

## INCEPTION IMPACT ASSESSMENT

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

<b>TITLE OF THE INITIATIVE</b>	Agricultural products – revision of EU marketing standards
<b>LEAD DG (RESPONSIBLE UNIT)</b>	DG AGRI (G.1 – Governance of the agri-food markets)
<b>LIKELY TYPE OF INITIATIVE</b>	Legislative action
<b>INDICATIVE PLANNING</b>	Q3 2022
<b>ADDITIONAL INFORMATION</b>	<a href="http://ec.europa.eu/agriculture/index_en">http://ec.europa.eu/agriculture/index_en</a>

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

### A. Context, problem definition and subsidiarity check

#### **Context**

Marketing standards are obligatory rules or optional reserved terms establishing the quality of products that are marketed to consumers. They rely on technical product specifications to define uniform trade characteristics. With regard to agricultural products, this covers freshness or size classification, presentation, labelling, packaging etc., but product specifications may also cover process and production methods. Marketing standards set minimum quality requirements for products that are traded and sold to consumers and they specify the characteristics of products that are sold using specific terms (e.g. 'free range' for poultry products).

Marketing standards help facilitate the functioning of the internal market, keep food of unsatisfactory quality off the market, provide relevant information to consumers, and ensure a level playing field for competing products. Not all agricultural products are covered by EU marketing standards, and those products that are covered but do not comply with the minimum requirements can still be marketed to businesses, e.g. for further processing.

The [Farm to Fork Strategy](#) envisages a revision of marketing standards to provide for the uptake and supply of sustainable agricultural products. However, it also mentions a series of other actions that are meant to increase sustainability aspects of the food supply chain or to address other related issues. Any revision of marketing standards will have to be done in a way that complements these other actions and focus on the relative strength of what marketing standards can achieve.

In particular, the Farm to Fork Strategy contains actions concerning (1) a proposal for a legislative framework for sustainable food systems, (2) a revision of the animal welfare legislation, (3) the consideration of options for animal welfare labelling, (4) the introduction of harmonised mandatory front-of-pack nutrition labelling, (5) the harmonisation of voluntary green claims and the creation of a sustainable labelling framework, (6) the extension of mandatory origin or provenance indications to certain products, (7) the exploration of new ways to provide information to consumers through other means, (8) the promotion of healthier and more sustainable diets, (9) the reduction of food loss and waste, and (10) improved coordination to tackle food fraud. Moreover, (11) DG MARE is currently carrying out a review of marketing standards for [fishery and aquaculture products](#).

According to the recent '[Evaluation of Marketing Standards](#)', current legislation on EU marketing standards has been effective in establishing a standardised and satisfactory quality of agricultural products, while also being useful for stakeholders. However, there is some room for improvement in terms of addressing new needs of stakeholders in the food supply chain.

#### **Problem the initiative aims to tackle**

Marketing standards may become outdated or no longer reflect changing societal and stakeholder expectations (such as contributing to a more sustainable food system). The proposed revision of EU marketing standards for agricultural products will explore the possibilities of adjusting existing standards or adding new ones where they may be desirable but are currently lacking, to take into account sustainability considerations (e.g. products' environmental or climate impact, or animal welfare or nutrition aspects), changing preferences of consumers or evolving technologies.

Current marketing standards may need to change for the following reasons:

1. To make the food system more sustainable, marketing standards can support diets that are better for the environment and climate, that are healthier and that better promote animal welfare.
2. As needs of stakeholders, preferences of consumers, and available technologies evolve over time, rules on

production methods may have to change accordingly.

3. Currently, marketing standards are scattered over different legal instruments. Streamlining these instruments would be simpler for administrations and clearer for food supply chain operators.

As marketing standards define or influence markets, their definition creates opportunities for companies to expand sales. On the other hand, changing existing marketing standards can also limit market possibilities that currently exist. Therefore, the revision of the marketing standards needs to be assessed carefully.

#### **Basis for EU intervention (legal basis and subsidiarity check)**

Legal basis:

- Article 43(2) TFEU, as far as necessary to establish (and amend) marketing standards related to the common organisation of agricultural markets (CMO) provided for in Article 40(1) TFEU and enshrined in Regulation (EU) No 1308/2013, and marketing standards laid down in five of the 'Breakfast Directives', namely in Council Directive Dir 2001/111/EC of 20 December 2001 relating to certain sugars intended for human consumption; Council Directive 2001/113/EC of 20 December 2001 relating to fruit jams, jellies and marmalades and sweetened chestnut purée intended for human consumption; Council Directive 2001/114/EC of 20 December 2001 relating to certain partly or wholly dehydrated preserved milk for human consumption; Council Directive 2001/112/EC of 20 December 2001 relating to fruit juices and certain similar products intended for human consumption; and Council Directive 2001/110/CE of 20 December 2001 relating to honey.
- Article 75(2) and 227 of Regulation (EU) No 1308/2013, as far as necessary to introduce (or amend) marketing standards within the scope of the empowerments laid down in that Regulation.
- Article 114 TFEU, as far as necessary to introduce new marketing standards (or modify existing ones) in areas now covered by Directive 1999/4/EC of the European Parliament and of the Council of 22 February 1999 relating to coffee extracts and chicory extracts; and Directive 2000/36/EC of the European Parliament and of the Council of 23 June 2000 relating to cocoa and chocolate products intended for human consumption.

Subsidiarity: EU legislation on marketing standards had replaced heterogeneous national standards and thus contributed to a level playing field for producers across the EU.

### **B. Objectives and policy options**

The objective of the initiative is to update marketing standards to changing needs, including of food supply chain operators and society at large, as well as to demands that food is produced in a more sustainable way. Furthermore, the initiative will explore the need for introducing new marketing standards.

The options for a revision of EU marketing standards for agricultural products are:

1. Eliminate the EU's agricultural marketing standards (so they can be replaced by international, national or private standards if and where needed).
2. Do not revise the substance of the current marketing standards but align the existing legislation with the procedural requirements of the Lisbon Treaty.
3. Revise the current marketing standards to modernise them (e.g. to take into account technological change and new production methods), increase their contribution to the sustainability of the food system, align the rules with the requirements of the Lisbon Treaty, and simplify existing legislation by consolidating rules on marketing standards in fewer regulations.
4. As (3) and introduce new marketing standards for agricultural products where such rules can help standardise the quality of agricultural products or contribute to the sustainability of the food system.
5. As (3) and introduce marketing standards for all agricultural products.

### **C. Preliminary assessment of expected impacts**

#### **Likely economic impacts**

Current EU marketing standards appear to have achieved their initial objectives by enabling markets to be easily supplied with products of a standardised and satisfactory quality. Marketing standards can facilitate business-to-business marketing, reduce transaction costs, remove barriers to intra-EU trade, and create a level playing field for operators in the food supply chain. Revising marketing standards to support more sustainability will allow farmers who produce sustainably to exploit their competitive advantage in this regard; the status quo creates uncertainties or even lost opportunities for innovative producers. If new (mandatory) marketing standards were to be introduced, they might create adaptation costs for producers.

<b>Likely social impacts</b>
Marketing standards can strengthen operators in the food supply chain and thereby also protect jobs in the sector. Similarly, consumers' are empowered through the provision of adequate and transparent information on key products. A revision of the marketing standards that pursues sustainability objectives can also help improve societal aspects, such as public health (nutrition), animal welfare, or fair pay. Flexibility regarding the redistribution of agricultural products for which marketing standards exist, including facilitating recovery and redistribution by food banks and other charity organisations, could also be beneficial from the social sustainability point of view.
<b>Likely environmental impacts</b>
If the EU marketing standards are revised to encourage the production and consumption of more sustainable products, this will have a positive environmental impact. Revised marketing standards could set minimum requirements for how food is produced, packaged and stored, or they could improve transparency for consumers by defining reserved terms that allow producers to clearly communicate on their use of sustainable production methods and exclude disloyal competition. In general, marketing standards could cover a wide range of environmental aspects (e.g. climate change, biodiversity, soil and water quality, food waste, emissions, and land use).
<b>Likely impacts on fundamental rights</b>
None anticipated.
<b>Likely impacts on simplification and/or administrative burden</b>
The administrative burden is not expected to increase in comparison to existing marketing standards. On the contrary, operators, citizens and public administrations may benefit from simplification such as the possible merging of marketing standards rules into one or a few regulatory acts, the deletion of obsolete provisions, and greater consistency across horizontal legislation, such as control requirements. However, while simplification (e.g. of control rules) can alleviate the administrative burden for the competent authorities, the introduction of new marketing standards could increase the burden for certain operators and the authorities.
<b>D. Evidence base, data collection and Better Regulation instruments</b>
<b>Impact assessment</b>
An impact assessment will support the preparation of the initiative and inform the Commission's course of action.
<b>Evidence base and data collection</b>
The impact assessment will be supported by the findings of the ' <a href="#">Evaluation of Marketing Standards</a> '. Furthermore, consultations of citizens and stakeholders are planned, and desk research can be performed as necessary.
<b>Consultation of citizens and stakeholders</b>
Stakeholders and the public at large will be invited to provide feedback on possible policy options for a revision of the EU marketing standards for agricultural products, and on their likely impacts. This will be done in particular to obtain views on possible shortfalls of the current marketing standards framework. The consultation will address in particular the potential of marketing standards to increase the supply of sustainable products and to streamline the current legislation.  Relevant stakeholders are: operators in the food supply chain (producers, traders, processors, distributors, retailers, food service providers) and their associations; consumers and consumer groups; private certification bodies and sustainability initiatives; civil society organisations, incl. food banks and other charity organisations; Member States' ministries and competent authorities; international organisations and third countries; and the scientific community and policy support bodies.  Planned activities are: organisation of a technical workshop with selected experts, including a technical report; written consultations of Member States' authorities; a public consultation in the first half of 2021; discussions with Member States representatives in Commission expert groups and with representatives of stakeholders and NGOs in civil dialogue groups or other groups; surveys of specific stakeholders or on specific product categories on a needs basis; complementary consultations of key stakeholders via ad hoc video meetings.
<b>Will an implementation plan be established?</b>
For Commission Regulations, no implementation plans are needed. As regards the 'Breakfast Directives', changes would likely be of limited scope and implementation plans would therefore not be needed either.