelling** instruments (which are also included in the category at point 1.a above) defined on a **case by case basis**, according to particular needs identified for certain sectors or products.

Article 75(3) of the CMO Regulation identifies the following **typologies of instruments**⁹³:

- a. technical definitions, designation and sales descriptions;
- b. classification criteria such as grading into classes, weight, sizing, age and category;
- c. indication of the species, plant variety or animal race or commercial type;
- d. presentation, labelling linked to obligatory marketing standards, packaging, rules to be applied in relation to packing centres, marking, year of harvesting and use of specific terms;
- e. criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content;

⁹¹ Evaluation and Fitness Check (FC) Roadmap, *Evaluation of marketing standards (contained in the CMO Regulation, the “breakfast directives” and CMO secondary legislation)*, Ref. Ares(2017)3244337 - 28/06/2017.

⁹² These also include a number of instruments applicable in the wine sector and in the beef and veal sectors, which are not covered by the present evaluation.

⁹³ Article 75(3) applies without prejudice to Article 26 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council (“Food Information to Consumers” or FIC Regulation), covering the indication of country of origin or place of provenance.

- f. standards on specific substances used in production, or components or constituents, including their quantitative content, purity and identification;
- g. standards on the type of farming and production method, including advanced systems of sustainable production;
- h. standards on the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport;
- i. indication on the place of farming and/or origin;
- j. restrictions as regards the use of certain substances and practices;
- k. conditions governing the disposal, the holding, circulation and use of products not in conformity with the marketing standards adopted pursuant to Article 75(1), or with the definitions, designations and sales descriptions referred to in Article 78, as well as the disposal of by-products⁹⁴.

Additional instruments (including those specific to certain sectors, except the ones specific to the wine sector, which are not covered by the present evaluation) are:

- l. Additional **requirements for marketing of products** in the fruit and vegetables sector (Article 76).
- m. **Certification** for hops (Article 77)
- n. Provisions on **tolerance** for one or more specific standards (Article 79).

Finally, the relevant instruments include:

- o. **optional reserved terms** by sector or by product, established according to Article 84 of the CMO Regulation in order to make it easier for producers of agricultural products that have value-adding characteristics or attributes to communicate those characteristics or attributes within the internal market⁹⁵.

2.3 Absence of an EU definition of cheese; definitions provided by international standards and national legislation

The term “cheese” is included in the so called “reserved/protected dairy terms”, i.e. definitions, designations and sales descriptions that are reserved to the marketing of dairy products according to EU legislation (see § 1.2.5). However, **no harmonised definition of “cheese” has been established to date by EU legislation.**

A definition of “cheese” is provided by the **Codex “General Standard for Cheese”** (CXS 283-1978⁹⁶; formerly known as CODEX STAN A-6-1973), which was revised in 1999, and last amended in 2018 (see also § 1.3.1). This voluntary international standard defines cheese as “the ripened or unripened soft, semi-hard, hard, or extra-hard product, which may be coated, and in which the whey protein/casein ratio does not exceed that of milk, obtained by:

- a. coagulating wholly or partly the protein of milk, skimmed milk, partly skimmed milk, cream, whey cream or buttermilk, or any combination of these materials, through the action of rennet or other suitable coagulating agents, and by partially draining the whey resulting from the coagulation, while respecting the principle that cheese-making results in a concentration of milk protein (in particular, the casein portion), and that consequently, the protein content of the cheese will be distinctly higher than the protein level of the blend of the above milk materials from which the cheese was made; and/or

⁹⁴ Even though this instrument is considered in the overall intervention logic, no specific focus is envisaged for it.

⁹⁵ CMO Regulation (Article 85) provides indications of existing optional reserved terms. These are listed in Annex IX and relate to poultry meat, eggs and olive oil.

⁹⁶ http://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FStandards%252FCXS%2B283-1978%252FCXS_283e.pdf

- b. processing techniques involving coagulation of the protein of milk and/or products obtained from milk which give an end-product with similar physical, chemical and organoleptic characteristics as the product defined under “a”.

The Codex “General Standard for Cheese” also defines:

- *Ripened cheese* as “cheese which is not ready for consumption shortly after manufacture but which must be held for such time, at such temperature, and under such other conditions as will result in the necessary biochemical and physical changes characterizing the cheese in question”.
- *Mould ripened cheese* as “a ripened cheese in which the ripening has been accomplished primarily by the development of characteristic mould growth throughout the interior and/or on the surface of the cheese”.
- *Unripened cheese including fresh cheese* as “cheese which is ready for consumption shortly after manufacture”.

The raw materials from which cheese can be made according to the Codex “General Standard for Cheese” are milk and/or products obtained from milk. The permitted ingredients are defined by the standard as follows:

- Starter cultures of harmless lactic acid and/or flavour producing bacteria and cultures of other harmless microorganisms.
- Safe and suitable enzymes.
- Sodium chloride.
- Potable water.

In the EU, the majority of the **most significant cheese-producing Member States** have a **general definition of cheese** (or definitions for specific cheese types) **established by national legislation** (see Table 2.3).

Table 2—3 – Overview of the state of play concerning national legislation-based definitions of cheese in the most significant cheese-producing Member States

Member State	General definition of cheese	Similar to Codex	Different from Codex	Definitions for specific cheese types only (no general definition)	No definition
Austria				X	
Belgium	X	X			
Bulgaria				X	
Croatia	X		X		
Czech Republic	X		X		
Denmark	X	X			
Estonia					X
Finland	X	X			
France	X		X		
Germany	X		X		
Greece	X		X		
Hungary				X	
Ireland					X
Italy	X		X		
Latvia	X	X			
Lithuania	X	X			
Luxembourg					X
Netherlands	X		X		

Member State	General definition of cheese	Similar to Codex	Different from Codex	Definitions for specific cheese types only (no general definition)	No definition
Poland					X
Portugal					X
Romania				X	
Slovakia	X	X			
Slovenia					X
Spain	X	X			
Sweden	X	X			
United Kingdom	X		X		
Total	16	8	8	4	6

Some of the general definitions in force at Member State level - i.e. those applying in **Belgium**⁹⁷, **Denmark**⁹⁸, **Finland**⁹⁹, **Latvia**¹⁰⁰, **Lithuania**¹⁰¹, **Slovakia**¹⁰², **Spain**¹⁰³ and **Sweden**¹⁰⁴ - are **similar to the general definition provided by the Codex “General Standard for Cheese”**. Even if the wording may differ, the nature of the process to obtain the product, as well as the raw materials and allowed ingredients are the same, or there are just minor differences.

By contrast, the general definitions of cheese applying in some Member States (i.e. Croatia, Czech Republic, France, Germany, Greece, Italy, the Netherlands and the United Kingdom) are characterised by **significant differences from the general definition provided by the Codex “General Standard for Cheese”**. The most noteworthy differences are explained in the following sections.

The definition applying in **Croatia**¹⁰⁵ is less detailed than the one provided by the Codex; more specifically, it makes no reference to the whey protein/casein ratio and to the action of rennet or other coagulating agents.

Also the definition applying in the **Czech Republic**¹⁰⁶ is less detailed, and more generic in the definition of raw materials, since it reads (emphasis added): “cheese is a dairy product produced by the precipitation of milk protein from milk by the action of rennet or other suitable coagulating reagents, by acidification and separation of the whey fraction”.

Even if it refers basically to the same raw materials in the Codex definition (milk, partially or fully skimmed milk, cream, milk fat, buttermilk, used separately or in a mix), the definition applying in **France**¹⁰⁷ differs in the definition of the process¹⁰⁸, as well as in the list of permitted ingredients, which includes also: salt substitutes;

⁹⁷ Royal Decree of 8 May 2014 on cheese, Belgian Gazette 19 May 2014.

⁹⁸ Regulation on milk products, BEK no 1360 of 24/11/2016, published on 26-11-2016 by the Ministry of Environment and Food.

⁹⁹ Finnish legal code, MMMa 264/2012, section 6.

¹⁰⁰ “Regulations Regarding Requirements for the Classification, Quality and Labelling of Milk Products and Composite Milk Products”, Cabinet Regulation No. 97 (1 February 2011).

¹⁰¹ Order of the Minister of Agriculture No. 3D-335 on 13 June 2008.

¹⁰² Article 2, letter p) of the Decree of the Ministry of Agriculture and the Rural Development of the Slovak Republic No.343/2016.

¹⁰³ Royal Decree 1113 / 2006, of 29 September, Laying Down Standards For Cheeses.

¹⁰⁴ Regulation on milk and cheese, LIVSFS 2003:39 (H 160), published by The Swedish National Food Administration.

¹⁰⁵ Rules on cheese and cheese products, Article 4(1) (Official gazette, No 20/2009, 141/2013).

¹⁰⁶ Decree No. 370/2008 Coll., Amending Decree No. 77/2003 Coll., Laying down requirements for milk and milk products, frozen creams and edible fats and oils.

¹⁰⁷ Decree n ° 2007-628 of April 27, 2007 relating to cheeses and cheese specialties.

¹⁰⁸ According to the French legislation, cheese is a product, fermented or not, aged or not, obtained exclusively from the following dairy products: milk, partially or fully skimmed milk, cream, milk fat, buttermilk, used separately or in a mix and totally or partially coagulated before straining or after partial elimination of its aqueous part.

herbs and spices; sugar and other food products providing a specific flavour to the final product (within the limit of 30% of final product weight); vitamins and minerals and other nutrition and physiology-oriented substances as defined in Regulation (CE) No 1925/2006; caseins and caseinates; cereals, pulses, oleaginous seeds, fibres, under different forms, to coat cheese products other than grated or ground cheeses. Furthermore, French legislation establishes that dry matter content cannot be inferior to 23 grams of dry matter for 100 grams of cheese.

The most significant differences in the definition applying in **Germany**¹⁰⁹ concern the definition of raw materials, which include: (cow's) milk, sheep milk, goat milk, buffalo milk; cream, sweet whey, sour whey, whey cream; butter, clarified butter, buttermilk; milk quark.

In **Greece**¹¹⁰, cheese is generally defined by legislation as the matured product of curd, free from whey to the desired extent, which has been prepared by the action of rennet or other enzymes which act accordingly in milk (fresh or pasteurized milk, milk of cow, sheep, goat, buffalo and mixtures thereof) or in partially skimmed milk or a mixture thereof and/or mixtures thereof with cream.

The most important specificity concerning **Italy** is the explicit prohibition (pursuant to Law No 138 of April 11th, 1974) to produce cheese from reconstituted milk powder. The general definition of cheese is established by a 1925 Legislative Decree¹¹¹ (still in force): cheese is the product obtained from whole, partially skimmed or skimmed milk, or from cream, following acid or rennet coagulation, also through the use of ferments and salt.

The most significant differences identified in the **Netherlands**¹¹² concern the definition of the production process, and of the raw materials¹¹³. In particular, the Dutch definition refers (emphasis added) to "**cow's** milk to which milk constituents may or may not have been added or removed", whereas the Codex definition refers to "protein of milk, skimmed milk, partly skimmed milk, cream, whey cream or buttermilk, or any combination of these materials".

As for the **United Kingdom**, the general definition of cheese¹¹⁴ is rather different from the one provided by the Codex General Standard for cheese. It contains no reference to the whey protein/casein ratio, as well as the action of rennet or other coagulating agents. Also the list of raw materials differs significantly from the one provided by the Codex General Standard, and it explicitly includes concentrated skimmed milk and reconstituted dried milk.

¹⁰⁹ Cheese Regulation (Käseverordnung - KäseV) of 24/06/1965.

¹¹⁰ Article 83 of the Greek Food Code (3rd edition, April 2014).

¹¹¹ Regio Decreto Legge No 2033 of October 15th, 1925.

¹¹² Dairy Commodities Act Decree (Warenwetbesluit Zuivel), valid from 22-12-2016.

¹¹³ According to the Codex definition, cheese is obtained by (emphasis added) "a: coagulating wholly or partly the *protein of milk, skimmed milk, partly skimmed milk, cream, whey cream or buttermilk, or any combination of these materials*, through the action of rennet or other suitable coagulating agents, and by partially draining the whey resulting from the coagulation, or b: processing techniques involving coagulation of the *protein of milk and/or products obtained from milk* which give an end-product with similar physical, chemical and organoleptic characteristics as the product defined under "a". The definition in the Dutch legislation establishes that cheese is obtained by (emphasis added): "a: total or partial curdling of *cow's milk to which milk constituents may or may not have been added or removed* and partial removal of whey resulting from such curdling; or b: process techniques in which the total or partial coagulation of *cow's milk to which milk constituents have been added or extracted or not* forms part and which result in a product having physical, chemical and organoleptic properties similar to those of the product referred to in "a".

¹¹⁴ According to the "Cheese and Cream Regulations" 1995 No 3240, "cheese" means the fresh or matured product intended for sale for human consumption, which is obtained as follows: a) in the case of any cheese other than whey cheese, by combining, by coagulation or by any technique involving coagulation, of any of the following substances, namely milk, cream, skimmed milk, partly skimmed milk, concentrated skimmed milk, reconstituted dried milk, butter milk, materials obtained from milk, other ingredients necessary for the manufacture of cheese provided that those are not used for replacing, in whole or in part, any milk constituent, with or without partially draining the whey resulting from coagulation; b) in the case of whey cheese, i) by concentrating whey with or without the addition of milk and milk fat, and moulding such concentrated whey, or ii) by coagulating whey with or without the addition of milk and milk fat.

Austria, Bulgaria, Hungary and Romania have legislation-based definitions for specific cheese types, but no general legislation-based definition of cheese.

Finally, **no legislation-based definition of cheese** is currently in force in **Estonia, Ireland, Luxembourg, Poland, Portugal and Slovenia**. However, a national legislation-based definition of cheese used to be in force in Portugal in the past, and in 2015 a sectoral association submitted to the Polish Ministry of Agriculture and Rural Development a draft proposal for regulating the basic nomenclature of dairy products (including cheese), with definitions and requirements based on the relevant Codex standards.

In conclusion, **most of the significant cheese-producing Member States¹¹⁵ have legislation-based general definitions of cheese in force**; those definitions are **similar to the Codex General Standard for cheese in 8 Member States, whereas they differ from that in 8 other Member States**.

¹¹⁵ A legislation-based general definition of cheese was found to be in force in 16 out of 26 Member States; no information was retrieved for Cyprus and Malta.

3 TYPOLOGY OF EXISTING EU MARKETING STANDARDS

The definition of “technical regulation” given by the WTO Agreement on TBT¹¹⁶ provides an officially and widely recognised framework for the elaboration of a definition of “marketing standards” established through legislation. A technical regulation is a “document which lays down product characteristics or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory. It may also include or deal exclusively with terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method”.

EU marketing standards can be defined as **technical regulations** (according to the aforementioned definition) aimed at achieving a number of global and specific **objectives concerning the marketing of agricultural and food products** (as defined at § 1.1) through a **combination of appropriate instruments** (as identified and described at § 2.2).

3.1 Classification of existing EU marketing standards

EU marketing standards can be classified according to the **type of instruments used**, taking into account the **purposes that those instruments allow to achieve**, as well as the **categories of stakeholders at which the instruments are targeted**. The classification proposed here was developed with a view to defining a model of intervention logic of marketing standards (see § 4) through the identification and characterisation of the relationships between the marketing standards, their expected impacts and pursued objectives (i.e. their purposes) according to the combination of instruments used, and the various targeted stakeholders.

From a logical standpoint, the typologies of instruments described at § 2.2 can be classified according to their **purposes**, as defined by their **main direct expected impacts** intended for **specific groups of stakeholders** (this does not exclude *a priori* indirect/unexpected/unintended effects on other groups of stakeholders)¹¹⁷.

The expected impacts considered in Table 3.1 are defined consistently with the criteria used for the assessment of the **effectiveness of EU marketing standards**, i.e. “the extent to which the objectives pursued by marketing standards are achieved in practice” (see § 5.3).

In the case of business stakeholders, the expected impacts in terms of actions to be taken to ensure compliance, which can determine additional costs and administrative burden, have not been linked to any specific instruments. Similarly, in the case of Competent Authorities, the actions to be taken to implement and enforce marketing standards, which can result in additional costs and administrative burden, have not been linked to any specific instruments. These actions, and the expected impacts in terms of costs incurred as a consequence, are outlined in the description of the methodology for assessing the efficiency of EU marketing standards (EQ 4 and 5; see § 5.4). On the other hand, the benefits of these actions, in terms of achieved objectives, are included amongst the expected impacts considered in Table 3.1.

As it can be seen from Table 3.1, the **expected direct impacts of most instruments are on both business stakeholders and consumers**. This is consistent with the expected contribution of these instruments to the achievement of the objectives of EU marketing standards, i.e. the intervention logic of EU marketing standards (see § 4.1).

For two typologies of instruments¹¹⁸ the expected impacts are mainly on both business stakeholders and competent authorities, whereas the expected impacts of the certification of hops pursuant to Article 77 of the CMO Regulation are mainly on business stakeholders.

¹¹⁶ Annex 1 of the TBT Agreement: https://www.wto.org/english/docs_e/legal_e/17-tbt.pdf

¹¹⁷ Any classification presents some challenges, including elements that may not be as clear-cut. The classification followed here poses, in the evaluation team’s experience, the least challenges, as it allows the systematic identification and analysis of the expected impacts.

It is worth underlining that the direct impacts on consumers as well as on business stakeholders across the value chain, i.e. producers (farmers), processors and traders/retailers, are expected more generally to have an indirect impact on Competent Authorities: a well-regulated sector where objectives are achieved is less susceptible to cause problems for consumers and business stakeholders, that would need to be addressed at national level with further legislation and controls/enforcement actions by the authorities.

The concept of a marketing standard implies by definition a **“market” relationship between two or more stakeholders**. In this context – in addition to the linkages between instruments and impacts for the different categories of stakeholders – it can be useful to consider also the **relationships among three sub-groups of business stakeholders**, thus identifying the expected “vertical” impacts within the food value chain. If intra-supply chain relationships between **producers, processors and traders/retailers** are also considered, **most of the instruments impact all the three sub-groups of business stakeholders: producers (farmers), processors and traders/retailers**. One instrument (certification for hops) exerts its main direct impacts on producers and processors; another instrument (additional requirements for the marketing of fruit and vegetables pursuant to Article 76 of the CMO Regulation) impacts producers and traders/retailers, and a third instrument¹¹⁹ mainly impacts processors and traders/retailers.

¹¹⁸ Conditions governing the disposal, the holding, circulation and use of products not in conformity with the marketing standards / the disposal of by- products; provisions on tolerance for one or more specific standards.

¹¹⁹ Standards on specific substances used in production, or components or constituents, including their quantitative content, purity and identification.

Table 3—1 – Classification of the instruments of marketing standards according to their purpose and the targeted stakeholders*

Typologies of instruments	Purpose and targeted stakeholders*									
	1: Improved opportunities for better product valorisation	2: Reduction of quality-related issues and of related transaction costs (B2B relationships)	3: Ensuring fair competition (across the value chain)	4: Effects on cost of production (including impact on waste)	5: Ensuring fair competition (between equivalent products)	6: Ensuring legal certainty to have a marketable product (how to produce, to label...)	7: Reduction of quality-related issues (B2C relationships)	8: Access to adequate information	9: Enhanced variety of products available on the market	10: Improved conditions to implement/enforce EU agricultural products quality policy
a: technical definitions, designation and sales descriptions	BU	BU	BU		BU	BU	CO	CO	CO	
b: classification criteria such as grading into classes, weight, sizing, age and category	BU	BU		BU	BU		CO	CO	CO	
c: indication of the species, plant variety or animal race or commercial type	BU	BU			BU		CO	CO	CO	
d: presentation, labelling linked to compulsory mktg. standards, packaging, rules to be applied in relation to packing centres, marking, year of harvesting and use of specific terms	BU	BU	BU		BU	BU	CO	CO	CO	
e: criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content	BU	BU		BU	BU	BU	CO	CO		
f: standards on specific substances used in production, or components or constituents, including their quantitative content, purity and identification	PR / TR	PR / TR			PR / TR	PR / TR	CO	CO	CO	
g: standards on the type of farming and production method, including advanced systems of sustainable production	BU	BU		BU	BU	BU		CO	CO	
h: standards on the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport		BU		BU			CO	CO		
i: indication on the place of farming and/or origin	BU	BU						CO	CO	
j: restrictions as regards the use of certain substances and practices		BU		BU	BU	BU	CO	CO	CO	
k: conditions governing the disposal, the holding, circulation and use of products not in conformity with the marketing standards / the disposal of by- products		BU		BU						CA
l: additional requirements for marketing of products in the fruit and vegetables sector	FA / TR	FA / TR	FA / TR	FA / TR	FA / TR	FA / TR	CO	CO	CO	
m: certification for hops	FA / PR	FA / PR								
n: provisions on tolerance for one or more specific standards		BU		BU						CA
o: optional reserved terms by sector or by product	BU	BU		BU	BU			CO	CO	

* BU = mainly all the three sub-groups of business stakeholders (producers, processors, traders/retailers); FA = producers (farmers); PR = processors; TR = traders/retailers; CO = mainly consumers; CA = mainly Competent Authorities

3.2 Existing EU marketing standards: cross-sectoral and global overview

Different combinations of instruments (as identified and described at § 2.2) are used to establish EU marketing standards in the different sectors covered by the evaluation.

Table 3.2 provides a cross-sectoral, global overview of EU marketing standards, as defined by the different sector-specific combinations of instruments. It is based on information reported at § 1.2, and on the analysis of the relevant provisions.

Table 3—2 – Instruments of EU marketing standards: cross-sectoral and global overview*

Typologies of instruments*	Sectors						
	Fresh fruit and vegetables	Processed fruit and vegetables	Poultry	Eggs	Dairy products	Olive oil	Hops
a: technical definitions, designation and sales descriptions							
b: classification criteria such as grading into classes, weight, sizing, age and category							
c: indication of the species, plant variety or animal race or commercial type							
d: presentation, labelling linked to obligatory marketing standards, packaging, rules to be applied in relation to packing centres, marking, year of harvesting and use of specific terms							
e: criteria such as appearance, consistency, conformation, product characteristics and the percentage of water content							
f: standards on specific substances used in production, or components or constituents, including their quantitative content, purity and identification							
g: standards on the type of farming and production method, including advanced systems of sustainable production							
h: standards on the frequency of collection, delivery, preservation and handling, the conservation method and temperature, storage and transport							
i: indication on the place of farming and/or origin							
j: restrictions as regards the use of certain substances and practices							
l: additional requirements for marketing of products in the fruit and vegetables sector							
m: certification for hops							
o: optional reserved terms by sector or by product							

* Due to their “horizontal” scope, the following instruments were not considered:

- k: conditions governing the disposal, the holding, circulation and use of products not in conformity with the marketing standards / the disposal of by-products;
- n: provisions on tolerance for one or more specific standards.

4 INTERVENTION LOGIC OF MARKETING STANDARDS

4.1 Model of intervention logic of marketing standards

The Better Regulation Guidelines and Toolbox (and in particular Tool # 46 “Designing the evaluation”¹²⁰) do not mandate a specific approach to develop the model of the intervention logic of the EU legislation that is the object of an evaluation. There are indeed many possible formats or approaches to describe the logic of an intervention. According to the Terms of Reference for the present evaluation, the model of intervention logic of marketing standards should show “the relationships between the measures, the expected impacts, the objectives of the instruments and the various stakeholders”.

Also considering the very high number of individual pieces of EU legislation (both Regulations and Directives) covered by the evaluation, and the wide sectoral and product coverage of EU marketing standards (see § 2.1), it is advisable to focus the attention on the cause-effect linkages between:

1. The different **typologies of instruments** foreseen by the relevant **EU measures**: definitions for individual products / product typologies, minimum requirements, terms that can be used to characterise specific features of products and/or of production processes, rules on presentation and labelling of products, etc.
2. The **expected impacts** of these instruments on the **different groups of stakeholders**: producers, processors, traders, retailers, consumers, Member States' administrations.
3. The **objectives of EU marketing standards** that should be achieved by the different instruments through the expected impacts on stakeholders.

The model of intervention logic developed here focuses on the main typologies of instruments foreseen by the CMO Regulation, as identified and described at § 2.2. Indeed, definitions and labelling rules in the secondary CMO legislation and in the “Breakfast Directives” are not different in their nature from the same instruments covered under Article 75(3) of the CMO Regulation: they are only tailored to the specific needs of certain sectors or products.

The expected impacts of the instruments were presented at § 3.1; their linkages to the objectives of EU marketing standards are discussed at § 4.1.1, together with graphical representations of the **model of intervention logic of EU marketing standards** (general model; models focusing on the objectives concerning specific groups of affected stakeholders).

4.1.1 Contribution of the instruments to the achievement of the objectives of EU marketing standards

The expected impacts of the different instruments of EU marketing standards (as identified and described at § 3.1) can contribute to the achievement of one or more of the **objectives of EU marketing standards**.

The objectives of marketing standards in the framework of EU agricultural product quality policy are defined by the recitals of the CMO Regulation (and in particular by recitals 64 and 65) and articles 75.2 and 75.5.b as follows:

1. Contributing to improve the **economic conditions for production and marketing** of agricultural and food products. This includes providing a **level playing field for producers, processors and traders/retailers**, and **facilitating trade** in these products.
2. Contributing to **improve the quality of such products** in the interest of producers, traders and consumers.

¹²⁰ Available at https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-46_en_0.pdf

3. Taking into account the expectations of consumers about receiving **adequate and transparent product information**.
4. Enabling the **market to be easily supplied** with products of a **standardised and satisfactory quality**.

As for secondary CMO legislation and the “Breakfast Directives”, their specific objectives have been defined on a case-by case basis. In general, however, all the related provisions are aimed at:

1. **Consumers** → better informing the consumer about the concerned products and their characteristics.
2. **Business operators** → ensuring fair trade practices.

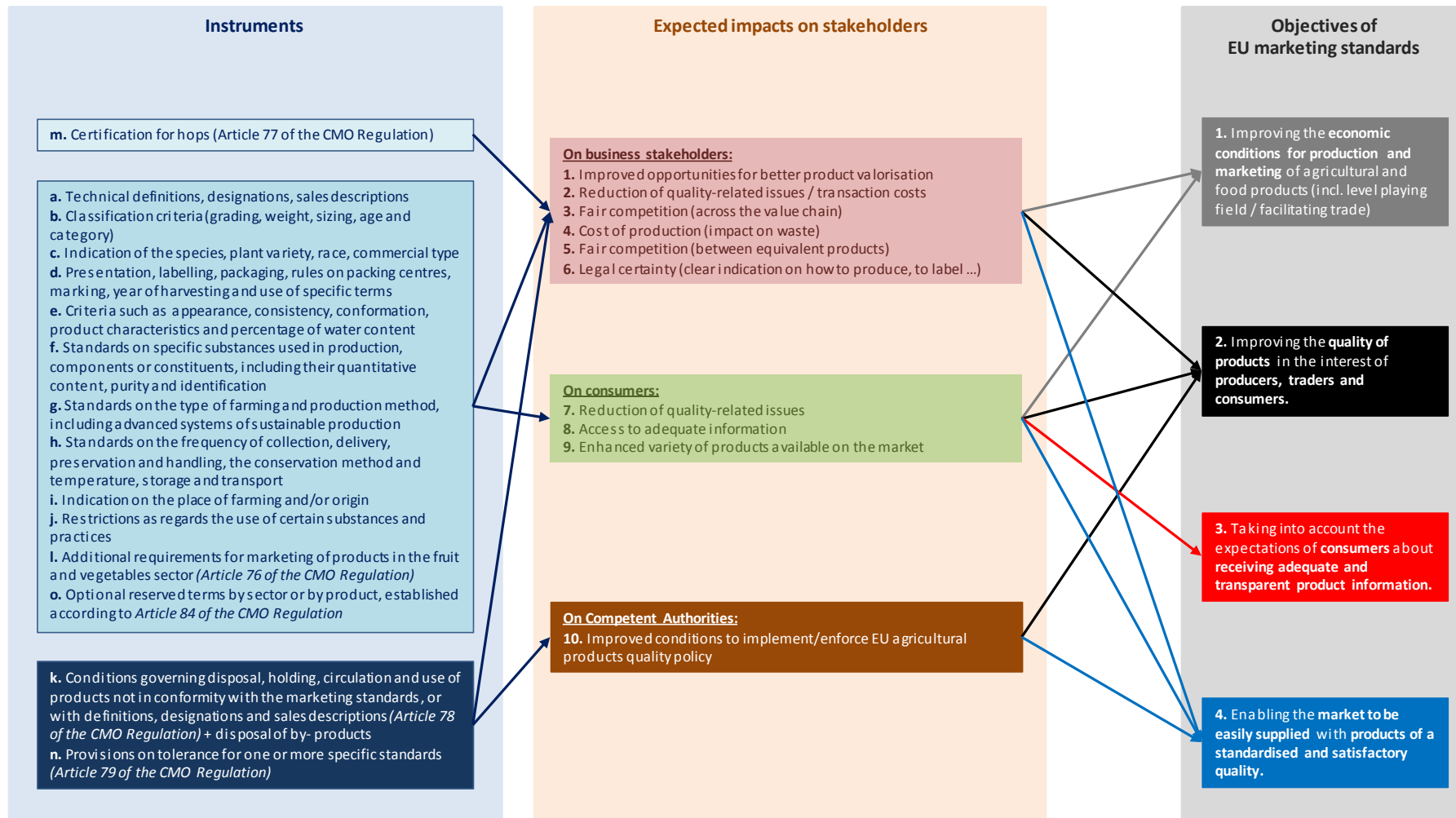
Figure 4.1 outlines the most significant functional linkages between typologies of instruments, expected impacts on stakeholders and the objectives of EU marketing standards.

Most instruments are expected to cause different impacts on business stakeholders and consumers, and should hence **contribute to achieving all the four objectives of EU marketing standards**, albeit to a different extent. The certification of hops is expected to have impacts mainly on business stakeholders: as a consequence, its expected contribution to providing adequate and transparent product information to consumers should not be significant. Analogous considerations can be made for other specific instruments (conditions governing disposal, holding, circulation and use of non-compliant products; provisions on tolerance for one or more specific standards), which are expected to have direct impacts exclusively on business stakeholders and Competent Authorities.

Figure 4.2 outlines the **detailed functional linkages** between instruments, the expected impacts **on business stakeholders** and the objectives of EU marketing standards, while Figure 4.3 focuses on the relationships between instruments and the expected impacts on **consumers**.

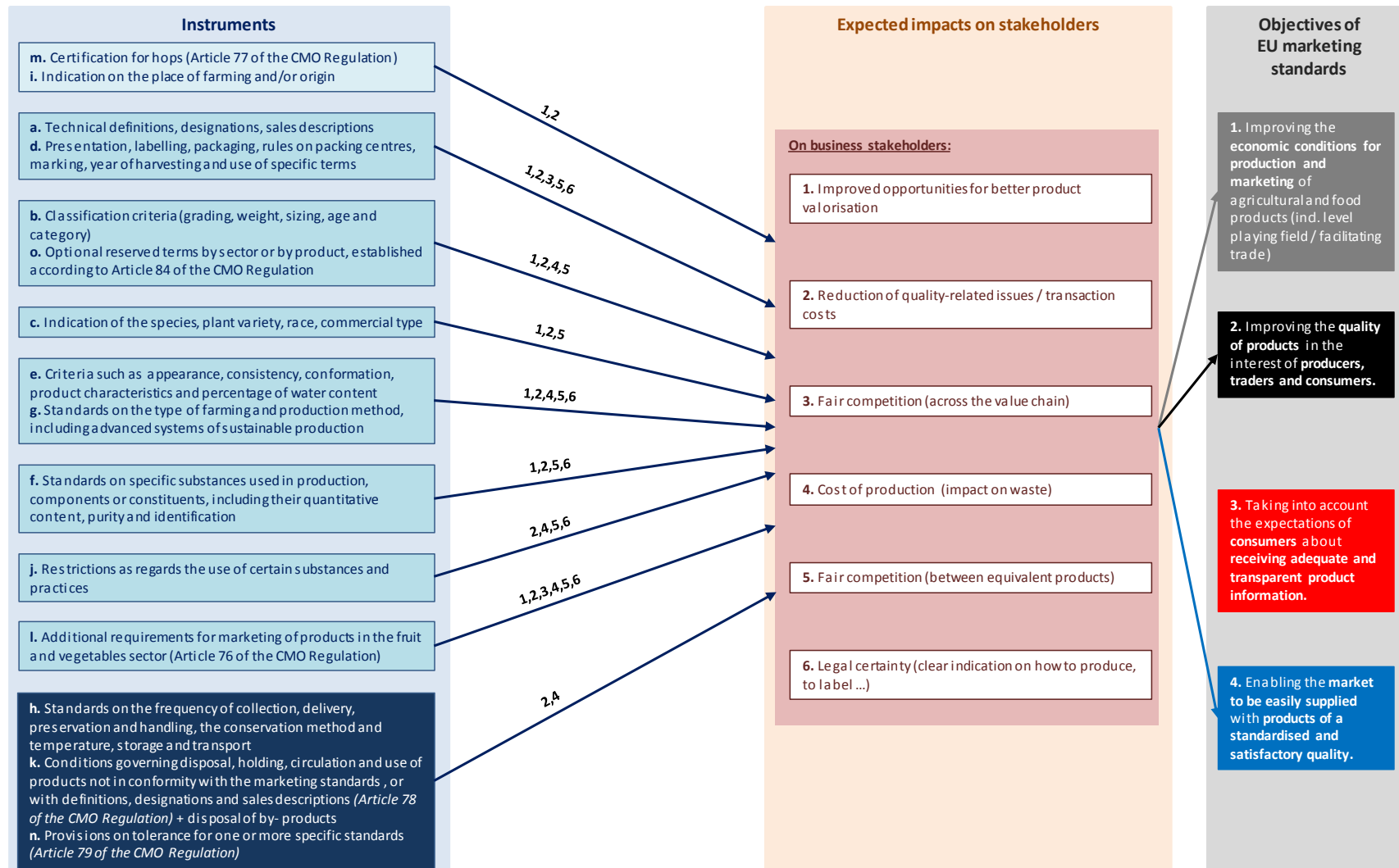
Finally, Figure 4.4 provides a graphical representation of the **intra-supply chain relationships** among the different categories of business stakeholders (producers, processors and traders/retailers), as outlined in Table 3.1.

Figure 4-1 - Model of intervention logic of EU marketing standards – summary



Instruments are identified consistently with the list provided in Table 3.1 and Table 3.2.

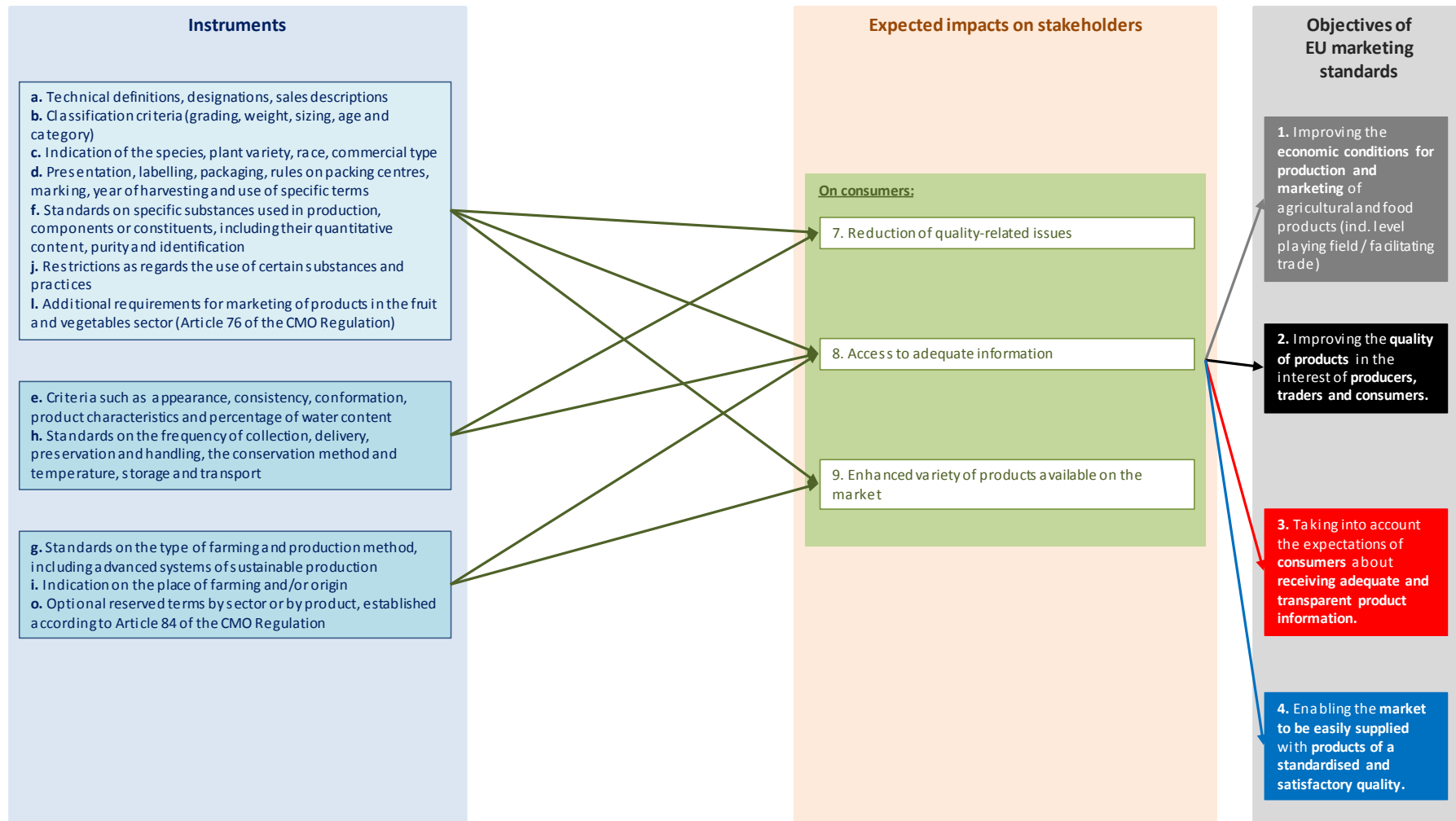
Figure 4-2 - Model of intervention logic of EU marketing standards – focus on business stakeholders



Instruments are identified consistently with the list provided in Table 3.1 and Table 3.2.

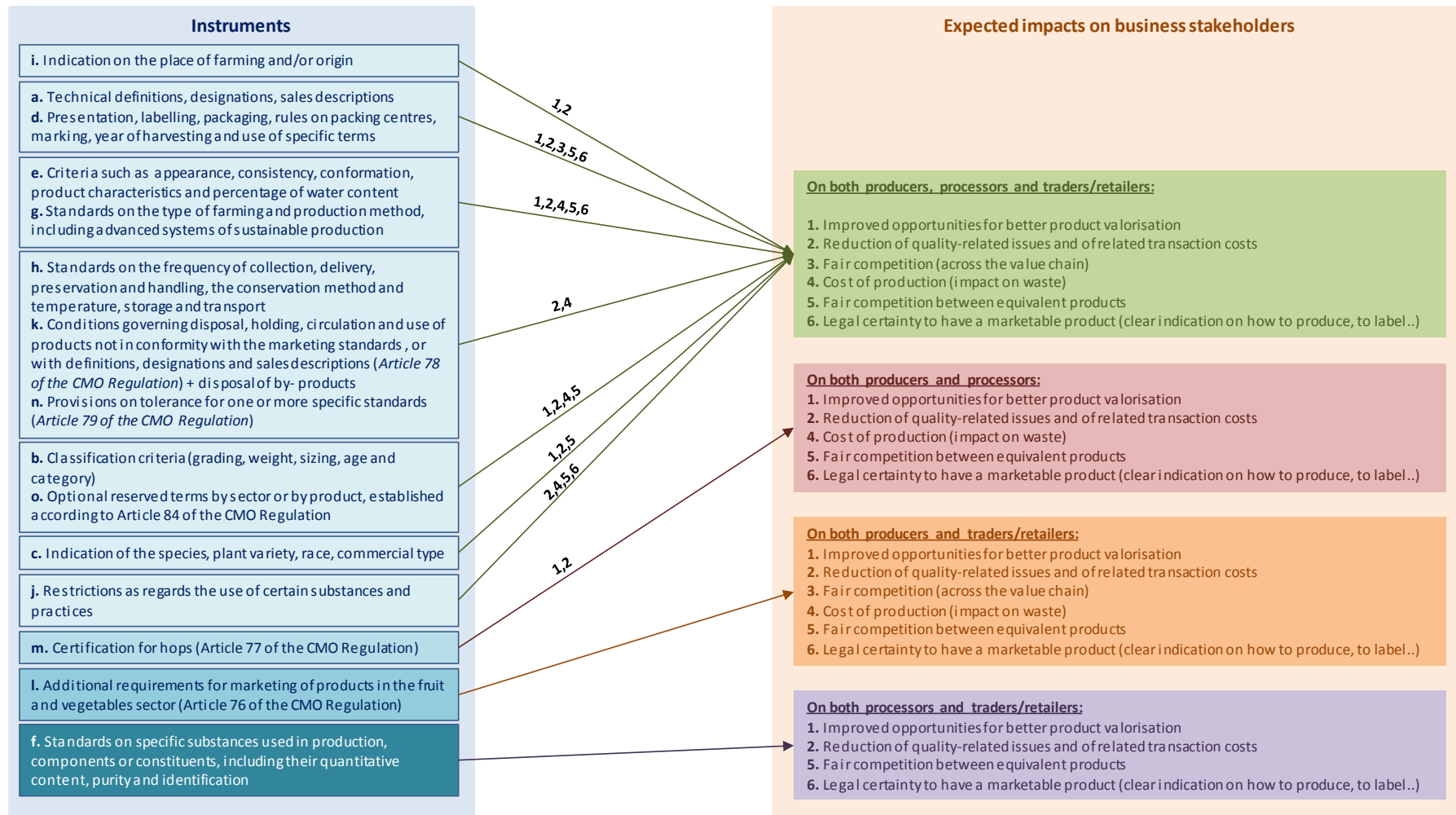
Numbers on the arrows indicate the relevant expected impacts for each instrument

Figure 4-3 - Model of intervention logic of EU marketing standards – focus on consumers



Instruments are identified consistently with the list provided in Table 3.1 and Table 3.2.

Figure 4-4 - Model of intervention logic of EU marketing standards – focus on vertical relationships between subcategories of business stakeholders



Instruments are identified consistently with the list provided in Table 3.1 and Table 3.2.

Numbers on the arrows indicate the relevant expected impacts for each instrument

Section B – Methodological approach

5 EVALUATION METHODOLOGY

5.1 Evaluation framework

The overall approach and the methodology for this evaluation are based on the Better Regulation Guidelines and Toolbox¹²¹. The starting point for the development of the evaluation framework is the **intervention logic** of the measures establishing the relevant marketing standards (see § 4).

The overall approach to the evaluation is structured around the typical **four main tasks**, i.e. **structuring, observing, analysing** and **judging**. The evaluation methodology for the **five evaluation themes** (dealing with the effectiveness, efficiency, relevance, coherence and EU added value of the current applicable marketing standards for food products) takes into account the fact that several of the **twelve evaluation questions** are broken down into **specific sub-questions**, which are often sector- or product-specific, standard-specific or even focus on specific elements of well-defined marketing standards.

Conclusions drawn from the replies to the evaluation questions are aimed at:

1. assessing which marketing standards can be considered as **good practices, or bad examples**, independently from the sector, but with regard to their type and targeted stakeholder;
2. identifying needs, problems and issues that have not been adequately addressed by EU marketing standards, and which would hence **need to be addressed**;
3. identifying the needs for intervention (or lack thereof) in the **sectors currently not covered by EU marketing standards**.

The final goal of the evaluation is providing **insights for policy recommendations** aimed at addressing the identified issues through the improvement of existing provisions or the design of new ones.

5.2 Overall approach to the evaluation and data collection strategy

The **overall approach to answering evaluation questions** is based on the following elements:

- Interpretation and comprehension of the **key terms** of the evaluation questions and provision of appropriate **definitions** of these terms.
- Indication of the **judgement criteria** allowing to answer each question, and of the related **set of indicators** (as well as, wherever opportune, the quantitative level to be reached by such indicators).
- Explanation of the **validity** of the quantitative and qualitative information used, and indication of the related limitations.
- Description of the **methods used for answering each question** and indication of their limitations.
- Detailed description of the **reasoning followed in the analysis**, indicating in particular the underlying hypotheses and validity limits.
- **Conclusions for each question**, to be drawn directly from the analysis.

The above approach is applied for answering each of the twelve evaluations questions, including the related sub-questions.

¹²¹ See https://ec.europa.eu/info/law/law-making-process/planning-and-proposing-law/better-regulation-why-and-how/better-regulation-guidelines-and-toolbox_en

The **data collection strategy** made use of a **combination of multiple data collection methods and tools** to gather the vast and varied evidence base needed for the evaluation. In particular, the use of multiple data collection methods and tools for collecting the same information items was aimed at improving the robustness of the overall data collection system, at addressing potential failure of specific methods/tools, and at managing the related risks for a successful completion of the assignment. The combination includes:

1. **Desk research**, which covers:
 - a. collection of the relevant legislative texts;
 - b. collection of the relevant documentation;
 - c. collection of the relevant background information;
 - d. review of the available scientific and technical literature (of both general and specialist nature);
 - e. collection of the relevant datasets and mining of the available databases.
2. **In-depth structured interviews with competent authorities, stakeholders and independent experts**, aimed at collecting evidence to:
 - a. identify key sources of information;
 - b. complement the quantitative and qualitative evidence collected via desk research, surveys and focus groups (see points 1, 3 and 4);
 - c. cross-check the validity and reliability of evidence collected;
 - d. understand the observed dynamics and phenomena, and interpret the results of the analysis under the five evaluation themes;
 - e. get insights for the judgments to be elaborated for the twelve evaluation questions.
3. **Stakeholders' surveys**. Three different surveys were carried out, targeting different respondents and collecting from primary sources an important part of the evidence base needed for the evaluation:
 - a. *Member States' Competent Authorities* (MS CAs henceforth).
 - b. *Business associations both at EU level and MS level*.
 - c. *Consumers associations*.

Each survey was tailored to the specific category of recipients.

4. **Focus groups with business associations, consumer associations and independent experts**. These were used for collecting relevant information from primary sources (associations of business operators directly impacted by the implementation of marketing standards; consumer associations; academics and consultants boasting high-profile expertise on marketing standards).
5. **Four thematic case studies**, focusing on specific aspects/issues in the implementation of marketing standards through Regulations or Directives, or stemming from the lack of marketing standards:
 - a. Directive 2012/12/EU amending Directive 2001/112/EC relating to **fruit juices and certain similar products** intended for human consumption, to investigate more in depth the effectiveness of the provisions on minimum brix level for reconstituted juices in creating a level playing field for producers.
 - b. Directive 2000/36/EC, to investigate more in-depth the effectiveness of marketing standards covering **cocoa and chocolate products** (marketed for both industrial and final consumer use) in creating a level playing field for producers.
 - c. Commission Regulation (EC) No 543/2008 (**poultry meat sector**) with a focus on optional reserved terms¹²², in order to explore their implications in terms of level playing field/coherence/EU added value (also because some Member States have put in place national schemes to define alternative production systems in the sector).
 - d. **Absence of an EU definition for cider**. This case study focuses on the different national requirements for cider (in particular the apple juice content used in its production) to explore the difficulties in and the possible added value from establishing an EU standard for cider (cider is an agricultural product covered by Regulation (EU) No 1308/2013, it is not listed in Article 75.1, but it could be included according to Article 75.6).

¹²² As defined in Article 11 of the Regulation in order to provide for alternative poultry production systems with higher animal welfare.

Focus groups with producers, processors, traders/retailers and consumer associations were carried out in the form of a **multi-stage consultation process**, aimed at feeding qualitative and especially quantitative evidence for replying to EQ 4 and 5 on efficiency of EU marketing standards (Theme II; see § 5.4).

The **focus group with independent experts and sectoral experts** was aimed at exploring to what extent the **establishment of EU marketing standards for the sectors/products currently not covered** would create an **EU added value** (Theme V, EQ 12; see § 5.7). It was hence carried out towards the end of the data collection phase, in order to benefit from the findings of the assessment of the other four study themes, and of the four thematic case studies.

Thematic case studies were aimed at collecting additional evidence for the assessment of:

- the effectiveness of EU marketing standards, and in particular of their contribution to creating a **level playing field for producers, traders and retailers** (Theme I; see § 5.3);
- the **strengths and weaknesses of Regulations and Directives** as instruments to establish **marketing standards for the sectors/products currently not covered** (Theme V, EQ 12; see § 5.7).

5.3 Evaluation methodology for Theme I - Effectiveness

The **effectiveness of EU marketing standards** is defined as “the extent to which the objectives pursued by the marketing standards concerned are achieved”.

EQ 1, EQ 2 and EQ 3 focus on the assessment of different aspects of the effectiveness of EU marketing standards in achieving their general and specific objectives. The **correct identification of the objectives** of establishing the EU marketing standards covered by the evaluation, and an opportune classification of these objectives, was therefore an essential preliminary step for the evaluation. These objectives were classified into “business-related” (sub-divided into “producers-related”, “processors-related” and “traders/retailers-related”) and “consumer-related” ones, and were further divided into general objectives (pertaining to the relevant EU marketing standards as a whole) and sector/product/standard-specific objectives.

A key aspect in evaluating the effectiveness of EU marketing standards is “**measuring**” the extent to which **the objectives have been achieved in practice**. Another critical aspect is determining to what extent any observed effects that are relevant for the assessment can be **exclusively, or at least mainly, attributable to the establishment of EU marketing standards**; in other terms, isolating the contribution of EU marketing standards from the contribution of other factors¹²³ to the observed effects. Several reasons - the high number of potentially relevant “other factors”, the complex nature of the underlying cause-effect relationships, the already seen importance of stakeholders’ perceptions, together with likely limitations in the availability of suitable quantitative data – **prevented the use of quantitative methods** usually employed for such purpose¹²⁴, and suggested the use of qualitative methodologies.

Finally, a **baseline** for the evaluation - i.e. the period considered as a benchmark to evaluate the effectiveness of current marketing standards – was defined. Since the different marketing standards currently in force entered into application in different times, different baselines – corresponding to the periods before the adoption of each marketing standard currently in force - were considered in the assessment.

¹²³ E.g. growth in consumers’ average income, socio-cultural phenomena determining an evolution of consumer tastes, etc.

¹²⁴ These quantitative methods (“Difference-In-Difference”, “Propensity Score Matching”, etc.) are generally used in the framework of the so called “counterfactual approach”. The counterfactual approach is based on the comparison between a reality (a group of operators, a sector, an entire agribusiness system) that is impacted by a specific policy measure (EU marketing standards, in our case) and a comparable reality that is not impacted by that measure. The counterfactual approach allows to quantify the “net observed effects” of a policy measure, inasmuch it “subtracts” from the overall observed effects the so called “trend effects”, which do not derive from the policy intervention. The difficulty of defining a “counterfactual situation” in practice, as well as the challenging requirements in terms of availability of suitable datasets, often prevent the use of the counterfactual approach and the application of the aforementioned quantitative methods.

5.4 Evaluation methodology for Theme II - Efficiency

The **efficiency of EU marketing standards** can be defined as the “best relationship between resources employed and results achieved in pursuing a given objective through the marketing standards concerned”.

The critical aspect in the assessment of efficiency - which is also referred to as “proportionality analysis”¹²⁵ - is the **quantification** of:

- the **costs** (of compliance, of controls, etc.) arising from the establishment of EU marketing standards for the various stakeholders (food producers, processors, intermediate operators (traders), MS competent authorities, final consumers);
- the **benefits** achieved by the EU marketing standards. In particular, the benefits are defined in terms of the extent to which objectives have been achieved and the outcome of these achievements (i.e. linked to effectiveness).

Besides the challenges posed by the **availability of suitable data** for the quantification, and by the “**sensitive nature**” of most of these data (operators are usually unwilling to disclose data on costs, revenues and margins), additional challenges stem from the **non-explicit / non-monetary nature** of some of the relevant costs and benefits.

As the intervention already exists, the evaluation methodology for EQ 4 and EQ 5 is based on a **cost-benefit analysis (CBA)**. However, **qualitative evidence was also taken into account** when dealing with non-explicit / non-monetary costs and benefits, and/or to cope with gaps and limitations in the availability and quality of suitable quantitative data.

The **potential for simplification** in the current rules and/or their implementation/enforcement (EQ5) was assessed through a step-wise approach involving the identification and analysis of:

- a. the costs stemming from the rules and/or their implementation/enforcement;
- b. any existing unnecessary overlaps/redundancies in the provisions laid down between the marketing standards, which lead to unnecessary costs; and,
- c. the potential to correct/eliminate these overlaps/redundancies (through simplification/harmonisation).

5.5 Evaluation methodology for Theme III – Relevance

The **relevance of EU marketing standards** can be defined as “the extent to which the marketing standards concerned are pertinent to needs, problems and issues”.

This theme is covered by **EQ 6** and five related, sector/product-specific sub-questions. The very nature of the key relevant concept for the assessment, i.e. the “pertinence to needs, problems and issues”, left a very limited scope for the use of quantitative indicators. The evaluation hence relied mainly on the **qualitative appraisal of the perceptions/judgments of stakeholders** about such “pertinence”; quantitative indicators were used for the assessment of specific aspects only (within the limits allowed by the availability of suitable data).

5.6 Evaluation methodology for Theme IV - Coherence

The **coherence of EU marketing standards** can be defined as “the extent to which the marketing standards concerned do not contradict other measures with similar objectives”.

¹²⁵ “To what extent the incurred costs are justifiable and proportionate to the achieved benefits?”

Also in this case the very nature of the key relevant concept for the assessment, i.e. the “**absence of conflicting objectives**”, left a very limited scope for the use of quantitative indicators. The evaluation was therefore mainly based on the **qualitative appraisal of the perceptions/judgments of stakeholders** about the various declinations of the concept of “coherence” considered in the assessment:

1. unexpected or unintended effects of EU marketing standards (EQ 7);
2. coherence of EU marketing standards between each other (EQ 8);
3. coherence of EU marketing standards with other EU rules (e.g. on food safety, food information to consumers, geographical indications or organic products) (EQ 9);
4. coherence of EU marketing standards with international marketing standards (Codex, UNECE, etc.) and with private marketing standards (EQ 10).

5.7 Evaluation methodology for Theme V – EU added value

The **EU added value from establishing EU marketing standards** can be defined as “the value resulting from applying policy measures at EU level which is additional to the value that would have resulted from applying similar measures at regional or national level by public authorities or the private sector”. In principle, the assessment of EU added value in the framework of the evaluation should entail the **identification, characterisation** and – wherever possible – **quantification of differential benefits** arising from establishing EU marketing standards:

1. vis-à-vis a situation where only international marketing standards (as defined by such bodies as the Codex Alimentarius, UNECE, etc.) and private standards apply (EQ 11);
2. for the sectors/products currently not covered by EU marketing standards (EQ 12).

These differential benefits could also result from **reduced costs** for the concerned stakeholders.

The **main challenge in the assessment** at points 1 and 2 above derived from serious difficulties in identifying a concrete situation comparable to the situation of the sectors currently covered by EU marketing standards for the key techno-economic aspects other than the application of EU marketing standards. This *coeteris paribus* condition is indeed an essential prerequisite for attempting a reliable enough quantification of the differential benefits arising from EU marketing standards. The practical absence of such a prerequisite suggested the adoption of a **mainly qualitative approach to the assessment of EU added value**, based on the identification and characterisation of **possible differential benefits from the establishment of EU marketing standards as identified by the potentially affected stakeholders** (FBOs (producers and processors), traders/retailers, consumers, EU-level and MS-level competent authorities).

Section C – Evaluation Questions

THEME I – EFFECTIVENESS

6 EQ 1: TO WHAT EXTENT HAS THE CURRENT FRAMEWORK OF EU MARKETING STANDARDS BEEN SUCCESSFUL IN ACHIEVING ITS OBJECTIVES?

EQ 1: Definition of key terms

“Objectives of the current framework of EU marketing standards”: the current framework of EU marketing standards of relevance for the evaluation is defined at § 2. The general objectives of EU marketing standards in the framework of EU agricultural product quality policy are those defined by the recitals of the CMO Regulation (and in particular by recitals 64 and 65) and articles 75.2 and 75.5.b (see § 4):

1. Contributing to improve the **economic conditions for production and marketing** of agricultural and food products. This includes providing a **level playing field for producers, processors and traders/retailers**, and **facilitating trade** in these products.
2. Contributing to **improve the quality of such products** in the interest of producers, traders and consumers.
3. Taking into account the expectations of consumers about receiving **adequate and transparent product information**.
4. Enabling the **market to be easily supplied** with products of a **standardised and satisfactory quality**.

As for secondary CMO legislation and the “Breakfast Directives”, their specific objectives are defined on a case-by case basis. In general, however, all the related provisions are aimed at:

5. **better informing the consumer** about the concerned products and their characteristics;
6. **ensuring fair trade practices** among business operators.

“Successful in achieving its objectives → Effectiveness”: the extent to which the objectives pursued by EU marketing standards (see the definition provided above) have been achieved in practice.

“Marketing standards for olive oil (with respect to durability)” (EQ 1.1 at § 6.4): Article 9(1)(f) of Regulation (EU) No 1169/2011 lays down, among the mandatory particulars to be indicated on labels, the “date of minimum durability”. For olive oil, the “date of minimum durability” corresponds to the period within which olive oil retains its properties (when properly stored), and should preferably be consumed. It is the responsibility of the food business operators to indicate this date of minimum durability. Regulation (EEC) No 2568/91 and Regulation (EC) No 29/2012 require Member States to carry out conformity checks to ensure – among others – that the declared properties of the olive oil¹²⁶ are maintained till the date of minimum durability.

“Poultry meat: rules on the optional reserved terms (types of farming)” (EQ 1.2 at § 6.5): Article 11(1) of Regulation (EC) No 543/2008 defines the optional reserved terms for indicating on the label the types of poultry farming (with the exception of organic or biological farming). These terms are: a) “fed with ... % ...”; b)

¹²⁶ Article 5(d) of Regulation (EU) No 29/2012, as amended by Commission Delegated Regulation (EU) 2018/1096 of 22 May 2018, establishes that among the optional indications that may appear on the labelling of olive oils, the indication of the maximum acidity expected by the date of minimum durability may appear only if it is accompanied by an indication, in lettering of the same size and in the same visual field, of the peroxide value, the wax content and the ultraviolet absorption, determined in accordance with Regulation (EEC) No 2568/91, expected on the same date.

“extensive indoor” (“barn-reared”); c) “free range”; d) “traditional free range”; e) “free range – total freedom”. Article 11(1) also establishes that:

- those terms may appear on labelling only if the relevant conditions specified in Annex V to Regulation (EC) No 543/2008 are fulfilled;
- those terms may be supplemented by indications referring to the particular characteristics of the respective types of farming;
- when free-range production (types of poultry farming c), d) and e) above) is indicated on the label for meat from ducks and geese kept for the production of *foie gras*, the term “from *foie gras* production” shall also be indicated.

Annex IX to Regulation (EU) No 1308/2013 (“single CMO regulation”), as amended by Commission Delegated Regulation (EU) 2016/1226 of 4 May 2016, includes the aforementioned optional reserved terms indicating the type of farming, plus an additional one, i.e. “oats fed goose”.

“Provisions on classification of poultry meat (definitions; quality and weight grading)” (EQ 1.3 at § 6.6): Part V of Annex VII to Regulation (EU) No 1308/2013 (“single CMO regulation”) sets out *definitions* of certain types and presentations of poultry meat, and poultry meat or poultry offal preparations and products, of the following species: *Gallus domesticus* (domestic fowls); ducks; geese; turkeys; guinea fowls. “Poultry meat” is defined as “poultry meat suitable for human consumption, which has not undergone any treatment other than cold treatment”. Part V of Annex VII provides definitions also for “fresh poultry meat”, “frozen poultry meat”, “quick-frozen poultry meat”, “poultry meat preparation”, “fresh poultry meat preparation” and “poultry meat product”. It finally establishes that poultry meat and poultry meat preparations shall be marketed in one of the following conditions: fresh, frozen or quick-frozen. Articles 1 and 2 of Regulation (EC) No 543/2008 provide definitions that are relevant for production and marketing of poultry meat, including definitions for poultry carcasses of the relevant species (domestic fowls, turkeys, ducks, geese, guinea fowls), definitions for the different poultry cuts, and the definition of *foie gras*. Provisions concerning **quality and weight grading** of poultry meat are set out at Article 7 of Regulation (EC) No 543/2008 (requirements concerning quality classes A and B for poultry carcasses and cuts), and at Article 9 (classification of pre-packaged frozen or quick-frozen poultry meat by categories of nominal weight, which are established for carcasses and for cuts).

“Eggs: rules for indicating the farming methods” (applied for laying hens) (EQ 1.4 at § 6.7): Article 12(2) of Regulation (EC) No 589/2008 requires that packs containing Class A eggs (i.e. eggs that meet the quality characteristics defined at Article 2(1) of the same Regulation) shall bear on the outer surface in easily visible and clearly legible type an indication of the farming method applied for laying hens. Article 12(2) establishes that for the identification of the farming method, only the following terms shall be used:

- a. for conventional farming, the terms set out in Part A of Annex I to Regulation (EC) No 589/2008 (“free-range eggs”; “barn eggs”; “eggs from caged hens”), and only if the relevant conditions laid down in Annex II to said Regulation are fulfilled¹²⁷;
- b. for organic production, the terms set out in Article 2 of Council Regulation (EEC) No 2092/91 (then repealed by Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products, which is currently in force¹²⁸).

Article 12(2) also establishes that when laying hens are kept in systems of production in accordance with the requirements laid down in Chapter III of Council Directive 1999/74/EC (“rearing in enriched cages”), the

¹²⁷ “Free-range eggs” and “barn eggs” must be produced in systems of production that satisfy at least the conditions specified in Article 4 of Council Directive 1999/74/EC. “Eggs from caged hens” must be produced in systems of production that satisfy the conditions specified in Article 6 of Directive 1999/74/EC (enriched cages). The conditions specified in Article 5 of Directive 1999/74/EC (non-enriched cages) ceased to apply after 31 December 2011, due to the ban on non-enriched cages for laying hens established by the same Directive.

¹²⁸ The relevant terms for organic production pursuant to Article 23(1) of Regulation (EC) No 834/2007 are those listed in the Annex to that Regulation in all the relevant EU languages.

identification of the farming method may be complemented by one of the indications listed in all the relevant EU languages in Part B of Annex I to this Regulation (in English, the indication is “enriched cages”).

6.1 Effectiveness of EU marketing standards in contributing to improve the quality of the concerned products in the interest of producers, traders and consumers

6.1.1 Contribution to quality improvement in the interest of producers and traders

Indicator 1.1.a: Evolution of marketed volumes under the upper-tier grade(s) defined by marketing standards: in absolute terms and as % of total marketed volumes

According to the EU Commission¹²⁹, the total number of laying hens in free range farming systems **increased** by 117% between 2006 and 2018, from around 30 million heads to nearly 65 million heads. The number of laying hens in barn systems tripled over the same period, and the number of laying hens in organic farming systems increased by 251%. A detailed analysis of the related evolution is presented at § 6.7 in the framework of the reply to EQ 1.4.

There are no official statistics on poultry meat produced in animal-welfare-friendly production systems. A (fully referenced) estimation of production in alternative systems is provided at § 6.5. In summary, it is possible to say that 34% of broilers are kept at stocking densities of less than or equal to 33 kg/m²; this means that the percentage of broilers kept in alternative systems, and which can be marketed using the optional reserved terms that set maximum stocking densities, must be lower than this proportion. Industry experts estimate the share of broilers produced in alternative systems to be in the range of 5-10% of total production. The only data that allow an examination of the evolution of the share of alternative production are in France. A consulted sectoral association explained that the estimated number of animals under “free range – total freedom” poultry meat production systems in France **increased** from 80 million heads in 1991 to 130 million heads in 2018. Always according to that association, the estimated number of animals under organic poultry meat production systems in France was extremely low in 1991; it reached 10 million animals in 2018.

Indicator 1.1.b: Evolution of product quality related to the setting up of EU marketing standards in the views of business stakeholders (qualitative appraisal)

Most of the consulted business associations agree on three key findings:

- The average quality levels for a wide range of agricultural and food products in the EU have **improved** over time.
- EU marketing standards have often played a role in the **positive evolution** of product quality in the EU.
- Cases of **serious limitations** of marketing standards in contributing to improved product quality from a business standpoint are **few, and limited to very specific situations**.

Interviews with EU-level sector associations allowed to identify a number of sectoral specificities in the above aspects, which are highlighted in the following paragraphs.

Fresh fruit and vegetables

EU marketing standards in the sector have been in place since the late 1960s. They have especially contributed to providing a harmonised framework and a common language for the assessment of product quality by buyers and sellers.

The consulted business associations did not identify serious limitations in the standards’ contribution to improved product quality. Some relatively minor shortcomings are related to:

¹²⁹ CIRCABC database and DG Agriculture – eggs market situation (https://ec.europa.eu/agriculture/eggs/presentations_en).

- The replacement of product-specific standards for 26 products by a “general marketing standard”. The related implications are discussed at § 8 in the framework of the reply to EQ 3.
- The appearance of new products/varieties on the market that “do not fit well” in the framework of the standards in force. These shortcomings have anyway been addressed in most cases through adaptation of the relevant provisions.

Poultry meat

According to the consulted EU-level business associations, EU marketing standards have promoted better consumer awareness of the different types of poultry meat since their entry into force in the mid-1970s. This gave the opportunity to operators to target their promotional efforts around the added value of the typologies of products defined by marketing standards. The definition of products is linked to consumers’ willingness to pay: if consumers are more aware of the different product qualities, then they are prepared to pay for what they recognise as higher value products. The above process has incentivised operators in the poultry meat sector to improve the quality of products. However, the consulted EU-level business associations deem that the improvement in the average quality of poultry meat marketed in the EU is more related to developments in animal farming science and in technological innovation than to EU marketing standards, whose primary function is to establish a harmonised framework for poultry meat marketing across the EU. With specific respect to poultry meat produced in animal welfare-friendly systems, the consulted EU-level specialist association deems that the requirements to meet for using the optional reserved terms indicating the types of farming defined by Regulation (EC) No 543/2008 have significantly contributed to maintain high quality levels for products even in the context of the rapid and substantial expansion of this specific market segment. The association deems that without those requirements, the risk of decreasing quality levels for products in the context of the expansion process would have been concrete.

Eggs

The increase in egg product quality is linked to the transition – discussed in more detail at § 6.7 in the framework of the reply to EQ 1.4 – of EU egg production towards systems ensuring superior animal welfare: there is an increasing share of caged production moving to barn, and some free range production becoming organic. This trend started in the north of the EU, but the same trend can now be seen in southern Member States. While this trend has not generally reached eastern Member States, Poland is an exception (there has been increasing production of barn and free range eggs rather than caged eggs). However, this trend has been driven by consumer demand and pressure from animal welfare NGO campaigns rather than by marketing standards, even if the indication of methods of farming (see § 6.7) provide operators with an instrument to extract added value from the above process.

It should be noted that in several parts of the EU barn eggs have become the market standard in retail sales for direct consumption, as caged eggs are no longer produced for that market (the so called “standard inflation” process). However, there is still a substantial production of eggs in enriched cages in the EU (around 50% of laying hens are still kept in those systems: see § 6.7), which are mainly used for processing.

Dairy products

EU marketing standards have played a critical role in:

- setting the “minimum quality standards” for dairy products intended for human consumption in the EU at a relatively high level;
- promoting an improvement in the average quality level of dairy products available on the EU market.

In the case of butter, for instance, in the absence of EU quality standards the competition would have focused on price (and hence on product composition, with the inclusion of cheaper non-dairy ingredients in the final product) rather than on quality/taste. Price-driven competition often leads to a downward spiralling of

average quality levels, as observed in other sectors¹³⁰. It should be noted that the development of EU marketing standards for the dairy sector over 30 years ago was aimed at addressing a downward trend in the quality of dairy products (e.g. in terms of lower fat and protein content) on the EU market that had started in the 1980s.

Olive oil

EU marketing standards have played an important role in promoting an improvement in the quality levels of olive oils in the EU. Many olive oils currently marketed in the EU have quality parameters well above the minimum ones applying for each category, and this especially applies to extra virgin olive oils.

The main shortcoming seems to be related to the currently allowed practice of blending olive oils with other vegetable oils, which makes it impossible to list all the nutritional values and all the organoleptic characteristics of the resulting blend, and which leaves room for marketing practices focusing on the olive oil content to promote a blend containing also low-quality vegetable oils. It is however important to consider that blending of olive oils with other vegetable oils for sale on the domestic market is allowed only in certain Member States, whereas it is prohibited in other Member States¹³¹.

Hops

The quality of hops brought to the EU market has definitely improved over time¹³². While the introduction of EU marketing standards for hops dates back to the 1970s, there was a notable rise in quality after the introduction of modified certification standards and minimum standards from 1995 onwards. This resulted in all contracts being based on EU marketing standards and the certification system, meaning that a comprehensive quality management system covering quality, varieties and harvest year, and incorporating all EU hops production, was implemented.

6.1.2 Contribution to quality improvement in the interest of consumers

Indicator 1.2.a: Evolution of product quality related to the setting up of EU marketing standards (qualitative appraisal) in the views of consumers

The consulted EU-level consumer association observed that – based on the limited elements available to it¹³³ – food quality levels tend to fall when marketing standards are removed.

The EU-level association reported that very limited evidence on the usefulness and impact of marketing standards was available to it, and also suggested that since there are basically no complaints from consumers about EU marketing standards, this could mean that those standards are effective. However, it can be argued

¹³⁰ Two further elements that confirm – albeit indirectly – the critical role of EU marketing standards in promoting an improvement of quality levels in the dairy sector are the following: i) producers of foodstuffs that use butter as an ingredient switch to cheaper non-dairy substitutes for butter if the focus of their competitive strategies is on price rather than on quality; ii) EU marketing standards in the dairy sector have provided a reference for the development of marketing standards in many developed and developing third countries that aimed at improving the quality of their dairy products.

¹³¹ Article 6(1), second paragraph of Regulation (EU) No 29/2012 establishes that “Member States may prohibit the production in their territory of blends of olive oil and other vegetable oils referred to in the first subparagraph for internal consumption. However, they may not prohibit the marketing in their territory of such blends coming from other countries and they may not prohibit the production in their territory of such blends for marketing in another Member State or for exportation”.

¹³² The statistical evidence of the improvement of the average quality for hops, as certified by a neutral testing agency, is related to the fact that average moisture content of hop supplies has gone down from 11.4 % in 1994 to 9.4% in 2018, and the share of leaves, stem and waste in hops supplied has fallen from an average of 2.7% in 1994 to an average of 1.7% in 2018, and also considerably below this, i.e. at an average of 1.3%, over the last decade.

¹³³ The association mentioned two examples reported by national associations, one for Czech Republic (removal of standards for traditional sausages, which resulted in more fat and less meat content in those sausages) and one for Belgium (potential negative implications from the proposed removal of 40 food composition standards for processed food products). Contributions provided by consumer associations for Italy and Spain supported the view of the EU-level association.

that the absence of complaints from consumers might derive from their limited awareness about EU marketing standards (which was confirmed by the interviewed EU-level consumer association).

The consulted EU-level association added that consumer associations are in principle in favour of regulatory standards on quality, so that a minimum quality is ensured for consumers, and products are standardised and easier to compare. The association mentioned EU marketing standards for poultry meat as a good example where an EU standard has provided the basis for a high level of consumer protection¹³⁴. Those standards define poultry meat as not having “undergone any treatment other than cold treatment” (Regulation (EU) No 1308/2013, Annex VII, Part V, section II, paragraph 1). It hence prohibits the use of antimicrobial rinses such as peroxyacetic acid, chlorine, etc., which are widely used by some of the EU’s trading partners.

6.2 Effectiveness of EU marketing standards in meeting the expectations of consumers of receiving adequate and transparent information

The evidence collected to feed the relevant set of indicators was mainly provided by the consultation of CAs (through both the survey and in-depth interviews), including DG Agriculture.

The consulted EU-level consumer association highlighted an aspect that it saw as a significant limitation of several EU marketing standards in meeting the expectations of consumers of receiving adequate and transparent information. The limitation is related to the absence of mandatory origin labelling for a number of products; where mandatory origin labelling exists, the association deems that the related requirements are often not sufficient from a consumer information standpoint¹³⁵. However, the consulted consumer associations at EU and Member State level did not provide inputs on specific products for which the introduction of mandatory origin labelling would be needed. Moreover, it should be noted that **origin labelling is mandatory for a significant number of products covered by EU marketing standards**, including: fresh fruit and vegetables (Regulation (EU) No 543/2011); extra virgin olive oil and virgin olive oil (Regulation (EU) No 29/2012); fresh, chilled and frozen meat of swine, sheep, goats and poultry (Commission Implementing Regulation (EU) No 1337/2013 of 13 December 2013); beef meat (Regulation (EC) No 1760/2000 of the European Parliament and of the Council of 17 July 2000).

Always according to the consulted EU-level consumer association, another issue concerns the origin of a product as communicated to the consumer. Consumers are interested to know the place of farming of agricultural products, not the place of - for instance - packing. If origin information is not provided clearly to the consumer, there might be a risk of confusion over what this information actually refers to.

With respect to the issue of mandatory origin labelling, it is also important to consider that an EU-funded study on mandatory country of origin labelling for meat used as an ingredient¹³⁶ showed that **consumers are generally reluctant to cover the additional costs related to origin labelling schemes**. The study found that consumers’ strong interest in the origin of meat used as an ingredient is not necessarily reflected in their willingness to pay for this information. A consumer survey carried out for the study indeed revealed that consumers were largely unwilling to pay more than the current base price for origin labelling information, but would be interested in receiving the information (at the highest level of detail possible) if this was to be offered without any increase in price.

¹³⁴ A positive judgment on EU marketing standards for poultry meat was also expressed by the consulted German consumer association. Other examples of good practice in terms of consumer protection ensured by EU marketing standards, highlighted by the consulted Italian and Spanish consumer associations, are related to EU marketing standards for olive oil and for fruit jams, jellies and marmalades.

¹³⁵ In the case of honey, for instance, the obligation is about EU/non-EU origin labelling only; however, EU legislation allows Member States to introduce in their national legislation the requirement for all domestically packed blends of honey originating in two or more countries to be labelled with the specific countries of origin. Another example provided by the consulted national consumer association for Italy concerns olive oils made from olives cultivated in multiple Member States and/or third countries.

¹³⁶ FCEC (2013), *Study on the application of rules on mandatory indication of country of origin or place of provenance of meat used as an ingredient (MCOOL)*, carried out by Agra CEAS Consulting and Areté s.r.l. for DG SANCO.

The consulted EU-level association clarified that it had no systematic view on the effectiveness of EU marketing standards in meeting the expectations of consumers of receiving adequate and transparent information, and observed that most consumers are not really aware of EU marketing standards for agricultural and food products. The association deems that consumers would need to be better informed about EU marketing standards and their functions. This view is also backed by the consulted German consumer association, which would welcome an EU website providing information on marketing standards to consumers.

An interview with the Commission services confirmed that **consumers' awareness about EU marketing standards is still limited**, probably also because of the high number of standards. Consumers are exposed to a huge amount of information on food products, and it can be difficult for them to make good use of it¹³⁷. Building consumer awareness about standards takes time. Some standards are more successfully recognised by consumers; yet even in the case of standards for organic products, which provide one of the few success stories in terms of consumer awareness about standards, it took some time to achieve that result. Putting aside the limited awareness issue, the Commission services deem that some EU marketing standards (especially the ones for poultry meat) have been effective in ensuring that consumers receive adequate and transparent information, and that they are generally useful for instilling confidence in consumers – to the extent that consumers are aware of their existence and of what the standards provide.

The consulted Commission services observed that consumers may not be aware of certain EU marketing standards simply because they are targeted at business operators (B2B relationships). Several requirements of EU marketing standards (e.g. those related to water content in poultry meat) cannot be appreciated by consumers, even if they may have implications for them. By contrast, organoleptic product features (e.g. size, maturity, aspect of fresh fruit and vegetables), as well as information items provided on product labels, are visible to consumers.

A specific issue concerning consumer information was highlighted by the interviewed EU-level sector associations covering the dairy sector with respect to the improper use of protected dairy terms for marketing plant-based substitutes. As it appears that consumers have incorrect beliefs and poor knowledge about the nature, origin and nutritional properties of plant-based substitutes for dairy products¹³⁸, the **provision of misleading information to consumers through improper use of protected dairy terms for marketing plant-based substitutes** may have significant negative implications in terms of consumer protection. A different position on the issue was expressed by an interviewed EU-level association representing the interests of retailers. The association argued that the protection of dairy terms granted by EU legislation is maybe too restrictive, and might even confuse consumers (e.g. the word “milk” cannot be used for marketing plant-based products that are aimed at substituting milk, even if the word “milk” has widely been used by both producers and consumers for a long time to indicate some of those plant-based substitutes). The issue is also discussed at § 11.6 in the framework of the reply to EQ 6.4.

Indicator 1.3.a: Consumer satisfaction on the adequateness of information provided to comply with EU marketing standards (qualitative appraisal)

The majority (89%) of the 19 surveyed CAs deemed that EU marketing standards have provided consumers with adequate information: 11 CAs expressed a fully positive judgment in that respect, whereas 6 CAs reported only minor shortcomings. Only 2 CAs highlighted serious limitations, related to:

- The transition from product-specific standards to a general marketing standard (GMS) for 26 types of fresh fruit and vegetables, which reduced the set of information available to consumers (the issue is also discussed at § 8.2 in the framework of the reply to EQ 3).

¹³⁷ This view is shared to a certain extent also by some of the consulted business associations covering the fresh fruit and vegetables and the olive oils sector.

¹³⁸ The associations reported about the results of studies carried out on samples of consumers in France and Denmark, which would suggest that several consumers deem that, for instance, “almond milk” actually contains milk, or that plant-based substitutes for milk are suitable for infants.

- Overlaps and inconsistencies between EU marketing standards and general EU legislation on food labelling. The issue is discussed at § 14.2 in the framework of the reply to EQ 9.
- Lack of a harmonised approach across the EU for the labelling of compound products (i.e. those combining products that are covered by EU marketing standards, and products that are not, e.g. “honey with nuts”, “juice with ginger”, etc.), which results in different national approaches and hence in a non-homogeneous set of information provided to consumers of those products across the EU.

Indicator 1.3.b: Consumer satisfaction on the transparency of information provided to comply with EU marketing standards (qualitative appraisal)

An ample majority (95%) of the 19 surveyed CAs expressed a positive judgment about the effectiveness of EU marketing standards in providing consumers with transparent information, with 9 CAs expressing a fully positive judgment and 9 CAs only reporting minor shortcomings. Only one CA highlighted serious limitations, deriving from the reduced set of information available to consumers after the transition from product-specific standards to the GMS for 26 types of fresh fruit and vegetables.

Indicator 1.3.c: Significant cases where issues related to provision of information to consumers through EU marketing standards emerged (qualitative appraisal)

Cases of serious limitations related to provision of information to consumers through EU marketing standards were highlighted by only 3 CAs out of 19 surveyed. The most significant issues concerned the lack of effectiveness of EU marketing standards in allowing the identification of products of outstandingly high quality (i.e. well above the minimum quality requirements established through EU quality standards) by consumers. However, it can be argued that the primary function of EU marketing standards is not the identification of products of outstanding quality: it is rather to set common levels for minimum quality requirements.

6.3 Effectiveness of EU marketing standards in enabling the market to be easily supplied with products of a standardised and satisfactory quality

Indicator 1.4.a: Role of EU marketing standards as enabling factor for supplying the market with products of a standardised and satisfactory quality in the views of business stakeholders (qualitative appraisal)

Most of the interviewed business associations deem that EU marketing standards have been an enabling factor for supplying the market with products of a standardised and satisfactory quality.

Interviews with EU-level sector associations allowed to identify a number of sectoral specificities – including a number of shortcomings - in the above respect, which are highlighted in the following paragraphs.

Fresh fruit and vegetables

EU marketing standards have critical importance for the homogeneous and consistent classification of products according to buyers’ requirements. In years affected by particularly adverse climatic conditions and/or by pest outbreaks, it may be challenging for producers to ensure continuous supply of adequate volumes of products for the upper-tier categories, due to limited uniformity in colour, heterogeneous size, high incidence of damaged fruits and vegetables, etc. In general, however, the standards are flexible enough to address any issue in that respect.

Poultry meat

The role of EU marketing standards as an enabling factor for supplying the market with products of a standardised and satisfactory quality is linked to the process discussed at § 6.1.1 (EU marketing standards provide the conditions that allow producers to get added value for their promotional efforts).

Similarly to what happens in the dairy sector (see below), an EU-level association mentioned the issue of marketing practices using “meat terms” for plant-based substitutes of poultry meat, which derives from the

absence of a harmonised definition of “meat” (across all meat sectors). Such a definition would prevent the unfair use of certain terms for the marketing of products that are not of animal origin.

Eggs

The considerations made at § 6.1.1 (transition towards animal welfare-friendly egg production systems and related market implications) apply also in this respect. EU marketing standards (and the indication of methods of farming in particular: see § 6.7) have provided a framework for economic valorisation of the transition through marketing practices, and hence a further incentive to producers to supply the market with animal welfare-friendly eggs, which are in high demand by EU consumers.

The issue of unfair marketing practices using “egg terms” for plant-based substitutes of egg products (similarly to what happens for poultry meat and dairy products), with negative implications for the economic viability of the operators in the eggs sector, was mentioned by an interviewed EU-level organisation.

Dairy products

EU marketing standards provide a framework for adequate valorisation of dairy products. The resulting safeguard of the margins of producers provides an economic incentive to them, and hence enables the market to be easily supplied with products of a standardised and satisfactory quality. The only significant limitation of EU marketing standards in that respect seems to be related to the list of national exemptions (EU Commission Decision 2010/791/EU of 20 December 2010), which results in the (lawful or illegal) use of protected dairy terms in the marketing of plant-based substitutes of these products. Wherever the use of those terms is not explicitly allowed, the related unfair marketing practices may have negative implications for the economic viability of operators in the EU dairy sector, and hence on the effectiveness of EU marketing standards in enabling the market to be easily supplied with products of a standardised and satisfactory quality. This issue is discussed also at § 7.3 in the framework of the reply to EQ 2.

Hops

EU marketing standards have played a major role in establishing the reputation of German, Czech and EU hops generally as a product with a high reputation worldwide¹³⁹. The adherence to the certified standards in terms of minimum quality, harvest year and variety helped to ensure that the EU share of the world hop market was on a rising trend until the arrival of new US varieties imparting a more “fruity” (rather than bitter) taste to beer started to eat into EU’s market share. No limitations of EU marketing standards were noted with respect to their effectiveness in enabling the market to be easily supplied with products of a standardised and satisfactory quality.

Indicator 1.4.b: Role of EU marketing standards as enabling factor for supplying the market with products of a standardised and satisfactory quality in the views of consumers (qualitative appraisal)

The consulted EU-level consumer association deems that consumers would be negatively affected by the removal of standards, because they would have to compare the characteristics and/or composition of several different products, which are currently harmonised in terms of quality. The consulted national consumer associations for Italy and Spain deem that EU marketing standards have played a critical role as enabling factor for supplying the market with products of a standardised and satisfactory quality, especially in the case of non-processed products such as eggs and fruit and vegetables, as well as for poultry meat and olive oils.

Indicator 1.4.c: Significant cases of contingent or structural shortages of specific product typologies / grades that can be related to the setting up of EU marketing standards (qualitative appraisal)

¹³⁹ The use of the certification system has also enabled the designation of four PGIs for the different hop growing regions in Germany (Hallertau, Elbe-Saale, Spalt, Tettngang) and an additional Protected Designation of Origin (PDO) designation for the Spalt growing region. This has also been possible elsewhere in the EU since these PGIs are built on the certification system. This in turn benefits end users, as brewers are able to use such designations as an additional marketing tool.

Most respondents in the **survey targeted at business associations** (82% of 123 respondents) were not aware of temporary or structural shortages of specific product typologies that could be related to the setting up of EU marketing standards. Most of the 22 respondents who identified such shortages indicated as affected sectors the poultry meat and eggs sectors, without however providing further details¹⁴⁰.

Most of the interviewed sector associations confirmed that cases of shortages of specific product typologies that could be related to the setting up of EU marketing standards are exceptional, and only occur at national or local level. As for the reported shortages in the poultry meat and eggs sectors, according to the consulted EU-level associations the most significant recent cases of shortages derived from other factors than EU marketing standards¹⁴¹.

The results of the **CA survey** are in line with the appraisal by business stakeholders: 16 CAs out of 19 surveyed (84%) were not aware of temporary or structural shortages of specific product typologies that could be related to the setting up of EU marketing standards. Cases of such shortages were reported by 3 CAs with respect to fresh and processed fruit and vegetables¹⁴², fruit jams, jellies and marmalades, and honey. An interviewed CA confirmed that the reported temporary shortages for certain categories of animal welfare-friendly eggs cannot be directly related to EU marketing standards.

Indicator 1.4.d: Volatility in the prices of specific product typologies / grades defined by EU marketing standards

Table 6.1 reports the results of an analysis on the evolution price volatility for the three typologies of virgin olive oil established by EU marketing standards. Virgin olive oils are among the very few products of relevance for the evaluation for which an analysis of price volatility by individual product typologies established by EU marketing standards can be performed on average prices for the EU market provided by official sources.

Table 6—1 - Comparative analysis of the evolution of price volatility for the three typologies of virgin olive oil established by EU marketing standards

Typologies of virgin olive oil established by EU marketing standards	Average EU price (Euro / 100 kg)		Coefficient of variation	
	2007-2011	2012-2019	2007-2011	2012-2019
Extra Virgin Olive Oil	234	339	0.10	0.22
Virgin Olive Oil	208	280	0.13	0.21
Lampante Olive Oil	185	243	0.16	0.24
Significant decrease in price volatility				
Significant increase in price volatility				

Source: elaboration on DG Agriculture data (EU monthly prices for selected representative products, since January 1991: https://ec.europa.eu/agriculture/markets-and-prices/price-monitoring/monthly-prices_en)

¹⁴⁰ Even fewer cases were identified by individual companies that replied to the survey: just 3 out of 54 companies highlighted cases of temporary or structural shortages of specific product typologies that could be related to the setting up of EU marketing standards. It should be noted that most of the companies that participated to the survey (45 out of a total of 67) operates in the poultry meat and eggs supply chains.

¹⁴¹ In the poultry meat sector, the cases of shortages are related to influenza outbreaks, and surely not to EU marketing standards. As for eggs for direct consumption, the retail sector in many Member States moved away from caged eggs in 2012 (the process started already in 2003/2004 in the Netherlands and Germany). At that time there were some shortages of eggs from non-caged systems. Another notable case of shortage followed the avian influenza outbreaks in 2017: free range birds were kept indoors for more than 12 weeks, precluding eggs from sale as free range and hence causing a shortage for that typology. However, in neither case the shortages were related to EU marketing standards for eggs, as they were both caused by external factors.

¹⁴² Temporary shortages for higher-quality categories of some types of fresh fruit and vegetables affected by the transition to the GMS - carrots, onions, cucumbers, watermelons, melons; spinach, lettuce, aubergines, peas – were reported for Greece. Temporary shortages of vegetable juices, mainly carrot-based (including mixes of vegetable and fruit juices containing carrot juice) were reported for Poland.

The analysis compared price volatility (expressed in terms of coefficient of variation) in two periods:

- The period preceding the entry into force of the current legislative framework establishing EU marketing standards for olive oils, i.e. the period spanning from the entry into force of Regulation (EC) No 1234/2007 (“single CMO Regulation”) to the entry into force of Commission Implementing Regulation (EU) No 29/2012.
- The period following the entry into force of Commission Implementing Regulation (EU) No 29/2012 and of Regulation (EU) No 1308/2013 (“single CMO Regulation”), defining the legislative framework for EU marketing standards for olive oils currently in force, which is the object of the present evaluation.

The analysis did not reveal any significant difference in the evolution of price volatility among the three typologies: price volatility increased significantly in the more recent period for all the three typologies of virgin olive oil. This would suggest that – at least in the case of virgin olive oils - the way in which product typologies are defined by EU marketing standards has no evident implications in terms of different market price dynamics.

Most of the interviewed business associations linked price volatility to other factors, mainly supply and demand dynamics. Interviews with sector associations confirmed the **lack of influence of EU marketing standards on price volatility** in the following sectors: fresh fruit and vegetables; dairy products; olive oils; hops.

An interviewed EU-level association suggested a linkage between price volatility in the **honey** sector and fraudulent imports; by helping to address the issue of fraudulent imports, EU marketing standards would contribute – according to that association - to **decreased price volatility** in the EU honey market.

6.4 EQ 1.1: To what extent have marketing standards for olive oil been successful in taking into account the fact that the characteristics of olive oil degrade over time (durability)?

Indicator 1.1.1.a: Satisfaction of market operators (producers, traders, retailers) about the effectiveness of marketing standards for olive oil in addressing the issue of degradation of quality of olive oil (qualitative appraisal)

Out of 11 survey respondents among business associations, the majority (6 respondents) was rather satisfied about the effectiveness of marketing standards for olive oil in addressing the issue of degradation of quality of olive oil, highlighting only minor shortcomings. However, just one association stated its full satisfaction in that respect, whereas 4 associations highlighted serious limitations (of these, 2 covered multiple stages of the supply chain, including farming).

An interviewed sector association in the olive oil sector observed that the main issue is related to the degradation of the quality of olive oil over time when inadequate preservation techniques are applied during storage. Although olive oil producers generally incorporate a safety margin to guarantee the stability of qualitative characteristics over a period of 12 months, the actual degradation depends on the way in which the oil is preserved during storage. It also observed that it is not fair that the packager is always held as the sole responsible for degradation, since it cannot influence the way in which its clients (traders, wholesalers, retailers) store and preserve the product. The above limitations were also highlighted by a number of consulted national sectoral associations in Member States producing olive oils. According to the consulted sectoral associations, reliance on organoleptic assessment performed by tasting panels to check the conformity of virgin olive oils with the declared category (extra virgin, virgin, lampante)¹⁴³ further aggravates

¹⁴³ Olive oils are classified into a number of categories. The classification in force is established at Part VIII of Annex VII of Regulation (EU) No 1308/2013 (“single CMO Regulation”). For virgin olive oils, it comprises the following categories: a) extra virgin olive oil; b) virgin olive oil; c) lampante olive oil. Pursuant to Article 2(2) of Regulation (EEC) No 2568/91, as amended by Commission Implementing Regulation (EU) No 1348/2013 of 16 December 2013, “verification by national authorities or their

the issue, due to the alleged subjectivity of this testing method and to the significant variability of the related results.

6.5 EQ 1.2: To what extent have the rules on the optional reserved terms (types of farming) been effective in promoting alternative production systems for poultry meat production in the EU?

Indicator 1.2.1.a: Evolution of the economic importance of alternative poultry meat production systems defined by optional reserved terms in terms of:

- **Number of producers involved, in absolute terms and as % of total number of producers**
- **Marketed volumes in absolute terms and as % of total marketed volume**

No official statistics are available for poultry meat produced in animal-welfare-friendly production systems. More specifically, European Commission (2016)¹⁴⁴ reports that no statistics are available on the exact numbers of broilers produced in alternative systems (i.e. systems including those that permit production to be marketed using one of the optional reserved terms specified in Commission Regulation (EC) No 543/2008). However, European Commission (2017a)¹⁴⁵ reported the proportion of broilers kept at various stocking densities and found that 34% are kept at stocking densities of less than or equal to 33 kg/m²; this means that the percentage of broilers kept in alternative systems, and which can be marketed using the optional reserved terms that set maximum stocking densities, must be lower than this proportion¹⁴⁶. Industry experts estimate the share of broilers produced in alternative systems to be in the range of 5-10% of total production (Wageningen Economic Research, 2018).

In line with the analysis above, the number of farms involved in the production of broilers that can be sold using the optional reserved terms is small. ITAVI (2013) estimated that while alternative poultry production accounted for 50% of French production, 16% of total production had outdoor access (i.e. “free range”, “traditional free range” and “free range – total freedom”, but also including organic production). Wageningen Economic Research (2018) reported the proportion of broilers with outdoor access to be 18% in France, suggesting a slight increase. However, these figures are not borne out by European Commission (2017a) where only 7% of broilers in France are reported as being housed at stocking densities below 33 kg/m².

An EU-level sectoral association provided estimates that allow to appreciate the evolution of the economic importance of alternative poultry meat production systems defined by optional reserved terms in France. According to that association, the estimated number of animals under “free range – total freedom” poultry meat production systems in France increased from 80 million heads in 1991 to 130 million heads in 2018 (a 63% increase). Always according to that association, the estimated number of animals under organic poultry meat production systems in France was extremely low in 1991; it reached 10 million animals in 2018. In France, “rural poultry”¹⁴⁷ produced under the *Label Rouge* national quality scheme would account for around one third of total household consumption of poultry. When consulted for the purposes of the evaluation, the same association reported that there were 5,000 producers of “Traditional free range” and “Free range – total

representatives of the organoleptic characteristics of virgin oils shall be effected by tasting panels approved by the Member States. The organoleptic characteristics of an oil (...) shall be deemed consonant with the category declared if a panel approved by the Member State confirms the grading”.

¹⁴⁴ European Commission (2016), *Report from the Commission to the European Parliament and the Council on the impact of genetic selection on the welfare of chickens kept for meat production*. Brussels, 7.4.2016. COM(2016) 182 final.

¹⁴⁵ European Commission (2017a), *Study on the application of the broilers Directive DIR 2007/43/EC and development of welfare indicators*. Final report by the Food Chain Evaluation Consortium (FCEC), led by Agra CEAS Consulting, to DG SANTE. February 2017.

¹⁴⁶ Poultry sold under the optional reserved term “Fed with ...% of ...” would not necessarily fall in this group.

¹⁴⁷ A consulted EU-level sectoral association identifies the key features of “rural poultry farming” in: i) extensive free range farming respecting animal welfare; ii) use of poultry adapted to free range farming (coloured birds from rustic slow-growing strains); iii) small-size family farms with small-size flocks.

freedom” poultry in France in 2018, accounting for 130 million animals and around 15% of French poultry meat production (there is no use of the optional reserved term “Free range” in France). The same association also explained that there are 2,400 producers using the optional reserved term “Extensive indoors”, accounting for 70 million animals and around 8% of total production.

The United Kingdom is the largest producer of birds using the optional reserved term “Free range” with, according to the national industry body, a market share of 3.25%. According to this industry body, the market share for “Free range” has been as high as 6%, but has declined as overall economic performance has deteriorated. ITAVI (2013) put the proportion of free range and organic production in the United Kingdom at 20%, which seems rather high. There has been an expansion in the market share of reduced stocking density indoor chickens driven by the quality retailers, but this does not meet the requirements to allow it to be marketed as “Extensive indoor”; this market expansion has been at the expense of “Free range”, organic and standard production.

Wageningen Economic Research (2018) explains that the so-called “Chicken of Tomorrow” is now predominant in the fresh segment for poultry meat in Dutch supermarkets. In this concept slow growing broilers are kept at a stocking density of 38 kg/m². In 2017, the share in the total broiler production of this type of production system in the Netherlands ranged from 30 to 35%. ITAVI (2013) estimated the proportion of birds with outdoor access in the Netherlands at 1 million heads, but put the proportion of “non-standard” birds at 10% of total production.

Estimates for the EU as a whole, and for other Member States (Italy, Spain) do not allow to appreciate the evolution of the economic importance of alternative poultry meat production systems, but nevertheless provide indications about its current extent. According to some sources¹⁴⁸, around 400 million heads of “rural poultry” (i.e. including small-scale production that will not be included in official statistics, which therefore results in higher figures than other sources) are produced annually in Europe, for a turnover of around 2 billion Euros. In Italy, domestic production of rural poultry (around 40 million heads, plus 10 million heads destined to export) represents approximately 15% of national consumption (ITAVI (2013) estimates 2-3 million heads); in Spain, 24 million heads of rural poultry allow the production of 46-48,000 tonnes of meat (ITAVI estimated <10 million heads of chicken with outdoor access in Spain, equivalent to 1-2% of total poultry numbers). ITAVI (2013) also estimated that 4% of German poultry production has outdoor access (i.e. including also organic production), and 1-2 million heads of poultry with outdoor access in Belgium.

Wageningen Economic Research (2018) explains that there is a so-called “intermediate” market segment that sits between regular broiler production and production with outdoor access; this segment refers to certified indoor production systems that may or may not be able to use the optional reserved term “Extensive indoor” and does not include any of the free range optional reserved terms. The same source notes that the main producers of these certified broilers are France (“Certifié”), the United Kingdom (“Assured”)¹⁴⁹ and the Netherlands (one star within the “Better Life Certificate”); some German companies have also started to produce certified broilers.

¹⁴⁸ <https://erpa-ruralpoultry.wixsite.com/erpa-en/key-figures>

¹⁴⁹ Previously known as “Freedom Food”.

Indicator 1.2.1.b: Role of EU marketing standards in promoting alternative poultry meat production systems in the views of producers (qualitative appraisal)

The vast majority of respondents in the survey among business associations deemed that the rules on the optional reserved terms (types of farming) have been effective in promoting alternative production systems for poultry meat in the EU. Out of 54 respondents, 37 (69%) deemed that those rules have been fully successful in that respect, with 11 additional respondents (20%) reporting only minor shortcomings. Only 6 surveyed associations (11%) highlighted serious limitations (of these, 3 covered multiple stages of the supply chain including farming, and 2 covered poultry farming only).

Two interviewed EU-level sector associations observed that optional reserved terms are significantly used to market poultry meat only in some Member States (especially France, the Netherlands and the United Kingdom), and even in those Member States they are not used universally. However, those two associations agreed with the specialist EU-level sectoral association on the significant contribution of EU marketing standards in the development of alternative poultry meat production systems in certain Member States, and especially in France and Italy. The alternative poultry meat production systems related to the optional reserved terms have been actively promoted by some leading companies, for example in France and Italy.

6.6 EQ 1.3: To what extent have the provisions on classification of poultry meat adequately reflected the current market reality?

Indicator 1.3.1.a: Adequateness of the relevant provisions (definitions; quality and weight grading) in reflecting the current reality of poultry meat market in the views of business stakeholders (qualitative appraisal)

Most survey respondents among business associations deemed that the provisions on classification of poultry meat (definitions; quality and weight grading) included in Commission Regulation (EC) No 543/2008 adequately reflect the current reality of the poultry meat market. Out of 54 respondents, 27 (50%) deemed that those provisions have been fully successful in that respect, with 23 additional respondents (43%) reporting only minor shortcomings. Only 4 surveyed associations (7%) highlighted serious limitations (of these, 2 covered multiple stages of the supply chain including farming, and 1 covered poultry farming only).

Also the two interviewed EU-level sector associations expressed an overall positive judgment on the adequateness of those provisions in reflecting the current reality of the poultry meat market, especially with reference to quality and weight grading. However, one of those associations observed that the definitions of “breast” and “fillet” provided at Article 1(2) of Regulation (EC) No 543/2008 should be adjusted to better reflect the current market reality (i.e. the appearance on the market of new cuts, such as “inner fillets”). It also observed that classification is increasingly performed by machines: this allows for a higher degree of precision in selecting different quality grades.

Indicator 1.3.1.b: Adequateness of the relevant provisions (definitions; quality and weight grading) in reflecting the current reality of poultry meat market in the views of consumers (qualitative appraisal)

An interviewed EU-level consumer association expressed a generally positive judgment on the definitions provided by EU marketing standards for poultry meat, with special respect to their effectiveness in meeting consumer demand of quality poultry meat responding to high safety standards. A positive judgment in that respect was also expressed by the consulted consumer association for Italy.

6.7 EQ 1.4: To what extent have the rules for indicating the farming methods been effective in promoting alternative production methods and uses of egg production in the EU?

Indicator 1.4.1.a: Evolution of the economic importance of alternative egg production systems in terms of:

- Number of producers involved, in absolute terms and as % of total number of producers
- Marketed volumes in absolute terms and as % of total marketed volume

Tables 6.2 to 6.5 provide an overview of the evolution of the economic importance of alternative egg production systems defined by the rules for indicating the farming methods applied for laying hens (Regulation (EC) No 589/2008). To analyse such evolution in the appropriate regulatory context, it is important to consider that Council Directive 1999/74/EC of 19 July 1999 laying down minimum standards for the protection of laying hens, made a distinction between 3 types of rearing systems for laying hens. Of these, the non-enriched cage systems have been prohibited since 1 January 2012; the ban on non-enriched cage systems has been in force since 1 January 2003 for systems built or brought into service for the first time. The systems that remain in use are the following:

- “enriched cages” where laying hens have at least 750 cm² of cage area per hen;
- “alternative systems” (free range, barn and organic) where the stocking density does not exceed 9 laying hens per m² of usable area, with at least one nest for every 7 hens and adequate perches.

Data on national implementation of EU legislation ensuring the welfare of laying hens provided by Member States allow to follow the evolution of the economic importance of “alternative systems” against conventional ones, in terms of i) average yearly number of laying hens (which is here considered as a proxy for marketed volumes of eggs)¹⁵⁰ and of ii) number of holdings with laying hens in operation¹⁵¹ for each system.

The analysis presented here covers the period following the entry into force of Regulation (EC) No 589/2008, and also allows – for the number of laying hens only – a comparison with 2006. It is worth noting that the presence of laying hens in non-enriched cages and of the related holdings in 2013 (i.e. after the entry into force of the ban) is related to the accession of Croatia to the EU.

In relative terms, the **economic importance of caged hens** (assumed here as a proxy of marketed volumes of eggs) **has remarkably decreased after the ban of non-enriched cages**: caged hens still accounted for 77% of total in 2006, but had dropped to 60% in 2011 (the last year when non-enriched cages were still allowed), and accounted for 50% of total in 2018. By contrast, the **economic importance of hens reared with alternative systems has greatly increased**, rising from an aggregate 23% share of the total number of laying hens in 2006 to an aggregate 50% share in 2018. Among the alternative systems, barns account for the largest share of laying hens (26-28% of total in the 2013-2018 period); free range ranks second (12-16% of total in the 2013-2018 period), and organic ranks as a still distant third (4-5% of total in the 2013-2018 period), in spite of a remarkable growth in the number of laying hens over the 2006-2016 period (+251%).

As for the relative importance in terms of number of holdings, the much larger average size of flocks in holdings with enriched cages results in a rather small share of the total number of holdings with laying hens (19-18% in the 2013-2016 period). Holdings with alternative systems already accounted for 68% of the total number of holdings in 2008, and have accounted for 81-82% of total over the 2013-2016 period. Among the alternative systems, holdings applying free range systems have passed from a 35% share of the total number of holdings in 2013 to a 38% share in 2016; holdings with barns rank second (they have ranged between a 30% share and a 36% share of total in the 2013-2016 period), and organic still ranks as a distant third (12-14% in the 2013-2016 period), in spite of a remarkable growth in the number of holdings over the 2008-2016 period (+73%).

¹⁵⁰ Data are available for the 1986-2018 period.

¹⁵¹ Data are available for the 2008-2016 period.

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Table 6—2 - Average number of laying hens by way of keeping in the EU - evolution 2006-2018

Ways of keeping	Year							Var. % (2006 vs. 2016)***
	2006*	2011**	2012**	2013	2014	2015	2016	
Cage	248,887,140	144,159,726	209,995,773	219,267,035	213,840,041	214,555,423	218,510,860	-12%
- non enriched	n.a.	46,736,366	0	815,878	0	0	0	-100%
- enriched	n.a.	97,423,360	209,995,773	218,451,157	213,840,041	214,555,423	218,510,860	124%
Alternative	73,015,110	96,655,704	153,028,256	161,488,019	169,963,110	168,318,938	172,200,779	136%
- free range	29,941,599	22,740,806	45,353,427	46,418,313	53,371,513	51,936,592	54,388,361	82%
- barn	36,957,167	64,146,492	94,101,022	100,493,810	102,007,557	100,145,254	100,047,036	171%
- organic	6,116,344	9,768,406	13,573,807	14,575,896	14,584,040	16,237,092	17,765,382	190%
Total	321,902,250	240,815,430	363,024,029	380,755,054	383,803,151	382,874,361	390,711,639	21%

* EU-25

** EU-27

*** 2011 vs. 2018 for non-enriched and enriched cage

Source: EU Commission - CIRCABC database and DG Agriculture – eggs market situation.

Table 6—3 - Laying hens by way of keeping as % of EU total - evolution 2006-2018

Ways of keeping	Year						
	2006*	2011**	2012**	2013	2014	2015	2016
Cage	77%	60%	58%	58%	56%	56%	56%
- non enriched	n.a.	19%	0%	0%	0%	0%	0%
- enriched	n.a.	40%	58%	57%	56%	56%	56%
Alternative	23%	40%	42%	42%	44%	44%	44%
- free range	9%	9%	12%	12%	14%	14%	14%
- barn	11%	27%	26%	26%	27%	26%	26%
- organic	2%	4%	4%	4%	4%	4%	5%
Total	100%	100%	100%	100%	100%	100%	100%

* EU-25

** EU-27

Source: EU Commission - CIRCABC database and DG Agriculture – eggs market situation.

Table 6—4 - Number of holdings with laying hens by way of keeping in the EU - evolution 2008-2016

Ways of keeping	Year							Var. % (2008 vs. 2016)
	2008*	2011	2012	2013	2014	2015	2016**	
Cage	6,812	5,949	4,300	4,164	3,518	3,934	4,158	-39%
- non enriched	6,732	3,406	0	78	0	0	0	-100%
- enriched	80	2,543	4,300	4,086	3,518	3,934	4,158	5098%
Alternative	14,270	12,832	17,592	18,038	16,486	18,301	19,191	34%
- free range	6,369	4,528	7,670	7,867	7,106	8,415	8,830	39%
- barn	6,012	6,020	7,125	7,403	7,141	6,886	7,087	18%
- organic	1,889	2,284	2,797	2,768	2,239	3,000	3,274	73%
Total	21,082	18,781	21,892	22,202	20,004	22,235	23,349	11%

*EU-27

** Material error for CZ in the CIRCABC file; addressed by considering 2015 figures for CZ

Source: EU Commission - CIRCABC database

Table 6—5 - Holdings with laying hens by way of keeping as % of the EU total - evolution 2008-2016

Ways of keeping	Year						
	2008*	2011	2012	2013	2014	2015	2016**
Cage	32%	32%	20%	19%	18%	18%	18%
- non enriched	32%	18%	0%	0%	0%	0%	0%
- enriched	0%	14%	20%	18%	18%	18%	18%
Alternative	68%	68%	80%	81%	82%	82%	82%
- free range	30%	24%	35%	35%	36%	38%	38%
- barn	29%	32%	33%	33%	36%	31%	30%
- organic	9%	12%	13%	12%	11%	13%	14%
Total	100%	100%	100%	100%	100%	100%	100%

*EU-27

** Material error for CZ in the CIRCABC file; addressed by considering 2015 figures for CZ

Source: EU Commission - CIRCABC database

Indicator 1.4.1.b: Role of EU marketing standards in promoting alternative egg production systems in the views of producers (qualitative appraisal)

The effectiveness of EU rules for indicating egg farming methods in promoting alternative production methods for eggs in the EU was positively judged by the majority of survey respondents among business associations. Out of 36 respondents, 18 (50%) expressed a fully positive judgment in that respect, with 16 additional respondents (44%) only reporting minor shortcomings. Only 2 surveyed associations (6%) highlighted serious limitations (both covered multiple stages of the supply chain, including egg farming).

A fully positive judgment on the effectiveness of EU rules for indicating egg farming methods in promoting alternative production methods for eggs in the EU was also expressed by the specialist EU-level sectoral association.

A consulted EU-level association representing the interests of retailers observed that the impossibility to combine the terms “free range” and “organic” would not allow effective communication of the specificity of eggs obtained in farming systems that actually meet both sets of requirements.

An interviewed EU-level sectoral association highlighted the possible negative implications of the so called “standard inflation” issue for the effectiveness of EU rules for indicating egg farming methods in promoting alternative production methods for eggs. Due to the “standard inflation” issue, there is no longer a market advantage for barn eggs (produced in more costly animal welfare-friendly rearing systems) as they have become the market standard, at least for what concerns the retail market for eggs destined to direct consumption. The issue could reduce the economic incentive for producers to switch from enriched cage production to barn production. In any case, it is important to consider that laying hens kept in enriched cages still account for 50% of total, as cage eggs are still widely used for processing and/or as ingredient in the food industry.

Indicator 1.4.1.c: Role of EU marketing standards in promoting alternative egg uses as ingredients in the views of producers and traders (qualitative appraisal)

Even if positive judgments were mostly expressed by survey respondents among business associations about the effectiveness of EU rules for indicating egg farming methods in promoting alternative uses of eggs as ingredients in the EU, a significant share of respondents highlighted serious limitations in that respect. A fully positive judgment was expressed by 19 respondents out of 36 (53%), with 11 additional respondents (31%) identifying only minor shortcomings. Serious limitations were highlighted by 6 surveyed associations (17%): of these, 3 covered multiple stages of the supply chain including farming, and 3 covered egg farming only.

The interviewed EU-level sector associations (including the specialist one for alternative poultry and egg farming) confirmed that EU rules for indicating egg farming methods had an impact in terms of promoting alternative egg uses as ingredients in the EU. For instance, some mayonnaise and pastry producers switched

to using barn eggs, and are now increasingly using also free range eggs and organic eggs. In any case, EU marketing standards for eggs help to make clear that price premiums should be paid for higher quality eggs, including for use as ingredients.

6.8 EQ 1: evaluation judgment

The assessment of the effectiveness of EU marketing standards in achieving their objectives was mainly based on the perceptions of the consulted stakeholders. This qualitative assessment was supplemented by quantitative analyses on the evolution of price volatility for olive oils and on the evolution of the importance of different production systems in the eggs sector. It should anyway be noted that the perceptions of the consulted business stakeholders were often backed by fact-based evidence concerning the sectors of interest.

6.8.1 *Effectiveness in contributing to improve the quality of the concerned products in the interest of producers, traders and consumers*

The analysis of the available evidence allowed to identify three key findings:

- The **average quality levels** for a wide range of agricultural and food products in the EU **have improved over time**.
- **EU marketing standards have often played a role in the positive evolution of product quality** in the EU.
- Cases of **serious limitations** of marketing standards in contributing to improved product quality from a business standpoint **are few, and limited to very specific situations**.

The assessment identified a number of **sector-specific issues** deriving from relatively minor shortcomings of EU marketing standards in contributing to the improvement of the quality of the concerned products, i.e.:

- Negative implications deriving from replacement of product-specific standards for 26 types of **fresh fruit and vegetables** by a “general marketing standard” (GMS), and appearance on the market of new products/varieties that “do not fit well” in the framework of the standards in force.
- Currently allowed practice of blending **olive oils** with other vegetable oils, which makes it impossible to list all the nutritional values and all the organoleptic characteristics of the resulting blend, and which leaves room for marketing practices focusing on the olive oil content to promote a blend containing also low-quality vegetable oils. In that respect, it is however important to consider that blending of olive oils with other vegetable oils for sale on the domestic market is allowed only in certain Member States, whereas it is prohibited in other Member States¹⁵².

Some other sector-specific issues, however, were perceived by business stakeholders as **more serious**.

In particular, the assessment under EQ 1.1 (see § 6.4) revealed **significant limitations of marketing standards for olive oil in taking into account the fact that the characteristics of olive oil degrade over time**. The main issue is related to the degradation of the quality of olive oil over time when inadequate preservation techniques are applied during storage. According to the consulted sectoral associations, reliance on organoleptic assessment performed by tasting panels to check the conformity of virgin olive oils with the declared category (extra virgin, virgin, lampante) further aggravates the issue, due to the alleged subjectivity of this testing method and to the significant variability of the related results. The issue is further complicated by the fact that degradation of the quality of olive oil also depends on the way in which the oil is

¹⁵² Article 6(1), second paragraph of Regulation (EU) No 29/2012 establishes that “Member States may prohibit the production in their territory of blends of olive oil and other vegetable oils referred to in the first subparagraph for internal consumption. However, they may not prohibit the marketing in their territory of such blends coming from other countries and they may not prohibit the production in their territory of such blends for marketing in another Member State or for exportation”.

preserved during storage, a function that is also performed by operators in the trading and distribution stage of the supply chain, over which producers have no control.

6.8.2 Effectiveness in meeting the expectations of consumers of receiving adequate and transparent information

The assessment revealed that **consumers' awareness about EU marketing standards is still limited** (probably also because of the high number of standards), that consumers are exposed to a substantial amount of information on food products, and that it can be difficult for them to make good use of it.

In general, the consulted national CAs deem that **EU marketing standards have been effective in providing consumers with adequate and transparent information**¹⁵³.

However, the consulted EU-level consumer association highlighted an aspect of EU marketing standards that it perceived as a serious limitation from a consumers' standpoint: the absence of mandatory origin labelling for a number of products, as well as insufficient detail of the required information about origin. In that respect, it should anyway be considered that:

- the consulted consumer associations at EU and Member State level did not provide inputs on specific products for which the introduction of mandatory origin labelling would be needed;
- **mandatory origin labelling already applies for several products covered by EU marketing standards** (e.g. fresh fruit and vegetables, extra virgin olive oil and virgin olive oil, sheep, goat, pig and poultry meat, beef meat);
- empirical evidence suggests that **consumers are generally reluctant to cover the additional costs related to origin labelling schemes**.

The above elements suggest that **the perception of the absence of generalised mandatory origin labelling in EU marketing standards as a serious limitation is questionable**.

6.8.3 Effectiveness in enabling the market to be easily supplied with products of a standardised and satisfactory quality

The analysis of the available evidence allowed to conclude that **EU marketing standards have been an enabling factor for supplying the market with products of a standardised and satisfactory quality**.

The assessment identified only few **sector-specific issues** in that respect. In particular, **improper use of protected dairy terms for marketing plant-based substitutes for dairy products** may have negative implications for the economic viability of operators in the EU dairy sector, and hence on the effectiveness of EU marketing standards in enabling the market to be easily supplied with products of a standardised and satisfactory quality.

By contrast, the assessment revealed a number of **success stories in other sectors**.

The assessment under EQ 1.2 (see § 6.5) revealed that the **rules on the optional reserved terms (types of farming)** are generally perceived by operators as an **effective instrument for promoting alternative production systems for poultry meat production in the EU**. However, the development of those systems across the EU has mostly been concentrated in few Member States: France (where the expansion of "free range – total freedom" poultry meat production systems has been remarkable), the Netherlands, the United Kingdom and Italy.

¹⁵³ Sectoral associations highlighted a specific issue for the dairy sector, i.e. the provision of misleading information to consumers through improper use of protected dairy terms for marketing plant-based substitutes for dairy products. As it appears that consumers have incorrect beliefs and poor knowledge about the nature, origin and nutritional properties of those plant-based substitutes, the issue may have significant negative implications in terms of consumer protection.

The assessment under EQ 1.3 (see § 6.6) showed that operators generally deem that the **provisions on classification of poultry meat have adequately reflected the current market reality**, especially with reference to quality and weight grading. However, one of the consulted EU-level associations observed that the definitions of “breast” and “fillet” provided at Article 1(2) of Regulation (EC) No 543/2008 should be adjusted to better reflect the current market reality.

Finally, a quanti-qualitative assessment performed in the framework of EQ 1.4 (see § 6.7) allowed to conclude that the **rules for indicating the farming methods applied for laying hens have been effective in promoting alternative production methods and uses of egg production in the EU**, albeit with some potentially negative implications, mainly related to the so called “standard inflation” issue (decreasing market advantage for barn eggs produced in more costly animal welfare friendly rearing systems, which could reduce the economic incentive for producers to switch from enriched cage production to barn production, at least for the retail market of eggs for direct consumption).

6.8.4 Overall judgment on the effectiveness of EU marketing standards in achieving their objectives

The findings of the assessment of different aspects of the effectiveness of EU marketing standards presented above allow to conclude that **EU marketing standards have successfully achieved their objectives in most of the covered sectors**, in terms of:

- contributing to improve the quality of the concerned products in the interest of producers, traders and consumers;
- meeting the expectations of consumers of receiving adequate and transparent information;
- enabling the market to be easily supplied with products of a standardised and satisfactory quality.

The (potential) **limitations** in that respect that emerged from the assessment are **relatively few**¹⁵⁴. Some of those limitations **affect specific sectors** (dairy products¹⁵⁵, olive oil¹⁵⁶); another potential limitation, i.e. the absence of mandatory origin labelling for a number of products, **concerns a specific aspect that is relevant for a certain group of stakeholders**, i.e. consumers. However, the assessment showed that **the perception of the absence of generalised mandatory origin labelling in EU marketing standards as a serious limitation is questionable**.

¹⁵⁴ It should be noted that no significant limitations in terms of effectiveness were identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

¹⁵⁵ Improper use of protected dairy terms for marketing plant-based substitutes for dairy products.

¹⁵⁶ Significant limitations of marketing standards for olive oil in taking into account the fact that the characteristics of olive oil degrade over time.

7 EQ 2: TO WHAT EXTENT THE CURRENT FRAMEWORK OF EU MARKETING STANDARDS HAS BEEN SUCCESSFUL IN CONTRIBUTING TO IMPROVE THE ECONOMIC CONDITIONS FOR PRODUCTION AND MARKETING AND IN PARTICULAR CREATING A LEVEL PLAYING FIELD FOR PRODUCERS, TRADERS AND RETAILERS?

EQ 2: Definition of key terms

“Current framework of EU marketing standards”: the current framework of EU marketing standards of relevance for the evaluation is defined at § 2.

“Successful in contributing to improve the economic conditions for production and marketing → Effectiveness”: the extent to which this general business-related objective pursued by EU marketing standards¹⁵⁷ has been achieved in practice.

“Level playing field (for producers, traders and retailers)”: the functioning of the Single Market is regulated by a set of common rules and standards, designed to ensure fair competition between the different actors. Common rules and standards are designed in a way to ensure that businesses operate in a similar enough environment, i.e. the so-called “level playing field”. Two concepts of “level playing field” for producers (farmers and processors) and for traders and retailers are considered in the assessment under EQ 2; a “horizontal” one (among operators of different Member States) and a “vertical” one (among different typologies of operators operating within the supply chains of the products covered by EU marketing standards).

“Provisions on minimum brix level for reconstituted juices” (EQ 2.1 at § 7.5): these provisions were first introduced by Directive 2009/106/EC, and last amended by Directive 2012/12/EU, which is currently in force. Following those amendments, the definition of “reconstituted fruit juice” – i.e. “fruit juice from concentrate” in the wording at Annex I(1)(b) of Directive 2001/112/EC - reads as follows: “The product obtained by reconstituting concentrated fruit juice defined in point 2” (of Annex I) “with potable water that meets the criteria set out in Council Directive 98/83/EC of 3 November 1998 on the quality of water intended for human consumption”. With respect to reconstituted fruit juice, the amended Directive 2001/112/EC establishes, also at Annex I(1)(b), that “The soluble solids content of the finished product shall meet the minimum Brix level¹⁵⁸ for reconstituted juice specified in Annex V. If a juice from concentrate is manufactured from a fruit not mentioned in Annex V, the minimum Brix level of the reconstituted juice shall be the Brix level of the juice as extracted from the fruit used to make the concentrate”. Annex V consists in a table reporting the minimum Brix levels for reconstituted fruit juice and reconstituted fruit purée, which are specified for a number of fruits¹⁵⁹ (indicated with both the common and the botanical names).

“Provisions on classification for fresh fruit and vegetables” (EQ 2.2 at § 7.6): these provisions are set out under Title II of Regulation (EU) No 543/2011. Chapter I of Title II provides the general rules for the classification of products: general marketing standard (see the definition provided at § 8 for EQ 3), product-specific marketing standards (also defined at § 8), exceptions and exemptions from the application of marketing standards, information particulars and information particulars at the retail stage, provisions concerning mixes of different species of fruit and vegetables. Provisions on the classification of 10 types of fresh fruit and vegetables covered by specific standards are set out in Part B of Annex I to Regulation (EU) No 543/2011. The classification of 9 types of products - apples; citrus fruit; kiwifruit; peaches and nectarines;

¹⁵⁷ Contributing to improve the economic conditions for production and marketing of agricultural and food products. This includes providing a level playing field for producers, processors and traders/retailers, and facilitating trade in these products.

¹⁵⁸ The Brix level is a measure of the sugar content of an aqueous solution.

¹⁵⁹ These are: apples, apricots, bananas, blackcurrants, grapes, grapefruits, guavas, lemons, mangoes, oranges, passion fruits, peaches, pears, pineapples, raspberries, sour cherries, strawberries, tomatoes, mandarins.

pears; strawberries; sweet peppers; table grapes; tomatoes - is based on 3 quality classes; the classification of lettuces, curled-leaved endives and broad-leaved (Batavian) endives is instead based on 2 quality classes.

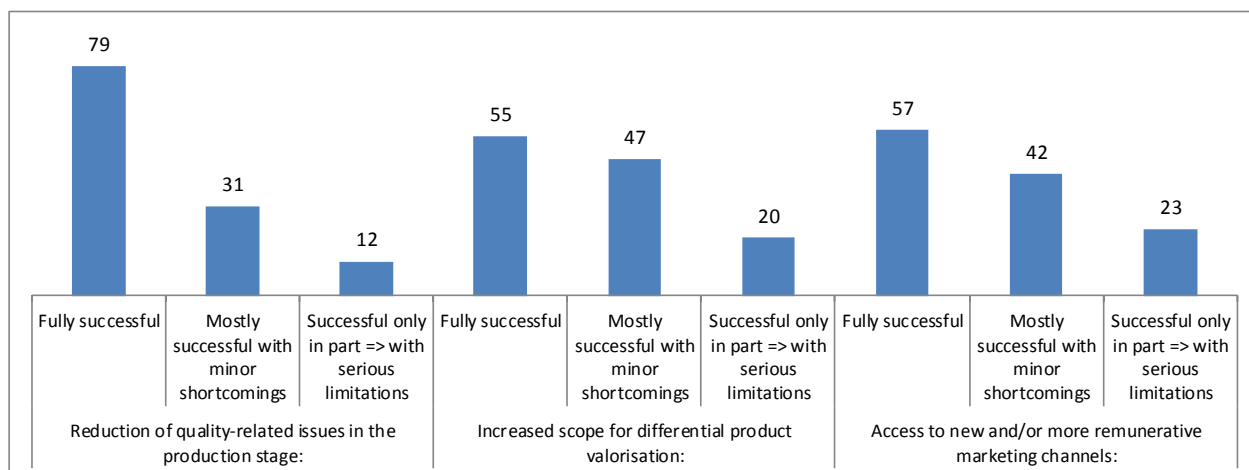
“Certification of hops” (EQ 2.3 at § 7.7): according to Council Regulation (EC) No 1952/2005 concerning the common organisation of the market in hops, a quality policy should be followed by implementing provisions concerning certification together with rules prohibiting, as a general rule, the marketing of products for which a certificate has not been issued or, in the case of imported products, those that do not comply with equivalent minimum quality characteristics. Thus, according to Article 4(1) of Regulation (EC) No 1952/2005 hops and hops products harvested or prepared within the Union are to be subject to a certification procedure. This is ensured by the certification procedure detailed in implementing rules laid down in Commission Regulation (EC) No 1850/2006.

7.1 Effectiveness of EU marketing standards in improving the economic conditions for production

Indicator 2.1.a: Practical role of EU marketing standards in promoting the improvement of economic conditions in the views of producers, in terms of: a) reduction of quality-related issues; b) increased scope for differential product valorisation; c) access to new and/or more remunerative marketing channels (qualitative appraisal)

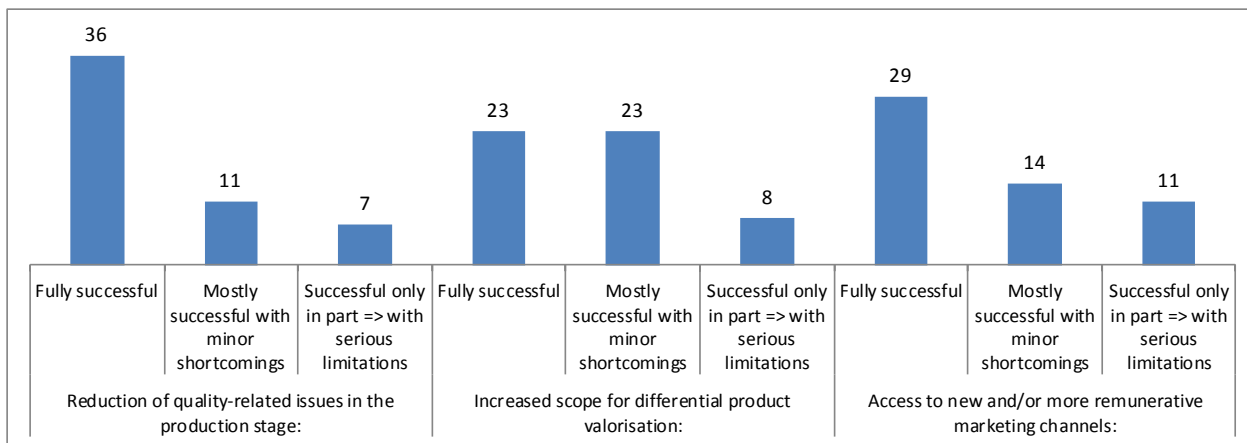
Survey replies by business associations are illustrated at Figure 7.1, whereas survey replies by individual companies¹⁶⁰ are illustrated at Figure 7.2.

Figure 7-1 – Survey results: practical role of EU marketing standards in promoting the improvement of economic conditions in the views of producers – overview of survey results (total of 122 respondents among business associations)



¹⁶⁰ It should be noted that most of the companies that participated to the survey (45 out of a total of 67, i.e. 67%) operate in the poultry meat and eggs supply chains.

Figure 7-2 – Survey results: practical role of EU marketing standards in promoting the improvement of economic conditions in the views of producers – overview of survey results (total of 54 respondents among individual companies)



A clearly positive judgment was expressed by both business associations and individual companies about the effectiveness of EU marketing standards in promoting a **reduction of quality-related issues in the production stage** of the concerned supply chains. A slightly less positive judgment was expressed by both business associations and individual companies about the effectiveness of EU marketing standards in promoting an **increased scope for differential product valorisation**. Finally, even though the judgment expressed by both business associations and individual companies about the effectiveness of EU marketing standards in promoting **access to new and/or more remunerative marketing channels** is generally positive, a higher share of survey respondents identified serious limitations in that respect.

With respect to **limitations** affecting the effectiveness of EU marketing standards in *promoting an increased scope for differential product valorisation* and in *promoting access to new and/or more remunerative marketing channels*, an interviewed EU-level association in the **eggs** sector highlighted the already mentioned issue of the so called “**standard inflation**”. There is no longer a market advantage for barn eggs (produced in more costly animal welfare-friendly rearing systems) as they have become the market standard. The magnitude of the issue differs by Member State, mainly depending on the maturity of the egg market. Two minor shortcomings in this respect also emerged from interviews with associations covering the **hops** sector¹⁶¹.

Some inputs for improving the effectiveness of EU marketing standards in terms of *reduction of quality-related issues in the production stage* were highlighted by an interviewed association covering the **olive oil** sector. It might be worth reflecting on the convenience of reducing the number of physical and chemical parameters for each category of olive oils; the reduction could be compensated by higher requirements for the remaining ones.

¹⁶¹ Historically some hop traders sold products that consisted of a mixture of hop varieties. While mixtures can still be sold, the packaging needs to indicate the share of each relevant variety in the mixture. For reasons of commercial confidentiality some traders did not wish to disclose this detail thus limiting their scope for marketing such mixtures. That said, it was noted that the share of such mixtures was always very small and in fact there is nothing to stop brewers from purchasing single varieties and then mixing these as they wish at the brewery (and in fact this is their preference). The second limitation is related to the fact that in the last couple of years there was a new product called ‘wet’ or ‘fresh’ hops being produced by one producer and supplied to brewers on an experimental basis. As this product is not dried and has an average moisture content of 80-90% and is therefore well above the maximum 14% moisture content allowed by the marketing standards for hops, a new product such as this could not be marketed without amending Regulation 1850/2006. That said, volumes of this product are currently very small, and should the experiments prove successful, presumably the Regulation could be suitably amended.

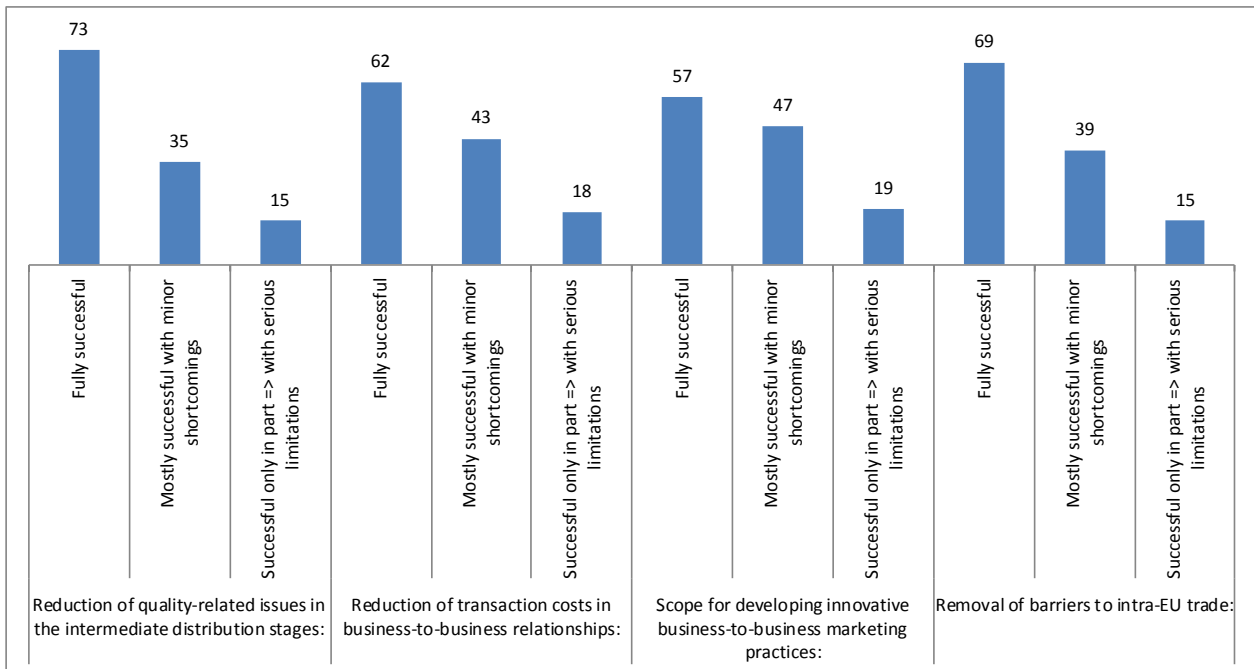
7.2 Effectiveness of EU marketing standards in improving the economic conditions for marketing

7.2.1 B2B relationships

Indicator 2.2.a: Practical role of EU marketing standards in promoting the improvement of economic conditions in the views of producers, traders and retailers, in terms of: a) reduction of quality-related issues; b) reduction of transaction costs; c) scope for developing innovative marketing practices; d) removal of barriers to intra-EU trade (qualitative appraisal)

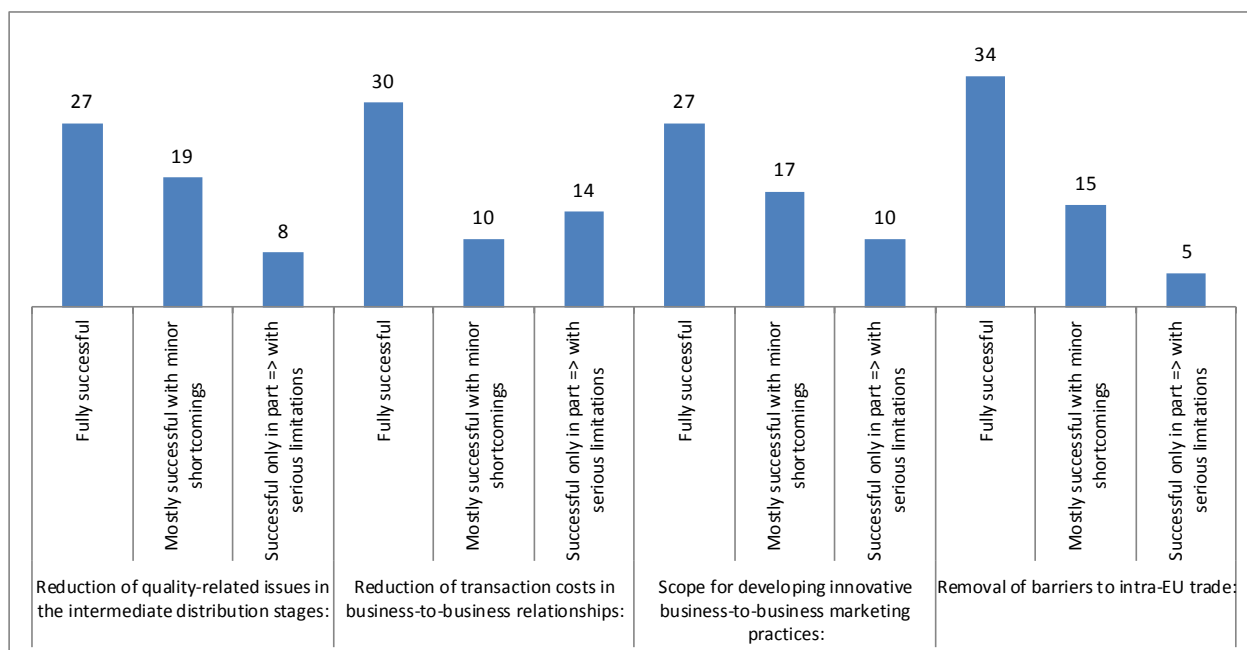
Survey replies by business associations about the practical role of EU marketing standards in promoting the improvement of economic conditions for B2B relationships are illustrated at Figure 7.3, whereas survey replies by individual companies¹⁶² are illustrated at Figure 7.4.

Figure 7-3 - Practical role of EU marketing standards in promoting the improvement of economic conditions for B2B relationships (total of 123 respondents among business associations)



¹⁶² Most of the companies that participated to the survey operate in the poultry meat and eggs supply chains (45 out of 67 respondents, i.e. 67% of total).

Figure 7-4 – Survey results: practical role of EU marketing standards in promoting the improvement of economic conditions for B2B relationships (total of 54 respondents among individual companies)



Overall, the surveyed business associations deemed that EU marketing standards effectively promoted a **reduction of quality-related issues in the intermediate distribution stages**. As for the effectiveness of EU marketing standards in promoting a **reduction of transaction costs in B2B relationships**, the judgment of most surveyed business associations is again positive, even though a slightly higher share of respondents identified serious limitations. The lowest share of respondents expressing a fully positive judgment emerged with respect to the effectiveness of EU marketing standards in **providing the scope for developing innovative B2B practices**.

According to the surveyed business associations, EU marketing standards have been effective in **removing barriers to intra-EU trade**. However, some interviewed national associations representing the interests of poultry meat and eggs producers¹⁶³ observed that the indication of the country code on products contributes to strengthen consumers' preference for national products, thus indirectly creating a barrier to intra-EU trade.

Some **limitations** of EU marketing standards in improving the economic conditions for marketing (B2B relationships) were highlighted by an interviewed association covering the **olive oils** sector. More specifically:

- As for *providing the scope for developing innovative B2B practices*, it should be noted that a number of new products based on olive oil that are currently being developed – e.g. olive oils with aromatic herbs or garlic - are not covered by the current standards.
- As for *removal of barriers to intra-EU trade*, it should be noted that depending on the Member State, domestic operators may or may not be allowed to blend olive oils with other vegetable oils for sale in their national market, but they can always do that for export to other Member States¹⁶⁴.

¹⁶³ It is worth reminding that business associations representing the interests of those two sectors account for an important share of survey respondents.

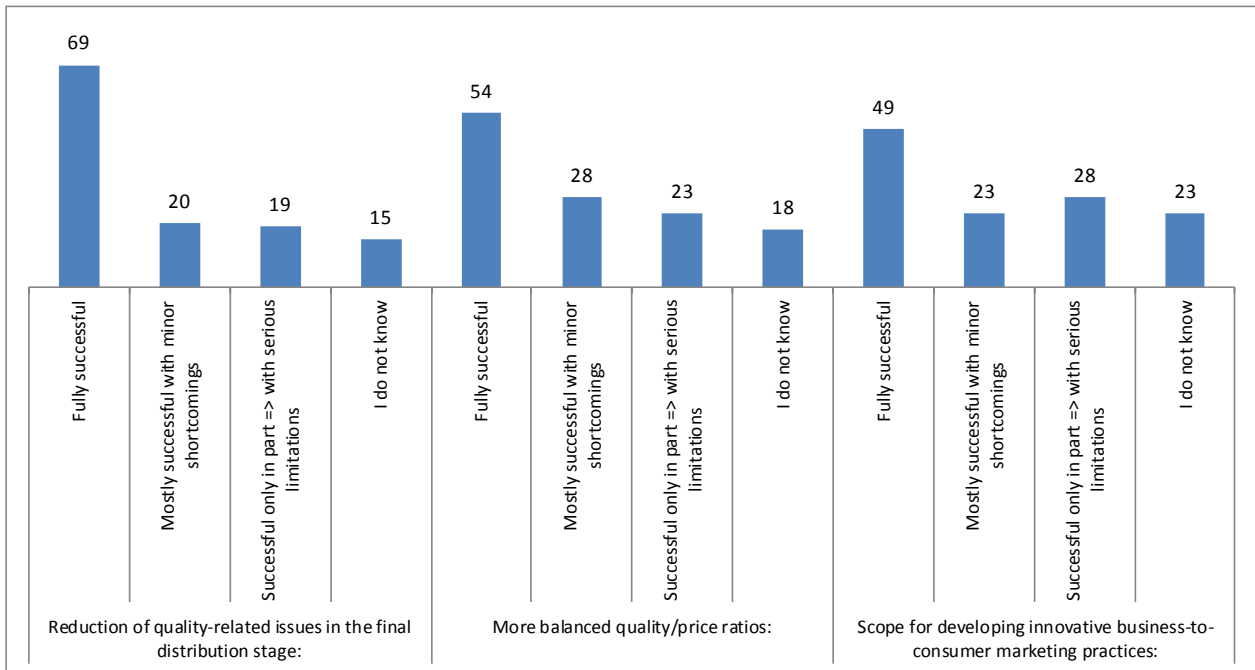
¹⁶⁴ Article 6(1), second paragraph of Regulation (EU) No 29/2012 establishes that “Member States may prohibit the production in their territory of blends of olive oil and other vegetable oils referred to in the first subparagraph for internal consumption. However, they may not prohibit the marketing in their territory of such blends coming from other countries and they may not prohibit the production in their territory of such blends for marketing in another Member State or for exportation”.

7.2.2 B2C relationships

Indicator 2.3.a: Practical role of EU marketing standards in promoting the improvement of economic conditions in the views of retailers and consumers, in terms of: a) reduction of quality-related issues; b) more balanced quality/price ratios; c) scope for developing innovative marketing practices (qualitative appraisal)

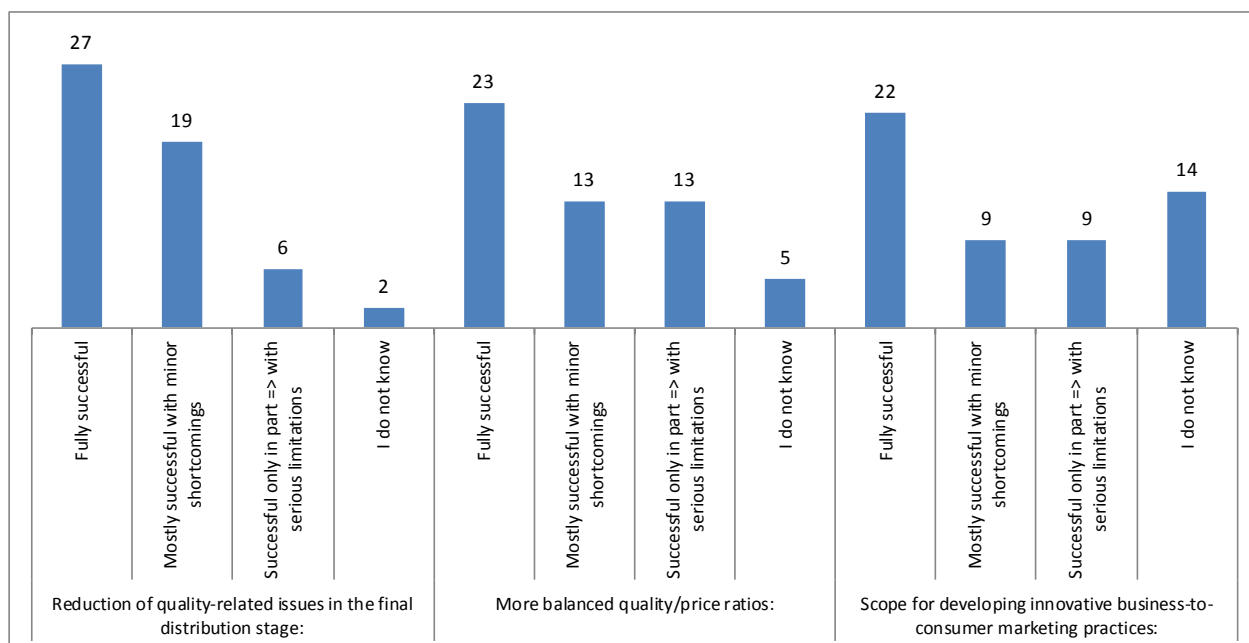
Survey replies by business associations about the practical role of EU marketing standards in promoting the improvement of economic conditions for B2C relationships are illustrated at Figure 7.5, whereas survey replies by individual companies¹⁶⁵ are illustrated at Figure 7.6.

Figure 7-5 – Survey results: practical role of EU marketing standards in promoting the improvement of economic conditions for B2C relationships (total of 123 respondents among business associations)



¹⁶⁵ Most of the companies that participated to the survey (67%) operate in the poultry meat and eggs supply chains.

Figure 7-6 – Survey results: practical role of EU marketing standards in promoting the improvement of economic conditions for B2C relationships (total of 54 respondents among individual companies)



The surveyed business associations expressed a favourable judgment about the effectiveness of EU marketing standards in promoting the **reduction of quality-related issues in the final distribution stage**. Basically positive, even with a lower share of fully positive judgments by business associations, is also the contribution of EU marketing standards to **more balanced quality/price ratios**. The lower share of positive judgments (“fully successful” and “mostly successful with minor shortcomings”) among the surveyed business associations was recorded with respect to the effectiveness of EU marketing standards in expanding the **scope for developing innovative B2C marketing practices**.

An interviewed EU-level business association representing the interests of retailers observed that from the standpoint of its members, private marketing standards with more strict requirements than EU ones are more effective in addressing quality-related issues in the final distribution stage. It also observed that EU marketing standards may pose limitations to the development of innovative B2C marketing practices. In that respect, the association mentioned the impossibility to combine the terms “free range” and “organic” in the marketing of eggs (see the reply to EQ 1.4 at § 6.7), which would not allow effective communication of the specificity of eggs obtained in farming systems that actually meet both sets of requirements. It also mentioned EU marketing standards concerning minimum fat content in the different typologies of milk¹⁶⁶, which may prevent operators and consumers from reaping the potential benefits deriving from further fat content reduction in milk. In this respect, however, it can be argued that EU marketing standards allow some flexibility in terms of minimum fat content for heat-treated milk, under certain conditions¹⁶⁷.

¹⁶⁶ Annex VII, part IV of Regulation (EU) No 1308/2013 (“single CMO regulation) provides definitions for the different typologies of drinking milk (raw milk; whole milk (standardised and non-standardised); semi-skimmed milk; skimmed milk), setting out the related requirements in terms of minimum fat content.

¹⁶⁷ Annex VII, part IV of Regulation (EU) No 1308/2013 establishes that heat-treated milk not complying with the fat content requirements laid down for whole milk, semi-skimmed milk or skimmed milk shall be considered to be drinking milk provided that the fat content is clearly indicated with one decimal and easily readable on the packaging in form of “... % fat”. Such milk shall not be described as whole milk, semi-skimmed milk or skimmed milk.

7.3 Effectiveness of EU marketing standards in creating a level playing field for producers

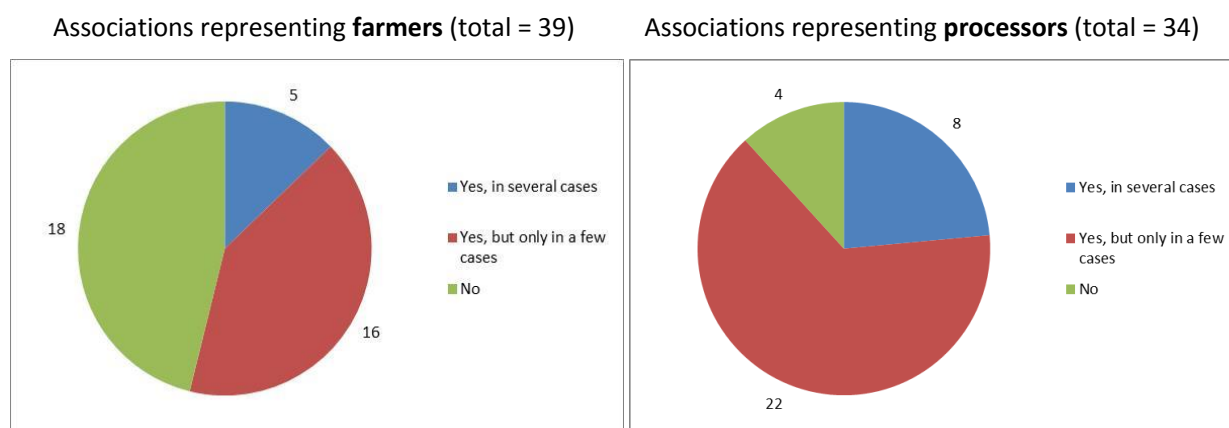
Two concepts of “level playing field” for producers (farmers and processors) were assessed; a “horizontal” one (among producers of different Member States) and a “vertical” one (among different typologies of producers operating within the concerned supply chains). The evidence for the first assessment is presented at § 7.3.1, whereas the evidence for the second assessment is presented at § 7.3.2.

7.3.1 Level playing field among operators of different Member States

Indicator 2.4.a: Situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences (if any) in the definition and/or implementation of EU marketing standards in the views of business stakeholders (qualitative appraisal)

The analysis of survey results revealed that business associations representing exclusively the interests of farmers have a different overall view of the situation than business associations representing exclusively the interests of processors (Figure 7.7).

Figure 7-7 – Survey results: situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences in the definition and/or implementation of EU marketing standards – farmers vs. processors.



The share of surveyed business associations highlighting situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences in the definition and/or implementation of EU marketing standards is much larger (88%) for those representing the interests of processors than for those representing the interests of farmers (54%). It is worth noting that processors often export their products towards multiple Member States, and deal also with the products covered by the “Breakfast Directives”, for which national differences in the definition and/or implementation of EU marketing standards are more frequent. Even if the appraisal by processors’ associations is less positive, only a minority of surveyed associations in both groups deemed that the related cases are numerous.

In the light of the relatively few problematic situations highlighted, it can be concluded that the surveyed associations representing the interests of **farmers** and **processors** expressed a **fairly positive overall judgment on the effectiveness of EU marketing standards in ensuring a level playing field among operators of different Member States**.

An EU-level association covering the **eggs** sector reported issues deriving from a non-homogeneous approach by Competent Authorities across the EU to the enforcement of the ban on non-enriched cages in 2012. Some Member States (e.g. Greece, Italy, Poland and Spain) did not implement the transition to enriched cages as quickly as other Member States. Even if the problem was not directly related to the EU marketing standards,

it had obvious implications on their enforcement, and created situations of unfair competition / non-level playing field among operators of different Member States. In some cases (Greece and Italy), the Commission initiated procedures to ensure that the rules were followed. The association noted that the issue has been addressed, and that the playing field across Member States can be currently considered level.

Interviews with EU-level associations covering the **dairy** sector highlighted rather serious issues of unfair competition / non-level playing field among operators of different Member States deriving from the **list of national exemptions** (EU Commission Decision 2010/791/EU of 20 December 2010) from the prohibition to use protected dairy terms for the marketing of non-dairy products (see § 1.2.5). Non-homogenous enforcement at Member State level results in cases of **improper/illegal use of protected dairy terms in the marketing of plant-based substitutes of dairy products in a number of Member States not covered by the specified exemptions** (the terms in the list of national exemptions can only be used in the specified Member States, not across the EU). The consulted associations reported several examples¹⁶⁸ of commercial misuse of definitions, designations and sales descriptions of milk and milk products within the EU market. Protected dairy terms such as “cheese”, “yogurt”, “milk”, “butter” were used for marketing plant-based substitutes of dairy products obtained mainly from soybeans, coconuts, rice. The reported cases concern: direct misuse of dairy protected terms¹⁶⁹; misuse of dairy protected terms to designate a composite product¹⁷⁰; misuse of dairy protected terms in combination with authorised exceptions¹⁷¹; intentionally misspelt dairy terms¹⁷²; misuse of dairy protected terms in advertisement of dairy products¹⁷³; non-commercial misuse of definitions, designations and sales descriptions of milk and milk products in the EU¹⁷⁴. However, no evidence allowing to appreciate the magnitude of the economic implications of the above unfair practices for the dairy sector (e.g. in terms of erosion of market shares of the affected dairy products by the concerned plant-based products) could be retrieved. The associations also highlighted a number of court cases¹⁷⁵ where the European Court of Justice repeatedly confirmed the legal protection of the definitions, designations and sales descriptions of milk and milk products. Those cases concerned the use of the terms “cheese”, “butter” and “milk” for the marketing of plant-based substitutes for dairy products.

The only significant issue reported by an interviewed association in the **olive oil** sector derives from the fact that depending on the Member State, domestic operators may or may not be allowed to blend olive oils with other vegetable oils for sale in their national market, but they can always do that for export to other Member States¹⁷⁶. Differences in the related national provisions may hence pose issues in terms of unfair competition / non-level playing field among operators of different Member States.

¹⁶⁸ The examples concern products marketed in Denmark, France, Germany, the United Kingdom.

¹⁶⁹ Use of protected dairy terms in the name of products that do not contain dairy ingredients at all (e.g. “vegan cheese”, “coconut milk yogurt alternative”). In some cases, the use of protected dairy terms is combined with such indications as “dairy free”.

¹⁷⁰ E.g. combined use of the terms “*Riz au lait*” and of the wording “dairy free” on the label of a composite product that does not contain any milk or dairy ingredient, and which contains mostly coconut extract with added water, sugar, rice and rice flour.

¹⁷¹ E.g. the terms “*lait de coco*” and “*lait végétal naturel*” were both used on the label of a plant-based product.

¹⁷² E.g. the term “whole mylk” (i.e. a slightly modified protected dairy term) was combined with the wording “dairy free” on the label of a plant-based product not containing any milk or dairy ingredient.

¹⁷³ E.g. use of terms like “vegan butter”, or of wordings such as “think cow’s milk without the cow and milk part” to advertise plant-based products not containing any milk or dairy ingredient.

¹⁷⁴ E.g. on social media, but also in recipe books (e.g. recipe for “vegetal cheese”) and newspapers.

¹⁷⁵ “Diät-Käse” (December 16, 1999; C-101/98); “Pomazánkové máslo” (May 12, 2015; T-51/14); “Tofu Town” (June 14, 2017; C-422/16).

¹⁷⁶ Article 6(1), second paragraph of Regulation (EU) No 29/2012 establishes that “Member States may prohibit the production in their territory of blends of olive oil and other vegetable oils referred to in the first subparagraph for internal consumption. However, they may not prohibit the marketing in their territory of such blends coming from other countries and they may not prohibit the production in their territory of such blends for marketing in another Member State or for exportation”.

Indicator 2.4.c: Situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences (if any) in the definition and/or implementation of EU marketing standards in the views of MS CAs (qualitative appraisal)

The majority of the surveyed CAs (11 out of 19, i.e. 59%) reported no situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences in the definition and/or implementation of EU marketing standards. 6 CAs deemed that those situations were limited to few cases; only two CAs deemed that those situations emerged in several cases¹⁷⁷. However, the above is only a general appraisal: no cases specifically concerning producers (farmers; processors) were highlighted by the surveyed CAs.

An interviewed CA highlighted the case of **honey**. For blended honeys originating in more than one Member State or third country, Directive 2001/110/EC provides for using the following indications as appropriate: “blend of EU honeys”, “blend of non-EU honeys” or “blend of EU and non-EU honeys”. A Member State can however decide to introduce, in its national legislation, the requirement for all honey packed in that Member State to be labelled with the specific countries of origin. In that event, these rules would only apply to honey packed in that Member State, and must not hinder the free movement of products between Member States. This implies that differences in the implementation of the indication of origin between Member States, should not lead to problems for free circulation of blended honeys in the EU market.

Indicator 2.4.d: Evolution of intra-EU trade in the products concerned by the identified national differences

The identified national differences concern:

- either very specific issues (dairy products affected by competition by plant-based substitutes marketed through improper use of dairy protected terms);
- or very specific product typologies (blends between olive oils and other vegetable oils; blends of honeys of different origins).

This implies that the product breakdown of official trade databases does not allow to carry out an analysis of the evolution of the related intra-EU trade flows.

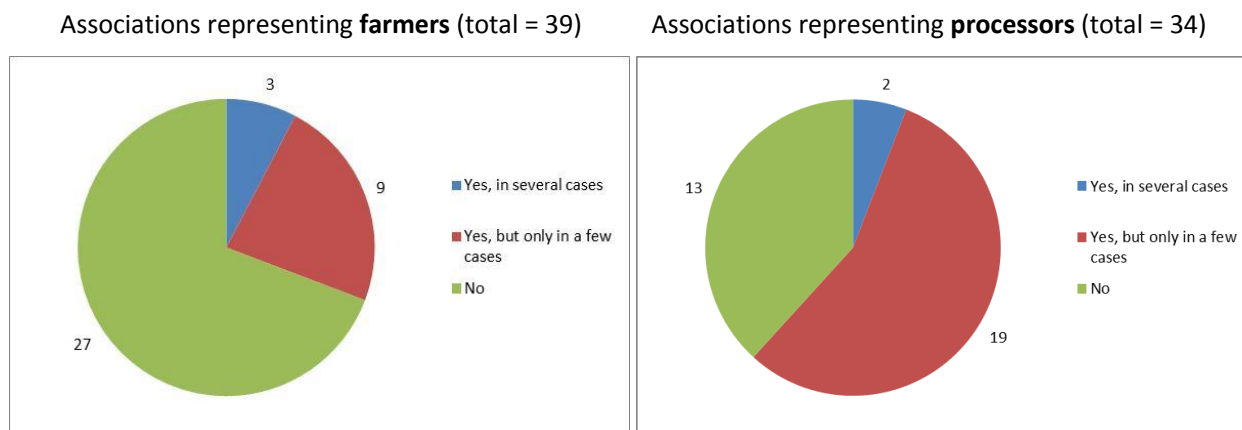
7.3.2 Level playing field among different typologies of operators

Indicator 2.5.a: Situations of unfair competition / non-level playing field among operators resulting from differential requirements (if any) imposed by EU marketing standards on specific typologies of operators (qualitative appraisal) in the views of business stakeholders

The analysis of survey results revealed that business associations representing exclusively the interests of farmers have a different overall view of the situation than business associations representing exclusively the interests of processors (Figure 7.8).

¹⁷⁷ The reported cases are related to the transition to a general marketing standard for 26 types of fresh fruit and vegetables, and are discussed at § 8.1 in the framework of the reply to EQ 3.

Figure 7-8 - Survey results: situations of unfair competition / non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators – farmers vs. processors



The share of surveyed business associations highlighting situations of unfair competition / non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators is much larger (62%) for those representing the interests of processors than for those representing the interests of farmers (31%). However, surveyed associations highlighting numerous cases in that respect are few for both groups. If compared with the overall appraisal of unfair competition / non-level playing field among operators of different Member States (see § 7.3.1), the overall appraisal of unfair competition / non-level playing field among operators across the supply chain illustrated here highlights a more positive situation.

In conclusion, few problematic situations were highlighted by the surveyed associations representing the interests of **farmers** and **processors**. Those associations expressed a **positive overall judgment** on the effectiveness of EU marketing standards in ensuring a **level playing field within the concerned supply chains**.

Interviews with EU-level sectoral associations confirmed the absence of significant situations of unfair competition / non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators.

Indicator 2.5.b: Situations of unfair competition / non-level playing field among operators resulting from differential requirements (if any) imposed by EU marketing standards on specific typologies of operators (qualitative appraisal) in the views of MS CAs

The majority of surveyed CAs (12 out of 19, i.e. 63%) reported no situations of unfair competition / non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators. 5 CAs deemed that those situations were limited to few cases; only two CAs deemed that those situations emerged in several cases¹⁷⁸. It should be noted that the above is only a general appraisal: no cases specifically concerning producers (farmers; processors) were highlighted by the surveyed CAs.

¹⁷⁸ The issue highlighted by one CA is related to the exceptions concerning direct sales that apply in the current framework of EU marketing standards for fresh fruit and vegetables. However, other consulted CAs deem that those exceptions are very unlikely to lead to inequality between operators, as they are very specific and concern a very limited arena of operators.

Indicator 2.5.c: Evolution of the economic importance of the typologies of operators affected by the identified differential requirements, in terms of number of operators and/or of marketed volumes (in absolute terms and as % on total)

In the light of the results of the above investigations (absence of significant situations of unfair competition / non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators), the indicator is not relevant for the evaluation.

7.4 Effectiveness of EU marketing standards in creating a level playing field for traders and retailers

Also in this case, two concepts of “level playing field” for traders/wholesalers and for retailers were assessed; a “horizontal” one (among operators of different Member States) and a “vertical” one (among different typologies of operators). The evidence for the first assessment is presented at § 7.4.1, whereas the evidence for the second assessment is presented at § 7.4.2.

7.4.1 Level playing field among operators of different Member States

Indicator 2.4.a: Situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences (if any) in the definition and/or implementation of EU marketing standards in the views of business stakeholders (qualitative appraisal)

The usefulness of the results of the survey of business associations is seriously limited by the very low number of surveyed associations representing exclusively the interests of traders/wholesalers (3 associations) and retailers (one association). That said, those 4 associations made a rather negative overall appraisal of the situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences in the definition and/or implementation of EU marketing standards. Neither the surveyed associations, nor an interviewed EU-level association representing the interests of retailers provided any concrete evidence about those cases.

In the light of the above limitations and of the lack of specific evidence on concrete cases, the fairly negative overall judgment on the effectiveness of EU marketing standards in ensuring a level playing field among operators of different Member States expressed by the consulted traders/wholesalers and retailers remains unsubstantiated.

Indicator 2.4.c: Situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences (if any) in the definition and/or implementation of EU marketing standards in the views of MS CAs (qualitative appraisal)

As already reported at § 7.3.1, the majority of the surveyed CAs (11 out of 19, i.e. 58%) reported no situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences in the definition and/or implementation of EU marketing standards. However, the above is only a general appraisal: no cases specifically concerning traders and/or retailers were highlighted by the surveyed CAs.

Indicator 2.4.d: Evolution of intra-EU trade in the products concerned by the identified national differences

The available evidence (also considering the extremely low representativeness of survey results) did not lead to the identification of any products concerned by national differences in the definition and/or implementation of EU marketing standards that caused significant issues in terms of unfair competition / non-level playing field for traders and retailers.

7.4.2 Level playing field among different typologies of operators

Indicator 2.5.a: Situations of unfair competition / non-level playing field among operators resulting from differential requirements (if any) imposed by EU marketing standards on specific typologies of operators (qualitative appraisal) in the views of business stakeholders

As already underlined, the usefulness of the results of the survey of business associations is seriously limited by the very low number of surveyed associations representing exclusively the interests of traders/wholesalers (3 associations) and retailers (one association). Similarly to the overall appraisal of unfair competition / non-level playing field among operators of different Member States (see § 7.4.1), the overall appraisal by the 4 surveyed associations representing traders/wholesalers and retailers highlighted a rather negative situation also with respect to unfair competition / non-level playing field among operators across the supply chain. The surveyed business associations did not provide any concrete evidence about specific cases.

An interviewed EU-level business association representing the interests of retailers mentioned two examples of provisions set out by EU marketing standards that might have negative implications in terms of level playing field among different typologies of operators:

- Limitations posed by EU legislation to the marketing of thawed frozen poultry meat may have costly implications for the related logistics. A national retailer association (United Kingdom) explained that the ability to thaw previously frozen product allows the sector better to match supply to demand. For example, turkeys could be produced throughout the year, be frozen and then thawed to be sold as fresh at Christmas; certain cuts popular in the summer (for example, drumsticks) could be stored and then thawed when required. The inability to carry out carcass balancing over time in this manner means that carcasses can only be balanced through trade, which may reduce the overall price available to the producer/processor. While another national association (France) agreed with this analysis, the point was made that the sector in this Member State wanted to maintain this interdiction.
- The impossibility to combine the terms “free range” and “organic” in the marketing of eggs (see the reply to EQ 1.4 at § 6.7), which would affect negatively the operators that actually meet both sets of requirements.

However, the interviewed associations did not provide any concrete evidence on the aforementioned issues, including on the economic impacts.

In the light of the above limitations and of the lack of specific evidence on concrete cases, the fairly negative overall judgment on the effectiveness of EU marketing standards in ensuring a level playing field among different typologies of operators expressed by the consulted traders/wholesalers and retailers remains unsubstantiated.

Indicator 2.5.b: Situations of unfair competition / non-level playing field among operators resulting from differential requirements (if any) imposed by EU marketing standards on specific typologies of operators (qualitative appraisal) in the views of MS CAs

As already reported at § 7.3.1, the majority of the surveyed CAs (12 out of 19, i.e. 63%) reported no situations of unfair competition / non-level playing field among operators resulting from differential requirements imposed by EU marketing standards on specific typologies of operators. It should be noted that the above is only a general appraisal: no cases specifically concerning traders and/or retailers were highlighted by the surveyed CAs.

Indicator 2.5.c: Evolution of the economic importance of the typologies of operators affected by the identified differential requirements, in terms of number of operators and/or of marketed volumes (in absolute terms and as % on total)

The available evidence (also considering the extremely low representativeness of survey results) did not lead to the identification of any typology of operators affected by differential requirements for the

implementation of EU marketing standards that caused significant issues in terms of unfair competition / non-level playing field for traders and retailers.

7.5 EQ 2.1: To what extent the provisions on minimum brix level for reconstituted juices create a level playing field for producers?

7.5.1 Overview of the EU market and intra-EU trade in fruit juices

The EU market for fruit juices is the largest in the world, accounting for around 55% of global imports. The most important Member States in terms of imports and consumption are Belgium, the Netherlands, France, Germany and the United Kingdom¹⁷⁹, while Poland is one of the fastest-growing markets.

EU imports totalled 7.7 Euro billion in 2017 (7.6 million tonnes), with an annual growth rate over the 2013-2017 period of 2% in both value and volume; the annual growth rate of intra-EU imports over the same period was slightly higher, with a 3% annual increase.

Despite some Member States recorded a small decrease in the consumption of packed juices, the overall expansion of the EU market is mainly pushed by the growing interest for fruit juices as ingredients for beverages and for the food industry; in this context, all the five major importing Member States increased their imports over the 2003-2017 period, with increases spanning from +145,000 tonnes for France to +196,000 tonnes for the United Kingdom.

The same top 5 Member States accounted in 2017 for nearly 80% of total EU imports, all of them with rather similar shares; on the other hand, the most important exporter to the EU is Brazil, followed by five EU Member States: the Netherlands, Germany, Belgium, Spain and Poland. Other important extra-EU suppliers are Costa Rica, Turkey, Mexico, Argentina and Thailand.

In 2017, EU exports of fruit juices reached 6 Euro billion (5.7 million tonnes), with an annual growth rate between 2013 and 2017 of around 2%. It should be however noted that nearly 90% of exports are intra-EU, with extra-EU exports mainly consisting of re-export of imported orange juice from Brazil and, to a lesser extent, of EU-produced apple juice.

Indicator 2.1.3.a: Evolution of intra-EU trade in the concerned products

Table 7.1 illustrates the results of a comparative analysis of the evolution of intra-EU trade for different typologies of fruit juices. The analysis compared a set of descriptive variables for intra-EU imports (average volume and value; compound annual growth rate / CAGR¹⁸⁰ for volume and value) in two periods, one preceding and one following the entry into force of provisions on minimum brix level for reconstituted juices (the analysis excludes a “transition period” broadly spanning from the publication of Directive 2009/106/EC, which introduced for the first time provisions on minimum brix levels for reconstituted juices, to the deadline given for the implementation at national level of Directive 2012/12/EU, i.e. 28 October 2013).

The comparison between the two periods highlighted a **mixed performance of the typologies of fruit juices with the lowest Brix value**, similarly to what observed for the other typologies of fruit juices.

- Intra-EU trade in **apple juice of a Brix value not exceeding 20** more than doubled in both volume and value terms, and the CAGR in value improved.
- Also intra-EU trade in **non-frozen orange juice of a Brix value not exceeding 20** more than doubled in both volume and value terms, but the pace of growth in both volume and value (as measured by the CAGR) slowed down.

¹⁷⁹ CBI – Dutch Ministry of Foreign Affairs (2018), *Exporting fruit juices to Europe*.

¹⁸⁰ The compound annual growth rate (CAGR) is the mean annual growth rate of an investment (or, more generally, of a quantity) over a specified period of time longer than one year. In formula: $CAGR(t_0, t_n) = (V(t_n)/V(t_0))^{\frac{1}{t_n - t_0}} - 1$

- By contrast, intra-EU trade in grape juice (including grape must) of a Brix value not exceeding 30 stayed rather flat in volume terms (even if it increased remarkably in value terms), and its CAGR in both volume and value significantly worsened (it turned negative in volume and fell to 0% in value).

It can hence be concluded that **the intra-EU trade performance of typologies of fruit juices with the lowest Brix value** (which should be in theory the ones most affected by the introduction of provisions on minimum brix level for reconstituted juices) has not worsened systematically, and has not been systematically worse than the performance of other typologies of fruit juices.

Table 7—1 - Analysis of the evolution of intra-EU trade flows (imports) for fruit juices

Fruit juices	CN code	Period 2002-2009				Period 2014-2018			
		Avg volume (tonnes)	Volume CAGR	Avg value (€M)	Value CAGR	Avg volume (tonnes)	Volume CAGR	Avg value (€M)	Value CAGR
Orange juice: frozen	2009 11	541,561	-3%	537	-5%	292,401	-7%	392	-4%
Orange juice: not frozen, of a Brix value not exceeding 20	2009 12 00	602,805	17%	346	15%	1,339,331	10%	960	12%
Orange juice: other	2009 19	906,207	2%	692	4%	741,475	-9%	738	-2%
Tomato juice	2009 50	44,621	2%	22	5%	57,255	1%	36	4%
Grape juice (including grape must): of a Brix value not exceeding 30	2009 61	239,829	2%	80	4%	247,868	-9%	113	0%
Grape juice (including grape must): other	2009 69	145,838	-3%	115	3%	108,037	-10%	123	-1%
Apple juice: of a Brix value not exceeding 20	2009 71	246,932	13%	123	12%	572,160	12%	288	14%
Apple juice: other	2009 79	608,306	-1%	515	0%	488,692	1%	490	3%
Significant increase									
Significant decrease									

Source: elaboration of EUROSTAT-COMEXT data

7.5.2 Implications of national differences in the implementation of relevant provisions

The analysis of the implementation of the relevant provisions at national level across the EU revealed that all the 28 Member States have reproduced in the implementing national legislation the table reporting the minimum Brix levels for reconstituted fruit juice and reconstituted fruit purée at Annex V of Directive 2001/112/EC, as last amended by Directive 2012/12/EU, without any modification. The minimum Brix levels are hence the same across the EU. The only significant national specificity emerged from the analysis is the fact that the national implementing legislation of Croatia¹⁸¹ includes an additional table establishing specific minimum Brix levels for a number of fruits that are not included in Annex V (e.g. various species of cranberry, kiwifruit, litchi, melon, papaya, plum, watermelon, lime, etc.).

Indicator 2.1.1.a: Situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences (if any) in the implementation of provisions in the views of producers (qualitative appraisal)

The consulted EU-level sector organisation did not identify any significant cases of unfair competition or non-level playing field caused by differences between Member States in the implementation of provisions on minimum brix level for reconstituted juices; on the contrary, it underlined the positive contribution of those provisions –whose introduction it strongly supported - in ensuring a level playing field for operators across the EU¹⁸².

Indicator 2.1.1.b: Situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences (if any) in the implementation of provisions in the views of MS CAs (qualitative appraisal)

The consulted Commission services and one CA¹⁸³ observed that the EU-level sector association and most EU operators were in favour of adopting the concerned provisions for minimum brix levels in reconstituted fruit juices. Those provisions were requested by the industry itself in order to address issues of unfair competition / non-level playing field stemming from differences in the relevant national legislation: the operators of some Member States benefitted from cost advantages deriving from lower allowed minimum brix levels, in the absence of harmonised minimum levels set by EU legislation (it is worth noting that some Member States also had no minimum levels set by national legislation). Minimum values for brix levels set by Directive 2012/12/EU are fully consistent with the minimum values of the voluntary code of practice developed by the EU-level sector association¹⁸⁴. They are also consistent with the relevant Codex Standard for fruit juices and nectars (Codex Stan 247-2005, which was adopted in 2005). Provisions on minimum Brix levels were first adopted in 2010 (Directive 2009/106/EC), then the table of minimum Brix levels was modified by Directive 2012/12/EU to comply with the Codex standard.

¹⁸¹ Ordinance on fruit juices and certain related products intended for human consumption - Official Gazette, RS 103/2018.

¹⁸² Out of the 7 business associations covering the sector that participated to the survey, 4 reported no cases of unfair competition or non-level playing field caused by differences between Member States in the implementation of provisions on minimum brix level for reconstituted juices. The remaining 3 associations reported that such cases were anyway limited in number, without providing concrete evidence on specific cases. Since no differences among Member States were identified with respect to the minimum Brix levels ex-Annex V, it is difficult to figure out the nature of those few cases of unfair competition or non-level playing field.

¹⁸³ The situation emerging from the analysis of the replies of 6 surveyed CAs is just slightly less positive than the one emerging from the survey of business associations. 3 CAs reported no cases of unfair competition or non-level playing field caused by differences between Member States in the implementation of provisions on minimum brix level for reconstituted juices; 2 CAs reported that such cases were anyway limited in number; one CA reported that such differences have led to several cases of unfair competition / non-level playing field among operators of different Member States, without providing further details. As already observed for the surveyed business associations, in the absence of differences among Member States with respect to the minimum Brix levels ex-Annex V, it is difficult to figure out the nature of cases of unfair competition or non-level playing field.

¹⁸⁴ Code of Practice for evaluation of quality and authenticity of juices.

7.5.3 Implications of differential requirements imposed on specific typologies of operators

Indicator 2.1.2.a: Situations of unfair competition / non-level playing field among operators resulting from differential requirements (if any) imposed on specific typologies of operators in the views of producers (qualitative appraisal)

The consulted EU-level sector organisation did not identify any significant cases of unfair competition or non-level playing field caused by differential requirements imposed on specific typologies of operators by provisions on minimum brix level for reconstituted juices.

Indicator 2.1.2.b: Situations of unfair competition / non-level playing field among operators resulting from differential requirements (if any) imposed on specific typologies of operators in the views of MS CAs (qualitative appraisal)

The situation emerging from the analysis of the replies of 6 surveyed CAs is in line with the one emerging from the survey of 7 business associations¹⁸⁵.

7.5.4 Other potential barriers to competition arising from relevant provisions

Indicator 2.1.4.a: Potential barriers to competition (between Member States and/or between different typologies of operators) arising from the provisions in the views of producers (qualitative appraisal)

The consulted EU-level sector organisation did not identify any potential barriers to competition (between Member States and/or between different typologies of operators) arising from the provisions on minimum brix level for reconstituted juices.

Indicator 2.1.4.b: Potential barriers to competition (between Member States and/or between different typologies of operators) arising from the provisions in the views of MS CAs (qualitative appraisal)

The situation emerging from the analysis of the replies of 6 surveyed CAs is broadly in line with the one emerging from the survey of 7 business associations¹⁸⁶.

7.6 EQ 2.2: To what extent the provisions on classification for fresh fruit and vegetables support the interests of producers and traders and do they facilitate trade?

7.6.1 Overview of the EU market and intra-EU trade in fresh fruit and vegetables

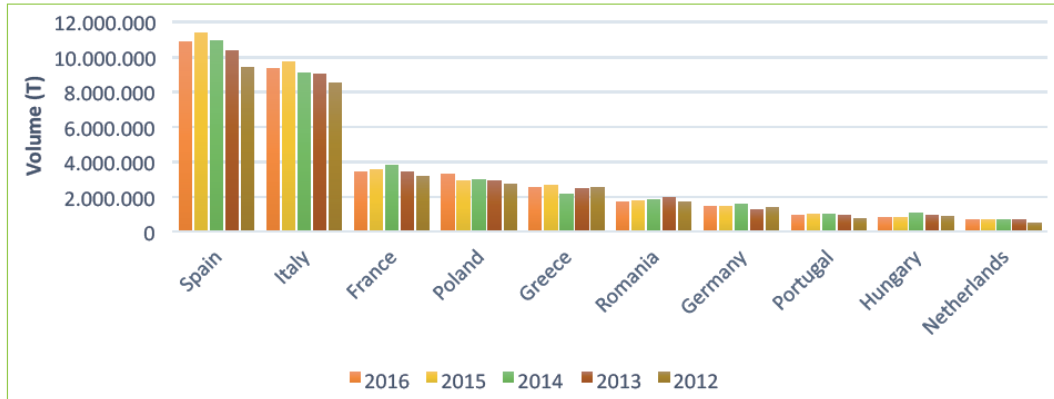
In 2016, EU production of fruit reached 43 million tonnes, while that of vegetables amounted to around 48.5 million tonnes¹⁸⁷.

¹⁸⁵ Out of the 7 business associations covering the sector that participated to the survey, 5 reported no cases of unfair competition or non-level playing field caused by differential requirements imposed on specific typologies of operators by the aforementioned provisions. The remaining 2 associations reported that such cases were limited in number, without providing further details. 4 surveyed CAs reported no cases of unfair competition or non-level playing field caused by differential requirements imposed on specific typologies of operators by provisions on minimum brix level for reconstituted juices. The remaining 2 CAs reported that such cases were anyway few, without providing further details.

¹⁸⁶ 7 business associations covering the sector participated to the survey: of these, only one deemed that the aforementioned provisions have created potential barriers to competition between different typologies of operators, whereas no association deemed that those provisions have created potential barriers to competition between operators of different Member States. Only one surveyed CA deemed that provisions on minimum brix level for reconstituted juices have created potential barriers to competition, both between operators of different Member States and between different typologies of operators, but did not provide further details on the issue. The remaining 5 CAs deemed that provisions on minimum brix level for reconstituted juices have created no barriers to competition.

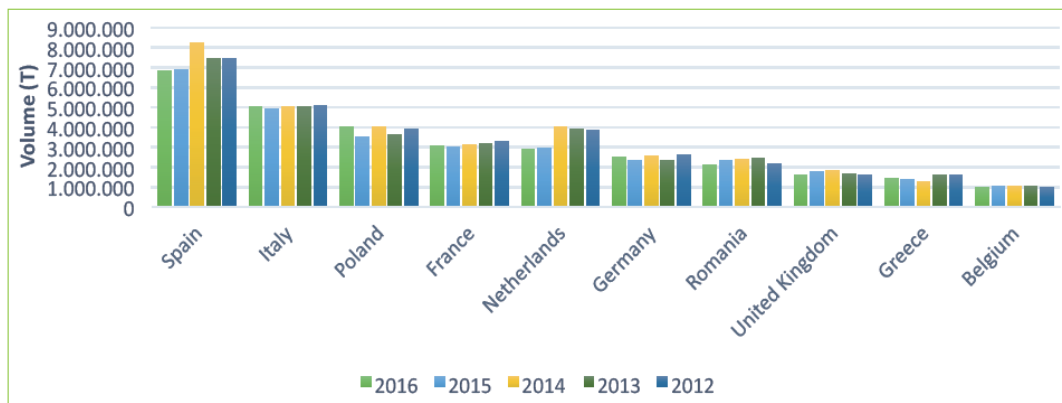
Despite fluctuations between one year and another, the top producing Member States for fruit are Spain, Italy, France, Poland and Greece, as also illustrated in Figure 7.9. Out of these five Member States, four are also among the top producers of vegetables: Spain, Italy, Poland and France (Figure 7.10).

Figure 7-9 – Evolution of fruit production in the main EU producing Member States, 2012-2016.



Source: Freshfel Europe - Activity Report 2018

Figure 7-10 - Evolution of vegetables production in the main EU producing Member States, 2012-2016.



Source: Freshfel Europe - Activity Report 2018

In terms of intra-EU trade, the main importing Member States are Germany, France and the United Kingdom, whereas the leading intra-EU exporters are Spain, Italy and Belgium (further elements on intra-EU trade are provided in the following section).

Consumption of fruit and vegetables remained basically stable in the EU over the 2013-2016 period, with a value of around 345 g/person/day, which is below the 400 g/person/day recommended by the WHO.

Extra-EU exports in 2017 amounted to around 3.25 million tonnes of fruit and 1.9 million tonnes of vegetables, with Belarus, Switzerland and Norway being the main destinations. On the other hand, imports from extra-EU countries in the same year reached around 13 million tonnes for fruit and nearly 2 million tonnes for vegetables; the leading extra-EU suppliers to the EU are Costa Rica, Ecuador, Colombia, South Africa and Morocco. The leading EU importers from third countries are the Netherlands, the United Kingdom, Belgium, France and Italy.

¹⁸⁷ Freshfel Europe – Activity Report 2018.

Indicator 2.2.2.a: Evolution of intra-EU trade in the concerned products

Table 7.2 below reports the results of a comparative analysis in aggregated terms of the evolution of intra-EU imports of fruit and vegetables. The analysis compared a set of descriptive variables for intra-EU imports (average volume and value; compound annual growth rate / CAGR¹⁸⁸ for volume and value) in two periods, one preceding and one following the replacement of 26 product-specific standards by a general marketing standard (GMS)¹⁸⁹. The analysis revealed a substantial increase in the average volume and value of intra-EU trade for both fruit and vegetables. The CAGR in volume terms slightly worsened for both fruit and vegetables; the CAGR in value terms remained the same for fruit, and slightly worsened for vegetables. The CAGR for the aggregate “fruit + vegetables” slightly worsened in both volume and value terms.

Table 7—2 - Comparative analysis of the evolution of intra-EU trade flows (imports) of fruit and vegetables

Fruit & vegetables	CN code	Period 2000-2007				Period 2012-2018			
		Avg volume (tonnes)	Volume CAGR	Avg value (€M)	Value CAGR	Avg volume (tonnes)	Volume CAGR	Avg value (€M)	Value CAGR
Fruit	08	15,299,340	3%	13,079	6%	19,916,509	2%	23,350	6%
Vegetables	07	19,690,818	3%	12,322	6%	24,950,358	2%	19,687	4%
Total		34,990,158	3%	25,401	6%	44,866,867	2%	43,037	5%

Source: elaboration of EUROSTAT-COMEXT data

7.6.2 Effectiveness of the provisions on classification of fresh fruit and vegetables in supporting the interests of producers and traders and in facilitating trade

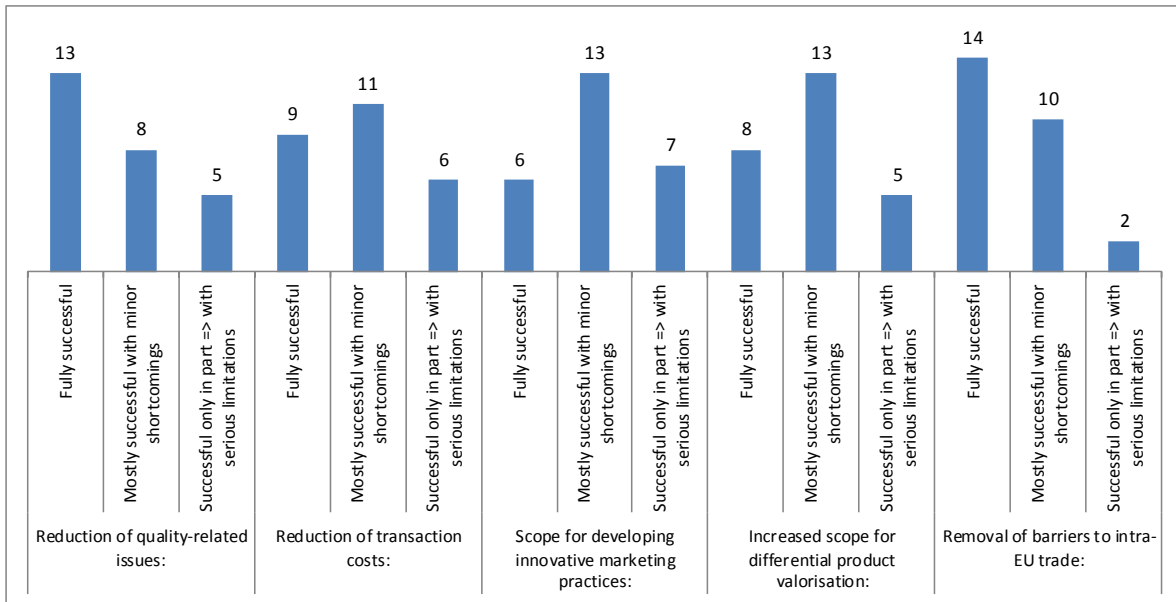
Indicator 2.2.1.a: Practical role of provisions on classification in addressing the critical aspects for marketing of fresh fruits and vegetables in the views of producers, traders and retailers, in terms of: a) reduction of quality-related issues; b) reduction of transaction costs; c) scope for developing innovative marketing practices; d) increased scope for differential product valorisation; e) removal of barriers to intra-EU trade (qualitative appraisal)

The overall judgment expressed by the 26 surveyed business associations about the effectiveness of the provisions on classification of fresh fruit and vegetables in supporting the interests of producers and traders and in facilitating trade is positive. Figure 7.11 illustrates the survey results across all the stages of the supply chain, whereas the results for the farming stage are illustrated at Figure 7.12.

¹⁸⁸ The compound annual growth rate (CAGR) is the mean annual growth rate of an investment (or, more generally, of a quantity) over a specified period of time longer than one year. In formula: $CAGR(t_0, t_n) = (V(t_n)/V(t_0))^{\frac{1}{t_n - t_0}} - 1$

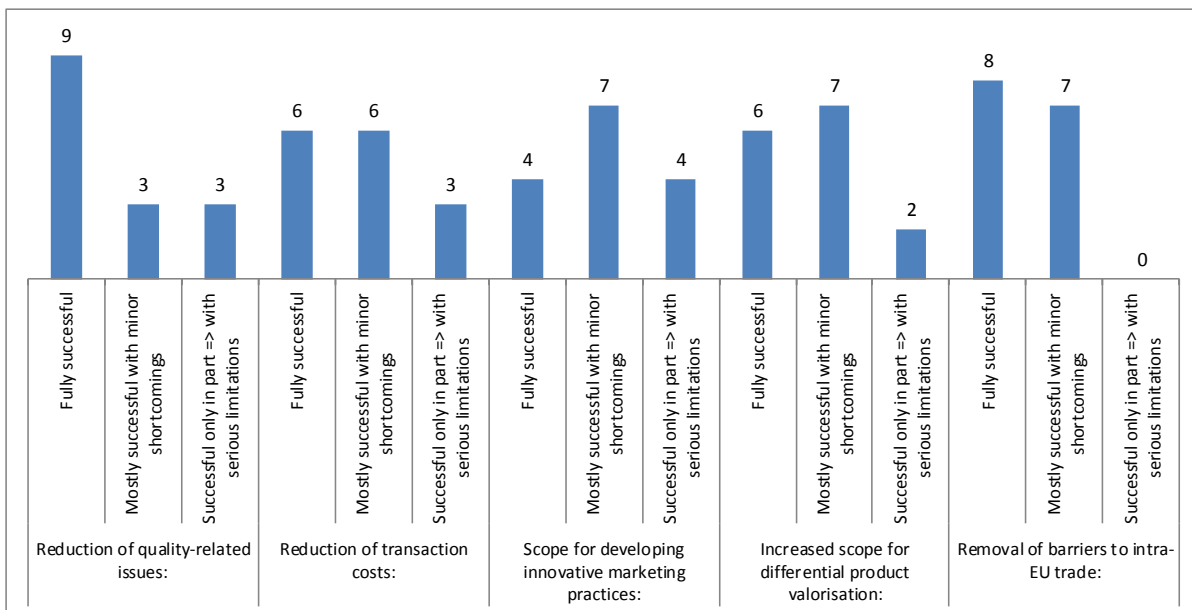
¹⁸⁹ The analysis excludes a “transition period” broadly spanning from the entry into force of Regulation (EC) No 1221/2008 to the entry into force of Regulation (EU) No 543/2011.

Figure 7-11 – Survey results: practical role of provisions on classification in addressing the critical aspects for marketing of fresh fruits and vegetables (total of 26 respondents among business associations)



Generally favourable judgments were expressed with respect to the contribution of the provisions on classification of fresh fruit and vegetables to all the different aspects considered (listed in decreasing order of appreciation by respondents): i) the **removal of barriers to intra-EU trade**; ii) the **reduction of quality-related issues**; iii) the **reduction of transaction costs**; iv) the **increased scope for differential product valorisation**; v) the **scope for developing innovative marketing practices**¹⁹⁰. The analysis of the sole replies of 15 surveyed business associations representing exclusively the interests of farmers is illustrated in Figure 7.12.

Figure 7-12 - Survey results: practical role of provisions on classification in addressing the critical aspects for marketing of fresh fruits and vegetables (total of 15 respondents among business associations representing exclusively the interests of farmers)



¹⁹⁰ This is the aspect for which the highest number of replies highlighting serious limitations was recorded.

The **judgments expressed by the sole associations representing farmers** on some of the aspects considered are basically in line with the overall judgments of all the surveyed associations; their judgments are instead more or less significantly diverging from the overall ones for some other aspects. More specifically: i) the judgment on the contribution to the **removal of barriers to intra-EU trade** is **more favourable than the overall one**; ii) the judgment on the contribution to the **reduction of quality-related issues** is also **more favourable than the overall one**; iii) the judgment on the contribution to the **reduction of transaction costs** is **broadly in line with the overall one**; iv) the judgment on the contribution to an **increased scope for differential product valorisation**, is also **more favourable than the overall one**; v) the judgment on the contribution to an **increased scope for developing innovative marketing practices** is **fully in line with the overall one**¹⁹¹.

The only significant limitations in the effectiveness of EU marketing standards for fresh fruit and vegetables highlighted by the interviewed EU-level sector associations are related to the transition from product-specific standards to the general marketing standard (GMS) for 26 types of fruit and vegetables. These limitations are hence discussed at § 8 in the framework of the reply to EQ 3.

7.7 EQ 2.3: To what extent the provisions on the certification of hops create a level playing field for producer organisations/producer groups, traders, retailers?

7.7.1 Overview of the EU market and intra-EU trade in hops

Figure 7.13 below provides a snapshot of the world's main hop-producing countries: the EU as a whole results as the leading producer on a global basis, with Germany covering in 2017 around 36% of global production, and Czech Republic a further 6%.

Germany is hence the most important EU Member State in terms of hops production: in 2017 German production amounted to around 41,500 tonnes, followed by Czech Republic (7,000 tonnes), Slovenia (2,700 tonnes) and Poland (2,500 tonnes).

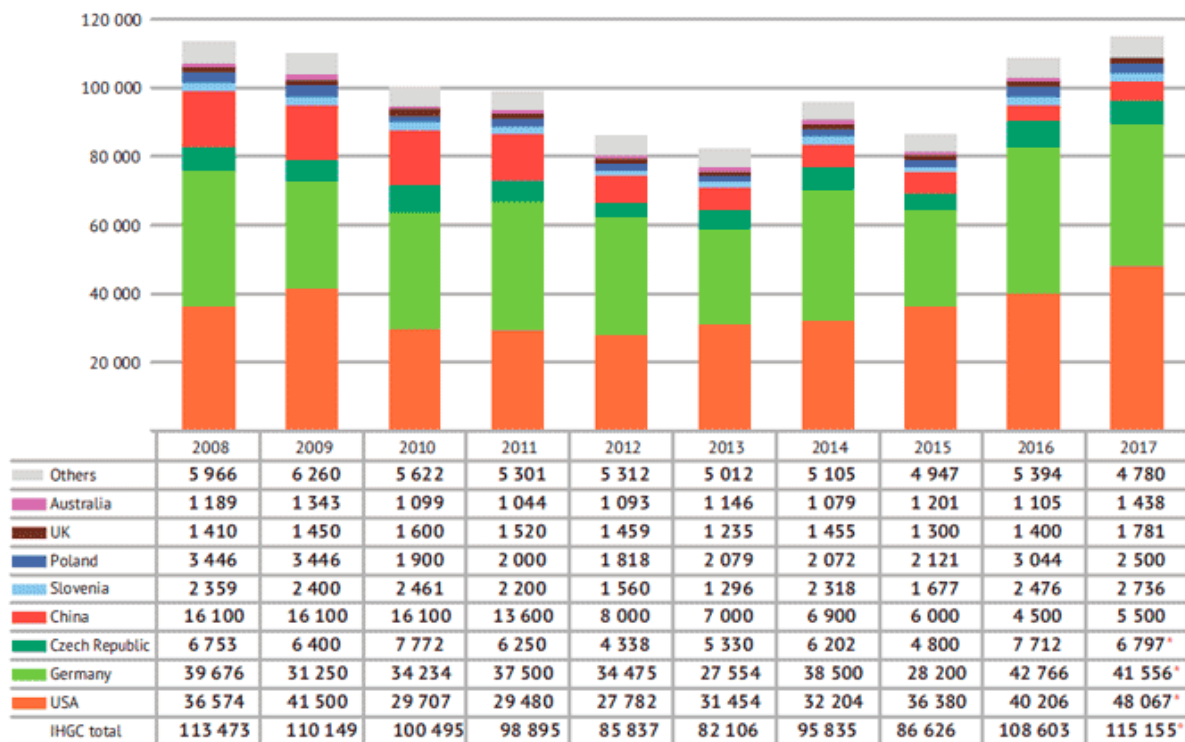
Intra-EU trade in hops is valued at around 100 Euro million¹⁹²; the top exporting Member State is again Germany with average exports of around 42 Euro million over the 2014-2016 period, followed by Czech Republic (15 Euro million), Slovenia (11) and the United Kingdom (9).

Germany is also the most important Member State in terms of intra-EU imports, with an average value of around 34 Euro million. Other top intra-EU importers are the United Kingdom (10 Euro million), Belgium (8), Italy (6) and Sweden (5).

¹⁹¹ This is the aspect for which the highest number of replies highlighting serious limitations was recorded.

¹⁹² Average of intra-EU imports over the 2014-2016 period. Source: Eurostat-Comext.

Figure 7-13 – Evolution of the EU importance in global hops production, 2008-2017 (tons).



*updated from national trade statistics

Source: International Hop Growers Convention – IHGC, Economic Commission Summary Reports, Prague, Czech Republic – November 10, 2017

Indicator 2.3.3.a: Evolution of intra-EU trade in hops

Table 7.3 illustrates the results of an analysis of the evolution of intra-EU trade for hops. The analysis compared a set of descriptive variables for intra-EU imports (average volume and value; compound annual growth rate / CAGR¹⁹³ for volume and value) in two periods, one preceding and one following the entry into force of Regulation (EC) No 1850/2006.

The analysis showed that the performance of intra-EU trade in hops improved for all the variables considered: besides a moderate increase in volume terms, intra-EU trade nearly doubled in value, and the growth in the 2007-2018 period (as expressed by the CAGR) accelerated remarkably in both volume and value terms (the CAGR in volume was negative in the previous period).

Table 7—3 - Analysis of the evolution of intra-EU trade flows (imports) for hops

CN code	Period 2000-2006				Period 2007-2018			
	Avg volume (tonnes)	Volume CAGR	Avg value (€M)	Value CAGR	Avg volume (tonnes)	Volume CAGR	Avg value (€M)	Value CAGR
1210	15,147	-1%	50	2%	17,357	2%	94	5%

Significant increase

Significant decrease

Source: elaboration of EUROSTAT-COMEXT data

¹⁹³ The compound annual growth rate (CAGR) is the mean annual growth rate of an investment (or, more generally, of a quantity) over a specified period of time longer than one year. In formula: $CAGR(t_0, t_n) = (V(t_n)/V(t_0))^{\frac{1}{t_n - t_0}} - 1$

7.7.2 Implications of national differences in the implementation of relevant provisions

Indicator 2.3.1.a: Situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences (if any) in the implementation of provisions in the views of business stakeholders (qualitative appraisal)

Out of the 7 business associations covering the sector that participated to the survey, 5 reported no cases of unfair competition or non-level playing field caused by differences between Member States in the implementation of provisions on the certification of hops. The remaining 2 associations reported that such cases were anyway few. Neither the interviewed sector associations, nor 2 interviewed leading producers of beer reported any significant situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences in the implementation of provisions on the certification of hops.

Indicator 2.3.1.b: Situations of unfair competition / non-level playing field among operators of different Member States resulting from national differences (if any) in the implementation of provisions in the views of MS CAs (qualitative appraisal)

The situation emerging from the analysis of the replies of 9 surveyed CAs is broadly in line with the one emerging from the survey of business associations¹⁹⁴.

7.7.3 Implications of differential requirements imposed on specific typologies of operators

Indicator 2.3.2.a: Situations of unfair competition / non-level playing field among operators resulting from differential requirements (if any) imposed on specific typologies of operators in the views of business stakeholders (qualitative appraisal)

None of the 7 surveyed business associations covering the sector reported cases of unfair competition or non-level playing field caused by differential requirements imposed on specific typologies of operators by provisions on the certification of hops. The absence of significant situations of unfair competition / non-level playing field among operators resulting from differential requirements imposed on specific typologies of operators by the provisions on the certification of hops was confirmed by the interviewed sector associations and by 2 interviewed leading producers of beer.

Indicator 2.3.2.b: Situations of unfair competition / non-level playing field among operators resulting from differential requirements (if any) imposed on specific typologies of operators in the views of MS CAs (qualitative appraisal)

The situation emerging from the analysis of the replies of 9 surveyed CAs is slightly less positive than the one emerging from the survey of business associations¹⁹⁵.

7.7.4 Other potential barriers to competition arising from relevant provisions

Indicator 2.3.4.a: Presence of other potential barriers to competition (between Member States and/or between different typologies of operators) arising from the provisions in the views of business stakeholders (qualitative appraisal)

¹⁹⁴ 6 CAs reported no cases of unfair competition or non-level playing field caused by differences between Member States in the implementation of provisions on the certification of hops. The remaining 3 CAs reported that such cases were anyway limited in number.

¹⁹⁵ 7 CAs reported no cases of unfair competition or non-level playing field caused by differential requirements imposed on specific typologies of operators by provisions on the certification of hops. The remaining 2 CAs reported that such cases were anyway limited in number.

None of the 7 surveyed business associations covering the sector reported cases of potential barriers to competition arising from the provisions on the certification of hops. The absence of potential barriers to competition arising from the provisions on the certification of hops was confirmed by the interviewed sector associations and by 2 interviewed leading producers of beer.

Indicator 2.3.4.b: Presence of other potential barriers to competition (between Member States and/or between different typologies of operators) arising from the provisions in the views of MS CAs (qualitative appraisal)

The situation emerging from the analysis of the replies of the surveyed CAs is less positive than the one emerging from the survey of business associations¹⁹⁶. However, the surveyed CAs did not provide any information on specific cases of potential barriers to competition arising from the concerned provisions.

7.8 EQ 2: evaluation judgment

The assessment of the effectiveness of EU marketing standards in contributing to improve the economic conditions for production and marketing (and in particular in creating a level playing field for producers, traders and retailers) was based on a qualitative analysis of the perceptions of the consulted stakeholders and on quantitative analyses mainly focusing on the evolution of intra-EU trade in a number of sectors (fruit juices, fresh fruit and vegetables, hops). It should also be noted that the perceptions of the consulted business stakeholders were often backed by fact-based evidence concerning the sectors of interest.

The assessment revealed generally high satisfaction levels of business stakeholders (farmers; processors) about the **effectiveness of EU marketing standards in improving the economic conditions for production**, in terms of:

- reduction of quality-related issues in the production stage of the concerned supply chains;
- increased scope for differential product valorisation;
- access to new and/or more remunerative marketing channels.

The **main limitation** in that respect emerged from the assessment is related to the issue of the so called “standard inflation”¹⁹⁷ in the **eggs sector**, which already emerged in the assessment of the overall effectiveness of EU marketing standards (EQ 1; see § 6.8).

A generally positive judgment by business stakeholders emerged also with respect to the effectiveness **of EU marketing standards in improving the economic conditions for marketing**, with particular respect to **business-to-business (B2B) relationships**.

Business stakeholders valued positively the contribution of EU marketing standards to (in decreasing order of appreciation by the consulted stakeholders):

- the reduction of quality-related issues in the intermediate distribution stages;
- the removal of barriers to intra-EU trade of the covered products;
- the reduction of transaction costs in B2B relationships;
- increased scope for developing innovative B2B practices.

¹⁹⁶ Even if the majority of surveyed CAs (6 out of 9) did not report any cases of potential barriers to competition arising from the provisions on the certification of hops, the 3 remaining CAs highlighted: i) the creation of potential barriers to competition between different typologies of operators (reported by two CAs); ii) the creation of potential barriers to competition between operators of different Member States (reported by one CA).

¹⁹⁷ In several parts of the EU barn eggs have become the market standard in retail sales for direct consumption, as caged eggs are no longer produced for that market. This implies that there is no longer a market advantage for barn eggs (produced in more costly animal welfare-friendly rearing systems) as they have become the market standard, at least for what concerns the retail market. This translates into less favourable economic conditions for production for the affected operators.

Relatively minor shortcomings of EU marketing standards were found to affect the olive oils sector, with respect to providing the scope for developing innovative B2B practices, and to removal of barriers to intra-EU trade.

The assessment of the effectiveness of **EU marketing standards in improving the economic conditions for marketing** in a **business-to-consumer (B2C)** perspective revealed comparable satisfaction levels by business stakeholders with respect to the standards' contribution to (in decreasing order of appreciation by the consulted stakeholders):

- the reduction of quality-related issues in the final distribution stage;
- more balanced quality/price ratios;
- expanding the scope for developing innovative B2C marketing practices.

The evaluation was completed by a **sector-specific assessment** focusing on the **effectiveness of the provisions on classification for fresh fruit and vegetables in supporting the interests of producers and traders and in facilitating trade** (EQ 2.2; see § 7.6). The assessment revealed generally **positive overall judgments by business stakeholders - and by farmers in particular** - about the effectiveness of those provisions in terms of:

- removal of barriers to intra-EU trade; the actual effectiveness of the provisions in that respect was confirmed by a comparative analysis in aggregated terms of the evolution of intra-EU trade in fruit and vegetables;
- reduction of quality-related issues;
- reduction of transaction costs;
- increased scope for differential product valorisation;
- increased scope for developing innovative marketing practices.

The only significant limitations in the effectiveness of EU marketing standards for fresh fruit and vegetables highlighted by the consulted stakeholders were related to the transition from product-specific standards to the general marketing standard (GMS) for 26 types of fruit and vegetables. These limitations are discussed at § 8 in the framework of the reply to EQ 3.

The assessment of the **effectiveness of EU marketing standards in creating a level playing field for operators** referred to two different concepts of "level playing field": a "horizontal" one (among operators of different Member States) and a "vertical" one (among different typologies of operators within the concerned supply chains). The assessment further distinguished between producers (farmers and processors) and traders and retailers. The assessment was mainly based on the perceptions of both business stakeholders and national competent authorities (CAs), and on the identification of any specific sectoral issues in terms of situations of unfair competition / non-level playing field among operators. The assessment was completed by **two sector-specific assessments** focusing on:

- the effectiveness of the provisions on minimum brix level for reconstituted juices in creating a level playing field for producers (EQ 2.1; see § 7.5);
- the effectiveness of the provisions on the certification of hops in creating a level playing field for producer organisations/producer groups, traders, retailers (EQ 2.3; see § 7.7).

The assessment focusing on **producers** revealed:

- A **fairly positive overall judgment by farmers and processors and by CAs** on the effectiveness of EU marketing standards in ensuring a **level playing field among operators of different Member States**. Some sector-specific issues emerged for the eggs, dairy products and olive oils sectors¹⁹⁸.

¹⁹⁸ These are related to:

- Eggs sector: a non-homogeneous approach by Competent Authorities across the EU to the enforcement of the ban on non-enriched cages in 2012.
- Dairy sector: a non-homogenous enforcement at Member State level of the list of national exemptions (EU Commission Decision 2010/791/EU of 20 December 2010), which results in cases of improper/illegal use of protected dairy terms in the

- A **positive overall judgment by farmers and processors and by CAs** on the effectiveness of EU marketing standards in ensuring a **level playing field among different typologies of operators**.
- The **absence of significant issues** with specific respect to the effectiveness of the **provisions on minimum brix level for reconstituted juices** in creating a level playing field for producers¹⁹⁹.
- **Positive judgments by both business stakeholders and CAs** with specific respect to the effectiveness of the **provisions on the certification of hops** in creating a **level playing field for producer organisations/producer groups, traders, retailers** (also supported by the observed improvement in intra-EU trade performance for hops).

The assessment focusing on **traders and retailers** revealed that the main shortcomings of EU marketing standards in contributing to improve the economic conditions for marketing are related to some **constraints** that they would pose **to the development of innovative business-to-consumer marketing practices**. In particular, these constraints concern the impossibility to combine the terms “free range” and “organic” in the marketing of eggs, which would prevent effective communication on the differential characteristics of eggs produced in farming systems that meet both sets of requirements.

The assessment also revealed that limitations posed by EU legislation to the marketing of thawed frozen poultry meat may have costly implications for the related logistics by limiting the ability to carcass balance or to effectively match supply to demand.

The findings of the assessment of different aspects of the effectiveness of EU marketing standards presented above allow to conclude that **the current framework of EU marketing standards has in general been successful** in contributing to improve the economic conditions for production and marketing, and in particular in **creating a level playing field for producers**.

The **limitations** in that respect that emerged from the assessment are **relatively few, concern specific aspects and affect specific sectors** (eggs²⁰⁰, dairy products²⁰¹, olive oil²⁰²).

marketing of plant-based substitutes of dairy products in a number of Member States not covered by the specified exemptions.

- Olive oils sector: depending on the Member State, domestic operators may or may not be allowed to blend olive oils with other vegetable oils for sale in their national market, but they can always do that for export to other Member States. Article 6(1), second paragraph of Regulation (EU) No 29/2012 establishes that “Member States may prohibit the production in their territory of blends of olive oil and other vegetable oils referred to in the first subparagraph for internal consumption. However, they may not prohibit the marketing in their territory of such blends coming from other countries and they may not prohibit the production in their territory of such blends for marketing in another Member State or for exportation”.

¹⁹⁹ Besides generally positive judgments expressed by business stakeholders and CAs on the effectiveness of the provisions in that respect, the analysis of the evolution of intra-EU trade revealed that the trade performance of typologies of fruit juices with the lowest Brix value (which should be in theory the ones most affected by the introduction of provisions on minimum brix level for reconstituted juices) has not worsened systematically, and has not been systematically worse than the performance of other typologies of fruit juices. It is also important to note that all the 28 Member States have reproduced in the implementing national legislation the table reporting the minimum Brix levels for reconstituted fruit juice and reconstituted fruit purée at Annex V of Directive 2001/112/EC, as last amended by Directive 2012/12/EU, without any modification.

²⁰⁰ “Standard inflation” issue for eggs for direct consumption; impossibility to combine the terms “free range” and “organic” in the marketing of eggs.

²⁰¹ Non-homogenous enforcement at Member State level of the list of national exemptions, which results in cases of illegal use of protected dairy terms in the marketing of plant-based substitutes of dairy products.

²⁰² Non-homogeneous situation across the EU concerning the practice of blending olive oils with other vegetable oils: this practice is prohibited in certain Member States for products sold on the domestic market, whereas it is always allowed for products marketed in another Member State or destined to extra-EU markets.

8 EQ 3: TO WHAT EXTENT HAS THE FACT OF REPLACING SPECIFIC MARKETING STANDARDS FOR 26 TYPES OF FRESH FRUIT AND VEGETABLES BY A GENERAL MARKETING STANDARD ALTERED THE EFFECTIVENESS OF THE POLICY?

EQ 3: Definition of key terms

“Effectiveness of EU marketing standards (for fresh fruit and vegetables)”: the extent to which the objectives pursued by EU marketing standards (for fresh fruit and vegetables) are achieved. For the purposes of the assessment under EQ 3, the following categories of stakeholders are considered: i) business operators (farmers, processors, traders/wholesalers, retailers); ii) consumers; ii) competent authorities (at EU, national, regional/local level). Both business-related (B2B relationships) and consumer-related (B2C relationships) objectives of EU marketing standards are considered for the assessment. These objectives are the same ones identified at § 6 for the assessment under EQ 1.

“Specific marketing standards for 26 types of fresh fruit and vegetables”: the product-specific EU marketing standards for 26 types of fresh fruit and vegetables that were replaced by the “general marketing standard (GMS)” (see the definition provided below) introduced by Regulation (EC) No 1221/2008, which amended Regulation (EC) No 1580/2007. The 26 types of fresh fruit and vegetables concerned by the replacement are: apricots, artichokes, asparagus, aubergines, avocados, beans, Brussels sprouts, carrots, cauliflower, cherries, courgettes, cucumbers, cultivated mushrooms, garlic, hazelnuts in shell, headed cabbages, leeks, melons, onions, peas, plums, ribbed celery, spinach, walnuts in shell, watermelons and chicory. When dealing with fruit and vegetables not covered by a specific standard anymore, operators are left free to choose whether to meet the GMS (see the definition provided below) or the applicable UNECE standard (see § 1.3.1).

“General marketing standard (GMS)”: the EU marketing standard for fresh fruit and vegetables established by Regulation (EC) No 1221/2008, which amended Regulation (EC) No 1580/2007. According to Article 1 of Regulation (EC) No 1221/2008, the GMS covers the requirements of Article 113a(1) of Regulation (EC) No 1234/2007 (“single CMO Regulation”); the details of the GMS were first set out in Part A of Annex I to Regulation (EC) No 1221/2008. Regulation (EC) No 1580/2007 was repealed by Regulation (EU) No 543/2011, which is currently in force. The details of the GMS are currently set out in Part A of Annex I to Regulation (EU) No 543/2011. More specifically, the GMS covers: minimum quality requirements; minimum maturity requirements; tolerance; marking²⁰³. Under the GMS, products are required to bear the full name of their country of origin. After the introduction of the GMS, product-specific EU marketing standards have remained in force for 10 products²⁰⁴: apples; citrus fruit; kiwifruit; lettuces, curled-leaved and broad-leaved endives; peaches and nectarines; pears; strawberries; sweet peppers; table grapes; tomatoes. 16 products are instead exempted from the GMS²⁰⁵.

²⁰³ Marking covers: A) identification, i.e. name and address of the packer and/or the dispatcher; B) origin, i.e. full name of the country of origin.

²⁰⁴ Article 3(2) of Regulation (EU) No 543/2011. The product-specific standards are set out at Part B of Annex I to Regulation (EU) No 543/2011.

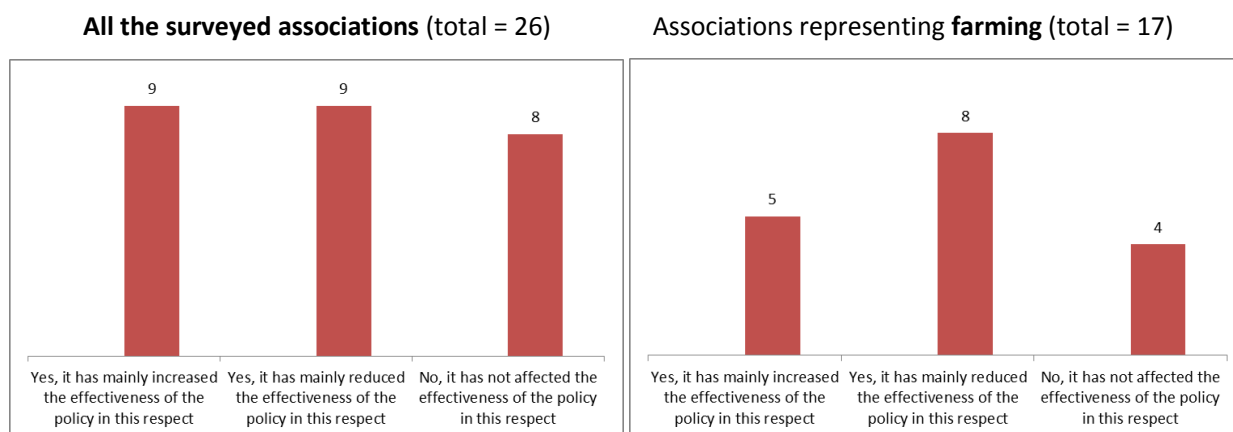
²⁰⁵ According to Article 4(6) of Regulation (EU) No 543/2011, the products exempted from the GMS are: non-cultivated mushrooms (CN code 0709 59); capers (CN code 07099040); bitter almonds (CN code 08021110); shelled almonds (CN code 080212); shelled hazelnuts (CN code 080222); shelled walnuts (CN code 080232); pine nuts (CN code 08029050); pistachios (CN code 08025000); macadamia (CN code 08026000); pecans (CN code ex08029020); other nuts (CN code 08029085); dried plantains (CN code 08030090); dried citrus (CN code 0805); mixtures of tropical nuts (CN code 08135031); mixtures of other nuts (CN code 08135039); saffron (CN code 091020).

8.1 Effectiveness in achieving business-related objectives (B2B relationships)

Indicator 3.1.a: Practical cases of increased/reduced effectiveness in achieving business-related objectives, as identified by business stakeholders (qualitative appraisal)

If aggregate survey results across the entire supply chain are considered, the 26 surveyed business associations expressed mixed views²⁰⁶ on the implications in terms of effectiveness in achieving business-related objectives of EU marketing standards caused by the replacement of specific standards for 26 types of fresh fruit and vegetables by a general marketing standard (GMS). A clearer orientation emerged from a comparison (Figure 8.1) with the results of the analysis of the **sole replies by business associations covering the farming stage of the supply chain** (exclusively or in combination with processing, but not covering the trading/wholesaling and retailing stages): indeed, a larger share (47% vs. 35%) of that sub-group of respondents deems that the **transition to the GMS has mainly reduced the effectiveness of the policy** in facilitating the trading of the concerned products. Even with the caution suggested by the very low number (2) of surveyed associations representing the interests of **traders/retailers**, it is interesting to note that both associations deem that the transition to the GMS has mainly increased the effectiveness of the policy in facilitating the trading of the concerned products (the opposite of what most associations covering the farming stage deem).

Figure 8-1 – Survey results: effectiveness of the replacement of specific standards for 26 types of fresh fruit and vegetables by a general marketing standard with respect to the objective of facilitating the trading of the concerned products

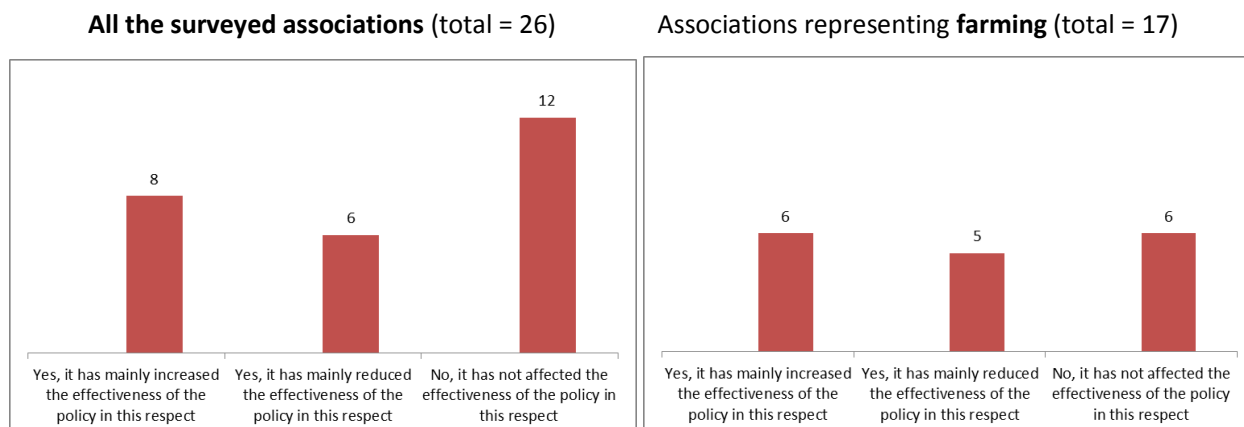


As for the objective of **ensuring a level playing field for EU producers of the concerned products**, survey respondents again expressed mixed views²⁰⁷. Differently from what observed above with respect to the objective of facilitating the trading of the concerned products, a comparison (Figure 8.2) with the results of the analysis of the **sole replies by 17 surveyed business associations covering the farming stage of the supply chain** showed that the judgments expressed by that sub-group of respondents are even more mixed. Also the views of the 2 surveyed associations representing the interests of traders/retailers are mixed: one deems that the transition to the GMS has not affected the effectiveness of the policy, the other deems that it has mainly increased the effectiveness of the policy.

²⁰⁶ With respect to the objective of facilitating the trading of the concerned products, 9 respondents (35%) deemed that the replacement mainly increased the effectiveness of the policy, 9 other respondents (35%) expressed the opposite view (mainly decreased effectiveness) and 8 respondents (31%) deemed that the replacement has not affected the effectiveness of the policy.

²⁰⁷ 8 respondents (31%) deemed that the transition to the GMS mainly increased the effectiveness of the policy, 6 respondents (23%) expressed the opposite view (mainly decreased effectiveness) and 12 respondents (46%) deemed that the replacement has had no implications on the effectiveness of the policy.

Figure 8-2 - Survey results: effectiveness of the replacement of specific standards for 26 types of fresh fruit and vegetables by a general marketing standard with respect to the objective of ensuring a level playing field for EU producers of the concerned products



The interviewed EU-level associations representing the interests of farmers also deemed that the implications of the transition to the GMS in terms of effectiveness of EU marketing standards for fresh fruit and vegetables in achieving their business-related objectives were mostly negative. One interviewed association highlighted a number of **specific negative effects resulting from the transition** (which it strongly opposed):

- Increased transaction costs and reduced transparency of B2B transactions: the GMS is too general compared to the previous specific standards for a number of important aspects, and UNECE standards (which can be met by operators in alternative to the GMS) may also be too general.
- Proliferation of private standards in the “empty spaces” left by the replacement of product-specific standards with the GMS: compliance with multiple, and often very demanding private standards is often imposed by large-scale retailers to their suppliers, and this has significant cost implications for them.
- For some products affected by the transition, innovation or value-adding efforts have mainly focused on packaging/presentation. The resulting additional value mostly goes to packers and retailers, not to producers.

Indicator 3.1.b: Practical cases of increased/reduced effectiveness in achieving business-related objectives, as identified by MS CAs (qualitative appraisal)

Similarly to what observed for the surveyed business associations, the 14 surveyed CAs have divided views about the implications of the transition from product-specific standards to a general marketing standard (GMS) for 26 types of fresh fruit and vegetables²⁰⁸. The most significant negative implications of the transition to the GMS for the achievement of the objective of facilitating the trading of the concerned products, as highlighted by the surveyed and/or interviewed CAs, are mainly related to the loss of quality specifications (concerning e.g. size or grades) that were included in the previous products-specific standards (whenever those specifications are not present in either the GMS or the relevant UNECE standards).

As for the achievement of the objective of **ensuring a level playing field for EU producers of the concerned products**, the 14 surveyed CAs again expressed mixed judgments, similarly to what observed among

²⁰⁸ 6 CAs deemed that the replacement of specific marketing standards by a GMS has not altered the effectiveness of the policy in achieving its objective of facilitating the trading of the concerned products. 6 CAs, however, deemed that the transition mainly reduced the effectiveness of the policy in that respect; by contrast, only 2 CAs deemed the opposite (increased effectiveness of the policy as a result of the transition).

respondents to the survey of business associations²⁰⁹. One consulted CA observed that in some Member States (e.g. Germany) operators active in intra-EU trading mainly refer to UNECE standards²¹⁰. In addition, some retailer chains (e.g. those with international presence) have developed quality protocols/contract specifications based on UNECE standards. The CA deems that the multitude of applicable standards for the 26 types of fresh fruit and vegetables affected by the transition (EU GMS, product-specific UNECE standards, private standards with more demanding requirements than EU/UNECE standards) may create situations of unfair competition among operators of different Member States, also deriving from non-homogeneous enforcement of EU marketing standards and different approaches to control activities across EU Member States (this specific issue was highlighted by four other consulted CAs).

Other significant negative implications of the transition to the GMS for the achievement of the objective of ensuring a level playing field for EU producers of the concerned products, as highlighted by the surveyed and/or interviewed CAs, mainly affect operators that have made costly efforts for achieving high level or anyway distinctive quality features according to the previous product-specific standards: with the transition to the GMS, some of those quality features may be no longer recognisable, with negative implications for the valorisation of products.

The consulted Commission services observed that the transition to the GMS was the result of a political compromise between opposed positions, and that it was aimed at a simplification of the framework of EU marketing standards for fresh fruit and vegetables. They acknowledged that less specific requirements in the GMS may cause problems; however, they also observed that UNECE standards for some of the products concerned by the transition were already in force before the establishment of the corresponding EU product-specific marketing standards, and that no significant issues concerning the replacement of product-specific standards have been reported to the Commission services. The consulted Commission services also underlined that the transition to the GMS allowed to establish an EU marketing standard for products that were previously not covered by product-specific standards: in those cases, the transition to the GMS represents an improvement with respect to the previous situation.

Indicator 3.1.c: Evolution of intra-EU trade in 26 types of fresh fruit and vegetables affected by the transition to the GMS

Table 8.1 illustrates the results of a comparative analysis of intra-EU trade for:

- selected products still covered by product-specific standards;
- selected products concerned by the transition to the GMS.

The analysis compared a set of descriptive variables for intra-EU imports (average volume and value; compound annual growth rate / CAGR²¹¹ for volume and value) in two periods, one preceding and one following the replacement of 26 product-specific standards by the GMS (the analysis excludes a “transition period” broadly spanning from the entry into force of Regulation (EC) No 1221/2008 to the entry into force of Regulation (EU) No 543/2011).

Since most of the products in both groups have recorded an increase in average traded volumes and values (with the only exception of plums among products now covered by the GMS), it is worth focusing on a comparative analysis of the performance in terms of intra-period dynamics, as expressed by the CAGR. Whereas only one product still covered by specific standards – kiwifruit – managed to improve its CAGR (in value terms only):

- CAGRs for watermelons greatly improved in both volume and value terms;

²⁰⁹ 5 CAs deemed that the replacement of specific marketing standards by a GMS has not altered the effectiveness of the policy in that respect. 5 CAs deemed that the transition has mainly reduced the effectiveness of the policy in meeting that objective, whereas other 4 CAs deemed the opposite (increased effectiveness of the policy as a result of the transition).

²¹⁰ This was confirmed by an interviewed German CA.

²¹¹ The compound annual growth rate (CAGR) is the mean annual growth rate of an investment (or, more generally, of a quantity) over a specified period of time longer than one year. In formula: $CAGR(t_0, t_n) = (V(t_n)/V(t_0))^{\frac{1}{t_n - t_0}} - 1$

- the CAGR in volume terms for apricots changed its sign, shifting from deceleration to acceleration;
- the CAGR in value terms for carrots and turnips improved, albeit slightly.

In conclusion, the analysis showed that **the performance of intra-EU trade for the products concerned by the transition to the GMS has not been systematically worse than the performance of the products still covered by specific standards**. On the contrary, some of the products now covered by the GMS have even recorded better performances than most of the products still covered by specific standards.

Table 8—1 - Comparative analysis of the evolution of intra-EU trade flows (imports) for selected fruit and vegetable products still covered by product-specific standards and for selected products concerned by the transition to the general marketing standard

Fruit & vegetables	CN code	Period 2000-2007				Period 2012-2018			
		Avg. volume (tonnes)	Volume CAGR	Avg. value (€M)	Value CAGR	Avg. volume (tonnes)	Volume CAGR	Avg. value (€M)	Value CAGR
Still covered by product-specific standards									
<i>Tomatoes, fresh or chilled</i>	0702	2,155,457	4%	2,263	5%	2,568,003	0%	3,282	2%
<i>Table grapes</i>	0806 10 10	907,680	1%	1,044	5%	956,662	0%	1,568	3%
<i>Apples</i>	080810	2,322,378	2%	1,318	7%	2,444,020	-2%	1,665	2%
<i>Peaches, including nectarines</i>	0809 30	895,234	2%	787	4%	1,214,369	1%	1,152	2%
<i>Strawberries</i>	0810 10	368,830	2%	598	5%	432,843	-1%	981	1%
<i>Kiwifruit</i>	0810 50 00	408,605	4%	442	7%	527,448	1%	680	8%
Product-specific standards replaced by the GMS									
<i>Cauliflowers and headed broccoli</i>	0704 10	401,198	2%	314	4%	540,614	0%	484	3%
<i>Carrots and turnips</i>	0706 10	893,250	3%	256	6%	1,022,299	1%	393	7%
<i>Cucumbers</i>	0707 00 05	866,801	4%	688	5%	1,188,298	1%	1,084	5%
<i>Aubergines (eggplants)</i>	0709 30	126,898	7%	120	8%	204,428	3%	225	3%
<i>Celery other than celeriac</i>	0709 40	87,428	2%	56	5%	143,814	-2%	81	2%
<i>Watermelons</i>	0807 11	710,544	1%	241	4%	1,136,677	8%	506	12%
<i>Apricots</i>	0809 10	121,396	-2%	139	4%	175,615	2%	247	3%
<i>Plums</i>	0809 40 05	213,405	2%	170	6%	190,212	-4%	207	-2%
<i>Significant increase</i>									
<i>Significant decrease</i>									

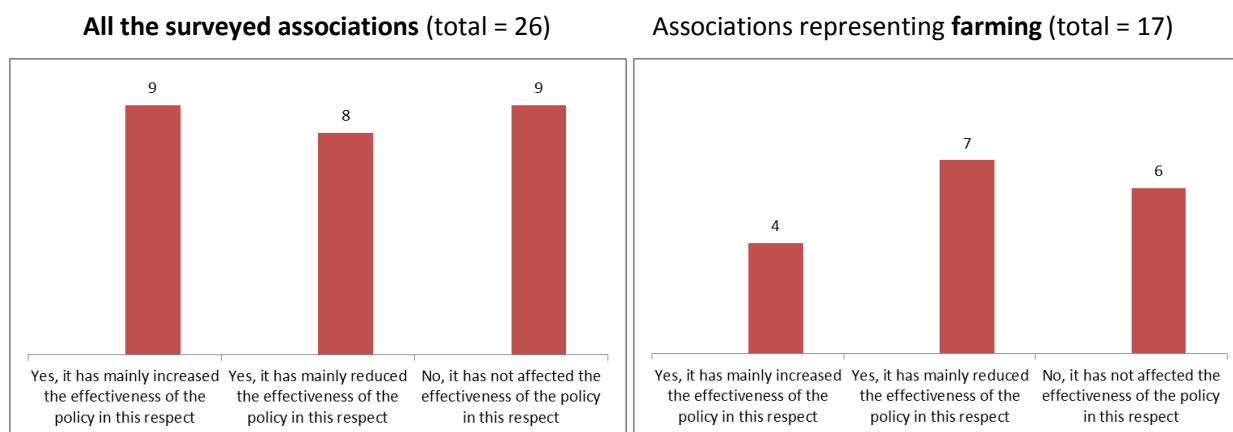
Source: elaboration of EUROSTAT-COMEXT data

8.2 Effectiveness in achieving consumer-related objectives (B2C relationships)

Indicator 3.2.a: Practical cases of increased/reduced effectiveness in achieving consumer-related objectives, as identified by operators (qualitative appraisal)

The analysis of aggregate survey results across the entire supply chain highlighted that the 26 surveyed business associations again expressed mixed views on the implications in terms of effectiveness in achieving consumer-related objectives of EU marketing standards deriving from the shift to the GMS for 26 types of fresh fruit and vegetables²¹². A clearer orientation emerged from a comparison (Figure 8.3) with the results of the analysis of the **sole replies by business associations covering the farming stage of the supply chain**. A larger share (41% vs. 31%) of that sub-group of respondents deems that the **transition to the GMS has mainly reduced the effectiveness of the policy** in ensuring that the market is supplied with products of a standardised and satisfactory quality to meet consumer expectations. Even with the caution suggested by the very low number (2) of surveyed associations representing the interests of **traders/retailers**, it is interesting to note that both associations deem that the transition to the GMS has mainly increased the effectiveness of the policy in that respect (the opposite of what several associations covering the farming stage deem).

Figure 8-3 - Survey results: effectiveness of the replacement of specific standards for 26 types of fresh fruit and vegetables by a general marketing standard with respect to the objective of ensuring that the market is supplied with products of a standardised and satisfactory quality to meet consumer expectations



The interviewed EU-level associations representing the interests of farmers expressed an overall negative judgment on the implications of the transition to the GMS in terms of effectiveness of EU marketing standards for fresh fruit and vegetables in achieving their consumer-related objectives. One interviewed association highlighted a number of **negative implications for consumers resulting from the transition**:

- Reduced transparency in the retail market for fresh fruit and vegetables and reduced capacity of consumers to make informed comparisons between products, due to a reduced set of information on some product types affected by the transition.
- For some product types affected by the transition, the removal of specific standards resulted in limited / no availability of certain product categories, and hence in a reduced variety of the available offer for consumers.

²¹² With respect to the objective of ensuring that the market is supplied with products of a standardised and satisfactory quality to meet consumer expectations, 9 respondents (35%) deemed that the replacement mainly increased the effectiveness of the policy, 8 respondents (31%) expressed the opposite view (mainly decreased effectiveness) and 9 respondents (35%) deemed that the replacement has left the effectiveness of the policy in that respect unaltered.

Indicator 3.2.b: Practical cases of increased/reduced effectiveness in achieving consumer-related objectives, as identified by consumers (qualitative appraisal)

The consulted Italian consumer association deems that the transition to the GMS mostly constitutes an important positive development in terms of simplification, as it regulates under harmonised, simple requirements typologies of fruit and vegetables for which complicate standards for quality grades, size, colour etc. are not really needed. However, the association also observed that for some products concerned by the transition, i.e. plums, peas and watermelons, more specific requirements than those included in the GMS would probably be still needed. In any case, the Italian and Spanish consumer associations deem that the most significant implications of the transition have concerned operators, rather than consumers.

Indicator 3.2.c: Practical cases of increased/reduced effectiveness in achieving consumer-related objectives, as identified by MS CAs

Similarly to what observed in the results of the survey of business associations, the views of the 13 surveyed CAs are divided also with respect to the implications of the transition to the GMS for the effectiveness in achieving the objective of **ensuring that the market is supplied with products of a standardised and satisfactory quality to meet consumer expectations**²¹³. The most significant negative implications of the transition to the GMS for the achievement of the objective of ensuring that the market is supplied with products of a standardised and satisfactory quality to meet consumer expectations, as highlighted by the surveyed and/or interviewed CAs, derive from the reduced set of information available to consumers to make informed choices, wherever quality specifications (concerning e.g. size or grades) that were included in the previous products-specific standards are not present in either the GMS or the relevant UNECE standards.

Indicator 3.2.d: Evolution of volatility in the prices of the 26 types of fresh fruit and vegetables affected by the shift: pre-shift vs. post-shift comparison

Table 8.2 illustrates the results of a comparative analysis of price volatility for:

- selected products still covered by product-specific standards;
- selected products concerned by the transition to the GMS.

The analysis compared price volatility (expressed in terms of coefficient of variation) in two periods, one preceding and one following the replacement of 26 product-specific standards by the GMS (the analysis excludes a “transition period” broadly spanning from the entry into force of Regulation (EC) No 1221/2008 to the entry into force of Regulation (EU) No 543/2011). The analysis did not reveal any significant difference in the evolution of price volatility between the two groups. In both groups some products experienced a significant decrease in price volatility, one product experienced the opposite evolution, while for the remaining products price volatility remained more or less the same before and after the transition.

²¹³ 7 CAs deemed that the transition has not altered the effectiveness of the policy in that respect. 4 CAs deemed that the transition has decreased the effectiveness of the policy in that respect, and 3 other CAs deemed the opposite (increased effectiveness of the policy as a result of the transition).

Table 8—2 - Comparative analysis of the evolution of price volatility for selected fruit and vegetable products still covered by product-specific standards and for selected products concerned by the transition to the general marketing standard

Fruit & Vegetables	Average EU price (Euro / 100 kg net weight)		Coefficient of variation		
	2000-2007	2008-2011	2000-2007	2008-2011	2012-2019
Still covered by product-specific standards					
Tomatoes round	76.22	82.94	0.24	0.27	0.22
Grapes	91.92	117.55	0.38	0.29	0.27
Apples golden	46.19	56.42	0.23	0.16	0.20
Peaches	71.40	81.84	0.43	0.37	0.43
Nectarines	77.98	80.22	0.41	0.29	0.44
Strawberries	271.51	315.67	0.62	0.44	0.37
Kiwi	100.46	104.25	0.15	0.21	0.22
Product-specific standards replaced by the GMS					
Cauliflowers	50.07	50.92	0.30	0.27	0.29
Carrots	28.90	39.31	0.24	0.44	0.55
Cucumbers	71.74	73.76	0.47	0.40	0.32
Aubergines	69.23	76.68	0.42	0.39	0.46
Watermelons	33.60	27.81	1.63	0.48	0.41
Apricots	110.88	139.27	0.43	0.22	0.42
Plums	66.46	77.31	0.41	0.33	0.23
Significant decrease in price volatility					
Significant increase in price volatility					

Source: elaboration on DG Agriculture data (EU monthly prices for selected representative products, since January 1991: https://ec.europa.eu/agriculture/markets-and-prices/price-monitoring/monthly-prices_en)

The results of the above analysis would lead to conclude that the replacement of specific standards for 26 types of fresh fruit and vegetables by a general marketing standard **had no influence on the evolution of price volatility for the products affected by the shift.**

8.3 Implications for EU and national competent authorities

Indicator 3.3.a: Practical implications of the shift as identified by the Commission Services and MS competent authorities, in terms of increased/reduced challenges in the enforcement of the relevant provisions (qualitative appraisal)

Indicator 3.3.b: Practical implications of the shift as identified by the Commission Services and MS competent authorities, in terms of increased/reduced effectiveness of control activities, as measured by: a) non-conformity rates; b) specific actions or sanctions

The views of the 14 surveyed CAs are divided also with respect to the practical implications of the transition to the GMS in terms of **challenges for enforcing the relevant provisions** and of **effectiveness of the related control activities**²¹⁴. The most significant negative implications of the transition to the GMS for the CAs, as

²¹⁴ 4 CAs did not identify any practical implications in both respects deriving from the transition. 3 CAs reported about increased challenges in the enforcement of the relevant provisions, against just one CA reporting about reduced challenges. A negative overall judgment hence prevailed on this specific aspect. 4 CAs deemed that the effectiveness of the related control activities

highlighted in the survey or in in-depth interviews, are related to non-homogeneous enforcement of EU marketing standards and uneven effectiveness of controls across EU Member states for the 26 types of fruit and vegetables affected by the transition, due to different national approaches deriving from the absence of a single reference (as a result of the transition, operators and CAs may refer either to the GMS or to UNECE product-specific standards)²¹⁵.

8.4 EQ 3: evaluation judgment

The assessment revealed **mixed views of stakeholders** - business operators and national competent authorities - on the implications in terms of **effectiveness in achieving business-related objectives of EU marketing standards** caused by the replacement of specific standards for 26 types of fresh fruit and vegetables by a general marketing standard (GMS). The views of stakeholders are divided with respect to the assessment of the impacts on the effectiveness with reference to both relevant business-related objectives:

- facilitating the trading of the concerned products;
- ensuring a level playing field for EU producers of the concerned products.

Especially the **associations representing the interests of farmers** deem that the implications of the transition to the GMS in terms of effectiveness of EU marketing standards for fresh fruit and vegetables in achieving their business-related objectives are mostly negative.

Among the **specific negative effects** resulting from the transition, the following were highlighted:

- **Increased transaction costs and reduced transparency of B2B transactions**, due to the loss of quality specifications (concerning e.g. size or grades) that were included in the previous product-specific standards (whenever those specifications are not present in either the GMS or the relevant UNECE standards).
- **Proliferation of private standards** in the “empty spaces” left by the replacement of product-specific standards with the GMS, with significant cost implications for farmers (they often have to comply with multiple standards imposed by large-scale retailers).
- For some products affected by the transition, innovation or value-adding efforts have mainly focused on packaging/presentation. The resulting additional value mostly goes to packers and retailers, not to producers.
- Negative implications for operators that have made costly efforts for achieving high level or anyway distinctive quality features according to the previous product-specific standards: with the transition to the GMS, some of those quality features may be no longer recognisable, with negative implications for the valorisation of products.

However, it should be noted that a comparative analysis of intra-EU trade performance for selected products still covered by product-specific standards and selected products concerned by the transition to the GMS revealed that **the performance of intra-EU trade for the products concerned by the transition to the GMS**

has been increased as a result of the transition to the GMS, against 3 CAs that deemed the opposite (decreased effectiveness of those control activities).

²¹⁵ In particular, the consulted German CA reported that domestic operators generally refer to UNECE standards for intra-EU trading activities, whereas the GMS plays a role on weekly markets only. Two different approaches to controls apply for Germany:

- National control authorities apply the GMS, irrespective of the fact that an UNECE classification is indicated or not. Only in cases where the GMS is not met and the UNECE standard is more generous, the product is checked by those authorities against the UNECE standard.
- Regional (i.e. Bundesländer) control authorities check conformity with the UNECE standard whenever a class is indicated.

According to the consulted CA, the above diverging approaches would result in a reduced effectiveness and transparency of official controls in Germany.

has not been systematically worse than the performance of the products still covered by specific standards. On the contrary, some of the products now covered by the GMS have even recorded better performances than most of the products still covered by specific standards.

Divided views of both business stakeholders and national competent authorities emerged also with respect to the implications of the transition in terms of **effectiveness in achieving** the objective of **ensuring that the market is supplied with products of a standardised and satisfactory quality to meet consumer expectations.**

Also in this case, the judgments expressed by the associations representing the interests of **farmers are more negative** than the overall ones.

The following **negative implications for consumers resulting from the transition** were highlighted:

- Reduced transparency in the retail market for fresh fruit and vegetables and reduced capacity of consumers to make informed comparisons between products, due to a reduced set of information on some product types affected by the transition.
- For some product types affected by the transition, the removal of specific standards resulted in limited / no availability of certain product categories, and hence in a reduced variety of the available offer for consumers.

It should anyway be noted that the results of a comparative analysis of price volatility for selected products still covered by product-specific standards and selected products concerned by the transition to the GMS suggest that the replacement of specific standards **had no influence on the evolution of price volatility for the products affected by the shift.**

As for the **implications of the transition for competent authorities**, the views of national CAs were once again **divided with respect to** both aspects considered in the assessment:

- **challenges in the enforcement of the relevant provisions;**
- **effectiveness of the related control activities.**

Some CAs deem that the challenges in the enforcement have increased, and that the effectiveness of the related control activities has diminished, as a result of the transition; other CAs deem exactly the opposite; other CAs deem that the transition has had no practical implications.

The most significant **negative implications for CAs** emerged from the assessment are related to **non-homogeneous enforcement of EU marketing standards and uneven effectiveness of controls across EU Member States** for the 26 types of fruit and vegetables affected by the transition, due to different national approaches deriving from the absence of a single reference (as a result of the transition, operators and CAs may refer either to the GMS or to UNECE product-specific standards).

The findings of the assessment of the different aspects presented above **do not allow to elaborate a conclusive judgment on the implications of the transition from product-specific standards to the GMS** in terms of effectiveness in meeting business-related or consumer-related objectives: this especially applies for the **positive or negative impacts on individual groups of stakeholders** (producers, traders/retailers, competent authorities).

However, the findings of the assessment suggest that the transition from product-specific standards to the GMS:

- had **no significant negative impacts on the overall performance of intra-EU trade** for the products affected by the shift;
- had **no influence on the evolution of price volatility** for those products.

THEME II – EFFICIENCY

9 EQ 4: TO WHAT EXTENT THE INCURRED COSTS ARE JUSTIFIABLE AND PROPORTIONATE TO THE BENEFITS ACHIEVED?

EQ 4: Definition of key terms

“Costs”: costs incurred by food business operators (FBOs) to ensure compliance with the marketing standards; costs incurred by Member State Competent Authorities (MS CAs) to perform controls to verify enforcement of the marketing standards. The costs incurred, by both FBOs and MS CAs, are further broken down by: type (changes/adaptations to systems; performing checks; training; reporting requirements); and, are distinguished between one-off and ongoing costs, in line with the Standard Cost Model (SCM) used by the Commission.

“Benefits”: benefits resulting from marketing standards for FBOs, MS CAs and consumers. These are assessed in terms of the standards’ contribution to improved product quality (consumers); creating a level playing field between operators (FBOs); improved market access (FBOs); facilitating enforcement by providing legal certainty and improving compliance checks (FBOs) and controls by enforcement authorities (MS CAs, FBOs); and, positive effects on prices/reducing price volatility (FBOs, consumers).

“Certification of hops” (EQ 4.1 at § 9.4): see the definition provided at § 7 for EQ 2.3.

9.1 Cost and benefits of compliance with marketing standards for food business operators

The following **types of costs** (one-off; ongoing) stemming from compliance with marketing standards for food business operators (FBOs) have been investigated:

1. Changes/adaptations required to production process/systems for ensuring compliance: one-off costs + any updates required.
2. Costs of performing compliance checks: on-going costs.
3. Training: could be one-off or on-going costs.
4. Reporting requirements: on-going costs.
5. Any other costs.

The **most substantial** type of costs incurred by FBOs are **one-off adaptation costs**, followed by the costs of performing compliance checks, training, and reporting requirements. This is ascertained by both the business associations and the individual companies that responded to the survey. In particular, changes/adaptations required to production process/systems for ensuring compliance (one-off + any updates required) were ranked as the **most/second most burdensome** by 101 out of the 123 business associations that responded to the survey²¹⁶, followed by the costs of performing compliance checks (on-going) (95 associations); reporting requirements and training were generally considered the most/second most burdensome by relatively few associations (24 and 19 associations respectively); a similar picture emerges from the responses of 54 individual business operators. For example, according to the consulted poultry sector associations, changes/adaptations required to production process/systems for ensuring compliance (one-off + any updates required) are estimated to account for 50% of all compliance costs, costs of performing compliance checks (on-going) for 20%, training for 15%, reporting requirements (on-going) for 10%, and any other costs for 5%.

Nonetheless, it has been **difficult to quantify the costs**. For the most part, FBO respondents have explained that cost estimates are unfeasible, mainly for the following two reasons:

²¹⁶ In total, 123 responses were received to the survey by business associations at EU level and MS level, and 54 responses from individual business operators. Not all of the business associations and individual business operators responded to all the questions on efficiency (the number of respondents is always indicated).

- a. As most EU marketing standards have been around for decades, without dramatic changes (except in the case of the replacement of the 26 specific standards for fresh fruit and vegetables with a general marketing standard), the one-off (adaptation) costs have long been written off. In particular, any costs incurred when the standards were introduced have been written off long ago, thereby incorporated fully in operational costs, and there is no way going back to establish what these were.
- b. Ongoing costs are limited/negligible; in most cases, they are impossible to isolate from other costs due to other EU/national regulatory provisions (whether mandatory requirements or voluntary rules) and/or private standards. For example, the costs imposed by labelling obligations under the food information to consumer (FIC) Regulation, as well as those on food safety by other EU legislation, are often complied with seamlessly with the requirements of marketing standards, making the distinction of “which costs are incurred by which rules” impossible. Only in a couple of cases it has been possible to identify some quantitative measure of ongoing costs, and this confirms that they are minor/negligible.

As already outlined in the methodology, the data collection has confirmed that it is **not possible** to attempt any **quantification of benefits**. Nonetheless, the benefits identified in qualitative terms are considered important and are in line with the effectiveness of EU marketing standards in meeting their objectives, as assessed under Theme I- Effectiveness:

- For the majority of the 123 business associations responding to the survey, the **marketing standards fully contribute to improve product quality** (76% of associations), create a **level playing field** between operators (65%), **improve market access** (64%) and **improve controls by enforcement authorities** (52%); while, for most of the remaining respondents the marketing standards at least partly contribute to these benefits (for less than 3% to 8% of associations the marketing standards do not at all contribute to these objectives). On the other hand, the benefit that is the least considered to be fully conferred by marketing standards is a positive impact on prices: for 41% of business associations marketing standards fully contribute to higher prices, but for another 38% the beneficial impact is only partial and for 21% there is no impact. It is noted that for the majority (78%) of business associations, **marketing standards do not have a notable impact on price volatility**; only 18% of the business associations consider them to have a positive impact in reducing price volatility i.e. contributing to more stable prices.
- A similar assessment emerges from the feedback received by 54 individual companies (it is noted that 30 and 15 of those companies were from the poultry and eggs sectors, respectively). The achievement of higher prices is the benefit considered to be the least conferred fully by marketing standards (52% of company respondents) although for another 31% there is a partially beneficial impact; nonetheless, according to 17% of respondents (9 companies) marketing standards do not contribute to improved prices. Similarly, three quarters of respondents (41 companies) do not consider marketing standards to have an impact on price volatility; the remaining respondents are rather divided, with 6 companies considering them to have a positive impact in reducing price volatility (i.e. contributing to more stable prices) and 7 companies to have a negative role (i.e. to increase price volatility).

Although neither costs nor benefits are fully quantifiable, two thirds (67%) of the responses provided by a total of 123 surveyed business associations (at EU and Member State level) across the various product groups indicate that **the current cost of compliance for FBOs is justifiable**, i.e. proportionate to the results achieved by the marketing standards; while 15% of the responses were negative and 18% did not know. The proportionality of costs was particularly highlighted in the case of the hops, poultry meat, eggs, fresh fruit and vegetables, dairy, honey, and fruit jams sectors. Only the 11 business associations involved in the olive oil sector were rather divided on this, with 5 considering the costs incurred are justifiable/proportionate and 5 not (1 association did not know).

The responses received from individual companies (total = 54) were mainly from the poultry and eggs sectors (30 and 15 companies, respectively). This does not allow drawing conclusions across all sectors. However, in both the poultry and eggs sectors, over two thirds of respondents (77% and 67%, respectively) indicate that the current cost of compliance for FBOs is justifiable, i.e. proportionate to the results achieved. An overview of the costs versus benefits by sector, as identified by respondents to the survey and interviews, is provided in Table 9.1.

Table 9—1 – Overview of cost and benefits by sector

Sector	Costs of compliance with EU marketing standards	Benefits of EU marketing standards	Do costs justify benefits?
FRESH F&V	<ul style="list-style-type: none"> ▪ Greece: 0.7-0.8% of producers' selling price, for non-approved traders. For approved traders (under Article 12 of Commission Regulation (EU) 543/2011), the cost is negligible. In comparison, the specifications laid down in private standards are costly/cumbersome, while multiple standards exist (e.g. retailers may impose their own standards, which differ from those of their competitors; these may be based on UNECE or not). 	<ul style="list-style-type: none"> ▪ Allow the existence of a transparent and loyal market. ▪ The producer receives a satisfactory income for producing quality products. The producer is hence incentivised to provide consumers with quality products. ▪ Contribute to the reputation of the operator and of EU fruit and vegetables products. ▪ Not complying with the standards damages reputation and relationship with customers, leading to up to 100% losses. 	<p>Yes. The costs to comply with EU marketing standards are minor; the economic benefits are important for the whole chain, from producers to consumers.</p>
PROCESSED F&V	<ul style="list-style-type: none"> ▪ Romania: to meet quality standards, costs increase by 40% for canned F&V; however, these are mostly private standards set by buyers. Furthermore, costs arising from the obligations and responsibilities laid down in other legislation amount to 20%. ▪ Greece: costs are not arising from the obligations and responsibilities laid down in the legislation but by the specifications laid down in private standards and/or private buyer requirements. The sector is dealing with high-level global buyers of EU-wide presence. 	<ul style="list-style-type: none"> ▪ Access to market. ▪ Consumer confidence. ▪ In this market, reliance on marketing standards alone is redundant, as these provide only a minimum set of rules that is overridden by buyer specifications /requirements. 	<p>Yes. The costs to comply with EU marketing standards are minor; the economic benefits are important for the whole chain, from producers to consumers. However, private quality standards are more important in this sector.</p>
DAIRY	<ul style="list-style-type: none"> ▪ Denmark: estimated cost for controls carried out by competent authorities is around € 0.8 -1 million per year. However, only a very minor part of these costs concerns marketing standards. ▪ Belgium, Netherlands, Spain: compliance costs have been written off. There are no ongoing costs directly relating to the marketing standards. ▪ France: there is very little to no specific costs related to EU marketing standards; compliance is fully integrated into companies' operations. ▪ Poland: additional costs may arise from control checks. 	<ul style="list-style-type: none"> ▪ Positive effect on quality, price and fair competition. ▪ Market access is facilitated by transparent criteria for placing the product on the market. ▪ Through very precise definitions, ensure loyal competition between EU operators, by guaranteeing similar product composition for all. ▪ Stabilisation of the supply of a given product resulting from clearly defined guidelines (e.g. spreadable fats). ▪ Consumers are provided with a degree of certainty. ▪ Not complying with the standards would damage reputation and the relationship with customers 	<p>Yes. The costs to comply with EU marketing standards are minor; the economic benefits are important for the whole chain, from producers to consumers.</p>
OLIVE OIL	<ul style="list-style-type: none"> ▪ Greece: costs are borne by bottlers. The highest costs are to cover the consumer vs. panel test quality gap (organoleptic features): € 0.20/0.30 per bottle. 	<ul style="list-style-type: none"> ▪ Organised market; product quality is standardised across the EU and improved. ▪ Improved market access and level playing field among operators. ▪ The system of conformity checks is a guarantee for operators. ▪ Improved awareness of different categories of oil among consumers. 	<p>Yes. The costs related to tests, which can be high, are largely justified by the return achieved from product valorisation. Nonetheless, for some operators, the return may not justify the</p>

Sector	Costs of compliance with EU marketing standards	Benefits of EU marketing standards	Do costs justify benefits?
			costs.
EGGS	<ul style="list-style-type: none"> Spain: To switch from conventional cages to enriched cages Spanish farmers invested around € 600 million in 2008-2012. Currently, distributors request barn eggs, although farmers have not amortised the investment for enriched cages. Romania: 1) annual investment depreciation to adapt to the new standards: 7-8% per year of the cost of the egg; 2) costs for food safety, animal welfare, compliance, training: 15% of the total cost of the egg per year. In total 22-23% of the cost of an egg per year is the adaptation to the new legislation. 	<ul style="list-style-type: none"> An advantage for the supply chain because they define what exactly is allowed and what is not. They ensure level playing field. Product size scaling is clear, it provides the option of price difference. 	<p>Yes. Operators benefit from the organisation marketing standards brings. This means that production costs are well known and taken into account for the return achieved.</p>
POULTRY	<ul style="list-style-type: none"> France: production costs reach €3 per bird on average for standard poultry, and €3,5 on average for Label Rouge production – i.e. there is €0.5 cost difference per bird due to this private standard. France: costs are mainly linked to on-site controls. United Kingdom: in the poultry sector inspections take place 4-5 times a year. Each inspection will take around half a day which implies an annual cost to the industry of around € 350.000; this is a low cost in per bird or kg terms. EU: additional costs are around 30% of production costs, but businesses have been able to recover these costs from the market. 	<ul style="list-style-type: none"> A shared knowledge of products' characteristics facilitates access to market. The use of marketing standards has opened up new marketing channels and new opportunities in third countries where the added value can be promoted. The same rules apply for all operators in the market, ensuring a level playing field. Price improvement: the price of poultry products has risen by around 10% in recent years due to high standards (Netherlands). 	<p>Yes. Without current transparent categories, it would be very complicated for poultry producers to justify production costs and assure retail prices in return.</p>
FOIE GRAS	<ul style="list-style-type: none"> EU: The costs arising from compliance are lower than those relating to private standards. 	<ul style="list-style-type: none"> The marketing standards have allowed access to new and more innovative marketing channels. The baseline has a positive impact on quality that leads to higher prices. The level playing field between operators is also improved. 	<p>Yes. The establishment of a baseline for raw <i>foie gras</i> led to an increased quality product and created a level playing field among the operators of the sector. This has had a positive impact on the prices.</p>
HOPS	<ul style="list-style-type: none"> Germany (main EU producer): hops certification costs are minor/negligible. 	<ul style="list-style-type: none"> The certification is an effective tool of market protection. It allows traceability, quality control and eliminates the risk of falsification. This leads to improved market access. The implementation of EU marketing standards over time has made German and other EU hops into a premium brand as the image has improved. This in turn has improved competitiveness and marketability. 	<p>Yes. The ratio of benefits to costs is very positive given the marketing benefits of the certification system and the extremely low cost associated with its application.</p>

9.2 Cost and benefits of controls for Member States

The following **types of costs** (one-off; ongoing) stemming from compliance with marketing standards for Member State Competent Authorities (MS CAs) have been investigated:

1. Changes/adaptations required to process/systems used for verifying compliance: one-off costs + any updates required.
2. Costs of performing checks for verification of compliance: on-going costs.
3. Training: could be one-off or on-going costs.
4. Reporting requirements: on-going costs.
5. Any other costs.

The most substantial type of costs incurred by MS CAs are the **on-going costs of performing checks for verification of compliance** (ranked as the **most/second most burdensome** by all 19 MS CAs (i.e. all 11 MS that responded to the survey²¹⁷), followed by training (9 MS CAs), and changes/adaptations required to process/systems used for verifying compliance (7 MS CAs); reporting requirements, were generally considered less burdensome (2 MS CAs).

In terms of variations between sectors, the **higher the level of specification and complexity of the marketing standards, the higher the control costs involved (for operators and for authorities)**. Where enforcement involves expensive laboratory tests and specific control activities are established, controls costs tend to be the highest (e.g. olive oil, for verifying analytical and organoleptic parameters; poultry water content). On the other hand, where the standards lay down product designations and other specifications that are mostly controlled by labelling checks (e.g. control of jams or cacao products), control costs are the lowest.

Nonetheless, it has been **difficult for MS CAs to quantify the costs**. The reasons are similar as in the case of business stakeholders, i.e.:

- a. The control process/systems used by MS CAs, and any adaptations made, occurred a long time ago when the standards were introduced, and no historical data/records can be retrieved on these costs. Furthermore, it is not possible to estimate the costs of carrying out the official controls because responsibility for these is typically split between different control bodies (as set out by the Member States in their multi-annual national control programme - MANCP).
- b. Controls performed by MS CAs at the level of FBOs are taking place to verify compliance to a range of obligations and requirements set out in the broader spectrum of EU food law, according to the priorities set out in the MANCP, which are defined on the basis of the importance of the various sectors at national level and the specific obligations in each sector as set out in the legislation. This multi-dimensional matrix of factors affecting the focus and frequency of controls carried out to verify compliance makes it difficult, if not impossible, to assign the costs of controls to specific obligations. It is indicative of the extent of differences between Member States the fact that while for 9 MS CAs the controls performed, and resulting costs, vary between marketing standards, for 10 MS CAs they do not vary. Amongst those indicating that costs vary between standards, this seems to be due to other factors than whether the standards are laid down in Regulations or Directives: only 3 MS CAs indicated that marketing standards laid down in Regulations tend to imply higher costs than the Directives, although again this may have to do more with the sectors covered by the Regulations rather than the fact *per se* of being a Regulation.

As for **benefits**, although it was not possible to attempt any quantification, they are identified in qualitative terms by MS CAs to be important both for enforcement authorities and for consumers, in line with the effectiveness of EU marketing standards in meeting their objectives, as assessed under Theme I. For the

²¹⁷ In total, 19 responses were received to the survey, by MS CAs from 11 Member States. Not all of the 19 surveyed CAs responded to all the questions on efficiency (the number of responding CAs is always indicated).

majority of the 19 surveyed CAs, the **marketing standards fully contribute to improve product quality** (13 MS CAs), **improve legislative clarity / compliance with legislation** (12 MS CAs), and **improve inspection processes** (9 MS CAs); while, for most of the remaining respondents the marketing standards at least partly contribute to these benefits (for only 1 to 3 MS CAs, the marketing standards do not at all contribute to these objectives).

9.3 Cost and usefulness of marketing standards for consumers

There is little evidence from consumer organisations on the cost and usefulness of marketing standards for consumers, whether at EU or national level. In principle, consumer organisations are in favour of regulatory standards ensuring a minimum quality for consumers, and that products are standardised and easier for consumers to compare. Both MS CAs and FBOs agree that the first most important benefit of the marketing standards is **improved quality**, which is an **important benefit for consumers**.

On the other hand, the most significant **costs** for consumers may be stemming from the extent to which marketing standards lead to:

- **Price increases** for products available on the market. In that respect, very limited evidence of a direct impact of marketing standards on prices was identified in the assessment.
- **Reduced availability/shortages of certain product typologies or product range available on the market.** However, no significant shortages that could be related to EU marketing standards were identified in the assessment.

Some evidence of price changes was identified in the fresh fruit and vegetables sector, in both directions:

- The replacement of the 26 specific marketing standards by a general marketing standard (see § 8) is reported by producers in some Member States to have led to downward price pressures in the sectors no longer covered by the standards. Also, a negative spiral of price falls was reported for cat II products in the 10 sectors that are covered by specific marketing standards. However, price changes during the period are also affected by other factors: it is therefore not possible to determine to what extent they are due to the marketing standards *per se*.
- At the same time, coupled with new consumer trends driven by changing lifestyles and demand for convenience, the above changes in EU marketing standards for fresh fruit and vegetables are considered to have led to some extent to the development of more processing/adding value activities by retailers, which has increased prices for “premium” products (e.g. packaged/washed fruit and vegetables) versus the above lowered prices for “unprocessed” fruit and vegetables.

The consulted EU consumers organisation does not have a systematic view, as consumers are not really aware of marketing standards. This in itself could be a limitation of the standards: it may mean that consumers need to be better informed that standards exist and about what they do. On the contrary, there is probably misinformation, e.g. there have been “fake news” about the EU forbidding misshaped cucumbers. Another frequent criticism of EU marketing standards for fruit and vegetables concerns their (unintended) impact on food waste. However, the extent to which that criticism is based on solid empirical evidence is unclear, as also discussed in the framework of EQ 7 at § 12.1. It is also noted that consumer expectations/preferences in terms of shape/appearance of products, e.g. for fresh fruit and vegetables, is heavily influenced by supermarket sourcing and marketing policies.

Although the consulted consumer associations at both EU and national level could not provide quantitative evidence on the usefulness and impact of marketing standards, there are no complaints from consumers, which probably means that marketing standards work well.

The **poultry meat marketing standard** was identified by the consulted consumer associations as a good example where an EU standard has provided the basis for a high level of consumer protection: the EU defines poultry meat as not having “undergone any treatment other than cold treatment” (CMO Regulation

1308/2013, Annex VII, Part V, section II, paragraph 1). As such, it prohibits the use of antimicrobial rinses such as peroxyacetic acid, chlorine, etc., which are widely used by some of the EU's trading partners.

In principle, consumer organisations consider regulatory standards beneficial for consumers and would oppose their removal or simplification. Consumers would be affected by the removal of standards, because they would have to compare the characteristics and/or composition of several different products, which are currently harmonised in terms of quality. Some actors claim that EU marketing standards prevent innovation and therefore should be removed. However, innovation is not always in the interest of consumers, as this often translates into poorer quality/nutrition with better ingredients replaced by cheaper ones (e.g. in the case of vegetable fats other than cocoa used in chocolate). According to the consulted consumer organisations, quality tends to fall when regulatory standards are removed, and this adversely affects consumers, who are provided with inferior quality products. For example, a consulted Czech consumer association cited the case of the removal of standards for traditional sausages, which led to sausages with more fat/less meat content; also, currently there is some discussion in Belgium on the potential removal of 40 food composition standards (for processed foods); the consulted EU-level consumer organisation is against the "simplification"/removal of standards, where those aim at ensuring a high quality for consumers.

The consulted consumer associations highlighted as a limitation of marketing standards the absence of origin labelling for a number of products, and the fact that where it exists, the related level of detail is often perceived as insufficient. However, the assessment under EQ 1 (see § 6.8.2) concluded that the perception of the absence of generalised mandatory origin labelling in EU marketing standards as a serious limitation is questionable. Another issue concerns the origin of a product as communicated to the consumer. Consumers are interested to know the place of farming of agricultural products, not the place of packaging, for instance. If the information is not provided clearly to the consumer, there might be a risk of confusion over what this information actually refers to.

9.4 EQ 4.1: To what extent the additional costs incurred for certification of hops are justifiable and proportionate to the quality benefits achieved?

The sections below present an overview, followed by an analysis for Germany (by far the largest EU producer of hops, in volume and value terms) and Czech Republic (the second largest producer).

Overview:

All 7 business associations and 3 individual companies from the hops sector that responded to the survey indicated that the **additional costs incurred for the certification of hops²¹⁸ are justifiable and proportionate to the quality benefits achieved.**

In particular, as indicated in the case of Germany below, **certification costs** (i.e. the additional costs of certification, over and above the costs of compliance to the broader legislation as such) are reported as being **minor/negligible**. Furthermore, **no unnecessary repetitions/overlaps in the control and reporting requirements** of the marketing standards are currently identified in this sector.

As in the case of the **benefits** of marketing standards identified across all sectors (see § 9.1), the **certification of hops contributes to improve product quality** (fully: 6 associations; partly: 1 association), **creates a level playing field** between operators (fully: 6 associations; partly: 1 association), improves market access (fully: 6 associations; partly: 1 association) and **improves controls by enforcement authorities** (fully: 4 associations; partly: 3 associations). On the other hand, the benefit that is the least considered to be fully conferred by marketing standards is a positive impact on prices (fully: 1 association; partly: 3 associations; not at all: 3 associations). A completely similar picture emerges from the replies of the 3 companies that participated to the survey.

²¹⁸ Commission Regulation (EC) No 1850/2006 of 14 December 2006 laying down detailed rules for the certification of hops and hop products.

In particular, the sectoral associations for the main EU producers (Germany and Czech Republic) indicate that there are major benefits to having state mandated and monitored marketing standards as these provide transparency, trustworthiness and traceability for this product, probably in excess of what any privately managed system could provide. The implementation of EU marketing standards over time has made German, Czech and other EU hops into a premium brand as the image has improved, and a product with a high reputation worldwide. This in turn has improved competitiveness and marketability. The adherence to the certified standards in terms of minimum quality, harvest year and variety helped to ensure that Europe's share of the world hop market was on a rising trend, until the arrival of new US varieties of hops imparting a more "fruity" rather than bitter taste to beer started to eat into Europe's market share (no limitations of EU marketing standards were noted in this respect).

According to EU brewers, the quality of hops brought to market has definitely improved over time. The comprehensive quality management standards introduced by the Regulation in terms of minimum quality, harvest year and variety has helped to maintain Europe's share of the world hop market. The standards have been beneficial in terms of quality as mixtures of varieties and above all harvest years that have a potentially adverse impact on product quality are no longer brought to market. This is especially important in an era when the aroma (e.g. in terms of spiciness) imparted by hops to beer is a very significant feature of their use, as opposed to bitterness, which was for many decades the key function.

The quantification of such benefits is very difficult, as prices in particular are subject to annual supply and demand fluctuations driven by other factors. Nonetheless, it is safe to say that the relative market shares of quality hops from Europe worldwide have improved particularly in comparison to those of countries such as China, where no real and effective controls on marketing standards are thought to be applied.

The use of the certification system has also enabled the establishment of protected designations (PGIs/PDOs) in EU hop growing regions, since these are built on the certification system, including four PGIs and one PDO in Germany (see below) and a recent PGI in Slovenia (Styria region). This in turn benefits end users, as brewers are able to use such designations as an additional marketing tool, which has become increasingly important as beers using single variety hops have become more popular.

Thus, even though they cannot be fully quantified, **benefits clearly and by far outweigh costs**; given, on the one hand, the high marketing benefits of the certification system and, on the other hand, the extremely low cost associated with its application.

It should be noted that only 9 of the 19 MS CAs that responded to the survey had a view on this aspect; of these, 3 MS CAs (2 Member States) deem the benefits of hops certification justify the costs, and 6 MS CAs (5 Member States) do not. It is however noted that the authorities in the main hop-producing country, Germany, consider the procedure to provide value for money; on the other hand, the interviews did not identify specific reasons for the negative answers of the 4 other MS CAs, which include Poland, the country with the second largest number of hops producers in the EU and characterised by relatively small-scale production structures. Similarly, MS CAs appear rather divided on the benefits of hops certification: 5 out of the 9 MS CAs indicate that it does not at all contribute to improve the quality of certified products, and 4 MS CAs indicate that it does not at all improve inspection processes, or legislative clarity / compliance with legislation. It is noted, however, that views on the costs and benefits of hops certification sometimes vary amongst competent authorities in the same Member State.

Germany:

- **Costs:**

The costs incurred by operators are considered minimal. At the first stage (producer level) the average costs are estimated at between €0.01-€0.015/kg and at the second stage (processing) at €0.015-€0.025/kg, making a total of €0.03-€0.04/kg on a product that would sell for approximately €10.00/kg.

It is not possible to make the distinction on the extent to which costs arise from the obligations and responsibilities laid down in the legislation versus the specifications laid down in private standards. The only

differences would be for achieving quality parameters above the minimum standards that could, for example, be rewarded by bonuses.

- **Benefits**

As already noted, EU marketing standards have played a major role in establishing the status of German hops (as well as Czech, Slovenian and EU hops more generally) as a product with a high reputation worldwide. The upwards trend in terms of German hop output and quality confirms the beneficial impact of hops certification: the area planted to hops has risen slightly from 18,600 ha in 2002 to 20,144 ha in 2018 (see detailed data reported at § 10.7.1), and yields have also been rising as new varieties introduced tend to have higher yields.

The quality of hops brought to market has definitely improved over time; this evolution is related to the setting up of EU marketing standards. While the base legislation dates to the 1970s, there was a notable rise in quality after the introduction of modified certification standards and minimum standards from 1995 onwards. From this point onwards, all contracts were based on EU marketing standards and certification system, meaning that a comprehensive quality management system covering quality, varieties and harvest year incorporating all production was implemented. The statistical evidence of the improvement of quality, as certified by a neutral testing agency, is shown in the fact that average moisture content of hop supplies has gone down from 11.4 % in 1994 to 9.4% in 2018 and the share of leaves, stem and waste in hops supplied has fallen from an average of 2.7% in 1994 to 1.7% in 2018 and - considerably below this – has recorded an average of 1.3% over the last decade.

The use of the certification system has also enabled the designation of four PGIs for the different hop growing regions in Germany (Hallertau, Elbe-Saale, Spalt, Tettngang) and an additional PDO designation for the Spalt growing region. This in turn benefits end users, as brewers are able to use such designations as an additional marketing tool, in particular to benefit from the rise in popularity of beers from single variety hops.

Czech Republic:

The Czech hop growers union also considered the costs of hops certification to be minimal/negligible, although it could not provide any specific data on this.

The main benefits identified are: improved traceability, ensuring no falsification and quality control. Due to all these benefits, the access to the market is facilitated, as no one can imitate the quality of hops. The certification is an effective tool of market protection. Undoubtedly, the certification has an impact on breweries, as these operators have the confidence in the quality of hops they buy. These benefits mainly relate to the specificity in the legislation, which sets the quality parameters sufficiently.

9.5 EQ 4: evaluation judgment

Although neither costs nor benefits are fully quantifiable, the majority of the consulted business associations and operators across all sectors indicate that **the current cost of compliance to EU marketing standards incurred by operators is justifiable**, i.e. proportionate to the results achieved.

The **costs** of compliance to the standards **vary between sectors**, depending on the level of specificity and complexity that is laid down in the rules. The relatively low/minor costs compared to the benefits were particularly highlighted in the case of the hops, poultry meat, eggs, fresh fruit and vegetables, dairy, honey, and fruit jams sectors. Only the olive oil sector was rather divided on whether the costs incurred are justifiable/proportionate or not; in this sector, the control costs are high (for operators and for authorities), as enforcement involves expensive laboratory tests and specific control activities for verifying analytical and

organoleptic parameters. In most other sectors, the costs were considered to be minor/negligible, especially when compared to the benefits²¹⁹.

According to both operators and authorities, EU marketing standards contribute **important benefits that by far outweigh the costs involved**. In particular, the marketing standards are largely considered to contribute to improved product quality, market access, create a level playing field between operators, and improve the implementation of controls by enforcement authorities. On the other hand, they are not considered to have a notable impact on price volatility, which is subject to other factors affecting supply and demand. Although consumer organisations could not identify any hard evidence on the cost and usefulness of marketing standards for consumers, they consider the improvement in product quality and standardisation of the quality of products on offer to be the main benefits. In principle, consumer organisations support regulatory approaches to the definition of food quality, rather than reliance on voluntary, private standards; conversely, removal of established standards, in their view, leads to food products of inferior quality on the market. Nonetheless, a limitation may be that consumers were found not to be really aware of marketing standards and of their benefits: this may limit the robustness of the assessment of the proportionality of costs versus benefits of EU marketing standards from a consumer standpoint.

With regards to the **certification requirement in the hops sector**, the **additional costs incurred** are considered by operators to be **justifiable and proportionate to the quality benefits achieved**. The costs of certification were identified by German operators (Germany is by far the largest hops producer in the EU) to be minimal: they are estimated to range between €0.03-€0.04/kg, of which €0.01-€0.015/kg at producer level, and €0.015-€0.025/kg at processing level, on a product that would sell for approximately €10.00/kg. Benefits include a worldwide established high reputation of German hops (as well as Czech and EU hops more generally), supporting the market position of both EU primary producers of hops and EU brewers of speciality beers in an increasingly competitive market context. The available indicators (cultivated area; quantity produced; quality parameters including moisture content and share of leaves, stem and waste in hops; establishment of PGIs/PDO for hops growing regions) have all improved thanks to the certification system in place.

²¹⁹ It should be noted that no significant limitations in terms of proportionality were identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk.

10 EQ 5: TO WHAT EXTENT THERE IS A POTENTIAL FOR SIMPLIFICATION OF EU MARKETING STANDARDS?

EQ 5: Definition of key terms

“Potential for simplification”: several aspects of the marketing standards were considered for the investigation of the potential for simplification. These included: harmonising the control and reporting requirements of the different marketing standards, without jeopardising their effectiveness (**investigated across all standards**); consumer interest in assuring product preservation versus the practicalities of applying provisions on **minimal sugar content in jams**; possibilities for simplification of the standards for grading by weight and rules on packaging of **poultry**; possibilities for simplification of official control systems for enforcement of **poultry** standards; replacing the specific EU marketing standards for **fresh fruit and vegetables** with a general EU marketing standard or having no EU standards; possibilities for simplification of the control system for **olive oil**; and, possibilities for simplification of the certification of **hops**.

“Provisions on minimal sugar content in jams” (EQ 5.2 at § 10.2): according to Directive 2001/113/EC, in order to take into account existing national traditions in the making of fruit jams, jellies and marmalades and sweetened chestnut purée, Member States can maintain existing national regulations authorising the marketing of such products with a reduced sugar content, which is below the minimum 60% threshold laid down in the Directive (Annex I, part II).

Poultry: “standards for grading by weight”; “rules on packaging” (EQ 5.3 at § 10.3): Commission Regulation (EC) No 543/2008 lays down rules for the classification by weight of pre-packaged frozen/quick-frozen poultry meat (Article 9); according to Article 2, a batch of frozen/quick-frozen poultry meat shall only comprise pre-packages of the same nominal weight category.

Poultry: “official control systems” (EQ 5.4 at § 10.4): detailed rules are in place for the competent authorities in terms of verifying the enforcement of certain provisions of the poultry marketing standards (Commission Regulation (EC) No 543/2008), including: inspections prior to the special registration of slaughterhouses authorised to use the terms referring to particular types of farming (as defined in Article 11), and regular inspections of operators authorised to use on the product label these terms; where there are serious grounds for suspecting irregularities, non-discriminatory random checks (Article 17) of frozen or quick-frozen poultry in order to verify that a consignment meets the requirements on water content (Articles 15 and 16) and, where necessary (e.g. repeated irregularities), on-the-spot inspections. In addition, regular checks are foreseen for operators to ensure compliance with the aforementioned provisions.

“Specific marketing standards” (EQ 5.5 at § 10.5): following the adoption of Commission Implementing Regulation (EU) No 543/2011, 10 typologies of fresh fruit and vegetables are still covered by specific marketing standards: apples; citrus fruit; kiwifruit; lettuces, curled-leaved and broad-leaved endives; peaches and nectarines; pears; strawberries; sweet peppers; table grapes; tomatoes. See also the definitions provided at § 7 for EQ 2.2 and at § 8 for EQ 3.

Olive oil: “official control systems” (EQ 5.6 at § 10.6): the olive oil marketing standards (Commission Implementing Regulation (EU) No 29/2012) foresee that Member State competent authorities shall take the necessary measures, including as regards the system of penalties, to ensure compliance with the provisions. This includes establishing at national level a detailed system to perform conformity checks to verifying enforcement, including in response to verification requests made by the authorities of other Member States.

“Certification of hops” (EQ 5.7 at § 10.7): see the definition provided at § 7 for EQ 2.3.

10.1 EQ 5.1: To what extent efficiency gains can be achieved by harmonising the control and reporting requirements of the different marketing standards without jeopardising their effectiveness?

Across all sectors, 53 of the 123 surveyed business associations consider that there is potential for harmonisation of control and reporting requirements to simplify and gain in efficiency of enforcement, but without jeopardising effectiveness; for 11 of these, the potential scope of harmonisation is extensive. On the other hand, for 23 associations there is no potential, or the potential is limited. It is nonetheless noted that many associations (47) did not know whether there is any potential. Some **potential for simplification was identified mainly by the associations involved in the poultry and eggs sectors**. For all the other sectors, relatively limited potential was identified by the relevant business associations.

Again, a similar picture emerges from the individual companies that participated to the survey: a majority (29 of 54 companies) considers that there is some potential (it is noted that 45 companies are from the poultry and eggs sectors). Only 8 companies do not see any potential, while 17 companies did not know.

Relatively limited potential for simplification was identified amongst the 19 surveyed CAs (from 11 Member States): only 5 CAs (in 4 Member States) considered that there is some potential, while for 6 CAs there is no/limited potential, and 8 did not know. It is noted that CAs in some Member States did not fully align on their views on this.

Overall, therefore, the potential for simplification identified is relatively limited, except in the poultry and eggs sectors.

10.2 EQ 5.2 / Provisions on minimal sugar content in jams: consumer interest in assuring product preservation versus the practicalities of applying this measure

Of the 6 business associations in the fruit jams sector that responded to the survey, 5 indicated that the **additional costs incurred** for compliance with EU marketing standards are **justifiable and proportionate to the quality benefits achieved**; while according to 1 association they are not. Only 1 individual company responded to the survey, indicating that costs are justifiable and proportionate to the benefits achieved.

Views are rather divided amongst the business associations on whether the application of national derogations on reduced sugar content in certain Member States is feasible in terms of ensuring the objective of jam product preservation in the interests of consumers. However, most associations tend to consider these derogations can neither ensure a level playing field (according to 4 of the 6 associations), nor the effectiveness and efficiency of controls (5 of the 6 associations).

Few (5) MS CAs expressed a view on this issue: for 4 of them, national derogations are feasible in terms of ensuring the objectives of jam product preservation in the interests of consumers and a level playing field, while for 3 of them they also ensure the effectiveness and efficiency of controls.

10.3 EQ 5.3 / Poultry: possibilities for simplification of the standards for grading by weight and rules on packaging

Just over a third (39%) of respondents to the survey of business stakeholders reported that Article 9 (**grading by weight of pre-packed frozen/quick-frozen poultry meat**) causes unnecessary delays. The survey gathered only limited information on **why** these provisions lead to unnecessary delays, and there are no explanations related to Article 9.

Competent Authorities did not report any problems with regard to the standards for grading by weight. One MS CA noted that defined weight categories make controls much easier; this view was generally supported by

surveyed business associations (see § 6.6). Another MS CA felt that there could be an issue for small producers who sell in local markets, but added that no complaints have been received.

No suggestions for simplification were put forward by the consulted EU-level sector organisation, which drew attention to different national positions. One national organisation explained that processors have to meet retailer requirements for weight and packaging in any case, but felt that these definitions are useful to ensure that there is a level playing field within the EU's single market. However, one national organisation questioned whether the definitions of cuts is necessary; while another questioned whether it is necessary to specify weight and packaging requirements in the marketing standards. This position was supported by another national organisation, which stated that the market determines the weight categories. The same organisation explained that only companies were in a position to comment on the ways in which these elements of the marketing standards could be simplified.

10.4 EQ 5.4 / Poultry: possibilities for simplification of the official controls required under Regulation (EC) No 543/2008

Data on various aspects of enforcement are not always centrally collated by the authorities. This does not imply that enforcement does not take place; Member States send control data to the Commission, but this does not always correspond to the frequency with which controls should take place (controls are a competency of the Member States). The survey of MS CAs (seven responses received for aspects relating to the poultry meat sector) showed that data held by MS CAs on any aspects of enforcement are relatively limited. Only one MS CA holds data on the costs of the checks for the authority and one MS CA holds data on the rules on classification by weight of pre-packed frozen/quick-frozen poultry meat (Article 9). Two MS CAs hold data on checks of poultry meat presentation/classification (Article 8), three MS CAs hold data on checks on water absorption in poultry meat (Articles 16-18 and Article 20). Five MS CAs hold data on checks and registration requirements of poultry meat produced in alternative production systems (Article 11-12: special registration).

One MS CA explained during the interview that it was not possible to estimate the costs of carrying out the controls because responsibility for these is split between different control bodies; nonetheless, the regional authorities in charge of controls in this field find it challenging to carry out inspections due to a shortage of staff, given the trend of staff reduction in public services. According to one MS CA, the costs incurred relate to initial set up costs and ongoing staff costs and operating costs. The costs relating to Articles 16-18 and Article 20 (water content) were considered to be the most burdensome by one MS CA. Another MS CA explained that the greatest cost element is staff training, although laboratory-related costs are also considered to be significant.

Industry operators also found it difficult to quantify the costs associated with carrying out controls. They have noted that there are one-off costs from the adaptation of processing systems and then ongoing compliance costs. There are also costs associated with training and costs associated with reporting requirements. **Generally, the initial costs were considered to have been incurred too long ago to remain relevant.**

However, there is no robust quantitative evidence on these costs. One EU-level organisation indicated that some broad estimates of additional costs are around 30% of production costs, but businesses have been able to recover these costs from the market. The magnitude of these costs seems high and could not be corroborated by any other source; in fact, as noted below, other sources tended to consider the additional costs to be very low, especially in per kg terms.

According to evidence from the survey, a **large majority of** poultry sector **business stakeholders** stated that the **costs incurred** in complying with the EU marketing standards in the poultry sector (Commission Regulation (EC) No 543/2008) are considered to be **justifiable and proportionate to the quality benefits achieved** (44 out of a total 54 business associations (81%), and 26 out of 30 individual companies (87%)). This was corroborated in interviews. The EU-level sector organisation explained that while they do not have a clear

picture on the costs of complying with EU marketing standards, the costs do not appear to be important and have in any case been absorbed by companies for some time.

Some Member State level business organisations were able to provide estimates of the **ongoing cost of controls to businesses**. In the United Kingdom for example, operators must pay for the cost of inspection by the Animal and Plant Health Agency (APHA) to ensure compliance, so that the marketing terms (“free range”, for example) can be used. The cost of inspections relating to Article 11 of the marketing standards is incurred 4-5 times a year and is thought to amount to around €350,000 per year for the sector as a whole, based on inspections taking half a day to complete (a duration also mentioned by another national industry body, which explained that the actual costs would be different for each individual company). Of course, this does not amount to a large expense per bird or per kg. Other organisations also suggested that the **costs are low in per bird or kg terms**.

MS CAs were rather divided in identifying any changes having the **potential to simplify the control of EU marketing standards for poultry meat**, without jeopardising effectiveness. **There was no clear consensus**, with four MS CAs indicating that there was potential to simplify controls with respect to Article 8 (presentation/classification), Article 9 (classification by weight) and Articles 11-12 (alternative production systems), while three MS CAs indicated that there was no potential to simplify controls; these numbers were reversed with respect to Article 16-18 and Article 20 (water absorption requirements). Responding MS CAs were also divided in terms of whether simplification in the form of the above changes were **feasible** or not. Of the seven responding MS CAs, two MS CAs felt that simplifications would be feasible with respect to Articles 16-18 and Article 20, three MS CAs with respect to Article 8 and Article 9, and four MS CAs with respect to Articles 11-12. This lack of clear specification in the survey responses, and also lack of consensus between different actors, precludes any firm conclusions using the survey evidence.

Although perhaps unrelated to simplification *per se*, one respondent claimed that the biggest problem with Regulation 543/2008 is the inability to sell chilled poultry that has been previously frozen. According to this respondent, prior to the introduction of this Regulation it was possible to freeze poultry/poultry cuts to be released on the market at different times of the year to match demand and thereby help to balance supply over time (turkeys at Christmas, chicken drumsticks, etc. in the summer). The freezing process also introduced some control over campylobacter. The inability to continue to do this has resulted in unnecessary increases in cost, higher rates of campylobacter and operational complexity.

Where scope for simplification is seen by at least some actors, mainly drawing on evidence provided through interviews, this is further discussed below for some of the key articles of Commission Regulation (EC) No 543/2008.

10.4.1 Article 8: presentation and classification

Only 6% of poultry companies and business associations responding to the survey thought that Article 8 (**presentation and classification**) leads to unnecessary delays in placing products on the market. The survey gathered only limited information on **why** these provisions lead to unnecessary delays, and there are no explanations related to Article 8.

As already indicated, no important issues were identified in the survey and interviews with MS CAs with respect to the controls on presentation and classification, and therefore there were no suggestions for simplifications. No EU-level sector organisations or national level organisations had any suggestions to simplify the checks on presentation and classification. **This strongly suggests that Article 8 is generally considered relevant and unproblematic**. However, one MS CA indicated that the provisions in Article 8(4) and Article 8(5) are redundant and out of date in relation to contemporary automated poultry production methods and the fact that consumers can choose products with the visual quality they expect.

10.4.2 Articles 11-12: poultry meat produced in alternative production systems

Just 8% of poultry companies and business associations responding to the survey stated that Articles 11-12 (**poultry meat produced in alternative systems**) lead to unnecessary delays in placing products on the market. The survey gathered only limited information on **why** these provisions lead to unnecessary delays and there are no explanations related to Articles 11-12.

No specific concerns were raised by MS CAs with respect to the controls of poultry meat produced in alternative production systems. However, one MS CA believes that the controls should be risk-based rather than applying to each batch of chickens. A risk-based approach would allow recognition of good performers for whom inspection frequency could be reduced. Another MS CA indicated that the provisions of Articles 11 and 12 need to be updated. With regard to Article 11, the point was made that the marketing standards need to accommodate innovative production systems. For example, a Danish poultry producer wanted to produce and market “climate-friendly chicken”, where recirculated heat was used. The CA was unable to allow this system to be reported on the label.

This point was also picked up by some national level industry organisations. One explained that there is no need to check each batch being produced to “free range” standards because the standards relate to the infrastructure (range size, housing, pop holes, etc.), which does not change between batches, rather than to the birds. The issue of the frequency of controls was also raised by an EU-level organisation. This organisation also stated that an annual inspection rather than an inspection per batch would be sufficient and also that two slaughterhouse inspections per year would be sufficient rather than the current four. It is though noted that where the standards relate to the type of feed used, there would be a need to check each batch on farm.

Another national organisation stated that it would be easy to simplify controls on alternative production systems because poultry production is highly integrated and traceability is good enough for control requirements in slaughterhouses to be extended to include the necessary flock records.

10.4.3 Articles 16-18 and Article 20: water absorption in poultry meat

Almost half (48%) of respondents to the survey stated that Articles 16-18 and 20 (**water content**) caused unnecessary delays in placing products on the market. However, it is worth noting that only 37% of poultry companies made this claim compared to 91% of business associations. This might suggest that business associations are overstating the problem somewhat, but it is also possible that they are reporting the views of members that did not contribute to the survey themselves.

The survey gathered only limited information on **why** these provisions lead to unnecessary delays. Most explanations related to Articles 16-18 and 20: nine explanations were provided, but only four of these actually related to delays. The relevant explanations cited complexity and the need to use external laboratories as the reason for delays.

None of the other 11 explanations provided actually commented on unnecessary delays, although they did highlight problems experienced with these Articles as set out below:

- The applicable legal limits for the water/protein ratio in poultry meat are no longer considered appropriate as they do not reflect the increase in physiological water content in poultry meat due to advances in poultry genetics and shorter production cycles.
- The chemical and drip tests are considered to provide results at different accuracy and a lack of clarity leads to repeated disputes with the trade or the authorities. In this context, it should be noted that the operation of these tests is elaborated in detail in the Annexes of Regulation (EC) No 543/2008.
- Laboratory performance differs (is non-uniform) across the EU, resulting in legal uncertainty. In this context, and in recognition that this is a standard challenge, it should be stated that Art. 19 of

Regulation (EC) No 543/2008 establishes a coordinating body for the testing activities of the national reference laboratories with its tasks and organisational structure set out in Annex XII.

It was also claimed that destination Member States sometimes carry out non-discriminatory random checks of frozen or quick-frozen chicken under Article 17 (1) deliberately to discredit products from other Member States.

Some MS CAs raised dissatisfaction with the checks on water absorption in poultry meat. One MS CA explained that the defined chemical analysis for measuring water uptake (Article 16 and Annexes 7 and 8) is not pertinent, as it cannot be determined if the water originates from the meat (due to injection of brine) or the water content lost during cooling. This CA stated that there is a need for another way of measuring water uptake in poultry meat; and that the relevant provisions of the legislation need updating. A further concern is that there is a risk of distortion in the single market because of the possibility to use either the drip test or the chemical test. The Commission has carried out recent studies into the processing technologies used and the absorption of water in poultry meat; issues around these are dealt with comprehensively in these reports²²⁰²²¹, while the focus of the present assessment is on the control system rather than the tests themselves.

Another MS CA explained that the control system could be simplified by **lowering the frequency of water content controls**. This CA also questioned the need to carry out controls on air chilled poultry since this technique does not add any water to the process; this means that the controls never pick up any abnormality (another CA also made this point). However, a recent report into processing technologies and the absorption of water in poultry meat carried out for the Commission²²² drew attention to some confusion over the definition of cooling systems with air chilling now often used in combination with a moistening system designed to prevent dehydration; such a system could result in the addition of water.

An additional simplification put forward by another MS CA would be to **move towards an output-based system that is less prescriptive in terms of how chilling is carried out**. This CA advocates the introduction of a single maximum 5% legal limit for water content regardless of the chilling method used, with the removal of the necessity to check air chilled poultry carcasses and cuts derived from air chilled carcasses that are not further processed. **This would then allow a risk-based approach** (similar to that used under the Official Controls Regulation (EU) No 2017/625) to be introduced.

Finally, another MS CA explained that importers of poultry meat would also like to simplify the controls regarding water content in poultry meat.

10.5 EQ 5.5 / Fresh fruit and vegetables: replacing specific EU marketing standards with a general EU marketing standard or having no EU standards?

Overall, the current additional costs incurred for compliance with the EU marketing standards in this sector are considered by FBOs²²³ to be justifiable and proportionate to the quality benefits achieved: this is indicated by 20 out of a total 26 business associations in the fresh fruit and vegetables sector that responded to the survey. Similarly, at the level of enforcement, 9 of the 13 surveyed CAs (from 9 Member States) that responded to the survey questions relating to this sector, indicated that the current cost of controls in the fresh fruit and vegetables sector is justifiable, i.e. proportionate to the results achieved.

²²⁰ The *Study of physiological water content of poultry reared in the EU* carried out for DG AGRI (LGC, 2012): https://ec.europa.eu/agriculture/sites/agriculture/files/external-studies/2012/water-in-poultry/fulltext_en.pdf

²²¹ The *Study on state of play of processing technologies and the absorption of water in poultry meat* carried out for DG AGRI (LGC, 2016): https://ec.europa.eu/agriculture/sites/agriculture/files/external-studies/2016-water-in-poultrymeat/final-report_en.pdf

²²² The *Study on state of play of processing technologies and the absorption of water in poultry meat* carried out for DG AGRI (LGC, 2016).

²²³ Results are reported at the level of business associations. A similar picture emerges from the 3 individual companies that responded to the survey, although the responses are too few to be reported in the analysis.

The above results suggest that the **scope for simplification in this sector is extremely limited**. Another indication is that, in terms of enforcement, few respondents identify inefficiencies:

- Only 5 of the 13 surveyed CAs (from 5 Member States²²⁴) reported that the specific EU marketing standards for fresh fruit and vegetables are separately enforced in their country, and only one of those 5 CAs considered this to cause inefficiencies in terms of the controls performed.
- Even though 11 of the 26 associations indicate that EU marketing standards for fresh fruit and vegetables are separately enforced in their country, only for 3 of them this causes inefficiencies in terms of the controls performed.

Consequently, the majority of respondents, both at the level of business associations and MS CAs, consider that **replacing specific EU marketing standards** for fresh fruit and vegetables with a general EU marketing standard **would deteriorate the situation, i.e. lead to erosion of some of the benefits** conferred by marketing standards. In particular:

- **Product quality** is expected to deteriorate by: 14 of the 26 associations (while, according to 8 other associations there would be no change; only 2 associations expect some improvement); and by 8 of the 9 MS CAs (only one CA indicated there would be no change).
- **Information provided to consumers** is expected to deteriorate by: 14 of the 26 associations (while, according to 7 other associations there would be no change; only 3 associations expect some improvement); and by all 9 MS CAs.
- **Effectiveness and efficiency of controls** is expected to deteriorate by: 8 of the 26 associations (while, according to 9 other associations there would be no change; only 4 associations expect some improvement); and by 8 of the 9 MS CAs (while one CA indicated there would be an improvement).

The above benefits are expected to be eroded even further if there were no EU marketing standards for fresh fruit and vegetables. Of the 26 business associations, only 5 expect no change if there would be no marketing standards, while only 2 consider this would improve the effectiveness and efficiency of controls. None of the 9 MS CAs expects an improvement.

10.6 EQ 5.6 / Olive oil: possibilities for simplification of the control system

Of the 11 business associations in the olive oil sector that responded to the survey, 7 indicated that the additional **costs** incurred for compliance with EU marketing standards are **justifiable and proportionate to the quality benefits achieved**; while according to 4 associations they are not.

For the majority of these associations, the **current system of verification requests**, including the procedure for the determination of the responsibility of the operator and of the relevant penalty to be applied in case a non-conformity is found, **poses challenges/difficulties for operators that affect its application**. In particular, for 8 of the 11 associations the determination of the responsibility of the operator is a challenge; while for 7 associations the challenge lies in the penalty to be applied in case of non-conformity.

A similar picture emerges from the 5 individual companies that responded to the survey, although the responses are too few to be included in the analysis.

Similarly, **few competent authorities** that responded to the survey (from only 4 of the 9 concerned Member States) have **provided feedback on the system of verification requests**, which is applied under Article 8 of Regulation (EU) 29/2012:

- Of these, only two CAs have submitted requests (average number of requests per year over the last 3 years, as reported by the two CAs: 9 and 4, respectively). The average number of cases of detection of abnormalities (per year over the last 3 years) amounted to 2 and 15 cases, respectively. Another

²²⁴ It is noted, however, that CAs from 3 Member States provided contradictory answers.

CA reported to have detected 10 cases of abnormalities per year, although no requests for verification have been submitted in the last 3 years.

- Views are divided on whether the current system of verification requests poses any challenges/difficulties for the authorities that affect its application. Only one to three MS CAs reported some difficulties in terms of: the submission of verification requests (2 CAs); detection of abnormalities (one CA); determination of the responsibility of the operator (2 CAs); and, penalty to be applied in case of non-conformity (3 CAs).
- Consequently, views are also divided on whether the removal of any provisions or steps in the current verification procedure, which are identified as causing difficulty, would result in improving the situation. The Member States that reported difficulties tended to consider there would be improvements in terms of: facilitating the procedure (3 CAs); improving the outcome of requests (2 CAs); and, making it more likely in the future that these Member States submit requests for verification (3 CAs).

10.7 EQ 5.7 / Hops: possibilities for simplification of the certification

10.7.1 Structure of the hops supply chain

Germany is the main EU producer of hops. Czech Republic is the second largest producer by volume, while Poland has the second largest number of producers. There is significant production of hops also in some other Member States (including Spain, Slovenia, etc.) destined mainly for use in the production of “niche” craft beers.

In view of its importance in EU hops production, the following analysis focuses on Germany.

Germany

There are approximately **1,100 hop producers with an average size of between 17-18 ha**; the size of production units ranges from 6-7 ha to some 200 ha. One third of producers account for some two thirds of production. This is evident from an analysis of the size structure of farms in the main Hallertau production area, where 35% of producers account for 65% of the area planted. The largest 75 enterprises in this region, which have areas of over 40 ha, account for some 25% of the region’s area.

Hops are generally dried on farm and packed there at the time of harvest. They are then transported to a processor that will unpack the dried hops and then process these into dried pellets or extract them into a fluid product. These are then put in cold storage to maintain usability and then transported to end users as and when required.

At the processing stage, the sector is very concentrated: **three enterprises process 85% of hops**. This includes one agricultural cooperative that handles 25-30% of hops brought to market. A further 4-5 enterprises process 14% of hops, and the remaining 1% is handled by 3-4 enterprises, including some that market directly to brewers.

The trend in terms of German hop production has been upwards both in terms of output and quality. Areas planted to hops have risen slightly from 18,600 ha in 2002 to 20,144 ha in 2018. Hop yields have also been rising as new varieties introduced tend to have higher yields.

Table 10—1 - Evolution of producer numbers and areas cultivated, Germany 1975-2018

Year	Number of farms	Hop area per farm, in ha
1975	7,654	2.64
1980	5,716	3.14
1985	5,044	3.89
1990	4,183	5.35
1995	3,122	7.01
2000	2,197	8.47
2005	1,611	10.66
2010	1,435	12.81
2015	1,172	15.23
2018	1,121	17.97

Source: LfL Information, Jahresbericht 2018 Sonderkultur Hopfen, March 2019

The breakdown of the areas cultivated in Germany by region is presented in Table 10.2. This shows that of the regions cultivating hops, by far the most significant is the Hallertau region of Bavaria, which accounts for over 80 % of producers and area cultivated.

Table 10—2 - Hop areas cultivated, number of producers and average area per enterprise, by region, Germany 2018

Region	Hop area (ha)	Number of enterprises	Average area per enterprise (ha)
Hallertau	16,780	903	18.58
Spalt	404	55	7.34
Tettwang	1,397	122	10.58
Baden, Bitburg, Rheinpfalz	22	2	11.00
Elbe-Saale	1,541	29	53.13
Germany	20,144	1,121	17.97

Source: LfL Information, Jahresbericht 2018 Sonderkultur Hopfen, March 2019

10.7.2 Control structures for the certification of hops

Overview

For 8 of the 9 MS CAs (from 7 Member States) that responded to the questions of the survey relating to the hops sector, the current number of certification centres is considered appropriate (i.e. neither higher nor lower than necessary). Only one MS CA considers their number to be higher than necessary.

There are **differences between Member States** in terms of the **location in which the certification of hops is currently performed**: in 3 Member States (Denmark, Belgium and Slovakia) it is performed exclusively in certification centres and in 2 Member States (Poland, United Kingdom) mainly in certification centres but there is also some on-farm certification. Only in 3 Member States (Portugal, Czech Republic²²⁵, Germany²²⁶) certification is performed mainly on-farm (and some in certification centres). It is noted that Denmark, where

²²⁵ According to the interview with the Czech hop growers Union and with the Czech CA, certification is mainly performed at farm level in Czech Republic.

²²⁶ According to the interviews with the two German hop sector associations, certification is mainly performed at farm level in Germany; the German CA indicated in the survey that certification is performed exclusively in certification centres. This point was re-verified and confirmed with the associations, and this is what is reported here.

certification is performed exclusively in certification centres, is the only Member State that considered the number of certification centres to be higher than necessary.

Consequently, there are also some differences amongst Member States in terms of potential changes that could be made to simplify the certification of hops, without jeopardising effectiveness, and the feasibility of these changes. **Eliminating the re-certification requirement for repackaged hops** was the change considered by most MS CAs (five) to have the **potential to simplify** as well as to be **feasible**, whereas one MS CA considered the re-certification requirement as very much needed, due to risk of unfair practices. On the other hand, changing the number of certification centres and locations where certification takes place were considered by only one or two MS CAs to have the potential to simplify, although 2 to 4 MS CAs considered them as feasible. In particular, only one MS CA considered that there is potential to simplify by changing the number of certification centres and/or changing their location (i.e. on-farm vs. certification centres). Only 2 MS CAs considered that there is potential to simplify by performing more certification on-farm (one of these Member States does not perform currently any certification on-farm, while the other Member State does); and 2 MS CAs indicated potential to simplify by changing the part of the production process/chain at which certification takes place.

Germany

In Germany, according to the two consulted associations representing the hops sector, all hops are certified when the main process at each stage is completed/packed (i.e. drying on farm, processing). Thus, 95% of hops are certified on farm and 5% at a certification centre. The reason for this is that it is usually much more convenient and efficient for the farmer to have this done on site. For the same reason, all hops are certified on site at the processing level.

10.7.3 Impact of changes to the certification procedure

As already noted, there is **limited potential for simplification of the certification procedure for hops**. According to the consulted German and Czech hops business operators, the costs of the procedure are already minor/negligible, and no unnecessary repetitions/overlaps were identified to exist in the control and reporting requirements under the current procedure that would impact the efficiency of implementation for operators.

On the other hand, according to most of the surveyed MS CAs (5 out of 9) that replied to specific questions on the hops certification system, the change considered as having the potential to simplify the controls currently carried out, and to be feasible, is **eliminating the re-certification requirement for repackaged hops**. However, according to the consulted German sectoral associations, it is not desirable to eliminate the re-certification requirement. Although it appears that re-certification is not frequently applied in practice, those associations consider that it is important to maintain the provision, which they deem to play an essential role in safeguarding the seamlessness and above all the integrity of the certification process. According to those associations, re-certification concerns a rather limited number of cases, although those vary strongly from year to year due to climate and problems that may arise concerning plant pests and diseases. In 2017, a year of extreme heat, there were approximately 40 re-certifications in the main Hallertau growing region in Germany and in 2018, which was another very difficult year, there were 20 re-certifications; even this (extreme) number of re-certifications is limited in the context of a total of about 10,000 certifications per year in the Hallertau region. Thus, the cost savings that could be made from eliminating this requirement are considered to be negligible by the consulted sectoral associations.

10.8 EQ 5: evaluation judgment

Some potential for simplification of EU marketing standards was identified mainly by business stakeholders (associations and individual operators) in the poultry and eggs sectors. In the **poultry sector** in particular, the

implementation of **Articles 16-18 and Article 20 of Commission Regulation (EC) No 543/2008 on water absorption in poultry meat** is said to lead to unnecessary delays in placing poultry meat products on the market²²⁷. However, data on various aspects of enforcement are not always collated by the authorities; and, it was not possible for authorities or business stakeholders to identify the costs and losses associated to these delays. In terms of simplification, one CA explained that the frequency of water content controls could be reduced; another suggested that an output-based system could be introduced, which would entail a single 5% legal limit for water content without being prescriptive in terms of method used. Air chilled carcasses and cuts would not need to be checked because this chilling method (used without a moistening system) does not add water.

In **all other sectors, the potential for simplification was found to be limited**²²⁸, given the relatively low costs of compliance with EU marketing standards (except in the olive oil sector) and the fact that the consulted stakeholders (business operators and competent authorities) did not identify any overlaps/redundancies in the provisions that might lead to unnecessary costs. In particular, the assessment found that there is limited potential for the simplification of the certification procedure for hops, and of EU marketing standards for fresh fruit and vegetables and for olive oil.

²²⁷ The Commission has carried out two studies into the processing technologies used and the absorption of water in poultry meat; issues around these are dealt with comprehensively in these reports: 1) *The Study of physiological water content of poultry reared in the EU* (LGC, 2012), 2) *The Study on state of play of processing technologies and the absorption of water in poultry meat* (LGC, 2016). However, those studies were not concerned with simplification *per se*.

²²⁸ It should be noted that no significant potential for simplification was identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

THEME III – RELEVANCE

11 EQ 6: TO WHAT EXTENT DOES THE EXISTING EU MARKETING STANDARDS FRAMEWORK CORRESPOND TO THE ACTUAL NEEDS OF STAKEHOLDERS?

EQ 6: Definition of key terms

“EU marketing standards”: the EU marketing standards of relevance for the evaluation are those identified at § 2.

“Stakeholders”: the following categories of stakeholders are considered for the purposes of the evaluation: i) business operators (farmers, processors, traders/wholesalers, retailers); ii) consumers; ii) competent authorities (at EU, national, regional/local level).

“Actual needs of stakeholders”: these include: i) the needs identified by stakeholders that were originally taken into account when EU marketing standards were established; ii) new needs emerged after the setting of EU marketing standards.

“Provisions on minimal sugar content in jams” (EQ 6.1 at § 11.3): the definition provided at § 10 for EQ 5.2 also applies for EQ 6.1.

“Poultry: scope of the standards” (EQ 6.2 at § 11.4): the current scope of EU marketing standards for poultry is defined by the provisions included in:

- Regulation (EC) No 543/2008, which covers: definitions; conditions of marketed poultry meat (fresh, frozen, quick-frozen); quality and weight grading; water content; packing, labelling, transportation and presentation for sale; optional reserved terms (methods of farming); control procedures and methods.
- Regulation (EU) No 1308/2013 (“single CMO Regulation”), which covers: definitions, designations and sales descriptions (Annex VII, part V); optional reserved terms (methods of farming, age at slaughter, length of the fattening period; Annex IX).

“Poultry: provided definitions” (EQ 6.2 at § 11.4): the definitions provided for poultry described at § 6 for EQ 1.3 also apply for EQ 6.2.

“Definition of foie gras” (EQ 6.3 at § 11.5): Article 1(3) of Regulation (EC) No 543/2008 defines *foie gras* as follows: “The livers of geese, or of ducks of the species *Cairina muschata* or *Cairina muschata* x *Anas platyrhynchos*, which have been fed in such a way as to produce hepatic fatty cellular hypertrophy. The birds from which such livers are removed shall have been completely bled, and the livers shall be of a uniform colour. The livers shall be of the following weight: duck livers shall weigh at least 300 g net; goose livers shall weigh at least 400 g net”.

“Dairy products: existing definitions” (EQ 6.4 at § 11.6): the existing definitions for dairy products are provided by:

- Regulation (EU) No 1308/2013 (“single CMO Regulation”):
 - ✓ Annex VII, part III of the Regulation provides the definition of the term “milk”, which means “exclusively the normal mammary secretion obtained from one or more milkings without either addition thereto or extraction therefrom”. It also provides the definition of the term “milk products”, which means “products derived exclusively from milk, on the understanding that substances necessary for their manufacture may be added provided that those substances are not used for the purpose of replacing, in whole or in part, any milk constituent”.

- ✓ Annex VII, part IV of the Regulation provides definitions for the following typologies of drinking milk: raw milk; whole milk (standardised and non-standardised); semi-skimmed milk; skimmed milk.
- ✓ Annex VII, part VII of the Regulation and the related Appendix II provide definitions for “milk fats” as a whole²²⁹, and for the following categories of milk fats: butter; three-quarter fat butter; half fat butter; dairy spread X %.
- Annex I to Regulation (EC) No 445/2007 provides additional definitions for a number of typologies of spreadable milk fats, which apply in certain Member States.
- Annex I to Directive 2001/114/EC (as amended by Council Directive 2007/61/EC of 26 September 2007) provides definitions for partly dehydrated milk²³⁰ and for totally dehydrated milk²³¹, as well as definitions for the related product typologies²³². Annex II to the same Directive defines a number of particular designations for specific typologies of dehydrated milk, which apply in certain Member States.

“Dairy products: reserved terms” (EQ 6.4 at § 11.6): the first paragraph of point 5 of Annex VII, Part III of Regulation (EU) No 1308/2013 establishes that designations referred to in points 1, 2 and 3²³³ of Annex VII, Part III may not be used for any product other than those referred to in that point. Point 6 establishes that “in respect of a product other than those described in points 1, 2 and 3” (of Part III) “no label, commercial document, publicity material or any form of advertising as defined in Article 2 of Council Directive 2006/114/EC or any form of presentation may be used which claims, implies or suggests that the product is a dairy product”. Two exceptions to the aforementioned provisions are foreseen:

- According to point 5, second paragraph, the provision at the first paragraph of that point “shall not apply to the designation of products the exact nature of which is clear from traditional usage and/or when the designations are clearly used to describe a characteristic quality of the product”.
- According to point 6, second paragraph, “in respect of a product which contains milk or milk products, the designation “milk” or” (the designations of milk products at the second subparagraph of point 2; see note 233) “may be used only to describe the basic raw materials and to list the ingredients in accordance with Directive 2000/13/EC or Regulation (EU) No 1169/2011”.

The exception at point 5, second paragraph has been further detailed by the Commission through the adoption of a list of exceptions laid down in EU Commission Decision 2010/791/EU of 20 December 2010. Annex I to Decision 2010/791/EU lists, for each Member State and in the relevant national languages, the terms exempted from the provision at the first paragraph of point 5 of Annex VII, Part III of Regulation (EU) No

²²⁹ “Milk fats” are defined as “products in the form of a solid, malleable emulsion, principally of the water-in-oil type, derived exclusively from milk and/or certain milk products, for which the fat is the essential constituent of value. However, other substances necessary for their manufacture may be added, provided those substances are not used for the purpose of replacing, either in whole or in part, any milk constituents”.

²³⁰ “the liquid product, whether or not sweetened, obtained by the partial removal of water from milk, from wholly or partly skimmed milk or from a mixture of these products, which may have an admixture of cream or of wholly dehydrated milk or both, the addition of wholly dehydrated milk not to exceed, in the finished products, 25 % of total milk solids”.

²³¹ “the solid product, where the water content does not exceed 5 % by weight of the finished product, obtained by the removal of water from milk, from wholly or partly skimmed milk, from cream or from a mixture of these products”.

²³² *Partly dehydrated milk / unsweetened products:* condensed high-fat milk; condensed milk; condensed, partly skimmed milk; condensed skimmed milk. *Partly dehydrated milk / sweetened products:* sweetened condensed milk; sweetened condensed, partly skimmed milk; sweetened condensed skimmed milk. *Totally dehydrated milk:* dried high-fat milk or high-fat milk powder; dried whole milk or whole milk powder; dried partly skimmed milk or partly skimmed-milk powder; dried skimmed milk or skimmed-milk powder.

²³³ *Point 1:* “milk”. *Point 2:* “milk products”, which include the following: whey, cream, butter, buttermilk, butteroil, caseins, anhydrous milk fat (AMF), cheese, yogurt, *kephir*, *koumiss*, *viili/fil*, *smetana*, *fil*, *rjaženka*, *rūgušpiens*. *Point 3* sets out specific provisions for composite products: “The term “milk” and the designations used for milk products may also be used in association with a word or words to designate composite products of which no part takes or is intended to take the place of any milk constituent and of which milk or a milk product is an essential part either in terms of quantity or for characterisation of the product”.

1308/2013. Each exemption only applies for the Member State for which it is specified, and cannot be extended to other Member States.

“Categories of olive oils” (EQ 6.5 at § 11.7): olive oils are classified into a number of categories. The classification in force is established at Part VIII of Annex VII of Regulation (EU) No 1308/2013 (“single CMO Regulation”). It comprises the following categories:

1. Virgin olive oils, which are further classified in the following categories: a) extra virgin olive oil; b) virgin olive oil; c) lampante olive oil.
2. Refined olive oil.
3. Olive oil – composed of refined olive oils and virgin olive oils.
4. Crude olive-pomace oil.
5. Refined olive-pomace oil.
6. Olive-pomace oil.

11.1 Relevance of EU marketing standards in responding to identified needs, problems and issues

Indicator 6.1.a: Extent to which the objectives of setting EU marketing standards respond to the identified needs, problems and issues (qualitative appraisal) in the views of business stakeholders

The majority (83%) of the 123 surveyed business associations deemed that the current legislative framework setting EU marketing standards **still responds to the actual needs, problems and issues of business operators**.

Indicator 6.1.b: Extent to which the objectives of setting EU marketing standards respond to the identified needs, problems and issues (qualitative appraisal) in the views of consumers

An interviewed EU-level consumer association expressed a generally positive judgment on the relevance of EU marketing standards for consumers, with the sole significant exception of the absence of mandatory origin labelling in EU marketing standards for a number of products. The association underlined the importance for consumers of knowing the place of farming of agricultural products, rather than – for instance - the place of packaging. However, as already discussed in the assessment under EQ 1 (see § 6.2), the consulted consumer associations at EU and Member State level did not provide inputs on specific products for which the introduction of mandatory origin labelling and/or of more detailed information about origin would be needed. Furthermore, since mandatory origin labelling already applies for several products covered by EU marketing standards²³⁴, and since empirical evidence suggests that consumers are generally reluctant to cover the additional costs related to origin labelling schemes, the assessment under EQ 1 (see § 6.8.2) concluded that the perception of the absence of generalised mandatory origin labelling in EU marketing standards as a serious limitation is questionable.

Indicator 6.1.c: Extent to which the objectives of setting EU marketing standards respond to the identified needs, problems and issues (qualitative appraisal) in the views of MS CAs

The majority (79%) of the 19 surveyed CAs deemed that the current legislative framework setting marketing standards **still responds to the actual needs, problems and issues of stakeholders** (producers, processors, traders, retailers, consumers, and Member State’s administrations). However, a significant number of CAs (4) expressed a negative judgment in that respect.

The most significant limitations highlighted by surveyed or interviewed CAs concern:

²³⁴ E.g. fresh fruit and vegetables, extra virgin olive oil and virgin olive oil, sheep, goat, pig and poultry meat, beef meat.

- The need for a simplified and modernised system of controls for compliance with EU marketing standards. However, few consulted CAs provided product-specific indications in that respect, as also underlined in the assessment under EQ 5 (see § 10).
- The capacity to address the issues deriving from non-homogeneous and sometimes inconsistent approaches to the implementation/enforcement of EU marketing standards at national level. The concrete example most frequently made by the consulted CAs is the already mentioned issue of non-homogeneous enforcement at Member State level of the list of national exemptions from the prohibition to use protected dairy terms for the marketing of non-dairy products (EU Commission Decision 2010/791/EU of 20 December 2010).
- The capacity to address the challenges deriving from the ever-increasing importance and the proliferation of private marketing standards. However, no consulted CA provided concrete examples of shortcomings of specific EU marketing standards in that respect.
- The absence of a harmonised EU definition for cheese, which is discussed at § 11.6.3 in the framework of the reply to EQ 6.4.

Indicator 6.3.a: Extent to which the identified needs, problems and issues have not been addressed in practice by EU marketing standards (qualitative appraisal) in the views of business stakeholders

A minority – but nonetheless significant (24%) - share of the 123 surveyed business associations deemed that the current legislative framework setting EU marketing standards is affected by serious limitations in **addressing the needs, problems and issues of business operators in practice**²³⁵. However, an ample majority of respondents (76%) deemed that such framework has instead addressed those needs, problems and issues in practice. Interviews with EU-level sector associations highlighted a number of significant limitations of EU marketing standards in responding to the identified needs, problems and issues in practice. Most of those limitations emerged from the specific assessments made under EQs 6.1 to 6.5, and are presented at § 11.3 to 11.7. Additional significant limitations affecting the **olive oil sector** (besides the ones emerged from the specific assessment at EQ 6.5, which are presented at § 11.7) were found to be related to: i) tasting methods and the lack of uniformity of results deriving from tasting panels; ii) excessive number of quality parameters that must be determined; iii) redundant information on labels; iv) the relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils²³⁶, which would not fully cover the extremely rich variety of scents and flavours of virgin olive oils, and which also includes attributes (“bitter” and “pungent”) that are often not appreciated by consumers.

Indicator 6.3.b: Extent to which the identified needs, problems and issues have not been addressed in practice by EU marketing standards (qualitative appraisal) in the views of consumers

An interviewed EU-level consumer association expressed a generally positive judgment on the matter. The already mentioned absence of mandatory origin labelling in EU marketing standards for a number of products, as well as insufficient detail of the information about origin required by some EU marketing standards, were highlighted by the association as the most significant limitation of those standards in terms of addressing the identified needs, problems and issues from a consumers’ standpoint. However, as already underlined, the perception of the absence of generalised mandatory origin labelling in EU marketing standards as a serious limitation is questionable: origin labelling is already mandatory for several products covered by EU marketing standards (e.g. fresh fruit and vegetables, meats of sheep, goat, swine, poultry, beef meat), and empirical evidence suggests that consumers are generally reluctant to cover the additional costs related to origin labelling schemes.

²³⁵ It should be noted that 19 out of the 25 associations highlighting those serious limitation cover the farming stage of the supply chain (exclusively or in combination with other stages).

²³⁶ Part 3.3 of Annex XII to Regulation (EEC) No 2568/91, as amended by Commission Implementing Regulation (EU) No 2016/1227 of 27 July 2016, establishes the “optional terminology for labelling purposes”, which refers to the positive attributes (fruity, bitter, pungent) of olive oils according to the intensity of perception (robust, medium, delicate), and which also includes “well balanced” and “mild”.

Indicator 6.3.c: Extent to which the identified needs, problems and issues have not been addressed in practice by EU marketing standards (qualitative appraisal) in the views of MS CAs

A significant minority (21%) of the 19 surveyed CAs deemed that the current legislative framework setting EU marketing standards is affected by serious limitations in **addressing the needs, problems and issues of stakeholders in practice**. 4 surveyed CAs expressed a negative judgment in that respect. However, an ample majority of surveyed CAs (79%) deemed that the current legislative framework setting EU marketing standards has successfully addressed the needs, problems and issues of stakeholders in practice. The related limitations were identified by the consulted CAs in those discussed under indicator 6.1.c.

11.2 Relevance of EU marketing standards in responding to new needs, problems and issues emerged after their setting

Indicator 6.2.a: Extent to which the new needs, problems and issues emerged have not been addressed by EU marketing standards (qualitative appraisal) in the views of business stakeholders

A significant minority (30%) of the 123 surveyed business associations deemed that the current legislative framework setting EU marketing standards has failed to **address new needs, problems and issues emerged for business operators after the setting of the standards themselves**. However, an ample majority of respondents (70%) deemed that EU marketing standards have instead adequately addressed also the new needs, problems and issues emerged for business operators after the setting of the standards.

Interviews with EU-level sector associations highlighted a number of significant limitations of EU marketing standards in responding to new needs, problems and issues emerged after their setting.

In the **fruit juices** sector, the most significant limitations derive from non-homogeneous implementation at Member State level of the relevant EU legislation (Directive 2001/112/EC, as amended by Directive 2012/12/EU) for what concerns a particular aspect of labelling provisions concerning fruit juices. The 2012 amendment of EU legislation established that the addition of sugars to fruit juices was not (longer) allowed, mainly to follow the evolution of consumer preferences and to respond to emerging trends towards a healthier diet²³⁷. As far as labelling is concerned, recital 3 of Directive 2012/12/EU observed that the nutrition claim “with no added sugars”, as listed in the Annex to Regulation (EC) No 1924/2006 on nutrition and health claims made on foods, had been used in relation to fruit juices for a very long time. According to recital 3, in the light of the new compositional requirements for fruit juices provided for by Directive 2012/12/EU, the disappearance of that claim from one day to the next after a transitional period might not allow an immediate clear distinction to be made between fruit juices and other drinks in terms of the addition of sugars in the products, which would be detrimental to the fruit juices sector. In order to enable the industry to inform consumers properly, recital 3 of Directive 2012/12/EU considered that it should be possible to use, for a limited time, a statement indicating that no fruit juices contain added sugars. To this end, the transitional measures under Article 3 of Directive 2012/12/EU established that the statement “from 28 October 2015 no fruit juices contain added sugars” could appear on the label until 28 October 2016, to inform consumers about the exclusion of added sugars from the list of authorised ingredients. After 28 October 2016, putting on a fruit juice pack the “no added sugar, in line with the legislation” statement, or similar statements referring to the fact that all fruit juices do not contain added sugar, is no longer permitted. According to the consulted sectoral association, however, the fact that competing beverages, such as juice containing drinks, are still

²³⁷ The consulted EU-level sector association reported that the prohibition to add sugar to juices had been requested by the industry itself in order to have the common practice of not adding sugar to fruit juice turned into a legal requirement in the Directive. As a response to rising consumer awareness for healthy nutrition and specifically the role of (added) sugar therein, the juice industry felt at the time that the inclusion of the legal prohibition to add sugar to fruit juices in the Directive would reassure consumers that 100% fruit juice is a minimally processed product containing only naturally occurring sugars as well as vitamins, minerals, and phytonutrients, all of which come straight from the fruit from which it is squeezed.

allowed to use the claim “with no added sugar” creates confusion among consumers, and results in unfair competition.

As for the **eggs sector**, a consulted EU-level sectoral association observed that the increased importance of free range and organic systems is increasing the risk of disease outbreaks. In perspective, the association deems that there will also be environmental issues (soil, water and air pollution) arising from widespread use of free range and organic systems, where emissions cannot be controlled so effectively.

A specific limitation highlighted for the **dairy sector** with respect to addressing improper use of protected dairy terms in the marketing of plant-based substitutes for dairy products is discussed at § 11.6 in the framework of the reply to EQ 6.4.

Specific limitations highlighted for the **olive oil sector** are mainly related to organoleptic assessment. According to one of the consulted sectoral associations, tasting panels have shown clear limitations in addressing technological evolution in fraudulent practices. For instance, tasting panels are usually unable to detect deodorised oils marketed as extra virgin olive oils. According to that association, organoleptic assessment should be combined with traceability systems and with other analytical methods that technological innovation may offer in the future to effectively address more and more sophisticated fraudulent practices in the marketing of olive oils.

Indicator 6.2.c: Extent to which the new needs, problems and issues emerged have not been addressed by EU marketing standards (qualitative appraisal) in the views of MS CAs

Similarly to what observed in the analysis of the results of the survey of business associations, a significant minority (32%) of the 19 surveyed CAs deemed that the current legislative framework setting EU marketing standards has failed to **address new needs, problems and issues emerged for business operators after the setting of the standards themselves**. However, the majority of surveyed CAs (68%) deemed that the current legislative framework setting EU marketing standards has successfully addressed new needs, problems and issues emerged after the setting of the standards.

The most serious limitations highlighted by surveyed or interviewed CAs concern:

- The capacity of EU marketing standards to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation.
- The slaughter age for free range chickens, which would not reflect the recent evolution of operational practice.
- The fact that according to EU marketing standards, eggs cannot be marketed as “free range” if laying hens have to be confined indoors for more than 16 weeks (this happened following avian influenza outbreaks in 2017) In such cases, the marketing practices of compliant operators are negatively affected by events that are out of their control.
- The adequateness of EU marketing standards for the dairy sector to address improper use of protected dairy terms in the marketing of plant-based substitutes for dairy products (the issue is discussed at § 11.6 in the framework of the reply to EQ 6.4).
- The capacity of addressing potential side effects of EU marketing standards in terms of food waste. This issue is discussed in detail at § 12.1 in the framework of the assessment under EQ 7 (unintended/unexpected effects of EU marketing standards).

11.3 EQ 6.1 / Provisions on minimal sugar content in jams: consumer interest in assuring product preservation versus the practicalities of applying this measure

11.3.1 National derogations from provisions on minimal sugar content in jams due to health concerns

Indicator 6.1.1.a: Number and features of national derogations from provisions on minimal sugar content in jams for health concerns

According to Directive 2001/113/EC, Member States can maintain existing national regulations authorising production and marketing of fruit jams, jellies and marmalades and sweetened chestnut purée with a reduced sugar content – i.e. below the minimum 60% threshold laid down in the Directive (Annex I, part II²³⁸). Significant national derogations from provisions on minimal sugar content in jams were identified in Belgium, France, Germany, Ireland, Italy, the Netherlands, Poland, Portugal, Romania, Spain and the United Kingdom.

Derogations established in France, Germany, Italy, the Netherlands, Portugal and Romania *apply horizontally to all the products defined under part I of Annex I of the Directive*; the product definitions under part I of Annex I were strictly translated into the national implementing legislation of all those Member States. Derogations on minimum sugar content in this first group of Member States were established as follows:

- *France, Germany* and the *Netherlands* have set the minimum sugar content at 55%, as determined by refractometer.
- *Italy* has set the minimum sugar content at 45% for the concerned products reporting on the label the indication “to be kept in the refrigerator after opening” (when the concerned products are marketed in disposable small packages they are exempted from the obligation to report that indication on the label).
- *Portugal* has set the minimum sugar content at 30%.
- Finally, *Romania* has not established any specifications regarding minimum sugar content for the concerned products in the national implementing legislation.

Belgium, Ireland, Poland, Spain and the United Kingdom have established *derogations only for some of the concerned products and/or for products not defined under Annex I, part I of Directive 2001/113/EC*. Those derogations are often reserved to products making claims about “reduced sugar” or “low-sugar” on the label. More specifically:

- *Belgium* has set minimum sugar content for “extra jam” and “extra jelly” at 40%.
- *Ireland* has set a minimum sugar content of 50% for fruit jams, jellies or marmalades that make no claims about “reduced sugar” or “low-sugar” on the label; for fruit jams, jellies or marmalades that make such claims on the label, sugar content may be lower than 50%.
- *Poland* has set derogations on minimum sugar content for specific products, as follows:
 - Products that make claims about “low-sugar” on the label:
 - Jams and extra jams (*dżem, dżem ekstra*): not less than 28% and not more than 50%.
 - Jellies and extra jellies (*galaretka, galaretka ekstra*): not less 28% and not more than 32%.
 - Preserves and extra preserves (*konfitura, konfitura ekstra*; not defined under Annex I, part I of Directive 2001/113/EC): not more than 45%.
 - Soft marmalade from fruit other than citrus fruit (not defined under Annex I, part I of Directive 2001/113/EC): not less than 57%.

²³⁸ Part II of Annex I to Directive 2001/113/EC establishes that “products defined in part I” (of Annex I of the Directive, providing product definitions for jam, extra jam, jelly, extra jelly, marmalade, jelly marmalade and sweetened chestnut purée) “must have a soluble dry matter content of 60 % or more as determined by refractometer, except for those products in respect of which sugars have been wholly or partially replaced by sweeteners. Without prejudice to Article 5(1) of Directive 2000/13/EC, Member States may, however, in order to take account of certain particular cases, authorise the reserved names for products defined in part I which have a soluble dry matter content of less than 60 %”.

- Plum jam (*powidła śliwkowe*; not defined under Annex I, part I of Directive 2001/113/EC): not less than 54%.
- *Spain* has set derogations on minimum sugar content for two specific products, one of which (extra marmalade) is not defined under Annex I, part I of Directive 2001/113/EC:
 - Extra marmalade (*mermelada extra*) produced with at least 500 grams of fruit per 1,000 grams of finished products: not less than 40% and not more than 60%.
 - Marmalade (*mermelada*) produced with at least 300 grams of fruit per 1,000 grams of finished products: not less than 40% and not more than 60%.
- Finally, the *United Kingdom* has set a derogation on minimum sugar content for products making claims about “reduced sugar” on the label: not less than 25% and not more than 50%.

11.3.2 Implications of national derogations for consumer interests

Indicator 6.1.2.a: Balance between consumers’ interest in assuring product preservation and practical implications stemming from national derogations in the views of consumers (qualitative appraisal)

The consulted Italian and Spanish consumer associations deem that minimum sugar content is not an essential element anymore in terms of preservation, thanks to various technological improvements that make sugar a replaceable ingredient (e.g. ultra-high pressure techniques). The associations acknowledged that consumer preferences in terms of minimum sugar content in jams are not homogeneous: consumers favouring traditional products would probably react unfavourably to a lowering of the minimums, whereas consumers focusing on health and dietary implications of jams consumption definitely favour national derogations.

Indicator 6.1.2.b: Balance between consumers’ interest in assuring product preservation and practical implications stemming from national derogations in the views of producers (qualitative appraisal)

The consulted EU-level sectoral association²³⁹ deems that differences in national legislation in terms of minimum sugar content in jams, and national derogations from the threshold set at Annex I, paragraph II of Directive 2001/113/EC reflect consumer preferences in the different Member States, and are in line with recital 6 of that Directive: “in order to take account of existing national traditions in the making of fruit jams, jellies and marmalades and sweetened chestnut purée, it is necessary to maintain existing national regulations authorising the marketing of such products with reduced sugar content”. National derogations allow for product differentiation in the consumers’ interest, and have had no negative practical implications for the operators in the sector. Information on sugar and fruit content of individual products is provided to consumers in a clear, unambiguous and standardised way across the EU, and allows consumers to make an informed comparison among the quality and nutritional properties of those products.

Indicator 6.1.2.c: Balance between consumers’ interest in assuring product preservation and practical implications stemming from national derogations in the views of MS CAs (qualitative appraisal)

All the 6 surveyed CAs deem that provisions on minimal sugar content in jams ensure a satisfactory balance between consumers’ interest in assuring product preservation and the practicalities of applying this measure.

One interviewed CA observed that minimal sugar content pursuant to Directive 2001/113/EC (60% or more) may be too high to meet current consumers’ preferences for decreased sugar intake, and could be lowered. Indeed, many producers have met consumers’ demand by producing not jams, but “fruit preparations”. The CA deems that current minimal sugar content in jams does not reflect the market’s reality anymore. With modern conservation techniques, “fruit preparations” are preserved for as long as fruit jams, and meet

²³⁹ Out of the 6 surveyed business associations in the sector, 4 deemed that provisions on minimal sugar content in jams ensure a satisfactory balance between consumers’ interest in assuring product preservation and the practicalities of applying this measure, albeit with minor shortcomings. The remaining 2 associations expressed negative judgments in that respect: one highlighted serious limitations, the other a complete failure, without providing additional details.

current consumers' preferences for decreased sugar intake. However, the analysis of the state of play in terms of national derogations to the 60% minimal sugar content (§ 11.3.1) showed that several Member States have significantly lowered that minimum to address specific needs (in Member States such as Poland and the United Kingdom, for instance, minimal sugar content for certain products with "reduced sugar" or "low-sugar" claims is set respectively at 28% and 25%).

11.4 EQ 6.2 / Poultry: relevance of the scope of the standards and the provided definitions

11.4.1 Relevance of the scope of the standards for poultry

Indicator 6.2.1.a: Extent to which the scope of the standards has addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of business stakeholders (qualitative appraisal)

The vast majority (93%) of the 54 surveyed business associations in the sector expressed a positive judgment about the **adequateness of the scope in terms of product coverage of EU marketing standards for poultry meat in addressing the original needs, problems and issues specific to the sector**. As for the **adequateness of the scope in terms of product coverage in addressing new needs, problems and issues specific to the poultry meat sector emerged after the setting of the standards themselves**, the majority (69%) of the surveyed business associations again expressed a positive judgment.

A consulted EU-level sectoral association observed that in general **more flexibility in the scope of EU marketing standards for poultry meat would be needed to follow technological evolution and changes in consumer preferences**. Some requirements set out by EU marketing standards for poultry meat are too strict and/or not in line with the evolution of the sector. The association made some concrete examples:

- Poultry genetics have evolved since EU marketing standards were established: this translates into problems for water content control of poultry meat. Animals of recent poultry strains hold more water than 15 or 20 years ago. The scope and requirements of EU marketing standards for poultry meat would hence need to adapt further to the evolution of genetics, as well as to that of animal feeding solutions.
- The age of chickens at slaughter in the different farming systems could be lowered; for instance, the age of slaughter of free range chickens could be lowered from the current 56 to 50 days, to follow the evolution of genetics and rearing techniques.
- More flexibility would be needed on the aspects being labelled, to follow technological innovation in the sector and the evolution of consumer preferences: for instance, the possibility of labelling chickens produced using electricity coming from solar panels as "environmentally friendly poultry production" should be considered. Other examples of innovations that cannot be communicated to the consumer via a label include "climate-friendly" chickens produced using recycled heat, chickens reared indoors on straw and systems combining poultry production with orchards.

Indicator 6.2.1.b: Extent to which the scope of the standards has addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of consumers (qualitative appraisal)

The consulted Italian consumer association identified EU marketing standards for poultry meat as an example of good practice also by virtue of the elements that they cover in their scope.

Indicator 6.2.1.c: Extent to which the scope of the standards has addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of MS CAs (qualitative appraisal)

Most of the 8 surveyed CAs expressed positive judgments about the **adequateness of the scope in terms of product coverage of EU marketing standards for poultry meat in addressing the original needs, problems and issues specific to the sector**. Only one CA identified serious limitations, without providing additional details. The overall view of CAs is hence in line with the one emerged from the survey of business associations.

As for the **adequateness of the scope in terms of product coverage in addressing new needs, problems and issues specific to the poultry meat sector emerged after the setting of the standards themselves**, the majority (5 out of 8) of the surveyed CAs expressed a positive judgment. However, one CA highlighted serious limitations (without providing additional details), two other CAs a complete failure in that respect²⁴⁰. The overall view of CAs is again in line with the one emerged from the survey of business associations. The most significant limitations highlighted by the surveyed CAs are the same highlighted by the consulted EU-level business association, which concern provisions on water content, alternative production systems and labelling (see indicator 6.2.1.a); according to the consulted CAs, those provisions should be updated to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation.

11.4.2 Relevance of the provided definitions for poultry

Indicator 6.2.2.a: Extent to which the provided definitions have addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of business stakeholders (qualitative appraisal)

The vast majority (91%) of the 54 surveyed business associations in the sector expressed a positive judgment about the **adequateness of the definitions provided by EU marketing standards for poultry meat in addressing the original needs, problems and issues specific to the sector**. Just slightly less positive (85% of replies) is the overall judgment expressed by the surveyed associations with respect to the **adequateness of those definitions in addressing the new needs, problems and issues specific to the poultry meat sector emerged after the setting of the standards themselves**.

A consulted EU-level sectoral association observed that the definitions for poultry meat provided by EU marketing standards provide a good basis, but could be adapted (especially in the case of breasts) to follow the evolution of technology and of the market. To this end, also definitions for new products or cuts could be added (e.g. “inner fillet”, “backbone cut”, “breast with cap”). A specific issue concerns chicken necks, which are defined as offal under the current framework, but which are considered as meat by some operators (especially in France); where necks are considered meat, a definition would be deemed useful.

Indicator 6.2.2.b: Extent to which the provided definitions have addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of consumers (qualitative appraisal)

An interviewed EU-level consumer association explicitly mentioned the definition of poultry meat pursuant to Annex VII, Part V, section II, paragraph 1 of Regulation (EU) No 1308/2013 as a positive example in terms of addressing the needs of consumers of poultry meat, with special respect to consumer protection²⁴¹. The consulted Italian and Spanish consumer associations supported that view.

Indicator 6.2.2.c: Extent to which the provided definitions have addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of MS CAs (qualitative appraisal)

All the 8 surveyed CAs expressed positive judgments about the **adequateness of the definitions provided by EU marketing standards for poultry meat in addressing the original needs, problems and issues specific to the sector**. The overall view of CAs is hence in line with the one emerged from the survey of business

²⁴⁰ One of those two CAs observed that thawed poultry meat cannot be marketed as such products are not included in the current scope of EU marketing standards for poultry meat. However, Regulation (EU) No 1169/2011 sets out a general framework for labelling that would allow the marketing of those products. According to the CA, the issue has strong negative implications for the operators in the poultry sector. In addition, the CA deems that provisions about water content, farming systems, and labelling of products are often too rigid and not in line with the evolution of technology and consumer preferences, and should be revised. The increasing economic importance of plant-based substitutes of poultry meat is not addressed by EU marketing standards. Finally, the CA deems that provisions on controls are too rigid, and that a risk-based approach should be adopted in that respect, instead of a control system based on the number of inspections.

²⁴¹ The definition of poultry meat as not having “undergone any treatment other than cold treatment” implies the prohibition of the use of antimicrobial rinses such as peroxyacetic acid, chlorine, etc., which are widely used by some of the EU’s trading partners.

associations. A slightly less positive overall judgment (6 CAs out of 8) was expressed by the surveyed CAs with respect to the **adequateness of those definitions in addressing the new needs, problems and issues specific to the poultry meat sector emerged after the setting of the standards themselves**. Two CAs deem that the definitions provided by EU marketing standards for poultry meat have completely failed to address the new needs, problems and issues specific to the sector²⁴². Again, the overall view of CAs is in line with the one emerged from the survey of business associations. One interviewed CA that did not participate to the survey only highlighted minor shortcomings of the provided definitions²⁴³.

11.5 EQ 6.3 / Poultry: to what extent has the *foie gras* definition been adequate to achieve the objective of avoiding fraudulent practices?

11.5.1 Trends in the number of identified fraudulent practices in the production and marketing of foie gras

Indicator 6.3.2.a: Evolution in the number of identified fraudulent practices in the production and marketing of foie gras

Foie gras can only legally be produced in the five Member States where production was current practice in 1999 (France, Spain, Belgium²⁴⁴, Hungary and Bulgaria)²⁴⁵, although consumption is more widespread. The EU poultry meat marketing standards set out a precise definition and criteria for using the term “*foie gras*”, the aim of which is to ensure a level playing field for EU producers and a certain quality standard for consumers buying *foie gras* on the internal market.

Qualitative evidence on the evolution of the number of identified fraudulent practices in the production and marketing of *foie gras* was provided by an interviewed EU-level sector association. Fraudulent practices have decreased due to the protection offered by the definition of raw *foie gras* provided in the marketing standards. However, the EU marketing standards provide no definition of processed *foie gras*, which industry associations state accounts for 80% of the *foie gras* market. France is the only Member State to provide such a definition in national law, meaning that French consumers are protected in a way that other EU consumers are not. According to an interviewed EU-level sector association, this disparity should be solved, since the absence of a definition for processed *foie gras* leaves ample room for fraudulent practices in this market segment. According to the association, substantial price differentials (for instance, currently the average price is €125/kg for *foie gras*, €75/kg for “thin” livers) provide a large incentive to fraudulent practices. Even if it is theoretically possible (under Regulation (EU) No 1169/2011) to sue operators producing products carrying wrong or misleading information on labels, legal action is costly.

Further information was provided by the interviewed French CA. A significant volume of *foie gras* may be illegally sold thawed. If the fact that the product was frozen is indicated, it is not a fraud, but it is still forbidden. Some producers take advantage of the very wide definition of “processing” as provided by the relevant EU legislation (Article 2(1) (m), (n), (o) of Regulation (EC) No 852/2004)²⁴⁶. Thawed livers have to be

²⁴² One of those two CAs deems that product development in the poultry meat sector moves fast, and that outdated/missing product definitions hamper product innovation. For instance, the provided definitions do not encompass new cuts (e.g. inner fillets) and minced poultry meat.

²⁴³ The CA highlighted a coherence issue between “*poussin*” and “*coquelet*” in French: the French version mentions a “*poussin*” being heavier than a “*coquelet*”, yet it is usually the opposite. EU marketing standards could also include a definition for “*aglet*”, which is provided for example by the UNECE marketing standard for poultry meat.

²⁴⁴ The Flemish government will ban the practice of gavage (force-feeding) by 1 December 2023: <https://www.eurogroupforanimals.org/gaia-flemish-government-bans-fur-farming-and-force-feeding-for-foie-gras>

²⁴⁵ Article 24 of Standing committee of the European convention for the protection of animals kept for farming purposes (T-AP) Recommendation Concerning Muscovy Ducks (*Cairina Moschata*) And Hybrids Of Muscovyand Domestic Ducks (*Anas Platyrhynchos*) adopted by the Standing Committee on 22 June 1999.

²⁴⁶ The definitions related to processing are laid down in Article 2(1)(m), (n) and (o) of Regulation (EC) No 852/2004 and are as follows (emphasis added): (m) “processing” means *any action that substantially alters the initial product*, including heating,

processed to be sold to consumers, but due to the aforementioned wide definition of “processing”, it is very delicate to assess for sure whether a product has been actually processed, i.e. whether it underwent a “substantial alteration”. Since there are no analytical criteria to assess the processing or not of a product, some operators thaw fatty livers, preserve them in brine²⁴⁷ and market them.

11.5.2 Adequateness of the definition of “foie gras” in preventing fraudulent practices

Indicator 6.3.1.a: Extent to which the definition of foie gras has prevented fraudulent practices in the views of business stakeholders (qualitative appraisal)

Out of 54 surveyed business associations in the poultry sector, 35 expressed judgments on the adequateness of the definition of *foie gras* provided by Commission Regulation (EC) No 543/2008 in preventing fraudulent practices in the production and marketing of this product. Most of those 35 associations (26) identified only minor shortcomings in that respect; 6 associations deemed that the definition was fully adequate, and only 3 associations highlighted serious limitations. The main limitation identified by an interviewed EU-level sector association is related to the **absence of a definition for processed foie gras**, which would leave ample room for fraudulent practices (see above, § 11.5.1).

Indicator 6.3.1.c: Extent to which the definition of foie gras has prevented fraudulent practices in the views of MS CAs (qualitative appraisal)

A positive overall judgment was expressed by the surveyed CAs on the adequateness of the definition of *foie gras* provided by Commission Regulation (EC) No 543/2008 in preventing fraudulent practices in the production and marketing of this product²⁴⁸. One interviewed CA that did not participate to the survey observed that the *foie gras* definition provided by Commission Regulation (EC) No 543/2008 could be clearer, and for example might include goose self-fattening (i.e. production techniques not based on force-feeding), even though this practice has still very limited diffusion. This new definition would have to keep current fatty livers weights. This adjustment would give to alternative goose farming systems for *foie gras* production the opportunity to exist, while maintaining the same quality of the finished product (finished product being a fresh fatty liver in this situation).

smoking, curing, maturing, drying, marinating, extraction, extrusion or a combination of those processes; (n) “unprocessed products” means foodstuffs that have not undergone processing, and includes products that have been divided, parted, severed, sliced, boned, minced, skinned, ground, cut, cleaned, trimmed, husked, milled, chilled, frozen, deep-frozen or thawed; (o) “processed products” means foodstuffs resulting from the processing of unprocessed products. These products may contain ingredients that are necessary for their manufacture or to give them specific characteristics. Article 2(1)(b) of Regulation (EU) No 1169/2011 establishes that for the purposes of this Regulation the definitions in Article 2(1)(m), (n) and (o) of Regulation (EC) No 852/2004 on the hygiene of foodstuff shall apply.

²⁴⁷ Brining (“*saumurage*” in French) is not explicitly quoted in the list of processing actions of Regulation (EC) No 852/2004, but it can be considered as a form a curing (addition of water and salt, explicitly quoted in the list in question; “*salaison*” in French) in the absence of any definition in Regulation (EC) No 852/2004 of the minimal added salt concentration that would entail true processing. Any addition of salt modifies the foodstuff’s characteristics, in a range of ways: longer shelf life, lower aW (water activity measure), partial modification of proteins structure, etc..

²⁴⁸ 5 CAs expressed a fully positive judgment, and 2 CAs identified only minor shortcomings. Only one CA highlighted serious limitations in that respect, without providing further details. The views of the surveyed CAs are hence broadly in line with those expressed by the surveyed business associations.

11.6 EQ 6.4 / Dairy products: Relevance of existing definitions and reserved terms, absence of an EU definition of cheese

11.6.1 Relevance of the provided definitions for dairy products

Indicator 6.4.1.a: Extent to which the provided definitions have addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of business stakeholders (qualitative appraisal)

An ample majority (84%) of 31 surveyed business associations in the dairy sector deemed that the **product definitions** provided by EU marketing standards have **allowed to address the original needs, problems and issues specific to the sector**. As for the adequateness of the provided definitions for dairy products in **addressing new needs, problems and issues specific to the dairy sector emerged after the setting of EU marketing standards**, the majority of respondents (74%) expressed positive judgments in that respect. A significant share of respondents (26%), however, expressed negative judgments.

An interviewed EU-level sector association deems that EU legislation on marketing standards for the dairy sector - including the provided definitions for dairy products - adequately responds to its needs, also because it has been amended to follow the most important market developments. By contrast, an interviewed EU-level association representing the interests of retailers observed that the requirements concerning minimum fat content in the different typologies of milk²⁴⁹ may prevent operators and consumers from reaping the potential benefits deriving from further fat content reduction in milk. However, as already underlined at § 7.2.2, EU marketing standards do allow some flexibility in terms of minimum fat content for heat-treated milk, under certain conditions²⁵⁰.

Indicator 6.4.1.c: Extent to which the provided definitions have addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of MS CAs (qualitative appraisal)

The overall judgment expressed by 18 surveyed CAs on the relevance of the **product definitions** provided by EU marketing standards for **addressing the original needs, problems and issues specific to the sector** is positive, but the share of respondents highlighting serious limitations in that respect is higher than the one observed in the survey of business associations. However, the CAs that expressed those negative judgments did not provide further details²⁵¹. As for the adequateness of the provided definitions for dairy products in **addressing new needs, problems and issues specific to the dairy sector emerged after the setting of EU marketing standards**, the majority of the surveyed CAs (13 out of 18, i.e. 72%) expressed a positive judgment. A significant share (28%) of the surveyed CAs, however, expressed negative judgments²⁵². The overall judgment of the surveyed CAs is hence less positive than the one of the surveyed business associations.

²⁴⁹ Annex VII, part IV of Regulation (EU) No 1308/2013 ("single CMO regulation) provides definitions for the different typologies of drinking milk (raw milk; whole milk (standardised and non-standardised); semi-skimmed milk; skimmed milk), setting out the related requirements in terms of minimum fat content.

²⁵⁰ Annex VII, part IV of Regulation (EU) No 1308/2013 establishes that heat-treated milk not complying with the fat content requirements laid down for whole milk, semi-skimmed milk or skimmed milk shall be considered to be drinking milk provided that the fat content is clearly indicated with one decimal and easily readable on the packaging in form of "... % fat". Such milk shall not be described as whole milk, semi-skimmed milk or skimmed milk.

²⁵¹ with the sole exception of one CA, which highlighted problems with the designation of fat content in milk (currently addressed), and with internal implementation of the definitions of Edam and shredder cheeses, that do not correspond to the "flamengo" cheese that is marketed in Portugal.

²⁵² Two of those CAs deem that the introduction of harmonised EU definitions for plant-based substitutes of dairy products would help to address the issue of improper use of protected dairy terms in the marketing of those products, which is investigated at § 11.6.2 (the issue is identified also by another CA, which however does not propose a specific solution). The judgment of another CA is instead related to the absence of an EU definition for cheese, which is discussed at § 11.6.3.

11.6.2 Relevance of the reserved terms for dairy products

Indicator 6.4.2.a: Extent to which the reserved terms have addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of business stakeholders (qualitative appraisal)

An ample majority (90%) of 31 surveyed business associations in the dairy sector deemed that the **reserved terms** provided by EU marketing standards for dairy products have **allowed to address the original needs, problems and issues specific to the sector**. Even though the majority (71%) of the 31 surveyed associations expressed positive judgments with respect to the adequateness of reserved terms in addressing **new needs, problems and issues specific to the dairy sector emerged after the setting of EU marketing standards**, a significant minority share (29%) expressed negative judgments in that respect.

Improper use of protected dairy terms in the marketing of plant-based substitutes for dairy products is the most significant case of a **new issue emerged after the setting of EU marketing standards in the dairy sector**. This issue would need to be addressed more effectively. Interviewed EU-level associations deem that the solution to this issue is the consistent enforcement at Member State level of the existing EU provisions on the protection of dairy terms. According to one association, also the switch from the current wording in Annex VII Part III No 6 subpar. 1 of Regulation (EU) 1308/2013 (single CMO regulation) to the wording of Article 13 par. 1 of Regulation (EU) No 1151/2012 (EU quality schemes) could be considered as a way to further strengthen the protection of definitions, designations and sales descriptions for dairy products, and to ensure a more consistent enforcement at national level.

By contrast, an interviewed EU-level association representing the interests of producers of plant-based alternatives to dairy products expressed concern about the possible introduction of more restrictive conditions for the use of certain terms in the marketing of plant-based alternatives to dairy products (for instance, through the aforementioned change of wording in Annex VII Part III No 6 subpar. 1 of Regulation (EU) 1308/2013, or through a reduced list of exceptions with respect to those currently laid down in EU Commission Decision 2010/791/EU of 20 December 2010). According to that association, more restrictive conditions for the use of certain terms in the marketing of plant-based alternatives to dairy products would not serve consumers' interests, and might negatively affect the development of a sector that has seen a rapidly expanding demand over the last years. The association observed that **consumers of plant-based alternatives to dairy products purchase those products exactly because they are not obtained from animals**. This implies that companies producing plant-based alternatives to dairy products have no interest at all in misleading consumers about the nature of those products (e.g. by convincing consumers that they are buying milk obtained from cows rather than the alternative obtained from soybeans): it is rather the opposite. **Ensuring that consumers are informed about the non-animal origin of products is a priority for companies marketing plant-based alternatives to dairy and meat products.**

Indicator 6.4.2.c: Extent to which the reserved terms have addressed the specific sectoral needs, problems and issues (both original and new ones) in the views of MS CAs (qualitative appraisal)

The overall judgment expressed by 18 surveyed CAs on the relevance of the **reserved terms** provided by EU marketing standards for dairy products for **addressing the original needs, problems and issues specific to the sector** is positive; however, the share of respondents highlighting serious limitations in that respect is higher than the one observed in the survey of business associations. As for the adequateness of the reserved terms for dairy products in **addressing new needs, problems and issues specific to the dairy sector emerged after the setting of EU marketing standards**, the majority of the surveyed CAs (13 out of 18, i.e. 72%) expressed a positive judgment. A significant share (28%) of the surveyed CAs, however, expressed negative judgments. The overall judgment of the surveyed CAs is hence less positive than the one of the surveyed business associations. The most significant limitations highlighted by the surveyed CAs, as well as by another interviewed CA that did not take part in the survey, all concern the aforementioned issue of **improper use of protected dairy terms in the marketing of plant-based substitutes for dairy products**.

11.6.3 Absence of an EU definition of cheese: implications in terms of relevance

Indicator 6.4.3.a: Extent to which the absence of an EU definition of cheese has left unaddressed any specific sectoral needs (both original and new ones) in the views of business stakeholders (qualitative appraisal)

The majority (71%) of the 31 surveyed business associations in the dairy sector deemed that the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector (original and/or emerged after the setting of the relevant standards).

An interviewed EU-level sector organisation deems that the absence of that definition has **left some specific sectoral needs unaddressed**, especially considering that a large share of EU milk production is processed into cheese. The association does not see the need for EU marketing standards specifying the characteristics of different types of cheese, but would welcome a harmonised definition establishing the **essential characteristics that would entitle a dairy product to be denominated “cheese”**. The association deems that the Codex General Standard for cheese (see § 1.3.1 and § 2.3) is a success story, and could provide a useful reference for the development of a harmonised EU definition of cheese. Another interviewed EU-level sector association basically confirmed this view, adding that a potentially important element of the current state of play concerning the definition of cheese at Member State level is the **definition of the raw materials and ingredients from which cheese can be made**. The analysis of the national definitions of cheese (see § 2.3) actually highlighted a number of significant differences in that respect, whose implications are discussed in detail below.

Indicator 6.4.3.c: Extent to which the absence of an EU definition of cheese has left unaddressed any specific sectoral needs (both original and new ones) in the views of MS CAs (qualitative appraisal)

The views of the 18 surveyed CAs on the extent to which the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector (original and/or emerged after the setting of the relevant standards) are divided. 9 CAs deem that such absence has left some specific sectoral needs unaddressed, whereas 9 other CAs deem the contrary. The views of the surveyed CAs are therefore more divided, even though slightly more optimistic in general, than the views of the surveyed business stakeholders. It is interesting to note that there is no clear linkage between the position of each consulted CA and the presence/absence of a national legislation-based definition of cheese in the respective Member State, as identified through the analysis of the related state of play presented at § 2.3.

The issues highlighted by the surveyed CAs relate to negative implications deriving from the absence of a harmonised EU definition of cheese in terms of **ensuring a level playing field among operators of different Member States** and of **promoting intra-EU trade**. Also one interviewed CA that did not participate to the survey deems that the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector, especially from an EU-wide perspective.

Implications of the state of play concerning legislation-based definitions of cheese at Member State level

The analysis presented at § 2.3 showed that the most significant differences among national legislation-based definitions of cheese – as well as vis-à-vis the Codex General Standard for cheese - are mainly related to the **definition of the raw materials from which cheese can be made, and of the ingredients that can be used in its production**. Even though differences concerning the definition of the production process were also identified, these seem to be more related to the use of a different wording (also with respect to the Codex General Standard) and to minor details, than to the nature and/or essential technical characteristics of the process itself.

The **use of reconstituted dried milk and of concentrated milk as raw material for cheese production** can be identified as a potentially important aspect. The use of those materials is neither explicitly prohibited nor

explicitly allowed by the national legislation applying in most cheese-producing Member States²⁵³; the same applies for the Codex General Standard for cheese²⁵⁴. The analysis of the state of play at Member State level revealed that:

- the use of reconstituted milk powder is explicitly prohibited by the Italian legislation;
- by contrast, the use of concentrated skimmed milk and reconstituted dried milk is explicitly allowed in the United Kingdom.

A consulted Italian sectoral association highlighted negative implications for Italian cheese producers stemming from the above illustrated differences in the relevant national legislation concerning the use of reconstituted milk powder for cheese production. Whereas Italian operators cannot produce cheese from reconstituted milk powder, operators in other Member States are allowed to do that, and can lawfully market their products on the Italian market. According to the consulted Italian sectoral association, this situation determines a competitive disadvantage for Italian cheese producers on the domestic market for the concerned cheese types, and has negative implications in terms of level playing field²⁵⁵.

11.7 EQ 6.5 / Olive oil: do the different categories defined by Member States reflect the needs of the market?

Indicator 6.5.1.a: Extent to which the categories defined by Member States have addressed the identified market needs (both original and new ones) in the olive oil sector in the views of business stakeholders (qualitative appraisal)

Out of 11 surveyed business associations in the olive oil sector, only one deemed that the **categories of olive oil defined by Member States** fully **reflect the original needs of the market**. A similar overall judgment was expressed with respect to the adequateness of the categories of olive oil defined by Member States in reflecting the **new needs of the market emerged after the setting of EU marketing standards for olive oil**: only one association expressed a fully positive judgment in that respect.

An interviewed sector association underlined that the adaptation of the categories of olive oil to follow the evolution of market needs is of paramount importance, also considering that large volumes of marketed extra virgin olive oils in certain Member States (and especially in Italy) meet much more demanding quality requirements than the minimum ones.

Indicator 6.5.1.b: Extent to which the categories defined by Member States have addressed the identified market needs (both original and new ones) in the olive oil sector in the views of consumers (qualitative appraisal)

The consulted Italian and Spanish consumer associations mentioned the categories of olive oils defined by EU marketing standards as an example of good practice in addressing the needs of the market from a consumers' standpoint.

²⁵³ In some of these Member States – e.g. Greece – the fact that reconstituted dried milk and concentrated milk are not explicitly included among the raw materials allowed for cheese production translates into a prohibition (even though not an explicit one, differently from the Italian case) to use those products to produce cheese.

²⁵⁴ Point “b” of the Codex definition refers to (emphasis added) “processing techniques involving coagulation of the protein of milk and/or products obtained from milk which give an end-product with similar physical, chemical and organoleptic characteristics as the product defined under (point) “a” (of the same definition)”. “Products obtained from milk” would include reconstituted dried milk and concentrated milk.

²⁵⁵ The consulted association reported that the subject had been analysed by the European Commission, which concluded that the Italian law prohibiting the use of reconstituted milk powder for cheese production had only implications for the Italian market, and no EU dimension.

Indicator 6.5.1.c: Extent to which the categories defined by Member States have addressed the identified market needs (both original and new ones) in the olive oil sector in the views of MS CAs (qualitative appraisal)

Out of 6 surveyed CAs, only two deemed that the **categories of olive oil defined by Member States** fully **reflect the original needs of the market**: however, no surveyed CAs highlighted serious limitations. The overall judgment expressed by the surveyed CAs is hence more positive than the one emerged from the survey of business associations. A similar overall judgment was expressed by the surveyed CAs with respect to the adequateness of the categories of olive oil defined by Member States in reflecting the **new needs of the market emerged after the setting of EU marketing standards for olive oil**: only two CAs expressed a fully positive judgment in that respect, while one CA highlighted serious limitations, without providing further details. Again, the overall judgment emerged from the CA survey is more positive than the one emerged from the survey of business associations.

11.8 EQ 6: evaluation judgment

The assessment revealed that **stakeholders** (operators, consumers and competent authorities) generally deem that **the objectives of EU marketing standards respond to the originally identified needs, problems and issues** (see § 11.1). By contrast, the judgment expressed by the consulted stakeholders was **less positive** with respect to the **relevance of EU marketing standards** in responding to **new needs, problems and issues emerged after their setting**, as discussed in detail below.

A specific assessment made under EQ 6.1 (see § 11.3) found that **provisions on minimal sugar content in jams and the possibility for Member States to make derogations in that respect** (Directive 2001/113/EC) have allowed to achieve a **satisfactory balance between consumer interest in assuring product preservation and the need to consider national specificities**, also with respect to policy priorities in terms of promoting healthier diets (low-sugar jams).

However, a significant minority of consulted stakeholders identified **significant limitations of EU marketing standards in addressing the needs, problems and issues of stakeholders in practice**.

The most significant **limitations** in terms of relevance of EU marketing standards highlighted by **competent authorities** concern:

- Issues deriving from non-homogeneous and sometimes inconsistent approaches to the implementation/enforcement of EU marketing standards at national level. The concrete example most frequently made by the consulted CAs is the already mentioned issue of non-homogeneous enforcement at Member State level of the list of national exemptions from the prohibition to use protected dairy terms for the marketing of non-dairy products (EU Commission Decision 2010/791/EU of 20 December 2010). The issue is discussed in more detail below.
- The need for a simplified and modernised system of controls for compliance with EU marketing standards. However, few consulted CAs provided product-specific indications in that respect, as also underlined in the assessment under EQ 5 (see § 10).
- The capacity to address the challenges deriving from the ever-increasing importance and the proliferation of private marketing standards. However, no consulted CA provided concrete examples of shortcomings of specific EU marketing standards in that respect.
- The absence of a harmonised EU definition for cheese, which is discussed in more detail below.

A limitation highlighted by stakeholders representing the interests of **consumers** is the absence of mandatory origin labelling in EU marketing standards for a number of products, and/or insufficient detail of the information about origin required by EU marketing standards (consumer associations attach particular importance to the provision of information on the origin of products to consumers). However, the assessment under EQ 1 (see § 6.2) concluded that the perception of the absence of generalised mandatory origin labelling in EU marketing standards as a serious limitation is questionable: origin labelling is already mandatory for

several products covered by EU marketing standards (e.g. fresh fruit and vegetables, meats of sheep, goat, swine, poultry, beef meat), and empirical evidence suggests that consumers are generally reluctant to cover the additional costs related to origin labelling schemes.

As already noted, the judgment expressed by the consulted stakeholders was **less positive** with respect to the **relevance of EU marketing standards** in responding to **new needs, problems and issues emerged after their setting**. The most significant **limitations** highlighted by **competent authorities** in that respect concern:

- The capacity of EU marketing standards to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation. The most significant concrete examples made by some of the consulted CAs concern EU marketing standards for poultry meat and olive oils, and are discussed in more detail below.
- The capacity of addressing potential side effects of EU marketing standards in terms of food waste: this issue is discussed in detail at § 12.1 in the framework of the assessment under EQ 7, dealing with unintended/unexpected effects of EU marketing standards.

A number of **sector-specific limitations in terms of relevance of EU marketing standards** emerged from the assessment. These affect the following sectors²⁵⁶, and are related to the following aspects:

- **Fruit juices sector:** the assessment (see § 11.2) identified an issue related to labelling provisions concerning fruit juices under Directive 2001/112/EC, as amended by Directive 2012/12/EU. The 2012 amendment established – among others - that the addition of sugars to fruit juices was not (longer) allowed, mainly to follow the evolution of consumer preferences and to respond to emerging trends towards a healthier diet. After 28 October 2016²⁵⁷ putting on a fruit juice pack the “no added sugar, in line with the legislation” statement, or similar statements referring to the fact that all fruit juices do not contain added sugar, is no longer permitted. However, the fact that competing beverages, such as juice containing drinks, are still allowed to use the claim “with no added sugar” may create confusion among consumers, and may result in unfair competition.
- **Poultry meat sector:** it emerged from a specific assessment made in the framework of EQ 6.2 (see § 11.4) that provisions on water content²⁵⁸ and alternative production systems²⁵⁹ could be updated to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation. A specific assessment made in the framework of EQ 6.3 (see § 11.5) revealed some perceived limitations of the definition of “*foie gras*” in preventing fraudulent practices, namely the absence of an EU definition for processed *foie gras* (France is alone in having a national definition). However, introducing such a definition would be contentious given the opposition from some NGOs to the production of *foie gras* using gavage (force-feeding). The proportionality of introducing a definition for processed *foie gras* could also be questioned when only five Member States produce the *foie gras*, although it is consumed more widely.

²⁵⁶ It should be noted that no significant issues in terms of relevance were identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

²⁵⁷ The transitional measures under Article 3 of Directive 2012/12/EU established that the statement “from 28 October 2015 no fruit juices contain added sugars” could appear on the label until 28 October 2016, to inform consumers about the exclusion of added sugars from the list of authorised ingredients.

²⁵⁸ According to one consulted EU-level sectoral association, the scope and requirements of EU marketing standards for poultry meat would need to adapt further to the evolution of genetics, as well as to that of animal feeding solutions. Poultry genetics have evolved since EU marketing standards were established: this translates into problems for water content control of poultry meat. Animals of recent poultry strains hold more water than 15 or 20 years ago.

²⁵⁹ A consulted EU-level sectoral association suggested that the age of chickens at slaughter in the different farming systems could be lowered; for instance, the age of slaughter of free range chickens could be lowered from the current 56 to 50 days, to follow the evolution of genetics and rearing techniques. It also observed that more flexibility would be needed on the aspects being labelled, to follow technological innovation in the sector and the evolution of consumer preferences: for instance, the possibility of labelling chickens produced using electricity coming from solar panels as “environmentally friendly poultry production” should be considered.

- **Dairy sector:** Two main issues emerged from a specific assessment made in the framework of EQ 6.4 (see § 11.6). Improper use of protected dairy terms such as “milk”, “butter” and “cheese” in the marketing of plant-based substitutes for dairy products was found to cause issues in terms of unfair trading practices and provision of misleading information to consumers. Even if no evidence is available to quantify the extent of those implications, the views of the consulted stakeholders on the issue are generally aligned. The potential implications of the absence of an EU definition of cheese for stakeholders were found to be more disputed: differently from the previous issue, the views of stakeholders are not aligned on the matter (the views of the consulted CAs are especially divided). The analysis of the state of play concerning national legislation-based definitions of cheese in the EU (see § 2.3) revealed significant differences especially in the definition of the raw materials from which cheese can be made, and of the ingredients that can be used in its production. The assessment identified a potentially substantial aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production: this is neither explicitly prohibited nor explicitly allowed in most cheese-producing Member States that have a national definition of cheese in place (and also in the Codex General Standard for cheese), whereas use of reconstituted dried milk for cheese production is explicitly prohibited in Italy (the use of reconstituted dried milk and of concentrated milk for cheese production is explicitly allowed in the United Kingdom). According to a consulted Italian sectoral association, the prohibition determines a competitive disadvantage for Italian cheese producers on the domestic market, and has negative implications in terms of level playing field²⁶⁰.
- **Olive oil sector:** the most significant limitations emerged from the assessment are related to: organoleptic assessment²⁶¹ and the lack of uniformity of results deriving from tasting panels; excessive number of quality parameters that must be determined; redundant information on labels; relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils²⁶². An assessment made in the framework of EQ 6.5 (see § 11.7) also revealed significant limitations of the different categories of olive oils defined by Member States in reflecting the needs of the market²⁶³.

The findings of the assessment of the different aspects presented above allow to conclude that the **current framework establishing EU marketing standards generally corresponds to the actual needs of stakeholders**, with **some limitations** mainly deriving from non-homogenous enforcement/implementation of marketing standards at national level.

By contrast, the current framework is affected:

- by **more significant limitations in addressing new needs, problems and issues of stakeholders emerged after the setting of marketing standards**, especially for what concerns the capacity to follow the evolution of technology, marketing strategies and consumer preferences without impeding innovation, and the capacity of addressing potential side effects of EU marketing standards in terms of food waste;
- by a number of sector-specific limitations especially affecting the fruit juices, poultry meat, dairy and olive oil sectors.

²⁶⁰ Whereas Italian operators cannot produce cheese from reconstituted milk powder, operators in other Member States are allowed to do that, and can lawfully market their products on the Italian market.

²⁶¹ Besides the alleged subjectivity of the method in the views of some consulted sectoral associations, according to one of the consulted sectoral associations tasting panels have shown clear limitations in addressing technological evolution in fraudulent practices. For instance, tasting panels are usually unable to detect deodorised oils marketed as extra virgin olive oils. According to that association, organoleptic assessment should be combined with traceability systems and with other analytical methods that technological innovation may offer in the future to effectively address more and more sophisticated fraudulent practices in the marketing of olive oils.

²⁶² According to one of the consulted sectoral associations, the set would not fully cover the extremely rich variety of scents and flavours of virgin olive oils, and also includes attributes (“bitter” and “pungent”) that are often not appreciated by consumers.

²⁶³ A consulted business association observed that the adaptation of the categories of olive oil to follow the evolution of market needs is of paramount importance, also considering that large volumes of marketed extra virgin olive oils in certain Member States (and especially in Italy) meet much more demanding quality requirements than the minimum ones.

THEME IV – COHERENCE

12 EQ 7: TO WHAT EXTENT HAS THE IMPLEMENTATION OF EU MARKETING STANDARDS CAUSED UNEXPECTED OR UNINTENDED EFFECTS?

EQ 7: Definition of key terms

“EU marketing standards”: the EU marketing standards of relevance for the evaluation are those identified at § 2.

“Unexpected or unintended effects”: these include a wide variety of effects that are not explicitly pursued by an intervention; in other terms, they have not been foreseen in the intervention logic. The intervention logic of EU marketing standards, and the related expected effects, are those defined at § 4. The assessment under EQ 7 focuses mainly on three typologies of potential unexpected/unintended effects of EU marketing standards:

- Increased/reduced food waste.
- Effects on the welfare of farmed animals.
- Abuse by market actors.

The assessment also covers the issue of “deadweight”²⁶⁴, i.e. effects that would have arisen even if the intervention – i.e. the establishment of EU marketing standards - had not taken place.

12.1 EQ 7.1: Unexpected/unintended effects concerning food waste

Preventing food waste and strengthening the sustainability of the EU food system while ensuring the protection of both human and animal health is an important policy priority of the EU²⁶⁵. Food waste prevention is an integral part of the European Commission's Circular Economy Package, adopted in 2015, aimed at stimulating Europe's transition towards a circular economy that will boost global competitiveness, foster sustainable growth and generate new jobs, and will be a key element in the new Farm to Fork strategy enshrined in the European Commission's proposed Green Deal²⁶⁶. The EU and its Member States are committed to meeting the United Nation's Sustainable Development Goal 12.3²⁶⁷ target of halving per capita food waste at the retail and consumer level by 2030, and reducing food losses along the food production and supply chains. In line with the above priorities, the scientific community has carried out extensive research on the issue of food waste, on the reasons behind it and on possible solutions to prevent and/or to address it. Part of this research has been carried out in the framework of EU-funded programmes and projects, such as FUSIONS²⁶⁸ and REFRESH²⁶⁹.

Indicator 7.1.1.a: Practical cases of unexpected or unintended effects of EU marketing standards in terms of food waste, as identified by business stakeholders (qualitative appraisal)

An important share of the 123 surveyed business associations (38%) was unable to comment due to lack of specific knowledge on the topic. The majority of respondents (56%) did not identify any practical case of

²⁶⁴ As defined in European Commission – DG Budget (2004), *Evaluating EU Activities – A practical guide for the Commission services*.

²⁶⁵ https://ec.europa.eu/food/safety/food_waste_en

²⁶⁶ https://ec.europa.eu/commission/sites/beta-political/files/mission-letter-frans-timmermans-2019_en.pdf?fbclid=IwAR3MP8zmxW1jBVJhtBUtP2PKkEct5ibFjKVJTCoxgRX6thxcdsyIXhTPIk

²⁶⁷ <https://sustainabledevelopment.un.org/sdg12>

²⁶⁸ <http://www.eu-fusions.org/>

²⁶⁹ <https://eu-refresh.org/>

unexpected or unintended effects of EU marketing standards in terms of food waste. Interviews with EU-level business associations revealed some sectoral specificities.

All the consulted associations covering the **fresh fruit and vegetables** sector deem that EU marketing standards have not contributed to increased waste: it is rather the contrary. Minimum quality requirements for fresh fruit and vegetables contribute to prolong their shelf life. In addition, products not meeting the minimum requirements for direct consumption can be destined to other uses (mainly processing), and surplus volumes of products falling into lower-quality categories can be channelled towards alternative outlets (e.g. charities).

As for the **poultry meat** sector, the consulted business associations reported that carcasses downgraded from class A to class B are usually channelled towards processing: this solution may entail less satisfactory product valorisation, but prevents significant increases in waste volumes.

According to the consulted sectoral association, EU marketing standards for **eggs** do not contribute to increased waste. Eggs destined to retail sales may be diverted towards processing as they near their sell-by date (maximum time limit for delivery of the egg to the final consumer, established in 21 days after laying²⁷⁰), thus avoiding an increase in waste volumes. However, according to that association, prolongation of the date of minimum durability (currently set at not more than 28 days after laying by Article 13 of Regulation (EC) No 589/2008) might contribute to reduce waste volumes at home. However, a consulted EU-level association representing the interests of retailers deems that the provisions on the sell-by date can increase waste volumes, since they fail to consider that the shelf-life of eggs transported and stored refrigerated can be extended beyond 21 days.

As for the **olive oils** sector, according to a consulted sectoral association, the oils that do not directly meet the requirements for human consumption set out by EU marketing standards are always refined, and are not disposed of.

Indicator 7.1.1.b: Practical cases of unexpected or unintended effects of EU marketing standards in terms of food waste, as identified by MS CAs (qualitative appraisal)

A significant number of surveyed/interviewed CAs did not comment on the matter. The views of the CAs that provided some inputs are divided: half of them deem that the implementation of EU marketing standards caused unexpected or unintended effects in terms of generation of food waste, whereas the remaining CAs deem the contrary.

The most significant practical cases highlighted by the consulted CAs concern **eggs**: according to three consulted CAs, provisions on sell-by date and minimum durability might contribute to increase waste volumes at packing centres and at home. Two other CAs observed that although EU marketing standards are not causing increased waste *per se*, they may contribute to orientate consumer preferences towards specific quality grades or classes (e.g. free range eggs): this translates into lower demand for the other grades/classes, which may finally lead to increased waste volumes, if the issue is not addressed through initiatives aimed at channelling surplus products towards alternative outlets (e.g. processing, distribution to charities, etc.). However, no consulted CA provided any quantitative evidence on the volumes of food waste that can be related to EU marketing standards for eggs.

As for **fresh fruit and vegetables**, some of the consulted CAs observed that rather than contributing to increased food waste, the relevant EU marketing standards actually contribute to reduced food waste and losses along the supply chain. According to the consulted CAs, EU marketing standards encourage operators to produce, handle and store fresh fruit and vegetables through techniques allowing to achieve organoleptic qualities more in line with the expectations of distributors and final consumers, and ensuring a longer shelf life.

²⁷⁰ According to point 3 of Chapter I of Section X of Annex III to 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.

Marketing standards and food waste: a review of the recent scientific literature

Marketing standards - and particularly the so called “aesthetic requirements” or “cosmetic specifications” - have often been blamed to contribute to food waste, together with date marking (i.e. “use by” and “best before” dates indicated on labels). Among others, the European Parliament resolution of 16 May 2017 on the *Initiative on resource efficiency: reducing food waste, improving food safety* (P8_TA(2017)0207²⁷¹), states at point 75 that “large quantities of perfectly edible fruits and vegetables do not reach the market for aesthetic reasons and on account of marketing standards”, and “calls on the Commission and the Member States (...) to undertake research on the relation between marketing standards and food waste”. The resolution mentions the results of a number of scientific studies to back its conclusions. Also the Special Report by the European Court of Auditors (2016) focusing on the issue of food waste underlines the need for further research as regards the relation between marketing standards and food waste. The potential implications of “cosmetic specifications” in terms of increased food losses and waste (the issue of the so called “ugly fruits and vegetables”) were also highlighted by the consulted consumer associations for Italy and Spain.

This section provides an overview of the **main findings of recent scientific research on the relationship between marketing standards for agricultural and food products, and food losses and waste**. It is important to note that no legally binding definition of food losses and waste has been adopted at international level so far (Polackova, 2017). However, a definition of “food waste”²⁷² has been included in EU legislation since 30 May 2018 (Directive 2008/98/EC on waste, as last amended by Directive (EU) 2018/851). The definition will provide a basis for measurement of food waste in the EU: the related methodology, however, does not include losses at farm level, as they are practically excluded from the scope of the relevant EU legislation. While confusion prevails in the academic community, the High Level Panel of Experts on Food Security and Nutrition²⁷³ (HLPE, 2014) attempted to consolidate the definition on the basis of the stage where food losses and waste occur. “Food losses” are defined by the HLPE as a “decrease, at all stages of the food chain prior to the consumer level, in mass, of food that was originally intended for human consumption, regardless of the cause”. “Food waste” is defined by the HLPE as “food appropriate for human consumption being discarded or left to spoil at consumer level – regardless of the cause”. Conceptual and operational definitions of food losses and food waste have recently been elaborated by the Food and Agriculture Organisation (FAO, 2018) to measure the progress towards the achievement of Sustainable Development Goal 12.3.

“Aesthetic requirements” or “cosmetic specifications” concerning colour, shape, size, grading are currently set out in the remaining 10 product-specific EU marketing standards for fresh fruit and vegetables, whereas they are not in force anymore for the 26 products affected by the transition to the general marketing standard (see § 8). A recent study (De Hooge et al., 2018) aims at addressing the scarcity of empirical evidence on the extent to which foods are wasted as a result of cosmetic specifications only. While basically confirming the theory that cosmetic specifications result in waste of suboptimal products, the study reports interesting evidence about the attitude of supply chain operators towards the issue. Wastage of suboptimal food products would not be the preferred option by the concerned operators: farmers and producer organisations are in general motivated to keep suboptimal products in the chain, and the other supply chain actors (processors, distributors) are in principle motivated to “make the best” out of suboptimal products. However, context factors such as market competition, pricing, production costs, logistics, and especially consumer preferences may force operators to opt for disposal of suboptimal products, thus contributing to increased food losses. Based on an analysis of EU and US mandatory marketing standards for fresh fruit and vegetables, Polackova (2017) concludes that appearance-related requirements contribute significantly to food losses along the supply chain (especially where tolerance margins are narrow), mainly because of the obligation on the holder or the seller to display, offer for sale, deliver or market only those products that are in conformity

²⁷¹ http://www.europarl.europa.eu/doceo/document/TA-8-2017-0207_EN.pdf

²⁷² According to Article 4a of Directive 2008/98/EC, as amended by Directive (EU) 2018/851, “‘food waste’ means all food as defined in Article 2 of Regulation (EC) No 178/2002 of the European Parliament and of the Council that has become waste”.

²⁷³ The HLPE (<http://www.fao.org/cfs/cfs-hlpe/en/>) is the science-policy interface of the United Nations (UN) Committee on World Food Security (CFS). The CFS reports to the UN General Assembly - through the Economic and Social Council (ECOSOC) - and to the Food and Agriculture Organisation (FAO) Conference (<http://www.fao.org/cfs/home/en/>).

with the relevant standards. In case of non-compliance, the holder/seller is held responsible under national law. This implies that the produce that does not conform with the standards, albeit suitable for human consumption, is discarded or diverted to an alternative non-food use, thus contributing to food losses. A review of the EU legislation and policies with implications on food waste made in the framework of the FUSIONS project (Vittuari et al., 2015) also identifies “aesthetic” requirements in EU marketing standards for fresh fruit and vegetables as a potential cause of food losses and waste, because not all the edible fruit and vegetables that do not meet those criteria are processed into food products: a part of them is disposed of, thus contributing to increased food losses. The study also observes that even more demanding “aesthetic” requirements set by private standards have more negative implications in terms of food losses than EU marketing standards. More general, but similar conclusions on the relationship between “aesthetic” requirements and food losses are elaborated in a previous study made in the framework of the FUSIONS project (Canali, 2014). “Aesthetic” requirements in EU marketing standards for fresh fruit and vegetables are identified as a cause of food losses also in the Special Report by the European Court of Auditors (2016), which also observes that: i) very few studies exist showing that products that are not sold as the two highest quality categories (‘category I’ or ‘extra’), can actually be sold to the processing industry; ii) the processing industry, for technical reasons, may require even stricter size and shape requirements for fruits and vegetables.

By contrast, it is worth reminding that a study on EU marketing standards for fresh fruit and vegetables carried out for DG Agriculture (AND International, 2010) proposed a different interpretation of their implications in terms of food losses and waste. The study aimed at analysing i) how specific marketing standards for fruit and vegetables in the EU are useful for producers, traders, packers and retailers and (ii) at assessing the validity of the arguments against or in favour of repealing specific marketing standards for fruit and vegetables. The study suggested that repealing marketing standards would have no significant impact on the reduction of food losses and waste, and that the presence of unsorted products could lead to a growth of waste at the retail level, with the consequence that products, instead of being reoriented upstream towards parallel channels along the supply chain (processing, animal feeding, etc.), would be thrown away at the end of the supply chain.

Some studies suggest that **EU marketing standards for fresh fruit and vegetables would actually contribute to reduced food waste and losses**, and that **most of the grading losses²⁷⁴ for fresh fruit and vegetables would derive from particularly demanding private standards** applied by distributors (and especially by retailers), rather than from EU marketing standards. WRAP²⁷⁵ (2011) is one of the rare studies presenting empirical evidence (albeit not recent) on the extent of food waste and losses related to quality requirements in the fresh fruit and vegetables supply chains. The study estimates grading losses generally below 10% of total marketed volume for certain types of fruit and vegetables²⁷⁶ in the United Kingdom, based on data collected in 2009. The estimate does not distinguish grading losses related to EU marketing standards from those related to private standards, but the study underlines that the latter have usually much more demanding requirements. The study also reports data on inspections carried out by the Horticultural Marketing Inspectorate (HMI) on fresh fruit and vegetables exported to the United Kingdom in 2008. Downgrading from class I to class II concerned only 0.2% of inspected products, and out-grading (products not meeting minimum requirements) concerned only 0.5% of inspected products. Rotting was by far the most frequent quality defect leading to downgrading or out-grading. The study underlines that only in a very small number of instances waste would arise as a result of downgrading or out-grading, as the concerned products were usually diverted to alternative outlets. A report by Jordbruksverket²⁷⁷ (2014) concludes that very demanding retailer-driven private standards for fresh fruit and vegetables cause most of the waste volumes in

²⁷⁴ Fruits and vegetables diverted to alternative outlets (e.g. processing) or disposed of in the grading phase because they do not meet quality requirements.

²⁷⁵ Waste & Resources Action Programme: <http://www.wrap.org.uk/>

²⁷⁶ According to WRAP (2011), grading losses would be below 3% of total marketed volume for strawberries, broccoli, citrus and bananas; usually below 10% for tomatoes, apples (even though grading losses can reach 25% in certain cases), onions (even though grading losses can reach 20% in certain cases) and potatoes (even though grading losses can reach 13% in certain cases).

²⁷⁷ Jordbruksverket / Swedish Board of Agriculture is the Swedish Government’s expert authority in matters of agro-food policy, and is responsible for the agricultural and horticultural sectors: <http://www.jordbruksverket.se/>

Sweden, whereas the minimum requirements set by EU marketing standards have only a limited effect in that respect. The report suggests that EU marketing standards can contribute to reduced waste and losses in the fresh fruit and vegetables supply chain. By establishing clear quality requirements, EU marketing standards help farmers to better adapt their production to market demand, thus reducing the risk of disposal in the downstream stages of the chain.

A recent study funded by the European Commission (ICF, 2018) focuses on the relationship between date marking and other information provided on food labels and food waste prevention. Even though date marking on pre-packed foods is required for compliance with Regulation (EU) No 1169/2011, requirements concerning **date marking**, or other **time-related requirements**, are also included in some of the provisions covered by the present evaluation (e.g. those covering eggs²⁷⁸). The study estimates that up to 10% of the 88 million tonnes of food waste generated annually in the EU are linked to date marking. Among the food product types covered in the study, the greatest opportunities for prevention of food waste in relation to date marking exist for milk and yoghurts, fresh juices, chilled meat and fish. The study findings reveal a wide variation in date marking practices in the EU. The study concludes that greater coherence in the use of date marking can help optimise supply chain management and facilitate consumer understanding of the meaning of these dates²⁷⁹. A review of the EU legislation and policies with implications on food waste made in the framework of the FUSIONS project (Vittuari et al., 2015) identifies the requirements on “minimum durability” of eggs pursuant to Article 13 of Regulation (EC) No 589/2008 (28 days after laying) as a factor potentially contributing to food waste. The study argues that 28 days might be too short a period in some regions (such as the Nordic countries where the climate is relatively cold and very few cases of salmonella are observed), and hence eggs marketed in those regions could be wasted before perishing²⁸⁰. More general, but similar conclusions on the relationship between date markings and food waste are elaborated in a previous study made in the framework of the FUSIONS project (Canali, 2014). A study focusing on the food waste implications of date marking on products with a long shelf life (Holthuysen et al., 2017) concludes that consumers tend to discard fewer products if there is no “best before” date on the packaging, but a generic indication “long shelf life” (without a specific date). However, the study also observes that consumers would be uncomfortable with that indication, as it does not provide any clarity concerning the food safety and quality of the product in question. Requirements concerning date marking are mentioned as a potential cause of food losses and waste also in the Special Report by the European Court of Auditors (2016), which also observes that some Member States withdraw products that are past their “best before” date from the market, even though EU rules do not prohibit the marketing of those foods.

In conclusion, the reviewed literature suggests that:

- “**Cosmetic specifications**” in the 10 product-specific EU marketing standards for **fresh fruit and vegetables** would contribute to increased food losses and waste; however, very limited concrete evidence is available to substantiate the underlying reasoning. Furthermore, some studies suggest that EU marketing standards for fresh fruit and vegetables would instead contribute to reduced food losses and waste.
- Also requirements concerning date marking, and especially the requirements on “**minimum durability**” of eggs pursuant to Article 13 of Regulation (EC) No 589/2008, would contribute to increased food losses and waste. Also in this case, however, the availability of concrete evidence supporting the underlying reasoning is rather limited, and concerns more the linkage between date marking in general and food waste, rather than being specific to the case of eggs.

²⁷⁸ Sell-by date and minimum durability (eggs).

²⁷⁹ It is worth noting that one of the priorities for the EU Platform on Food Losses and Food waste is the elaboration of scientific and technical guidance clarifying EU legal requirements in order to promote more consistent date marking practices by food business operators and control authorities. https://ec.europa.eu/food/safety/food_waste/eu_actions/eu-platform_en

²⁸⁰ However, the study acknowledges that eggs are one of those cases where the analysis of the connection between waste and legislation requires particular attention, due to the potential risks to consumer health.

12.2 EQ 7.2: Unexpected/unintended effects concerning animal welfare

Indicator 7.2.1.a: Practical cases of unexpected or unintended effects of EU marketing standards in terms of animal welfare, as identified by business stakeholders (qualitative appraisal)

Knowledge on the matter was better among the 123 surveyed business associations: the share of those that did not comment was lower (24%) than for food waste. A clear majority of respondents (65%) did not identify any practical case of unexpected/unintended effects of EU marketing standards in terms of animal welfare. Some sector-specific elements emerged from interviews with EU-level business associations.

The most controversial aspects are related to the animal welfare implications of gavage of ducks or geese destined to the production of *foie gras* (according to the definition provided at Article 1(3) of Regulation (EC) No 543/2008). In general terms, a consulted business association referred to scientific studies that would show that the practice of gavage is not detrimental to animal welfare²⁸¹. However, this is contrary to other scientific literature²⁸². In any case, the scientific evidence regarding the effects of gavage on animal welfare is not conclusive.

Article 1(3) of Regulation (EC) No 543/2008 sets out a definition of *foie gras* that is based on minimum liver weight (300 g net for duck livers and 400 g net for goose livers)²⁸³. In practice, these minimum liver weights can only be achieved on a commercial scale by gavage. If it is accepted that gavage leads to negative impacts on animal welfare (and it is not within the remit of this evaluation to conclude on this issue), then the existence of EU marketing standards that require gavage will, as pointed out by the Dutch competent authority, inevitably lead to these negative impacts.

This perceived negative impact on animal welfare could be avoided if a different definition for *foie gras* could be found. The current definition relies on minimum liver weight as a proxy for the presence of hepatic fatty cellular hypertrophy, as the taste and quality of *foie gras* are linked to the amount of fat accumulated in the liver. An alternative definition would need either a different proxy or to focus directly on the characteristics of the liver, i.e. hepatic fatty cellular hypertrophy would need to be present. To illustrate the problem, the industry association explained that a Spanish producer sells *foie gras* (labelled “ethical *foie gras*”) that is claimed to be produced without gavage (the wild geese are reportedly fed on acorns). However, an independent assessment is said to have confirmed that, despite livers achieving the minimum required weight, the liver would not achieve the usual organoleptic quality and that the use of the term *foie gras* would therefore be misleading.

The industry association explained that minimum weights are the only available means for European and national authorities to control the product in a simple way. However, the industry body did explain that *foie gras* produced under Label Rouge must have a minimum weight of 400 g for duck *foie gras* (95% of *foie gras* is duck, 5% goose). Producers are able to protect the term *foie gras* to some extent via this quality label and others, such as the PGI designation “*Canard à foie gras du Sud-Ouest (Chalosse, Gascogne, Gers, Landes, Périgord, Quercy)*” under which duck livers must weigh at least 350 g²⁸⁴; according to the French industry body, 60% of EU *foie gras* producers are located in France.

From another angle, some animal welfare NGOs have been campaigning for many years against *foie gras* production on the basis that gavage (force-feeding) causes unnecessary pain to birds²⁸⁵. Some MS CAs are in

²⁸¹ For instance, Guémené, et al. (2001).

²⁸² Broom and Rochlitz (2015).

²⁸³ This minimum liver weight guarantees that birds develop hepatic fatty cellular hypertrophy, which makes the difference between a fatty liver (“*foie gras*”) and a “normal” one.

²⁸⁴ <http://www.foie-gras-du-sud-ouest.fr/>

²⁸⁵ See for example: <https://www.eurogroupforanimals.org/the-new-european-parliament-must-ban-the-force-feeding-of-ducks-and-geese>

favour of a ban on the practice of gavage, and this issue has also been the subject of numerous questions from the European Parliament to the Commission²⁸⁶.

As for the **eggs** sector, EU marketing standards have contributed to promote the use of animal welfare-friendly egg farming systems, as shown at § 6.7 (EQ 1.4), and have had no unexpected/unintended effects concerning animal welfare.

Indicator 7.2.1.b: Practical cases of unexpected or unintended effects of EU marketing standards in terms of animal welfare, as identified by MS CAs (qualitative appraisal)

A significant number of surveyed/interviewed CAs did not comment on the matter. No consulted CA identified practical cases of unexpected or unintended effects of EU marketing standards in terms of animal welfare²⁸⁷.

12.3 EQ 7.3: Unexpected/unintended effects concerning potential of abuse by market actors

Indicator 7.3.1.a: Practical cases of unexpected or unintended effects of EU marketing standards in terms of potential abuse by market actors, as identified by business stakeholders (qualitative appraisal)

Knowledge on the matter among the surveyed business associations was similar to that concerning unexpected/unintended effects in terms of animal welfare: 23% of the 123 surveyed associations did not comment for lack of specific knowledge on the matter. Even if the majority of respondents (60%) did not identify any practical cases of unexpected or unintended effects of EU marketing standards in terms of potential abuse by market actors, the share of respondents that identified those cases was more significant (17%). However, interviews with EU-level business associations did not reveal any significant practical cases of abuse by market actors (e.g. adoption of discriminatory practices towards suppliers and/or customers) that can be clearly identified as unexpected or unintended effects of EU marketing standards. On the contrary, EU marketing standards have effectively contributed to prevent those practices, as shown at § 7 in the reply to EQ 2.

Indicator 7.3.1.c: Practical cases of unexpected or unintended effects of EU marketing standards in terms of potential abuse by market actors, as identified by MS CAs (qualitative appraisal)

Very few consulted MS CAs commented on the matter. No consulted CA identified practical cases of unexpected or unintended effects of EU marketing standards in terms of potential abuse by market actors. One consulted CA observed that the most severe pressure by large scale retailers on suppliers to comply with very demanding private standards is often targeted at quality requirements / products not covered by EU marketing standards.

12.4 Other unexpected/unintended effects of EU marketing standards, including “deadweight”

Indicator 7.4.1.a: Practical cases of other unexpected or unintended effects of EU marketing standards, as identified by business stakeholders (qualitative appraisal)

Around half (51%) of the 123 surveyed business associations was unable to comment due to lack of specific knowledge on the matter. Only a minority (8%) of respondents identified practical cases of unexpected or unintended effects of EU marketing standards other than the ones discussed in the previous paragraphs (food waste, animal welfare, potential abuse by market actors); the majority of respondents (41%) did not identify

²⁸⁶ For example, in November 2018, 79 MEPs submitted a question for written answer to the Commission (E-005952/2018): http://www.europarl.europa.eu/doceo/document/E-8-2018-005952_EN.pdf

²⁸⁷ One surveyed CA that identified such effects actually referred to a decrease in the number of caged hens due to the introduction of stricter animal welfare requirements in the EU: this is clearly not an unintended/unexpected effect of EU marketing standards in terms of animal welfare.

any cases. Interviews with EU-level business associations did not reveal any sector-specific evidence about significant practical cases of unexpected or unintended effects of EU marketing standards other than the ones discussed in the previous paragraphs.

Indicator 7.4.1.c: Practical cases of other unexpected or unintended effects of EU marketing standards, as identified by MS CAs (qualitative appraisal)

Very few consulted MS CAs commented on the matter. No consulted CA identified significant practical cases of unexpected or unintended effects of EU marketing standards other than the ones discussed in the previous paragraphs.

Indicator 7.5.1.a: Practical cases of “deadweight” related to EU marketing standards, as identified by business stakeholders (qualitative appraisal)

An important share of the 123 surveyed business associations (35%) did not comment about the presence of “deadweight” due to lack of specific knowledge on the issue. The majority of respondents among business associations (55%) did not identify any practical cases of “deadweight”; a 10% share identified such cases.

Many of the consulted EU-level business associations observed that it is extremely difficult to characterise the evolution of the different aspects that are relevant for the evaluation in the hypothetical absence of EU marketing standards. They also commented that some developments – and especially the increase in the average quality levels of agricultural and food products marketed in the EU – have mainly been driven by other factors than EU marketing standards, such as the evolution of consumers’ preferences (also thanks to improved incomes) and the strategies of large-scale retailers. However, EU marketing standards have contributed to improved quality levels, as shown at § 6 (EQ 1), and have allowed to address effectively a number of issues that would have probably been more serious in a market exclusively regulated by non-homogeneous national legislation, or in a completely unregulated market.

Indicator 7.5.1.c: Practical cases of “deadweight” related to EU marketing standards, as identified by MS CAs (qualitative appraisal)

Around half of the surveyed/interviewed CAs provided no inputs on the issue of “deadweight” related to EU marketing standards. Among the CAs that commented on the issue, a wide majority did not identify any practical cases of “deadweight”. One consulted CA observed that private standards (especially those imposed by large-scale retailers), rather than EU marketing standards, have become the main driver behind the increase in the average quality levels of many agricultural and food products.

12.5 EQ 7: evaluation judgment

Very few and inconclusive practical cases of unintended/unexpected effects of EU marketing standards emerged from the assessment. All those cases are sector-specific: no cross-sectoral unintended/unexpected effects of EU marketing standards were identified.

The unexpected/unintended effects of EU marketing standards identified in the assessment were rather controversial, and there was no agreement among the consulted stakeholders about a clear linkage between the observed effects and EU marketing standards:

- **Increased food waste volumes for eggs** at packing centres, retail outlets and at home were related by some consulted national competent authorities to provisions on sell-by date (Regulation (EC) No 853/2004) and minimum durability of eggs (Article 13 of Regulation (EC) No 589/2008). However, no consulted CA provided any quantitative evidence on the volumes of food waste that can be related to EU marketing standards for eggs. By contrast, business stakeholders did not see clear linkages between the aforementioned effect and EU marketing standards for eggs. The reviewed

literature²⁸⁸ suggests that there is a linkage between increased waste and date marking in the case of eggs, even if the underlying reasoning is not backed by specific concrete evidence.

- As for the potential implications in terms of increased waste stemming from **“aesthetic requirements”** (concerning colour, shape, size, grading) set out in the remaining **10 product-specific EU marketing standards for fresh fruit and vegetables**, whereas the consulted business stakeholders did not identify any negative implications, the reviewed literature suggests a linkage between increased waste and **“aesthetic requirements”**, even if very limited concrete evidence is available to substantiate the underlying reasoning. By contrast, some consulted CAs and some studies²⁸⁹ suggest that **EU marketing standards for fresh fruit and vegetables would instead contribute to reduced food waste and losses**, and that **most of the grading losses²⁹⁰ for fresh fruit and vegetables would derive from particularly demanding private standards**, rather than from EU marketing standards.
- **Potential animal welfare implications of force-feeding of ducks or geese destined to the production of foie gras** (according to the definition provided at Article 1(3) of Regulation (EC) No 543/2008). The marketing standards set out a minimum liver weight that can only be effectively achieved using gavage. This perceived negative outcome could be avoided if the reference to a minimum liver weight were removed from the marketing standards. However, this would not guarantee the presence of hepatic fatty cellular hypertrophy, which is considered to be essential to the taste and quality of the product.

No significant practical cases of “deadweight” were identified: this is in line with the conclusions made for EQ 1 (see § 6.8), where EU marketing standards were found to have significantly contributed to improve product quality in the interest of producers, traders and consumers. However, some consulted stakeholders suggested that the need to comply with extremely demanding requirements set by private standards (often imposed by large-scale retail chains), rather than compliance with EU marketing standards, may have become the main driving force behind the improvement of average quality levels of agricultural and food products marketed in the EU.

²⁸⁸ See for instance: Vittuari et al. (2015), *Review of EU Member States legislation and policies with implications on food waste*, FUSIONS project report, Department of Agricultural and Food Sciences, University of Bologna; ICF (2018), *Market study on date marking and other information provided on food labels and food waste prevention – Final Report*, funded by the European Commission, Directorate-General for Health and Food Safety.

²⁸⁹ See for instance: WRAP (2011), *Fruit and vegetable resource maps - Mapping fruit and vegetable waste through the retail and wholesale supply chain*, Final Report, Waste & Resources Action Programme; Jordbruksverket (2014), *Why do we throw away edible fruit and vegetables?*, Rapport 2014:5 EN; AND International (2010), *Normes de commercialisation dans le secteur des fruits et légumes*, study carried out for the EU Commission DG Agriculture, September 2010.

²⁹⁰ Fruits and vegetables diverted to alternative outlets (e.g. processing) or disposed of in the grading phase because they do not meet quality requirements.

13 EQ 8: TO WHAT EXTENT ARE VARIOUS INSTRUMENTS OF EU MARKETING STANDARDS COHERENT BETWEEN EACH OTHER?

EQ 8: Definition of key terms

“Coherence of EU marketing standards”: the assessment under EQ 8 focuses on the **internal coherence** of EU marketing standards, which is the extent to which EU marketing standards have non-conflicting objectives.

“Objectives of EU instruments → Objectives of EU marketing standards”: the definition provided at § 6 for EQ 1 also applies for EQ 8.

13.1 Coherence of general objectives of EU marketing standards

Indicator 8.1.a: Potentially conflicting general objectives of EU marketing standards across all the covered sectors, as identified by business stakeholders (qualitative appraisal)

An ample majority (70%) of the 123 surveyed business associations did not identify any potential conflict among the general objectives pursued through EU marketing standards; nevertheless, the share of respondents that identified potentially conflicting objectives is significant (30%). No interviewed EU-level business association highlighted any potential conflict among the general objectives pursued through EU marketing standards.

Indicator 8.1.c: Potentially conflicting general objectives of EU marketing standards across all the covered sectors, as identified by MS CAs (qualitative appraisal)

An ample majority of the consulted MS CAs did not identify any potential conflict among the general objectives pursued through EU marketing standards. However, one consulted CA observed that EU marketing standards can sometimes limit the introduction of innovative production and/or marketing practices, or of new product typologies: this would be in conflict with the objective of contributing to the improvement of the economic conditions for the production and marketing of agricultural products, as well as to the improvement of their quality. Another consulted CA commented that meeting consumers’ expectations while also facilitating trading may be challenging, as consumers and business operators can have conflicting preferences in terms of, for instance, detailed information on the origin of products/ingredients.

13.2 Coherence of operational objectives of EU marketing standards within each covered sector

Indicator 8.2.a: Potentially conflicting operational objectives of EU marketing standards within each covered sector, as identified by business stakeholders (qualitative appraisal)

A wide majority (77%) of the 123 surveyed business associations deemed that the operational objectives of EU marketing standards within each covered sector are fully consistent with each other. Nevertheless, a significant minority of respondents (23%) identified some potentially conflicting operational objectives. The sectors where the most serious issues in terms of coherence were highlighted by the surveyed business stakeholders are the poultry sector (a 43% share of the 44 respondents identified potentially conflicting operational objectives) and the eggs sector (a 39% share of the 45 respondents identified potentially conflicting operational objectives).

An interviewed EU-level business association highlighted some inconsistencies in EU marketing standards for **eggs**, related to requirements for marketing eggs as “free range” or “organic”. However, these appear to be more related to coherence between EU marketing standards and EU rules on food safety and animal health, and are hence discussed at § 14 in the framework of the reply to EQ 9.

Indicator 8.2.c: Potentially conflicting operational objectives of EU marketing standards within each covered sector, as identified by MS CAs (qualitative appraisal)

The majority of the consulted CAs did not identify any potentially conflicting operational objectives of EU marketing standards within each covered sector. Furthermore, the analysis of the comments made by the minority of surveyed CAs that identified potential conflicts allowed to conclude that the related issues have to do with the adequateness of specific EU marketing standards, rather than with their internal coherence.

13.3 EQ 8: evaluation judgment

The assessment found that the **degree of internal coherence of EU marketing standards perceived by both business stakeholders and national competent authorities is high.**

The general objectives of EU marketing standards are generally perceived by stakeholders as consistent with each other, and there is a widespread similar perception also about the consistency of the operational objectives of EU marketing standards within each covered sector.

Very few among the consulted stakeholders identified specific issues in terms of internal coherence²⁹¹²⁹².

It can hence be concluded that **the various instruments of EU marketing standards are coherent with each other.**

²⁹¹ Two consulted CAs hinted at the following potential issues, without however providing concrete evidence: i) possible limitations to innovative production and/or marketing practices, or to new product typologies deriving from EU marketing standards, which would be in conflict with the objective of contributing to the improvement of the economic conditions for the production and marketing of agricultural products, as well as to the improvement of their quality; ii) the challenge of meeting consumers' expectations while also facilitating trading, since consumers and business operators can have conflicting preferences in terms of, for instance, information on the origin of products/ingredients.

²⁹² It should be noted that no significant issues in terms of coherence were identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

14 EQ 9: TO WHAT EXTENT ARE EU MARKETING STANDARDS COHERENT WITH OTHER EU RULES (E.G. EU RULES ON FOOD SAFETY, FOOD INFORMATION TO CONSUMERS, GEOGRAPHICAL INDICATIONS OR ORGANIC PRODUCTS)?

EQ 9: Definition of key terms

“Coherence of EU marketing standards”: the assessment under EQ 9 focuses on the **external coherence** of EU marketing standards, which is the extent to which EU marketing standards do not contradict other measures with similar objectives.

“Other EU rules”: the assessment under EQ 9 focuses especially on the following sets of EU legislation:

- Legislation on **food safety**, as established by: Regulation (EC) No 178/2002 (“General Food Law”) and the related implementing provisions; Regulation (EC) No 852/2004 on the hygiene of foodstuffs and Regulation (EC) No 853/2004 laying down specific hygiene rules for food of animal origin.
- Legislation on provision of **food information to consumers**, as established by Regulation (EU) No 1169/2011 and the related implementing provisions.
- Legislation on **geographical indications** - Protected Designation of Origin (PDO) and Protected Geographical Indication (PGI) – as established by Regulation (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs and the related implementing provisions²⁹³.
- Legislation on **organic products**, as established by Regulation (EC) No 834/2007 on organic production and labelling of organic products, and by Regulation (EC) No 889/2008 laying down detailed rules for the implementation of Regulation (EC) No 834/2007 with regard to organic production, labelling and control.

14.1 Coherence of EU marketing standards with EU rules on food safety

Indicator 9.1.a: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the EU rules on food safety and animal health, as identified by business stakeholders (qualitative appraisal)

A wide majority (82%) of the 123 surveyed business associations deemed that the general and operational objectives of EU marketing standards are coherent with the objectives of EU rules on food safety.

Interviewed business associations at both the EU and the national level highlighted an **inconsistency concerning the requirements for marketing poultry and eggs as “free range” or “organic” following compliance with EU legislation aimed at addressing outbreaks of avian influenza**. Originally, point 1(a) of Annex II to Regulation (EC) No 589/2008 provided for a derogation period to market eggs as “free range” in cases of restricted access to open air due to restrictions adopted under EU legislation - including veterinary restrictions to protect public and animal health - but for a period of no more than 12 weeks. The same derogation for free range poultry is set out in Annex V (e) of Regulation (EC) No 543/2008. In the context of long-lasting epidemics of avian influenza, Commission Delegated Regulation (EU) 2017/2168²⁹⁴ amended Regulation (EC) No 589/2008 to increase the derogation from 12 weeks to 16 weeks in the case of eggs (the industry had wanted an extension to 20 weeks); no such extension has been granted to the poultry sector (reflecting the fact that the production cycle of poultry kept for meat is much shorter than that of laying

²⁹³ In particular Commission Implementing Regulation (EU) No 668/2014 and the Commission Communication “Guidelines on the labelling of foodstuffs using protected designations of origin (PDOs) or protected geographical indications (PGIs) as ingredients” - 2010/C 341/03.

²⁹⁴ Commission Delegated Regulation (EU) 2017/2168 of 20 September 2017 amending Regulation (EC) No 589/2008 as regards marketing standards for free range eggs where hens' access to open air runs is restricted.

hens). The situation in the organic poultry and egg sectors is different, since poultry and eggs being marketed as “organic” can continue to be marketed as such irrespective of how long birds may have to be kept indoors to protect public and animal health²⁹⁵. There is therefore a lack of coherence both between the marketing standards for poultry and eggs and also between both of these and the marketing standards for organic poultry and eggs.

Two consulted EU-level business associations also observed that free range poultry for meat production and free range laying hens are subject to more serious risks in terms of both animal health and food safety: **promotion of free range farming systems through EU marketing standards would hence be in conflict with the objective of ensuring food safety** (and also with the objective of safeguarding the health of farmed animals).

A consulted EU-level association representing the interests of retailers observed that additional traceability requirements for fresh fruit and vegetables included in EU marketing standards might be confusing. Traceability requirements are already included in cross-sectoral EU legislation: those included in EU marketing standards may be redundant and determine some duplications.

Indicator 9.1.c: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the EU rules on food safety, as identified by MS CAs (qualitative appraisal)

The consulted Commission services did not identify significant issues, and deem that EU legislation on food safety is fully complementary to EU marketing standards.

The majority of the consulted CAs deemed that the general and operational objectives of EU marketing standards are coherent with the objectives of EU rules on food safety. Some CAs, however, highlighted some shortcomings in that respect. In general, those CAs deem that the **inclusion in EU marketing standards of provisions that are mainly/also related to safety aspects** (e.g. those concerning storage temperatures, or minimum durability (best before) date for eggs) **may result in some overlaps and inconsistencies, and may pose challenges for enforcement and controlling activities**.

A consulted CA observed that EU marketing standards for **eggs** state that the product must be withdrawn from sale for direct consumption on the 21st day after being laid (sell-by date pursuant to Regulation (EC) No 53/2004); however, Article 13 of Regulation (EC) No 589/2008 (minimum durability) indicates that eggs can still be eaten until the 28th day after being laid. The CA deems that the above **time limits are inconsistent**, and may result in increased food waste, as eggs between their 21st and 28th day after laying can only be destined to processing, and cannot be given to charities.

14.2 Coherence of EU marketing standards with EU rules on food information to consumers

Indicator 9.2.a: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of EU rules on food information to consumers, as identified by business stakeholders (qualitative appraisal)

A wide majority (78%) of the 123 surveyed business associations deemed that the general and operational objectives of EU marketing standards are coherent with the objectives of EU rules on food information to consumers.

A specific issue was highlighted by an interviewed EU-level business association with respect to provision of information on the origin of minimally processed **fruit and vegetables** (e.g. packed mixes of fresh cut salads), which nevertheless are still qualified as “fresh products”. Regulation (EU) No 1169/2011 requires the

²⁹⁵ Article 14(7) of Commission Regulation (EC) No 889/2008 of 5 September 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 834/2007 on organic production and labelling of organic products with regard to organic production, labelling and control.

indication of the name and address of the responsible food business operator (i.e. the operator under whose name or business name the food is marketed)²⁹⁶. In this specific case, the responsible operator is usually the one managing the packing centre; however, the Member State where the packing centre is located may be different from the Member State(s) where the minimally processed fruit and vegetables were actually produced. Consumers may hence think that all the fruits and vegetables in the pack come from the Member State where the packing centre is located (as reported on the label), whereas this may not be the case.

A consulted EU-level association representing the interests of retailers argued that all the provisions on labelling currently scattered among several EU marketing standards should better be unified in a comprehensive Regulation, to ensure legal certainty and a more efficiently achieved compliance to business operators.

Indicator 9.2.c: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of EU rules on food information to consumers, as identified by MS CAs (qualitative appraisal)

The consulted Commission services clarified that Regulation (EU) No 1169/2011 dictates horizontal mandatory labelling indications; for certain food categories, those general indications are further specified (e.g. in terms of product denomination) or complemented by other specific labelling indications required by EU marketing standards. The consulted Commission services deem that the two systems generally work well in parallel, and did not identify any conflicting objectives in that respect. Origin labelling is another area where EU marketing standards complement the horizontal provisions of Regulation (EU) No 1169/2011. These state that origin labelling is voluntary unless its omission would mislead the consumers. EU marketing standards complement those horizontal provisions by requiring mandatory origin labelling for certain categories of foods (beef meat; meat from swine, goat sheep and poultry; olive oil; honey; wine; fruits and vegetables). The consulted Commission services identified a **potential conflict in relation to the minimum sugar or fat content required for using reserved product names laid down in EU marketing standards**, on the one side, and the objective of **promoting healthier diets**, on the other side. However, EU marketing standards covering fruit jams, jellies and marmalades include provisions on derogations from the minimum soluble dry matter content, and Member States may, in order to take account of certain particular cases, decide whether to use those derogations. The assessment made under EQ 6.1 (see § 11.3) indeed revealed that several Member States have introduced derogations in that respect.

The majority of the consulted CAs deemed that the general and operational objectives of EU marketing standards are coherent with the objectives of EU rules on provision of food information to consumers. However, two consulted CAs commented that the **requirements of EU marketing standards related to labelling of products would better be placed in the regulatory framework concerning provision of food information to consumers**. Another consulted CA observed that the complementarity between EU marketing standards and Regulation (EU) No 1169/2011 should be further clarified by the Commission, to address potential issues in the enforcement of both legislative bodies.

14.3 Coherence of EU marketing standards with EU rules on geographical indications

Indicator 9.3.a: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the EU rules on geographical indications, as identified by business stakeholders (qualitative appraisal)

A wide majority (85%) of the 123 surveyed business associations expressed a positive judgment on the coherence between i) the general and operational objectives of EU marketing standards and ii) business and

²⁹⁶ According to Article 9(1)(h) of Regulation (EU) No 1169/2011, read together with Article 8(1) of the same Regulation, the “indication of the following particulars shall be mandatory: (...) (h) the name or business name and address of the food business operator referred to in Article 8(1)”, i.e. “the operator under whose name or business name the food is marketed or, if that operator is not established in the Union, the importer into the Union market”.

consumer-related objectives of EU rules on geographical indications. Interviews with EU-level business associations did not reveal any significant horizontal or sector-specific issues.

Indicator 9.3.c: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the EU rules on geographical indications, as identified by MS CAs (qualitative appraisal)

The majority of the consulted CAs deemed that the general and operational objectives of EU marketing standards are coherent with the objectives of EU rules on geographical indications. One consulted CA reported that **for some GI fresh fruits and vegetables it can sometimes be difficult to meet the minimum requirements concerning size**. Another consulted CA reported about very few cases of GI fruits and vegetables whose specifications dictated less strict requirements than those applying in the relevant EU marketing standards. After consulting the Commission on the matter, and obtaining a clarification that GI product specifications cannot derogate from the provisions of the relevant EU marketing standards, the CA imposed the amendment of the specifications for those GI fruits and vegetables.

14.4 Coherence of EU marketing standards with EU rules on organic products

Indicator 9.4.a: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the EU rules on organic products, as identified by business stakeholders (qualitative appraisal)

A wide majority (78%) of the 123 surveyed business associations deemed that the general and operational objectives of EU marketing standards are coherent with the objectives of EU rules on organic products. The only significant issues emerged from interviews with EU-level business associations concern the poultry meat and eggs sectors; as these are mainly related to EU legislation on food safety, they have been discussed at § 14.1.

Indicator 9.4.c: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the EU rules on organic products, as identified by MS CAs (qualitative appraisal)

An ample majority of the consulted CAs did not identify any conflict between EU marketing standards and EU rules on organic products. A consulted CA reported that **for some typologies of organic fresh fruits and vegetables it can sometimes be difficult to meet the minimum quality requirements** (in terms of minimum size, aspect, etc.). Another consulted CA observed that it might be worth exploring derogation from/adaptation of specific requirements of EU marketing standards for certain typologies of organic products, as there may be an economic interest in marketing also products with non-compliant characteristics according to EU marketing standards in force.

14.5 Coherence of EU marketing standards with other relevant EU rules

Indicator 9.5.a: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of other relevant EU rules, as identified by business stakeholders (qualitative appraisal)

Over one third (35%) of the 123 surveyed business associations did not express a judgment due to lack of specific knowledge on the issue. Even with that limitation, the majority of the surveyed business associations (56%) did not identify any significant conflict between i) the general and operational objectives of EU marketing standards and ii) business and consumer-related objectives of relevant EU rules other than those concerning food safety, provision of food information to consumers, geographical indications and organic products. Only 9% of the surveyed business associations identified potential conflicts. Interviews with EU-level business associations did not reveal any significant horizontal or sector-specific issues.

Indicator 9.5.c: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of other relevant EU rules, as identified by MS CAs (qualitative appraisal)

Only a minority of the consulted CAs provided inputs on the matter. Most of those few CAs did not identify any conflict between EU marketing standards and relevant EU rules other than those concerning food safety, provision of food information to consumers, geographical indications and organic products. As a general remark, one consulted CA stated its preference for withdrawal of some marketing standards (including those established by the “Breakfast Directives”), mainly due to the developments in the General Food Law, in the FIC Regulation and in the applicable international marketing standards.

14.6 EQ 9: evaluation judgment

Some cases of potential conflicts, inconsistencies or shortcomings emerged from the assessment.

A **potential “cross-sectoral” issue** highlighted by some national competent authorities and by a consulted EU-level association representing the interests of retailers derives from the **combination in EU marketing standards of requirements that are related to product quality, to food safety** (e.g. those on storage temperatures, or minimum durability (best before) date for eggs) **and to provision of food information to consumers** (requirements concerning labelling of products). Those stakeholders deem that such combination may result in some overlaps and inconsistencies, and may pose challenges for enforcement and controlling activities. Those stakeholders would hence welcome EU marketing standards exclusively focused on quality requirements, whereas safety-related and information-related provisions should be included in the relevant EU legislation bodies.

Some (relatively minor) **sector-specific issues** were also identified:

- an inconsistency concerning the requirements for marketing poultry and eggs as “free range” or “organic” following compliance with EU legislation aimed at addressing outbreaks of avian influenza;
- promotion of free range farming systems through EU marketing standards, which might be in conflict with the objective of ensuring food safety, since free range poultry for meat production and free range laying hens are subject to more serious risks in terms of both animal health and food safety;
- a potential conflict between requirements on minimum sugar or fat content for using reserved product names laid down in EU marketing standards, and the objective of promoting healthier diets; however, the assessment made under EQ 6.1 (see § 11.3) revealed that several Member States took advantage of the possibility offered by Directive 2001/113/EC to derogate from the minimum sugar content established for jams by the same Directive;
- the fact that it may sometimes be difficult for certain types of GI and organic fresh fruit and vegetables to comply with the minimum quality and/or size requirements set out by the relevant EU marketing standards.

In spite of the aforementioned issues, most of the consulted stakeholders deem that **the regulatory framework establishing EU marketing standards is generally consistent with EU legislation on food safety, provision of food information to consumers, geographical indications and organic products.**

15 EQ 10: TO WHAT EXTENT ARE EU INSTRUMENTS COHERENT WITH INTERNATIONAL MARKETING STANDARDS (CODEX, UNECE, ETC.) AND WITH PRIVATE MARKETING STANDARDS?

EQ 10: Definition of key terms

“Coherence of EU instruments → EU marketing standards”: the assessment under EQ 10 focuses on the **external coherence** of EU marketing standards, which is the extent to which EU marketing standards do not contradict other measures with similar objectives: in this case, international marketing standards and private marketing standards.

“Objectives of EU instruments → Objectives of EU marketing standards”: the definition provided at § 6 for EQ 1 also applies for EQ 10.

“Objectives of international marketing standards”

The international marketing standards considered for the purposes of the evaluation are those developed by the Codex Alimentarius Commission, by the United Nations Economic Commission for Europe (UNECE) and by the International Olive Council (IOC) (see § 1.3.1 for a description of the marketing standards which are relevant for the study).

The objectives of the standard-setting activity of the **Codex Alimentarius** are defined as follows: “The Codex Alimentarius is a collection of internationally adopted food standards and related texts presented in a uniform manner. These food standards and related texts aim at *protecting consumers’ health and ensuring fair practices in the food trade*. The publication of the Codex Alimentarius is intended to *guide and promote the elaboration and establishment of definitions and requirements for foods* to assist in their harmonization and in doing so to *facilitate international trade*”²⁹⁷.

The overarching, cross-sectoral objectives of **UNECE** standard-setting activities are identified in the following²⁹⁸:

- *Government objectives concerning international trade (business-related objectives):*
 - facilitating international trade in the products covered by marketing standards,
 - improving market access, and
 - promoting sustainable trading relationships through the creation of a common trading language and the setting of consistent quality-based reference terms.
- *Consumer-related objectives:* the focus of UNECE standard-setting activities from a consumer standpoint is on food safety, food quality and fraud prevention.
- *Preventing an increase in the volume of food waste by:*
 - setting minimum requirements which ensure the covered products’ quality is maintained through the supply chain, and the product’s suitability for human consumption,
 - promoting alternative approaches to value creation (e.g. alternative markets, processing, or re-purposing) for the products which do not meet the minimum requirements of the mainstream supply chains.

Finally, the objective of the standard-setting activities of the **International Olive Council** is to “study and apply measures to *harmonise national laws*, in particular on the *marketing of olive oil and table olives*. This helps to

²⁹⁷ <http://www.fao.org/fao-who-codexalimentarius/about-codex/en/>

²⁹⁸ Interview with UNECE Economic Cooperation and Trade Division / Agricultural Quality Standards Unit.

speed up international trading and to detect different kinds of fraud and adulterations that could throw discredit on the product and upset the equilibrium on the international market²⁹⁹.

“Objectives of private marketing standards”

Private marketing standards have voluntary nature, and their importance ranges from international to national/local. Each private marketing standard pursues a set of specific objectives. The main objectives of three sets of private standards that have EU-wide importance have been defined at § 1.3.2.

15.1 Coherence of EU marketing standards with international marketing standards

Indicator 10.1.a: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the relevant international marketing standards, as identified by business stakeholders (qualitative appraisal)

A significant share (28%) of the 123 surveyed business associations did not express a judgment due to lack of specific knowledge on the issue. The majority of the surveyed business associations (54%) expressed a positive judgment on the coherence between i) the general and operational objectives of EU marketing standards and ii) the objectives of international marketing standards. A 17% share of the surveyed business associations, however, identified potential conflicts.

Interviews with EU-level business associations confirmed that the objectives of EU marketing standards are generally consistent with those of international marketing standards; however, the objectives of EU marketing standards are defined in a way to also address needs that are specific to the EU, or anyway to an advanced food production, distribution and consumption model, such as ensuring a high level of consumer protection, or a level playing field for operators within the EU market. The objectives of international marketing standards are mainly aimed at addressing more basic needs, which are especially relevant for less advanced food production, distribution and consumption systems, such as ensuring minimum safety and quality levels for food, preventing fraud and facilitating international trade in agricultural and food products. This implies that certain general and operational objectives of EU marketing standards may be more ambitious than those of international marketing standards, and that there may be a certain resistance against the inclusion of the more ambitious goals in international marketing standards.

Most of the consulted business associations also underlined that the EU and its Member States have actively contributed to the evolution of international standards set by UNECE, Codex and IOC for a wide range of products (fresh fruit and vegetables, dairy products, meats, olive oil): this contributed to ensure consistency between EU marketing standards and international ones.

Finally, some consulted EU-level associations observed that international marketing standards also cover products that are currently not covered by specific EU marketing standards (e.g. several typologies of fresh fruit and vegetables, fruit preparations used as ingredients, cheese, etc.).

Indicator 10.1.c: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the relevant international marketing standards, as identified by MS CAs (qualitative appraisal)

A significant number of consulted CAs did not comment on the matter. The majority of the remaining CAs deemed that the general and operational objectives of EU marketing standards are fully consistent with the objectives of international marketing standards. One consulted CA underlined the importance of frequently updating EU marketing standards to follow the evolution of the relevant international standards, with a view to further improving the consistency between the two frameworks. Another CA observed that the development of the general marketing standard for fruit and vegetables (see also the reply to EQ 3 at § 8) has

²⁹⁹ <http://www.internationaloliveoil.org/estaticos/view/222-standards>

worsened the consistency with international standards, as both Codex and UNECE have no general marketing standard for fruit and vegetables (they have product-specific standards only).

Similarly to business stakeholders, a number of consulted CAs underlined that the EU and its Member States have actively contributed to the evolution of the relevant international standards, and that this contributed to ensure consistency between EU marketing standards and international ones.

15.2 Coherence of EU marketing standards with private marketing standards

Indicator 10.2.a: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the relevant private marketing standards, as identified by business stakeholders (qualitative appraisal)

A significant share (23%) of the 123 surveyed business associations did not express a judgment due to lack of specific knowledge on the issue. The majority of the surveyed business associations (59%) expressed a positive judgment on the coherence between i) the general and operational objectives of EU marketing standards and ii) the objectives of private marketing standards. A 19% share of the surveyed business associations, however, identified potential conflicts.

All the consulted EU-level business associations observed that:

- As already underlined at § 1.3.2, private standards mainly pursue different objectives than those pursued by EU marketing standards, even if they have implications also for the marketing of agricultural and food products.
- In principle, private standards cannot derogate from compliance with the applicable EU and national legislation, including provisions setting marketing standards: this should automatically ensure consistency between EU marketing standards and private marketing standards.
- Uptake of private standards is always voluntary (even if the pressure exerted by large-scale retailers on suppliers to achieve compliance with private standards is often high), and private standards can set more demanding requirements than EU marketing standards.

Indicator 10.2.c: General and/or operational objectives of EU marketing standards potentially conflicting with business-related and consumer-related specific objectives of the relevant private marketing standards, as identified by MS CAs (qualitative appraisal)

Several consulted CAs did not comment on the matter. The views of the few CAs that provided inputs in that respect are divided: 4 of them identified no conflicts, and 3 did identify them. One consulted CA commented that some of the EU marketing standards have become redundant, as most of the marketed volume of the concerned products is currently traded under B2B private standards that are often more stringent than the EU ones.

15.3 EQ 10: evaluation judgment

Most of the consulted stakeholders deem that **EU marketing standards are fully consistent with both international marketing standards and private marketing standards.**

International marketing standards developed by the Codex Alimentarius Commission, by the United Nations Economic Commission for Europe (UNECE) and by the International Olive Council (IOC) **pursue general objectives that are similar to the general objectives pursued by EU marketing standards.** The EU and its Member States have actively contributed to the evolution of those international standards, and this contributed to ensure consistency between EU marketing standards and international ones. However, **certain general and operational objectives of EU marketing standards may be more ambitious than those of international marketing standards,** since the former aim at addressing needs that are specific to the EU, or

anyway to an advanced food production, distribution and consumption model, such as ensuring a high level of consumer protection, or a level playing field for operators within the EU market.

As for **private marketing standards**, those described at § 1.3.2 mainly **pursue different objectives than those pursued by EU marketing standards**, even if they have implications also for the marketing of agricultural and food products. In principle, **any private standard cannot derogate from compliance with the applicable EU and national legislation**: this should automatically ensure consistency between EU marketing standards and private marketing standards. However, uptake of private standards is always voluntary, and **private standards can set more demanding requirements than EU marketing standards**.

THEME V – EU ADDED VALUE

16 EQ 11: TO WHAT EXTENT SEPARATE EU MARKETING STANDARDS ARE JUSTIFIABLE AND PROVIDE ADDED VALUE IN ADDITION TO INTERNATIONAL MARKETING STANDARDS (CODEX, UNECE, ETC.) AND THE APPLICABLE PRIVATE STANDARDS?

EQ 11: Definition of key terms

“Added value”: advantages arising from the enforcement of EU marketing standards vis-à-vis a hypothetical situation where only international marketing standards (see the definition provided below) and private standards (see the definition provided below) would apply.

“EU marketing standards”: the EU marketing standards of relevance for the evaluation are those identified at § 2. Among the products covered by those EU marketing standards, several ones are also covered by international marketing standards (see the definition provided below) and/or private marketing standards (see the definition provided below).

“International marketing standards”: the international marketing standards considered for the purposes of the evaluation are those developed by the Codex Alimentarius, by UNECE, and by IOC (see § 1.3.1 for a description of the marketing standards that are relevant for the study).

“Private marketing standards”: private marketing standards have voluntary nature, and their importance ranges from international to national/local. Three sets of private standards that have EU-wide importance are described at § 1.3.2.

16.1 EU added value with respect to international marketing standards

16.1.1 *In a business perspective*

Indicator 11.1.a: Main strengths and weaknesses of EU marketing standards vs. the relevant international marketing standards in a business perspective (qualitative appraisal)

A wide majority (83%) of the 123 surveyed business associations deemed that separate EU marketing standards are justifiable and provide added value with respect to international marketing standards. Only 8% of the surveyed business associations expressed a negative judgment in that respect (9% of respondents did not express a judgment).

Interviews with EU-level business associations confirmed the positive overall judgment emerged from the survey, and allowed to identify the main **strengths** of EU marketing standards in the following:

1. Their mandatory nature, which is especially important to ensure a homogeneous level of consumer protection, fair trading practices and a level playing field for operators within the EU market. In the hypothetical absence of legislation-based EU marketing standards, sole reliance on international marketing standards - whose uptake is voluntary - would not ensure homogeneous achievement of the aforementioned conditions across the EU.
2. The fact that the objectives and the requirements of EU marketing standards have been tailored to the specific needs of the EU market, and have often been adapted to their evolution. As already underlined at § 15.1 in the reply to EQ 10, international marketing standards often pursue less ambitious goals than EU ones, and establish less demanding requirements, mainly because this allows

significant uptake of these standards also in less advanced food production, distribution and consumption systems than the EU one.

The interviewed EU-level business associations did not identify any significant **weaknesses** of EU marketing standards vis-à-vis international ones for what concerns their application in the EU market. Some consulted associations observed that the more detailed and/or demanding requirements set by EU marketing standards for certain products vis-à-vis the corresponding international standards may have negative implications for the competitiveness of EU operators on the international market: however, the assessment of those implications falls outside the scope of the present evaluation.

The fact that international marketing standards cover some products that are currently not covered by EU marketing standards is not necessarily seen as a weakness of the relevant EU legislative framework by the consulted business stakeholders. In any case, the EU added value that would derive from establishing EU marketing standards for the sectors/products currently not covered is assessed at § 17 in the reply to EQ 12.

The majority of the consulted CAs deemed that separate EU marketing standards are justifiable and provide added value with respect to international marketing standards. The main strengths of EU marketing standards in a business perspective identified by those CAs are the same identified by business stakeholders. However, a minority of consulted CAs deemed that EU marketing standards are generally non justifiable in presence of analogous international marketing standards that are recognised on a global scale, and provide little/no added value with respect to them. In particular, most CAs in this second group deem that product-specific EU marketing standards for fresh fruit and vegetables are redundant, as they are too similar to UNECE standards for the same products.

16.1.2 In a consumer perspective

Indicator 11.2.a: Main strengths and weaknesses of EU marketing standards vs. the relevant international marketing standards in a consumer perspective (qualitative appraisal)

The consulted CAs that are in favour of separate EU marketing standards underlined that mandatory legislation-based marketing standards, tailored to the conditions applying on the EU market, are an essential condition to ensure adequate levels of consumer protection, and can contribute to the improvement of average quality levels of agricultural and food products marketed in the EU. These results would not be achieved through sole reliance on international marketing standards, mainly because their uptake is voluntary.

16.2 EU added value with respect to private marketing standards

16.2.1 In a business perspective

Indicator 11.3.a: Main strengths and weaknesses of EU marketing standards vs. the relevant private marketing standards in a business perspective (qualitative appraisal)

A wide majority (80%) of the 123 surveyed business associations deemed that separate EU marketing standards are justifiable and provide added value with respect to the applicable private marketing standards. Only 6% of the surveyed business associations expressed a negative judgment in that respect (14% of respondents did not express a judgment).

Interviews with EU-level business associations confirmed the positive overall judgment emerged from the survey. The consulted business stakeholders identified the main **strengths** of EU marketing standards vis-à-vis private standards in the following:

1. The mandatory nature of EU marketing standards versus the voluntary nature of private ones. The reasoning behind that is analogous to the one made at § 16.1: hypothetical reliance on the sole private standards would have serious negative implications in terms of ensuring a homogeneous level of consumer protection, fair trading practices and a level playing field for operators within the EU market. In this respect, it is also important to consider that – as already underlined at § 1.3.2 - private standards mainly pursue different objectives than those pursued by EU marketing standards, even if those standards have implications also for the marketing of agricultural and food products. Another important element to consider is the fact that the private standards described at § 1.3.2 are mainly based on requirements concerning the means (practices, procedures, organisational solutions, resources, etc.) to be used by operators in their production, storage and marketing activities; by contrast, EU marketing standards mainly set requirements concerning results, i.e. quality parameters to be met in products and specific information items to be provided about the products.
2. EU marketing standards establish minimum quality requirements, as well as requirements for providing information about the products to business partners and/or final consumers, which must be complied with across the EU. For many products, those minimum requirements are already set on relatively high standards. From a farmer’s or processor’s perspective, this leaves less room for the so called “quality gold plating” strategies pursued by large-scale retailers through the imposition of particularly demanding quality requirements in their own private standards. As most of the added value generated by those “quality gold plating” strategies goes to retailers, whereas their suppliers (farmers and processors) bear the often significant cost of complying with private standards, EU marketing standards contribute to a fairer allocation of added value among the different stages of the supply chain.

The interviewed EU-level business associations did not identify any significant **weaknesses** of EU marketing standards vis-à-vis private ones.

The positions of the consulted CAs on the relationship between EU marketing standards and private marketing standards are basically the same emerged with respect to the relationship between EU marketing standards and international ones (see § 16.1.1). Most of the consulted CAs deem that separate EU marketing standards are justifiable and provide added value with respect to the applicable private marketing standards, also because the two sets of standards pursue different objectives through different approaches (requirements concerning results versus requirements concerning means). Even some of the (few) CAs that do not attach significant added value to EU marketing standards vis-à-vis private standards acknowledge that only harmonised mandatory standards can ensure a level playing field for operators across the EU. The main strengths of EU marketing standards in a business perspective identified by the consulted CAs are the same identified by business stakeholders.

16.2.2 In a consumer perspective

Indicator 11.4.a: Main strengths and weaknesses of EU marketing standards vs. the relevant private marketing standards in a consumer perspective (qualitative appraisal)

The reasoning of the consulted CAs that are in favour of separate EU marketing standards is the same explained at § 16.1.2. Sole reliance on voluntary private standards would not ensure adequate levels of consumer protection, and would not contribute to a widespread improvement of average quality levels of agricultural and food products marketed across the EU. The consulted Italian and Spanish consumer associations fully backed this view.

16.3 EQ 11: evaluation judgment

The majority of the consulted business stakeholders and national competent authorities deemed that **separate EU marketing standards are justifiable and provide added value with respect to international**

marketing standards. The main **strengths of EU marketing standards** vis-à-vis international marketing standards were identified in:

1. The **mandatory nature of EU marketing standards**, which is especially important to ensure a homogeneous level of consumer protection, fair trading practices and a level playing field for operators within the EU market.
2. The fact that **the objectives and the requirements of EU marketing standards have been tailored to the specific needs of the EU market**, and have often been adapted to their evolution.

However, a minority of consulted stakeholders (especially among national competent authorities) deemed that EU marketing standards (and especially those for fresh fruit and vegetables) are generally non justifiable in presence of analogous international marketing standards that are recognised on a global scale, and provide little/no added value with respect to them.

Most of the consulted business stakeholders and national competent authorities also deem that **separate EU marketing standards are justifiable and provide added value with respect to the applicable private marketing standards**³⁰⁰.

The main **strengths of EU marketing standards** vis-à-vis private standards were identified in:

1. The **mandatory nature of EU marketing standards** versus the voluntary nature of private ones. This ensures the achievement of objectives - a homogeneous level of consumer protection, fair trading practices and a level playing field for operators within the EU market – that could not be ensured through sole reliance on voluntary private standards.
2. The fact that EU marketing standards establish minimum quality requirements, as well as requirements for providing information about the products to business partners and/or final consumers, which must be complied with across the EU. For many products, those **minimum requirements are already set on relatively high standards**. From a farmer's or processor's perspective, this leaves less room for the so called "quality gold plating" strategies pursued by large-scale retailers through the imposition of particularly demanding quality requirements in their own private standards. Since most of the added value generated by "quality gold plating" strategies goes to retailers, with farmers and processors bearing the often significant compliance costs with private standards, **EU marketing standards contribute to a fairer allocation of added value among the different stages of the supply chain**.

By contrast, **no significant weaknesses of EU marketing standards** vis-à-vis the applicable private marketing standards emerged from the assessment.

³⁰⁰ It should be noted that the private standards with the widest diffusion in the EU (i.e. those described at § 1.3.2) are often based on requirements concerning the means (practices, procedures, organisational solutions, resources, etc.) to be used by operators in their production, storage and marketing activities. By contrast, EU marketing standards mainly set requirements concerning results, i.e. quality parameters to be met in products and specific information items to be provided about the products.

17 EQ 12: TO WHAT EXTENT WOULD THE ESTABLISHMENT OF EU MARKETING STANDARDS FOR THE SECTORS/PRODUCTS CURRENTLY NOT COVERED, CREATE AN EU ADDED VALUE?

EQ 12: Definition of key terms

“**EU added value**”: the value resulting from applying policy measures at EU level that is additional to the value that would have resulted from applying similar measures at regional or national level by public authorities or the private sector. The assessment under EQ 12 entails the identification, characterisation and – wherever possible – quantification of differential benefits arising from establishing EU marketing standards for the sectors/products currently not covered by those standards (see the following section).

Identification of the most important agricultural and food products not covered by EU marketing standards.

The consulted EU-level business associations identified several examples of products currently not covered by EU marketing standards for which the opportunity of setting EU marketing standards – or at least a harmonised definition at EU level – could be explored, mainly on the grounds of the significant economic importance of those products. Besides **cheese** and **cider** – whose cases are discussed in detail at § 17.4 and 17.5, respectively – those products include:

- Various processed fruit and vegetable products, including fruit preparations and fruit spreads.
- Various processed poultry meat products, including processed *foie gras*.
- Rice.
- Various beehive products such as royal jelly, pollen pellets, bee pollen or bee bread, beeswax, propolis, bee venom.

Other economically important food products currently not covered by EU marketing standards are pasta, bread, salt and vinegar.

One consulted EU-level association representing the interests of farmers also suggested that:

- the opportunity to re-instate specific EU marketing standards for at least certain types of fresh fruit and vegetables that are currently covered by the GMS (see the reply to EQ 3 at § 8) should at least be discussed;
- the possibility to develop EU marketing standards in the fibre crops sector (hemp, flax, linen) should be explored.

17.1 Opportunities for cost reduction from establishing EU marketing standards for the sectors/products currently non covered

Indicator 12.1.a: Opportunities for cost reduction from establishing EU marketing standards for the sectors/products currently non covered in a business perspective (qualitative appraisal)

An important share (46%) of the 123 surveyed business associations did not express their views for lack of specific knowledge on the matter. Extremely divided views emerged from the survey: 28% of respondents identified opportunities for cost reduction for business stakeholders that would derive from establishing EU marketing standards for the sectors/products currently non covered, whereas 26% of respondents did not identify any opportunity in that respect.

Besides the obvious consideration that the establishment of EU marketing standards for products currently not covered would generate compliance costs for the involved operators, and that the nature and extent of

those costs would depend on the scope and on the specific requirements of each marketing standard, no other elements backing the two opposite positions emerged from the consultation of EU-level business associations.

Indicator 12.1.c: Opportunities for cost reduction from establishing EU marketing standards for the sectors/products currently non covered in a MS CA perspective (qualitative appraisal)

Only a minority of the consulted CAs provided inputs on the matter: among them, only one CA deemed that establishing EU marketing standards for the sectors/products currently non covered would offer opportunities for cost reduction. The underlying reasoning is that legislation-based marketing standards improve transparency on the market, promote fair trading practices and hence contribute to reduced transaction costs for operators.

Focus Group findings

Focus Group participants did not explicitly mention cost reductions potentially arising from the introduction of EU marketing standards for sectors/products such as cider and cheese (currently not covered by EU marketing standards, but for which an extension is being sought) since this was not deemed a key driver for the introduction of such standards. However, participants noted that the establishment of EU marketing standards in other sectors where these had been successfully introduced (e.g. hops, fruit juices, jams, fresh fruit and vegetables, butter and milk) had resulted in significant reductions in transaction costs, in particular as EU marketing standards facilitated information flows from business to business.

17.2 Opportunities for tackling unaddressed needs from establishing EU marketing standards for the sectors/products currently non covered

Indicator 12.2.a: Opportunities for tackling unaddressed needs from establishing EU marketing standards for the sectors/products currently non covered in a business perspective (qualitative appraisal)

An important share (50%) of the 123 surveyed business associations did not express their views for lack of specific knowledge on the matter. Even with that limitation, the majority of respondents (38%) identified opportunities for tackling unaddressed needs that would derive from establishing EU marketing standards for the sectors/products currently non covered (12% of respondents did not identify any opportunity in that respect). Besides the cases of cheese and cider, which are discussed at § 17.4 and 17.5, the consultation of EU-level business associations revealed that the scope for tackling currently unaddressed needs of the market would be especially significant in the case of processed *foie gras*, due to the significant issues emerged from the assessment made under EQ 6.3 (see § 11.5) with respect to prevention of fraudulent practices.

Indicator 12.2.c: Opportunities for tackling unaddressed needs from establishing EU marketing standards for the sectors/products currently non covered in a MS CA perspective (qualitative appraisal)

Only a minority of the consulted CAs provided inputs on the matter. The views of the few CAs that provided inputs are divided: 5 of them identified opportunities for tackling unaddressed needs of the market, and 3 did not identify them. The opportunities identified by the CAs are mainly related to unaddressed needs in terms of provision of information on products to consumers.

Focus Group findings

Focus Group participants noted that there were unaddressed needs in respect of two products currently not covered by EU marketing standards, namely cider and cheese. The market for **cider** is developing rapidly within the EU, and partially as a consequence of this entry into newer markets the view was taken that there was a need to ensure that the definition of what constitutes cider is clearly set out via an EU marketing standard. This should in particular establish that the alcohol in cider is derived only by means of fermentation of apples in order to ensure that consumers have a clear understanding of what the product is. This information could perhaps be supplemented with a requirement concerning minimum apple juice content.

Focus Group participants noted that **cheese** production accounts for an important share of milk usage in the EU³⁰¹; in line with the rationale for having common product definitions for other dairy products such as drinking milk and butter, it was noted that it would be desirable to introduce an EU definition of cheese using the Codex definition as the starting point for that. In general, Focus Group participants noted that reaching an updateable baseline understanding or common standard on what cheese and cider are would help create and maintain a level playing field for food business operators for these products, as well as ensure that currently and potentially unaddressed needs in terms of information to consumers are addressed.

17.3 Opportunities for increased benefits from establishing EU marketing standards for the sectors/products currently non covered

Indicator 12.3.a: Opportunities for increased benefits from establishing EU marketing standards for the sectors/products currently non covered in a business perspective (qualitative appraisal)

The survey of business associations revealed that among the opportunities for business stakeholders that would derive from establishing EU marketing standards for the sectors/products currently non covered, those related to increased benefits for business stakeholders are the ones most frequently identified. The levels of specific knowledge on the matter emerged from the survey are higher than those related to the other possible opportunities (cost reduction; tackling unaddressed needs): the share of respondents that did not express their views was lower (32%). The majority (54%) of the 123 surveyed business associations identified opportunities in terms of increased benefits (a 14% share of respondents did not identify any opportunity in that respect). The consultation of EU-level business associations revealed that the most significant additional benefits for stakeholders would be related to improved market access for producers, promotion of intra-EU trade in the concerned products, and provision of improved and more homogeneous information on products to consumers.

Indicator 12.3.c: Opportunities for increased benefits from establishing EU marketing standards for the sectors/products currently non covered in a MS CA perspective (qualitative appraisal)

Also in this case, only a minority of the consulted CAs provided inputs on the matter. The majority of those few CAs identified increased benefits for stakeholders from establishing EU marketing standards for the sectors/products currently non covered. The identified benefits are related to:

- Definition of minimum quality standards for the concerned products, to the benefit of both consumers and business stakeholders.
- Contribution to improved average quality of the concerned products (this effect has been observed with respect to the products covered by EU marketing standards).
- Improved transparency on the market.
- Promotion of intra-EU trade in the concerned products, stemming from harmonisation of different national legislation (removal of technical barriers to trade).

Focus Group findings

A number of Focus Group participants shared the above views of business stakeholders and CAs on potential benefits arising from the introduction of EU marketing standards for sectors/products such as cider and cheese. These products are currently not covered by EU marketing standards, but an extension of such standards is being sought for them. Focus group participants supported these conclusions based on the benefits deriving from the introduction of EU marketing standards for – among others - fresh fruit and vegetables, jams, fruit juices, poultry, milk and dairy products; participants also noted that those standards

³⁰¹ According to Eurostat, 152 million tonnes of whole milk was available to the dairy sector and processed in 2016. Of this, 37 % (56 million tonnes) was used to produce cheese and 30 % to produce butter, with a further 13 % being used to make cream and 11 % to produce drinking milk (see: <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20180129-1?inheritRedirect=true>).

provided an important baseline for other legislation as well as higher quality specifications. In spite of this, it was noted that in some sectors with a strong history of self-regulation such as potatoes (fresh and for processing) there would be no need for the introduction of EU wide marketing standards: the matter is discussed in more detail at § 17.6. Similarly in other sectors - such as fruit spreads and processed fruit and vegetables - there would be no need for EU marketing standards as the specificities of these markets and consumer needs are fully addressed by the various private systems in operation.

17.4 EQ 12.1: absence of an EU definition of cheese

The EU and its Member States have actively contributed to the development of an international standard for cheese according to Article 13 of Regulation (EC) No 178/2002, i.e. the Codex General Standard for Cheese (CODEX STAN 283-1978, first issued in 1978 and last revised in 2013). By contrast, no EU marketing standards for cheese have been developed to date, nor a harmonised EU definition of cheese.

The potential implications of the absence of an EU definition of cheese have been explored in the reply to EQ 6.4 (see § 11.6.3). The consulted EU-level business associations representing the interests of dairy farmers and processors of dairy products deem that the development of a harmonised EU definition of cheese would address the potentially negative implications of different definitions applying at Member State level³⁰². However, it should be kept in mind that the views of the consulted MS CAs on whether the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector are divided³⁰³. The analysis of the state of play concerning differences in national legislation-based definitions of cheese (see § 2.3 and § 11.6.3) identified a potentially important aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production. The use of reconstituted dried milk for cheese production is explicitly prohibited by the Italian legislation, whereas it is allowed in other Member States. Since imported cheese produced from reconstituted dried milk can be lawfully marketed in Italy, the situation would determine – according to the consulted Italian sectoral association - a competitive disadvantage for Italian cheese producers on the domestic market for the concerned cheese types, with negative implications in terms of level playing field.

The EU-level association representing the interests of milk processors does not see the need for EU marketing standards specifying the characteristics of different types of cheese, but would welcome a harmonised definition establishing the **essential characteristics that would entitle a dairy product to be denominated “cheese”**. To that end, the association deems that a harmonised EU definition of cheese should take into account, among others, the true nature and essential characteristics of the product, and lay down harmonised rules governing the composition, manufacturing specifications and labelling of cheese. In particular, the definition should prevent the use of the term “cheese” for marketing plant-based substitutes. **The process for developing an EU definition of cheese should take the aforementioned Codex General Standard for Cheese as a basis.**

However, the consulted business associations deem that the elaboration of an EU definition of cheese would be a challenging task, mainly due to significant differences in the relevant national legislation, while it can be argued that Member States would probably ask for derogations in order to keep some flexibility with respect to special ingredients currently included in their national definitions of cheese. The analysis of the state of

³⁰² According to one of these associations, the negative implications of differences in the national legislation-based definitions of cheese would be especially related to a non-level playing field for operators of different Member States, and to possible creation of technical barriers to intra-EU trade that could negatively affect the functioning of the Common Market. According to that association, the development of an EU definition of cheese would contribute to the improvement of the economic conditions for production and marketing of cheese, and also to the improvement in the average quality of cheese marketed in the EU. It may also contribute to more homogeneous levels of protection for consumers of cheese produced in the EU.

³⁰³ 9 CAs deem that such absence has left some specific sectoral needs unaddressed, whereas 9 other CAs deem the contrary.

play (see § 2.3 and § 11.6.3) identified **significant differences especially in the definition of the raw materials from which cheese can be made, and of the ingredients that can be used in its production**³⁰⁴.

Focus Group findings

A number of Focus Group participants noted that a common updateable EU definition of cheese would provide a baseline for operators allowing quality differentiation on the basis of a common standard and would assist consumers in understanding that this is a dairy product. Also according to the Focus Group participants, the best starting point for the elaboration of such a definition would be the Codex General Standard for cheese: the dairy sector is working on the development of such a common definition at EU level.

17.5 EQ 12.2: absence of an EU definition for cider

The EU cider market

In the European Union, production of cider tends to be concentrated within Member States with a tradition of apples and apple juice production. Overall production of cider amounts to over 1,600 million litres, with Western European countries accounting for the greatest share of this volume. Notably, the market share for global cider production shows the **United Kingdom clearly in the lead with some 68% of volume**, followed far behind by **France, Spain, and Ireland**. Cider volumes in the rest of Europe account for 22% of total global production, although production in this area is growing rapidly³⁰⁵.

Characteristics of cider production across the major producer Member States are further investigated below:

- **United Kingdom:** according to the EU-level sectoral association, the United Kingdom produces a volume of around **1,000 million litres of cider per year**, making it the EU and world's largest producer. The main producing areas are Herefordshire, Somerset and Devon. Most British cider producers (over 80%) are small operators, i.e. producing up to 7,000 litres per year³⁰⁶.
- **France:** the country produces some **95 million litres of cider per year**, according to figures by the national sectoral association. The most important cider-makers in France are cider-making cooperatives, which account for around 82% of the volume produced, followed by artisans (about 12%), and farm producers (nearly 6%)³⁰⁷.
- **Spain:** The annual production of cider in Spain ranges between **70 and 75 million litres**. Northern Spain and in particular the Asturias and Basque regions are the main producing regions. Ciders produced in Asturias account for about 80% of the total cider produced in Spain³⁰⁸.

According to Global Data figures, in 2012-2017, within the international alcoholic beverages sector, cider recorded the highest Compound Annual Growth Rate (CAGR), i.e. by 5% in terms of volume, *vis-à-vis* nearly 4% volume growth in spirits, 2% in wine and stagnation in beer. Nonetheless, cider still accounts for a smaller share of EU Member States consumption, if compared to other alcoholic beverages. For example, in the United Kingdom (the largest consumer within the EU), it accounts for 18% of the beer market, in terms of volume. According to figures for 2018 by the EU-level sectoral association, the United Kingdom is the leading consumer of cider across the EU, with a volume of 989 million litres. Spain follows, with 110 million litres consumed. Also in France, Ireland, Germany, Poland, Finland, Czech Republic and Sweden consumption of cider is significant. The highest per capita consumption is however recorded in the United Kingdom (15 litres),

³⁰⁴ Even though differences concerning the definition of the production process were also identified, these seem to be more related to the use of a different wording (also with respect to the Codex General Standard) and to minor details, than to the nature and/or essential technical characteristics of the process itself.

³⁰⁵ Macdonald N. (2016), Cider Orchards: The Great British Success Story, <https://nuffieldinternational.org/live/Report/UK/2014/neil-macdonald>

³⁰⁶ NACM, UK Cider Market, <https://cideruk.com/uk-cider-market/>

³⁰⁷ UNICID, Chiffres clés, <http://www.cidresdefrance.fr/savoir-faire-hommes/transformation-chiffres-cles/chiffres-cles/>

³⁰⁸ Rubio Escalada A. (2012), El sector de la sidra; análisis económico y financiero, http://digibuo.uniovi.es/dspace/bitstream/10651/4220/6/TFM_Ana%20Rubio%20escalada.pdf

Ireland (14.7 litres), and Finland (7.2 litres). Nonetheless, it was observed that growth in the sector is driven by the new cider markets, essentially Czech Republic, Romania, Bulgaria, and Greece. Between 2011 and 2016, cider consumption grew at an exceptionally high CAGR in these countries, ranging between 56.88% (Greece) and 121.51% (Czech Republic)³⁰⁹.

State of play of national legislation and voluntary standards, and related implications for stakeholders

No harmonised EU definition for cider has been established to date, and there are substantial differences in the relevant national legislation. Some Member States (e.g. Belgium) have no legislation-based definition of cider. According to the consulted EU-level sectoral association, differences in the relevant national legislation have **negative implications** in terms of:

- **Uneven levels of consumer protection.** These are mainly related to differences in the legal age for cider consumption, or in the possibility to advertise cider, deriving from different categorisation of cider within alcoholic beverages.
- **Non-level playing field and barriers to intra-EU trade.** Some Member States (e.g. Romania) have very strict requirements concerning manufacturing of cider, other Member States (e.g. Bulgaria) have no requirements at all. Some Member States (e.g. Spain) have legislation that prohibits domestic production of certain typologies of cider, but imported products of the same typologies can be lawfully sold on the domestic market. Some Member States (e.g. Germany) allow production and marketing of cider obtained also from other fruits than apples (e.g. kiwifruit), whereas other Member States do not.

The situation is further complicated by the **absence of recognised international standards for cider**. The only “international standard” for cider of relevance to EU operators is the self-regulatory voluntary Code of Practice developed by the EU-level sectoral association. The Code was first established in 1998: it sets out minimum requirements for cider production, the most important one being that cider production is based on fermentation of apples.

According to the consulted EU-level sectoral association, further development of national legislation covering cider production and marketing in some Member States (e.g. Greece, Hungary, Latvia, Romania) signals the need of developing harmonised EU legislation.

The consulted EU-level sectoral association identified the **main advantages from establishing an EU definition for cider** in the following:

- **Facilitating intra-EU trade and ensuring a level playing field for operators.** As noted above, differences in national legislation determine a non-level playing field and barriers to intra-EU trade.
- **Improvement of the overall coherence of the regulatory framework applying to cider production and marketing across the EU.**
- **Improved consumer protection across the EU,** thanks to provision of more homogeneous information about the characteristics and the quality of cider. In addition, establishing an EU definition of cider would contribute to address potential issues for consumers deriving from the presence on the market of “borderline” products (e.g. “cider” made from kiwifruit with added flavouring, or “cider” without alcohol).
- **Promotion of conditions for better valorisation of EU apple production.** The cider market is a rapidly growing one, apple juice content in cider can vary from 15% to 100%, and around 15% of the EU total production of apples is already destined to processing into cider.

However, the consulted EU-level sectoral association acknowledges that the development of an EU definition of cider would be a challenging task, mainly because of the substantial differences in the relevant national legislation. In particular, it would be extremely difficult for Member States to reach an agreement on EU legislation setting detailed and precise harmonised requirements for cider production and marketing.

³⁰⁹ AICV and Global Data (2018), *European Cider Trends 2018*, online: <http://aicv.org/file.handler?f=CiderTrends2018.pdf>

Focus Group findings

During the Focus Group it was clarified that establishing a so-called “light” marketing standard through EU legislation should not be a very challenging task, as the core of this would be a definition of cider (as well as pear cider/“perry”) aimed at informing consumers that the alcohol in cider (“perry”) is derived exclusively from fermentation of apples (pears). As for the varying national requirements relating to the apple (pear) juice content of cider (“perry”), it emerged from the Focus Group discussion that establishing a minimum level of apple (pear) juice content would be too complex a task for the time being.

17.6 A successful case of self-regulation: voluntary marketing standards for potatoes

The European potato sector has a long history of effective self-regulation in the area of international trading and domestic marketing.

In Europe, codified professional practices in potato trading were first defined already in 1956. Those voluntary rules have been known as the **Rules & Practices of the Inter-European Trade in Potatoes (RUCIP)**³¹⁰ since their adoption. The RUCIP European Committee was established in 1964. At the time, the RUCIP were used only for trade between countries, and could not be used for transactions within national boundaries. After 1970, efforts aimed at standardising the different national codes of practice in the potato sector were undertaken, having in view a common European market for potatoes, and taking into account the developments in the economic situation of the potato sector. The RUCIP have been revised in 1972, 1986, 2000, 2006 and 2012. The last edition of the RUCIP became effective on January 1, 2017. The three associations participating to the RUCIP European Committee recommend all their members to use the current Rules and Practices, as well as the rules governing expert assessments and arbitration (a peculiarity of the RUCIP), for their national and intra-EU transactions. National RUCIP secretariats are located in Belgium, Czech Republic, France, Germany, Ireland, Italy, the Netherlands, Spain and the United Kingdom (as well as in Switzerland). The RUCIP 2017³¹¹ includes three parts: the first part covers rules and practices in potato trading, and establishes marketing standards under chapter III “The Goods”. Those standards deal with: definition of the lot; definitions and quality requirements for seed potatoes, new potatoes, industrial potatoes for processing into products for human consumption, industrial potatoes for production of alcohol or animal feed; rules concerning quantity, weight, packaging and package format, loading and dispatch and frost protection. The second part establishes rules for expert assessment, while the third part lays out arbitration rules.

Besides the RUCIP, operators in the EU potato sector can also refer to the **international voluntary marketing standard for early and ware potatoes established by UNECE** in 2006, and last revised in 2011³¹². The standard provides: a product definition; provisions on minimum quality requirements, sizing, tolerances, product presentation (uniformity and packaging) and marking.

The operators of the EU potato sector generally consider the RUCIP and the UNECE voluntary standards to be effective and adequate for addressing the needs of the market; on that grounds, they have historically **opposed any attempt at establishing mandatory marketing standards for potatoes through EU legislation.** The official position of the European trade association on the UNECE standard for early and ware potatoes³¹³ - expressed in the framework of the meeting of the Working Party on Agricultural Quality Standards / Specialized Section on Standardization of Fresh Fruit and Vegetables held in Geneva in May 2007 – provides a number of interesting elements on the matter. In particular, with reference to a proposal by Germany to

³¹⁰ <https://rucip.eu/>

³¹¹ Available at <https://rucip.eu/wp-content/uploads/2016/12/RUCIP-2017-EN.pdf>

³¹² Available at http://www.unece.org/fileadmin/DAM/trade/agr/standard/standard/fresh/FFV-Std/English/52_EarlyAandWarePotatoes.pdf

³¹³ Available at <https://www.unece.org/fileadmin/DAM/trade/agr/meetings/ge.01/2007-in-session.htm>

introduce mandatory quality standards for the EU potato sector through inclusion of UNECE standards for early and ware potatoes in a Regulation, the document clearly states that:

- The European trade association opposed the proposal as it saw no added value of the same on the situation applying at the time. More specifically, a new EU Regulation establishing marketing standards for early and ware potatoes would have resulted in higher control costs, which would have finally resulted in a higher price for consumers without any added value for them.
- The RUCIP provided basic quality standards for potato trading, which were subsidiary to additional standards in the contracts; the market was already ahead of the RUCIP standards in responding to consumer demand.
- The national quality regulations for early and ware potatoes in force at the time in a number of EU member states were not affecting free trade on the EU potato market.
- Finally, the European trade association was satisfied with the existing UNECE minimum standards for early and ware potatoes, which could be used as a recommendation for the EU potato market.

The case of the potato sector clearly illustrates that **the absence of harmonised EU marketing standards does not automatically imply a widespread request for mandatory standards by the concerned stakeholders**. In sectors with a long-established history of self-regulation of trading and marketing practices through voluntary standards covering all the critical aspects, and especially in case of diffused uptake of those standards by business operators, the elaboration of legislation-based marketing standards may not be seen as an improvement to the existing situation, and may face significant opposition by the concerned stakeholders.

17.7 EQ 12: evaluation judgment

A number of **agricultural and food products of significant economic importance are currently not covered by EU marketing standards**. Besides **cheese** and **cider**, products of note include (but are not limited to): various processed fruit and vegetable products; various processed poultry meat products, including processed *foie gras*; rice; processed cereal products such as pasta and bread; vinegar; salt; various beehive products; fibre crops such as hemp, flax, linen.

Among the consulted stakeholders, awareness of and knowledge on the topic that is the focus of EQ 12 were found to be **rather limited**. The findings of a **thematic Focus Group with knowledgeable experts** were hence of great help in the formulation of the judgment.

The views of the consulted business stakeholders about the **opportunities for cost reduction** stemming from the establishment of EU marketing standards for the products/sectors currently not covered were divided, whereas most of the consulted national competent authorities were extremely sceptical about those opportunities. Focus Group participants did not explicitly mention cost reductions potentially arising from the introduction of EU marketing standards for sectors/products currently not covered (and especially cheese and cider), since this was not deemed a key driver for the introduction of such standards. However, participants noted that **the establishment of EU marketing standards in other sectors where these had been successfully introduced** (e.g. hops, fruit juices, jams, fresh fruit and vegetables, butter and milk) **had resulted in significant reductions in transaction costs**, in particular as EU marketing standards facilitated information flows from business to business.

The majority of the consulted business stakeholders identified **opportunities for tackling unaddressed needs**, especially in the cases of cheese and cider (which are discussed in more detail below), but also in the case of processed *foie gras* (due to unresolved issues in terms of prevention of fraudulent practices; see the reply to EQ 6 at § 11.8). The opportunities identified by a significant number of consulted national competent authorities mainly relate to unaddressed needs in terms of provision of information to consumers for those products currently not covered by EU marketing standards. The Focus Group participants noted that reaching an updateable baseline understanding or common standard on what cheese and cider are would help create

and maintain a level playing field for food business operators for these products, as well as ensure that currently and potentially unaddressed needs in terms of information to consumers are addressed.

The consultation of business stakeholders revealed that among the opportunities that would derive from establishing EU marketing standards for the sectors/products currently not covered, those related to **increased benefits for stakeholders** are the ones most frequently identified. Those opportunities are mainly related to the following benefits: improved market access for producers; improved transparency on the market; promotion of intra-EU trade in the products concerned stemming from harmonisation of varying national legislation (i.e. removal of technical barriers to trade); definition of minimum quality standards for the products concerned, to the benefit of both consumers and business stakeholders; contribution to improved average quality of the products concerned; provision of improved and more homogeneous information on the concerned products to consumers. The above views of stakeholders were confirmed and reinforced by Focus Group participants. By contrast, it was noted by Focus Group participants that in some **sectors with a strong history of self-regulation such as potatoes (fresh and for processing)** there would be **no need for the introduction of legislation-based EU marketing standards**. A specific analysis of self-regulation in the potato sector³¹⁴ corroborated such conclusion. Similarly in other sectors such as **fruit spreads and processed fruit and vegetables** there would be **no need for EU marketing standards** as the specificities of these markets and consumer needs are fully addressed by the various private systems in operation.

The consulted sectoral stakeholders deem that the **development of an EU definition of cheese** would address the potentially negative implications of different definitions applying at Member State level³¹⁵. However, the assessment under EQ 6.4 (see § 11.6.3) revealed that the views of the consulted MS CAs on whether the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector are divided³¹⁶. The analysis of the state of play concerning differences in national legislation-based definitions of cheese (see § 2.3 and § 11.6.3) identified a potentially important aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production³¹⁷. According to the consulted business stakeholders, and in line with the outcomes of the discussion in the Focus Group, the process of developing an EU definition of cheese (beyond the one deriving from the protected definitions, designations and sales descriptions for dairy products) should take the Codex General Standard for cheese (see § 1.3.1 and § 2.3) as a basis. In that respect, it should be considered that several legislation-based definitions of cheese currently in force in the most significant cheese-producing Member States are rather similar to the one provided by the Codex, at least for what concerns the production process (less so for what concerns the raw materials to be used for cheese production and the allowed ingredients). However, according to the consulted business stakeholders, the elaboration of an EU definition of cheese would be a challenging task, mainly due to the

³¹⁴ Voluntary rules concerning professional practices in potato trading, known as the Rules & Practices of the Inter-European Trade in Potatoes (RUCIP), were first defined already in 1956. Besides the RUCIP, operators in the EU potato sector can also refer to the international voluntary marketing standard for early and ware potatoes established by UNECE in 2006, and last revised in 2011. The operators of the EU potato sector generally consider the RUCIP and the UNECE voluntary standards to be effective and adequate for addressing the needs of the market; on that grounds, they have historically opposed any attempt at establishing mandatory marketing standards for potatoes through EU legislation.

³¹⁵ According to one of the consulted standards associations, the negative implications of differences in the national legislation-based definitions of cheese would be especially related to a non-level playing field for operators of different Member States, and to possible creation of technical barriers to intra-EU trade that could negatively affect the functioning of the Common Market. According to that association, the development of an EU definition of cheese would contribute to the improvement of the economic conditions for production and marketing of cheese, and also to the improvement in the average quality of cheese marketed in the EU. It may also contribute to more homogeneous levels of protection for consumers of cheese produced in the EU.

³¹⁶ 9 CAs deem that such absence has left some specific sectoral needs unaddressed, whereas 9 other CAs deem the contrary.

³¹⁷ The use of reconstituted dried milk for cheese production is explicitly prohibited by the Italian legislation, whereas it is allowed in other Member States. Since imported cheese produced from reconstituted dried milk can be lawfully marketed in Italy, the situation would determine – according to the consulted Italian sectoral association - a competitive disadvantage for Italian cheese producers on the domestic market for the concerned cheese types, with negative implications in terms of level playing field.

aforementioned differences in the relevant national legislation, while it can be argued that Member States would probably ask for derogations in order to keep some flexibility with respect to special ingredients currently included in their national definitions of cheese.

The consulted business stakeholders deem that the **development of an EU definition for cider** would respond to unaddressed needs in terms of more homogeneous levels of consumer protection, more level playing field and removal of barriers to intra-EU trade. The main advantages identified from establishing an EU definition for cider would be related to: facilitating intra-EU trade; improvement of the overall coherence of the regulatory framework applying to cider production and marketing across the EU; improved consumer protection across the EU, thanks to the provision of more homogeneous information about the characteristics and the quality of cider; promotion of conditions for better valorisation of EU apple production (as well as EU pear production, in case a harmonised definition of pear cider/“perry” is also elaborated). Nonetheless, the development of an EU definition for cider would be a challenging task, mainly because of the substantial differences in the relevant national legislation. The Focus Group discussion specified that the key element of a standard would be the confirmation that to be called “cider” or “perry” the product needs be derived from apples or pears “by fermentation only”: this issue was not contentious. A “light” marketing standard established through EU legislation was hence considered to be relatively easily achievable; however, the issue of the minimum content of apple (pear) juice in the product called “cider” (“perry”) was found to be more complex to address, due to the differing national standards in this regard.

Section D – Conclusions and recommendations

18 CONCLUSIONS AND RECOMMENDATIONS

18.1 Conclusions on Theme I - effectiveness

The effectiveness of EU marketing standards can be defined as the extent to which the objectives pursued by EU marketing standards have been achieved in practice.

The assessment made in the framework of EQ 1 (see § 6) allowed to conclude that **EU marketing standards have successfully achieved their objectives in most of the covered sectors.**

EU marketing standards have effectively contributed to improve the quality of the products they cover in the interest of producers, traders and consumers, and to enable the market to be easily supplied with products of a standardised and satisfactory quality. They have also met most of the expectations of consumers in terms of receiving adequate and transparent information (see § 6.2), with the partial exception of information related to origin³¹⁸. On this specific aspect, however, the assessment showed that **the perception of the absence of generalised mandatory origin labelling in EU marketing standards as a serious limitation is questionable**³¹⁹.

Few limitations of EU marketing standards in terms of effectiveness in achieving their intended objectives emerged from the assessment. Those limitations affect specific sectors, and are related to specific aspects³²⁰.

The assessment revealed some limitations of EU marketing standards in addressing the issue of **degradation of the quality of olive oils over time** (see § 6.4). According to the consulted sectoral associations, the main issue is related to the degradation of the quality of olive oil over time when inadequate preservation techniques are applied during storage³²¹.

Another limitation of EU marketing standards identified in the assessment concerns the capacity to address **improper use of protected dairy terms** (e.g. milk, butter, cheese, yogurt) **for marketing plant-based substitutes for dairy products**. The issue was found to derive from a non-homogenous enforcement at Member State level of the list of national exemptions (EU Commission Decision 2010/791/EU of 20 December 2010) from the prohibition to use protected dairy terms for the marketing of non-dairy products. According to the consulted stakeholders (sectoral associations and Member State competent authorities), the issue would have negative implications in terms of consumer protection - deriving from provision of misleading

³¹⁸ The consulted consumer associations perceive as serious limitations of EU marketing standards the absence of mandatory origin for a number of products, as well as insufficient detail of the required information about origin (e.g. EU/non-EU versus indication of the concerned Member State(s)/third country(ies)).

³¹⁹ In that respect, it should be noted that: i) the consulted consumer associations at EU and Member State level did not provide inputs on specific products for which the introduction of mandatory origin labelling would be needed; ii) mandatory origin labelling already applies for several products covered by EU marketing standards (e.g. fresh fruit and vegetables, extra virgin olive oil and virgin olive oil, sheep, goat, pig and poultry meat, beef meat); iii) empirical evidence suggests that consumers are generally reluctant to cover the additional costs related to origin labelling schemes.

³²⁰ It should be noted that no significant limitations in terms of effectiveness were identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

³²¹ Some consulted sectoral associations also observed that reliance on organoleptic assessment performed by tasting panels to check the conformity of virgin olive oils with the declared category (extra virgin, virgin, lampante) further aggravates the issue, due to the alleged subjectivity of this testing method and to the significant variability of the related results. The issue is further complicated by the fact that degradation of the quality of olive oil also depends on the way in which the oil is preserved during storage, a function which is also performed by operators in the trading and distribution stage of the supply chain, over which producers of olive oil have no control.

information³²² (see § 6.2) - and unfair competition / level playing field for operators (see § 7.3.1). However, no evidence allowing to appreciate the magnitude of the economic implications of those unfair marketing practices for the dairy sector (e.g. in terms of erosion of market shares of the affected dairy products by the concerned plant-based products) could be retrieved.

By contrast, some **sector-specific success stories** in terms of effectiveness of EU marketing standards emerged from the assessment.

The **rules on the optional reserved terms for indicating on the label the types of poultry farming** (Regulation (EC) No 543/2008) are perceived by operators as an **effective instrument for promoting alternative production systems for poultry meat production in the EU** (see § 6.5). Operators also deem that **provisions on classification of poultry meat in terms of product definitions and of quality and weight grading** (Regulation (EU) No 1308/2013 and Regulation (EC) No 543/2008) **have adequately reflected the current market reality** (see § 6.6).

The assessment found that the **rules for indicating the farming methods applied for laying hens** (Regulation (EC) No 589/2008) have been **effective in promoting animal welfare-friendly production methods for eggs, and alternative uses of egg production in the EU** (see § 6.7), albeit with some potentially negative implications, mainly related to the so called “standard inflation” issue³²³.

The assessment under EQ 2 revealed generally high satisfaction among business stakeholders about the effectiveness of EU marketing standards in **improving the economic conditions for production and marketing** with respect to both business-to-business and business-to-consumer relationships along the concerned supply chains (see § 7.1 and 7.2). A specific assessment focusing on the effectiveness of the **provisions on classification for fresh fruit and vegetables** (Regulation (EU) No 543/2011) in supporting the interests of producers and traders and in facilitating trade confirmed the overall satisfaction of business stakeholders (see § 7.6).

The assessment of the effectiveness of EU marketing standards in **creating a level playing field for operators confirmed the overall satisfaction of business operators**, and especially of **farmers and processors** (see § 7.3). A positive judgment emerged on the effectiveness of EU marketing standards in ensuring a **level playing field among different typologies of operators**. The judgment on the effectiveness of EU marketing standards in ensuring a **level playing field among operators of different Member States** was also fairly positive, but some issues affecting the dairy products³²⁴ and olive oils³²⁵ sectors emerged from the assessment. A specific assessment focusing on the **effectiveness of the provisions on minimum brix level for reconstituted fruit juices** (Directives 2001/112/EC, 2009/106/EC and 2012/12/EU) in creating a level playing field for producers

³²² The consulted sectoral associations reported about the results of studies carried out on samples of consumers in France and Denmark, which would suggest that several consumers have incorrect beliefs and poor knowledge about the nature, origin and nutritional properties of plant-based substitutes for dairy products (for instance, several consumers would believe that “almond milk” actually contains milk, or that plant-based substitutes for milk are suitable for infants).

³²³ Decreasing market advantage for barn eggs produced in more costly animal welfare-friendly rearing systems, which could reduce the economic incentive for producers to switch from enriched cage production to barn production.

³²⁴ The already mentioned issue of non-homogenous enforcement at Member State level of the list of national exemptions from the prohibition to use protected dairy terms for the marketing of non-dairy products (EU Commission Decision 2010/791/EU of 20 December 2010) was found to result in cases of improper/illegal use of protected dairy terms (e.g. milk, cheese, butter, yogurt) in the marketing of plant-based substitutes of dairy products in a number of Member States not covered by the specified exemptions, with negative implications in terms of fair competition/level playing field among operators.

³²⁵ Depending on the Member State, domestic operators may or may not be allowed to blend olive oils with other vegetable oils for sale in their national market, but they can always do that for export to other Member States. Article 6(1), second paragraph of Regulation (EU) No 29/2012 establishes that “Member States may prohibit the production in their territory of blends of olive oil and other vegetable oils referred to in the first subparagraph for internal consumption. However, they may not prohibit the marketing in their territory of such blends coming from other countries and they may not prohibit the production in their territory of such blends for marketing in another Member State or for exportation”. This regulatory framework determines a non-homogeneous situation across the EU concerning the practice of blending olive oils with other vegetable oils: this practice is prohibited in certain Member States for products sold on the domestic market, whereas it is always allowed for products marketed in another Member State or destined to extra-EU markets.

confirmed the overall positive judgment and the absence of significant issues (see § 7.5). Also the specific assessment focusing on the **effectiveness of the provisions on the certification of hops** (Regulation (EC) No 1952/2005 and Regulation (EC) No 1850/2006) in creating a level playing field for producer organisations/producer groups, traders and retailers confirmed the overall positive judgment of the concerned stakeholders, and the absence of significant issues (see § 7.7).

Based on the above illustrated findings, it can be concluded that **the current framework of EU marketing standards has in general been successful** in contributing to improve the economic conditions for production and marketing, and in particular in creating a level playing field for producers.

The **most controversial aspect of EU marketing standards in terms of effectiveness** emerged from the assessment under EQ 3 (see § 8), focusing on the **implications of the replacement of specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard** (Regulation (EC) No 1221/2008 and Regulation (EU) No 543/2011). The views of stakeholders on whether the aforementioned replacement positively or negatively affected the effectiveness of the policy are divided: the views of farmers (who strongly opposed the replacement) are mostly unfavourable, those of distributors (and especially of retailers) are generally favourable, and those of national competent authorities are mixed. However, an investigation on the **concrete implications of the transition** from product-specific standards to the general marketing standard revealed that the transition had **neither significant negative impacts on the overall performance of intra-EU trade** in the products affected by the transition³²⁶, **nor a significant influence on the evolution of price volatility** for those products³²⁷.

In the light of the findings presented above, and also taking into account that EU marketing standards have caused very few and inconclusive practical cases of unintended/unexpected effects, and no significant practical cases of “deadweight”³²⁸ (see § 18.4), **the overall judgment about the effectiveness of EU marketing standards is positive**. The replacement of specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard emerged from the assessment as the aspect of the evolution of EU marketing standards with the most controversial implications in terms of effectiveness, at least in the perception of stakeholders.

18.2 Conclusions on Theme II - efficiency

The efficiency of EU marketing standards can be defined as the best relationship between resources employed and results achieved in pursuing the objectives set by the standards. The critical aspect in assessing efficiency is the proportionality of costs versus benefits for the various stakeholders affected by the standards (producers, processors, intermediate operators/traders, retailers, competent authorities, final consumers).

The assessment made in the framework of EQ 4 (see § 9) allowed to conclude that, although neither costs nor benefits are fully quantifiable, **the current cost of compliance to the EU marketing standards incurred by operators** across all sectors is **justifiable**, i.e. proportionate to the results achieved³²⁹. In particular, according

³²⁶ The analysis showed that the performance of intra-EU trade for the products concerned by the transition to the general marketing standard (GMS) has not been systematically worse than the performance of the products still covered by specific standards. On the contrary, some of the products now covered by the GMS were found to have even recorded better performances than most of the products still covered by specific standards.

³²⁷ The analysis compared price volatility for selected products still covered by product-specific standards and for selected products concerned by the transition to the general marketing standard (GMS) in two periods, one preceding and one following the transition to the GMS. The analysis did not reveal any significant difference in the evolution of price volatility between the two groups of products.

³²⁸ “Deadweight”: effects that would have arisen even if the intervention – i.e. the establishment of EU marketing standards - had not taken place.

³²⁹ It should be noted that no significant issues in terms of proportionality of costs versus benefits were identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable

to both operators and authorities, the standards contribute **important benefits** that **by far outweigh the costs involved**. The proportionality of costs versus benefits was particularly highlighted in the case of the hops, poultry meat, eggs, fresh fruit and vegetables, dairy, honey, and fruit jams sectors; only in the olive oil sector the proportionality was questioned by some operators, due to the high costs involved.

The **costs** of compliance to the standards **vary between sectors**, depending on the level of specificity and complexity that is laid down in the rules. In nearly all cases the costs are relatively minor/negligible; only in the olive oil sector, the costs are more important (for operators and for authorities), as enforcement involves expensive laboratory tests and specific control activities for verifying analytical and organoleptic parameters.

In all sectors, the standards contribute important **benefits** in terms of improved product quality, enhanced market access, creating a level playing field between operators, and improving the implementation of controls by enforcement authorities. On the other hand, the standards are not considered to have a notable impact on price volatility, which is subject to other factors affecting supply and demand. Although consumer organisations could not identify any hard evidence on the cost and usefulness of marketing standards for consumers, they consider the improvement in product quality and standardisation of the quality of marketed products to be the main benefit of EU marketing standards. In principle, consumer organisations support regulatory approaches to the definition of food quality, rather than reliance on voluntary, private standards; conversely, removal of established standards, in their view, would lead to food products of inferior quality on the market. Nonetheless, a limitation may be that consumers were found not to be really aware of marketing standards and of their benefits: this may limit the robustness of the assessment of the proportionality of costs versus benefits of EU marketing standards from a consumer standpoint.

In the case of **hops certification**, the **additional costs incurred by operators** were found to be **fully justifiable and proportionate to the quality benefits achieved** (see § 9.4). In Germany, which is by far the largest EU hops producer, the costs of certification incurred by German operators are minimal (estimated at €0.03-€0.04/kg, compared to the hops price of approximately €10.00/kg). Benefits include a worldwide established high reputation of EU hops, supporting the market position of both EU primary producers of hops and EU brewers of speciality beers in an increasingly competitive market context. The certification system is considered to have improved all relevant indicators (cultivated area; quantity produced; quality parameters including moisture content and share of leaves, stem and waste in hops; establishment of PGIs/PDO for hops growing regions).

The assessment under EQ 5 (see § 10) revealed **some potential for simplification** of the standards in the **poultry** sector, as identified mainly by some business stakeholders. According to these stakeholders, the implementation of **Articles 16-18 and Article 20 of Commission Regulation (EC) No 543/2008 on water absorption in poultry meat** would lead to unnecessary delays in placing poultry meat products on the market. However, it was not possible for business stakeholders to substantiate the reasons why these provisions lead to unnecessary delays and to identify the costs and losses associated to these delays. Member State competent authorities generally reported fewer problems with the poultry meat standards than business stakeholders. For some authorities, there are some problems in the implementation of the standards on water absorption in poultry meat, which have already been assessed in previous studies by the Commission and do not relate to the control system as such. Although detailed data on various aspects of enforcement (beyond those that Member States send to the Commission to comply with the foreseen reporting requirements) are not always centrally collated by the authorities, relatively few Member States identified some opportunities for simplification of the official checks performed under Regulation (EC) No 543/2008; these were mainly in relation to the controls on water absorption in poultry meat³³⁰.

fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk.

³³⁰ In terms of simplification, one consulted CA explained that the frequency of water content controls could be reduced; another CA suggested that an output-based system could be introduced, which would entail a single 5% legal limit for water content without being prescriptive in terms of method used. Air chilled carcasses and cuts would not need to be checked because this chilling method (used without a moistening system) does not add water.

In all the other sectors, the potential for simplification was found to be limited³³¹, given the relatively low costs of compliance with EU marketing standards (except in the olive oil sector) and the fact that respondents did not identify any overlaps/redundancies in the provisions that might lead to unnecessary costs. In particular, limited potential for simplification was identified for: the certification procedure for hops; and the marketing standards for fresh fruit and vegetables and olive oil.

In the light of the findings presented above, **the overall judgment about the efficiency of EU marketing standards**, i.e. the proportionality of costs versus benefits for the various stakeholders affected by the standards (producers, processors, intermediate operators/traders, retailers, competent authorities, final consumers) **is positive**. Nonetheless, a limitation may be that consumers were found not to be really aware of marketing standards and of their benefits: this may limit the robustness of the assessment of the proportionality of costs versus benefits of EU marketing standards from a consumer standpoint. **The potential for simplification was found to be limited** (including the certification procedure for hops; and the marketing standards for fresh fruit and vegetables and olive oil), except in the case of the standards on water absorption in poultry meat, where some potential in that respect was identified³³².

18.3 Conclusions on Theme III - relevance

The relevance of EU marketing standards can be defined as the extent to which EU marketing standards are pertinent to needs, problems and issues identified by stakeholders.

The assessment revealed that **stakeholders** (operators, consumers and competent authorities) generally deem that **the objectives of EU marketing standards respond to the originally identified needs, problems and issues** (see § 11.1). A specific assessment made under EQ 6.1 (see § 11.3) found that **provisions on minimal sugar content in jams and the possibility for Member States to make derogations in that respect** (Directive 2001/113/EC) have allowed to achieve a **satisfactory balance between consumer interest in assuring product preservation and the need to consider national specificities**, also with respect to policy priorities in terms of promoting healthier diets (low-sugar jams).

However, a significant minority of consulted stakeholders identified **significant limitations of EU marketing standards in addressing the needs, problems and issues of stakeholders in practice**. The most significant limitations in terms of relevance of EU marketing standards highlighted by **competent authorities** were related to non-homogeneous and sometimes inconsistent approaches to the implementation/enforcement of EU marketing standards at national level. The concrete example most frequently made by the consulted CAs is the already mentioned issue of non-homogeneous enforcement at Member State level of the list of national exemptions from the prohibition to use protected dairy terms for the marketing of non-dairy products (EU Commission Decision 2010/791/EU of 20 December 2010). The issue is discussed in more detail below.

A limitation highlighted by stakeholders representing the interests of **consumers** is the absence of mandatory origin labelling in EU marketing standards for a number of products, and/or insufficient detail of the information about origin required by EU marketing standards (consumer associations attach particular importance to the provision of information on the origin of products to consumers). However, the assessment under EQ 1 (see § 6.2) concluded that the perception of the absence of generalised mandatory origin labelling in EU marketing standards as a serious limitation is questionable: origin labelling is already mandatory for several products covered by EU marketing standards (e.g. fresh fruit and vegetables, virgin olive oils, meats of

³³¹ It should be noted that no significant potential for simplification was identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

³³² The Commission has carried out two studies into the processing technologies used and the absorption of water in poultry meat; issues around these are dealt with comprehensively in these reports: 1) *The Study of physiological water content of poultry reared in the EU* (LGC, 2012), 2) *The Study on state of play of processing technologies and the absorption of water in poultry meat* (LGC, 2016). However, those studies were not concerned with simplification *per se*.

sheep, goat, swine, poultry, beef meat), and empirical evidence suggests that consumers are generally reluctant to cover the additional costs related to origin labelling schemes.

The judgment expressed by the consulted stakeholders was **less positive** with respect to the **relevance of EU marketing standards** in responding to **new needs, problems and issues emerged after their setting**.

The most significant **limitations** highlighted by **competent authorities** in that respect concern:

- The capacity of EU marketing standards to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation. The most significant concrete examples made by some of the consulted national competent authorities concern EU marketing standards for poultry meat and olive oils, and are discussed in more detail below.
- The capacity of addressing potential side effects of EU marketing standards in terms of food waste: this issue is discussed in detail at § 12.1 in the framework of the assessment under EQ 7, dealing with unintended/unexpected effects of EU marketing standards.

A number of **sector-specific limitations in terms of relevance of EU marketing standards** also emerged from the assessment. These affect the following sectors³³³, and are related to the following aspects:

- **Fruit juices sector:** the assessment (see § 11.2) identified an issue related to labelling provisions concerning fruit juices under Directive 2001/112/EC, as amended by Directive 2012/12/EU. The 2012 amendment established – among others - that the addition of sugars to fruit juices was not (longer) allowed, mainly to follow the evolution of consumer preferences and to respond to emerging trends towards a healthier diet. After 28 October 2016³³⁴, putting on a fruit juice pack the “no added sugar, in line with the legislation” statement, or similar statements referring to the fact that all fruit juices do not contain added sugar, is no longer permitted. However, the fact that competing beverages, such as juice containing drinks, are still allowed to use the claim “with no added sugar” may create confusion among consumers, and may result in unfair competition.
- **Poultry meat sector:** it emerged from a specific assessment made in the framework of EQ 6.2 (see § 11.4) that provisions on water content³³⁵ and alternative production systems³³⁶ could be updated to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation. A specific assessment made in the framework of EQ 6.3 (see § 11.5) revealed some perceived limitations of the definition of *foie gras* in preventing fraudulent practices, which derive from the absence of a harmonised definition for processed *foie gras* (France is alone in having a national definition). However, introducing such a definition would be contentious given the opposition from some NGOs to the production of *foie gras* using gavage (force-feeding). The proportionality of introducing a definition for processed *foie gras* could also be questioned when only five Member States produce *foie gras*, although it is consumed more widely.

³³³ It should be noted that no significant issues in terms of relevance were identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

³³⁴ The transitional measures under Article 3 of Directive 2012/12/EU established that the statement “from 28 October 2015 no fruit juices contain added sugars” could appear on the label until 28 October 2016, to inform consumers about the exclusion of added sugars from the list of authorised ingredients.

³³⁵ According to one consulted EU-level sectoral association, the scope and requirements of EU marketing standards for poultry meat would need to adapt further to the evolution of genetics, as well as to that of animal feeding solutions. Poultry genetics have evolved since EU marketing standards were established: this translates into problems for water content control of poultry meat. Animals of recent poultry strains hold more water than 15 or 20 years ago.

³³⁶ A consulted EU-level sectoral association suggested that the age of chickens at slaughter in the different farming systems could be lowered; for instance, the age of slaughter of free range chickens could be lowered from the current 56 to 50 days, to follow the evolution of genetics and rearing techniques. It also observed that more flexibility would be needed on the aspects being labelled, to follow technological innovation in the sector and the evolution of consumer preferences: for instance, the possibility of labelling chickens produced using electricity coming from solar panels as “environmentally friendly poultry production” should be considered.

- **Dairy sector:** Two main issues emerged from a specific assessment made in the framework of EQ 6.4 (see § 11.6). Improper use of protected dairy terms such as “milk”, “butter” and “cheese” in the marketing of plant-based substitutes for dairy products was found to cause issues in terms of unfair trading practices and provision of misleading information to consumers. Even if no evidence is available to quantify the extent of those implications, the views of the consulted stakeholders on the issue are generally aligned. The potential implications of the absence of an EU definition of cheese for stakeholders were found to be more disputed: differently from the previous issue, the views of stakeholders are not aligned on the matter (the views of the consulted CAs are especially divided). The analysis of the state of play concerning national legislation-based definitions of cheese in the EU (see § 2.3) revealed significant differences especially in the definition of the raw materials from which cheese can be made, and of the ingredients that can be used in its production. The assessment identified a potentially crucial aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production³³⁷.
- **Olive oil sector:** the most significant limitations emerged from the assessment are related to: organoleptic assessment³³⁸ and the lack of uniformity of results deriving from tasting panels; excessive number of quality parameters that must be determined; redundant information on labels; relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils³³⁹. An assessment made in the framework of EQ 6.5 (see § 11.7) also revealed significant limitations of the different categories of olive oils defined by Member States in reflecting the needs of the market³⁴⁰.

Based on the findings presented above, it can be concluded that the **current framework establishing EU marketing standards generally corresponds to the actual needs of stakeholders**, with **some limitations** mainly deriving from non-homogenous enforcement/implementation of marketing standards at national level.

By contrast, the current framework is affected:

- by **more significant limitations in addressing new needs, problems and issues of stakeholders emerged after the setting of marketing standards**, especially for what concerns the capacity to follow the evolution of technology, marketing strategies and consumer preferences without impeding innovation, and the capacity of addressing potential side effects of EU marketing standards in terms of food waste;
- by a number of sector-specific limitations affecting the fruit juices, poultry meat, dairy and olive oil sectors.

³³⁷ This practice is neither explicitly prohibited nor explicitly allowed in most cheese-producing Member States that have a national definition of cheese in place (and also in the Codex General Standard for cheese), whereas use of reconstituted dried milk for cheese production is explicitly prohibited in Italy (the use of reconstituted dried milk and of concentrated milk for cheese production is explicitly allowed in the United Kingdom). According to a consulted Italian sectoral association, the prohibition determines a competitive disadvantage for Italian cheese producers on the domestic market, and has negative implications in terms of level playing field. Whereas Italian operators cannot produce cheese from reconstituted milk powder, operators in other Member States are allowed to do that, and can lawfully market their products on the Italian market.

³³⁸ Besides the alleged subjectivity of the method in the views of some consulted sectoral associations, according to one of the consulted sectoral associations tasting panels have shown clear limitations in addressing technological evolution in fraudulent practices. For instance, tasting panels are usually unable to detect deodorised oils marketed as extra virgin olive oils. According to that association, organoleptic assessment should be combined with traceability systems and with other analytical methods that technological innovation may offer in the future to effectively address more and more sophisticated fraudulent practices in the marketing of olive oils.

³³⁹ According to one of the consulted sectoral associations, the set would not fully cover the extremely rich variety of scents and flavours of virgin olive oils, and also includes attributes (“bitter” and “pungent”) that are often not appreciated by consumers.

³⁴⁰ A consulted business association observed that the adaptation of the categories of olive oil to follow the evolution of market needs is of paramount importance, also considering that large volumes of marketed extra virgin olive oils in certain Member States (and especially in Italy) meet much more demanding quality requirements than the minimum ones.

18.4 Conclusions on Theme IV - coherence

The evaluation investigated different aspects of the coherence of EU marketing standards.

The assessment under EQ 7 (see § 12) identified **very few and inconclusive practical cases of unintended/unexpected effects of EU marketing standards**. All those cases were found to be sector-specific: no cross-sectoral unintended/unexpected effects of EU marketing standards were identified. Furthermore, all the identified cases of unintended/unexpected effects of EU marketing standards were found to be rather controversial³⁴¹. It is important to note that the assessment **did not identify any significant practical cases of “deadweight”**³⁴² (see § 12.4): this is in line with the conclusions on effectiveness (see § 18.1), where EU marketing standards were found to have significantly contributed to improve product quality in the interest of producers, traders and consumers.

The assessment under EQ 8 (see § 13) found that the **degree of internal coherence of EU marketing standards perceived by both business stakeholders and national competent authorities is high**. Internal coherence can be defined as the extent to which EU marketing standards have non-conflicting objectives. The general objectives of EU marketing standards are generally perceived by stakeholders as consistent with each other, and there is a widespread similar perception also about the consistency of the operational objectives of EU marketing standards within each covered sector. Very few among the consulted stakeholders identified specific issues in terms of internal coherence³⁴³. It can hence be concluded that **the various instruments of EU marketing standards are coherent with each other**.

The assessment under EQ 9 (see § 14) focused on the **external coherence of EU marketing standards vis-à-vis other relevant EU rules covering food safety, animal health, provision of food information to consumers, geographical indications and organic products**. The external coherence of EU marketing standards can be defined as the extent to which the standards do not contradict those rules, which have similar objectives. The most significant issue identified in the assessment³⁴⁴ is a “cross-sectoral” one related to the **combination in EU marketing standards of requirements that are related to product quality, to food safety** (e.g. those concerning storage temperatures, or minimum durability (best before) date for eggs) **and to provision of food information to consumers** (requirements concerning labelling of products). Some consulted national competent authorities deem that such combination may result in some overlaps and inconsistencies, and may pose challenges for enforcement and controlling activities. Those stakeholders would hence welcome EU

³⁴¹ For instance, increased food waste volumes for eggs at packing centres, retail outlets and at home were related by some consulted national competent authorities especially to the provisions on sell-by date (Regulation (EC) No 853/2004) and also to the ones on minimum durability of eggs (Article 13 of Regulation (EC) No 589/2008). However, no consulted CA provided any quantitative evidence on the volumes of food waste that can be related to EU marketing standards for eggs. By contrast, business stakeholders did not see clear linkages between the aforementioned effect and EU marketing standards for eggs. The reviewed literature (see for instance: Vittuari et al. (2015), *Review of EU Member States legislation and policies with implications on food waste*, FUSIONS project report, Department of Agricultural and Food Sciences, University of Bologna; ICF (2018), *Market study on date marking and other information provided on food labels and food waste prevention – Final Report*, funded by the European Commission, Directorate-General for Health and Food Safety) suggests that there is a linkage between increased waste and date marking in the case of eggs, even if the underlying reasoning is not backed by specific concrete evidence.

³⁴² “Deadweight”: effects that would have arisen even if the intervention – i.e. the establishment of EU marketing standards - had not taken place.

³⁴³ Two consulted CAs hinted at the following potential issues, without however providing concrete evidence: i) possible limitations to innovative production and/or marketing practices, or to new product typologies deriving from EU marketing standards, which would be in conflict with the objective of contributing to the improvement of the economic conditions for the production and marketing of agricultural products, as well as to the improvement of their quality; ii) the challenge of meeting consumers’ expectations while also facilitating trading, since consumers and business operators can have conflicting preferences in terms of, for instance, information on the origin of products/ingredients.

³⁴⁴ A few sector-specific (and relatively minor) consistency issues were also identified. In the poultry and eggs sectors, the assessment identified an inconsistency concerning the requirements for marketing poultry and eggs as “free range” or “organic” following compliance with EU legislation aimed at addressing outbreaks of avian influenza. In addition, the assessment found that it may sometimes be difficult for certain types of GI and organic fresh fruit and vegetables to comply with the minimum quality and/or size requirements set out by the relevant EU marketing standards.

marketing standards exclusively focused on quality requirements, whereas safety-related and information-related provisions should be included in the relevant EU legislation bodies.

EQ 10 assessed the external coherence of EU marketing standards with international marketing standards (see § 15.1) and with private marketing standards (see § 15.2). The EU and its Member States have contributed to the development of international marketing standards within the Codex Alimentarius Commission, the United Nations Economic Commission for Europe (UNECE) and the International Olive Council (IOC). That contribution has helped to ensure the **consistency of EU marketing standards with international marketing standards**, which pursue general objectives that are similar to the ones pursued by EU standards³⁴⁵. The main difference lies in the nature of the standards: EU ones are compulsory, international ones are voluntary. As for **private standards**, the ones with the widest uptake in the EU³⁴⁶ mainly **pursue different objectives than those pursued by EU marketing standards** (even if they have implications also for the marketing of agricultural and food products). In principle, any private standard cannot derogate from compliance with the applicable EU and national legislation: this should automatically ensure **consistency between EU marketing standards and private marketing standards**. However, uptake of private standards is always voluntary, and **private standards can set more demanding requirements than EU marketing standards**.

In the light of the findings presented above, and also taking into account that EU marketing standards have caused very few (and rather controversial) practical cases of unintended/unexpected effects, and no significant practical cases of “deadweight”, the **overall judgment on the internal and external coherence of EU marketing standards is positive**³⁴⁷. The only significant cross-sectoral issue emerged from the assessment concerns the combination in EU marketing standards of requirements that are related to product quality, to food safety and to provision of food information to consumers: according to some consulted national competent authorities, such combination may result in some overlaps and inconsistencies, and may pose challenges for enforcement and controlling activities.

18.5 Conclusions on Theme V – EU added value

The assessment under EQ 11 (see § 16.1) revealed that most stakeholders deem that **separate EU marketing standards are justifiable and provide added value with respect to international marketing standards**. The main **strengths of EU marketing standards** vis-à-vis international ones were identified in:

1. The mandatory nature of EU marketing standards, which ensures a homogeneous level of consumer protection, fair trading practices and a level playing field for operators within the EU market.
2. The fact that the objectives and the requirements of EU marketing standards have been tailored to the specific needs of the EU market, and have often been adapted to their evolution.

Most of the consulted business stakeholders and national competent authorities also deem that **separate EU marketing standards are justifiable and provide added value with respect to the applicable private marketing standards** (see § 16.2)³⁴⁸. The main **strengths of EU marketing standards** vis-à-vis private ones are:

³⁴⁵ However, certain general and operational objectives of EU marketing standards may be more ambitious than those of international marketing standards, since the former aim at addressing needs that are specific to the EU, or anyway to an advanced food production, distribution and consumption model, such as ensuring a high level of consumer protection, or a level playing field for operators within the EU market.

³⁴⁶ As described at § 1.3.2.

³⁴⁷ It should be noted that no significant issues in terms of coherence were identified for EU marketing standards for the following products covered by the evaluation (see § 2): table olives; bananas; live plants; spreadable fats intended for human consumption; hatching eggs and poultry chicks; coffee and chicory extracts; cocoa and chocolate products; sugars intended for human consumption; dehydrated milk; honey.

³⁴⁸ It should be noted that the private standards with the widest diffusion in the EU (i.e. those described at § 1.3.2) are often based on requirements concerning the means (practices, procedures, organisational solutions, resources, etc.) to be used by operators in their production, storage and marketing activities. By contrast, EU marketing standards mainly set requirements

1. The mandatory nature of EU marketing standards versus the voluntary nature of private ones. A homogeneous level of consumer protection, fair trading practices and a level playing field for operators within the EU market would not be ensured through sole reliance on voluntary private standards.
2. The fact that EU marketing standards establish requirements that must be complied with across the EU, and that those minimum requirements are already set on relatively high standards for many products. From a farmer's or processor's perspective, this leaves less room for the so called "quality gold plating" strategies³⁴⁹ pursued by large-scale retailers. Since most of the added value generated by those strategies goes to retailers, EU marketing standards contribute to a fairer allocation of added value among the different stages of the supply chain.

No significant weaknesses of EU marketing standards vis-à-vis international and private marketing standards emerged from the assessment.

Even with some limitations deriving from the limited awareness among stakeholders of the relevant topics for the assessment under EQ 12, the **main potential advantages stemming from the establishment of EU marketing standards for the sectors/products currently not covered** were identified in the **opportunities for tackling unaddressed needs** (see § 17.2), and in **increased benefits for stakeholders** (see § 17.3). The most significant cross-sectoral advantages were identified by the consulted stakeholders in: improved market access for producers; improved transparency on the market; promotion of intra-EU trade in the products concerned stemming from harmonisation of non-homogeneous national legislation (i.e. removal of technical barriers to trade); definition of minimum quality standards for the products concerned, to the benefit of both consumers and business stakeholders; contribution to improved average quality of the products concerned; provision of improved and more homogeneous information on the concerned products to consumers. The result of a specific assessment focusing on the absence of an EU definition for **cider**³⁵⁰ (see § 17.5), as well as the main findings of a Focus Group carried out with selected sectoral representatives, supported the above conclusions, based on the concrete benefits derived from the introduction of EU marketing standards for – among others - fresh fruit and vegetables, jams, fruit juices, poultry, milk and dairy products. Focus Group participants also noted that EU marketing standards for those products provided an important baseline for other legislation, as well as higher quality specifications. By contrast, Focus Group participants noted that in some sectors with a strong history of self-regulation such as **potatoes**³⁵¹ (**fresh and for processing**; see § 17.6) there would be **no need for the introduction of legislation-based EU marketing standards**. Similarly in other sectors such as **fruit spreads and processed fruit and vegetables** there would be **no need for EU marketing standards** as the specificities of these markets and consumer needs are fully addressed by the various private systems in operation.

concerning results, i.e. quality parameters to be met in products and specific information items to be provided about the products.

³⁴⁹ imposition of particularly demanding quality requirements in the retailers' own private standards. Farmers and processors bear the often significant compliance costs with those standards.

³⁵⁰ The consulted business stakeholders deem that the development of an EU definition for cider would respond to unaddressed needs in terms of more homogeneous levels of consumer protection, more level playing field and removal of barriers to intra-EU trade. The Focus Group discussion specified that the key element of a standard would be the confirmation that to be called "cider" or "perry", the product needs be derived from apples or pears "by fermentation only": this issue was not contentious. A "light" marketing standard established through EU legislation was hence considered to be relatively easily achievable; however, the issue of the minimum content of apple (pear) juice in the product called "cider" ("perry") was found to be more complex to address, due to the differing national standards in this regard.

³⁵¹ A specific analysis of self-regulation in the potato sector (see § 17.6) revealed that voluntary rules concerning professional practices in potato trading, known as the Rules & Practices of the Inter-European Trade in Potatoes (RUCIP), were first defined already in 1956. Besides the RUCIP, operators in the EU potato sector can also refer to the international voluntary marketing standard for early and ware potatoes established by UNECE in 2006, and last revised in 2011. The operators of the EU potato sector generally consider the RUCIP and the UNECE voluntary standards to be effective and adequate for addressing the needs of the market; on that grounds, they have historically opposed any attempt at establishing mandatory marketing standards for potatoes through EU legislation.

As for **possible development of an EU definition of cheese**, a consulted EU-level sectoral association deemed that it would address the potentially negative implications of different definitions applying at Member State level³⁵². However, the assessment under EQ 6.4 (see § 11.6.3) revealed divided views of the consulted national competent authorities on whether the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector³⁵³. The analysis of the state of play concerning differences in national legislation-based definitions of cheese (see § 2.3 and § 11.6.3) identified a potentially important aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production³⁵⁴. According to the consulted business stakeholders, and in line with the outcomes of the discussion in the Focus Group, the process of developing an EU definition of cheese (beyond the one deriving from the protected definitions, designations and sales descriptions for dairy products) should take the Codex General Standard for cheese (see § 1.3.1 and § 2.3) as a basis³⁵⁵. However, according to the consulted business stakeholders, the elaboration of an EU definition of cheese would be a challenging task, mainly due to the aforementioned differences in the relevant national legislation, while it can be argued that Member States would probably ask for derogations in order to keep some flexibility with respect to special ingredients currently included in their national definitions of cheese.

18.6 Overall conclusions

The evaluation concluded that **EU marketing standards have generally been effective in achieving their intended objectives**, and **have not caused significant unintended/unexpected effects** (including “deadweight”). A partial exception is the replacement of specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard, whose implications in terms of effectiveness are controversial in the eye of stakeholders: however, no adverse effects on intra-EU trade and price volatility of the concerned products were observed.

The overall judgment about the efficiency of EU marketing standards³⁵⁶ emerged from the assessment is **equally positive**. Nonetheless, a limitation may be that consumers were found not to be really aware of marketing standards and of their benefits: this may limit the robustness of the assessment of the proportionality of costs versus benefits of EU marketing standards from a consumer standpoint. The evaluation found that the **potential for simplification of EU marketing standards** (including the certification procedure for hops and the marketing standards for fresh fruit and vegetables and olive oil) **is generally**

³⁵² According to one of the consulted associations, the negative implications of differences in the national legislation-based definitions of cheese would be especially related to a non-level playing field for operators of different Member States, and to possible creation of technical barriers to intra-EU trade that could negatively affect the functioning of the Common Market. According to that association, the development of an EU definition of cheese would contribute to the improvement of the economic conditions for production and marketing of cheese, and also to the improvement in the average quality of cheese marketed in the EU. It may also contribute to more homogeneous levels of protection for consumers of cheese produced in the EU.

³⁵³ 9 CAs deem that such absence has left some specific sectoral needs unaddressed, whereas 9 other CAs deem the contrary.

³⁵⁴ The use of reconstituted dried milk for cheese production is explicitly prohibited by the Italian legislation, whereas it is allowed in other Member States. Since imported cheese produced from reconstituted dried milk can be lawfully marketed in Italy, the situation would determine – according to the consulted Italian sectoral association - a competitive disadvantage for Italian cheese producers on the domestic market for the concerned cheese types, with negative implications in terms of level playing field.

³⁵⁵ In that respect, it should be considered that several legislation-based definitions of cheese currently in force in the most significant cheese-producing Member States (see § 2.3) are rather similar to the one provided by the Codex, at least for what concerns the production process (less so for what concerns the raw materials to be used for cheese production and the allowed ingredients).

³⁵⁶ i.e. the proportionality of costs versus benefits for the various stakeholders affected by the standards (producers, processors, intermediate operators/traders, retailers, competent authorities, final consumers).

limited, except in the case of the standards on water absorption in poultry meat, where some potential in that respect was identified³⁵⁷.

Equally positive is the judgment on the coherence of EU marketing standards, both within the related regulatory framework (internal coherence) and vis-à-vis other EU rules that are relevant for production and marketing of agricultural and food products, and vis-à-vis international and private marketing standards (external coherence). The only significant cross-sectoral issue was identified in the **combination in EU marketing standards of requirements that are related to product quality, to food safety and to provision of food information to consumers**: according to some consulted national competent authorities, such combination may result in some overlaps and inconsistencies, and may pose challenges for enforcement and controlling activities.

EU marketing standards were found to provide **significant added value vis-à-vis international and private marketing standards**, mainly stemming from their mandatory nature (the related requirements must be complied with across the EU), from requirements tailored to the specific operational and market situation of the EU, and from the fact that the minimum quality requirements set by EU marketing standards for many products are already rather demanding. The **main potential advantages stemming from the establishment of EU marketing standards for the sectors/products currently not covered** were identified in the **opportunities for tackling unaddressed needs**, and in **increased benefits for stakeholders**³⁵⁸. This view specifically in relation to **cider** was reinforced and confirmed by the Focus Group discussion, which also noted how beneficial the introduction of EU marketing standards had been in a range of sectors now covered by such standards. By contrast, no perceived need to develop EU marketing standards emerged from the Focus Group discussion for such products as potatoes (fresh and for processing), fruit spreads and processed fruit and vegetables. As for the **possible development of an EU definition of cheese**, a consulted EU-level sectoral association deemed that it would address the potentially negative implications of different definitions applying at Member State level³⁵⁹; however, the views of the consulted national competent authorities on whether the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector are divided. In any case, according to the consulted business stakeholders, the elaboration of an EU definition of cheese would be a challenging task, mainly due to the aforementioned differences in the relevant national legislation, while it can be argued that Member States would probably ask for derogations in order to keep some flexibility with respect to special ingredients currently included in their national definitions of cheese.

The evaluation concluded that **there is some room for improving EU marketing standards in terms of relevance**. Even if **EU marketing standards are generally pertinent to the original needs identified by stakeholders**, their **capacity to address to address new needs, problems and issues of stakeholders emerged after their setting could be improved**. In particular, the assessment identified some limitations of EU marketing standards in following the evolution of technology, marketing strategies and consumer preferences without impeding innovation, in addressing potential side effects in terms of food waste in certain sectors

³⁵⁷ The Commission has carried out two studies into the processing technologies used and the absorption of water in poultry meat; issues around these are dealt with comprehensively in these reports: 1) *The Study of physiological water content of poultry reared in the EU* (LGC, 2012), 2) *The Study on state of play of processing technologies and the absorption of water in poultry meat* (LGC, 2016). However, those studies were not concerned with simplification *per se*.

³⁵⁸ More specifically: improved market access for producers; improved transparency on the market; promotion of intra-EU trade in the products concerned stemming from harmonisation of non-homogeneous national legislation (i.e. removal of technical barriers to trade); definition of minimum quality standards for the products concerned, to the benefit of both consumers and business stakeholders; contribution to improved average quality of the products concerned; provision of improved and more homogeneous information on the concerned products to consumers.

³⁵⁹ According to the consulted business stakeholders, and in line with the outcomes of the discussion in the Focus Group, the process of developing an EU definition of cheese (beyond the one deriving from the protected definitions, designations and sales descriptions for dairy products) should take the Codex General Standard for cheese as a basis. Indeed, several legislation-based definitions of cheese currently in force in the most significant cheese-producing Member States are rather similar to the one provided by the Codex, at least for what concerns the production process (less so for what concerns the raw materials to be used for cheese production and the allowed ingredients).

(eggs and fresh fruit and vegetables), as well as a number of sector-specific limitations affecting the fruit juices, poultry meat, dairy and olive oil sectors.

18.7 Recommendations

The following recommendations are aimed at addressing the **most significant limitations of EU marketing standards** emerged from the assessment, which concern their **effectiveness, relevance and coherence**. A recommendation concerning **possible development of EU marketing standards for sectors/products currently not covered** is also formulated.

Recommendations aimed at improving the effectiveness and relevance of marketing standards

1. Sectoral associations and several Member State competent authorities highlighted the issue of **improper use of protected dairy terms** (e.g. milk, butter, cheese, yogurt) **for marketing plant-based substitutes for dairy products**. The issue was found to derive from a non-homogenous enforcement at Member State level of the list of national exemptions (EU Commission Decision 2010/791/EU of 20 December 2010) from the prohibition to use protected dairy terms for the marketing of non-dairy products. The assessment found that the issue has implications in terms of effectiveness – for what concerns consumer protection (see § 6.2) and fair competition and level playing field for operators (see § 7.3) – and in terms of relevance (see § 11.6). However, **no evidence allowing to appreciate the actual magnitude of the economic implications of those marketing practices for the dairy sector** (e.g. in terms of erosion of market shares of the affected dairy products by the concerned plant-based products) **could be retrieved**. A **deeper investigation on the nature and extent of the implications of the issue for both consumers and business stakeholders is hence recommended**, with a view to understanding whether some regulatory adjustments should be made.
2. The assessment revealed some **sector-specific limitations of EU marketing standards in following the evolution of technology, marketing strategies and consumer preferences without impeding innovation**. More specifically:
 - a. In the **poultry meat** sector, it emerged from a specific assessment (see § 11.4) that provisions on water content³⁶⁰ and alternative production systems³⁶¹ could be updated to follow the evolution of technology, marketing strategies and consumer preferences.
 - b. In the **olive oil sector**, the assessment identified limitations related to (see § 11.1 and 11.2): organoleptic assessment³⁶²; the relatively limited set of positive attributes that can be

³⁶⁰ According to one consulted EU-level sectoral association, the scope and requirements of EU marketing standards for poultry meat would need to adapt further to the evolution of genetics, as well as to that of animal feeding solutions. Poultry genetics have evolved since EU marketing standards were established: this translates into problems for water content control of poultry meat. Animals of recent poultry strains hold more water than 15 or 20 years ago.

³⁶¹ A consulted EU-level sectoral association suggested that the age of chickens at slaughter in the different farming systems could be lowered; for instance, the age of slaughter of free range chickens could be lowered from the current 56 to 50 days, to follow the evolution of genetics and rearing techniques. A consulted EU-level sectoral association observed that more flexibility would be needed on the aspects being labelled, to follow technological innovation in the sector and the evolution of consumer preferences: for instance, the possibility of labelling chickens produced using electricity coming from solar panels as “environmentally friendly poultry production” should be considered.

³⁶² Besides the alleged subjectivity of the method in the views of some consulted sectoral associations, according to one of the consulted sectoral associations tasting panels have shown clear limitations in addressing technological evolution in fraudulent practices. For instance, tasting panels are usually unable to detect deodorised oils marketed as extra virgin olive oils. According to that association, organoleptic assessment should be combined with traceability systems and with other analytical methods that technological innovation may offer in the future to effectively address more and more sophisticated fraudulent practices in the marketing of olive oils.

optionally reported on labels for virgin olive oils³⁶³. Furthermore, a specific assessment made in the framework of EQ 6.5 (see § 11.7) also revealed significant limitations of the different categories of olive oils defined by Member States in reflecting the needs of the market³⁶⁴.

Also considering that sectoral stakeholders have made (or are elaborating) concrete proposals in that respect, it is recommended to **consider whether the aforementioned provisions should be updated**.

3. The assessment revealed that **consumer organisations, and even more so consumers, have limited awareness of EU marketing standards** (see § 6.2). This implies that any effort for improving awareness of EU marketing standards among consumer associations and consumers, in order to involve them more actively in the related policy-making process, can contribute to a better adaptation of the provisions in EU marketing standards targeting consumers and business-to-consumer relationships to the needs of the consumers themselves. In practical terms, this would entail the **organisation of events (workshops, seminars) dealing with the role of EU marketing standards in the framework of the CAP and of EU food policy**, and the **elaboration and dissemination of informative material on the topic in a language accessible to a wider, non-specialist audience**, such as the representatives of consumer associations and individual consumers.

Efficiency of marketing standards

The evaluation did not identify any significant limitations of EU marketing standards in terms of efficiency (see § 9.5): the assessment found that the current cost of compliance to EU marketing standards incurred by operators is justifiable, i.e. proportionate to the results achieved, and that EU marketing standards contribute important benefits that by far outweigh the costs involved. Some potential for simplification of EU marketing standards was identified mainly by business stakeholders (associations and individual operators) in the poultry and eggs sectors (see § 10.4.3). In the poultry sector in particular, the implementation of Commission Regulation (EC) No 543/2008 is said to lead to unnecessary delays in placing poultry meat products on the market. However, competent authorities and business stakeholders were unable to identify the costs and losses associated to these delays. In all other sectors, the potential for simplification was found to be limited. In the absence of concrete evidence on the extent of the potential benefits from addressing the issues that may be related to the standards on water absorption in poultry meat under Commission Regulation (EC) No 543/2008, the evaluation team sees no scope for the elaboration of a specific recommendation.

Recommendations aimed at improving the coherence of marketing standards

4. The most significant issue in terms of coherence identified in the assessment (see § 14) is related to the **combination in EU marketing standards of requirements that are related to product quality, to food safety** (e.g. those concerning storage temperatures, or minimum durability (best before) date for eggs) **and to provision of food information to consumers** (requirements concerning labelling of products). A possible solution to this issue may be to **enhance the efforts in clarifying to the concerned competent authorities the hierarchical relationship among the concerned provisions in the three legislation bodies** (marketing standards, food safety, provision of food information to consumers). In practical terms, this would entail the **organisation of**

³⁶³ According to one of the consulted sectoral associations, the set would not fully cover the extremely rich variety of scents and flavours of virgin olive oils, and also includes attributes (“bitter” and “pungent”) that are often not appreciated by consumers.

³⁶⁴ A consulted business association observed that the adaptation of the categories of olive oil to follow the evolution of market needs is of paramount importance, also considering that large volumes of marketed extra virgin olive oils in certain Member States (and especially in Italy) meet much more demanding quality requirements than the minimum ones.

events (workshops, seminars) to provide the needed clarifications to national competent authorities.

5. The assessment identified potential implications of EU marketing standards for eggs and fresh fruit and vegetables in terms of increased losses and waste (see § 12.1). More specifically:
 - **Increased food waste volumes for eggs** at packing centres, retail outlets and at home were related by some consulted national competent authorities especially to provisions on sell-by date (Regulation (EC) No 853/2004), and also to those on minimum durability of eggs (Article 13 of Regulation (EC) No 589/2008). However, no consulted CA provided any quantitative evidence on the volumes of food waste that can be related to EU marketing standards for eggs. By contrast, business stakeholders did not see clear linkages between the aforementioned effect and EU marketing standards for eggs. The reviewed literature³⁶⁵ suggests that there is a linkage between increased waste and date marking in the case of eggs, even if the underlying reasoning is not backed by specific concrete evidence.
 - As for the potential implications in terms of increased waste stemming from **“aesthetic requirements”** (concerning colour, shape, size, grading) set out in the remaining **10 product-specific EU marketing standards for fresh fruit and vegetables**, whereas the consulted business stakeholders did not identify any negative implications, the reviewed literature suggests a linkage between increased waste and “aesthetic requirements”, even if very limited concrete evidence is available to substantiate the underlying reasoning. By contrast, some consulted CAs and some studies³⁶⁶ suggest that **EU marketing standards for fresh fruit and vegetables would instead contribute to reduced food waste and losses**, and that **most of the grading losses³⁶⁷ for fresh fruit and vegetables would derive from particularly demanding private standards**, rather than from EU marketing standards.

In the light of the **limited evidence available on unintended/unexpected effects** of the concerned provisions - and more in general **of EU marketing standards** - in terms of **increased (or reduced) food losses and waste**, any initiative aimed at **promoting empirical research on the matter would help to appreciate the actual nature, extent and severity of those effects**, with a view to understanding whether some regulatory adjustments should be made to address the issue.

Possible development of EU marketing standards for sectors/products currently not covered (EU added value)

6. Even with some limitations deriving from the limited awareness among the consulted stakeholders of the relevant topics, the evaluation identified the **main potential advantages stemming from the establishment of EU marketing standards for the sectors/products currently not covered** in the **opportunities for tackling unaddressed needs** (see § 17.2), and in **increased benefits for stakeholders** (see § 17.3). Whereas the views of the consulted stakeholders on the

³⁶⁵ See for instance: Vittuari et al. (2015), *Review of EU Member States legislation and policies with implications on food waste*, FUSIONS project report, Department of Agricultural and Food Sciences, University of Bologna; ICF (2018), *Market study on date marking and other information provided on food labels and food waste prevention – Final Report*, funded by the European Commission, Directorate-General for Health and Food Safety.

³⁶⁶ See for instance: WRAP (2011), *Fruit and vegetable resource maps - Mapping fruit and vegetable waste through the retail and wholesale supply chain*, Final Report, Waste & Resources Action Programme; Jordbruksverket (2014), *Why do we throw away edible fruit and vegetables?*, Rapport 2014:5 EN; AND International (2010), *Normes de commercialisation dans le secteur des fruits et légumes*, study carried out for the EU Commission DG Agriculture, September 2010.

³⁶⁷ Fruits and vegetables diverted to alternative outlets (e.g. processing) or disposed of in the grading phase because they do not meet quality requirements.

need to elaborate an EU harmonised definition of cheese were rather divided³⁶⁸ (see § 17.4), the case of **cider** (see § 17.5) was found to present a more favourable environment. The consulted business stakeholders deem that the **development of an EU definition for cider** (and pear cider/"perry") would respond to unaddressed needs in terms of more homogeneous levels of consumer protection, more level playing field and removal of barriers to intra-EU trade. A Focus Group discussion held for the purposes of the evaluation specified that **the key element of a standard would be the confirmation that to be called "cider" or "perry", the product needs be derived from apples or pears "by fermentation only"**: this issue was not contentious. A "light" marketing standard established through EU legislation was hence considered to be relatively easily achievable; however, the issue of the minimum content of apple (pear) juice in the product called "cider" ("perry") was found to be more complex to address, due to the differing national standards in this regard. Also considering that sectoral stakeholders have already undertaken initiatives aimed at elaborating a proposal for a harmonised EU definition of cider, it is deemed that any initiative aimed at **investigating more in depth the possible benefits of establishing such definition**, as well as at **promoting dialogue among the concerned stakeholders** (business operators and competent authorities) on the matter, would be beneficial.

³⁶⁸ Whereas a consulted EU-level sectoral association would welcome the establishment of a harmonised definition establishing the essential characteristics that would entitle a dairy product to be denominated "cheese", the consulted CAs were equally split (9 to 9) in two groups: one deeming that the absence of a harmonised EU definition of cheese has left some specific sectoral needs unaddressed, and one deeming the contrary.

ANNEXES

Annex 1: Summary document - Absence of an EU definition of cheese

1 Overview of marketing standards on dairy products

1.1 EU marketing standards

Whereas the references to “common quality standards” in Regulation (EEC) No 804/68 of the Council of 27 June 1968 (CMO for milk and milk products) were related to the functioning of the intervention system for certain dairy products³⁶⁹, Regulation (EEC) No 1411/71 of the Council of 29 June 1971 set out the framework for establishing quality standards for fresh milk and cream with a view to increasing the market for these products by providing a guarantee of quality and products that fulfil consumers’ needs and wishes.

The protection of certain designations used in the marketing of milk and milk products was introduced by Council Regulation (EEC) No 1898/87 of 2 July 1987. The protected designations listed in the Annex to Regulation (EEC) No 1898/87 are: whey; cream; butter; buttermilk; butteroil; caseins; anhydrous milkfat (AMF); cheese; yoghurt; *kephir*; *koumiss*; *villi – fil*; *smetana*; *fil*.

Council Regulation (EC) No 2991/94 of 5 December 1994 laid down definitions, sales descriptions and marketing standards for milk fats (butter and dairy spreads).

Detailed rules for the application of Regulation (EEC) 1898/87 and of Regulation (EC) No 2991/94 were laid down in Commission Regulation (EC) No 577/97 of 1 April 1997. This Regulation was substantially amended several times, and finally repealed by Commission Regulation (EC) No 445/2007 of 23 April 2007, which is currently in force. Regulation (EC) No 445/2007 establishes marketing standards for milk fats.

Council Regulation (EC) No 2597/97 of 18 December 1997 repealed Regulation (EEC) No 1411/71. Regulation (EC) No 2597/97 laid down marketing standards for milk, setting out: definitions; sales descriptions (raw milk, whole milk, semi-skimmed milk, skimmed milk); allowed modifications for drinking milk (e.g. enrichment with milk proteins, mineral salts or vitamins); quality standards for drinking milk.

Regulation (EC) No 1234/2007 (“single CMO Regulation”) established marketing standards for:

- Milk and milk products (Article 114; Annex XII on definitions and designations; Annex XIII on rules for marketing of milk for human consumption).
- Milk fats (Article 115; Annex XV on sales descriptions, labelling and presentation, terminology, relationship with national rules).

Finally, Regulation (EU) No 1308/2013 (“single CMO Regulation”) in its Article 78 states that, in addition, where relevant, to the applicable marketing standards, the definitions, designations and sales descriptions provided for in Annex VII shall apply to the following sectors or products: (...)

- Milk and milk products intended for human consumption (Annex VII, parts III and IV).
- Milk fats (Annex VII, part VII; Appendix II).

EU legislation reserves the use of certain definitions, designations and sales descriptions to the marketing of dairy products (the so called “reserved/protected dairy terms”). The first paragraph of point 5 of Annex VII, Part III of Regulation (EU) No 1308/2013 establishes that designations referred to in points 1, 2 and 3³⁷⁰ of

³⁶⁹ Butter, skimmed milk powder, Grana padano and Parmigiano Reggiano cheeses, casein.

³⁷⁰ *Point 1: “milk”. Point 2: “milk products”, which include the following: whey, cream, butter, buttermilk, butteroil, caseins, anhydrous milk fat (AMF), cheese, yogurt, kephir, koumiss, villi/fil, smetana, fil, rjaženka, rūgušpiens. Point 3 sets out specific provisions for composite products: “The term “milk” and the designations used for milk products may also be used in association with a word or words to designate composite products of which no part takes or is intended to take the place of any milk*

Annex VII, Part III may not be used for any product other than those referred to in that point. In addition, point 6 of Annex VII, Part III establishes that “in respect of a product other than those described in points 1, 2 and 3” (of Part III) “no label, commercial document, publicity material or any form of advertising as defined in Article 2 of Council Directive 2006/114/EC or any form of presentation may be used which claims, implies or suggests that the product is a dairy product”. Two exceptions to the aforementioned provisions are foreseen:

- According to point 5, second paragraph, the provision at the first paragraph of that point “shall not apply to the designation of products the exact nature of which is clear from traditional usage and/or when the designations are clearly used to describe a characteristic quality of the product”.
- According to point 6, second paragraph, “in respect of a product which contains milk or milk products, the designation ‘milk’ or” (the designations of milk products at the second subparagraph of point 2; see note 370) “may be used only to describe the basic raw materials and to list the ingredients in accordance with Directive 2000/13/EC or Regulation (EU) No 1169/2011”.

The exception at point 5, second paragraph has been further detailed by the Commission through the adoption of a list of exceptions laid down in EU Commission Decision 2010/791/EU of 20 December 2010. Annex I to Decision 2010/791/EU lists, for each Member State and in the relevant national languages, the terms exempted from the provision at the first paragraph of point 5 of Annex VII, Part III of Regulation (EU) No 1308/2013. Each exemption only applies for the Member State for which it is specified, and cannot be extended to other Member States.

The European Court of Justice repeatedly confirmed the legal protection of the definitions, designations and sales descriptions of milk and milk products in a number of court cases³⁷¹ concerning the use of the terms “cheese”, “butter” and “milk” for the marketing of plant-based substitutes for dairy products.

The evolution of marketing standards for dehydrated milk is outlined at § 1.2.8 of the main report in the framework of products covered by the “Breakfast Directives”.

1.2 International Marketing Standards

Codex Alimentarius Commission (CAC)³⁷²

The **Codex Alimentarius Commission** has established standards for agricultural and food products since its foundation in 1963. The Codex Alimentarius is a collection of internationally adopted food standards and related texts, aimed at protecting consumers’ health and at ensuring fair practices in food trade. Codex standards are voluntary, and are hence neither substitutes nor alternatives to mandatory legislation-based standards.

The **Codex Committee on Milk and Milk products (CCMMP)** elaborates worldwide standards, codes and related texts for milk and milk products. Codex standards cover a wide range of dairy products: besides the general standard for cheese (first issued in 1978), the Codex has issued specific standards for numerous types of cheese, for fermented milks, for butter, for cream and prepared creams, for milk, cream and whey powders, for dairy fat spreads, for edible casein products, etc. Table 0.1 provides an overview of the standards laid out by the CCMMP. The first standards were issued in the late 1960s; with the exception of the standard for dairy permeate powders (first issued in 2017), all the relevant standards listed in Table 0.1 were last modified in 2018.

constituent and of which milk or a milk product is an essential part either in terms of quantity or for characterisation of the product”.

³⁷¹ “Diät-Käse” (December 16, 1999; C-101/98); “Pomazánkové máslo” (May 12, 2015; T-51/14); “Tofu Town” (June 14, 2017; C-422/16).

³⁷² The following section is based on information retrieved in the CAC website: <http://www.fao.org/fao-who-codexalimentarius/home/en/>

Table 0.1 - Marketing standards for dairy products adopted by the CCMMP of the CAC

Year when the standards were first issued	Products covered by the standards
1966	Cheddar, Danbo, Edam, Gouda, Havarti, Samsø
1967	Emmental
1968	Tilsiter, Saint-Paulin, Provolone, Cottage Cheese
1969	Coulommiers
1971	Butter; evaporated milks; sweetened condensed milks; whey cheeses
1973	Cream cheese, Camembert, Brie; milkfat products
1976	Cream and prepared creams
1978	General standard for cheese; standard for extra hard grating cheese
1995	Whey powders; edible casein products
1999	Milk powders and cream powder; group standard for cheeses in brine
2001	Group standard for unripened cheese including fresh cheese
2003	Fermented milks
2006	Mozzarella; blend of evaporated skimmed milk and vegetable fat; blend of skimmed milk and vegetable fat in powdered form; blend of sweetened condensed skimmed milk and vegetable fat; dairy fat spreads
2017	Dairy permeate powders

1.3 EU standards vs. international standards

The development of international marketing standards for a number of sectors/products pre-dates the development of EU marketing standards.

Focusing on **dairy products**, it is worth noting that the Codex issued several standards for specific types of cheese (e.g. Cheddar, Edam, Gouda etc.) starting from 1966, and first issued its General Standard for Cheese in 1978, whereas no harmonised EU definition of cheese has been established to date.

2 Absence of an EU definition of cheese

2.1 Definitions provided by international standards and national legislation

The term “cheese” is included in the so called “reserved/protected dairy terms”, i.e. definitions, designations and sales descriptions that are reserved to the marketing of dairy products according to EU legislation. However, **no harmonised definition of “cheese” has been established to date by EU legislation.**

A definition of “cheese” is provided by the **Codex “General Standard for Cheese”** (CXS 283-1978³⁷³; formerly known as CODEX STAN A-6-1973), which was revised in 1999, and last amended in 2018. This voluntary international standard defines cheese as “the ripened or unripened soft, semi-hard, hard, or extra-hard product, which may be coated, and in which the whey protein/casein ratio does not exceed that of milk, obtained by:

- a. coagulating wholly or partly the protein of milk, skimmed milk, partly skimmed milk, cream, whey cream or buttermilk, or any combination of these materials, through the action of rennet or other suitable coagulating agents, and by partially draining the whey resulting from the coagulation, while respecting the principle that cheese-making results in a concentration of milk protein (in particular, the casein portion), and that consequently, the protein content of the cheese will be distinctly higher than the protein level of the blend of the above milk materials from which the cheese was made; and/or
- b. processing techniques involving coagulation of the protein of milk and/or products obtained from milk which give an end-product with similar physical, chemical and organoleptic characteristics as the product defined under “a”.

The Codex “General Standard for Cheese” also defines:

- *Ripened cheese* as “cheese which is not ready for consumption shortly after manufacture but which must be held for such time, at such temperature, and under such other conditions as will result in the necessary biochemical and physical changes characterizing the cheese in question”.
- *Mould ripened cheese* as “a ripened cheese in which the ripening has been accomplished primarily by the development of characteristic mould growth throughout the interior and/or on the surface of the cheese”.
- *Unripened cheese including fresh cheese* as “cheese which is ready for consumption shortly after manufacture”.

The raw materials from which cheese can be made according to the Codex “General Standard for Cheese” are milk and/or products obtained from milk. The permitted ingredients are defined by the standard as follows:

- Starter cultures of harmless lactic acid and/or flavour producing bacteria and cultures of other harmless microorganisms.
- Safe and suitable enzymes.
- Sodium chloride.
- Potable water.

In the EU, the majority of the **most significant cheese-producing Member States** have a **general definition of cheese** (or definitions for specific cheese types) **established by national legislation** (see Table 0.2).

³⁷³ http://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FStandards%252FCXS%2B283-1978%252FCXS_283e.pdf

Table 0.2 – Overview of the state of play concerning national legislation-based definitions of cheese in the most significant cheese-producing Member States

Member State	General definition of cheese	Similar to Codex	Different from Codex	Definitions for specific cheese types only (no general definition)	No definition
Austria				X	
Belgium	X	X			
Bulgaria				X	
Croatia	X		X		
Czech Republic	X		X		
Denmark	X	X			
Estonia					X
Finland	X	X			
France	X		X		
Germany	X		X		
Greece	X		X		
Hungary				X	
Ireland					X
Italy	X		X		
Latvia	X	X			
Lithuania	X	X			
Luxembourg					X
Netherlands	X		X		
Poland					X
Portugal					X
Romania				X	
Slovakia	X	X			
Slovenia					X
Spain	X	X			
Sweden	X	X			
United Kingdom	X		X		
Total	16	8	8	4	6

Some of the general definitions in force at Member State level - i.e. those applying in **Belgium**³⁷⁴, **Denmark**³⁷⁵, **Finland**³⁷⁶, **Latvia**³⁷⁷, **Lithuania**³⁷⁸, **Slovakia**³⁷⁹, **Spain**³⁸⁰ and **Sweden**³⁸¹ - are similar to the general definition

³⁷⁴ Royal Decree of 8 May 2014 on cheese, Belgian Gazette 19 May 2014.

³⁷⁵ Regulation on milk products, BEK nr 1360 of 24/11/2016, published on 26-11-2016 by the Ministry of Environment and Food.

³⁷⁶ Finnish legal code, MMMa 264/2012, section 6.

³⁷⁷ "Regulations Regarding Requirements for the Classification, Quality and Labelling of Milk Products and Composite Milk Products", Cabinet Regulation No. 97 (1 February 2011).

³⁷⁸ Order of the Minister of Agriculture No. 3D-335 on 13 June 2008.

³⁷⁹ Article 2, letter p) of the Decree of the Ministry of Agriculture and the Rural Development of the Slovak Republic No.343/2016.

³⁸⁰ Royal Decree 1113 / 2006, Of 29 September, Laying Down Standards For Cheeses.

³⁸¹ Regulation on milk and cheese, LIVSFS 2003:39 (H 160), published by The Swedish National Food Administration.

provided by the Codex “General Standard for Cheese”. Even if the wording may differ, the nature of the process to obtain the product, as well as the raw materials and allowed ingredients are the same, or there are just minor differences.

By contrast, the general definitions of cheese applying in some Member States (i.e. Croatia³⁸², Czech Republic³⁸³, France³⁸⁴, Germany³⁸⁵, Greece³⁸⁶, Italy³⁸⁷, the Netherlands³⁸⁸ and the United Kingdom³⁸⁹) are characterised by **significant differences from the general definition provided by the Codex “General Standard for Cheese”**. The most noteworthy differences are explained in the following sections.

The definition applying in **Croatia** is less detailed than the one provided by the Codex; more specifically, it makes no reference to the whey protein/casein ratio and to the action of rennet or other coagulating agents.

Also the definition applying in the **Czech Republic** is less detailed, and more generic in the definition of raw materials, since it reads (emphasis added): “cheese is a dairy product produced by the precipitation of milk protein from milk by the action of rennet or other suitable coagulating reagents, by acidification and separation of the whey fraction”.

Even if it refers basically to the same raw materials in the Codex definition (milk, partially or fully skimmed milk, cream, milk fat, buttermilk, used separately or in a mix), the definition applying in **France** differs in the definition of the process³⁹⁰, as well as in the list of permitted ingredients, which includes also: salt substitutes; herbs and spices; sugar and other food products providing a specific flavour to the final product (within the limit of 30% of final product weight); vitamins and minerals and other nutrition and physiology-oriented substances as defined in Regulation (CE) No 1925/2006; caseins and caseinates; cereals, pulses, oleaginous seeds, fibres, under different forms, to coat cheese products other than grated or ground cheeses. Furthermore, French legislation establishes that dry matter content cannot be inferior to 23 grams of dry matter for 100 grams of cheese.

The most significant differences in the definition applying in **Germany** concern the definition of raw materials, which include: (cow’s) milk, sheep milk, goat milk, buffalo milk; cream, sweet whey, sour whey, whey cream; butter, clarified butter, buttermilk; milk quark.

In **Greece**, cheese is generally defined by legislation as the matured product of curd, free from whey to the desired extent, which has been prepared by the action of rennet or other enzymes which act accordingly in milk (fresh or pasteurized milk, milk of cow, sheep, goat, buffalo and mixtures thereof) or in partially skimmed milk or a mixture thereof and/or mixtures thereof with cream.

The most important specificity concerning **Italy** is the explicit prohibition (pursuant to Law No 138 of April 11th, 1974) to produce cheese from reconstituted milk powder. The general definition of cheese is established by a 1925 Legislative Decree³⁹¹ (still in force): cheese is the product obtained from whole, partially skimmed or skimmed milk, or from cream, following acid or rennet coagulation, also through the use of ferments and salt.

³⁸² Rules on cheese and cheese products, Article 4(1) (Official gazette, No 20/2009, 141/2013).

³⁸³ Decree No. 370/2008 Coll., Amending Decree No. 77/2003 Coll., Laying down requirements for milk and milk products, frozen creams and edible fats and oils.

³⁸⁴ Decree n ° 2007-628 of April 27, 2007 relating to cheeses and cheese specialties.

³⁸⁵ Cheese Regulation (Käseverordnung - KäseV) of 24/06/1965.

³⁸⁶ Article 83 of the Greek Food Code (3rd edition, April 2014).

³⁸⁷ Royal Decree n. 2033 of October 15th, 1925. Law of April 11th 1974.

³⁸⁸ Dairy Commodities Act Decree (Warenwetbesluit Zuivel), valid from 22-12-2016.

³⁸⁹ The Cheese and Cream Regulations 1995 No. 3240.

³⁹⁰ According to the French legislation, cheese is a product, fermented or not, aged or not, obtained exclusively from the following dairy products: milk, partially or fully skimmed milk, cream, milk fat, buttermilk, used separately or in a mix and totally or partially coagulated before straining or after partial elimination of its aqueous part.

³⁹¹ Regio Decreto Legge No 2033 of October 15th, 1925.

The most significant differences identified in the **Netherlands** concern the definition of the production process, and of the raw materials³⁹². In particular, the Dutch definition refers (emphasis added) to “cow’s milk to which milk constituents may or may not have been added or removed”, whereas the Codex definition refers to “protein of milk, skimmed milk, partly skimmed milk, cream, whey cream or buttermilk, or any combination of these materials”.

As for the **United Kingdom**, the general definition of cheese³⁹³ is rather different from the one provided by the Codex General Standard for cheese. It contains no reference to the whey protein/casein ratio, as well as the action of rennet or other coagulating agents. Also the list of raw materials differs significantly from the one provided by the Codex General Standard, and it explicitly includes concentrated skimmed milk and reconstituted dried milk.

Austria, Bulgaria, Hungary and Romania have legislation-based definitions for specific cheese types, but no general legislation-based definition of cheese.

Finally, **no legislation-based definition of cheese** is currently in force in **Estonia, Ireland, Luxembourg, Poland, Portugal and Slovenia**. However, a national legislation-based definition of cheese used to be in force in Portugal in the past, and in 2015 a sectoral association submitted to the Polish Ministry of Agriculture and Rural Development a draft proposal for regulating the basic nomenclature of dairy products (including cheese), with definitions and requirements based on the relevant Codex standards.

In conclusion, **most of the significant cheese-producing Member States³⁹⁴ have legislation-based general definitions of cheese in force**; those definitions are **similar to the Codex General Standard for cheese in 8 Member States, whereas they differ from that in 8 other Member States**.

2.2 Implications in terms of relevance

Extent to which the absence of an EU definition of cheese has left unaddressed any specific sectoral needs (both original and new ones) in the views of business stakeholders (qualitative appraisal)

The majority (71%) of the 31 surveyed business associations in the dairy sector deemed that the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector (original and/or emerged after the setting of the relevant standards).

An interviewed EU-level sector organisation deems that the absence of that definition has **left some specific sectoral needs unaddressed**, especially considering that a large share of EU milk production is processed into

³⁹² According to the Codex definition, cheese is obtained by (emphasis added) “a: coagulating wholly or partly the *protein of milk, skimmed milk, partly skimmed milk, cream, whey cream or buttermilk, or any combination of these materials*, through the action of rennet or other suitable coagulating agents, and by partially draining the whey resulting from the coagulation, or b: processing techniques involving coagulation of the *protein of milk and/or products obtained from milk* which give an end-product with similar physical, chemical and organoleptic characteristics as the product defined under “a”. The definition in the Dutch legislation establishes that cheese is obtained by (emphasis added): “a: total or partial curdling of *cow’s milk to which milk constituents may or may not have been added or removed* and partial removal of whey resulting from such curdling; or b: process techniques in which the total or partial coagulation of *cow’s milk to which milk constituents have been added or extracted or not* forms part and which result in a product having physical, chemical and organoleptic properties similar to those of the product referred to in “a””.

³⁹³ According to the “Cheese and Cream Regulations” 1995 No 3240, “cheese” means the fresh or matured product intended for sale for human consumption, which is obtained as follows: a) in the case of any cheese other than whey cheese, by combining, by coagulation or by any technique involving coagulation, of any of the following substances, namely milk, cream, skimmed milk, partly skimmed milk, concentrated skimmed milk, reconstituted dried milk, butter milk, materials obtained from milk, other ingredients necessary for the manufacture of cheese provided that those are not used for replacing, in whole or in part, any milk constituent, with or without partially draining the whey resulting from coagulation; b) in the case of whey cheese, i) by concentrating whey with or without the addition of milk and milk fat, and moulding such concentrated whey, or ii) by coagulating whey with or without the addition of milk and milk fat.

³⁹⁴ A legislation-based general definition of cheese was found to be in force in 16 out of 26 Member States; no information was retrieved for Cyprus and Malta.

cheese. The association does not see the need for EU marketing standards specifying the characteristics of different types of cheese, but would welcome a harmonised definition establishing the **essential characteristics that would entitle a dairy product to be denominated “cheese”**. The association deems that the Codex General Standard for cheese is a success story, and could provide a useful reference for the development of a harmonised EU definition of cheese. Another interviewed EU-level sector association basically confirmed this view, adding that a potentially important element of the current state of play concerning the definition of cheese at Member State level is the **definition of the raw materials and ingredients from which cheese can be made**. The analysis of the national definitions of cheese actually highlighted a number of significant differences in that respect, whose implications are discussed in detail below.

Extent to which the absence of an EU definition of cheese has left unaddressed any specific sectoral needs (both original and new ones) in the views of MS CAs (qualitative appraisal)

The views of the 18 surveyed CAs on the extent to which the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector (original and/or emerged after the setting of the relevant standards) are divided. 9 CAs deem that such absence has left some specific sectoral needs unaddressed, whereas 9 other CAs deem the contrary. The views of the surveyed CAs are therefore more divided, even though slightly more optimistic in general, than the views of the surveyed business stakeholders. It is interesting to note that there is no clear linkage between the position of each consulted CA and the presence/absence of a national legislation-based definition of cheese in the respective Member State, as identified through the analysis of the related state of play presented at § 2.1.

The issues highlighted by the surveyed CAs relate to negative implications deriving from the absence of a harmonised EU definition of cheese in terms of **ensuring a level playing field among operators of different Member States** and of **promoting intra-EU trade**. Also one interviewed CA that did not participate to the survey deems that the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector, especially from an EU-wide perspective.

Implications of the state of play concerning legislation-based definitions of cheese at Member State level

The analysis presented at § 2.1 showed that the most significant differences among national legislation-based definitions of cheese – as well as vis-à-vis the Codex General Standard for cheese - are mainly related to the **definition of the raw materials from which cheese can be made, and of the ingredients that can be used in its production**. Even though differences concerning the definition of the production process were also identified, these seem to be more related to the use of a different wording (also with respect to the Codex General Standard) and to minor details, than to the nature and/or essential technical characteristics of the process itself.

The **use of reconstituted dried milk and of concentrated milk as raw material for cheese production** can be identified as a potentially important aspect. The use of those materials is neither explicitly prohibited nor explicitly allowed by the national legislation applying in most cheese-producing Member States³⁹⁵; the same applies for the Codex General Standard for cheese³⁹⁶. The analysis of the state of play at Member State level revealed that:

- the use of reconstituted milk powder is explicitly prohibited by the Italian legislation;
- by contrast, the use of concentrated skimmed milk and reconstituted dried milk is explicitly allowed in the United Kingdom.

³⁹⁵ In some of these Member States – e.g. Greece – the fact that reconstituted dried milk and concentrated milk are not explicitly included among the raw materials allowed for cheese production translates into a prohibition (even though not an explicit one, differently from the Italian case) to use those products to produce cheese.

³⁹⁶ Point “b” of the Codex definition refers to (emphasis added) “processing techniques involving coagulation of the protein of milk and/or products obtained from milk which give an end-product with similar physical, chemical and organoleptic characteristics as the product defined under (point) “a” (of the same definition)”. “Products obtained from milk” would include reconstituted dried milk and concentrated milk.

A consulted Italian sectoral association highlighted negative implications for Italian cheese producers stemming from the above illustrated differences in the relevant national legislation concerning the use of reconstituted milk powder for cheese production. Whereas Italian operators cannot produce cheese from reconstituted milk powder, operators in other Member States are allowed to do that, and can lawfully market their products on the Italian market. According to the consulted Italian sectoral association, this situation determines a competitive disadvantage for Italian cheese producers on the domestic market for the concerned cheese types, and has negative implications in terms of level playing field³⁹⁷.

2.2.1 Evaluation judgment

The potential implications of the absence of an EU definition of cheese for stakeholders were found to be disputed: the views of stakeholders are not aligned on the matter (the views of the consulted CAs are especially divided). The analysis of the state of play concerning national legislation-based definitions of cheese in the EU revealed significant differences especially in the definition of the raw materials from which cheese can be made, and of the ingredients that can be used in its production. The assessment identified a potentially important aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production: this is neither explicitly prohibited nor explicitly allowed in most cheese-producing Member States that have a national definition of cheese in place (and also in the Codex General Standard for cheese), whereas use of reconstituted dried milk for cheese production is explicitly prohibited in Italy (the use of reconstituted dried milk and of concentrated milk for cheese production is explicitly allowed in the United Kingdom). According to a consulted Italian sectoral association, the prohibition determines a competitive disadvantage for Italian cheese producers on the domestic market, and has negative implications in terms of level playing field³⁹⁸.

2.3 Opportunities for tackling unaddressed needs from establishing an EU definition of cheese

The EU and its Member States have actively contributed to the development of an international standard for cheese according to Article 13 of Regulation (EC) No 178/2002, i.e. the Codex General Standard for Cheese (CODEX STAN 283-1978, first issued in 1978 and last revised in 2013). By contrast, no EU marketing standards for cheese have been developed to date, nor a harmonised EU definition of cheese.

The potential implications of the absence of an EU definition of cheese have been explored in § 2.2. The consulted EU-level business associations representing the interests of dairy farmers and processors of dairy products deem that the development of a harmonised EU definition of cheese would address the potentially negative implications of different definitions applying at Member State level³⁹⁹. However, it should be kept in mind that the views of the consulted MS CAs on whether the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector are divided⁴⁰⁰. The analysis of the state of play concerning differences in national legislation-based definitions of cheese (see § 2.1 and § 2.2) identified a potentially important aspect in the use of reconstituted dried milk and of concentrated milk as raw material for cheese production. The use of reconstituted dried milk for cheese production is explicitly prohibited by the Italian legislation, whereas it is allowed in other Member States. Since imported cheese produced from

³⁹⁷ The consulted association reported that the subject had been analysed by the European Commission, which concluded that the Italian law prohibiting the use of reconstituted milk powder for cheese production had only implications for the Italian market, and no EU dimension.

³⁹⁸ Whereas Italian operators cannot produce cheese from reconstituted milk powder, operators in other Member States are allowed to do that, and can lawfully market their products on the Italian market.

³⁹⁹ According to one of these associations, the negative implications of differences in the national legislation-based definitions of cheese would be especially related to a non-level playing field for operators of different Member States, and to possible creation of technical barriers to intra-EU trade that could negatively affect the functioning of the Common Market. According to that association, the development of an EU definition of cheese would contribute to the improvement of the economic conditions for production and marketing of cheese, and also to the improvement in the average quality of cheese marketed in the EU. It may also contribute to more homogeneous levels of protection for consumers of cheese produced in the EU.

⁴⁰⁰ 9 CAs deem that such absence has left some specific sectoral needs unaddressed, whereas 9 other CAs deem the contrary.

reconstituted dried milk can be lawfully marketed in Italy, the situation would determine – according to the consulted Italian sectoral association - a competitive disadvantage for Italian cheese producers on the domestic market for the concerned cheese types, with negative implications in terms of level playing field.

The EU-level association representing the interests of milk processors does not see the need for EU marketing standards specifying the characteristics of different types of cheese, but would welcome a harmonised definition establishing the **essential characteristics that would entitle a dairy product to be denominated “cheese”**. To that end, the association deems that a harmonised EU definition of cheese should take into account, among others, the true nature and essential characteristics of the product, and lay down harmonised rules governing the composition, manufacturing specifications and labelling of cheese. In particular, the definition should prevent the use of the term “cheese” for marketing plant-based substitutes. **The process for developing an EU definition of cheese should take the aforementioned Codex General Standard for Cheese as a basis.**

However, the consulted business associations deem that the elaboration of an EU definition of cheese would be a challenging task, mainly due to significant differences in the relevant national legislation, while it can be argued that Member States would probably ask for derogations in order to keep some flexibility with respect to special ingredients currently included in their national definitions of cheese. The analysis of the state of play (see § 2.1 and § 2.2) identified **significant differences especially in the definition of the raw materials from which cheese can be made, and of the ingredients that can be used in its production**⁴⁰¹.

Focus Group findings

A number of Focus Group participants noted that a common updateable EU definition of cheese would provide a baseline for operators allowing quality differentiation on the basis of a common standard and would assist consumers in understanding that this is a dairy product. Also according to the Focus Group participants, the best starting point for the elaboration of such a definition would be the Codex General Standard for cheese: the dairy sector is working on the development of such a common definition at EU level.

2.3.1 Evaluation judgment

The views of the consulted business stakeholders about the **opportunities for cost reduction** stemming from the establishment of EU marketing standards for the products/sectors currently not covered were divided, whereas most of the consulted national competent authorities were extremely sceptical about those opportunities. Focus Group participants did not explicitly mention cost reductions potentially arising from the introduction of EU marketing standards for cheese, since this was not deemed a key driver for the introduction of such standards.

The consulted sectoral stakeholders deem that the **development of an EU definition of cheese** would address the potentially negative implications of different definitions applying at Member State level⁴⁰². However, the assessment on relevance (see § 2.2) revealed that the views of the consulted MS CAs on whether the absence of a harmonised EU definition of “cheese” has left unaddressed some specific needs of the sector are divided⁴⁰³. The analysis of the state of play concerning differences in national legislation-based definitions of cheese (see § 2.1 and § 2.2) identified a potentially important aspect in the use of reconstituted dried milk

⁴⁰¹ Even though differences concerning the definition of the production process were also identified, these seem to be more related to the use of a different wording (also with respect to the Codex General Standard) and to minor details, than to the nature and/or essential technical characteristics of the process itself.

⁴⁰² According to one of the consulted associations, the negative implications of differences in the national legislation-based definitions of cheese would be especially related to a non-level playing field for operators of different Member States, and to possible creation of technical barriers to intra-EU trade that could negatively affect the functioning of the Common Market. According to that association, the development of an EU definition of cheese would contribute to the improvement of the economic conditions for production and marketing of cheese, and also to the improvement in the average quality of cheese marketed in the EU. It may also contribute to more homogeneous levels of protection for consumers of cheese produced in the EU.

⁴⁰³ 9 CAs deem that such absence has left some specific sectoral needs unaddressed, whereas 9 other CAs deem the contrary.

and of concentrated milk as raw material for cheese production⁴⁰⁴. According to the consulted business stakeholders, and in line with the outcomes of the discussion in the Focus Group, the process of developing an EU definition of cheese (beyond the one deriving from the protected definitions, designations and sales descriptions for dairy products) should take the Codex General Standard for cheese (see § 2.1) as a basis. In that respect, it should be considered that several legislation-based definitions of cheese currently in force in the most significant cheese-producing Member States are rather similar to the one provided by the Codex, at least for what concerns the production process (less so for what concerns the raw materials to be used for cheese production and the allowed ingredients). However, according to the consulted business stakeholders, the elaboration of an EU definition of cheese would be a challenging task, mainly due to the aforementioned differences in the relevant national legislation, while it can be argued that Member States would probably ask for derogations in order to keep some flexibility with respect to special ingredients currently included in their national definitions of cheese.

⁴⁰⁴ The use of reconstituted dried milk for cheese production is explicitly prohibited by the Italian legislation, whereas it is allowed in other Member States. Since imported cheese produced from reconstituted dried milk can be lawfully marketed in Italy, the situation would determine – according to the consulted Italian sectoral association - a competitive disadvantage for Italian cheese producers on the domestic market for the concerned cheese types, with negative implications in terms of level playing field.

Annex 2: Overview of the key findings of the evaluation by product

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Olive oil	CMO Regulation Reg. (EU) No 29/2012 Reg. (EEC) No 2568/91	✓	Some limitations of EU marketing standards in addressing the issue of degradation of the quality of olive oils over time → main issue is related to the degradation of the quality of olive oil over time when inadequate preservation techniques are applied during storage.	Proportionality of costs versus benefits questioned by some operators, due to the high costs involved. Costs are more important with respect to other sectors, as enforcement involves expensive laboratory tests and specific control activities for verifying analytical and organoleptic parameters. Limited potential for simplification was identified.	The most significant limitations emerged are related to: organoleptic assessment and the lack of uniformity of results deriving from tasting panels; excessive number of quality parameters that must be determined; redundant information on labels; relatively limited set of positive attributes that can be optionally reported on labels for virgin olive oils.	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards
Table olives	CMO Regulation	=	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions

Evaluation of marketing standards

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Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Fruit & vegetables Processed fruit & vegetables products	CMO Regulation Reg. (EU) No 543/2011 Reg. (EC) No 1666/1999	✓	Implications of the replacement of specific marketing standards for 26 types of fresh fruit and vegetables by a general marketing standard: views of farmers mostly unfavourable, those of distributors generally favourable. However the transition had neither significant negative impacts on the overall performance of intra-EU trade, nor a significant influence on the evolution of price volatility.	Proportionality of costs versus benefits particularly highlighted for the fresh F&V sector. Limited potential for simplification was identified for the fresh F&V standards.	No significant issues identified	Unintended effect: potential implications in terms of increased food waste/loss volumes, even though some consulted CAs and some studies suggest that F&V standards would contribute to a reduction of food waste/loss volumes	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards
Bananas	CMO Regulation Reg. (EU) No 1333/2011	=	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions
Live plants	CMO Regulation	=	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions

*Evaluation of marketing standards
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Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Eggs	CMO Regulation Reg. (EC) No 589/2008	✓	Rules for indicating the farming methods applied for laying hens (Regulation (EC) No 589/2008) have been effective in promoting animal welfare friendly production methods for eggs, and alternative uses of egg production in the EU.	Proportionality of costs versus benefits particularly highlighted for the sector.	No significant issues identified.	Unintended effect: potential implications in terms of increased food waste/loss volumes.	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Poultry meat	CMO Regulation Reg. (EC) No 543/2008	✓	Rules on the optional reserved terms for indicating on the label the types of poultry farming (Regulation (EC) No 543/2008) perceived as an effective instrument for promoting alternative production systems for poultry meat production in the EU. Provisions on classification of poultry meat in terms of product definitions and of quality and weight grading (Regulation (EU) No 1308/2013 and Regulation (EC) No 543/2008) have adequately reflected the current market reality.	Proportionality of costs versus benefits particularly highlighted for the sector. Some potential for simplification was identified mainly by business stakeholders → implementation of standards for water absorption in Regulation (EC) No 543/2008 is said to lead to unnecessary delays in placing poultry meat products on the market. However, it was not possible for competent authorities or business stakeholders to identify the costs and losses associated to these delays.	Provisions on water content and alternative production systems could be updated to follow the evolution of technology, marketing strategies and consumer preferences, without impeding innovation. Perceived limitations of the definition of <i>foie gras</i> in preventing fraudulent practices, related to lack of a harmonised definition for processed <i>foie gras</i> . However, introducing such a definition would be contentious given the opposition to gavage (force-feeding) in <i>foie gras</i> production, and considering that only five Member States produce <i>foie gras</i> .	Potential negative animal welfare implications of the need for force-feeding (gavage) of ducks or geese destined to the production of <i>foie gras</i> , to effectively achieve the liver weights set out by the definition of <i>foie gras</i> (Article 1(3) of Regulation (EC) No 543/2008). The scientific evidence regarding the effects of gavage on animal welfare is not conclusive.	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards.

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Spreadable fats intended for human consumption	CMO Regulation Reg. (EC) No 445/2007	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards
Hops	CMO Regulation Reg. (EC) No 1850/2006	✓	Effectiveness of the provisions on the certification of hops (Regulation (EC) No 1952/2005 and Regulation (EC) No 1850/2006) in creating a level playing field for producer organisations/producer groups, traders and retailers: overall positive judgment of the concerned stakeholders, and absence of significant issues.	Proportionality of costs versus benefits particularly highlighted for the related standard. In the case of hops certification, the additional costs incurred by operators were found to be fully justifiable and proportionate to the quality benefits achieved. Limited potential for simplification of the certification procedure was identified.	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards

Evaluation of marketing standards

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Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Beef and veal	CMO Regulation Reg. (EC) No 566/2008	✘					
Wine	CMO Regulation	✘					

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Milk and milk products intended for human consumption	CMO Regulation Reg. (EC) No 445/2007	✓	Improper use of protected dairy terms (e.g. milk, butter, cheese, yogurt) for marketing plant-based substitutes for dairy products → deriving from a non-homogenous enforcement at MS level of the list of national exemptions (EU Commission Decision 2010/791/EU of 20 December 2010) from the prohibition to use protected dairy terms for the marketing of non-dairy products.	Proportionality of costs versus benefits particularly highlighted for the sector.	Improper use of protected dairy terms such as “milk”, “butter” and “cheese” in the marketing of plant-based substitutes for dairy products was found to cause issues in terms of unfair trading practices and provision of misleading information to consumers. Potential implications of the absence of an EU definition of cheese for stakeholders were found to be disputed.	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards Possible development of an EU definition of cheese: views of stakeholders on its need and on the related benefits are divided. Differences among national definitions are especially significant for what concerns raw materials to be used for cheese production and allowed ingredients.

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Hatching eggs and poultry chicks	Reg. (EC) No 617/2008	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions
Coffee and chicory extracts	Directive 1999/4/EC	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards
Cocoa and chocolate products	Directive 2000/36/EC	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	No significant elements to draw product-specific conclusions
Sugars intended for human consumption	Council Directive 2001/111/EC	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption	Council Directive 2001/113/EC	✓	No significant issues identified	Proportionality of costs versus benefits particularly highlighted for the sector.	Provisions on minimum sugar content in jams and the possibility for Member States to make derogations in that respect have allowed to achieve a satisfactory balance between consumer interest in assuring product preservation and the need to consider national specificities, including policy priorities in terms of promoting healthier diets (low-sugar jams)	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards
Dehydrated milk	Council Directive 2007/61/EC	✓	No significant issues identified	No significant issues identified	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Fruit juices	Council Directive 2001/112/EC	✓	Effectiveness of the provisions on minimum brix level for reconstituted fruit juices (Directives 2001/112/EC, 2009/106/EC and 2012/12/EU) in creating a level playing field for producers: overall positive judgment and absence of significant issues.	No significant issues identified; no significant potential for simplification identified	Directive 2012/12/EU established that the addition of sugars to fruit juices was not (longer) allowed; after 28 October 2016 the use of the “no added sugar, in line with the legislation” statement (or similar ones) for fruit juices is no longer allowed, whereas it continues to be allowed for competing beverages → this may create confusion among consumers, and result in unfair competition	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards

Product	Relevant legislation*	Part of the evaluation scope**	Summary of sector-specific conclusions				
			Theme 1 - Effectiveness	Theme 2 - Efficiency	Theme 3 - Relevance	Theme 4 - Coherence	Theme 5 - EU added value
Honey	Council Directive 2001/110/EC	✓	No significant issues identified	Proportionality of costs versus benefits particularly highlighted for the sector.	No significant issues identified	No significant issues identified	EU marketing standards are justifiable and provide added value with respect to the applicable international and private standards

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Secondary CMO legislation
Breakfast Directives

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✓: included in the scope of the evaluation; main focus;
=: included in the scope of the evaluation;
✗: not included in the scope of the evaluation.

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